THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas for the Ninth Circuit

J.C. Nicholson, Jr., Active/Retired Circuit Court Judge

CONSOLIDATED Under Case No.: 2008-CP-10-2641
And Case No: 2009-CP-10-3441

Appellate Case No.: 2012209606

ZAN, LLC.....Appellant

v.

Ripley Cove LLC, W. H. Knight, Karl A. McMillan, individually and as the principal of Karl A. McMillan, Inc., W.M. Belote, East Coast Trading Co., St. Andrews Title & Abstract Agency, Inc., Chicago Title Ins. Co., and Charles A. Funk & Lillian M. Funk,.....Defendants,

Of whom Ripley Cove, LLC, W.H. Knight, Karl A. McMillan, individually and as the principal of Karl A. McMillan, Inc., W.M. Belote, and East Coast Trading Co. are the.....Respondents.

Zan, LLC.....Plaintiff,

v.

East Coast Trading Co.....Defendant.

RECORD ON APPEAL VOLUME II

Stanley E. Barnett, Esq.
SMITH BUNDY, BYBEE, & BARNETT, PC
1037 Chuck Dawley Blvd
Mt Pleasant, SC 29464

Kerry W. Koon, Esq.
147 Wapoo Creek Drive, Ste 203
Charleston, SC 29412

COUNSEL FOR RESPONDENTS

Andrew K. Epting, Jr., Esq.
Michelle N. Endemann, Esq.
ANDREW K. EPTING, JR., LLC
46A State Street
Charleston, SC 29401

COUNSEL FOR APPELLANT

RECEIVED
FEB 22 2013
SC Court of Appeals

Index

Notice of Appeal.....1

Order of the Honorable J.C. Nicholson, Jr. filed February 10, 2012.....3

Trial Transcript July 26-28, 2011.....15

Plaintiff/Appellant's Trial Exhibits numbered 1 through 19 and admitted at trial.....518

Defendants/Respondents East Coast Trading Co., Ripley Cove, LLC, William Belote, and W. H. Knight's Trial Exhibits numbered 19 through 32 admitted at trial.....709

Plaintiff/Appellant's Post Trial Memorandum submitted August 22, 2011.....803

Defendants/Respondents East Coast Trading Co., Ripley Cove, LLC, William Belote, and W. H. Knight's Post Trial Memorandum submitted August 19, 2011.....812

Defendants/Respondents East Coast Trading Co., Ripley Cove, LLC, William Belote, and W. H. Knight's Response to Plaintiff's Post Trial Memorandum submitted August 23, 2011.....844

Plaintiff/Appellant's Post Trial Memorandum on Damages submitted September 9, 2011.....846

Defendants/Respondents East Coast Trading Co., Ripley Cove, LLC, William Belote, and W. H. Knight's Post Trial Memorandum on Damages submitted September 9, 2011.....851

Order of Default entered by the Honorable R. Markley Dennis, Jr. filed January 20, 2010 as to Karl A. McMillan.....859

Order of Default entered by the Honorable Deidra L. Jefferson filed March 5, 2009 as to Karl A. McMillan, Inc.....862

Motion for Relief from Default filed August 19, 2011 on behalf of Karl A. McMillan and Karl A. McMillan, Inc. and affidavit in support.....865

Certificate of Counsel.....869

MR. BARNETT: Yes.

THE COURT: When they had control and they had the marina permit, they didn't do that. That's undisputed.

MR. BARNETT: That's correct.

THE COURT: Okay. Go ahead.

MR. BARNETT: And I don't -- I guess, I'm confused as to where the limitation on the time comes in, unless they were on notice in some fashion that there was going to be a problem in June. There was nobody there. And nobody's testified --

THE COURT: Mr. Belote just testified and said the relationship with the board was horrible. It was very poor. So somebody should have known if they didn't do it while they had control of the permit, it wasn't going to happen.

MR. BARNETT: I think the testimony has been nobody remembers when this meeting took place between Mr. Buck and Mr. Knight where Mr. Buck said, I want two pilings in this particular location. Mr. Knight couldn't do anything until that took place. And nobody knows when that took place, because nobody remembers.

THE COURT: Okay.

MR. BARNETT: I think that would be the triggering mechanism that would have -- given the Court's analysis.

THE COURT: Well, maybe, maybe not. I don't know. Okay. I understand your argument.

MR. BARNETT: The letter, I mean -

THE COURT: That's your argument, and I accept it. Okay.

MR. BARNETT: Yes, sir.

THE COURT: All right. Please proceed.

MR. BARNETT: I didn't mean to get into argument.

THE COURT: Pardon? I'm sorry? What?

MR. BARNETT: I didn't mean to get into argument.

THE COURT: Well, I thought somebody ought to argue with you.

MR. DUKES: Judge?

THE COURT: No, sir. Have a seat. I don't think this is speculative at all.

MR. DUKES: This isn't an objection. I was just looking back at my notes from Mr. Buck's testimony. And I just wrote down met with Doc May or June of 2005.

THE COURT: Okay.

MR. DUKES: That's all I wanted to add.

THE COURT: So May or June of 2005.

Mr. Barnett, go ahead and ask what you want to. I don't want to argue with you. I don't mind arguing with you.

MR. BARNETT: No. That's not what I -

THE COURT: But I was trying to understand what Mr. Knight filing a permit and going to the Corps of

Engineers after he lost control and was willing to do that has to do with this case, other than possibly showing that he made an effort to do it.

MR. BARNETT: Yes.

THE COURT: Okay.

MR. BARNETT: Can I ask him that question?

THE COURT: Yes, sir.

BY MR. BARNETT:

Q. Mr. Knight, did you know that the board -- when the board took over control?

A. Yes.

Q. Were you, actually, at the meeting in April?

A. Yes.

Q. Ask you the question just asked me. Why did you then go to the Corps in June when you knew the board had already taken over?

A. What I was going to do is I was going to find out, you know, if we could apply for the permit. And if they told me, yes, go ahead, then I was going to tell Mr. Buck to get the board to apply for the permit for him, and we'd put the pilings in for him.

Q. Before you went over there -- before June, your visit to the Corps, did you have any idea that there was this concern about illegal structures that's reflected in Exhibit Number 31?

A. I had seen the pilings suddenly appear out there.
Q. Were you concerned about that?
A. Yes.
Q. But did you know that the Corps was concerned about it?
A. I did.
Q. Do you know whether anybody from the board had any kind of relationship with these agencies? Before the board took over, did the board members have any relationship with the Corps about the marina that you know of?
A. Not that I know of.
Q. But you have a relationship?
A. Right.
Q. But once again, so why -- you went over there and talked to the Corps after the POA had taken over. Why did you do that?
A. To help Mr. Buck.
Q. Let me ask you about Mr. McMillan. Did you have a relationship with Mr. McMillan regarding the sales of these slips?
A. Yeah. He was the listing agent or the broker for the property.
Q. Did Mr. McMillan tell you about Mr. Buck's interest in buying this lot and slip?
A. I can't remember. I know that there was a -- when they didn't close the first time, there was a mix up about the --

what Mr. Buck thought he was buying and what was actually for sale. And, I mean, that's, basically, all I know until I was called from the closing about it.

Q. What was Mr. McMillan's authority to represent East Coast Trading Company?

A. The only authority he had was to get a contract and present it to us, and then I would present it to where it needed to be, you know, to get approval for the sale.

Q. Did Mr. McMillan have the authority to offer any other property owned or controlled by East Coast Trading Company?

A. No. No.

Q. What about you? Did you have the authority to commit East Coast Trading Company to go out and get part of slip B-2 and convey it to Mr. Buck?

A. No.

(The attorneys confer.)

MR. BARNETT: Defendant's Exhibit 32.

THE COURT: Any objection from the plaintiff?

MR. EPTING: None, Your Honor.

THE COURT: Any other defendants object?

MR. DUKES: No, Your Honor.

MR. DAVID: No, Your Honor.

THE COURT: Thirty-two will be admitted without objection, Defendant's 32.

(Defendant's Exhibit Numbers 30, 31, and 32 marked for identification and received into evidence.)

BY MR. BARNETT:

Q. Mr. Knight, what does Exhibit 32 show?

A. Slip B-1.

Q. All right. Right down here at the bottom there's this white structure with B-1 written on it. What is that?

A. That's just a deck box.

Q. What's the B-1 refer to?

A. The slip.

Q. Is there one like that for the other slip?

A. Yes.

Q. So on the other floating dock, there's a box like this with B-2 written on it?

A. Yes.

Q. When you met with Mr. Buck, where were you?

A. We were on the dock. If I remember right, we were on the dock.

Q. Which dock?

A. On this walkway here between the dry stack area and B-1.

Q. Okay. The one that's shown in the photo?

A. Yes.

Q. If you walk down the walkway that's perpendicular to the one that's shown on the photo, are these boxes and these numbers visible?

A. Yes.

MR. BARNETT: Mr. Knight, that's all the questions I have for you. Please answer any questions these other gentlemen or the Court may have.

THE COURT: Cross-examination?

MR. DAVID: None, Your Honor.

MR. DUKES: No questions, Your Honor.

THE COURT: Mr. Epting?

MR. EPTING: Yes, sir.

CROSS-EXAMINATION

BY MR. EPTING:

Q. Mr. McKnight, would you look at Exhibit 5 in that notebook?

A. Yes, sir.

Q. Now, you were sued several years ago; correct? Do you not remember when you were sued?

A. I can...

Q. Mr. Belote was sued in '08 and you were sued in either late '08 or early '09?

A. You said several years ago. I thought you was in relation to it.

Q. All right. Did you do anything when you got the suit papers?

A. You need to tell me which suit you're talking about.

Q. The suit we're here trying this case today. This suit.

A. Right. Right.
Q. Did you do anything?
A. No, sir.
Q. Did you call Dan David?
A. No, sir.
Q. I want you to turn to Exhibit 5, Mr. Knight.
A. Okay.
Q. This is the letter you testified to that you didn't see until just several weeks ago; right?
A. Right.
Q. All right. Now, did Dan David have the authority for you and or Mr. Belote or Mr. McMillan to write this letter?
A. I certainly didn't have the authority to give anybody to write a letter.
Q. So are you saying that Mr. David did not have the authority to write this letter on behalf -- you did not give him the authority to write this letter on behalf of Mr. Belote?
A. That's what I'm saying.
Q. I thought I understood, Mr. Knight, that you said that you talked to Mr. Belote --
A. I did.
Q. -- about two pilings. And would you agree to put in two pilings? Did you talk to Mr. Belote about that?
A. I did talk to Mr. Belote about that. Dan David did call

me and asked me, and I talked with Mike. Mike said that's fine with him. And I called back and I said, We'll do everything we can to help Mr. Buck get the pilings put in.
Q. All right. So this letter --
A. Right.
Q. I just want to know. This letter that Mr. David wrote, then, does not confirm what it is you told him Mr. Belote had authorized; is that your testimony?
A. Ask that again.
Q. Does this letter reflect the request that Mr. David made of you to agree to put in the two pilings or does it not?
A. The only think it does is -- I did not say I would absolutely put the pilings in. Everybody knew we had to get permits. Mr. Buck knew it and I knew it. And as far as me absolutely saying I could get the pilings in, I couldn't say it. So I couldn't authorize it. I mean, but -- that's all I'm saying is that I told them that I would do everything I could to help get the pilings in.
Q. Well, are you saying, then, that you did agree to put in the pilings, but it had to be subject to getting the Corps' approval to put them in?
A. That's right.
Q. All right. So you understood you were giving Mr. David the authority --
A. I didn't give Mr. David the authority to do anything.

Mr. David can do what he wanted to as he felt like he needed to do.

Q. All right. You didn't give him the authority to do anything even to write this letter?

A. Like I said, I just saw the letter. So I wouldn't, you know -- I don't know that I gave him authority. If I did, I don't remember. But I don't remember giving anybody the authority to write it.

Q. All right. So what you're saying is, now, you didn't give Mr. David any authority to agree to put in these two pilings?

A. I was called and asked -- and told they wanted two pilings put in. I called Mr. Belote. He said he didn't have any problem with us putting pilings in. I, in turn, called Dan back. I said, Dan, I'll do everything I can to help Mr. Buck get his pilings put in. As far as a letter or anything, I know nothing about it.

Q. So you didn't even know this letter was written?

A. No.

Q. You didn't know that there was a request at closing for there to even be a writing or the closing wouldn't even go forward; nobody told you that?

A. No. I mean, no.

Q. Well, your testimony, then, today, is Mr. David did not have the authority to write this letter?

A. I can't give authority to anybody.
Q. Is the answer to my question your testimony today is, then, that Mr. David did not have the authority to write this letter?
A. I can't answer the question, because I've already stated the answer. I don't have the authority to give anybody that.
Q. Well -
THE COURT: The question requires a "yes" or "no." You can answer "yes" or "no" --
WITNESS: No.
THE COURT: -- and then explain it. What's your answer?
WITNESS: My answer is no.
THE COURT: Okay. Now, you may explain it. I think you've already explained it half a dozen times.
WITNESS: I have.
MR. EPTING: Thank you, sir.
THE COURT: Any redirect?
MR. BARNETT: No, Your Honor
THE COURT: Okay. Mr. Knight, you may step down. Thank you very much.
(The witness leaves the stand.)
MR. BARNETT: Your Honor, the defense would call Dan David to the stand.

THE COURT: Let's take about a five or ten minute break. Okay.

(WHEREUPON, there was a brief recess.)

DAN DAVID, being first duly sworn, testified as follows:

THE CLERK: Thank you. Please be seated. And, sir, for the record, again, if you'll please state your name, spelling your last name.

WITNESS: Dan McAuthor David. The last name is D-a-v-i-d.

DIRECT EXAMINATION

BY MR. BARNETT:

Q. Okay. Mr. David, you testified you're familiar with the master deed?

A. Yes. Very much so.

Q. We've been talking about the sale of this boat slip B-1. The B-1 boat slip, did it come with any physical structures at all?

A. Included in the slip, itself --

Q. Yes.

A. Or the limited common elements that surround it or --

Q. What's the limited common element?

A. The limited common elements would be the pier on the side and the -- there's one in the back. It would probably be a general common element.

Q. Okay.
A. And the pilings. I'm sorry.
THE COURT: The one in the back would be what, now?
WITNESS: I believe that the master deed refers to them as common elements. All of the pilings, piers, it identifies. It goes into some detail as to what the common elements are. And sitting here thinking about it --
THE COURT: Could you point me to the section in the master deed?
WITNESS: Oh, I can. Yes, sir.
MR. BARNETT: It's Exhibit Number 13 in that notebook. It's section two. Section two point one.
THE COURT: Two point one. Okay. Go ahead.
BY MR. BARNETT:
Q. Mr. David?
A. Yes.
Q. What rights did somebody who purchased --
A. What was the first thing you said?
Q. Somebody who purchased one of the boat slips.
A. Okay.
Q. What were they acquiring? What right were they acquiring?
A. They were acquiring the right to use all of the common elements, and to use the water to dock their boat and to tie it to the slip which, excuse me, to the structure which

would be the general common elements.
Q. Okay.
A. And to use the other common elements, like, to walk around the place. Whatever the common elements were and identified on those plats, they would be able to use those.
Q. All right. The owner, for instance, of slip B-2, to be specific.
A. Okay.
Q. Pick up that little blow-up plat there in front of you.
A. Okay.
Q. The owner of slip B-2, it's got defined boundaries; does it not?
A. It does.
Q. Now, would the owner of slip B-2, whoever that might be at any given time, would the owner of slip B-2 be entitled not to have part of that water surface occupied by two pilings?
A. You mean on his property?
Q. Yes.
A. Yeah.
Q. I'm just talking about B-2. Just that water -- that plane, that water surface.
A. I think that -- the answer to your question is yes. He would be entitled not to have anybody interfere with the use of his property.

Q. And isn't that the only right that somebody gets when they bought one of these condominium boat slips?
A. Basically.
Q. They just got the right to occupy that rectangle of water?
A. Yes.
Q. Okay. Now, Mr. David, you did real estate law for how long?
A. Long time,
Q. Okay.
A. However long I've been doing this.
Q. All right. There's been a lot of talk about the statute of frauds. Is there, actually, a statute enacted by the General Assembly?
A. There is.
Q. Just take a look at this. Don't say anything about it, yet.

MR. EPTING: Judge, in order to speed things along, could Stan, perhaps, describe what this examination of the law is going to be, because I may have an objection that only this Court can address matters --

THE COURT: Well, why don't you all just discuss it briefly without arguing with me about it. Okay. And see if he has an objection.

(The attorneys confer.)

MR. EPTING: Stan says he just wants to identify -- have Dan identify the statute section, and I have no objections to that.

MR. BARNETT: I'm not going to ask him to offer any legal conclusions. My questions will be factual.

BY MR. BARNETT:

Q. Mr. David?

A. Yes, sir?

Q. I've handed you a copy of South Carolina Code 30-3-10.

A. Yes. Agreement required to be in writing and signed.

Q. Does this govern a real estate transaction that you have performed?

A. Yes.

Q. Now, let me ask you this: Take a look at Exhibit Number 5. It's in that notebook. Are you familiar with it by now?

MR. EPTING: Judge, I'm going to object to -

THE COURT: I don't know what he's going to ask, yet.

MR. EPTING: All right.

THE COURT: Let me see what he's going to ask, and then I'll listen to your objection.

MR. EPTING: All right.

THE COURT: You probably know, but I don't.

MR. EPTING: All right, sir.

BY MR. BARNETT:

Q. Have you found it?

A. I've almost got it memorized.
Q. All right. Did you hear Mr. Buck testify in this courtroom about what he believed his agreement was with East Coast Trading Company?
A. Well, I heard -- yes, I did. But I'm not sure that I remember exactly what he said. This has been back and forth a number of times. But he said that this letter purported to give him two feet into lot B-2. Is that what you're referring to?
Q. Yes, sir.
A. Okay. I heard that.
Q. You heard Mr. Buck testify that he needed to have the two pilings put inside boat slip B-2?
A. I did.
Q. All right, sir. I want you to look at Exhibit --
MR. EPTING: Your Honor, first of all, I disagree with that characterization of what Mr. Buck said. That has been constantly Stan's characterization of it, but that was not his testimony.
MR. BARNETT: I beg to differ. He said it repeatedly on cross-examination. I believe he also said the pilings and the slip were useless to him unless the pilings were inside B-2. That's the only way he could get the twenty foot width for the boat. He said it over and over again.
I didn't mean to address him, Your Honor.

THE COURT: No problem. I'm just listening. Go ahead.
MR. BARNETT: I believe I'm right about that.
THE COURT: All right. What's your legal objection?
MR. EPTING: The use of the word "two feet," Judge. Mr. Buck has never used the word "two feet," because he knows it's more like six feet.
THE COURT: Okay. Overruled. Go ahead.
MR. BARNETT: Multiple feet.
BY MR. BARNETT:
Q. Are you aware that Mr. Buck said he needed multiple feet of lot B-2, regardless of how many feet that may be?
A. I'm aware that he said that he needed footage into B-2, and that at one point in time that he thought that he was going to get that. But I was under the impression that he felt that that had been worked out. That's my characterization.
Q. All right. If that is the agreement that Mr. Buck thought he had to get some of the footage of lot B-2, I want to ask you about your letter.
A. My letter has nothing to do with that.
Q. Well, now, let me ask you the question.
A. I'm sorry.
Q. Does your letter offer a description of the property to be conveyed?
A. Are you talking about real property in the B-2?

Q. Yes.
A. Absolutely not.
MR. EPTING: Judge, I'm going to object. He's, essentially, asking this witness whether or not this letter complies with the statute of frauds. And that is the role of the trial --
THE COURT: He hasn't gotten to that point, yet. I think he's going to ask -- I don't know what he's going to ask him. Let me listen to the question. Anybody object? Please ask the question.
MR. BARNETT: I would like to ask him that question.
THE COURT: He would like to, but he hadn't gotten to that point, yet.
MR. BARNETT: Let me ask him just for fun. No. First, I'm going to ask you these factual questions.
WITNESS: Okay.
BY MR. BARNETT:
Q. Is your letter signed by the owner of slot B-2?
A. No.
Q. Is it signed by East Coast Trading Company?
A. No.
Q. Is it signed by an agent of East Coast Trading Company?
A. No.
Q. Is it signed by an agent of Ripley Cove Development -- or Ripley Cove, LLC, I think it was?

A. No.
Q. Does your letter express with reasonable certainty any part of slot B-2 that is to be conveyed to Mr. Buck?
A. Nothing to do with the real property. No.
Q. Does your letter conform to the statute of frauds?
MR. EPTING: Object to the form, Judge.
THE COURT: I'll sustain the objection.
MR. BARNETT: I'll withdraw the question.
THE COURT: I'll sustain it.
MR. BARNETT: That's all I have, Your Honor.
THE COURT: Okay. Cross-examination?
MR. DUKES: No questions for me, Your Honor.
THE COURT: As a defendant, do you want to make a statement on cross?
WITNESS: I'm sorry, Your Honor?
THE COURT: Do you want to make a statement on cross? You're one of the parties.
WITNESS: I know I am, Judge. I think we've about -- what was your expression yesterday about beating that horse? I don't know that there's anything else -- I don't think I can add anything else to this letter.
THE COURT: Okay.
Cross-examination?
MR. EPTING: Just one more question.
WITNESS: Yes, sir.

CROSS-EXAMINATION

BY MR. EPTING:

Q. Mr. David, you heard Mr. Knight testify?

A. I did.

Q. I take it that you believe that you had authority to write that letter?

A. You know, there is no question in my mind. Authority. I tried to explain yesterday that Eddie for the first time that I was aware of there was a conversation about pilings. And over the years it has been my experience that if I think somebody used an example of a chandelier, you know, if it goes with the house, it stays with the house. You know, let's everybody understand and put it in writing so that later on when memories are short, oh, yeah, it's supposed to stay.

Eddie asked about that. I went and called. Doc said, Sure, we'll take care of that. We'll do whatever.

But what he said to me, I can't quote back to you. There is no question but that he was going to try to get those pilings in, and they'd even pay for it. And I think that he has acknowledged that.

When you say that he authorized me to sign a letter, I didn't tell him I was going to write a letter. I, simply, did a letter to confirm that that was the conversation that was had, and that was what he'd agreed to. And I still

think today that he is in agreement with that.
Q. All right.
A. Okay.
Q. So your letter, in your mind, accurately reflects what he authorized you to agree to?
A. Well --
Q. In your opinion?
A. In my opinion and in my mind, they were going to put in those two pilings and they were going to pay for it. And that's what this letter says. And I think that Lynn Carmody to whom it's addressed asked about the dredging, if there was money in escrow for that, and I assured her there was. And later on whenever Stan and those started doing that, I sent them whatever the money was.

MR. EPTING: Thank you, sir.

THE COURT: Any redirect?

MR. BARNETT: Nothing, Your Honor.

THE COURT: You may step down. Thank you very much.

WITNESS: Thank you, Your Honor.

(The witness leaves the stand.)

MR. BARNETT: That's it for the seller defendants, Your Honor.

THE COURT: Okay.

MR. DUKES: Chicago Title calls Bushnell Nielsen.

THE COURT: Is this the expert?

MR. DUKES: Yes, Your Honor.

THE COURT: Can you do the real estate first?

MR. DUKES: Yes, Your Honor. If Your Honor prefers.

THE COURT: I would prefer. He's got a golf match.

THOMAS HARTNETT, being first duly sworn, testified as follows:

THE CLERK: Thank you. Please be seated.

WITNSS: Thank you, ma'am.

MR. DUKES: Your Honor, I believe Mr. Epting has agreed to stipulate to Mr. Hartnett's qualifications as an expert in real estate.

THE COURT: Is that right, Mr. Epting?

MR. EPTING: That is correct, Your Honor.

THE COURT: All right. The Court so finds that Mr. Hartnett's a qualified expert.

THE CLERK: Sir, I'll ask that you state your name for the record, spelling your last name.

WITNESS: Yes, ma'am. My name is Thomas F. Hartnett, H-a-r-t-n-e-t-t.

DIRECT EXAMINATION

BY MR. DUKES:

Q. Tommy, with respect to Ripley Cove Marina, did you perform a professional appraisal of boat slip CSB-1?

A. Yes, sir. I performed an appraisal of single family residential unit number three and B-1 together and then

separately.
Q. And did you evaluate the value of slip CSB-1 as it is platted and with additional space?
A. I'm not sure I understand that question.
Q. Did you provide an appraisal of slip B-1 if it is 20 feet wide and slip B-1, assuming it were 22 feet wide?
A. Yes, sir. In my letter of transmittal to you, I said that you also asked me to further opine as to whether or not the value of the subject property would be different if the dock unit that was included as a part of the sale that's 21 feet wide or 23 feet wide. And in my opinion, no, sir, it would not. I told you in my letter that most dock spaces purchased or leased on a length, whether it be for a vessel's length and not on its width. So I told you that the value would not be any different. That's correct.
Q. And would that matter if the slip were six feet wider in your opinion?
A. Not in my -- I've never known a condominium, dockominium, whatever you want to call it, a boat slip to be purchased on its width, only on its length. So I couldn't answer that question, because I do not know of any that have ever been sold based on their width.
Q. Did you arrive at an opinion based on your knowledge and experience on the value of boat slip CSB-1?
A. Yes, I did.

Q. What was that value?
A. Well, the slip alone, in my opinion, has a value as of the date of this appraisal which I think is July the first, 2010. That was the date that you instructed me to use as my date of valuation. It was my opinion that the boat slip alone would have a value of $40,000.

MR. DUKES: Thank you, Mr. Hartnett. That's all I have.

THE COURT: Cross-examination, Mr. David?

MR. DAVID: I have no questions for Mr. Hartnett.

CROSS-EXAMINATION

BY MR. EPTING:

Q. Mr. Hartnett, do you have a copy of your appraisal?
A. I do, Mr. Epting. I sure do.
Q. And in this appraisal you also appraised the upland piece of land?
A. Yes, sir, I did, including the boat slip.
Q. All right. And what total did you give to the land and the boat slip, lot three and slip B-1?
A. As of July 10, 2010, $530,500.
Q. All right. And, Mr. Hartnett, I want to just ask you a few questions.
A. Yes, sir.
Q. You've been around town a long time?
A. Yes, sir.

Q. You've been appraising property for quite a while?
A. Yes, sir.
Q. Is there or has there, in your experience, been a time such as these in which the appraisal of property is as uncertain and risky as it is now?
A. I'll answer it this way: Probably, the only job more difficult than an appraiser's job right now, might be the job of a Circuit Judge. It is very difficult to -- because it's a moving target, Mr. Epting. You know, an appraisal has never been a science. We use market date that's available to us, and apply it to the problem. But to answer your question in one word, no, I've never seen it as it is today.
Q. And would it be fair for me to say that the certainty that you enjoy in reaching an appraisal five years ago is greater than the certainty that you use or that you have now in reaching that value of a piece of property?
A. Yes, sir. Because it's such a moving target. So my answer to that would be yes, sir.
Q. And is it a fact, Mr. Hartnett, and I'm sure the judge knows a whole lot about this. I don't. There are fewer comparables because your properties are being sold?
A. And that's what makes the job so difficult, yes, sir.
Q. All right. When I look at the appraisal, Mr. Hartnett, that you did -- just on the boat slip.

A. Yes, sir.
Q. I notice that there are 105 active listings of boat slips.
A. Yes, sir. I see it under -- it's like the last page. I'm sorry I didn't number these pages, Mr. Epting. And if I may, I'll read from my report. In valuing the wet slip alone, I've located many sales of wet slips in the Charleston area. According to the Charleston association of multiple listings, there were 14 sales of wet slips during the year 2010. The sales price has ranged from a low of 23,000 to a high of 130, with the average price being 36,000. There are presently 105 active listings of boat slips in the Charleston area. The lowest price is 20,900. And the highest price is 210,000. A fairly recent sale across the Ashley River from the subject property at Harbor Gate at Ashley Marina sold for 55,000.

But, yes, there are now -- at least when I did this appraisal back in late June, early July, there were a 105,000 active just on the Charleston multiple listing service. It could have been more owners selling. So, yes, there's an abundance of boat slips available right now.
Q. And I think the word is "absorption," isn't it? That at the present absorption rate of 14, we've got, roughly, nine years of boat slips if none of them are built before the ones that exist now will be sold?

A. If the market stays the way it is now, that absorption there that you quoted will probably be close to accurate. If the market gets better, it could be a shorter period of time. If it gets worse, it could be a longer period of time.

Q. Would a long absorption rate, Mr. Hartnett, tend to project that the future value is going to be less?

A. It could, yes, sir.

Q. All right, sir. Now, I want to ask you a question, Mr. Hartnett, about the sales comparables that you used on this lot.

A. Yes, sir.

Q. And you have a recompilation and then you have something called application of adjustments?

A. That's correct. Again, I apologize for not having the pages numbered. That's correct, sir.

Q. All right. I noticed here, Mr. Hartnett, that there are just four comparables.

A. That's correct, sir.

Q. For a piece of property that was sold for $700,000, four comparables seems a little thin to me; but I don't do this for a living. Am I right or wrong?

A. Generally, in our -- I call it a profession. Three comparable sales is, certainly, acceptable. And it, really, doesn't necessarily depend on the value, the concluded value

of the property. Certainly, the more comparables that you have might give you a better picture. But I would think that four comparable sales would be sufficient to estimate the value of a piece of property.

Q. All right. Well, I also noticed, if I understand your math, of the four comparables you've adjusted them on a square foot basis; right?

A. That's correct, sir.

Q. And one of the sales has a square footage of adjusted value of $86.

A. That's correct, $86.52. Yes, sir.

Q. And the second comparable has a value of $39.19.

A. That's correct, sir.

Q. That's not even half of the first comparable.

A. That's correct, sir.

Q. The third comparable has a value of $28.63.

A. That's correct, sir.

Q. All right. And the fourth comparable has a square foot value of $37.60.

A. That's correct, sir.

Q. Now, the way I read your report, Mr. Hartnett, you didn't use comparable two, three, or four even in terms of developing an average in the preparation of this pricing?

A. Well, if I can read, Mr. Epting, just under the chart that you just referenced. I say this can be seen from the

Adjusted sales prices. The first square foot values range from 28.63 to 86.52, the median of which is $38.40 and the mean of which is $47.99. So to the extent -- I did average them out to the extent, but I didn't apply them. And what I further said in the next paragraph is after analyzing all the data relative to the comparable sales, I'm of the opinion that the best reflected current market value is sale one, because this is a very recent sale that has all of the same physical characteristics as a subject property and is located in Ripley's Light Marina. So it was the only sale in the exact same subdivision, I'll call it, as the subject property. So I put most weight on that one, because I thought it reflected the value right there in that same subdivision better than the other ones do.

Q. And that was a sale about a year ago?

A. That's correct. It took place in --

Q. Would it be uncommon, Mr. Hartnett, in your profession for a competent appraiser such as yourself in this circumstance to have used the mean adjusted sales price?

A. Yes, sir, it would.

Q. All right. Would you mind -- do you have the ability there, if you use the mean of all of these comparables, what the value of this lot would be?

A. Yes, sir. I did bring my calculator. And what I'll do -- I have the mean of 47.99, so I'll assume that that math

was correct when I did it. And the size of the lot is $6,241 square feet. Multiplying it times that, it's $299,505; which if I were doing an appraisal, that value would round to $300,000.

Q. And so if you use the mean rather than just one property, the value of this lot would be $300,000?

A. That's correct, sir.

Q. Now, just one final question, Mr. Hartnett. You've lived in this community for --

A. I'm sorry. I missed that.

Q. You've lived in this community all your life?

A. So far, yes, sir.

Q. Yeah. And I understand you've had some very serious surgery. You look great. Welcome back.

A. Thank you. I've dodged a few bullets, but thank you, sir. I'm glad to be back.

Q. Now, do you know a gentleman by the name of Eddie Buck?

A. I do. I know him to be an outstanding business man and a good friend, a personal friend.

Q. All right. And is he someone, Mr. Hartnett, who you know to have an especially keen sense of value of real estate?

A. I know Mr. Buck to be, probably, one of the keenest business men I know. He's a sharp, sharp business man.

Q. Mr. Buck testified in this case that he would like to

think that he could sell lot three and this slip for 400,000 but that he thought the value was 250 to $350,000. Do you think his appraisal or his -- I don't want to use appraisal, but his estimated value of what he presently owns is unreasonable?

A. I'll answer it this way. I think he's had the property listed with Carolina One real estate, I think, a lady by the name of Carmody, for a number of years. And tracking the history of that listing, he has never lowered the value from the asking price of 800 and something thousand dollars. Why, I don't know. If he thought he could sell it for less, why he's not lowered the price, I don't know. I'd like to think that -- although Mr. Buck is an extremely good business man, as you are an extremely good attorney, that I'm a better appraiser than both of you; but I might not be. But I have done a lot of work for Mr. Buck, a lot of appraisal work for Mr. Buck. Thank goodness for you.

But I don't know. Again, I told you this market is the over abundance of available boat slips. And they have to be sold together from what I understand from the deed. You can't subdivide them. I don't know it will, ultimately, sell for. But on that date of my appraisal, I thought they were worth $530,000.

Q. Well, and I understood that, but my question is a little more general than that. In this market, you believe it's

worth 530. I'm just saying, in this market, is it unreasonable to think that the value of this property might be a 100 or $200,000 less?
A. Drew, I'll answer it this way. A year ago, I think around 2010, June, July first. I'm not sure what it's worth July first, 2011. So it could be that much less. It could be more or less, but it, certainly, could be less a year after my appraisal. But I was given that date of valuation. So it could be less today. Yes, sir.
Q. Property values in the year since you were given your date have gone down?
A. Still going down. Yes, sir.
Q. Can you give us an estimate of how much they're going down, Mr. Hartnett?
A. I wouldn't want to do that without doing some kind of -- I mean, it depends on the type of property.
Q. Well, let me be a little more specific. And this is my last question. And if you still say I really don't know, then I will quit. In this tighter area of Charleston where Ripley is, commercial real estate is down what percentage or range in your opinion?
A. Well, it depends on the location, but it could be as much as 35 percent.
MR. EPTING: All right, sir. Thank you very much.
THE COURT: Any cross?

MR. BARNETT: I have no questions, Your Honor.

MR. DAVID: I have no questions, Your Honor.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. DUKES:

Q. Mr. Hartnett, one thing, can you be certain of this, that there is no difference in how you would value a slip that is 60 feet long irrespective of whether it's 20 feet wide or 25 feet wide?

A. The only comparables I would have would be slips that were either sold or leased on a length of the vessel type. They are 20, 40, 30, 50, 60 foot slips. I've never known of one that has sold or been leased on a width. So I don't know if I would find any used as comparable. So the answer to your question is no. Still I would use the length of the slip, not the width, in valuing a boat slip.

MR. DUKES: That's all I have. Thank you, sir.

THE COURT: Thank you very much.

WITNESS: Thank you, Your Honor.

THE COURT: Have a good game.

WITNESS: Thank you, Your Honor.

THE COURT: All right. Next witness.

MR. DUKES: Bushnell Nielsen.

BUSHNELL NIELSEN, being first duly sworn, testified as follows:

THE CLERK: Thank you. Please be seated. Sir, for the record, if you'll please state your name, spelling your last name.

WITNESS: John Bushnell Nielsen, N-i-e-l-s-e-n.

DIRECT EXAMINATION

BY MR. DUKES:

Q. Mr. Nielsen, would you tell the Court what you do for a living?

A. I'm a lawyer and I'm also an educator to the land title industry.

Q. How long have you been involved with the land title industry?

A. Thirty years.

Q. What all have you done in your work history?

A. I started work out of law school in 1981 for Ticor Title Insurance Company. I worked for that company for nine years in various capacities. I searched title and I examined title. I became a lawyer who handled the questions about the underwriting of insurance. Then I became a claims attorney for the company, and I did that in two different states, several different capacities with that. I became a manager for the company. I managed the State of Michigan, for example, and agency relationships through that state. I became the manager of what was called a national business unit for the company doing transactions all over the country

multi-state, multi-site transactions. I found that I would rather handle claims than be a manager of people in a large office.

And so I became a regional claims counsel for Ticor Title. That was my last position with the company. And so I supervised claims handlers in nine states and handled claims on my own that were more complicated or larger dollar amounts. That was my last position with Ticor Title. I was then in private practice for three years with a law firm in Chicago and Milwaukee that specialized in doing work having to do with the coverage of title insurance and title disputes. I worked for that firm for three years.

I worked with an excellent group of people who also were publishing a newsletter for the land title industry. I became an associate editor of that newsletter at that time. Then, I was asked to become the state counsel for Chicago Title in Wisconsin. First, an understudy to a man who was a wonderful dean of title who was about to retire. I accepted that job. I became his understudy for a short time, then he did retire. I became the state counsel for the company in the State of Wisconsin and was responsible for both the underwriting of insurance in that state; the teaching of examiners and searchers of title what to do -- title agents on what they were supposed to do. And I also handled claims for the company. And I did that for seven years.

And then I went into private practice in 2000, and joined the firm that I am presently a shareholder with Reinhart, Boerner, Van Deuren in Milwaukee. And have been doing all manner of title disputes; title insurance coverage issues; handling of problems with escrow and closing. At the same time, I am actively educating the land title industry; speaking to people in the industry; and I have written a book and a newsletter. I keep doing that as I practice law.

Q. And since you mentioned your publications, would you inform the Court what your publications on the title industry are?

A. In 1996, I published a book called Title and Escrow Claims Guide which was intended to be a de facto claims handling manual for people in the land title business. It explains from A to Z how to handle a claim; how loss is determined; what is covered by the policy; and what the different coverages mean. It's different from other books about title insurance, which are written for people who do real estate transactions. This is written for the claims handler. I have updated that book each year since 1996.

In 1998, I was asked by one of the people I had worked with at this Chicago law firm if I would become the editor, and take over the editing and writing of a newsletter called The Title Insurance Law Newsletter. Which the title is sort

of self-evident as to what it is. It's a monthly publication that is a paid subscription publication that's national in scope. And it covers all of the new cases and new regulatory issues about the title insurance industry. People who buy it are anyone dealing with the title industry or who's in the title insurance industry. I published that newsletter monthly since 1998. So about 150 issues.

I've also written numerous other articles. I've written two book chapters. I've taught at least 200 seminars across the country, and, of course, published numerous outlines for those seminars. I've taught lawyers, title people, just about anyone you can imagine about my one subject of title insurance.

Q. And you provided training in seminars to attorneys who are title agents regarding what they are supposed to do and what they are not supposed to do; is that correct?

A. Yes. Both when I was in-house working for a company and also in private practice.

Q. And how many times have you underwritten a title insurance policy?

A. Tens of thousands of times, I guess. I used to take about 75 underwriting calls a day.

Q. Have you ever been qualified as an expert in title insurance issues by any court?

A. Yes, I have.

Q. How many times have you testified in court as an expert on title insurance issues?
A. I believe, ten times before today.
Q. And how many cases have you been involved with as an expert witness on title insurance issues?
A. On title and conveyancing and title insurance, that whole gamut, I would guess about 40 times total.
Q. Do you have any other professional qualifications or honors that might be of interest to the Court?
A. I have served as the president of both the Michigan Land Title Association and the Wisconsin Land Title Association. I am a member by invitation of the American College of Real Estate Lawyers. I received a number of service awards from land title associations. I have served as counsel for the American Land Title Association, also.
Q. And are you familiar with the agency guidelines that are common in the title insurance industry both for Chicago Title and other title insurance companies?
A. Yes. And I have written some of those guidelines that are national in schools.
MR. DUKES: I would tender Mr. Nielsen as an expert in title insurance.
THE COURT: Mr. Epting, do you have any questions as to his qualifications?
MR. EPTING: I'd like to voir dire him, Your Honor.

THE COURT: Okay. That's fine.

CROSS-EXAMINATION

BY MR. EPTING:

Q. Mr. Nielsen, just a couple of points. You said you've testified ten times in courts. Federal and state?

A. I don't recall if I have testified in a federal court.

Q. How many times in state and federal court has your testimony not been received because it invades the tryer of fact or the province of the judge?

A. In a case in Philadelphia, part of a report that I produced, not testimony in trial, but part of a report, the court said although it was a preamble to my opinions about the title insurance policy and the endorsement at issue, that the preamble, which was describing the nature of the rights that were described in the endorsement that was the subject, was more legal in nature than about the custom and practice of the industry. So the court said that it would not use that part of my report.

Q. And that would have been the Nationwide vs. Commonwealth Land case?

A. Yes.

Q. What other cases has your testimony been restricted in?

A. There was a case --

THE COURT: Let me ask you a question. I mean, his testimony may still be restricted in this court, but we're

talking about his qualifications at this point in time. Do you think that goes to his qualification of the court restricting the subject matter of his opinion? I'm not sure that has to do with his qualifications.

MR. EPTING: Judge, no. I think I agree anyhow. I agree with you.

THE COURT: I don't think that necessarily goes to his qualifications as expert in title insurance.

MR. EPTING: And I don't have the report to pick with, Judge. So we'll handle it as he testifies.

THE COURT: I don't mean to be cutting you off. If you want to ask him any other questions, that will be fine.

MR. EPTING: No. No. I, actually, think your right. Thanks.

THE COURT: Okay. Do you have any objections to his qualifications?

MR. EPTING: No. None, Your Honor.

THE COURT: All right. The Court finds he's an expert in title insurance.

CONTINUED DIRECT EXAMINATION

BY MR. DUKES:

Q. Mr. Nielsen, what documents have you reviewed in this case?

A. I have looked at the pleadings in the case, probably, all of the pleading and complaint, amended complaint, answer

those sorts of things. I've looked at some discovery documents that were produced, two deposition transcripts that of Mr. David and the -- Mr. Buck. I'm sorry. I lost a word there, an important word for a minute. Those two deposition transcripts. I've looked at at least some of the exhibits that were marked at those depositions. I've looked at the title insurance policy that was issued; the agency contract and amendments between St. Andrews Title and Chicago Title. Those are the documents that I looked at that were specific to this case. There may have been others. I then, of course, in forming my opinions, looked at other sources including my book, issues of my newsletter. I looked at various law from South Carolina and other industry type treatise manuals.

Q. And you sat through yesterday's testimony at least for your own person -- the afternoon testimony; correct?

A. Yes.

Q. Do you have an -- have you developed an opinion regarding -- well, let me ask you this, first: In the industry of title insurance, are title agents general agents of the title insurance company?

MR. EPTING: Objection to form. He's asking for a legal conclusion. He's asking him to interpret a legal document.

THE COURT: Let him finish his question.

MR. EPTING: Oh, I'm sorry. I thought he was finished.
BY MR. DUKES:
Q. Do title agents have general authority to bind a company within the industry?
THE COURT: Do you have an objection?
MR. EPTING: I have an objection, Judge. It calls for a legal conclusion, one. Two, he's asking to interpret a document that is already into evidence called the agency agreement. And that's for this Court.
MR. DUKES: That isn't the question I asked. I said, Are they general agents?
THE COURT: I understand. The problem I have is you're asking in light of absolute, total, non-binding. If you'll lay some foundation, I -- maybe, that's his opinion that you can't -- an agent can't have a binding contract, but I'm not sure that's the law. I don't know what his opinion's going to be. I need some foundation on what you're trying to get out of him, if I may. Because of the lack of foundation, I'm going to sustain the objection. I'm not sure where you're going with this question, but I think I know where you're going; but we'll see.
BY MR. DUKES:
Q. Mr. Nielsen, in the title insurance industry, are -- in the title insurance industry, generally, are the actions of title insurance agents limited by the agency agreements they

enter into?
A. Yes, they are.
Q. And in the title insurance industry, for example, are title insurance agents permitted to accept service of process?
A. No, they are not.
Q. Are they, generally, allowed to enter into contracts of indebtedness for the company?
A. In the name of the company, no. That's always part of the agency contract.
Q. And are title insurance agents permitted to sue or be sued on behalf of the company?
A. No, they are not.
MR. EPTING: Your Honor, I move to strike all of this. It doesn't have to do with the facts of this case. It's irrelevant.
THE COURT: Overruled. He's laying some foundation for his ultimate question. I'm going to listen to it.
Go ahead.
BY MR. DUKES:
Q. So, Mr. Nielsen, based on your knowledge, training, and experience, are title insurance agents general agents of the companies for whom they are agents?
A. No, they are not.
MR. EPTING: Objection to form, Your Honor.

THE COURT: Overruled.

BY MR. DUKES:

Q. What --

MR. EPTING: I object on the basis that he's asking this witness to give you legal conclusions and testify to issues that only you as the tryer of fact can decide.

THE COURT: Overruled.

MR. EPTING: Thank you, sir.

BY MR. DUKES:

Q. What are title agents in the industry allowed to do? What is it they do?

A. The industry -- title agents have not always existed. I joined the industry in an era in which the major title insurers, including Chicago Title, were just developing networks of agents that were national. Earlier in the industry, in the 1950s and 60s, title insurers only had their own branch offices. They wanted to provide national services to national lenders, primarily. And so they wanted to have people who were local in each locale able to write insurance for them.

And in different states, there were different kinds of people who were operating locally, searching title, examining them, issuing title opinions, certificates, abstracts, different title related products. The title insurers developed a uniform form of an agency contract or

appointment that they used throughout the country. And I have reviewed the St. Andrews contract. I have seen that same contract form many times.

The title insurer appoints a title agency or an attorney who writes title insurance for a very specific purpose of issuing three products that are title insurance in nature. That is a commitment to insure, which is a binder of insurance; a policy; and then an endorsement to a policy or various kinds of endorsements to the policy. Those are the three forms that the St. Andrews contract and that all contracts authorize title agents of all kinds to issue in the various states.

All agency contracts are also limited to particular state or states and also by county.

MR. EPTING: I'm going to object. He's testifying that all agency contracts are limited. That's not his role to testify what a document means.

THE COURT: Overruled.

Go ahead.

WITNESS: They're limited by a state or states and counties so that they are limited geographically. They limit the agent's authority to a certain dollar amount. There's always a dollar amount about which the agent must obtain authority. So even in issuing these forms that the company prescribes, the agent must obtain authority to issue

that form of commitment or policy above a dollar amount.

And then the contract always says that the agent may only issue the policies and commitments according to the manuals, underwriting, bulletins, and memoranda of the company. So in other words, according to prudent underwriting practices dictated by the company. So the agency contract always has these limitations. And the St. Andrews contract has exactly those limitations in it.

In paragraph two of the St. Andrews contract, it has the further limitations that --

MR. EPTING: Your Honor, same objection.

THE COURT: Mr. Epting, I think he can testify as to the restrictions in the contract of his actual authority. And that doesn't affect an apparent authority involved in this case. Okay. And I think they're two separate issues.

MR. EPTING: All right, sir.

THE COURT: But I think he can talk about the actual authority that the contract gives to the agent.

MR. EPTING: Can I register, Judge --

THE COURT: Yes. You can raise your objections throughout that testimony. Okay.

MR. EPTING: All right, sir.

THE COURT: Or you can stand up every time you feel comfortable, however you want to handle it.

MR. EPTING: Well, I don't -

THE COURT: To protect the record, you, probably, need to object each time.

MR. EPTING: All right, sir. I'll do that, but I'll be brief.

THE COURT: If you want stand up, that's fine. I have no problem with that.

MR. EPTING: All right, sir.

THE COURT: But overruled.

MR. EPTING: Thank you, sir.

WITNESS: The agency contract that Chicago Title signed was St. Andrews -- has these limitations that you mentioned earlier that the agent does not have the authority to accept service on behalf of the company; to adjust a claim that is made on a policy issued by St. Andrews; or to incur any debt on behalf of the company. And these are uniform limitations on the agent's authority. Every title agent, be it a lawyer, a lay person, or a lay company, does other services -- performs other services that are beyond the scope of the agency. California, for example, calls title agents underwritten title companies to acknowledge that there are many other services that are provided by the underwritten title company that are not the issuance of commitments, policies, and endorsements on behalf of the title insurer.

BY MR. DUKES:

Q. And are closing a real estate transaction as the closing

attorney, that is a separate service; right?
A. Yes, it is.
Q. Outside the agency with the company; right?
A. Yes. And in South Carolina what with a check -- the South Carolina Supreme Court has been adamant in saying that most of the functions performed by title agents are the practice of law. So the examination and certification of title is the practice of law. Closing a transaction is the practice of law and must be conducted by an attorney.

The ordering of documents for a recording and then, actually, delivering them to the RMC for recording, that is the practice of law. So a lawyer must perform those services. And those services are beyond the scope of the title agency. So the title agent who is an attorney, and must be, is also performing other services in a transaction which are not within the scope of the agency.
Q. And the underwriting of the title policy, for instance, it's not the practice of law and can be done by a non-attorney agent; correct?
A. Yes, it can be.
Q. And a non-attorney agent, subject to the company's guidelines, can issue a title commitment?
A. Yes.
Q. And the non-attorney agent, subject to the guidelines, can issue an endorsement to a policy; correct?

A. Yes. As long as there's no practice of law on that, yes.
Q. Would you look at Exhibit Number 5, please?
A. I have it.
Q. Now, you've seen many title insurance policies, commitments and endorsements; correct?
A. Yes. Tens of thousands.
Q. In your opinion, is Exhibit Number 5 a title insurance policy?
A. No, it is not.
Q. Is it an endorsement to a policy?
A. No, it is not.
Q. Is it a commitment?
A. No, it is not.
Q. In your opinion, does that document fall within anything that is contemplated by a title insurance agency agreement?
A. No.
MR. EPTING: Object to the last question, Your Honor. It's invading this Court's province.
THE COURT: Overruled.
Sir?
WITNESS: No, it is not was my answer.
BY MR. DUKES:
Q. Let's turn to the actual title policy issued to Zan, LLC which is Exhibit Number 10. Now, yesterday, you were in the

courtroom when the Court asked questions about covered risk number one -- number one, two, and five, I think, the Court asked about. Could you explain covered risk number one and what that entails?

MR. EPTING: Note my objection, Your Honor. He's interpreting the contract, and in so doing, invading this Court's role.

THE COURT: I think he can give his opinion whether it invades it or not. I may disagree with his opinion, but I don't have any problem with him giving his opinion. Okay. Overruled.

WITNESS: Covered risk one is - Exhibit 10 is a little bit out of order in that I don't know what the first page is. But the second page is Schedule A which normally appears in the middle of a policy. And the normal cover of a policy is the fourth page which has a sticker on it at the top, Plaintiff's Exhibit C. So, anyway, the covered risks are at the beginning of a policy. Covered risk one reads, someone else owns an interest in your title. This is the essential or fundamental coverage in any title insurance policy. Covered risk one, actually, goes along with covered risk six, your title is defective. This assurance is stated in other policies as you are vested and titled to your property. So that is the assurance. And it's written as an indemnity, that is the company will indemnify or pay a loss

to the insured if this is not, in fact, true. It's not a guarantee. It's an agreement to indemnify for actual loss if it is not true that the insured is vested in title; or as this policy states it, someone else owns an interest in your title.

BY MR. DUKES:

Q. And let me ask you this question, Mr. Nielsen: Does title insurance insure that a person will get title or does it insure -- or is it, simply, backward looking, it insures that you've got that title?

A. Title insurance is unique in that it is retrospective in coverage with very limited exceptions. The policy -- you pay one premium. You pay that on the date the -- or, roughly, at the time of closing or about the time the policy is issued. It insures title up to the time that the insured is vested in title or the date on which the instrument vesting the insured in title is recorded, which I think is the case here. And it only looks backward as to these coverages. So it protects against any defect in the title that will later be discovered, but which already existed on the date of policy. And that's why there is one premium. And the understanding, of course, is that once an insured owns property, whatever happens to the property will, actually, be caused by the insured. So this is not like other lines of insurance where once a person gets an

interest in property wanting to protect it from a risk or a fortuity, fire, hail, storm of some kind, whatever. No, you want to protect your title as of the date that you purchased the property. You can only be divested of title based on something that has already happened before you bought it. So this covered risk one is as of the date of the policy.

This, someone else owns an interest in your title, refers to title. Title is the defining term, and the definition of title is found in the next page of the policy. Title is the ownership of your interest in the land as shown in Schedule A. Land is the second defining term. Land is defined as the land or condominium unit described in paragraph three of Schedule A, and any improvements in the land which are real property. So then, we see the assurance against someone else owning your title means that the company protects you against someone else having an ownership interest in the land as described in item three of Schedule A.

Q. And is there a Schedule A on Zan's policy?

A. Yes, there is. But if I may, before I go there, on the same page as the definitions, directly above it, there's an exclusion 6-A which emphasizes one thing. This is an exclusion. The company does not protect against this: Lack of a right to any land outside the area, specifically, described and referred to in paragraph three of Schedule A.

So in other words, when you put the exclusion and the definition of land together, we see that the title that is being insured, is the title to the land described in Schedule A, Exhibit 10. And then the second page of Exhibit 10 is Schedule A, which is like a declaration page. It gives the policy number and the policy amount; the date of the policy; the name of the insured; the interest of the insured, that is, the estate of the insured which is fee simple in this case. And then it describes the land which the policy insures the insured as having good title to. This policy describes two parcels, what's been referred to as lot three, the land parcel and dock unit CSB-1. These are the two estates. And the definition of land -- I'm sorry -- and the exclusion both say that the policy does not insure any land outside of the area, specifically, described and referred to in paragraph three of Schedule A.

Paragraph three is the part that describes dock unit CSB-1. That describes that unit by reference to the master deed. And at the very end it says, all this described more fully in the master deed. The master deed contains the plat which shows the outline of the dock unit CSB-1. So that is the land which is being -- the title to which is insured.

Q. Not dock unit CSB-1 plus some portion of CSB-2?

A. There is no reference to anything in the slips beyond CSB-1; correct.

Q. The Court also asked about, I believe, covered risk number five. Would you walk us through what in your experience covered risk number five means in a standard ALTA title policy?

A. Covered risk five reads, someone else has a right to limit your use of the land. Now, the key word here, really, is right. Someone has a right to limit your use. The usual example given as to this covered risk is --

MR. EPTING: Your Honor, let me just note my...

THE COURT: Continuing objection?

MR. EPTING: Continuing objection.

THE COURT: Okay.

MR. EPTING: He's interpreting --

THE COURT: So noted. Overruled.

WITNESS: -- is a use restriction. So that is a right that one person has to restrict the use of the insured's use of the insured's property. So the use restriction which says that you cannot have a tavern on this property, that would be someone's right to restrict the use of the land. That's what covered risk refers to. I don't see any -- I have heard no testimony, see no basis to believe that covered risk five would be invoked in this case.

Q. And covered risk five would not come into play, again, as we've heard testimony, Mr. Buck cannot get his yacht into slip CSB-1 as it's defined on the plat?

A. No. The policy does not insure that the -- the policy insures the titles of land. And the commentators and people who teach, like me, always explain that it insures the title not the use of the land or any regulation on the use. It insures the title and not the value of the land. Cases all over the country, courts have admitted this simple premise that you can have perfect title to land that has no value. You can have very valuable land that has bad title.

But in any event, the policy does not assure that the property has any particular value. So it doesn't assure that you can use the property. It doesn't assure you that the property has any particular value. And the policy does not assure any insured that the parcel will be fit for any particular use. And, typically, the title insurer does not know what the intended use is that the insured has for the property; doesn't even know.

Q. So the title insurance, simply, insures that you own what is described in the policy?

A. Exactly.

Q. Have you identified any defect in Zan, LLC's title to slip CSB-1?

A. No. I find no defect in the title.

Q. How do title insurance companies handle a claim? How do you measure the exposure for a claim on a title policy?

A. Well, this policy is explicit in saying in paragraph 6-A

how loss is measured. The paragraph is called limitation over a liability. The same kind of paragraph appears in all title insurance policies. It says that after subtracting your deductable amount, if it applies -- and by the way, that does not apply -- we will pay no more than the least of your actual loss or -- then it has the number two, which does not apply in this case; or three, the policy amount then enforced.

So the applicable provision is the phrase "your actual loss." And I spent in all of chapter three of my book on how to measure loss. But it boils down to this very simple formula.

MR. EPTING: Your Honor, note my objection.

THE COURT: Yes, sir. Overruled.

WITNESS: That loss for a defect in the title is measured as the difference in the value between the property if it had no defect and the value with the defect in the title. And so the loss is measured as of -- the loss is the difference between the two values. You can't, for example, just get an appraisal of the property; find out what it is worth; submit it as the insured as your proof of loss; and asked to be paid the value of the property. Because that's not the measure. It's the difference in the value of the property, assuming that there is no defect in it, or assuming that the title is defective.

Now, if I may interpret in this case from the testimony that I've heard, I don't find any defect in the title.

MR. EPTING: Your Honor, note my objection.

THE COURT: I'll sustain that objection. I don't think he's heard everything. Okay. I don't know if he heard Mr. Buck's testimony. So I'll sustain the objection.

BY MR. DUKES:

Q. Mr. Nielsen, yesterday, you were in the courtroom when there was a lot of discussion by Mr. Epting asking Mr. McMillan if he would join him at the boat slip to measure the slip; do you remember that?

A. Yes.

Q. That discussion brings to mind certain provisions of the policy, namely, exceptions from coverage B. And would you explain to us what the industry custom is regarding exceptions from coverage B?

A. Exception B is commonly known in the industry as the survey and inspection exception. And the exception, which is really an exclusion from coverage that is special to the property, excludes from coverage any manner that would be discoverable by the insured if the insured obtained an accurate survey of the property or conducted an actual physical inspection of the property.

The title insurance policy does not only protect against matters that are in the public records, but a title

insurer in issuing the policy issues the policy and underwrites it based on a review of the public records. So the policy has several provisions that take away coverage as to matters that an insured is bound by, by law, which are not in the public records. So, for example, those things that an insured would know based on the insured's own duty to inquire about the property, which is one of the three forms of notice that an insured has.

The policy also excludes those things, actually, known by the insured, but are not in the public records for the same reason. The survey and inspection exclusion of the policy says the company will not protect the insured against those things that the insured would discover if he obtained an accurate survey of the property, or if he, physically, inspected the property. It doesn't matter whether or not he does inspect it. Whatever he would find on inspection is not covered based on the survey exception. Whatever you would know by getting an accurate survey that he doesn't know at the time he buys that also is not covered. That's the purpose of this.

MR. DUKES: That's all I have for you. Thank you, Mr. Nielsen. Please answer any questions anybody else has.

THE COURT: Hold on just a second. Are the parties here on that next case?

BAILIFF: Yes, Your Honor. Most of them are out in the

Hall.

THE COURT: How about bring them in real quick, please.

MR. EPTING: Judge, if it will help you, I do not intend to ask this witness a question.

THE COURT: You're not going to ask any questions?

MR. EPTING: No, sir.

MR. BARNETT: Neither will I.

MR. DAVID: Absolutely, none.

THE COURT: Okay.

(WHEREUPON, there were scheduling matters.)

THE COURT: Nobody has any more questions of this witness; is that correct?

MR. DUKES: Nothing more for me, Your Honor.

MR. BARNETT: Nothing, Your Honor.

THE COURT: Hold on just a second. I may have a question.

Bushnell, is that correct?

WITNESS: I go by "Bush," Your Honor.

THE COURT: Okay. Bush, how do you spell your last name?

WITNESS: N-i-e-l-s-e-n.

THE COURT: All right. On your endorsements in the exceptions to title policies, do they have to be approved by the company, by the agent before you all accept them or do they have the authority after closing to enter into some

type of endorsement or some type of exception to the policy? Exceptions to titles is what I'm referring to.

WITNESS: So in exception that is a special exclusion to the policy.

THE COURT: Right.

WITNESS: That will depend on the nature of the exception and what the underwriting rules are.

THE COURT: Can they do it on their own, or do they have to go to the company to get approval?

WITNESS: Sometimes they have to go to the company, sometimes they don't. If it's a pretty standard thing, and there are underwriting rules set on what exception to use in that circumstance, they don't need to ask permission.

THE COURT: How about adding an endorsement to the policy? Do they have to go to the company to get approval of the endorsement?

WITNESS: That will depend, again, on the endorsement, whether it's a standard form and the rules are set and the rules can be complied with. Then they can issue it without calling the company. If it's a special kind of an endorsement and, particularly, an endorsement that is not a filed form, then they must go to the company for approval to issue such an endorsement.

THE COURT: I believe, Mr. Dukes referred to Plaintiff's Exhibit Number 5 which is the letter that the

agent wrote, Mr. Dan David.

MR. DUKES: Judge, if I may note, that's on his law firm stationary, not Chicago Title.

THE COURT: I understand. He's still an agent of the company Chicago Title, who wrote the right to policy.

I don't know if you heard Mr. Buck's testimony or not, but Mr. Buck -- and I don't remember the exact words he said, but he indicated or he told the attorney that he wanted the issue of the pilings placed into the title insurance policy. Okay. Now, the dispute in this case is where these pilings were supposed to be located. Okay. And that's the factual dispute. Now, assuming that this letter he wrote about the pilings -- and I understand it's not necessarily endorsement to the policy, but assume Mr. David had the apparent authority to bind Chicago Title to Mr. Buck, how would the company react to Plaintiff's Exhibit 5 as far as their agent binding them to that being part of the insurance policy?

In other words, insurance policy is just a contract between two parties. It's negotiated and, generally, in your situation, there's not a lot of negotiations. You buy what you get, and you all will issue it. But it's a contract. And Mr. Buck was a buyer of that contract. And in his testimony, he'll assume he was buying that insurance policy and protection concerning the pilings was going to be

In that insurance policy.

WITNESS: I understand his testimony -

THE COURT: He's basing that on the April 5, 2005, Plaintiff's Exhibit Number 5. Now, how would the company react to their agent binding the company as to the pilings? A breach of contract is what they're saying.

WITNESS: Well, Your Honor, the definition of land, I think, is the most important thing. Land is defined as, in this policy, as the land or condominium unit described in paragraph three of Schedule A and any improvements on the land which are real property.

Now, if there are any improvements that are on the land described in Schedule A, if there are pilings, for example, that are within the vertical boundaries and the horizontal boundaries of slip unit B-1 on the date of policy, then those rights, those improvements are insured; because that's part of the land that has been transferred. There were no pilings on that date. And because the policy speaks only as of this date and backward, then the pilings were not insured. And the company would never authorize an agent to bind Chicago Title to somehow cause to happen the placing of an improvement on real estate.

THE COURT: I know you would never approve it, but I'm just asking what if that happened?

WITNESS: Well, and yet that would be entirely

inconsistent with the premise of title insurance, which is that we insure the title to the land that's, actually, conveyed.

THE COURT: As you say you insure retrospectively. Anything -- I didn't mean to cut you off. Anything else you want to say?

WITNESS: I just have never heard of a situation in which anyone has even alleged that a title agent on behalf of a title insurer bound the company to cause the happening of an event in the future.

THE COURT: Okay. Anybody have any questions in reference to the questions I asked?

MR. DUKES: Just one.

THE COURT: Yes, sir. I mean, anybody that wants to ask one, feel free to do it. I'm not trying to cut you off. I want you to explore that or find out whatever you want to do.

FURTHER EXAMINATION

BY MR. DUKES:

Q. Mr. Nielsen, you reviewed the master deed of the slips at Ripley -- Ripley Regime; correct?

A. Yes, I did.

Q. And you saw where the pilings are part of the common elements; correct?

A. Yes.

Q. And they are not owned by the owner of the slip, itself, except for the undivided interest in the common elements?
A. Yes. And, in fact, the definition of unit is the vertical planes are interior of piers and pilings. And so it is as, I think, Mr. David testified, it refers to imaginary lines, vertical lines as being the side boundaries of the slip unit. The bottom line or the floor of the unit is the bed of the cove. And it says that the top line of this cube of air and water is the heavens. And so the pilings are not only -- not only are they common elements, they are not within this cube of air that is the unit.

MR. DUKES: Thank you.

THE COURT: Mr. Epting, anything you want to ask?

MR. EPTING: No, sir. No questions.

THE COURT: Thank you so very much.

(The witness leaves the stand.)

THE COURT: Any other witnesses?

MR. DUKES: Chicago Title rests, Your Honor.

THE COURT: Do you have some reply?

MR. EPTING: Judge, I am having something printed for Mr. Buck to use.

THE COURT: Okay. Mr. Buck, if you'll come around.

MR. EPTING: I think Mr. Buck thinks his memory is good enough that he can testify to them.

THE COURT: Okay.

EDGAR BUCK, first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. EPTING:

Q. Now, Mr. Buck, you said that you wanted that document in front of you which is Exhibit 30. Why don't you tell the judge what you did this morning?

A. Your Honor, first I'd like to say, I'm not an engineer, but I can read a tape measure being in the lumber business.

THE COURT: What exhibit are we talking about?

MR. EPTING: Thirty, Judge.

THE COURT: Thirty?

MR. EPTING: All right. Defendant's 30.

WITNESS: I went out this morning and I took the measurement of this floating dock that sticks out into my lot.

BY MR. EPTING:

Q. Eddie, let's do this. Come up to the bench.

(The witness complies.)

WITNESS: This right here is 10.6 feet.

THE COURT: The entire area?

WITNESS: Yes. The entire area. It says that the property line runs through the middle of it.

THE COURT: Ten point how much?

WITNESS: Ten point six.

THE COURT: Okay.

WITNESS: So the half that is in lot B-1 is 5.3 feet. If the center line is 20 feet from the center line here over, that leaves 14.7 or nine inches or so.

THE COURT: If the center line is where, now?

WITNESS: If you take this 20 foot.

THE COURT: Right.

WITNESS: And we drew the center line right here, and take off this 5.3 feet, you end up with 14.9 inches of slip.

THE COURT: Shouldn't the five feet be taken off the 21.42?

WITNESS: Well, the 21.42 is this point in the lot, and this point right here 20.37, it's about a foot off. But if you still take 5.3 off of the 21, you're at 16 and my boat is 17.9 --

THE COURT: I was going to say, the five should be taken off the 21.4 if you're going to find out how much it's taking up of actual space; is that correct or not correct?

WITNESS: Yes, sir and no, sir. Because it also takes up -- there's going to be less space back here at the back.

THE COURT: Right.

WITNESS: Than it is from this point.

THE COURT: I'm talking about the portion along the floating dock --

WITNESS: Yes, sir.

THE COURT: -- is the difficult part for your boat?

WITNESS: Yes, sir.

THE COURT: Okay. All right. I didn't mean to -- I just wanted to make sure I understood.

MR. EPTING: No. No. No. What we did, Judge, is we -- there's a video that was done to show -- let me ask this question, Eddie.

BY MR. EPTING:

Q. Is this ten foot walkway that I'm referring to between the public dock and your dock, is it built as one?

A. It's built as one. It's a concrete platform and it's got, I think, two or three two-by-eights on each side of the concrete. Yes, sir.

Q. So for so long as this finger pier exists, the actual clearance over to the line dividing B-1 and B-2 is something short of 15 feet?

A. Correct.

MR. EPTING: All right, sir. That's all I have, Judge.

THE COURT: Okay. Does anybody have any cross-examination of Mr. Buck on this issue?

CROSS-EXAMINATION

BY MR. BARNETT:

Q. Mr. Buck, you did this measurement when?

A. This morning.

Q. Okay. I just didn't hear it.

A. I've done it a number of times, but I did it again this morning?
Q. Okay. All right. Did you do it before you closed?
A. Yes, sir.
Q. Okay. And you came up with the same numbers?
A. Yes, sir. That's the reason I asked for the two feet with the pilings, and I was told I could have it.
Q. And is that floating platform that is the problem?
A. Well, it takes up 5.3 foot of the lot.
Q. And if they were gone, you'd have 20 feet?
A. Yes, sir.
Q. As you were saying you need?
A. Well, 20 feet -- you've got piling that you've got to deal with. The piling is 18 inches inside of that floating dock. And the piling, itself, they're buried. They're buried between 12 and a half inches and 13 inches.
Q. Actually, I meant to include that piling, the anchoring piling and the floating dock.
A. I think that from the inside of the piling to the outside of the floating dock is 16 and a half plus 13 if it's 13 plus, yes.
MR. BARNETT: That's all I have.
MR. DUKES: Nothing from me, Your Honor.
MR. DAVID: I have no questions, Your Honor.
THE COURT: Mr. Buck, hull breadth, what is that?

WITNESS: The hull breath?

THE COURT: I'm sorry. Breadth, b-r-e-a-d-t-h.

WITNESS: I think that's -- my understanding, Your Honor, is it's the widest spot of the boat at the water line.

THE COURT: Widest part of the boat.

WITNESS: At the water line.

THE COURT: Widest part of the boat not including the boat rail.

WITNESS: That's correct. I'd say this, 90 percent of boats start at the water and kind of do this.

THE COURT: The widest part of the boat which doesn't include the boat rails on the boat; is that correct?

WITNESS: Yes, sir. And the flare of the bow.

THE COURT: Okay. The boat rails would be on the flare; right?

WITNESS: Yes, sir.

THE COURT: On the outside of the flare?

WITNESS: That's correct.

THE COURT: Anybody have any questions about that information?

MR. EPTING: Nothing from me, Your Honor.

MR. BARNETT: No, Your Honor.

THE COURT: You may step down. Thank you, sir.

Well, hold on a second.

Mr. McMillan?

MR. MCMILLAN: Yes, sir?

THE COURT: You may come around and ask Mr. Buck about his damages. You heard his testimony the day before yesterday about his damages in this case. You're in default. Mr. Epting wants to use this as a default hearing. You're entitled to ask him questions about the damages on your default. You may come around and do that at this time.

MR. MCMILLAN: Your Honor, I had legal representation, but he's not prepared. And I don't know how to cross-examine for the damage hearing. So can I let him speak?

MR. KOON: Your Honor, I was asked to come down and advise Mr. McMillan. I'm Kerry Koon. And I have an imperfect understanding of what's gone on until now, but what I do grasp is that there was a complaint and an amended complaint. I don't know and Mr. McMillan doesn't know if he was served with the amended complaint. But I would --

THE COURT: I think there's been an order of default already. So that's not even an issue. The issue, now, is the amount of damages that are going to be awarded if any.

MR. KOON: Well, he's asked me to consider doing it. And I would do it if I was given time was to move to have him relieved of default, and if not, then prepare for a damages hearing.

THE COURT: Well, I mean, he's had how many years to do

this?

MR. KOON: That is part of what I don't know about this case.

THE COURT: How many years, Mr. Epting?

MR. KOON: I pretty much know about 99.9 percent of the case.

THE COURT: He's had two years. And he's been sitting in this courtroom all -- since the case started and listened to the testimony.

How long's it going to take you to get this prepared?

MR. KOON: Well, Your Honor, I would hope that you would consider setting a hearing date sometime other than today or tomorrow, because I have other matters that I need to tend to. But, obviously, I would be --

THE COURT: Are you going to represent him on this issue?

MR. KOON: I would do that if given time to get myself up to speed and prepare --

THE COURT: Don't put any ifs in it. Are you going to represent him or not represent him? If you're going to represent him, I'll give you your time, but if not --

MR. KOON: Yes, sir, I will represent him then. Under those circumstances, I will.

THE COURT: Okay. Mr. Epting, anything you want to add? What I'll do is we'll just set a date and time for him

to come back and ask whatever questions he's going to ask.

MR. EPTING: All right, sir.

THE COURT: All right. We'll set it for -- when in August?

THE CLERK: Which ever date on a Monday.

THE COURT: On Monday, August the 28th at 9:30 we're going to have a damage hearing.

MR. KOON: Yes, sir.

(WHEREUPON, there were further scheduling matters.)

THE COURT: Thank you very much. You may step down.

(The witness leaves the stand.)

THE COURT: Let me see. I've got the motion to dismiss St. Andrews and Chicago Title; is that correct?

MR. DAVID: That is correct.

MR. DUKES: That's correct.

THE COURT: All right. I wanted to listen to the testimony before I made a decision on those issues.

Mr. Epting, my concern is, I think, in all areas that the title insurance in existence at the time how it affects us. And I think I discussed that with you when we heard it. That's my difficulty. I don't think they insure -- excuse me -- negligent misrepresentation or the other causes of action. Do you have -- I know you've got breach of contract against Chicago Title, but I think all the cases -- you've got to look at what's passed at the time. And I think he's

right when he says even if you accept your client's position of the pilings, they weren't in existence at the time the title passed.

MR. EPTING: Judge, I --

THE COURT: And that's my problem with keeping Chicago in.

MR. EPTING: I have many limitations in the practice of law, Judge, but none that's so great than when it comes to real estate. But my view of this -- and there are any number of cases in the insurance context, it's just very simple. Dan was the agent. The testimony was that he represented that this 20 feet clearance was going to be part of the title policy. And that when he represented that as a general agent, he bound the insurance company to that's what the coverage was going to be.

THE COURT: That's not what Exhibit Number 5 says. I understand you want to expand it to that, but it doesn't really say that. It only addresses the pilings.

MR. EPTING: Well, and, Judge, I think, we're now talking two issues.

THE COURT: We are.

MR. EPTING: Because what you're saying is I agree, but it seems, to me, at that point in time, we're talking about a factual issue on what was the agreement that was reached, or to what extent did Mr. David represent. And I had the

Court reporter, Judge -- because I thought it was pretty germane and pretty substantial - mark what Mr. David testified to about what he said about title insurance, the width of the slip --

THE COURT: Let me do this, okay. I'm going to take this under advisement. And what I'll allow you to do before I rule on the issue of Chicago Title, as well as Mr. Dukes, just send me short memorandum, it can be by letter. If you cite cases, attach the case to it. And what I want to know is some law on, i.e., the title insurance agent binding the company.

MR. EPTING: All right, sir.

THE COURT: And so, basically, I guess, two things is what -- whatever you all want to put in the letter. I'm not trying to direct you. I'm just telling you my concerns is in the memo under what circumstances that can be done. And I'm talking about title insurance, because title insurance is a different animal than your car insurance.

MR. EPTING: Right, sir.

THE COURT: And homeowners insurance. I think the law is different in that respect. Okay. I'm going to give both of you the opportunity to address that by a short memo. And it doesn't have to be in memo form. You can do it by letter or however you want to do it. Just if you cite cases, please include the case with it, and please highlight in the

case the language you're referring to, please.

You can do the same thing.

MR. DAVID: I just wanted to make sure that Chicago Title --

THE COURT: I didn't mean to be excluding you. Okay.

MR. DAVID: Okay. Thank you.

THE COURT: No way I can exclude you today with your pink tie.

MR. DAVID: Thank you, Judge.

THE COURT: Well, can you all do that?

MR. EPTING: Absolutely, Judge.

MR. DUKES: Yes, Your Honor.

MR. EPTING: You said two things, Judge. And you said the circumstances under which --

THE COURT: The second thing I was asking -- it doesn't affect Chicago Title. I want you to include in that memo your breach of contract damages or what was the other? Recision and something else in the alternative.

MR. EPTING: In the alternative, Judge, we would be affirming the contract, and it would be the expectancy damages.

THE COURT: I'm sorry.

MR. EPTING: In the alternative, it would be the expectancy damages on the contract.

THE COURT: All right. I want you to include in your

memo the damage at issue on the recision.

MR. EPTING: All right, sir.

THE COURT: And what facts and circumstances the Court can resend the contract.

MR. EPTING: All right, sir.

THE COURT: I don't need that from you. Okay?

MR. BARNETT: Okay.

MR. DUKES: Do you need that from me?

THE COURT: I need that from you. All right, sir. Okay.

And I don't need that from you I don't think. You're in the breach of contract --

MR. DAVID: Breach of contract --

THE COURT: Negligent and breach of contract -- negligent misrepresentation. So, I guess, I need that from you, also.

MR. DAVID: Okay.

MR. BARNETT: That would include recision of the deed, Your Honor?

THE COURT: Right, yes. Whatever else you all want to put in your memo -- I'm not trying to restrict you. Okay.

MR. EPTING: Well, Judge, there is one thing --

THE COURT: I've just got some legal questions in my mind. I'm just asking you all to submit memos because I want to hear your opinion on it.

MR. EPTING: All right. One very specific question, and I know, Judge, you need to get some lunch. It's our view, and we have the cases to back it up, that an agent is always liable even if he is in the process of making the contract for his own torts. Is that something that you don't need anything --

THE COURT: I don't need anything on that. I'm more concerned about under what circumstances, do you understand?

MR. EPTING: Okay, sir. I got it.

THE COURT: And the damages issue on the contract.

MR. EPTING: And, Judge, last question.

THE COURT: I mean, I understand. I don't question what you just said, but that doesn't affect his contract.

MR. EPTING: Right. Last question. I, certainly, would volunteer to put this to you in the form of an order.

THE COURT: I don't want it in an order.

MR. EPTING: All right. Okay.

THE COURT: I'm going to take it under advisement and decide what I'm going to do factually before we start questioning about torts. Okay.

MR. EPTING: All right, sir.

THE COURT: I hadn't gotten to that stage, yet. I got to get over in my mind over some of these legal questions. Then, I'll decide factually what we're going to do.

MR. EPTING: All right, sir. Great.

MR. DAVID: Your Honor, when do you want this?

THE COURT: I'm not trying to pressure you all. You all have other obligations?

MR. DUKES: I'm starting a date certain trial in Beaufort a week from Monday.

THE COURT: Well, I'm not going to be back here until when, August?

THE CLERK: The 29th.

THE COURT: I have a term of General Sessions August 21st or 22nd.

THE CLERK: The 22nd.

MR. DUKES: I can, certainly, have something to you before then.

THE COURT: Can you all have something by August 15th?

MR. DUKES: Yes, sir.

THE COURT: I'm not trying to pressure you. I can September one if you want me to.

MR. EPTING: Judge, we would, certainly, like to move this on, and August 15th is far better.

THE COURT: Mr. Dukes, you say you got a case in Beaufort?

MR. DUKES: I'll be in trial August 8th, 9th, and 10th or so.

MR. EPTING: Rich, when do you want to do it?

THE COURT: I'm not trying to put the pressure on you

To get it to me. Just tell me when you can do it.

MR. DUKES: Give me one more week past the 15th. August 22nd is fine.

THE COURT: Mr. David, is that okay with you?

MR. DAVID: Yes, sir, that's fine.

MR. BARNETT: Yes, sir, that's fine with me.

THE COURT: Okay. August 22nd.

MR. BARNETT: You mentioned contract as to the title insurance company, that there are these misrepresentation claims as well. You want briefing on that?

THE COURT: Against the title insurance company -- I mean, it's against Mr. David's company.

MR. BARNETT: Well, he had misrepresentation against Mr. Knight, Mr. Belote, and the two corporations.

THE COURT: Right.

MR. BARNETT: Would you like briefing on that?

THE COURT: If you would.

MR. BARNETT: Yes, sir. Thank you.

THE COURT: I mean, you all can put anything else you want in the memo. I'm not trying to exclude --

MR. BARNETT: I'd like for those to go away, but...

THE COURT: I mean, I'm not trying to exclude anything else you all want to put in. Okay.

MR. DAVID: As I understand those causes of action, Your Honor, they're all tied together by all of the

defendants except for Chicago Title.

THE COURT: Except Chicago Title. The only cause of action for Chicago is breach of contract from the way I understand it; is that correct?

MR. DAVID: Stan has -- that's right.

THE COURT: And you also have negligent misrepresentation. Is that correct?

MR. DAVID: Unfortunately, I think that I am listed in there.

THE COURT: Okay. Anything else?

Thank you very much.

MR. EPTING: Thank you, Your Honor.

MR. DAVID: Thank you, Your Honor.

MR. BARNETT: Thank you, Your Honor.

MR. DUKES: Thank you, Your Honor.

THE COURT: Enjoyed working with you.

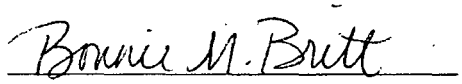
--- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE OF REPORTER

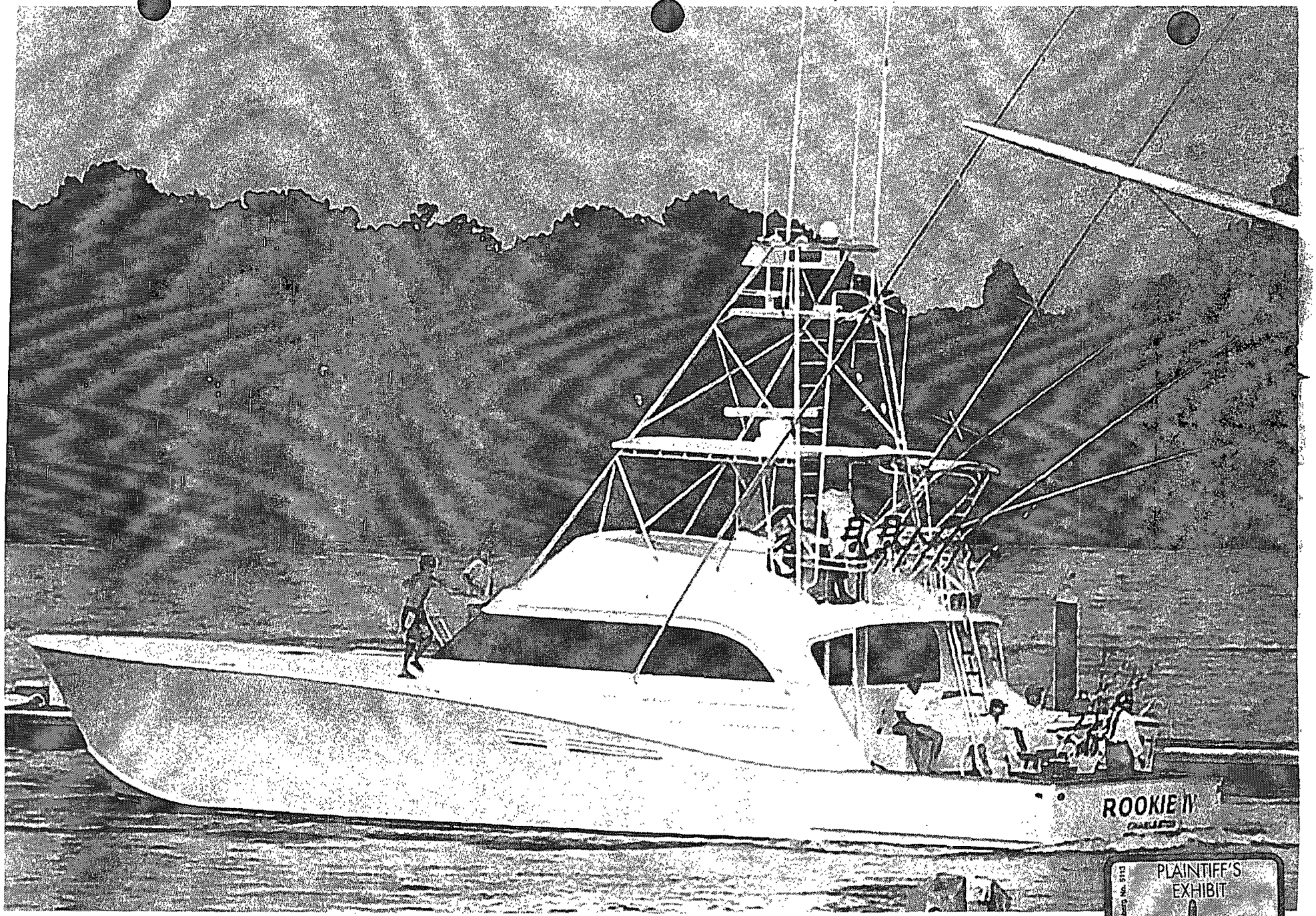
I, the undersigned BONNIE M. BRITT, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Family Court for Charleston County, South Carolina, on the 26th, 27th, 28th days of July 2011.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 19, 2012



Official Court Reporter


ROOKIE II
PLAINTIFF'S
EXHIBIT
518

PLAINTIFF'S
EXHIBIT
2A
Blumberg No. 5133

PLAINTIFF'S
EXHIBIT
2B

AGREEMENT TO BUY AND SELL REAL ESTATE
(FOR GENERAL USE AND LOTS/ACREAGE)

Prudential Carolina Real Estate

EXHIBIT 3 - Buck 10-5-10 WB

1. **PARTIES:** This legally binding Agreement entered into on _____, between, Buyer(s), ZAN LLC & OR ASSIGNS, (hereinafter called "**BUYER**"), and Seller(s), RIPLEY COVE LLC, (hereinafter called "**SELLER**"). The property shall be deeded in the name(s) of ZAN LLC

2. **PROPERTY TO BE SOLD:** Subject to terms and conditions herein, Seller agrees to sell and Buyer agrees to buy the following described property with improvements and fixtures thereon:

Lot 3 Block _____ Section _____ Subdivision MOORINGS AT RIPLEY LIGHT

Address LOT 3

Tax Map # 421-11-00-073 City CHARLESTON Zip 29407

County of CHARLESTON, State of South Carolina.

3. **PURCHASE PRICE** shall be $ SEVEN HUNDRED THOUSAND _____ dollars.

4. **METHOD OF PAYMENT:** Purchase price shall be paid as follows: ☒ Cash; or ☐ Subject to Financing. Financing to be obtained by ☐ Conventional ☐ Seller ☐ VA ☐ FHA ☐ Other terms: _____

5. **EARNEST MONEY:** This offer is accompanied by an earnest money deposit of $ 5,000.00 _____ yer and Seller authorize LYNN CARMODY-PRUDENTIAL, as Escrow Agent, to hold and disburse nest money according to the terms of this agreement. Earnest money paid by ☐ Cash, ☒ Check, or ☐ Other. Broker does not guarantee payment of a check or checks accepted as earnest money. All escrow money received shall be deposited as required by South Carolina law and South Carolina Real Estate Commission Rules and Regulations. At the consummation of this sale, the earnest money deposit shall be credited to the Buyer.

THE PARTIES UNDERSTAND THAT, UNDER ALL CIRCUMSTANCES, INCLUDING DEFAULT, THE BROKER HOLDING THE EARNEST MONEY DEPOSIT WILL NOT DISBURSE IT TO EITHER PARTY UNTIL BOTH PARTIES HAVE EXECUTED AN AGREEMENT AUTHORIZING THE DISBURSEMENT OR UNTIL A COURT OF COMPETENT JURISDICTION HAS DIRECTED A DISBURSEMENT.

6. **LOAN PROCESSING AND APPLICATION:** Buyer's obligation under this agreement is contingent on Buyer obtaining said loan. Buyer shall apply for a maximum _____ % loan (loan-to-value ratio) within _____ days from the execution of this Agreement and shall provide Seller with written satisfactory loan approval within _____ days. Time is of the essence. The written loan approval shall contain no stipulations, and shall be subject only to the provisions of Paragraph 20 of this agreement. Should the Buyer fail to make loan application or receive approval within said period, and to diligently pursue the application, the Seller shall have the option to terminate this Agreement, with written notice. Buyer also agrees to provide all documents or information requested by the lending company in a prompt and timely manner. Buyer will take any action that is needed or requested by Lender to process the loan application. Buyer further hereby gives permission to Lender to disclose pertinent information concerning the Buyer's credit-worthiness or any other information needed for the loan processing to the listing or cooperating broker(s) or agent(s). If Buyer fails to comply with these above conditions, Buyer shall be in default of this agreement subject to the terms of paragraph 16.
FHA Mortgage Insurance ☐ will ☐ will not be added to the mortgage. VA funding fee ☐ will ☐ will not be added to the mortgage.

7. WELL, SEPTIC TANK, SEWER AVAILABILITY: It shall be the responsibility of the Buyer to obtain approval from the South Carolina Department of Health and Environmental Control or other proper South Carolina authority prior to closing in event a well and/or septic tank is needed to be placed on the property.

[ZAN] BUYER [____] BUYER [WB] SELLER [____] SELLER HAVE READ THIS PAGE

Prudential Carolina Real Estate 628 Long Point Road Mount Pleasant, SC 29464
Phone: (843) 884 - 1622 334 Fax: (843) 849 - 2725 Lynn Carmody

ZAN LLC

Produced with ZipForm™ by RE FormsNet, LLC 18025 Fifteen Mile Road, Clinton Township, Michigan 48035, (800) 383-9805 www.zipform.com

PLAINTIFF'S EXHIBIT 3

In the event that the Buyer applies for well or septic tank approval and DHEC or other proper authority denies approval or issues a preliminary opinion showing that the property is not suitable for the installation of a well and/or a conventional septic system suitable for the Buyer's intended home or other structure, then in such event, the Buyer may elect to rescind this Agreement and receive a refund of the earnest money deposit. If the property is capable of being connected to a water and/or sewerage line maintained by a private or public utility for a normal tap fee and at a cost to complete tap not to exceed $_____, then in such event, the Buyer shall contract such authority to obtain confirmation that the subject property is properly tapped for water and sewer system or may be tapped into the water and sewerage system.

Seller represents that the property is connected to [X] public sewer system or to [ ] septic tank or to [X] public water or to [ ] well system or to [ ] other _____

8. **SURVEY:** Upon the acceptance of this offer, the property shall be surveyed by a licensed surveyor at the expense of the [ ] BUYER [X] SELLER. The surveyor shall set and flag all property pins, showing encroachments and easements. Property must be _____ x _____ or having at least _____ acres. The survey to be approved in writing by Buyer prior to closing. The purchase price is based upon $_____ per _____ (acre, sq. ft., or front ft.) and shall be adjusted in accordance with the area set forth in such a survey, if applicable.

9. **CONVEYANCE SHALL BE MADE:** Conveyance shall be made subject to all easements as well as covenants of record (provided they do not make the title unmarketable) and to all governmental statutes, ordinances, rules and regulations. Seller agrees to convey by marketable title and deliver a proper general warranty deed, if applicable, free of encumbrances, except as herein stated. Seller agrees to pay all statutory deed recording fees. The deed shall be delivered at the stipulated place of closing, and transaction closed on or before May 3 3 | 30, 2005, no later than 9:00 p.m. Time is of the essence. Seller and Buyer authorize their respective attorneys and the settlement agent to furnish to Listing Broker and Selling Broker copies of the final HUD-1 settlement statement for the transaction for their review prior to closing.

10. **POSSESSION:** Possession of said property will be given to Buyer on the day of closing. Seller agrees to deliver property free of debris and in a clean condition. Possession by Buyer before closing or by Seller after closing shall be subject to the terms and conditions of a separate agreement to be executed prior to closing or occupancy.

11. **CONDITION OF PROPERTY:** The Seller shall not remove any timber, dirt, minerals or otherwise affect the condition of the property after the signing of this Agreement. All timber, dirt, minerals, etc., shall remain with the property and be a part of the property and be transferred to the Buyer. The Seller shall not bring any trash, refuse, debris, medical or hazardous waste, or other improper materials upon the property. In the event any condemnation proceeding is brought by any governmental authority, agency, utility, etc., prior to the closing, then the Buyer may elect to rescind the agreement.

12. **EXPIRATION OF OFFER:** The offer from Buyer shall be withdrawn at 5 o'clock P M on February 5, 2005 unless countered or accepted by Seller in written form prior to such time. Time is of the essence.

13. **SPECIAL STIPULATIONS/CONTINGENCIES:** The following stipulations concerning zoning, restrictions, and easements affecting desired use, drainage, hazardous waste, availability of water and sewer, soil test, wetlands study, subordination, lot releases, etc., should be included here. If conflicting with printed matter, the following stipulations shall control: (See addendum if applicable) SALE CONTINGENT UPON A 45 DAY BUYER DUE DILIGENCE PERIOD & Contingencies: CERTIFICATION BY SELLER OF ALL AGENCY APPROVALS OF NECESSARY BUILDING PERMITS. Seller is 15 days of a ratified contract.

14. **ADJUSTMENTS:** Taxes, water, all sewer assessments, sewer charges, fuel oil, rents as when collected, insurance premiums, if applicable, and other assessments, including homeowner's association fees, shall be adjusted as of the date of closing. Tax prorations pursuant to this Agreement are to be based on the tax information available on the date of closing, and are to be prorated on that basis. BUYER IS TO BE RESPONSIBLE FOR APPLYING FOR ANY APPLICABLE TAX EXEMPTIONS. Property taxes and rent, as well as other expenses and income of the property, if applicable, shall be apportioned to the date of closing. Annual expenses or income shall be apportioned using 365 days. Monthly property expenses or income shall be apportioned by the number of days in month of closing. Prorations at closing shall be final.

15. **NON-RESIDENT TAX:** Seller covenants and agrees to comply with the provisions of South Carolina Code Section 12-8-580 (as amended) regarding withholding requirements of sellers who are not residents of South Carolina as defined in said statute.

16. **ROLLBACK TAXES (IF ANY):** When rollback taxes are subsequently determined and billed to the Buyer, the Seller and Buyer agree that the rollback taxes shall be paid by [ ] Buyer or [X] Seller.

[ ] BUYER [ ] BUYER [ ] SELLER [ ] SELLER HAVE READ THIS PAGE

Produced with ZipForm™ by RE FormsNet, LLC 18025 Fifteen Mile Road, Clinton Township, Michigan 48035, (800) 383-9805 www.zipform.com ZAN LLC

17. **RISK OF LOSS OR DAMAGE:** In case the property herein referred to is destroyed wholly or partially by fire or other casualty prior to delivery of deed, Buyer or Seller shall have the option for ten (10) days thereafter of proceeding hereunder, or of terminating this Agreement.

18. **DEFAULT:** If Buyer or Seller fails to perform any covenant of this Agreement, the other may elect to seek any remedy provided by law, including but not limited to attorney fees and actual costs incurred (as defined in paragraph 19), or terminate this Agreement with a five day written notice. If terminated, both parties shall execute a written release of the other from this contract and both shall agree to hold the Escrow Agent harmless. If either Buyer or Seller refuses to execute release, Escrow Agent will hold the earnest money in trust until said releases are executed or until a court of competent jurisdiction dictates legal disposition.

19. **ACTUAL COST INCURRED** shall include all costs and expenses incurred or obligated for by Buyer, Seller or Broker in an effort to consummate this sale. Such costs shall include, but are not limited to, cost of credit report, appraisal, survey, inspections and reports, title examination, and Broker's fee or commission for this sale.

20. **SURVEY, TITLE EXAMINATION, AND INSURANCE:** The Listing and Cooperating Broker(s) and their Agent(s) recommend that Buyer have a survey of the subject property made, have examination as to the title to the property, obtain owner's title insurance, and that Buyer obtain appropriate hazard insurance coverage effective with the time of closing. All hazard insurance to be canceled and new policies furnished by Buyer at closing unless otherwise stipulated in this Agreement. Flood insurance, if required by Lender at Buyer's option, shall be assigned to Buyer with permission of carrier, and premium prorated to date of closing.

21. **APPRAISED VALUE:** The lot or parcel with building and improvements thereon, if any, must appraise, according to the lender's appraisal or other appraisal as agreed, for the selling price or more or the Seller may elect to sell for the appraised value. In such case, the Buyer agrees to proceed with the consummation of this sale at the reduced price. However, if Seller does not agree to sell at appraised value, the Buyer shall have the option of proceeding with the consummation of the Agreement without regard to the amount of the appraised valuation.

22. **SPECIAL STUDIES AREA, WETLANDS, AND ENVIRONMENTAL PROTECTION MATTERS:** All reports and certifications called for by the lending agencies and any governmental body, by the Buyer concerning any special study area, wetlands or for any environmental protection matter shall be at the expense of the SELLER . In the event such studies are wanted or required, the studies must be furnished by the proper parties **within** 10 **days of complete** execution of the agreement. The Buyer and Seller must have access to all studies **within five (5) days of receipt** of the studies. If Buyer fails to meet these deadlines, Buyer is deemed to have waived any and all rights under this paragraph. If the Buyer is not satisfied with the results, the Seller shall have the option of correcting the problem. If the Seller elects not to correct the problem, the Buyer's obligations under this Agreement terminate.

23. **COASTAL TIDELANDS & WETLANDS ACT:** In the event the property is affected by the provisions of the South Carolina Coastal Tidelands & Wetlands Act (Section 48-39-10, et seq., South Carolina Code of Laws), an Addendum will be attached to this Agreement incorporating the required disclosures at ☐ Buyer's ☒ Seller's expense.

24. **DISCLAIMER BY BROKERS AND AGENTS:** The parties acknowledge that the Listing and Cooperating Broker(s) and their Agent(s): (1) Give no guaranty or warranty of any kind, express or implied, as to the physical condition of the property or as to condition of or existence of improvement services or systems, thereto, included but not limited to termite damage, roof, basement, appliances, heating and air conditioning systems, plumbing, sewage, electric systems, and to the structure; (2) Give no warranty, express or implied, as to the merchantability or fitness for a particular purpose as to the property or such improvements thereto and any implied warranty hereby disclaimed; (3) Give no warranty as to title; (4) Give no guaranty on warranty concerning (a) any certification or inspection concerning the condition of the property, (b) any matters which would be reflected by current survey of the property, and (c) the accuracy of the published square footage of the property; (5) Buyer acknowledges that Seller and Seller's Agents have not made any oral or written commitments to Buyer regarding (a) projected income or economic benefit for Buyer from rentals; (b) rental arrangements except that Buyer may rent the unit if Buyer so desires or (c) other economic benefits to the Buyer.

25. **MEDIATION CLAUSE.** Any dispute or claim arising out of or relating to this Agreement, the breach of this Agreement or the services provided in relation to this Agreement, shall be submitted to mediation in accordance with the Rules and Procedures of the Dispute Resolution System of the NATIONAL ASSOCIATION OF REALTORS®. Disputes shall include representations made by the Buyer(s), Seller(s) or any real estate broker or other person or entity in connection with the sale, purchase, financing, condition or other aspect of the property to which this Agreement pertains, including without limitation allegations of concealment, misrepresentation, negligence and/or fraud.

BUYER [____] BUYER [____] SELLER [____] SELLER HAVE READ THIS PAGE

Produced with ZipForm™ by RE FormsNet, LLC 18025 Fifteen Mile Road, Clinton Township, Michigan 48035, (800) 383-9805 www.zipform.com ZAN LLC

Any agreement signed by the parties pursuant to the mediation conference shall be binding. This mediation clause shall survive for a period of 120 days after the date of the closing..

The following matters are excluded from mediation hereunder: (a) judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or land contract; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; (d) any matter which is within the jurisdiction of a probate court; (e) the filing of a interpleader action to resolve earnest money disputes. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to mediate under this provision, nor shall it constitute a breach of the duty to mediate.

26. **ENTIRE BINDING AGREEMENT:** This written instrument, including the additional terms and conditions set forth on any documents intended by the parties to be included, expresses the entire agreement and all promises, covenants, and warranties between the Buyer and Seller. It can be changed only by a subsequently written instrument signed by both parties. Both Buyer and Seller hereby acknowledge that they have not received or relied upon any statements or representations by either Broker or their agents which are not expressly stipulated herein. The benefits and obligations shall inure to and bind the parties hereto and their heirs, assigns, successors, executors, or administrators. Whenever used, singular includes plural, and use of any gender shall include all.

27. **SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the closing, it shall survive the closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

28. **FACSIMILE AND OTHER ELECTRONIC MEANS:** The parties agree that the offer, any counteroffer and/or acceptance of any offer or counteroffer may be communicated by use of a fax or other secure electronic means, including but not limited to electronic mail and the internet, and the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

29. **EXTENSION AGREEMENT:** If the transaction has not closed within the stipulated time limit because a contingency has not been satisfied through no fault of either party, then both parties agree to extend this agreement for a period not to exceed 15 consecutive days from the original closing date. Closing shall occur within this time extension, but in no event shall closing occur later than the above extension date. **Time is of the essence.**

30. **CONTINGENCIES:** These stipulations shall preempt printed matter herein: (attach and reference addendum if necessary) _____

BUYER [___] BUYER [___] SELLER [___] SELLER HAVE READ THIS PAGE

Produced with ZipForm™ by RE FormsNet, LLC 18025 Fifteen Mile Road, Clinton Township, Michigan 48035. (800) 383-9805 www.zipform.com ZAN LLC

THIS IS A LEGALLY BINDING AGREEMENT. BOTH BUYER AND SELLER SHALL SEEK FURTHER ASSISTANCE IF THE CONTENTS ARE NOT UNDERSTOOD. BOTH BUYER AND SELLER ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT. BOTH BUYER AND SELLER ACKNOWLEDGE RECEIVING, READING, AND UNDERSTANDING THE SOUTH CAROLINA REAL ESTATE COMMISSION'S AGENCY DISCLOSURE FORM.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties.

BUYER: Susanne T. Poole Date 2.3.5 Time _____
ZAN LLC & OR ASSIGNS

WITNESS: Lynn Carmody Date 2.3.5 Time _____

BUYER: _____ Date _____ Time _____

WITNESS: _____ Date _____ Time _____

SELLER: _____ Date 2-4-5 Time _____
RIPLEY COVE LLC

WITNESS: _____ Date _____ Time _____

SELLER: _____ Date _____ Time _____

WITNESS: _____ Date _____ Time _____

LISTING AGENT AND COMPANY _____ KARL A. MCMILLAN, INC
KARL A. MCMILLAN

SELLING AGENT AND COMPANY Lynn Carmody PRUDENTIAL CAROLINA REAL ESTATE
LYNN CARMODY

SELLING AGENT IS PRESENTING THIS OFFER AS A ☒ BUYER'S AGENT OR ☐ SUBAGENT OF THE SELLER.

ESCROW AGENT ACKNOWLEDGMENT Lynn Carmody
LYNN CARMODY-PRUDENTIAL

The foregoing form is available for use by the entire real estate industry. The use of the form is not intended to identify the user as a REALTOR®. REALTOR® is the registered collective membership mark which may be used only by real estate licensees who are members of the NATIONAL ASSOCIATION OF REALTORS® and who subscribe to its Code of Ethics. Expressly prohibited is the duplication or reproduction of such form or the use of the name "South Carolina Association of REALTORS®" in connection with any written form without the prior written consent of the South Carolina Association of REALTORS®. The foregoing form may not be edited, revised, or changed without the prior written consent of the South Carolina Association of REALTORS®.

© 2005 South Carolina Association of REALTORS®, 1/05 Form 330 PAGE 5 OF 5

Produced with ZipForm™ by RE FormsNet, LLC 18025 Fifteen Mile Road, Clinton Township, Michigan 48035. (800) 383-9805 www.zipform.com ZAN LLC

STATE OF SOUTH CAROLINA)
) INDENTURE DEED
COUNTY OF CHARLESTON)

BK A 534PG809

KNOW ALL MEN BY THESE PRESENTS, that, **EAST COAST TRADING CO, INC**, in the County and State aforesaid, for and in consideration of the sum of SEVEN HUNDRED THOUSAND AND NO/100 ($700,000.00) DOLLARS, to it in hand paid, at and before the sealing of these presents by **ZAN, LLC**, in the County and State aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said **ZAN, LLC**, his Heirs and Assigns, the following described property, to-wit:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION AND RESTRICTIONS ON OWNERSHIP OF DOCK UNIT CS-2

THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING:

1. Taxes and assessments for the current year, a lien, not yet due and payable.

2. Terms, Conditions, Restrictions, Easements, Rights to Repurchase, Assessments and Obligations of the Master Deed for the Slips at Ripley Horizontal Property Regime, dated July 29, 2004 and recorded in Book Y 503 Page 563 RMC Office aforesaid.

3. All facts and conditions, which may be shown by survey and physical examination of the unit;

4. Any applicable zoning and/or development laws and ordinances, including those of Charleston County and the City of Charleston;

5. Navigable servitude of the U.S. Government and State of South Carolina or any political division thereof and rights of the public to the use of any navigable waters covering any land included in the description of the insured premises; provided, however, the limit of such navigable servitude is the line formed by the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management Critical Line and the bulkhead Line (whichever would cause the navigable servitude to be larger), and the general public has no right in and to any of the improvements which may be located within the area of the navigable servitude;

6. Rights and jurisdiction vested in the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management by law, including the power of said agency to mandate the removal or modification of any docking facility constructed in accordance with its permitting authority;

7. Rights of the United States or other governmental entities, if any, which rights may exist in addition to the right to permit dock construction and regulate use vested in the South

EXHIBIT
9 - Black
10-5-10 WS

PLAINTIFF'S EXHIBIT 4

Carolina Department of Health and Environmental Control - Office of Coastal Resources Management.

8. Restrictions and Conditions set out and imposed by the Horizontal Property Act, Chapter 31 Code of Laws of the State of South Carolina, 1976;

9. Terms and conditions of all permits and licenses issued by federal, state, and local governments, their respective agencies, and quasi-governmental or private agencies having jurisdiction over the Project, including the U.S. Army Corps of Engineers, the South Carolina Department of Health and Environmental Control, the Office of Ocean and Coastal Resources Management and the City of Charleston;

10. Interests created by, or limitations on use imposed by, the Federal Coastal Zone Management Act, or other federal law or regulations promulgated pursuant to said state or federal laws.

11. Ripley Light Marina Real Estate Agreement dated April 29, 2004 and recorded April 29, 2004 in Book W 492 Page 771 in the RMC Office for Charleston County.

12. Drainage Easement to the City of Charleston dated December 13, 2004 and intended to be recorded in the RMC Office for Charleston County.

13. Title to streets as shown on said plat and deed to City of Charleston dated December 13, 2004 and intended to be recording in the RMC Office for Charleston County.

TMS#: 421-11-00-268 as to Lot SF 3
TMS#: 421-11-00-100 as to Dock Unit CS B1

GRANTEE'S ADDRESS: PO Box 30307
Charleston, SC 29417

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 David Clancy, his Heirs and Assigns forever.

SUBJECT to easements, affirmative obligations, agreements, payments, covenants, plats, restrictions referred to in subparagraphs 1 through 13 above, Grantor does hereby bind itself, its successors and assigns, to warrant and forever defend, all and singular, the said Premises unto the said Grantee hereinabove named, and the Grantee's heirs and assigns against the Grantor and the Grantor's successors and assigns and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS its Hand and Seal, this 5 day of March in the year of our Lord Two Thousand and Five and in the Two Hundred and Twenty-ninth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

East Coast Trading Co., Inc.

By: William B. Knight Atty-in-fact

Its: member

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

I hereby certify that ~~Ripley Cove, LLC~~ East Coast Trading Co., Inc. by William B. Knight its member personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

(SEAL)

Notary Public for South Carolina
My Commission expires: 3-16-10

THE GRANTEE assumes and agrees to observe and perform all obligations under the Master Deed, By-Laws and any Rules or Regulations set forth in the Master Deed for the Slips at Ripley Horizontal Property Regime, and the Ripley Light Marina Real Estate Agreement dated April 29, 2004, including, but not limited to, the payment of assessments for common expenses, liability for dredging assessments, and also agree that this conveyance is subject to all reservations and restrictions of record, easements and rights of way of record, including those as set out above and shown on the aforesaid plot pan and plat.

THE GRANTEE further agrees not to make, execute or deliver any deed or conveyance separating the ownership of Lot SF3 and Dock Unit CS B1.

WITNESSES:

Zan, LLC

By: managing member
Its:

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

The foregoing instrument was acknowledged before me this 5 day of January, 2005, by Zan LLC, by its managing member

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 3-16-10

EXHIBIT "A"

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, known and designated as Lot SF 3, Ripley Cove, on a plat entitled "PLAT SHOWING THE SUBDIVISION OF LOT 4A RESIDENTIAL PROPERTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA", prepared by W. Mason Lindsey, Jr., R.L.S., dated December 27, 2004 and recorded in Plat Book EH at Page 581 in the RMC Office for Charleston County. Reference to said plat is hereby craved for a more accurate and complete description.

Being the same property conveyed to East Coast Trading Co., Inc by deed of Ripley Cove, LLC dated December 30, 2005 and recorded in Book Y 520 at Page 424 in the RMC Office for Charleston County.

AND

DOCK UNIT CS B1 in the SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, a Horizontal Property Regime established pursuant to the South Carolina Horizontal Property Act, Section 27-31-10 et Seq., and submitted by Master Deed of the SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, dated July 29, 2004 and recorded July 30, 2004 in the RMC Office for Charleston County in Book Y 503 Page 563 and as it may be thereafter amended from time to time (the "Master Deed"), together with an undivided interest in the appurtenant common elements, all as described more fully in the Master Deed.

Being the same property conveyed to East Coast Trading Co., Inc by deed of Ripley Cove, LLC dated December 30, 2004 and recorded in Book Y 520 at Page 424 in the RMC Office for Charleston County.

RESTRICTION ON RESIDENTIAL DOCK UNITS

OWNERSHIP OF FEE SIMPLE, ABSOLUTE TITLE TO DOCK UNIT CS B-1 HEREIN CONVEYED IS LIMITED AND RESTRICTED TO THE OWNER OR OWNERS, AS THE CASE MAY BE, OF FEE SIMPLE ABSOLUTE TITLE TO LOT SF 3 HEREIN CONVEYED, ALL AS MORE FULLY SET FORTH AND PROVIDED IN THE MASTER DEED FOR THE SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME DATED JULY 29, 2004, AND RECORDED IN BOOK Y503 AT PAGE 563, RMC OFFICE FOR CHARLESTON COUNTY.

THE SAME PERSON MAY OWN ONE OR MORE RESIDENTIAL DOCK UNITS AND RESIDENTIAL LOTS. THE CO-OWNER OF A RESIDENTIAL DOCK UNIT SHALL NOT LEASE OR RENT HIS, HER OR ITS RESIDENTIAL DOCK UNIT TO ANOTHER PERSON OR ENTITY; PROVIDED, HOWEVER, THAT THE CO-OWNER OF ONE RESIDENTIAL DOCK UNIT CAN LEASE HIS, HER OR ITS RESIDENTIAL DOCK UNIT TO ANOTHER CO-OWNER OF ANOTHER RESIDENTIAL DOCK UNIT OR TO A RESIDENTIAL LOT OWNER, TOWN HOMES OWNER AND/OR CONDOMINIUM OWNER IN THE SAME PROJECT.

THERE SHALL BE NO SUBDIVISION OR JUDICIAL PARTITION OF DOCK UNIT CS B-1 AND LOT SF3 HEREIN CONVEYED. NO PERSON OR MORTGAGEE SHALL SEEK ANY SUBDIVISION OR JUDICIAL PARTITION UNLESS THE PARTICULAR RESIDENTIAL DOCK UNIT, WHICH IS THE SUBJECT OF SUCH SUBDIVISION OR PARTITION ACTION, HAS BEEN REMOVED FROM THE PROVISIONS OF THE MASTER DEED FOR THE SLIPS AT RIPLEY AND SUCH REMOVAL HAS BEEN APPROVED IN WRITING BY THE CITY OF CHARLESTON.

THE AFORESAID COVENANTS AND RESTRICTIONS ARE SET FORTH HEREIN IN ORDER TO PROTECT THE QUIET AND PEACEFUL ENJOYMENT OF THE ADJACENT PROPERTY OWNERS AND ALSO TO COMPLY WITH THE PARKING REQUIREMENTS OF THE CITY OF CHARLESTON.

NO PARTITION BY MORTGAGEES

NO MORTGAGEE MAY SEEK A LEGAL OR EQUITABLE JUDICIAL PARTITION OR SEPARATION OF OWNERSHIP OF DOCK UNIT CS B1 AND LOT SF3 HEREIN CONVEYED

BK A 534PG815

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

AFFIDAVIT

Date of Transfer of Title
Closing Date March 05, 2005

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: East Coast Trading Co., Inc. TO Zan, LLC ON March 05, 2005
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 distribution to a trust beneficiary.
(C)_____EXEMPT from the deed recording fee because. (Exemption #_____)
(Explanation, if required) _____
(If Exempt, please skip items 4-6, and go to item 7 of this affidavit)

3. 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 $ 700,000.00 .
(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 $_____.

4. 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 $_____.

5. The DEED Recording Fee is computed as follows:
(A)__$700,000.00__the amount listed in item 4 above.
(B)____0.00_____the amount listed in item 5 above. (No amount, place zero)
(C)__$700,000.00__subtract line 6(B) from line 6(A) and place the result.

6. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney

7. Check if Property other than Real Property is being transferred on this Deed.
(A)_____Mobile Home
(B)_____Other

8. _____ DEED OF DISTRIBUTION - ATTORNEY'S AFFIDAVIT:
ESTATE OF _____, deceased
CASE NUMBER _____. Personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in the State of South Carolina; that (s)he has prepared the Deed of Distribution for the Personal Representative in the Estate of _____, deceased and that the grantee(s) therein are correct and conform to the estate file for the above named decedent.

9. I understand that a person required to furnish this affidavit who wilfully 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.

Sworn this 05 day of March, 2005

Notary Public for South Carolina
My Commission Expires 10-13-2014

Signed _____
Grantor, Grantee, or Attorney that prepared this form
Dan M. David
Type or Print Name here

RECORDER'S PAGE

This page must remain with Original Document

BK A 534PG816

Recording Fee 13.00

State Fee 1820.00

County Fee 770.00

Postage _____

Total 2603.00

B

RETURN DOCUMENTS TO
DAVID AND SCHWARTZ, P.A.

FILED
A 534-809
2005 APR 25 AM 8:33
[illegible] LYBRAND
REGISTER
CHARLESTON COUNTY SC

PID VERIFIED BY ASSESSOR
REP [illegible]
DATE 5/10/05

RECEIVED FROM RMC
MAY 11 2005
PEGGY A. MOSELEY
CHARLESTON COUNTY AUDITOR

(843) 958-4800 2 COURTHOUSE SQUARE CHARLESTON, SOUTH CAROLINA 29402-0726

CHARLESTON COUNTY
Auditor
Peggy A. Moseley

- MAIN MENU
- EXIT

Parcel ID	Sub-Division	Tax District
4211100073	ALBERMARLE POINT	53, City of Charleston

Legal Description :LOT 13
Acreage High : 1.3 Marsh : 0 Swamp : 0 Water : 0 Total : 1.3 **Jurisdiction :** CONDO-CARD
Property Address : MERRITT RD
Mailing Address : 757 SAINT ANDREWS BLVD. CHARLESTON- SC, 29407-7164

Current Owner - 1	Current Owner - 2	Owner 1 as of Jan 1	Owner 2 as of Jan 1	Deed	Deed Date	Sale Date	Sale Price
-	-	RIPLEY COVE LLC	-	S492-255	04/29/2004	04/29/2004	$11000000
-	-	COLLINS FRED	-	P243-879	05/31/1994	05/27/1994	$1,100,000
MCNAIR ROBERT C	-	SPAN USA INC	-	D222-527	12/31/1992	12/30/1992	$1,100,000
-	-	SPAN USA INC	-	R176-121	07/26/1988	07/26/1988	$2,485,000

CARD IMAGE | PLAT COMMENT | OWNER COMMENT

For Plat Comment and Owner Comment information on plats and deeds recorded prior to 01/05/2004, please click on Card Image button.

Basic deed transfer information is complete back to 1991.
For records and transactions preceding that date, please click on Card Image button.

© Copyright 2006, County of Charleston, South Carolina. All rights reserved. Legal Disclaimer
E-mail your comments or questionsabout this site to publicinfo@charlestoncounty org
Report technical problems with this site to webmaster@charlestoncounty.org

DAVID AND SCHWARTZ, P.A.
Attorneys & Counsellors at Law
757 St. Andrews Boulevard
Charleston, South Carolina 29407

Dan M. David
Paul D. Schwartz

Post Office Box 32097
Charleston, SC 29417

Richard M. Nichols
Of Counsel
Michael J. Burkett
(1992-2003)

(843) 571-1893
Fax (843) 571-5062

April 5, 2005

Delivered Via Fax (843) 849-2725

Lynn Carmody

Re: Lot 3 Ripley Cove & Dock Unit B1

Dear Lynn:

This is to confirm that two piling will be replaced in line with the existing pilings of the adjoining boat slips as shown on the plat recorded in Plat Book EH at Pages 172-174. There is sufficient money in escrow to pay for the repairs to the Docks and Marina.

With kind regards, I remain,

Sincerely yours,

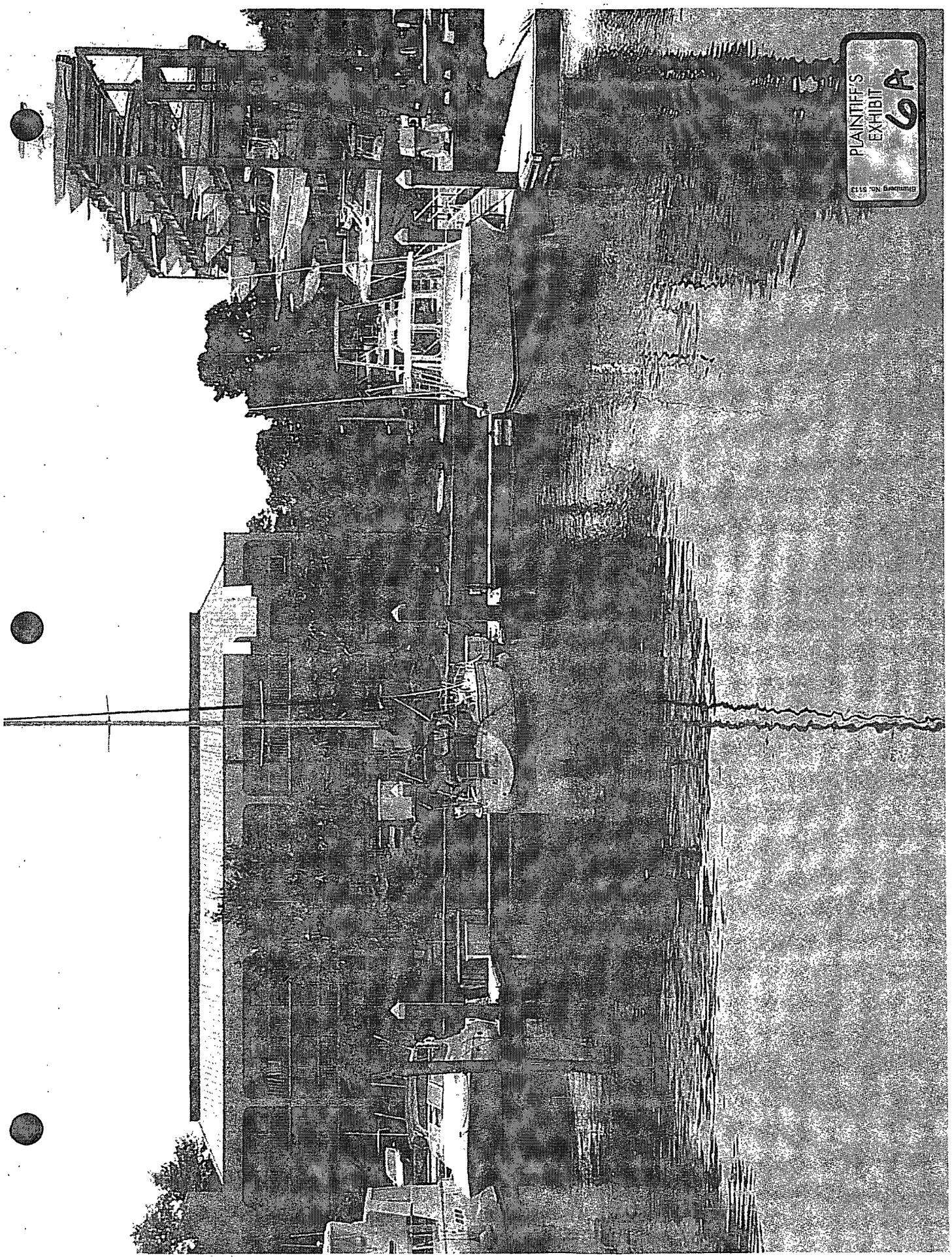
Dan M. David

DMD/mdf

I acknowledge and confirm
that the above is true and correct.

Ripley Cove, LLC

By: W.H. Knight
Its: Member


PLAINTIFF'S
EXHIBIT
64

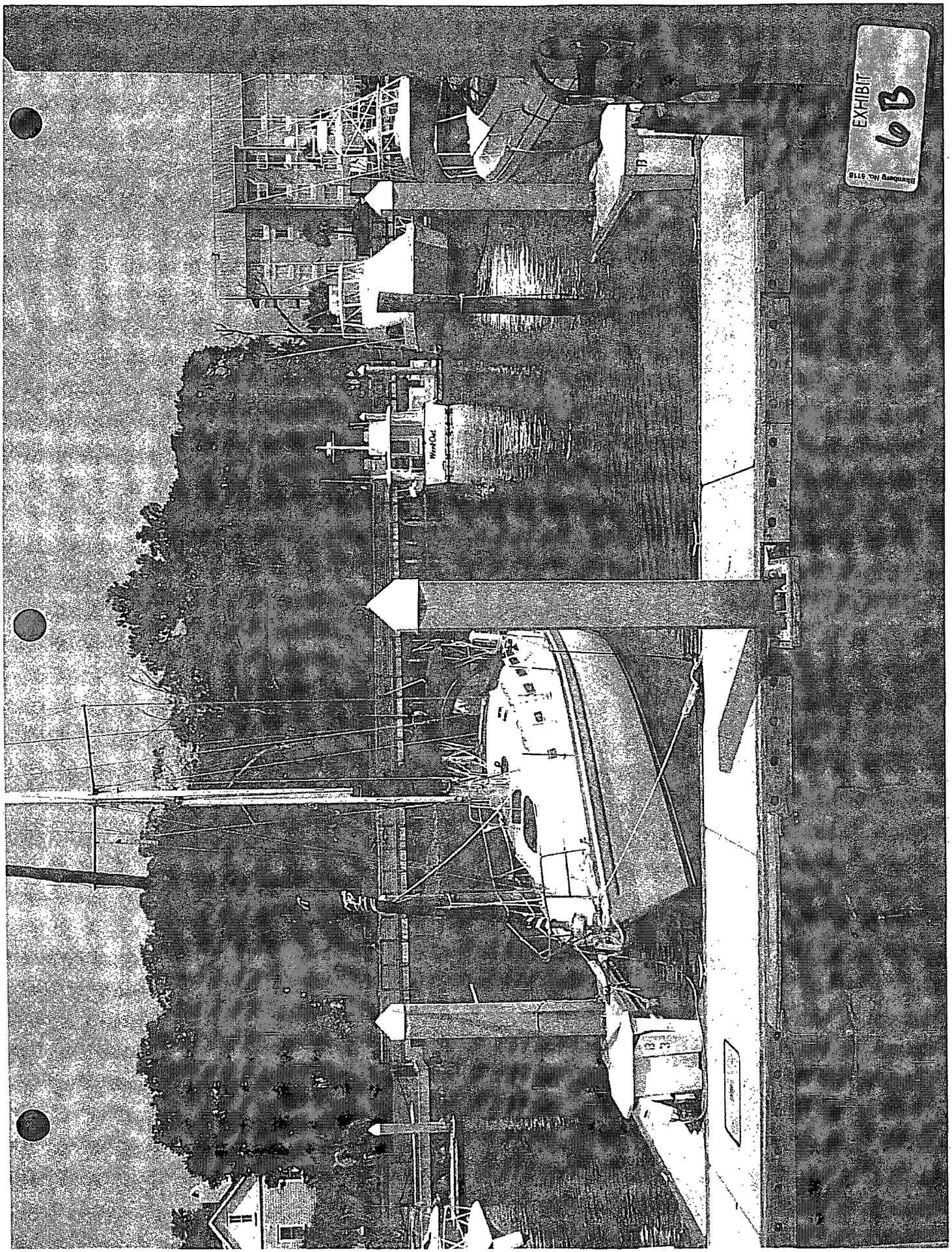
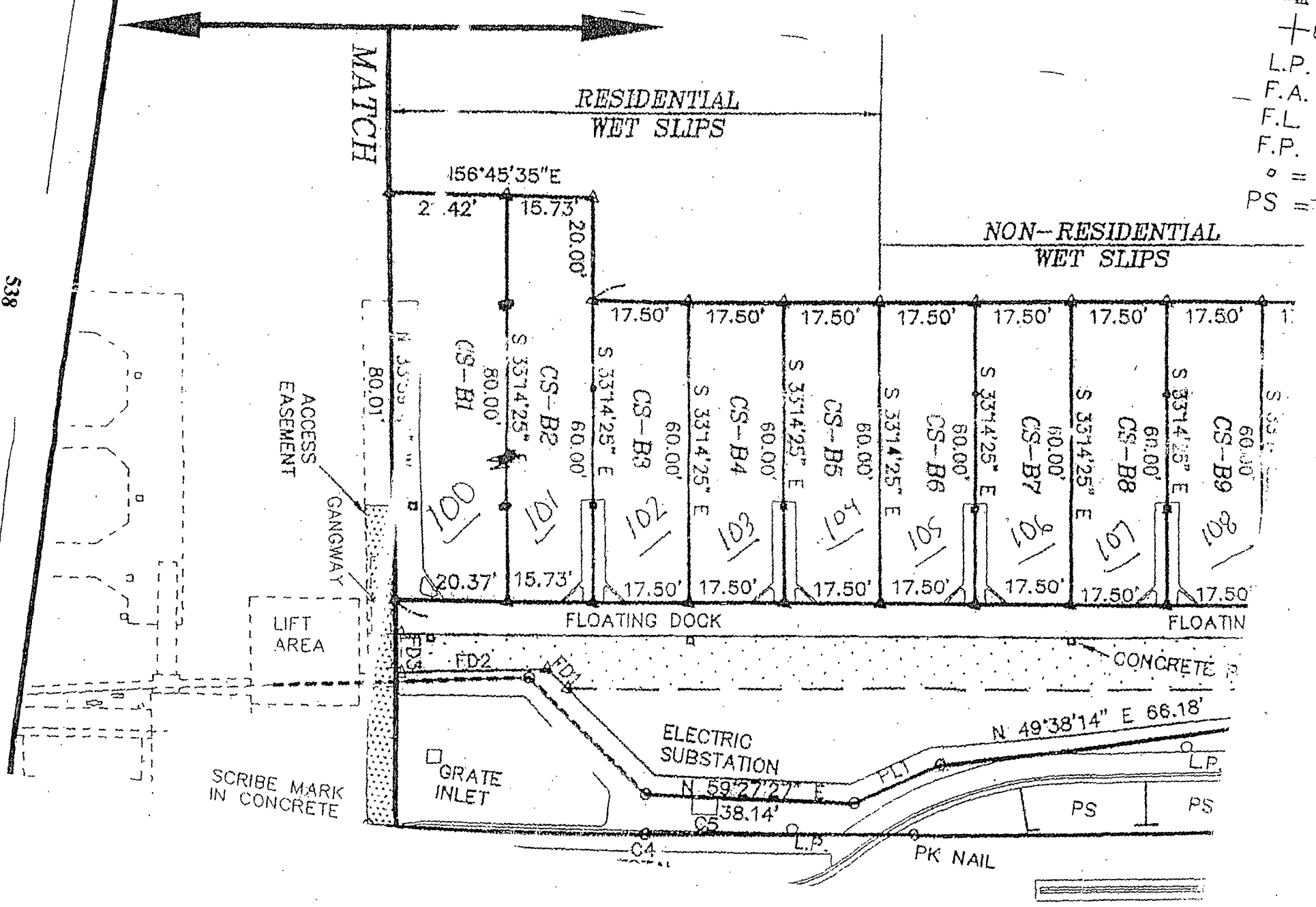


EXHIBIT
16
Workout

REFERENCE PLATS & DEEDS

1.) PLAT IN BOOK BS PAGE 128, CHAS. CO. R.M.C.
2.) PLAT BY SOUTHEASTERN SURVEYING DATED AUG. 25, 2003
3.) PLAT IN BOOK BM PAGE 13, CHAS. CO. R.M.C.
4.) BY DEED BOOK M 34 PAGE 386 PROPERTY SHOWN HEREON IS SUBJECT TO RESTRICTIVE COVENANTS OF THE CITY COUNCIL OF THE CITY OF CHARLESTON.
5.) RESERVATIONS OF EASEMENTS IN DEED BOOK D222 PAGE 527 WERE TERMINATED ON DEC. 31 , 1995.
6.) DEED IN BOOK P12 PAGE 788 STATES THAT ACCESS TO MARINA DOCKS WILL BE ON ADJACENT PROPERTY OF Q.E.D. CORP. LOT 7 IS ADJACENT TO PROPERTY OWNED BY Q.E.D.
7.) DEED BOOK L175 PAGE 220 AS REGARDS TO REAL PROPERTY BETWEEN MEAN HIGH WATER AND MEAN LOW WATER MARKS.
8.) PLAT IN BOOK "AW" PAGE "151" (LOW WATER LINE).
9.) PLAT IN BOOK "AY" PAGE "174" (LOW WATER LINE).



PLAINTIFF'S EXHIBIT 7

PO Box 12699
719 Folly Road
Charleston SC 29422
843-795-4586
800-763-8625
Fax: 843-795-4586

Survey C.to in Boat Slip & F.to

June 21, 2006

Mr. Eddie Buck
C/o Karl A McMillan
5305 Stono Ferry Course
Hollywood, SC 29449

Re: Slips B1 & B2 Ripley Light Marina

Dear Mr. Buck;

Dock and Marine, Inc. has been contacted in regards to driving and setting one concrete piling between the above referenced slips. We will have this work done for you in the quickest time frame allowable and in accordance with the guidelines set forth by OCRM. We will coordinate with Mike Belote and Riley Pointe, LLC any movement of any vessels docked in the area that may need to be relocated while this work in underway. I have attached to this letter a copy of the plat showing your dock slips and ask to you designate the site where you would like for this pile to be set. I am trying to coordinate with my production department a date for this work to be accomplished and should be able to give you a more accurate date in the very near future. If you have any questions please feel free to contact me.

Respectfully,

Patricia Crikes
Office Mgr.

Cc: Karl A McMillan
Mike Belote

EXHIBIT 8

Buck 4

OMB NO. 2502-0265

A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT **SETTLEMENT STATEMENT**	B. TYPE OF LOAN: 1. ☐ FHA 2. ☐ FmHA 3. ☐ CONV. UNINS. 4. ☐ VA 5. ☐ CONV. INS. 6. FILE NUMBER: 05-0350-BUCK 7. LOAN NUMBER: 8. MORTGAGE INS CASE NUMBER:

C. NOTE: *This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "[POC]" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.*

1.0 3/98 (05-0350-BUCK.PFD/05-0350-BUCK/46)

D. NAME AND ADDRESS OF BUYER:	E. NAME AND ADDRESS OF SELLER:	F. NAME AND ADDRESS OF LENDER:
Zan, LLC	East Coast Trading Co., Inc	

G. PROPERTY LOCATION:	H. SETTLEMENT AGENT: 57-0969516	I. SETTLEMENT DATE:
Lot 3 Ripley Cove Charleston County	David and Schwartz, P.A. PLACE OF SETTLEMENT 757 St. Andrews Boulevard Charleston, SC 29407	April 5, 2005

J. SUMMARY OF BUYER'S TRANSACTION			K. SUMMARY OF SELLER'S TRANSACTION		
100. GROSS AMOUNT DUE FROM BUYER:			400. GROSS AMOUNT DUE TO SELLER:		
101. Contract Sales Price		700,000.00	401. Contract Sales Price		700,000.00
102. Personal Property			402. Personal Property		
103. Settlement Charges to Buyer (Line 1400)		1,910.00	403.		
104.			404.		
105.			405.		
Adjustments For Items Paid By Seller In advance			*Adjustments For Items Paid By Seller In advance*		
106. Dock Assessments	04/05/05 to 06/30/05	378.02	406. Dock Assessments	to	
107. County Taxes	to		407. County Taxes	to	
108. HOA Assessments	04/05/05 to 06/30/05	378.02	408. HOA Assessments	to	
109.			409.		
110. Sewer Tap Fee		2,500.00	410. Sewer Tap Fee		2,500.00
111.			411.		
112.			412.		
120. GROSS AMOUNT DUE FROM BUYER		705,166.04	*420. GROSS AMOUNT DUE TO SELLER*		702,500.00
200. AMOUNTS PAID BY OR IN BEHALF OF BUYER:			500. REDUCTIONS IN AMOUNT DUE TO SELLER:		
201. Deposit or earnest money		5,000.00	501. Excess Deposit (See Instructions)		
202. Principal Amount of New Loan(s)			502. Settlement Charges to Seller (Line 1400)		47,727.00
203. Existing loan(s) taken subject to			503. Existing loan(s) taken subject to		
204.			504. Payoff of first Mortgage to Captial City Bank & Ea		635,152.78
205. Credit from Karl A. McMillan		5,000.00	505. Payoff of second Mortgage		
206.			506. Deposit retained by broker		5,000.00
207.			507.		
208.			508.		
209.			509.		
Adjustments For Items Unpaid By Seller			*Adjustments For Items Unpaid By Seller*		
210. Dock Assessments	to		510. Dock Assessments	04/01/05 to 04/05/05	21.98
211. County Taxes	01/01/05 to 04/05/05	2,076.26	511. County Taxes	01/01/05 to 04/05/05	2,076.26
212. HOA Assessments	to		512. HOA Assessments	04/01/05 to 04/05/05	21.98
213.			513.		
214. Credit from Seller		12,500.00	514. Credit from Seller		12,500.00
215.			515.		
216.			516.		
217.			517.		
218.			518.		
219.			519.		
220. TOTAL PAID BY/FOR BUYER		24,576.26	*520. TOTAL REDUCTION AMOUNT DUE SELLER*		702,500.00
300. CASH AT SETTLEMENT FROM/TO BUYER:			600. CASH AT SETTLEMENT TO/FROM SELLER:		
301. Gross Amount Due From Buyer (Line 120)		705,166.04	601. Gross Amount Due To Seller (Line 420)		702,500.00
302. Less Amount Paid By/For Buyer (Line 220)		(24,576.26)	602. Less Reductions Due Seller (Line 520)		(702,500.00)
303. CASH (X FROM) (TO) BUYER		680,589.78	*603. CASH (TO) (FROM) SELLER*		0.00

EXHIBIT 9

L. SETTLEMENT CHARGES

		PAID FROM BUYER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL COMMISSION Based on Price	$ 700,000.00 @ 7.0000 % 49,000.00		
Division of Commission (line 700) as Follows:			
701. $ 31,500.00 to Karl A. McMillan			
702. $ 17,500.00 to Prudential Carolina Real Estate	Less Deposit Retained 5,000.00		
703. Commission Paid at Settlement			44,000.00
704. to			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination Fee % to			
802. Loan Discount % to			
803. Appraisal Fee to			
804. Credit Report to			
805. Lender's Inspection Fee to			
806. Mortgage Ins. App. Fee to			
807. Assumption Fee to			
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest From to	@ $ /day (days %)		
902. MIP Totlns. for LifeOfLoan for	months to		
903. Hazard Insurance Premium for 1.0	years to		
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER			
1001. Hazard Insurance	months @ $ per month		
1002. Mortgage Insurance	months @ $ per month		
1003. Dock Assessments	months @ $ per month		
1004. County Taxes	months @ $ per month		
1005. HOA Assessments	months @ $ per month		
1006.	months @ $ per month		
1007.	months @ $ per month		
1008.	months @ $ per month		
1100. TITLE CHARGES			
1101. Settlement or Closing Fee	to		
1102. Abstract or Title Search	to David and Schwartz, P.A.	50.00	
1103. Title Examination	to		
1104. Title Insurance Binder	to St. Andrews Title & Abstract Agency, Inc.	75.00	
1105. Document Preparation	to David and Schwartz, P.A.		150.00
1106. Notary Fees	to		
1107. Attorney's Fees	to David and Schwartz, P.A.	500.00	
(includes above item numbers:	)		
1108. Title Insurance	to St. Andrews Title & Abstract Agency, Inc.	1,275.00	
(includes above item numbers:	)		
1109. Lender's Coverage	$		
1110. Owner's Coverage	$ 700,000.00 1,275.00		
1111.			
1112.	David and Schwartz, P.A.		
1113. Wire Fee	to David and Schwartz, P.A.		15.00
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording Fees: Deed $ 10.00; Mortgage $	; Releases $	10.00	
1202. City/County Tax/Stamps:Deed	; Mortgage		
1203. State Tax/Stamps: Revenue Stamps	2,590.00; Mortgage		2,590.00
1204. UCC and Partial Release of Mtg	to RMC Office		27.00
1205. Record POA	to RMC Office		15.00
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey	to		
1302. Pest Inspection	to Lindsey Land Surveying, Co		110.00
1303. Dock Regime Fee 1st qtr	to The Slips at Ripley Cove POA		400.00
1304. UCC Release	to Secretary of State		20.00
1305. Homeowners Association 1st qtr	to Ripley Cove HOA		400.00
1400. TOTAL SETTLEMENT CHARGES (Enter on Lines 103, Section J and 502, Section K)		1,910.00	47,727.00

By signing page 1 of this statement, the signatories acknowledge receipt of a completed copy of page 2 of this two page statement.

Certified to be a true copy.

David and Schwartz, P.A.
Settlement Agent

(05-0350-BUCK / 05-0350-BUCK / 46)

ACKNOWLEDGMENT OF RECEIPT OF SETTLEMENT STATEMENT

Buyer: Zan, LLC
Seller: East Coast Trading Co., Inc
Settlement Agent: David and Schwartz, P.A.
(843)571-1893
Place of Settlement: 757 St. Andrews Boulevard
Charleston, SC 29407
Settlement Date: April 5, 2005
Property Location: Lot 3 Ripley Cove
Charleston County

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Zan, LLC

BY: Susanne T. Burke
President

ATTEST:

Secretary/Treasurer

East Coast Trading Co., Inc

BY: _____
President

ATTEST:

Secretary/Treasurer

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.

David and Schwartz, P.A.
Settlement Agent

WARNING: It is a crime to knowingly make false statements to the United States on this or any similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

I. Trust
J. a We/Our/Us – Chicago Title
b. You/Your – the insured named in Schedule A and
Conditions

Receptionist

From: Chicago Title [system@scctic.com]
Sent: Tuesday, September 13, 2005 12:23 PM
To: Receptionist
Subject: Chicago Title : Over-the-Limit Authorization

September 13, 2005

Agent #: 41-0055
St. Andrews Title & Abstract
Reference: 05-0350 BUCK

Dear St. Andrews Title & Abstract:

Please accept this letter as your authority to issue the following Chicago Title Insurance Company policy(s):

Policy: Owner
Amount: $700,000.00
Insured: Zan, LLC

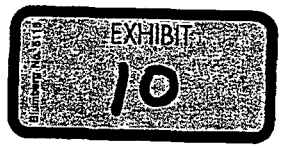
---

covering Lot SF 3, Ripley Cove and Dock Unit CS B1, Slips at Ripley Horizontal Property Regime located in Charleston County, SC.

This authority is contingent upon your compliance with the Section titled "Policy Amount Limitations 2", covered in the Company's UNDERWRITING GUIDE.

A copy of this letter should be attached to the policy copy when same is forwarded to the Policy Accounting Department.

Very truly yours,
Claire T. Manning
CHICAGO TITLE INSURANCE COMPANY



1

OWNERS FORM
CHICAGO TITLE INSURANCE COMPANY
3700 Forest Drive, Suite 201, Columbia, SC 29204
Issued by: St. Andrews Title & Abstract Agency, Inc., 757 St. Andrews Blvd., Charleston, SC 29407
SCHEDULE A

OFFICE FILE NUMBER:	05-0350-BUCK
POLICY NUMBER:	7212340-57687
DATE OF POLICY:	April 25, 2005, at 08:33 AM
AMOUNT OF INSURANCE:	$700,000.00

1. Name of Insured:

   Zan, LLC

2. Your interest in the land covered by this Policy is:

   Fee Simple

   Subject to the matters shown in Schedule B.

3. The land referred to in this Policy is described as follows:

   ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, known and designated as Lot SF 3, Ripley Cove, on a plat entitled "PLAT SHOWING THE SUBDIVISION OF LOT 4A RESIDENTIAL PROPERTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA", prepared by W. Mason Lindsey, Jr., R.L.S., dated December 27, 2004 and recorded in Plat Book EH at Page 581 in the RMC Office for Charleston County. Reference to said plat is hereby craved for a more accurate and complete description.

   TMS#: 421-11-00-268

   AND

   DOCK UNIT CS B1 in the SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, a Horizontal Property Regime established pursuant to the South Carolina Horizontal Property Act, Section 27-31-10 et Seq., and submitted by Master Deed of the SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, dated July 29, 2004 and recorded July 30, 2004 in the RMC Office for Charleston County in Book Y 503 Page 563 and as it may be thereafter amended from time to time (the "Master Deed"), together with an undivided interest in the appurtenant common elements, all as described more fully in the Master Deed.

   TMS#: 421-11-00-100

This Policy valid only if Schedule B is attached.

AMERICAN LAND TITLE ASSOCIATION
HOMEOWNER'S POLICY OF TITLE INSURANCE
FOR A ONE-TO-FOUR FAMILY RESIDENCE
(10-17-98)

Policy No. 7212340-

Owner's Coverage Statement

This Policy insures You against actual loss, including any costs, attorneys' fees and expenses provided under this Policy, resulting from the Covered Risks set forth below, if the Land is an improved residential lot on which there is located a one-to-four family residence and each insured named in Schedule A is a Natural Person.

Your insurance is effective on the Policy Date. This Policy covers Your actual loss from any risk described under Covered Risks if the event creating the risk exists on the Policy Date or, to the extent expressly stated, after the Policy Date.

Your insurance is limited by all of the following:

- The Policy Amount shown in Schedule A
- For Covered Risk 14, 15, 16 and 18, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A
- Exceptions in Schedule B
- Our Duty To Defend Against Legal Actions
- Exclusions on page 2
- Conditions on page 2 and 3.

Covered Risks

The Covered Risks are:

1. Someone else owns an interest in Your Title.
2. Someone else has rights affecting Your Title arising out of leases, contracts, or options.
3. Someone else claims to have rights affecting Your Title arising out of forgery or impersonation.
4. Someone else has an easement on the Land.
5. Someone else has a right to limit Your use of the Land.
6. Your Title is defective.
7. Any of Covered Risks 1 through 6 occurring after the Policy Date.
8. Someone else has a lien on Your Title, including a:
   a. Mortgage;
   b. judgment, state or federal tax lien, or special assessment;
   c. charge by a homeowner's or condominium association; or
   d. lien, occurring before or after the Policy Date, for labor and material furnished before the Policy Date.
9. Someone else has an encumbrance on Your Title.
10. Someone else claims to have rights affecting Your Title arising out of fraud, duress, incompetency or incapacity.
11. You do not have both actual vehicular and pedestrian access to and from the Land, based upon a legal right.
12. You are forced to correct or remove an existing violation of any covenant, condition or restriction affecting the Land, even if the covenant, condition or restriction is excepted in Schedule B.
13. Your Title is lost or taken because of a violation of any covenant, condition or restriction, which occurred before You acquired Your Title, even if the covenant, condition or restriction is excepted in Schedule B.
14. Because of an existing violation of a subdivision law or regulation affecting the Land:
    a. You are unable to obtain a building permit;
    b. You are required to correct or remove the violation; or
    c. Someone else has a legal right to, and does, refuse to perform a contract to purchase the Land, lease it or make a Mortgage loan on it.

    The amount of Your insurance for this Covered Risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.
15. You are forced to remove or remedy Your existing structures, or any part of them - other than boundary walls or fences - because any portion was built without obtaining a building permit from the proper government office. The amount of Your insurance for this Covered Risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.
16. You are forced to remove or remedy Your existing structures, or any part of them, because they violate an existing zoning law or zoning regulation. If You are required to remedy any portion of Your existing structures, the amount of Your insurance for this Covered Risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

NOTICE IS HEREBY GIVEN THAT THIS POLICY IS SUBJECT TO ARBITRATION PURSUANT TO THE PROVISIONS OF CHAPTER 48 OF TITLE 15 (SEC. 15-48-10 ET SEQ.) OF THE SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED.

CHICAGO TITLE INSURANCE COMPANY

By: _____ President

ATTEST: _____ Secretary

_____
Authorized Signatory

Note: This policy shall not be valid or binding until countersigned by an authorized signatory.

AMERICAN LAND TITLE ASSOCIATION
HOMEOWNER'S POLICY OF TITLE INSURANCE
FOR A ONE-TO-FOUR FAMILY RESIDENCE
(10-17-98)

PLAINTIFF'S EXHIBIT C

Blumberg No. 5113

Policy No. 7212340- 57687

CHICAGO TITLE INSURANCE COMPANY

Owner's Coverage Statement

This Policy insures You against actual loss, including any costs, attorneys' fees and expenses provided under this Policy, resulting from the Covered Risks set forth below, if the Land is an improved residential lot on which there is located a one-to-four family residence and each insured named in Schedule A is a Natural Person.

Your insurance is effective on the Policy Date. This Policy covers Your actual loss from any risk described under Covered Risks if the event creating the risk exists on the Policy Date or, to the extent expressly stated, after the Policy Date.

Your insurance is limited by all of the following:

- The Policy Amount shown in Schedule A
- For Covered Risk 14, 15, 16 and 18, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A
- Exceptions in Schedule B
- Our Duty To Defend Against Legal Actions
- Exclusions on page 2
- Conditions on page 2 and 3.

Covered Risks

The Covered Risks are:

1. Someone else owns an interest in Your Title.
2. Someone else has rights affecting Your Title arising out of leases, contracts, or options.
3. Someone else claims to have rights affecting Your Title arising out of forgery or impersonation.
4. Someone else has an easement on the Land.
5. Someone else has a right to limit Your use of the Land.
6. Your Title is defective.
7. Any of Covered Risks 1 through 6 occurring after the Policy Date.
8. Someone else has a lien on Your Title, including a:
   a. Mortgage;
   b. judgment, state or federal tax lien, or special assessment;
   c. charge by a homeowner's or condominium association; or
   d. lien, occurring before or after the Policy Date, for labor and material furnished before the Policy Date.
9. Someone else has an encumbrance on Your Title.
10. Someone else claims to have rights affecting Your Title arising out of fraud, duress, incompetency or incapacity.
11. You do not have both actual vehicular and pedestrian access to and from the Land, based upon a legal right.
12. You are forced to correct or remove an existing violation of any covenant, condition or restriction affecting the Land, even if the covenant, condition or restriction is excepted in Schedule B.
13. Your Title is lost or taken because of a violation of any covenant, condition or restriction, which occurred before You acquired Your Title, even if the covenant, condition or restriction is excepted in Schedule B.
14. Because of an existing violation of a subdivision law or regulation affecting the Land:
    a. You are unable to obtain a building permit;
    b. You are required to correct or remove the violation; or
    c. Someone else has a legal right to, and does, refuse to perform a contract to purchase the Land, lease it or make a Mortgage loan on it.

    The amount of Your insurance for this Covered Risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.
15. You are forced to remove or remedy Your existing structures, or any part of them - other than boundary walls or fences - because any portion was built without obtaining a building permit from the proper government office. The amount of Your insurance for this Covered Risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.
16. You are forced to remove or remedy Your existing structures, or any part of them, because they violate an existing zoning law or zoning regulation. If You are required to remedy any portion of Your existing structures, the amount of Your insurance for this Covered Risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

NOTICE IS HEREBY GIVEN THAT THIS POLICY IS SUBJECT TO ARBITRATION PURSUANT TO THE PROVISIONS OF CHAPTER 48 OF TITLE 15 (SEC. 15-48-10 ET SEQ.) OF THE SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED.

CHICAGO TITLE INSURANCE COMPANY

By: _____ President

Authorized Signatory

CHICAGO TITLE INSURANCE COMPANY SEAL

ATTEST: _____ Secretary

Note: This policy shall not be valid or binding until countersigned by an authorized signatory.

EXHIBIT 6-Back

3AD 800-031-6909

COVERED RISKS (Continued)

17. You cannot use the Land because use as a single-family residence violates an existing zoning law or zoning regulation.

    You are forced to remove Your existing structures because they encroach onto Your neighbor's Land. If the encroaching structures are boundary walls or fences, the amount of Your insurance for this Covered Risk is subject to Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

19. Someone else has a legal right to, and does, refuse to perform a contract to purchase the Land, lease it or make a Mortgage loan on it because Your neighbor's existing structures encroach onto the Land.
20. You are forced to remove Your existing structures which encroach onto an easement or over a building set-back line, even if the easement or building set-back line is excepted in Schedule B.
21. Your existing structures are damaged because of the exercise of a right to maintain or use any easement affecting the Land, even if the easement is excepted in Schedule B.
22. Your existing improvements (or a replacement or modification made to them after the Policy Date), including lawns, shrubbery or trees, are damaged because of the future exercise of a right to use the surface of the Land for the extraction or development of minerals, water or any other substance, even if those rights are excepted or reserved from the description of the Land or excepted in Schedule B.
23. Someone else tries to enforce a discriminatory covenant, condition or restriction that they claim affects Your Title which is based upon race, color, religion, sex, handicap, familial status, or national origin.
24. A taxing authority assesses supplemental real estate taxes not previously assessed against the Land for any period before the Policy Date because of construction or a change of ownership or use that occurred before the Policy Date.
25. Your neighbor builds any structures after the Policy Date – other than boundary walls or fences – which encroach onto the Land.
26. Your Title is unmarketable, which allows someone else to refuse to perform a contract to purchase the Land, lease it or make a Mortgage loan on it.
27. A document upon which Your Title is based is invalid because it was not properly signed, sealed, acknowledged, delivered or recorded.
28. The residence with the address shown in Schedule A is not located on the Land at the Policy Date.
29. The map, if any, attached to this Policy does not show the correct location of the Land according to the Public Records.

OUR DUTY TO DEFEND AGAINST LEGAL ACTIONS

We will defend Your Title in any legal action only as to that part of the action which is based on a Covered Risk and which is not excepted or excluded from coverage in this Policy. We will pay the costs, attorneys' fees, and expenses We incur in that defense.

We will not pay for any part of the legal action which is not based on a Covered Risk or which is excepted or excluded from coverage in this Policy.

We can end Our duty to defend Your Title under paragraph 4 of the Conditions.

This Policy is not complete without Schedules A and B.

EXCLUSIONS

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
   a. building
   b. zoning
   c. land use
   d. improvements on the Land
   e. land division
   f. environmental protection

   This Exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.

   This Exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
   a. a notice of exercising the right appears in the Public Records at the Policy Date; or
   b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.
4. Risks:
   a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
   b. that are Known to You at the Policy Date, but not to Us, unless they appeared in the Public Records at the Policy Date;
   c. that result in no loss to You; or
   d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8d, 22, 23, 24 or 25.
5. Failure to pay value for Your Title.
6. Lack of a right:
   a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
   b. in streets, alleys, or waterways that touch the Land.

   This Exclusion does not limit the coverage described in Covered Risk 11 or 18.

CONDITIONS

1. DEFINITIONS:

a. **Easement** – the right of someone else to use the Land for a special purpose.

b. **Known** – things about which You have actual knowledge. The words "Know" and "Knowing" have the same meaning as Known.

c. **Land** – the Land or condominium unit described in paragraph 3 of Schedule A and any improvements on the Land which are real property.

d. **Mortgage** – a mortgage, deed of trust, trust deed or other security instrument.

e. **Natural Person** – a human being, not a commercial or legal organization or entity. Natural Person includes a trustee of a Trust even if the trustee is not a human being.

f. **Policy Date** – the date and time shown in Schedule A. If the insured named in Schedule A first acquires the interest shown in Schedule A by an instrument recorded in the Public Records later than the date and time shown in Schedule A, the Policy Date is the date and time the instrument is recorded.

g. **Public Records** – records that give constructive notice of matters affecting Your Title, according to the state statutes where the Land is located.

h. **Title** – the ownership of Your interest in the Land, as shown in Schedule A.

i. **Trust** – a living trust established by a human being for estate planning.

j. **We/Our/Us** – Chicago Title Insurance Company.

k. **You/Your** – the insured named in Schedule A and also those identified in paragraph 2.b. of these Conditions.

2. CONTINUATION OF COVERAGE:

a. This Policy insures You forever, even after You no longer have Your Title. You cannot assign this Policy to anyone else.

b. This Policy also insures:
   (1) anyone who inherits Your Title because of Your death;
   (2) Your spouse who receives Your Title because of dissolution of Your marriage;
   (3) the trustee or successor trustee of a Trust to whom You transfer Your Title after the Policy Date; or
   (4) the beneficiaries of Your Trust upon Your death.

c. We may assert against the insureds identified in paragraph 2.b. any rights and defenses that We have against any previous insured under this Policy.

3. HOW TO MAKE A CLAIM

a. Prompt Notice Of Your Claim
   (1) As soon as You Know of anything that might be covered by this Policy, You must notify Us promptly in writing.
   (2) Send Your notice to Chicago Title Insurance Company
   National Claims Administration
   P.O. Box 45023
   Jacksonville, Florida 32232-5023

   Please include the Policy number shown in Schedule A, and the county and state where the Land is located. Please enclose a copy of Your policy, if available.

(3) If You do not give Us prompt notice, Your coverage will be reduced or ended, but only to the extent Your failure affects Our ability to resolve the claim or defend You.

b. Proof Of Your Loss

(1) We may require You to give Us a written statement signed by You describing Your loss which includes:

(a) the basis of Your claim;

(b) the Covered Risks which resulted in Your loss;

(c) the dollar amount of Your loss; and

(d) the method You used to compute the amount of Your loss.

(2) We may require You to make available to Us records, checks, letters, contracts, insurance policies and other papers which relate to Your claim. We may make copies of these papers.

(3) We may require You to answer questions about Your claim under oath.

(4) If you fail or refuse to give Us a statement of loss, answer Our questions under oath, or make available to Us the papers We request, Your coverage will be reduced or ended, but only to the extent Your failure or refusal affects Our ability to resolve the claim or defend You.

4. OUR CHOICES WHEN WE LEARN OF A CLAIM

a. After We receive Your notice, or otherwise learn, of a claim that is covered by this Policy, Our choices include one or more of the following:

(1) Pay the claim.

(2) Negotiate a settlement.

(3) Bring or defend a legal action related to the claim.

(4) Pay You the amount required by this Policy.

(5) End the coverage of this Policy for the claim by paying You Your actual loss resulting from the Covered Risk, and those costs, attorneys' fees and expenses incurred up to that time which We are obligated to pay.

(6) End the coverage described in Covered Risk 14, 15, 16 or 18 by paying You the amount of Your insurance then in force for the particular Covered Risk, and those costs, attorneys' fees and expenses incurred up to that time which We are obligated to pay.

(7) End all coverage of this Policy by paying You the Policy Amount then in force, and those costs, attorneys' fees and expenses incurred up to that time which We are obligated to pay.

(8) Take other appropriate action.

b. When We choose the options in paragraphs 4.a (5), (6) or (7), all Our obligations for the claim end, including Our obligation to defend, or continue to defend, any legal action.

c. Even if We do not think that the Policy covers the claim, We may choose one or more of the options above. By doing so, We do not give up any rights.

5. HANDLING A CLAIM OR LEGAL ACTION

a. You must cooperate with Us in handling any claim or legal action and give Us all relevant information.

b. If You fail or refuse to cooperate with Us, Your coverage will be reduced or ended, but only to the extent Your failure or refusal affects Our ability to resolve the claim or defend You.

c. We are required to repay You only for those settlement costs, attorneys' fees and expenses that We approve in advance.

d. We have the right to choose the attorney when We bring or defend a legal action on Your behalf. We can appeal any decision to the highest level. We do not have to pay Your claim until the legal action is finally decided.

e. Whether or not We agree there is coverage, We can bring or defend a legal action, or take other appropriate action under this Policy. By doing so, We do not give up any rights.

6. LIMITATION OF OUR LIABILITY

a. After subtracting Your Deductible Amount if it applies, We will pay no more than the least of:

(1) Your actual loss;

(2) Our Maximum Dollar Limit of Liability then in force for the particular Covered Risk, for claims covered only under Covered Risk 14, 15, 16 or 18; or

(3) the Policy Amount then in force;

and any costs, attorneys' fees and expenses which We are obligated to pay under this Policy.

b. (1) If We remove the cause of the claim with reasonable diligence after receiving notice of it, all Our obligations for the claim end, including any obligation for loss You had while We were removing the cause of the claim.

(2) Regardless of 6.b. (1) above, if You cannot use the Land because of a claim covered by this Policy:

(a) You may rent a reasonably equivalent substitute residence and We will repay You for the actual rent You pay, until the earlier of:

(1) the cause of the claim is removed; or

(2) We pay You the amount required by this Policy. If Your claim is covered only under Covered Risk 14, 15, 16 or 18, that payment is the amount of Your insurance then in force for the particular Covered Risk.

(b) We will pay reasonable costs You pay to relocate any personal property You have the right to remove from the Land, including transportation of that personal property for up to twenty-five (25) miles from the Land, and repair of any damage to that personal property because of the relocation. The amount We will pay You under this paragraph is limited to the value of the personal property before You relocate it.

c. All payments We make under this Policy reduce the Policy Amount, except for costs, attorneys' fees and expenses. All payments we make for claims which are covered only under Covered Risk 14, 15, 16 or 18 also reduce Our Maximum Dollar Limit of Liability for the particular Covered Risk, except for costs, attorneys' fees and expenses.

d. If We issue, or have issued, a Policy to the owner of a Mortgage that is on Your Title and We have not given You any coverage against the Mortgage, then:

(1) We have the right to pay any amount due You under this Policy to the owner of the Mortgage, and any amount paid shall be treated as a payment to You under this Policy, including under paragraph 4.a. of these Conditions;

(2) Any amount paid to the owner of the Mortgage shall be subtracted from the Policy Amount of this Policy; and

(3) If Your claim is covered only under Covered Risk 14, 15, 16 or 18, any amount paid to the owner of the Mortgage shall also be subtracted from Our Maximum Dollar Limit of Liability for the particular Covered Risk.

e. If You do anything to affect any right of recovery You may have against someone else, We can subtract from Our liability the amount by which You reduced the value of that right.

7. TRANSFER OF YOUR RIGHTS TO US

a. When We settle Your claim, We have all the rights You have against any person or property related to the claim. You must transfer these rights to Us when We ask, and You must not do anything to affect these rights. You must let Us use Your name in enforcing these rights.

b. We will not be liable to You if We do not pursue these rights or if We do not recover any amount that might be recoverable.

c. We will pay any money We collect from enforcing these rights in the following order:

(1) to Us for the costs, attorneys' fees and expenses We paid to enforce these rights;

(2) to You for Your loss that You have not already collected;

(3) to Us for any money We paid out under this Policy on account of Your claim; and

(4) to You whatever is left.

d. If You have rights under contracts (such as indemnities, guaranties, bonds or other policies of insurance) to recover all or part of Your loss, then We have all of those rights, even if those contracts provide that those obligated have all of Your rights under this Policy.

8. ENTIRE CONTRACT

This Policy, with any endorsements, is the entire contract between You and Us. To determine the meaning of any part of this Policy, You must read the entire Policy. Any changes to this Policy must be agreed to in writing by Us. Any claim You make against Us must be made under this Policy and is subject to its terms.

9. INCREASED POLICY AMOUNT

The Policy Amount will increase by ten percent (10%) of the Policy Amount shown in Schedule A each year for the first five years following the Policy Date shown in Schedule A, up to one hundred fifty percent (150%) of the Policy Amount shown in Schedule A. The increase each year will happen on the anniversary of the Policy Date shown in Schedule A.

10. SEVERABILITY

If any part of this Policy is held to be legally unenforceable, both You and We can still enforce the rest of this Policy.

11. ARBITRATION

a. If permitted in the state where the Land is located, You or We may demand arbitration.

b. The arbitration shall be binding on both You and Us. The arbitration shall decide any matter in dispute between You and Us.

c. The arbitration award may be entered as a judgment in the proper court.

d. The arbitration shall be under the Title Insurance Arbitration Rules of the American Arbitration Association. You may choose current Rules or Rules in existence on Policy Date.

e. The law used in the arbitration is the law of the place where the Land is located.

f. You can get a copy of the Rules from Us.

TABLE OF CONTENTS

	PAGE
OWNER'S COVERAGE STATEMENT	1
COVERED RISKS	1&2
OUR DUTY TO DEFEND AGAINST LEGAL ACTIONS	2
SCHEDULE A	Insert
Policy Number, Date and Amount	
Deductible Amounts and Maximum Dollar Limits of Liability	
Street Address of the Land	
1. Name of Insured	
2. Interest in Land Covered	
3. Description of the Land	
SCHEDULE B – EXCEPTIONS	Insert
EXCLUSIONS	2
CONDITIONS	2&3
1. Definitions	2&3
2. Continuation of Coverage	3
3. How to Make a Claim	3
4. Our Choices When We Learn of a Claim	3
5. Handling a Claim or Legal Action	3
6. Limitation of Our Liability	3
7. Transfer of Your Rights to Us	3
8. Entire Contract	3
9. Increased Policy Amount	3
10. Severability	3
11. Arbitration	3

OWNER'S INFORMATION SHEET

Your Title Insurance Policy is a legal contract between You and Us.

It applies only to a one-to-four family residence and only if each insured named in Schedule A is a Natural Person. If the Land described in Schedule A of the Policy is not an improved residential lot on which there is located a one-to-four family residence, or if each insured named in Schedule A is not a Natural Person, contact Us immediately.

The Policy Insures You against actual loss resulting from certain Covered Risks. These Covered Risks are listed beginning on page 1 of the Policy. The Policy is limited by:

- Provisions of Schedule A
- Exceptions in Schedule B
- Our Duty to Defend Against Legal Actions on page 2
- Exclusions on page 2
- Conditions on pages 2 and 3.

You should keep the Policy even if You transfer Your Title to the Land.

If You want to make a claim, see paragraph 3 under Conditions on page 3.

You do not owe any more premiums for the Policy.

This sheet is not Your insurance Policy. It is only a brief outline of some of the important Policy features. The Policy explains in detail Your rights and obligations and Our rights and obligations. Since the Policy–and not this sheet–is the legal document,

YOU SHOULD READ THE POLICY VERY CAREFULLY.

If you have any questions about Your Policy, contact:

Chicago Title Insurance Company

CHICAGO TITLE INSURANCE COMPANY

AMERICAN LAND TITLE ASSOCIATION Homeowner's Policy of Title Insurance

10-17-98

Chicago Title Insurance Company

OWNERS FORM
CHICAGO TITLE INSURANCE COMPANY
3700 Forest Drive, Suite 201, Columbia, SC 29204
Issued by: St. Andrews Title & Abstract Agency, Inc., 757 St. Andrews Blvd., Charleston, SC 29407
SCHEDULE A

OFFICE FILE NUMBER:	05-0350-BUCK
POLICY NUMBER:	7212340-57687
DATE OF POLICY:	April 25, 2005, at 08:33 AM
AMOUNT OF INSURANCE:	$700,000.00

1. Name of Insured:

   Zan, LLC

2. Your interest in the land covered by this Policy is:

   Fee Simple

   Subject to the matters shown in Schedule B.

3. The land referred to in this Policy is described as follows:

   ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, known and designated as Lot SF 3, Ripley Cove, on a plat entitled "PLAT SHOWING THE SUBDIVISION OF LOT 4A RESIDENTIAL PROPERTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA", prepared by W. Mason Lindsey, Jr., R.L.S., dated December 27, 2004 and recorded in Plat Book EH at Page 581 in the RMC Office for Charleston County. Reference to said plat is hereby craved for a more accurate and complete description.

   TMS#: 421-11-00-268

   AND

   DOCK UNIT CS B1 in the SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, a Horizontal Property Regime established pursuant to the South Carolina Horizontal Property Act, Section 27-31-10 et Seq., and submitted by Master Deed of the SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, dated July 29, 2004 and recorded July 30, 2004 in the RMC Office for Charleston County in Book Y 503 Page 563 and as it may be thereafter amended from time to time (the "Master Deed"), together with an undivided interest in the appurtenant common elements, all as described more fully in the Master Deed.

   TMS#: 421-11-00-100

This Policy valid only if Schedule B is attached.

OWNERS FORM
CHICAGO TITLE INSURANCE COMPANY
SCHEDULE B

Policy Number: 7212340-57687

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

General Exceptions:

A. Rights or claims of parties in possession not shown by the public records.

B. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey and inspection of the premises.

C. Easements, or claims of easements, not shown by the public records.

D. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

E. Taxes or special assessments which are not shown as existing liens by the public records.

Special Exceptions: The mortgage, if any, referred to in Item 2 of Schedule A.

1. Taxes and assessments for the year and all subsequent years, which are a lien, but are not yet due and payable.

Countersigned

Authorized Signatory

Schedule B of this Policy consists of 1 page(s).

SCHEDULE B
Owners Form
(Rev. 1/89)

DAVID AND SCHWARTZ, P.A.
Attorneys & Counsellors at Law
757 St. Andrews Boulevard
Charleston, South Carolina 29407

Dan M. David
Paul D. Schwartz

Post Office Box 32097
Charleston, SC 29417

Richard M. Nichols
Of Counsel
Michael J. Burkett
(1992-2003)

(843) 571-1893
Fax (843) 571-5062

September 13, 2005

Zan, LLC
P.O. Box 30307
Charleston, SC 29417

Dear Sirs:

I am pleased to enclose herewith the recorded deed to the property which you recently purchased from East Coast Trading Co., Inc., and being legally described as Lot SF 3; Ripley Cove and Dock Unit CS B1, Slips at Ripley Horizontal Property Regime. Also enclosed is your Owners Title Insurance Policy.

The enclosed deed has been properly executed, witnessed and probated and was duly recorded in the R.M.C. Office for Charleston County on April 25, 2005 in Book A-534 at Page 809.

Based on the records available to me in the R.M.C. Office aforesaid, it is my opinion that you are the owner, in record fee simple, of the property described on the enclosed deed and that your ownership is subject only to the restrictions and easements of record, unrecorded liens, easements or restrictions, if any.

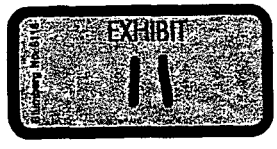
Thanking you for the opportunity to have been of assistance to you in this matter, and wishing you and yours every happiness in your new home, I remain,

Sincerely yours,

Dan M. David

DMD/mdf

Enclosures



BK P 564PG187

STATE OF SOUTH CAROLINA)
) INDENTURE DEED
COUNTY OF CHARLESTON)

KNOW ALL MEN BY THESE PRESENTS, that, REAL ONE, INC., in the County and State aforesaid, for and in consideration of the sum of SEVEN HUNDRED TWENTY-FIVE THOUSAND AND NO/100 ($725,000.00) DOLLARS, to me in hand paid, at and before the sealing of these presents by Charles A. Funke and Lillian M. Funke, in the County and State aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said Charles A. Funke and Lillian M. Funke, their Heirs and Assigns, the following described property, to-wit:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION AND RESTRICTIONS ON OWNERSHIP OF DOCK UNITS

THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING:

1. Taxes and assessments for the current year, a lien, not yet due and payable.

2. Terms, Conditions, Restrictions, Easements, Rights to Repurchase, Assessments and Obligations of the Master Deed for the Slips at Ripley Horizontal Property Regime, dated July 29, 2004, and recorded in Book Y503 Page 563, RMC Office aforesaid.

3. All facts and conditions, which may be shown by survey and physical examination of the unit;

4. Any applicable zoning and/or development laws and ordinances, including those of Charleston County and the City of Charleston;

5. Navigable servitude of the U.S. Government and State of South Carolina or any political division thereof and rights of the public to the use of any navigable waters covering any land including in the description of the insured premises; provided, however, the limit of such navigable servitude is the line formed by the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management Critical Line and the bulkhead Line (whichever would cause the navigable servitude to be larger), and the general public has no right in and to any of the improvements which may be located within the area of the navigable servitude;

6. Rights and jurisdiction vested in the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management by law, including the power of said agency to mandate the removal or modification of any docking facility constructed in accordance with its permitting authority;

PLAINTIFF'S EXHIBIT 12

7. Rights of the United States or other governmental entities, if any, which rights may exist in addition to the right to permit dock construction and regulate use vested in the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management.

8. Restrictions and Conditions set out and imposed by the Horizontal Property Act, Chapter 31 Code of Laws of the State of South Carolina, 1976;

9. Terms and conditions of all permits and licenses issued by federal, state, and local governments, their respective agencies, and quasi-governmental or private agencies having jurisdiction over the Project, including the U.S. Army Corps of Engineers, the South Carolina Department of Health and Environmental Control, the Office of Ocean and Coastal Resources Management and the City of Charleston;

10. Interests created by, or limitations on use imposed by, the Federal Coastal Zone Management Act, or other federal law or regulations promulgated pursuant to said state or federal laws.

11. Ripley Light Marina Real Estate Agreement dated April 29, 2004 and recorded April 29, 2004 in Book W 492 Page 771 in the RMC Office for Charleston County.

12. Drainage Easement to the City of Charleston dated December 13, 2004, and intended to be recorded in the RMC Office for Charleston County.

13. Title to streets as shown on said plat and deed to the City of Charleston dated December 13, 2004, and intended to be recorded in the RMC Office for Charleston County.

~~This being the identical property conveyed to Pavilion Development, LLC by deed of Ripley Cove, LLC dated March 23, 2005, and recorded simultaneously herewith.~~

TMS#: 421-11-00-267 (Lot SF 4)
421-11-00-101 (Unit CS B-2)

GRANTEE'S ADDRESS: PO Box 20516
Charleston SC 29413

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 Charles A. Funke and Lillian M. Funke, their Heirs and Assigns forever.

SUBJECT to easements, affirmative obligations, agreements, payments, covenants, plats, restrictions referred to in subparagraphs 1 through 11 above, grantor does hereby bind itself, its successors and assigns, to warrant and forever defend, all and singular, the said

Premises unto the said Grantee hereinabove named, and the Grantee's successors and assigns against the Grantor and the Grantor's successors and assigns and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS my Hand and Seal, this 29 day of November, in the year of our Lord Two Thousand and Five and in the Two Hundred and Twenty-ninth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Real One, Inc.

By: WILLIAM S MCLEAN
Its: SECRETARY

STATE OF SOUTH CAROLINA)
) **ACKNOWLEDGMENT**
COUNTY OF CHARLESTON)

The foregoing instrument was acknowledged before me this 29 day of November, 2005, by Real One, Inc. by its Secretary, William S. McLean

SWORN to before me this
29 day of November, 2005.

_____ (SEAL)
Notary Public for South Carolina
My Commission expires: Stephanie E Prendor
Notary Public, State of South Carolina
Commission Expires: July 26, 2011

THE GRANTEE assumes and agrees to observe and perform all obligations under said Master Deed and By-Laws and any Rules or Regulations adopted form time to time, including, but not limited to, the payment of assessments for common expenses, liability for dredging assessments, and also agree that this conveyance is subject to all reservations and restrictions of record, easements and rights of way of record, including those as set out above and shown on the aforesaid plot pan and plat.

WITNESSES:

Charles A. Funke

Lillian M. Funke

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 29th day of November 2005, by Charles A. Funke and Lillian M. Funke

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires:

Stephanie F. Frender
Notary Public, State of South Carolina
Commission Expires: July 26, 2011

EXHIBIT A
PROPERTY LEGAL DESCRIPTION

All those certain lots, pieces or parcels of land, together with the buildings and improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, known and designated as Lot SF 4, Ripley Cove, on a Plat entitled 'PLAT SHOWING THE SUBDIVISION OF LOT 4A RESIDENTIAL PROPERTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA', prepared by W. Mason Lindsey, Jr., R.L.S., dated December 17, 2004 and recorded in Plat Book EH at Page 576 in the RMC Office for Charleston County. Reference to said plat is hereby craved for a more accurate and complete description.

TMS# 421-10-00-267

And

Dock Unit CS B-2 in THE SLIPS ~~AND~~ AT RIPLEY HORIZONTAL PROPERTY REGIME, a Horizontal Property Regime established pursuant to the South Carolina Horizontal Property Regime Act, Section 27-31-10 et seq., and submitted by Master Deed of the SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, dated July 29, 2004 and recorded July 30, 2004 in the RMC Office for Charleston County, South Carolina in Book Y503, at Page 563 and as it may be thereafter amended from time to time (the 'Master Deed'), together with an undivided interest in the appurtenant common elements, all as described more fully in the Master Deed.

Being a portion of the property conveyed to Real One, Inc. by Indenture Deed of Pavilion Development Corporation dated July 20, 2005 and duly recorded in Deed Book X545 at Page 175 in the Office of the RMC for Charleston County, South Carolina.

TMS# 421-11-00-101

BK P564 PG192

STATE OF SOUTH CAROLINA)
) AFFIDAVIT
COUNTY OF CHARLESTON)

Date of Transfer of Title
November 29, 2005

BK P564 PG192

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 Real One, Inc. TO Charles A. Funke and Lillian M. Funke ON 11/29/05.
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 $725,000.00

(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 5 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) $725,000.00 the amount listed in Item #4 above

(b) 0.00 the amount listed on Item #5 above (no amount, please zero)

(c) $725,000.00 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 Grantee.

8. Check if Property other than Real Property is being transferred on this Deed:

(a) _____ Mobile Home

(b) _____ Other: _____

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.

Charles A. Funke

Charles A. Funke

Lillian M. Funke

Lilian M. Funke

Grantor, Grantee or Legal Representative
Connected with this Transaction

SWORN to before me this
11/29/05

Stephanie P. Frender
Notary Public for State of South Carolina
My commission expires: 07/26/11

BK P 564PG193

RECORDER'S PAGE

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

FILED

December 2, 2005

4:[illegible] PM

BK P 564PG187

Charlie Lybrand, Register
Charleston County, SC

Filed By:

Weeks, Manaker and Donaldson, LLC

DESCRIPTION	AMOUNT
Recording Fee	$ 12.00
State Fee	$ 1,885.00
County Fee	$ 797.50
Postage	
TOTAL	$ 2,694.50

$ Amount (in thousands): 725

DRAWER: 3 B - ecp

AUDITOR STAMP HERE

RECEIVED FROM RMC

JAN 27 2006

PEGGY A. MOSELEY
CHARLESTON COUNTY AUDITOR

PID VERIFIED BY ASSESSOR

REP

DATE 1/26/06

DO NOT STAMP BELOW THIS LINE

843-958-4800 101 MEETING STREET CHARLESTON, SC 29401 www.charlestoncounty.org

THIS MASTER DEED IS SUBJECT TO ARBITRATION UNDER SECTION 15-48-10, ET SEQ., SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED.

MASTER DEED FOR THE SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME

NOTICE

ALL ACTIVITIES ON OR OVER AND ALL USES OF THE SUBMERGED LAND SUBJECT TO THIS MASTER DEED ARE SUBJECT TO THE JURISDICTION OF THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, INCLUDING, BUT NOT LIMITED TO, THE REQUIREMENT THAT ANY ACTIVITY OR USE MUST BE AUTHORIZED BY THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL. A CO-OWNER IS LIABLE TO THE EXTENT OF HIS OR HER OWNERSHIP FOR ANY DAMAGES TO, ANY INAPPROPRIATE OR UNPERMITTED USES OF, AND ANY DUTIES OR RESPONSIBILITIES CONCERNING ANY SUBMERGED LAND, COASTAL WATERS OR ANY OTHER CRITICAL AREA.

EXHIBIT 13

TABLE OF CONTENTS

ARTICLE I - SUBMISSION OF PROPERTY

Section 1.1 Submission of Property
Section 1.2 Submerged Lands
Section 1.3 Compliance and Conflict

ARTICLE II - DEFINITIONS

Section 2.1

ARTICLE III - NAME OF CONDOMINIUM

Section 3.1

ARTICLE IV - DESCRIPTION OF LAND

Section 4.1

ARTICLE V - DESCRIPTION OF DOCK SYSTEM, UNIT VALUE & PERCENTAGE INTEREST

Section 5.1

ARTICLE VI - DESCRIPTION OF UNITS

Section 6.1

ARTICLE VII - DESCRIPTION OF COMMON ELEMENTS

Section 7.1 Common Elements
Section 7.2 Limited Common Elements

ARTICLE VIII - RIPLEY LIGHT MARINA REAL ESTATE AGREEMENT

Section 8.1 Real Estate Agreement Provisions

ARTICLE IX - ARBITRATION PROVISIONS

Section 9.1 Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes.
Section 9.2 Exempt Claims
Section 9.3 Mandatory Procedures for Non-Exempt Claims
Section 9.4 Allocation of Costs and Claims
Section 9.5 Enforcement of Resolution
Section 9.6 Miscellaneous Alternative Dispute Resolution Provisions

ARTICLE X - UNIT OWNER'S RIGHTS, OBLIGATIONS AND REGULATIONS

Section 10.1 Use of Unit and Common Elements
Section 10.2 Restriction on Residential Dock Units
Section 10.3 Compliance with Rules, Regulations; Enforcement
Section 10.4 Common Expense Liability
Section 10.5 Dredging Assessments
Section 10.6 Voting Rights
Section 10.7 Easements Appurtenant to Unit Ownership

ARTICLE XI - COUNCIL OF CO-OWNERS

Section 11.1 Name
Section 11.2 Rights
Section 11.3 Membership
Section 11.4 Repair of Units
Section 11.5 Access to Units
Section 11.6 Easements for Maintenance and Operation
Section 11.7 Enforcement of Agreements
Section 11.8 Management Agreement

ARTICLE XII - DECLARANT'S RIGHTS AND OBLIGATIONS

Section 12.1 Declarant Owner of All Units Created
Section 12.2 Easement Reservation
Section 12.3 Declarant's Period of Control
Section 12.4 Declarant's Obligation to Perform Initial Dredging and Repairs
Section 12.5 When Assessments Begin/Declarant's Obligation to Pay Assessments
Section 12.6 Declarant's Obligation to Convey Title in Fee

ARTICLE XIII - USE

Section 13.1 One Vessel
Section 13.2 Only Mooring
Section 13.3 One Foot Separation
Section 13.4 Rental
Section 13.5 Boat Maintenance
Section 13.6 Signs

ARTICLE XIV - BYLAWS
Section 14.1

ARTICLE XV - AMENDMENTS

Section 15.1 Amendments by Association
Section 15.2 By-Laws
Section 15.3 Amendments by Declarant
Section 15.4 Declarant may amend Bylaws

ARTICLE XVI - PERSONS AND UNITS SUBJECT TO CONDOMINIUM INSTRUMENTS

Section 16.1 Survival
Section 16.2 Rules and Regulations

ARTICLE XVII - TERMINATION

Section 17.1 Termination
Section 17.2 Ownership
Section 17.3 Re-submission

ARTICLE XVIII - BOUNDARIES; EASEMENTS FOR ENCROACHMENT

Section 18.1 Boundaries
Section 18.2 Encroachments
Section 18.3 Easement Granted to the Council of Co-Owners
Section 18.4 Easement to Sidewalks and Walkways
Section 18.5 Destruction

ARTICLE XIX - NO SEVERANCE OF OWNERSHIP

Section 19.1

ARTICLE XX - DECLARANT'S RIGHTS RESERVED

Section 20.1 Right to Show Unit
Section 20.2 Right to Repairs
Section 20.3 Right to Post Signs
Section 20.4 No Detrimental Action
Section 20.5 Amendments

ARTICLE XXI - CONDEMNATION

Section 21.1 Common Elements
Section 21.2 Units

ARTICLE XXII - INSURANCE

Section 22.1

ARTICLE XXIII - MORTGAGEES

Section 23.1 Rights of Mortgagee
Section 23.2 Title
Section 23.3 Notices

ARTICLE XXIV - MISCELLANEOUS

Section 24.1 Captions
Section 24.2 Gender
Section 24.3 Waiver
Section 24.4 Invalidity
Section 24.5 Conflict
Section 24.6 Execution of Documents

STATE OF SOUTH CAROLINA	)	MASTER DEED FOR
	)	THE SLIPS AT RIPLEY
COUNTY OF CHARLESTON	)	HORIZONTAL PROPERTY REGIME

THIS Master Deed made this the 29 day Of July, 2004, by RIPLEY COVE, LLC, a South Carolina*Corporation, ("Declarant"), owner in fee simple of the real estate described herein, does hereby declare as follows:

* Limited Liability

ARTICLE I
SUBMISSION OF PROPERTY

Section 1.1 Submission of Property. Declarant hereby submits the Property located in the County of Charleston, State of South Carolina, described herein on **Exhibit A** attached hereto and made a part hereof, including the Improvements now or hereafter thereon, to the provisions of the Horizontal Property Act, Section 27-31-10, et seq., South Carolina Code of Laws 1976, as amended, (the "Act"), the provisions of which, unless expressly provided otherwise herein, are incorporated by reference and form a part of this Master Deed, for the specific purpose of creating and establishing **THE SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME.** Reference is also made to other provisions of this Master Deed, the Plot Plan and Dock Plans attached hereto as **Exhibit B1, B2 & B3** and incorporated herein by reference for a description of the dimensions and location of each Apartment, as defined in the Act (hereinafter referred to as "Unit" and/or "Dock Unit"). The location and approximate dimensions of the Limited Common Elements and General Common Elements, and other information required by the Act are also shown on the said **Exhibit B1, B2 & B3.** Such submission is subject to all easements, covenants and restrictions of record or presently existing, including, but not limited to those, specifically as set forth on **Exhibit A.**

Section 1.2. Submerged Lands. In accordance with Section 27-31-100(f) of the Act, as it exists on the date of recordation of this Master Deed, all activities on or over and all use of any submersed lands or other critical areas within the Property are subject to the jurisdiction of the South Carolina Department of Health and Environmental Control. Each Unit Owner is liable to the extent of his ownership for any damages to, any inappropriate use of and any duties or responsibilities concerning any submerged land, coastal waters, or any other critical area within the Property.

Section 1.3 Compliance & Conflict. This Master Deed is intended to comply with the Act. If any provision of this Master Deed conflicts with a mandatory provision of the Act, the provisions of the Act will apply and control. If such invalidates any provision of this Master Deed, such invalidation will not affect any of the

other provisions contained herein, and they shall remain in full force and effect.

ARTICLE II
DEFINITIONS

Section 2.1. The following words and phrases shall have the meanings herein ascribed to them:

(a) Dock Unit: Each separately delineated place constituting a slip for moorage of a boat, located adjacent to, and including a specified part of, a Dock, intended for any type of independent use, and with a direct exit to a public street or highway or to the Common Elements leading to such street or highway, together with the Appurtenant Interest appertaining to such Unit. Each Unit is classified as either a Residential Dock Unit or a Non-Residential Dock Unit and is shown on the Plot Plan and Dock Plans referred to in Section 1.1, and is identified on **Exhibit B1, B2 & B3** attached hereto. Excluded from a Unit, however, are all chutes, pipes, flues, ducts, wires, conduits and other facilities running through any dock for the purpose of furnishing utility or similar services to other Units or Common Elements.

Boundaries: Each Dock Unit is located and bounded as shown on the Exhibits as they may be amended from time to time as aforesaid. The intent of the Plot Plan **Exhibit B1, B2 & B3** is to delineate the following: (1) the perimeter boundaries of each Dock Unit are the imaginary vertical planes abutting but not including any portion of the docks, piers, wharfs, fixed moorings or pilings delineating the boundaries of such planes; where there is no such dock, pier, wharf, fixed mooring or pilings to so delineate the boundary of a Dock Unit, such boundary shall be the imaginary vertical plane passing through the appropriate Dock Unit which is shown thereon and described by references to distances to such fixed improvements as docks, piers, wharfs, fixed moorings or pilings; (2) the upper boundaries of the Dock Units are unlimited except where overhead structural improvements exist, in which event the upper boundary shall be the imaginary horizontal plane abutting, but not including the lowest point of said structural improvement over the Dock Unit and extended to the intersections with the perimeter boundaries thereof; and (3) the lower boundaries of each Dock Unit shall be a horizontal plane located at the lowest natural level, and extended to the intersections with the perimeter boundaries of the Dock Units. The horizontal and vertical location of the Dock Units and other improvements with in the property boundary are shown on said **Exhibit B1,B2 & B3.**

As used herein, the word "Unit" means each Dock Unit and is in strict adherence with the term "Apartment" as defined in the Horizontal Property Act, Section 27-31-20, South Carolina Code of Laws, 1976, as amended.

(b) Access Easement: The non-exclusive Access Easement is shown on the Plot Plan attached hereto as **Exhibit B1, B2 & B3** and is also more fully described on the legal description attached hereto as **Exhibit A.** The Access Easement includes the five (5) foot sidewalk which crosses Dry Stack Lot 7, the five (5) foot easement which crosses Dry Stack Lot 4-A, the bridge which connects Dry Stack Lot 4-A with Lot 4-A Combined, the five (5) foot sidewalk located on Lot 4-A Combined and the twenty-five (25) foot Pedestrian & Bulkhead Maintenance Easement located on Lot 4-A Combined. The Access Easement connects the Dock Units attached to Wet Slip Lot 7 with Dock Units CS-A1 through CS-A8. Declarant reserves the right to itself and its successors and assigns to use the Access Easement for access purposes for all Unit Owners.

(c) Appurtenant Interest: (1) the undivided interest in the Common Elements appurtenant to a Unit; (2) the interest of a Co-Owner in any Unit acquired by the Council of Co-Owners or its designee on behalf of all Co-Owners, or the proceeds of the sale or lease thereof, if any: and (3) the interest of a Co-Owner in any other right, right of membership, claim, cause of action or asset of the Condominium or the Council of Co-Owners.

(d) Board of Directors: The Board of Directors of the Council of Co-Owners. It consists of natural persons elected by the Co-Owners to direct the operation of the Condominium.

(e) Common Charges: The charges assessed against Units for their share of Common Expenses, as provided in the Bylaws.

(f) Common Elements: All real property and improvements thereto, including the Access Easement, the submerged land below the Units and the Docking System (as fully shown on **Exhibit B1, B2 & B3** hereto), fixtures, docks, pilings, ramps, bulk heads and equipment constituting the Condominium other than the Units unless otherwise specifically designated in this Master Deed as Limited Common Elements. General Common Elements shall include docks, pilings, ramps, fire hose cabinets, cleats, and walkways. General Common Elements shall also include (1) easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to Units and the General Common Elements; and (2) an easement of support in every portion of a Unit which contributes to the support of the Dock System; (3) easements through the Units and General and Limited Common Elements for utilities, drainage,

maintenance, repair and replacement of the Units and General and Limited Common Elements; (4) all non-exclusive support, maintenance, parking and other easements conveyed to the Regime by Declarant; (5) all riparian rights arising from or attendant to the real property conveyed by Declarant in this Master Deed which are not part of a Unit; and (6) a non-exclusive easement for vessel ingress and egress over and across the existing channels from real property subject to this Master Deed.

(g) Parking: Parking shall be considered a General Common Element to be used by the Co-Owners on a non-exclusive basis with the Owners of Dry Stack Lot 4-A, Lot 6-A (a/k/a Dry Stack Lot 6-A and New Lot 6-A) and Dry Stack Lot 7 as set forth and governed by the Ripley Light Marina Real Estate Agreement dated April 29, 2004, and recorded April 29, 2004, in the RMC Office for Charleston in Book W492 at page 771, a copy of which is attached hereto as **Exhibit E**.

(h) Common Expenses and Reserves: (1) Expenses of administration and or maintenance, repair or replacement of the Common Elements; (2) expenses declared to be Common Expenses by the Condominium Instruments or by the Act; (3) special assessments and expenses agreed upon as Common Expenses by the Council of Co-Owners; and (4) reasonable reserves provided for in the Condominium Documents or agreed upon by the Council of Co-Owners, whether held in trust or by the Council of Co-Owners, including, but not limited to, repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Council of Co-Owners. Assessments for dredging all Units and surrounding and adjacent waters, as necessary, shall be Common Expenses.

(i) Condominium: The real property, all Units, and any incidents thereto and interests therein constituting a Horizontal Property Regime and submitted to the Act by the recordation of Condominium Instruments pursuant to the provisions of the Act.

(j) Act: Section 27-31-10 et seq., South Carolina Code of Laws, 1976, as amended, and as the same may from time to time be amended and which amendment(s) applies to this Condominium.

(k) Condominium Instruments: This Master Deed, the Bylaws, the Plot Plan, and the Dock Plans recorded and filed pursuant to the provisions of the Act. Any exhibit, schedule or certification accompanying a Condominium Instrument and recorded or filed simultaneously therewith shall be deemed an integral part of that Condominium Instrument. To the extent permitted by law, any amendment or certification of any Condominium Instrument shall, from the time of the recordation or filing of such amendment or certification, be deemed an integral part of the affected Condominium

Instrument, whether or not such amendment or certification was made in accordance with the provisions of the Condominium Act.

(l) Co-Owner: The Person or Persons owning a Unit and the attendant undivided interest in Common Elements specified and established in this Master Deed, and the heirs, executors, administrators, successors and assigns of such Person or Persons.

(m) Council of Co-Owners: The Slips at Ripley Property Owners Association, Inc., a corporation organized under the laws of the State of South Carolina, consisting of the Co-Owners acting as a group in accordance with the Condominium Instruments. The Articles of Incorporation are attached hereto as **Exhibit C**.

(n) Declarant and Successor Declarant: Ripley Cove, LLC, a South Carolina limited liability corporation, or any Successor Declarant which is defined to mean any assignee or transferee of Declarant, whether voluntary or involuntary.

(o) Dock System: The system of docks, pilings, ramps and walkways depicted on **Exhibit B1, B2 & B3**. Each of the docks and Dock Units is described and shown on **Exhibit B1, B2 & B3** hereto are a part of the Dock System.

(p) Dry Stack Lot 4-A: That certain lot or parcel of land shown on **Exhibit B1** and which is subject to a part of the Access Easement described in this Master Deed.

(q) New Lot 6-A: That certain lot or parcel of land shown on **Exhibit B1** and which shares parking with the Co-Owners of the Slips at Ripley Horizontal Property Regime. New Lot 6-A is also sometimes referred to as Lot 6-A and/or Dry Stack Lot 6-A in the Ripley Light Marina Real Estate Agreement.

(r) Dry Stack Lot 7: That certain lot or parcel of land shown on **Exhibit B1** and which is subject to a part of the Access Easement described in this Master Deed.

(s) Lot 4-A Combined: That certain lot or parcel of land shown on **Exhibit B1** and which is subject to a part of the Access Easement described in this Master Deed upon which certain marina parking is located.

(t) Improvements: Any construction on or in any land included in the Condominium.

(u) Limited Common Elements: Those Common Elements designated in this Master Deed as reserved for the use of a certain Unit or Units to the exclusion of other Units.

(v) Majority or Majority of Co-Owners or Mortgagees: The owners of at least fifty-one percent (51%) of the total voting power in the Council of Co-Owners. The voting power of each Co-Owner shall be equal to the number of Units owned by that owner. There shall be one vote per Unit, whether owned by multiple parties or a single owner.

(w) Manager: A person, firm or corporation employed or engaged to perform management services for the Condominium and the Council of Co-Owners.

(x) Master Deed: This document and all exhibits attached hereto.

(y) Moorage Easement: An exclusive commercial easement appurtenant, which is a part of each Unit, in favor of each Unit Co-Owner which grants to such Co-Owner the exclusive right to use the horizontal surface of the adjacent Dock, from the boundary of such Dock with the space constituting the Unit to the center line of such Dock and for the length of the Unit along such Dock, for moorage, storage, tying off of vessels, the exclusive right (as to the Association and other Unit Owners) to the riparian use of the waters adjacent to such Dock within the space designated as part of such Unit, and generally all other uses which will not obstruct free walking access (including portage) of other Unit Owners and their guests and invitees.

(z) Person: An individual, corporation, partnership, Council of Co-Owners, trustee or other entity capable of holding an interest in real property or any combination thereof.

(aa) Property: The real estate described on the attached **Exhibit A** and shown on **Exhibit B1, B2, & B3** including submerged real estate, the Access Easement, parking spaces, all docks, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, which have been or are intended to be submitted to the provisions of the Condominium Act by this Master Deed.

(bb) Regulations: Regulations for the use of Units and Common Elements and for the conduct of Persons within the Condominium, made and promulgated by the Board of Directors pursuant to the Bylaws.

(cc) Trustee: The entity, if any, designated by the Board of Directors as the Trustee for the receipt, administration and disbursement of funds derived from insured losses, condemnation

awards, special assessments for uninsured losses, and other like sources.

(dd) Votes or Voting Power: See "Majority" above.

ARTICLE III
NAME OF CONDOMINIUM

Section 3.1. The name of the Condominium is **THE SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME**.

ARTICLE IV
DESCRIPTION OF LAND

Section 4.1. The land over which the Units, Dock System and Improvements are located, and the land adjacent to the Dock System, is described on **Exhibit A** attached hereto and made a part hereof. The Property includes the land together with the Access Easement and the non-exclusive easements described in the Master Deed, and is subject to the reservations to the Declarant in this Master Deed.

ARTICLE V
DESCRIPTION OF DOCK SYSTEM, UNIT VALUE & PERCENTAGE INTEREST

Section 5.1. The Condominium includes a Dock System, comprised of eighty-two (82) Dock Units as set forth and shown **Exhibit B1, B2 & B3**, adjacent to Ashley Point Drive, Charleston, South Carolina; the Dock Units generally have such size as shown on the said Plot Plans. The Unit lengths, values and each Unit owner's percentage interest are set forth below.

Unit Dock #	Linear Footage per Unit	Unit Value	Percentage Interest
A Dock - 8 Units			
CS-A1	60'	$85,000	1.22%
CS-A2	50'	$85,000	1.22%
CS-A3	50'	$85,000	1.22%
CS-A4	50'	$85,000	1.22%
CS-A5	50'	$85,000	1.22%
CS-A6	34.25'	$85,000	1.22%
CS-A7	50'	$85,000	1.22%
CS-A8	50'	$85,000	1.22%
B Dock - 27 Units			
CS-B1	80.00'	$85,000	1.22%
CS-B2	80.00'	$85,000	1.22%

CS-B3	60.00'	$85,000	1.22%
CS-B4	60.00'	$85,000	1.22%
CS-B5	60.00'	$85,000	1.22%
CS-B6	60.00'	$85,000	1.22%
CS-B7	60.00'	$85,000	1.22%
CS-B8	60.00'	$85,000	1.22%
CS-B9	60.00'	$85,000	1.22%
CS-B10	60.00'	$85,000	1.22%
CS-B11	60.00'	$85,000	1.22%
CS-B12	60.00'	$85,000	1.22%
CS-B13	60.00'	$85,000	1.22%
CS-B14	60.00'	$85,000	1.22%
CS-B15	60.00'	$85,000	1.22%
CS-B16	60.00'	$85,000	1.22%
CS-B17	60.00'	$85,000	1.22%
CS-B18	60.00'	$85,000	1.22%
CS-B19	60.00'	$85,000	1.22%
CS-B20	60.00'	$85,000	1.22%
CS-B21	60.00'	$85,000	1.22%
CS-B22	60.00'	$85,000	1.22%
CS-B23	60.00'	$85,000	1.22%
CS-B24	60.00'	$85,000	1.22%
CS-B25	60.00'	$85,000	1.22%
CS-B26	80.00'	$85,000	1.22%
CS-B27	74.72'	$85,000	1.22%
C Dock - 9 Units			
CS-C1	80.00'	$85,000	1.22%
CS-C2	80.00'	$85,000	1.22%
CS-C3	60.00'	$85,000	1.22%
CS-C4	60.00'	$85,000	1.22%
CS-C5	60.00'	$85,000	1.22%
CS-C6	60.00'	$85,000	1.22%
CS-C8	60.00'	$85,000	1.22%
CS-C9	60.00'	$85,000	1.22%
D Dock - 11 Units			
CS-D1	60.00'	$85,000	1.22%
CS-D2	60.00'	$85,000	1.22%
CS-D3	60.00'	$85,000	1.22%
CS-D4	60.00'	$85,000	1.22%
CS-D5	60.00'	$85,000	1.22%
CS-D6	60.00'	$85,000	1.22%
CS-D7	60.00'	$85,000	1.22%
CS-D8	60.00'	$85,000	1.22%
CS-D9	60.00'	$85,000	1.22%
CS-D10	80.00'	$85,000	1.22%
CS-D11	76.72'	$85,000	1.22%

E Dock - 27 Units			
CS-E1	80.00'	$85,000	1.22%
CS-E2	70.00'	$85,000	1.22%
CS-E3	60.00'	$85,000	1.22%
CS-E4	60.00'	$85,000	1.22%
CS-E5	60.00'	$85,000	1.22%
CS-E6	60.00'	$85,000	1.22%
CS-E7	60.00'	$85,000	1.22%
CS-E8	60.00'	$85,000	1.22%
CS-E9	60.00'	$85,000	1.22%
CS-E10	60.00'	$85,000	1.22%
CS-E11	50.79'	$85,000	1.22%
CS-E12	50.00'	$85,000	1.22%
CS-E13	50.00'	$85,000	1.22%
CS-E14	50.00'	$85,000	1.22%
CS-E15	60.00'	$85,000	1.22%
CS-E16	60.00'	$85,000	1.22%
CS-E17	50.35'	$85,000	1.22%
CS-E18	40.69'	$85,000	1.22%
CS-E19	40.00'	$85,000	1.22%
CS-E20	40.00'	$85,000	1.22%
CS-E21	40.00'	$85,000	1.22%
CS-E22	40.00'	$85,000	1.22%
CS-E23	40.00'	$85,000	1.22%
CS-E24	40.00'	$85,000	1.22%
CS-E25	40.00'	$85,000	1.22%
CS-E26	40.00'	$85,000	1.22%
CS-E27	40.00'	$85,000	1.22%

ARTICLE VI
DESCRIPTION OF UNITS

Section 6.1. Descriptions. A general description and graphic description of each Dock Unit, including its Unit designation, location, area and other data necessary for its proper identification, is set forth on **Exhibit B1, B2 & B3** attached hereto. A graphic description of each Dock Unit is also shown on **Exhibit B1, B2 & B3** attached hereto.

ARTICLE VII
DESCRIPTION OF COMMON ELEMENTS

Section 7.1. Common Elements. The Common Elements include all Property other than titled Dock Units, including, but not limited to,

the property shown on **Exhibit B1,B2, & B3**, the Access Easements located on Lot 4A Combined, Dry Stack Lot 7, Dry Stack Lot 4-A, and parking facilities located on Wet Slip Lot No. 7 delineated on **Exhibit B1, B2 & B3**.

Section 7.2. Limited Common Elements. The following are Limited Common Elements:

(a) Certain Common Elements, if any, assigned to less than all the Units shown on the plot plan and dock plans referred to in Section 1.1 hereof.

(b) Except as otherwise designated on such plans, any chute, pipe, flue, duct, wire, conduit, piling or any other fixture lying partially within and partially outside the designated boundaries of a Unit, serving only that Unit is a Limited Common Element allocated to that Unit.

(c) Any dock boxes, light fixtures or other fixtures and hardware and trim associated with such fixtures, designed to serve a single or designated Unit are Limited Common Elements allocated to that Unit.

ARTICLE VIII
RIPLEY LIGHT MARINA REAL ESTATE AGREEMENT

Section 8.1. Real Estate Agreement Provisions. The Declarant entered into a Real Estate Agreement dated April 29, 2004, which is recorded in the RMC Office for Charleston County in Book 492 at Page 771 that identifies the rights, obligations and assessments shared between the Co-Owners and other persons who are not members of the regime, said agreement is attached hereto as Exhibit E.

ARTICLE IX
ARBITRATION PROVISIONS

Section 9.1. Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes. The Declarant, Council of Co-Owners and any persons not otherwise subject to the Condominium Documents who agree to submit to this Article IX (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes between and among themselves involving this Master Deed, the other Condominium Documents or the Regime, and to avoid the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that all claims, grievances and disputes (including those in the nature of counterclaims or cross-claims)

between Bound Parties involving the Condominium Documents or the Regime, including without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement thereof (collectively "Claims"), except for "Exempt Claims" under Article IX, Section 2, are subject to the procedures set forth in Article IX, Section 3.

Section 9.2. Exempt Claims. The following Claims ("Exempt Claims") are exempt from the provisions of Article IX, Section 3:

(a) Any suit by the Council of Co-Owners and/or the Declarant against any Bound Party to enforce any Assessments or other charges pursuant to the Condominium Documents; and

(b) Any suit by the Council of Co-Owners and/or the Declarant to obtain a temporary restraining order (or equivalent emergency equitable relief) and other relief the court may deem necessary in order to maintain the status quo and preserve any enforcement power of the Council of Co-Owners until the matter may be resolved on the merits pursuant to Section 3 below; and

(c) Any suit involving a matter which is not an Exempt Claim under (a) or (b) above, but as to which matter the Bound Party against who the Claim is made waives the mandatory provisions of Section 3 below.

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section 3, but there is no obligation to do so.

Section 3. Mandatory Procedures for Non-Exempt Claims. Any Bound Party having a Claim (a "Claimant") against a Bound Party involving the Condominium Documents or the Regime, or all or any combination of them ("Respondent"), other than an Exempt Claim under Section 2, will not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of the Claim until it has complied with the following procedures, and then only to enforce the results hereof.

(a) Notice. Within a reasonable time after the Claim in question has arisen, and in each event prior to the date when institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitation, Claimant will notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely:

(i) the nature of the Claim, including applicable date, time, location, persons involved, Respondent's role in the Claim and the provisions of the Condominium Documents or other authority out of which the Claim arises;

(ii) what Claimant wants Respondent to do or not to do to resolve the Claim;

(iii) that Claimant wishes to resolve the Claim by mutual agreement with Respondent and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss, in good faith, ways to resolve the Claim.

(b) Negotiation. Each Claimant and Respondent (the "Parties") will make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation, but not later than thirty (30) days following the Notice unless otherwise agreed by the Parties.

(c) Final and Binding Arbitration. If the Parties do not resolve the Claim through negotiations within thirty (30) days of the date of the notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiation"), a Claimant will have thirty (30) days within which to submit the Claim to binding arbitration under the South Carolina Uniform Arbitration Act, S. C. Code Section 15-48-10, et seq., and to the extent not specifically addressed by the South Carolina Uniform Arbitration Act, then the Commercial Arbitration Rules of the American Arbitration Association and in accordance with the substantive and procedural laws of the State of South Carolina, except as said rules, procedures and substantive laws are applied otherwise as follows:

(i) Unless the parties mutually set another date, within ten (10) days following Termination of Negotiation, Claimant and Respondent will jointly select one arbitrator, whose decision will be absolutely binding on all Parties; provided, however, if Claimant and Respondent are unable to jointly select one arbitrator within said ten (10) day period or on or before any later day set by them by which to select an arbitrator, the arbitrator will be elected in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration will be conducted in Charleston, South Carolina, before a neutral person who is a member of the Bar of the State of South Carolina, who has been actively engaged in the practice of law for at least fifteen (15) years, and who has no

conflict of interest with any Party, unless the Claimant and Respondent agree in writing to different qualifications for the arbitrator. Each Bound Party consents to such jurisdiction and venue and waives the right to object to the same. The arbitrator may award any remedy or relief that a court of the State of South Carolina could order or grant, including, without limitation, specific performance of any obligation created under the Condominium Documents, or the issuance of an injunction, as well as the imposition of sanctions for abuse or frustration of the arbitration process; provided, however, the arbitrator will have no authority to award punitive damages or any other damages not measured by the prevailing Party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of the Condominium Documents.

(ii) In the event Claimant does not submit the Claim to binding arbitration as aforesaid, the Claim is deemed abandoned, and Respondent is released and discharged from any and all liability to Claimant arising out of the Claim; provided, nothing herein will release or discharge Respondent from any liability to a person not a Party to the foregoing proceedings, or the mandatory requirements of this Section with respect to any subsequently arising new dispute or claim by the Claimant which is identical or similar to the Claim previously deemed abandoned under this Section.

This Section is an agreement of the Bound Parties to arbitrate all Claims against Respondent, except Exempt Claims, and is specifically enforceable under South Carolina law. The arbitration award (the "Award") is final and binding on the Parties, and judgment upon the Award rendered by the arbitrator may be entered upon it in any court of competent jurisdiction.

(iii) In any arbitration proceeding, requests for production of documents may be served by each party, and non-privileged, responsive documents that would be discoverable under Rule 34 of the Federal Rules of Civil Procedure (were the Claims and causes of action being asserted in Untied States District Court) shall be produced. Depositions may be taken as allowed by the arbitration panel, which panel shall reasonably limit the number of depositions in order to avoid unnecessary or excessive expenses, delay or harassment.

(iv) The arbitrator shall issue a written decision identifying with specificity each Claim or cause of action asserted or resolved in any arbitration, and the legal principles of res judicata and collateral estoppel shall be applicable to any arbitration award.

(v) Any arbitration award may be confirmed and enforced in any court of jurisdiction. The award of the arbitration shall be enforceable in any Court having jurisdiction in the same manner as any judgment rendered by any Court of South Carolina.

Section 9.4. Allocation of Costs and Claims.

(a) Costs of Notice and Negotiations. Each Party will bear all of its own costs incurred prior to and during the proceedings described in Sections 3(a) and 3(b), including the fees of its attorney or other representative. Claimant and Respondent will share equally the costs and expenses of the arbitrator appointed pursuant to Section 3(b), whose compensation will be at a rate equal to his or her then current regular hourly billing rate, and his or her then customary costs and expenses.

(b) Arbitration Costs. In the event the Claim proceeds to arbitration pursuant to Section 3(c), the "Prevailing Party", as hereinafter defined, will receive from the non-Prevailing Party all of its costs and expenses, including reasonable expert and attorney's fees, incurred from commencement of the selection of the arbitrator under Section 3(c) to the issuance of the Award. Furthermore, the non-Prevailing Party will pay all costs and expenses of the arbitration, including the costs and expenses of the arbitrator appointed pursuant to Section 3(c), whose compensation will be at a rate equal to his or her then current regular hourly billing rate, unless the American Arbitration Association is able to arrange with the Parties and the arbitrator to agree otherwise, and who will be entitled to receive his or her then customary costs and expenses. The "Prevailing Party" will be determined as follows:

(i) Not less then five (5) days prior to the first meeting with the arbitrator, a party or Parties may file and serve on the other Party(ies) an offer of settlement, and within three (3) days thereafter the Party(ies) served may respond by filing and serving such Party(ies) its own offer of settlement. An offer of settlement will state that it is made under this section and will specify the amount, exclusive of interest and costs, which the

Party(ies) serving the settlement offer is/are willing to agree constitutes a settlement of the Claim.

(ii) An offer of settlement is considered rejected by the recipient unless an acceptance, in writing, is filed and served on the Party(ies) making the offer one (1) day prior to the first meeting with the arbitrator.

(iii) If an offer of settlement is rejected, it may not be referred to for any purpose at arbitration, but may be considered solely for the purpose of awarding costs and expense of arbitration under Section 3(c).

(iv) If Claimant makes no written offer of settlement, the amount of the Claim offered in arbitration is deemed to be Claimant's final offer of settlement under this Section 4(b).

(v) If Respondent makes no written notice of settlement, Respondent's offer of settlement under this Section 4(b) is deemed to be zero.

(vi) The Party(ies) whose offer, made or deemed made, is closer to the Award granted by the arbitrator is considered the "Prevailing Party" hereunder. If the difference between Claimant's and Respondent's offers and the Award is equal, neither Claimant nor Respondent is considered to be the Prevailing Party for purposes of determining the Award of costs and expenses.

Section 9.5. Enforcement of Resolution. If the Parties agree to resolve any Claim through negotiation in accordance with Section 3(b) and any Party thereafter fails to abide by the terms of the agreement reached through negotiation, or if, following arbitration, any Party thereafter fails to comply with the Award, then any other Party may file suit or initiate administrative proceedings to enforce the agreement or Award without the need to again comply with the procedures set forth in Section 3. In such event, the Party taking action to enforce the agreement or Award is entitled to recover from the noncomplying Party (or if more than one noncomplying Party from all the Parties pro rata) all costs incurred in enforcing the agreement or Award, including, without limitation, reasonable attorney's fees and court costs.

Section 9.6. Miscellaneous Alterative Dispute Resolution Provisions.

(a) Conflicting Provisions. In the event of any conflict or discrepancy between the terms and conditions set forth in this Article IX, and any term, condition or procedure of the South Carolina Uniform Arbitration Act or the American Arbitration Association, or any remedy allowed at law or in equity, the terms, conditions, procedures and remedies set forth herein will control.

(b) TIME IS OF ESSENCE. All periods of time set forth herein or calculated pursuant to provisions of this Article IX will be strictly adhered to, TIME BEING OF THE ESSENCE hereof.

BY ACCEPTANCE OF A DEED TO ANY UNIT OR OTHER PROPERTY HEREUNDER CO-OWNER(S) HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY HEREBY AGREE THAT:

(a) NEITHER CO-OWNER NOR ANY ASSIGNEE, SUCCESSOR, HEIR, OR LEGAL REPRESENTATIVE OF CO-OWNER OR DECLARANT, SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, OR ANY OTHER LITIGATION PROCEDURE ARISING FROM OR BASED UPON THE MATTERS SET FORTH HEREUNDER, OR TO THE DEALINGS OR RELATIONSHIP BETWEEN OR AMONG THE DECLARANT, ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS AND THE CO-OWNERS;

(b) NEITHER ANY CO-OWNER NOR DECLARANT WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN OR CANNOT BE WAIVED;

(c) NEITHER ANY CO-OWNER NOR DECLARANT HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES; AND

(d) THE PROVISIONS CONTAINED IN THIS ARTICLE ARE A MATERIAL INDUCEMENT FOR DECLARANT TO MAKE THE DECLARATIONS SET FORTH HEREIN.

ARTICLE X
UNIT OWNER'S RIGHTS, OBLIGATIONS AND REGULATIONS

Section 10.1. Use of Unit and Common Elements. Subject to this Master Deed and ByLaws, a Dock Unit owner shall have an undivided ownership interest according to his percentage interest in the Limited and General Common Elements; the exclusive right to use his Unit, including his Moorage Easement; the exclusive right with that of other, but not all, Unit owners to use the Limited Common Elements allocated

to such Unit owners; and the non-exclusive right with that of other Unit owners to use all General Common Elements in accordance with the purposes for which they are intended. The ownership of a Unit may not be subdivided for the purpose of, or with the result of, creating integrated or horizontal ownership, whether by forming a corporation, partnership or limited liability company, by time sharing or leasing, or otherwise, provided nothing herein contained is intended to prevent ownership of a Unit by an entity with five or less individual owners, members or shareholders.

Section 10.2 Restriction on Residential Dock Units. Ownership of fee simple, absolute title to the thirty-one (31) Dock Units designated as CS-A1 through CS-A8, inclusive, and CS-B1 through CS-B5, inclusive, and CS-E10 through CS-E27, inclusive (each of the aforesaid Dock Units being referred to herein singularly as a Unit and/or a Residential Dock Unit and collectively as Units and/or the Residential Dock Unit), together with the usage thereof (excepting the leasing of said Unit which may be permitted pursuant to provisions herein), shall at all times be limited and restricted to the owner or owners, as the case may be, of fee simple absolute title to the thirty-one (31) lots described as Lots SF1 through SF12, inclusive, and TH1 through TH18, inclusive which are shown on that certain plat prepared by Lindsay Land Surveying Co., to be recorded in the RMC Office for Charleston County. The ownership of each of the 31 Residential Dock Units shall be limited, restricted, tied and assigned to one of the 31 specific Residential Lots as set forth above. The specific Residential Dock Unit that is to be attached to the specific Residential Lot shall be determined and identified by the initial purchaser at closing and designated in the deed of conveyance, but in all cases, said Residential Lot and Residential Dock Unit shall be from those as set forth herein above.

The same Person may own one or more Residential Dock Units and Residential Lots. The Co-Owner of a Residential Dock Unit shall not lease or rent his, her or its Residential Dock Unit to another person or entity; provided, however, that the Co-Owner of one Residential Dock Unit can lease his, her or its Residential Dock Unit to another Co-Owner of another Residential Dock Unit or to a Condominium Owner in the same project.

There shall be no subdivision or judicial partition of a Residential Dock Unit and its respective Residential Lot. No person shall seek any subdivision or judicial partition unless the particular Residential Dock Unit, which is the subject of such subdivision or partition action, has been removed from the provisions of this Master Deed and such removal has been approved in writing by the City of Charleston.

The aforesaid covenants and restrictions are set forth herein in order to protect the quiet and peaceful enjoyment of the adjacent property owners and also to comply with the parking requirements of the City of Charleston.

Notwithstanding the above, the owners of Units CS-B1 through CS-B5 and CS-E10 through CS-E27 may, at some time in the future, lease their slips, subject to the provisions herein and subject to the City of Charleston requirements, including, without limitation, additional parking spaces. Such leases may be allowed without the revision or amendment of the Master Deed.

Section 10.3. Compliance with Rules, Regulations; Enforcement. Each Unit owner shall comply strictly with the By-Laws and with the administrative rules and regulations adopted pursuant thereto and with the covenants, conditions and restrictions contained in this Master Deed or the deed to his Unit. Each Unit owner shall have a right of action against other Unit owners or the Council as the case may be, to enforce compliance by either of them with the above By-Laws, rules, regulations, and restrictions.

Section 10.4. Common Expense Liability. The Unit owners are bound to contribute toward the expenses of the property constituted into the Condominium and towards the expenses of maintenance and repair of the Common Elements, as follows: (i) to the extent attributable to Common Elements and administration of the Condominium and the Council of Co-Owners, funds for maintenance and repair and, for the payment of current expenses and for the payment of assessments by the Slips at Ripley Property Owners Association, Inc.; (ii) for the creation of reserves for the payment of future expenses, including dredging, certain improvements, replacements and additions, and such other reserve requirements as may be accepted by the Council of Co-Owners. Such Common Expenses shall be obtained by assessments against the Co-Owners in proportion to their percentage interests in the Common Elements. Expenses for the maintenance and repair of Limited Common Elements shall be assessed against those Units to which those elements have been allocated and expenses for any service to a Unit made at the request of the Unit Owner shall be assessed against such Unit.

Section 10.5. Dredging Assessments. The United States Army Corps of Engineers and the Office of Ocean and Coastal Resource Management (OCRM) have granted a dredging permit to dredge the Canal shown on **Exhibit B1, B2, & B3** to a channel depth of approximately seven feet (7') and to a depth of approximately six feet (6') under each Dock Unit at mean low water. The Ripley Light Marina Real Estate

Agreement attached hereto as **Exhibit E**, requires the Declarant to provide the initial dredging to the permit specifications. Thereafter, the owners of New Lot 6-A (a/k/a Lot 6-A and/or Dry Stack Lot 6-A) and Dry Stack Lot 4A are responsible to contribute $12,500.00 per year and the Dock Unit owners are responsible for the balance of the cost of the dredging expense, all of which is set forth in the said Real Estate Agreement.

The Declarant hereby transfers and assigns all of its Right, Title and Interest in and to the said Real Estate Agreement (but not its obligations) to the Council of Co-Owners. The Slips at Ripley Horizontal Property Regime shall be responsible for the obligations of the dredging costs as set forth in the said Real Estate Agreement after the initial dredging.

As part of its budget, the Council of Co-Owners shall collect funds from the Dock Unit owners necessary to properly maintain dredging. The Council of Co-Owners, or its designated agent, shall cause the Regime property constituting Common Elements and the entrance channel to be dredged as needed.

Section 10.6. Voting Rights. In all matters on which the Council takes action pursuant to its ByLaws, each Dock Unit owner shall have one vote for each Dock Unit owned.

Section 10.7. Easements Appurtenant to Unit Ownership. The Council shall have easements in common with all Unit owners. Each Unit owner shall have an appurtenant easement in common with all other Unit owners to use all docks, piers, pilings, pipes, wires, ducts, cables, conduits, utility lines, columns, supporting and sheltering structural members, and other like facilities located in any of the other Units or in the Common Elements and serving his Unit. Each Unit and the Common Elements shall be subject to an appurtenant easement in favor of other Unit owners to use the docks, piers, pilings, pipes, ducts, cables, wires, conduits, utility lines and other facilities serving other Units or the Common Elements and located in each such Unit. In addition, each Unit shall be subject to and shall have such appurtenant easements of support from and over such other Units and the Common Elements as may be necessary for the quiet enjoyment of such Unit.

ARTICLE XI
COUNCIL OF CO-OWNERS

Section 11.1. Name. The name of the Council of Co-Owners shall be The Slips at Ripley Property Owners Association, Inc. It shall be

a non-profit corporation organized under the laws of the State of South Carolina. (See **Exhibit C**) The Condominium shall be administered, supervised and managed by the Council which shall act by and on behalf of the Co-Owners of the Units in the Condominium in accordance with this instrument, the Bylaws of the Council, and in accordance with the Act, as amended. The Bylaws, attached hereto as **Exhibit D**, which form an integral part of the plan of ownership herein described, shall govern the conduct and affairs of the Co-Owners of the Condominium (who are the members of the Council) and shall be construed in conjunction with the provisions of this Master Deed.

Section 11.2. Rights. The Council is hereby vested with the rights, powers, privileges and duties necessary or incidental to the proper administration of the Condominium, including the care, upkeep and surveillance of the General and Limited Common Elements, such rights powers privileges and duties being more particularly set forth in its Articles of Incorporation and in the Bylaws of the Council hereto attached. The Council shall also be empowered and is hereby empowered to exercise any of the rights, powers, privileges or duties which may, from time to time, be established by law or which may be delegated to it by the Co-Owners.

Section 11.3. Membership. The Co-Owner of a Unit shall automatically, upon becoming the Co-Owner of an Unit, be a member of the Council, and shall remain a member of said Council until such time as his, her or its ownership ceases for any reason, at which time, his, her or its membership in said Council of Co-Owners shall automatically cease. Other than as an incident to a lawful transfer of the title to a Unit, neither membership in the Council nor any share in the assets of the Council shall be transferable, and any attempted transfer shall be null and void.

Section 11.4. Repair of Units. Notwithstanding the duty of the Council to maintain and repair parts of the Condominium, the Council shall not be liable to Co-Owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the Property to be maintained and repaired by the Council, or caused by the elements or other Co-Owners or Persons.

Section 11.5. Access to Units. The Council has the irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of all General and Limited Common Elements therein, or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the General and Limited Common Elements or to another Unit or Units. This right shall be exercised by the system of

administration as specified by the Bylaws. The Council of Co-Owners shall also have the right, upon reasonable notice to Unit owners, to temporarily move any and all docks for maintenance, repair or dredging purposes and require the removal of all boats from such docks. The Council shall use its best efforts to temporarily re-locate any vessels to an area within the regime property.

Section 11.6. Easements for Maintenance and Operation. The Council has the right to grant permits, licenses, and easements for access to and over the Common Areas for utilities, repairs, and other purposes reasonably necessary for the proper maintenance or operation of the Regime.

Section 11.7. Enforcement of Agreements. The Council shall have a right of action against any Unit owner to enforce compliance with the By-Laws and with the administrative rules and regulations adopted pursuant thereto and with the covenants, conditions and restrictions contained in this Master Deed or the deed to his Unit. The Council shall have the right to obtain legal services in order to enforce any or all of the covenants, conditions and restrictions contained in this Master Deed, including but not limited to that of injunctive relief. All of such charges shall be a lien and encumbrance upon the Unit owner failing to adhere to the said covenants, conditions and restrictions of the said Master Deed. The Council shall be entitled to be reimbursed for any and all of it's costs for enforcing compliance of its rules and regulations, including reasonable attorney's fees and costs.

Section 11.8. Management Agreement. For the benefit of the Unit Owners and the Council of Co-Owners and in order to maintain proper management of the marina facility constituting the Regime, the Council of Co-Owners is hereby authorized to enter into a management agreement with a management company of its choosing, under such terms and conditions as then and there may be agreed upon.

ARTICLE XII
DECLARANT'S RIGHTS AND OBLIGATIONS

Section 12.1. Declarant Owner of All Units Created. The Declarant shall be the owner of all Units hereby created. Declarant retains and reserves the right to lease its own Units subject to its adherence to the terms and conditions of this Master Deed and to its payment of its share of all expenses associated with each Unit. The Declarant shall be responsible for paying any and all of its share towards expenses and monthly fees associated with the operation of the Council of Co-owners as set forth in Section 12.5 hereafter.

Section 12.2. Easement Reservation. The Declarant reserves a permanent, transferable, commercial, appurtenant easement, including a construction easement, through all general and limited common elements as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising special Declarant rights reserved in this Master Deed.

Section 12.3. Declarant's Period of Control. Subject to the remainder of this Section, the Declarant may appoint and remove a majority of the members of the Board of Directors of the Council of Co-Owners ("Board") for a period not exceeding one (1) year from the date of the first conveyance of a Unit to a person other than the Declarant **or** no later than 60 days after conveyance of 100% of the Dock Units, whichever first occurs. Co-Owners, other than Declarant, shall elect Directors in accordance with the Bylaws of the Council of Co-Owners. The Declarant may voluntarily surrender the right to appoint and remove members of the Board before termination of that time period. Nothing contained herein shall change or relieve the Declarant from its obligation under the terms of this Master Deed.

Section 12.4. Declarant's Obligation to Perform Initial Dredging and Repairs. Pursuant to the terms and conditions of the Ripley Light Marina Real Estate Agreement, which is attached hereto as **Exhibit E**, the Declarant is required to perform the initial dredging to a channel depth of approximately seven feet (7') at mean low water, and approximately six feet (6') under each Dock Unit. The Declarant is also obligated to repair and replace, where needed, all bulkheads, sea walls, floating docks, piers, pilings, gangplanks, walkways, electrical conduit, water lines, dock boxes, and any and all apparatuses presently in place in the Unit.

Section 12.5. When Assessments Begin/Declarant's Obligation to Pay Assessments. Dock Unit assessments shall begin immediately upon the recording of this Master Deed. Declarant shall, at its option, either (1) contribute regular regime payments for Dock Units owned as required by the Master Deed or (2) pay and fund any shortfall amount due for the initial budget as established by the Council of Co-Owners. After loss of Declarant's control as provided in Section 12.3 above, Declarant shall be responsible for regular regime payments for each remaining Dock Unit it may still own.

ARTICLE XIV
USE

Section 13.1. One Vessel. Each Unit shall be occupied and used by the respective Co-Owner solely for the moorage of no more than one

vessel (excluding tenders, dinghies or other boats mounted on or over a vessel). Each vessel must lie within the described boundaries of each Unit (including as set forth in Section 13.3 below), with no unreasonable overhang from bow, stern or either beam of such vessel, including bow pulpits, swim platforms and dinghies. No projection shall unreasonably extend beyond the limits shown on the Plot Plan attached hereto. Provided, however, nothing herein or in the By-Laws shall prevent the Declarant from using any Unit owned by Declarant for promotional, marketing, or display purposes, or for settlement of sales of any Units.

Section 13.2. Only Mooring. No Co-Owner (other than Declarant) shall use or permit the use by any lessee or any other person, of any Unit for any purpose other than the moorage of a vessel and its attendant vessel. Any vessel either designed or constructed by an individual or organization not principally engaged in the business of yacht design or construction shall not be berthed in any Unit without the prior written consent of the Council of Co-Owners, which may require the submission of plans and photographs to assist in the determination of the vessel's compatibility with the aesthetic standards of the Condominium.

Section 13.3. One Foot Separation. Neither the bow nor the stern of any vessel moored in any Unit, including bow pulpits, swim platforms, and any other projections, may extend closer than one foot (1') from any common boundary with another Unit. The Dock Units are designed to accommodate many kinds of vessels and the exact size of a vessel cannot be known. As such, the use of a Unit by an owner will not be unreasonable prevented due to the size of the vessel. The one foot(1') separation herein is an important requirement for safety reasons.

Section 13.4. Rental. The rental of Units by Co-Owners shall be subject to reasonable rules and regulations prescribed by the Council of Co-Owners.

Section 13.5 Boat Maintenance. Each Unit Owner agrees to keep every boat kept in his Unit shipshape, seaworthy and in a good state of repair and maintenance, so as to present a neat and clean appearance of the boat or vessel in the said Unit and to preserve an overall good appearance for the Marina.

Section 13.6. Signs. Except in connection with Development, Sales or Leasing of Units by the Developer or the authorized agent as prescribed herein, no signs, advertisement or notice of any kind shall

be displayed in public view or any Common or Limited Common element, owners unit or any boat docked therein, larger than a 2' x 2' sign, generally used in the advertising of a vessel for sale or for charter.

ARTICLE XIV
BYLAWS

Section 14.1. The Bylaws of the Council of Co-Owners are set forth on **Exhibit C** attached hereto and made a part hereof.

ARTICLE XV
AMENDMENTS

Section 15.1. Amendments by Association. This Master Deed shall be amended only by vote of Co-Owners owning two thirds (2/3) of the Units, at any meeting of the Council of Co-Owners duly called for such purpose, following written notice to all Co-Owners, except that no such amendment shall change the rights reserved to Declarant in the Master Deed, the boundaries of any Unit, the undivided interest in the Common Elements appertaining thereto, the allocation of any Limited Common Element appertaining thereto, and the liability for Common Expenses appertaining thereto. No amendment shall be effective until recorded in the Register of Mesne Conveyance Office for Charleston County, South Carolina. Amendments to this Master Deed, other than those authorized by Section 15.3, below, shall be adopted, upon the vote of at least two-thirds (2/3rds) of the Common Interests, in accordance with the procedure set forth in the Bylaws; No amendment which imposes a greater economic or legal burden on Declarant than exists under the current provisions of this Master Deed shall be valid unless it is approved, in writing, by Declarant.

Section 15.2. By-Laws. The system of administration adopted by the Bylaws may be modified at anytime by the vote of the Unit owners representing two-thirds (2/3) of all the percentage interests, but such modification shall not be operative until recorded in the same office as this Master Deed.

Section 15.3. Amendments by Declarant. Notwithstanding any other provisions herein or in the Bylaws, during the period of Declarant control as set forth in Section 12.3 herein, Declarant may amend this Master Deed without the consent of the Council of Co-Owners, any Owner, any easement grantee, or any mortgagee if, in Declarant's opinion, such amendment is necessary to (i) bring any provision of the Master Deed into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which is in conflict with this Master Deed; (ii) enable

any reputable title insurance company to issue title insurance coverage with respect to any Units subject to this Master Deed; (iii) enable any mortgagee to make mortgage insurance company to insure mortgages on the Units subject to this Master Deed; (iv) enable any governmental agency or private mortgage insurance company to insure mortgages on the Units subject to this Master Deed; (v) comply with any regulation of a Federal Home Loan Bank Board, Veterans Administration, Department of Housing and Urban Development and/or the Federal Housing Administration or (vii) clarify any provision of this Master Deed, or eliminate any conflict between provisions of this Master Deed.

All amendments hereto shall be recorded and certified as required by the Act. No amendment(s) shall change any Unit or the proportionate share of the Common Expenses or Common Surplus attributable to each Unit, nor the voting rights of any Unit, unless all Co-Owners of the Regime and all Mortgagees holding any mortgages or other liens upon the Property or any part (s) thereof shall join in the execution of such amendment. No amendment shall be passed which shall impair or prejudice the rights and/or priorities of any Mortgagee or change the provisions of this Master Deed with respect to Mortgagees without the written approval of all Mortgagees of record.

No amendment shall change the rights and privileges of Declarant, its successors, heirs and assigns, without written approval and consent of the Declarant, or its successors, heirs or assigns.

Section 15.4. Declarant May Amend By-Laws. The Declarant reserves the right to amend the By-Laws of the Council of Co-Owners for the good of the development as determined by the Declarant so long as Declarant maintains its period of control as set forth in Section 12.3 herein.

ARTICLE XVI
PERSONS AND UNITS SUBJECT TO CONDOMINIUM INSTRUMENTS

Section 16.1. Survival. All present and future Co-Owners, tenants, mortgagees and occupants of Units shall be subject to and shall comply with the provisions of the Condominium Instruments as they now exist and as they may be amended from time to time. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the entering into occupancy of a Unit shall constitute agreement that the provisions of such Condominium Instruments are accepted and ratified by such Co-Owner, tenant, mortgagee or occupant, and all such provisions shall be deemed and taken to be covenants running with the land and shall bind any Persons

having at any time any interest or estate in such Unit as though the provisions of this Section had been recited and stipulated at length in each and every deed, conveyance or lease thereof.

Section 16.2. Rules and Regulations. The Board of Directors may promulgate Rules and Regulations regarding the use and occupancy of Units and Common Elements, and the activities of occupants therein.

ARTICLE XVII
TERMINATION

Section 17.1. Termination. The Co-Owners may remove the Property from the provisions of the Act and of the Condominium Instruments, by an instrument to that effect, recorded and containing the signatures of one hundred percent (100%) of the Co-Owners, provided one hundred percent (100%) of the holders of all liens affecting any of the Units consent thereto or agree in either case by recorded instruments that their liens be transferred to an undivided interest in the Property.

Section 17.2. Ownership. Upon the removal of the Property from the provisions of the Act and the Condominium Instruments, the Co-Owners shall be deemed to own the Property as tenants in common, with undivided interest in the same percentages as the undivided interests previously owned by each in the Common Elements.

Section 17.3. Re-submission. The removal provided for in this Article shall not bar the subsequent re-submission of the Property to the provisions of the Condominium Act.

ARTICLE XVIII
BOUNDARIES; EASEMENTS FOR ENCROACHMENT

Section 18.1. Boundaries. The existing physical boundaries, as defined in the Condominium Instruments, of any Unit or Common Element now existing or as reconstructed in substantial conformity with the Plot Plans shall be conclusively presumed to be its boundaries, regardless of the shifting, settlement, or lateral movement of any dock, bulkhead or piling and regardless of minor variations between the physical boundaries as described in this Master Deed or shown on the condominium plan and the existing physical boundaries of any such Unit or Common Element. This presumption applies only to encroachments within the Condominium.

Section 18.2. Encroachments. If any portion of any Common Element encroaches on any Unit or if any portion of a Unit encroaches on any Common Element, as a result of the duly authorized repair of

the Unit, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the Dock System stands. The purpose of this Section is to protect the Co-Owners, except in cases of willful and intentional misconduct by them or their agents or employees, and not to relieve the Declarant or any contractor, subcontractor, or material men of any liability which any of them may have by reason of any failure to adhere substantially to the Plot Plans.

Section 18.3. Easement Granted to the Council of Co-Owners. There shall be and the Declarant does hereby grant a general easement in favor of the Council of Co-Owners upon, across, above, and under all of the property and improvements submitted herein, and expressly including the Units, for ingress, egress, installation, replacing, repairing, and maintaining the Common Elements, and in general for dredging, access, repair, maintenance, ingress and egress, and any other purposes reasonably related to the purposes, rights and duties of the Council of Co-Owners. By virtue of this easement, the Council of Co-Owners shall be expressly permitted to erect and maintain any necessary equipment on the Common Elements of the Regime, and to affix and maintain wires, conduits, cables, and the like on, above, across, under and through improvements in the Regime, including the Dock System and the Units. Should any person furnishing any service covered by this Section request a specific easement by separate recordable documents, the Council of Co-Owners shall have the right to grant such easement under the terms hereof.

Section 18.4 Easement to Sidewalks and Walkways. Each Unit owner and the council of Co Owners shall have a non-exclusive commercial easement appurtenant as set forth in **Exhibit A** and graphically depicted on **Exhibit B1, B2 & B3** traverse all areas around the canal by designated walkways or sidewalks.

Section 18.5. Destruction. If any part of the Condominium is destroyed partially or totally as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then is reconstructed, encroachment of any Unit on any Common Element, due to such reconstruction, shall be permitted and valid easements for such encroachments and the maintenance of them shall exist so long as the Unit exists.

ARTICLE XIX
NO SEVERANCE OF OWNERSHIP

Section 19.1. No Co-Owner shall execute any deed, mortgage or other instrument conveying or mortgaging title to his Unit without

including therein the Appurtenant Interests, it being the intention to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more such interest, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interests of any Unit may be sold, transferred or otherwise disposed of, except as part of a sale, transfer or other disposition of the Unit to which such interests are appurtenant.

ARTICLE XX
DECLARANT'S RIGHTS RESERVED

Section 20.1. Right to Show Units. As long as the Declarant is a Co-Owner, the Declarant and its duly authorized agents, representatives and employees may maintain and show its Units for sale.

Section 20.2. Right to Repairs. The Declarant reserves the right to perform such work and repairs on the Property other than Units which Declarant does not own, and the further right to control all such work and repairs, and the right of access thereto, until its completion.

Section 20.3. Right to Post Signs. The Declarant reserves the right to post signs and displays in the Common Elements to promote sales of Units, and to conduct general sales activities, in such manner as will not unreasonably disturb the rights of Co-Owners.

Section 20.4. No Detrimental Action. So long as the Declarant maintains its period of control as set forth in Section 12.3 herein, no action may be taken by the Council of Co-Owners that would be detrimental to the sales of Units by the Declarant without written agreement thereto by the Declarant.

Section 20.5. Amendments. Declarant may amend the provision of the Master Deed and the Bylaws as provided in Article XV, Section 15.3 and 15.4.

ARTICLE XXI
CONDEMNATION

Section 21.1. Common Elements. If any part of the Condominium shall be taken or condemned by any authority having the power of eminent domain, such that no Unit, nor Limited Common Element appurtenant thereto is taken, all compensation and damages for and

account of the taking, exclusive of compensation for consequential damages to certain affected Units, shall be payable to the Council of Co-Owners, or a Trustee, either as trustee for all Co-Owners and mortgagees according to the loss or damages to their respective interests. The Council of Co-Owners, acting through the Board of Directors, shall have the right to act on behalf of the Co-Owners with respect to the negotiation and litigation of the issues with respect to the taking and compensation affecting the Common Elements, without limitation on the right of the Co-Owners to represent their own interests. Such proceeds shall be used in accordance with the provisions of the Bylaws. Nothing herein is to prevent Co-Owners whose Units are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Units, or personal improvements therein, exclusive of damages relating to Common Elements. In the event that the condemnation award does not allocate consequential damages to specific Co-Owners, but by its terms includes an award for reduction in value of Units without such allocation, the award shall be divided between the affected Co-Owners and the Council of Co-Owners or Trustee, as their interests may appear.

Section 21.2. Units. If part or all of the Condominium shall be taken or condemned by any authority having the power of eminent domain, such that any Unit or a part thereof (including Limited Common Elements assigned to any Unit) is taken, the Council of Co-Owners shall have the right to act on behalf of the Co-Owners with respect to the Common Elements as in Section 21.1 hereinabove, and the proceeds shall be payable as outlined therein. The Co-Owners directly affected by such taking shall represent and negotiate for themselves with respect to the damages affecting their respective Units. The awards so made shall be distributed through the Council of Co-Owners or Trustee first to restore the Units and common elements of the Condominium in the same manner as provided for restoration under the Bylaws to the extent possible, attempting to rebuild docks containing new Units of the same number, size and basic plan as the Units taken with any excess award distributed in accordance with the provisions of the Bylaws. In the event that the Board of Directors determines that such a taking so removes land and docks containing Units that they cannot effectively be restored or replaced substantially in compliance with the dock plans, and unless seventy-five percent (75%) of the Co-Owners and holders of first mortgages encumbering seventy-five percent (75%) of the undivided interest in the Common Elements subject to mortgages vote to accept an alternative plan, then the Council of Co-Owners shall submit the issue to arbitration in accordance with the Rules of the American Arbitration Council of Co-

Owners for remedies with respect to the continued existence or reform of the Condominium, the division of the award as to the taken and remaining Units, and such other remedies as may be required.

ARTICLE XXII
INSURANCE

Section 22.1. The Council shall insure the Property against risks, without prejudice to each Co-Owner to insure that Owner's Unit for that Owner's account and benefit. In case of fire or any other disaster, all insurance proceeds attributable to the Dock System shall be used to reconstruct the Dock System to equal or better condition than the Dock System prior to the casualty; provided, however, that the construction shall not be compulsory when the damage comprises the whole or to the extent of eighty (80%) percent of the then replacement cost of the Dock System. In such case, if unanimously agreed upon by all Co-Owners of Units and the holders of mortgage liens affecting at least seventy-five (75%) percent of the Units subject to mortgages, the insurance proceeds shall be delivered pro rata to such Co-Owners, after any cleanup and removal of the Dock System remnants, in accordance with the Bylaws or in accordance with the decision of ninety (90%) percent of the affected Co-Owners if there is no Bylaw provision. In the event insurance proceeds are insufficient to cover the cost of reconstruction, the unfunded rebuilding cost shall be a Common Expense. Each Unit owner shall carry, at such owner's expense, liability insurance with commercially reasonable limits covering the Unit owner's vessels or facility and Unit, and naming the Council of Co-Owners as an insured and shall submit proof of insurance upon request by the Council of Co-owners.

ARTICLE XXIII
MORTGAGEES

Section 23.1. Rights of Mortgagee. Notwithstanding anything contained in the Condominium Instruments to the contrary, nothing shall impair the rights of a first mortgagee, including, if applicable, for all sections of this Article XXIII, the Declarant, to any Unit to (1) foreclose or take title to a Unit pursuant to the remedies provided in the Mortgage; or (2) accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor; or (3) sell or lease a Unit acquired by the mortgagee, but subject to this Master Deed.

Section 23.2. Title. Any mortgagee or successful bidder who acquires title to a Unit at a foreclosure sale, pursuant to the remedies provided in the mortgage or foreclosure of the mortgage,

will not be liable for such Unit's unpaid assessments or Common Charges which accrue prior to the acquisition of title to such Unit by the mortgagee or successful bidder.

Section 23.3. Notices. In addition to any other notices required to be given by the Council of Co-Owners to holders of first mortgage liens on Units, the following notices shall be provided to all such mortgagees to which the Council of Co-Owners has written notice:

(a) Written notice at least thirty (30) days prior to the effective date of any amendment to the Master Deed or the Bylaws.

(b) Written notice of any default by any Owner whose Unit is subject to a mortgage lien, given to such lien holder, of any obligation of such Owner provided for in the Master Deed or the Bylaws on which default is not cured within thirty (30) days after the same shall occur.

(c) Written notice to mortgagees of record of substantial damage or destruction to the Dock System.

ARTICLE XXIV
MISCELLANEOUS

Section 24.1. Captions. The captions contained in the Condominium Instruments are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Condominium Instruments nor the intent of any provision thereof.

Section 24.2. Gender. The use of the masculine gender shall be deemed to refer to the feminine and neuter gender and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context of the Condominium Instruments so require.

Section 24.3. Waiver. No provision contained in the Condominium Instruments shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 24.4. Invalidity. The invalidity of any provision of the Condominium Instruments shall not be deemed to impair or affect in any manner the validity, enforce ability or effect of the remainder, and in such event, all of the other provisions of the Condominium Instruments shall continue in full force and effect.

Section 24.5. Conflict. The Condominium Instruments are intended to comply with the requirements of the Condominium Act and all other applicable laws. In the event of any conflict between the Condominium Instruments and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Master Deed and any other Condominium Instrument, or the Real Estate Agreement this Master Deed shall control.

Section 24.6. Execution of Documents. The President or Secretary of the Council of Co-Owners are responsible for preparing, executing, filing and recording amendments to the Condominium Instruments.

INTENTIONALLY LEFT BLANK.

WITNESSES:

RIPLEY COVE, LLC,

A South Carolina Limited Liability Corporation

BY: _____
William M. Belote
ITS: Member/Manager

PAVILION DEVELOPMENT CORPORATION

BY: _____
Lowell Frazier
ITS: Member/Manager

STATE OF SOUTH CAROLINA)
PROBATE
COUNTY OF CHARLESTON)

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within named Declarant, **RIPLEY COVE, LLC, A SOUTH CAROLINA LIMITED LIABILITY CORPORATION by its manager**, sign, seal, and as its act and deed, deliver the within written Master Deed and that (s)he with the other above subscribed witness witnessed the execution thereof.

_____
Witness

SWORN TO BEFORE ME THIS 19
DAY OF July, 2004.

_____
Notary Public For South Carolina
My commission expires: 3-16-10

EXHIBITS TO MASTER DEED

H. Property Description

B1. Plot Plan (including Boundary Survey), Dock Plans and Docking System

B2. Plot Plan

B3. Plot Plan

C. Copy of Articles of Incorporation of Slips at Ripley Property Owners Association, Inc.

D. By-Laws of Slips at Ripley Property Owners Association, Inc. Council of Co-Owners

E. Ripley Light Marina Real Estate Agreement

EXHIBIT "A"

PROPERTY DESCRIPTION & ARCHITECTS CERTIFICATE

WET SLIP LOT 7

All that certain piece, parcel and tract of land situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, and shown and designated as Wet Slip Lot 7 on a Plat entitled "PLAT SHOWING THE SUBDIVISION OF EXISTING LOT 4A COMBINED INTO LOT 4A RESIDENTIAL PROPERTY AND DRY STACK LOT 4A, THE SUBDIVISION OF EXISTING LOT 7 INTO DRY STACK LOT 7 AND WET SLIP LOT 7", said plat being prepared by W. Mason Lindsey, Jr., RLS, dated July 20, 2004, and recorded on July 26, 2004, in Plat Book EH at pages 234 and 235 , RMC office for Charleston County. Said property having such metes and bounds, courses and distances and boundaries as will by reference to the said Plat more fully and at large appear. The said Plat is made a part and parcel hereof by reference thereto.

Being a portion of the said property conveyed to the Grantor herein by Fred Collins, Span USA, Inc., by deed dated April 29, 2004, and recorded April 29, 2004, in Book S492 at Page 255 in the RMC Office for Charleston County.

ALSO

SUBMERGED PROPERTY

All right, title and interest of the Grantor in and to that certain property lying between the high land of Wet Slip Lot 7 and extending north westerly to the mean low water mark of the canal as shown on the said Plat and extending from the northeasterly most portion of Unit CS-E27 to the southwesterly most portion of Unit CS-B1 and all that property extending from the highland of Lot 4A Combined to the mean low water mark of the canal as referenced on the said Plat excepting therefrom any encroachment of the property beneath the Dry Stack Service Dock as shown on said Plat. The said property is more easily identifiable by reference to the said plat entitled, "PLAT SHOWING 'EXISTING LOT 4-A COMBINED', 'EXISTING LOT 7', THE 'DRY STACK SERVICE DOCK AREA', RESIDENTIAL WET SLIPS CS-A1 THRU CS-A8, CS- B1 THRU CS-B5, CS-E10 THRU CS-E27 AND THE NON-RESIDENTIAL WET SLIPS CS-B6 THRU CS-B27. CS-C1 THRU CS-C9, CS -D1 THRU CS-D11, AND CS-E1 THRU CS-E9 LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA", dated June 21, 2004, and recorded on June 28, 2004, in Plat Book EH at Pages 172, 173 and 174 in the RMC Office for Charleston County.

ALSO

ACCESS EASEMENT

A Non-Exclusive Commercial Easement Appurtenant running with the land for access, ingress and egress over and upon the sidewalks, walkways and delineated areas for pedestrian

traffic on, over, upon or adjacent to Lot 4A Combined and Lot 7 around and near the canal as shown on that certain plat entitled, "PLAT SHOWING 'EXISTING LOT 4-A COMBINED', 'EXISTING LOT 7', THE 'DRY STACK SERVICE DOCK AREA', RESIDENTIAL WET SLIPS CS-A1 THRU CS-A8, CS- B1 THRU CS-B5, CS-E10 THRU CS-E27 AND THE NON-RESIDENTIAL WET SLIPS CS-B6 THRU CS-B27, CS-C1 THRU CS-C9, CS -D1 THRU CS-D11, AND CS-E1 THRU CS-E9 LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA", dated June 21, 2004, and recorded on June 28, 2004, in Plat Book EH at Pages 172, 173 and 174 in the RMC Office for Charleston County. Said Easement is also shown on that certain Plot Plan for the Slips at Ripley Horizontal Property Regime showing Wet Slip Lot 7, Common Areas, Parking and Access Easements located in the City of Charleston, Charleston County, South Carolina, dated July 14, 2004, and prepared by W. Mason Lindsey and attached hereto as Exhibit B1, B2, & B3.

ALSO

Riparian rights and the unobstructed, non-exclusive use in and of the remaining portion of the artificially created navigable channel known as the Canal.

The aforesaid real property and the particular improvements thereon, which are hereby committed (and the location of such improvements) are shown and described on the referenced surveys and the attached Plot Plans which are incorporated in the description by reference and which constitute the exhibits to the Master Deed of The Slips at Ripley Horizontal Property Regime. The improvements consist of eighty-two (82) Dock Units and a Docking System (A Dock, B Dock, C Dock, D Dock and E Dock) as shown and described upon the attached Exhibits which are also incorporated in this description by reference. Each Dock Unit has appurtenant to it an undivided interest in the Common Elements as shown and described in the Master Deed. All areas not contained within the Dock Units as the term "Unit" is defined in the aforesaid Master Deed, constitute Common Elements. Improvements which constitute Common Elements include (i) all property other than titled Dock Units, (ii) the Access Easements located on Lot 4A Combined, Dry Stack Lot 7, Dry Stack Lot 4-A and (iii) the parking facilities located on Wet Slip Lot 7. Improvements which constitute Limited Common Elements include (i) any chute, pipe, flue, duct, wire, conduit, piling or any other fixture lying partially within and partially outside the designated boundaries of a Unit, serving only that Unit, (ii) any dock boxes, light fixtures or other fixtures and hardware and trim associated with such fixtures, designated to serve a single or designated Unit, and (iii) any Common Elements, if any, assigned to less than all the Units shown on the Plot Plan.

The undersigned, W. Mason Lindsey, an authorized and licensed surveyor, hereby certifies and states to the best of his knowledge, information and belief, that the Plot Plan of The Slips at Ripley Horizontal Property Regime attached hereto fully and accurately depicts, within

reasonable construction tolerances, the horizontal and vertical location of the Dock Units and Common Elements in The Slips at Ripley Horizontal Property Regime.

By: _____
W. Mason Lindsey
Registered Land Surveyor
No. 11969

Dated: 7/29, 2004

SUBJECT TO:

THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING:

1. Taxes and assessments for the current year, a lien, not yet due and payable.

2. Terms, Conditions, Restrictions, Easements, Rights to Repurchase, Assessments and Obligations of the Master Deed for the Slips at Ripley Horizontal Property Regime, dated _____, 2004, and recorded in Book ____ Page ___, RMC Office aforesaid.

3. All facts and conditions, which may be shown by survey and physical examination of the unit;

4. Any applicable zoning and/or development laws and ordinances, including those of Charleston County and the City of Charleston;

5. Navigable servitude of the U.S. Government and State of South Carolina or any political division thereof and rights of the public to the use of any navigable waters covering any land including in the description of the insured premises; provided, however, the limit of such navigable servitude is the line formed by the South Carolina Department of Health and Environmental Control - Office of Ocean and Coastal Resource Management Critical Line and the bulkhead Line (whichever would cause the navigable servitude to be larger), and the general public has no right in and to any of the improvements which may be located within the area of the navigable servitude;

6. Rights and jurisdiction vested in the South Carolina Department of Health and Environmental Control - Office of Ocean and Coastal Resource Management by law, including the power of said agency to mandate the removal or modification of any docking facility constructed in accordance with its permitting authority;

7. Rights of the United States or other governmental entities, if any, which rights may exist in addition to the right to permit dock construction and regulate use vested in the South Carolina Department of Health and Environmental Control - Office of Ocean and Coastal Resource Management.

8. Restrictions and Conditions set out and imposed by the Horizontal Property Act, Chapter 31, Code of Laws of the State of South Carolina, 1976;

9. Terms and conditions of all permits and licenses issued by federal, state, and local governments, their respective agencies, and quasi-governmental or private agencies having jurisdiction over the Project, including the U.S. Army Corps of Engineers, the South Carolina Department of Health and Environmental Control, the Office of Ocean and Coastal Resource Management and the City of Charleston;

10. Interests created by, or limitations on use imposed by, the Federal Coastal Zone Management Act, or other federal law or regulations promulgated pursuant to said state or federal laws.

11. Ripley Light Marina Real Estate Agreement dated April 29, 2004, and recorded April 29, 2004, in Book W 492 at Page 771 in the RMC Office for Charleston County.

ARCHITECT'S CERTIFICATE

The undersigned, Melvin W. Bashor, Jr., an authorized and licensed architect in the State of South Carolina, hereby certifies that the plans of the Slips at Ripley Horizontal Property Regime, consisting of the exhibits attached hereto to the Master Deed of the Slips at Ripley Horizontal Property Regime, graphically show, within reasonable construction tolerances; the dimension, area and location of each Unit thereon; the dimension, area and location of the Common Elements affording access to each Unit and to the extent graphically possible, the other General and Limited Common Elements therein.

Signed this 8 day of July, 2004.

Melvin W. Bashor, Jr.

(Seal)

This Certificate is given pursuant to Section 27-31-110 of the SC Code of Laws as amended.

The Marina was built in1988 and has been in operation since that time. The Docks are made of concrete and wood, the bulk heads are aluminum or other metal and numerous apparatuses, including without limitation, dock boxes, electrical and water lines, and other provisions for utilities that are a part of the Marina operation. The docks and sea wall/bulk head is in need of some repairs and these have been contracted for pursuant to the terms of an Escrow Agreement between the Declarant and certain contractors. Once the repairs are made in a workman like manner, pursuant to the terms of their contract, and further assuming that the Property Owners Association as provided for, will maintain the docks, walkways, bulk heads and the apparatuses for utilities, then the improvements should last well into the future. This, of course, is subject to acts of nature such as hurricanes or fire destroying the docks.

This opinion as to the physical condition of the docks are made in good faith and shall not be deemed a representation of material fact or an inducement for anyone to purchase any of the Units that are subject to the Master Deed. This statement is made pursuant to Section 27-31-430 of the SC Code of Laws as amended.

Signed this 8 day of July, 2004.

Melvin W. Bashor, Jr.

EXHIBIT

BK Y503PG607

FILED

JUL 1 2004

Mark Hammond
SECRETARY OF STATE

BK Y503 PG 607

CERTIFIED TO BE A TRUE AND CORRECT COPY AS TAKEN FROM AND COMPARED WITH THE ORIGINAL ON FILE IN THIS OFFICE

JUL 2004

SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE
NONPROFIT CORPORATION
ARTICLES OF INCORPORATION

TYPE OR PRINT CLEARLY IN BLACK INK

Pursuant to Section 33-31-202 of the South Carolina Code of Laws, as amended, the undersigned corporation submits the following information:

1. The name of the nonprofit corporation is Slips at Ripley Property Owners Association, Inc.

2. The initial registered office of the nonprofit corporation is 61 Ashley Pointe Drive (Street Address)

Charleston, (City) Charleston, (County) SC (State) 29407 (Zip Code)

The name of the registered agent of the nonprofit corporation at that office is

Dan M. David, Esquire
Print Name

I hereby consent to the appointment as registered agent of the corporation.

Agent's Signature

COPY

3. Check "a", "b", or "c" whichever is applicable. Check only one box:

a. ☐ The nonprofit corporation is a public benefit corporation.

b ☐ The nonprofit corporation is a religious corporation.

c. ☑ The nonprofit corporation is a mutual benefit corporation.

4. Check "a" or "b", whichever is applicable:

a. ☑ This corporation will have members.

b. ☐ This corporation will not have members.

5. The address of the principal office of the nonprofit corporation is

Ashley Pointe Drive (Street Address) Charleston (City) SC (County) 29407 (State) (Zip Code)

6. If this nonprofit corporation is either a public benefit or religious corporation (when box "a" or "b" of paragraph 3 is checked), complete either "a" or "b", whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation.

a. ☐ Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future Federal tax code, or shall be distributed to the Federal government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated

BK Y503PG608

Slips at Ripley Property Owners Association, Inc
Name of Corporation

BK Y503PG608

exclusively for such purposes.

b. ☐ Upon dissolution of the corporation, consistent with the law, the remaining assets of the corporation shall be distributed to

7. If the corporation is a mutual benefit corporation (when box "c" of paragraph 3 is checked), complete either "a" or "b", whichever is applicable, to describe how the (remaining) assets of the corporation will be distributed upon dissolution of the corporation.

a. ☑ Upon dissolution of the mutual benefit corporation, the (remaining) assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as benefiting or serving.

b. ☐ Upon dissolution of the mutual benefit corporation, the (remaining) assets, consistent with the law, shall be distributed to

8. The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follows (See 33-31-202(c) of the 1976 South Carolina Code of Laws, as amended, the applicable comments thereto, and the instructions to this form)

9. The name and address of each incorporator is as follows (only one is required)

Name	Address	Zip Code
Dan M. David	P.O. Box 32097	29417

10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles:

Name (Only if named in articles)	Signature of director

11. Each incorporator must sign the articles.

Signature of incorporator

Signature of incorporator

Signature of incorporator

BK Y503PG609

Slips at Ripley Property Owners Association, Inc.

Name of Corporation

BK Y503PG609

FILING INSTRUCTIONS

1 Two copies of this form, the original and either a duplicate original or a conformed copy, must be filed.

2 If space in this form is insufficient, please attach additional sheets containing a reference to the appropriate paragraph in this form, or prepare this using a computer disk, which will allow for expansion of space on the form

3. This form must be accompanied by the filing fee of $25.00 payable to the "Secretary of State."

Return to: Secretary of State
P.O. Box 11350
Columbia, SC 29211

4. If this organization is a Political Association it must also be accompanied by the First Annual Report of Corporations and an additional $25.00 fee is required.

NOTE

THE FILING OF THIS DOCUMENT DOES NOT, IN AND OF ITSELF, PROVIDE AN EXCLUSIVE RIGHT TO USE THIS CORPORATE NAME ON OR IN CONNECTION WITH ANY PRODUCT OR SERVICE. USE OF A NAME AS A TRADEMARK OR SERVICE MARK WILL REQUIRE FURTHER CLEARANCE AND REGISTRATION AND BE AFFECTED BY PRIOR USE OF THE MARK. FOR MORE INFORMATION, CONTACT THE TRADEMARKS DIVISION OF THE SECRETARY OF STATE'S OFFICE AT (803) 734-1728.

NP-ARTICLES OF INCORPORATION.doc

Form Revised by South Carolina
Secretary of State, January 2000

Bk Y503 pg 610
BK Y503PG610

The State of South Carolina

Office of Secretary of State Mark Hammond

Certificate of Incorporation, Nonprofit Corporation

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

SLIPS AT RIPLEY PROPERTY OWNERS ASSOCIATION, INC.,
a nonprofit corporation duly organized under the laws of the state of South Carolina on **July 1st, 2004**, and having a perpetual duration unless otherwise indicated below, has as of the date hereof filed a Declaration and Petition for Incorporation of a nonprofit corporation for Religious, Educational, Social, Fraternal, Charitable or other eleemosynary purpose.

Now, therefore, I Mark Hammond, Secretary of State, by virtue of the authority in me vested by Chapter 31, Title 33, Code of 1976 and Acts amendatory thereto, do hereby declare the organization to be a body politic and corporate, with all the rights, powers, privileges and immunities, and subject to all the limitations and liabilities, conferred by Chapter 31, Title 33, Code of 1976 and Acts amendatory thereto.

Given under my Hand and the Great Seal of the State of South Carolina this 1st day of July, 2004.

Mark Hammond

Mark Hammond, Secretary of State

BYLAWS

THE SLIPS AT RIPLEY PROPERTY OWNERS ASSOCIATION, INC.
COUNCIL OF CO-OWNERS

ARTICLE I
INTRODUCTION

Section 1.1 Introduction. These are the Bylaws of THE SLIPS AT RIPLEY PROPERTY OWNERS ASSOCIATION, INC., a South Carolina corporation, (hereinafter referred to as the "Council of Co-Owners"). Terms which are defined in the Master Deed of THE SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME are used herein as therein defined.

ARTICLE II
BOARD OF DIRECTORS

Section 2. 1. Number and Qualification.

(a) The affairs of the Condominium and the Council of Co-Owners shall be governed by a Board of Directors consisting of no less than three (3) persons and no more than seven (7) persons, all of whom, excepting the members of the Board of Directors elected by the Declarant, shall be Co-Owners. Should any Unit be owned by a partnership or corporation, in a fiduciary capacity or otherwise, any officer or employee of such owner shall be eligible to serve as a Director. At any meeting at which Directors are to be elected, the Co-Owners may, by resolution, adopt specific procedures for conducting such elections, not inconsistent with these Bylaws or the Corporation Laws of the State of South Carolina.

(b) The terms of at least one-third (1/3rd) of the members of the Board of Directors shall expire annually.

(c) When Co-Owners other than the Declarant own all of the Units in the Condominium, they shall be entitled to elect all of the members of the Board of Directors of the Council of Co-Owners. Co-Owners other than the Declarant shall elect not less than a majority of the members of the Board of Directors of the Council of Co-Owners not later than one (1) years after the date of the recording of the first deed to a unit to a person other than Declarant, and, prior to the expiration of such one (1) year period, shall be entitled to elect not less than a majority of the members of the Board of Directors upon the sale by Declarant of ninety percent (90%) of the Dock Units in the Condominium. All references in this subsection to "Units in the Condominium" shall mean the aggregate of the Units shown in the plot plans filed with the original Declaration. The Declarant shall be entitled to designate not less than one member of the Board of Directors of the Council of Co-Owners so long as it holds for sale in the ordinary

course of business any Unit in such Condominium, or one year, whichever first occurs.

(d) At any time after Co-Owners other than the Declarant are entitled to elect a member or members of the Board of Directors of the Council of Co-Owners, the Council of Co-Owners shall call and give not less than thirty (30) nor more than sixty (60) days notice of a meeting of the Co-Owners for this purpose. Such meeting may be called and the notice given by any Co-Owner if the Council of Co-Owners fails to do so. Thereafter, meetings shall be called in accordance with Sections 2.7 and 2.8 of these Bylaws.

Section 2.2. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Council of Co-Owners and of the Condominium and shall do all such acts and things expect as by law or by the Declaration, or by these Bylaws may not be delegated to the Board of Directors by the Co-Owners. Such powers and duties of the Board of Directors shall include, but not be limited to, the following:

(a) Operation, care, surveillance, upkeep and maintenance of the Common Elements or the Limited Common Elements and services, including, either itself or through the Slips at Ripley Property Owners Association, Inc., dredging of slips and adjacent waters leading to the Ashley River.

(b) Determination of the Common Expenses required for the affairs of the Condominium and of the Council of Co-Owners, including, without limitation, the operation and maintenance of the Property.

(c) Assessment and collection of the Common Charges from the Co-Owners.

(d) Employment and dismissal of the personnel necessary for the maintenance, operation, repair and replacement of the general services and the Common Elements or the Limited Common Elements and real and personal property owned by the Council of Co-Owners.

(e) Adoption and amendment of Regulations covering the details of the operation, use and maintenance of the Property following Notice and Comment.

(f) Opening of bank accounts on behalf of the Council of Co-Owners and designating the signatories required therefore.

(g) Purchasing or leasing or otherwise acquiring in the name of the Council of Co-Owners, or its designee, corporate or otherwise, on behalf of all Co-Owners, Units offered for sale or lease or surrendered by their owners to the Council of Co-Owners.

(h) Purchasing of Units at foreclosure or other judicial sales in the name of the Council of Co-Owners, or its designee, corporate or otherwise, on behalf of all Co-Owners.

(i) Mortgaging, the common areas for the benefit of the Co-Owners.

(j) Organizing corporations to act as designees of the Council of Co-Owners in acquiring title to or leasing of Units on behalf of all Co-Owners.

(k) Granting of licenses.

(l) Obtaining insurance pursuant to the provisions of Article VIII hereof.

(m) Making of repairs, restorations, additions and improvements to or alterations of the Property, other than the Units including emergency repairs, and the borrowing of monies for such emergency repairs, which debt shall become a Common Expense.

(n) Suing to enforce, or settling and compromising claims of Co-Owners with respect to Common Elements and property which the Council of Co-Owners has the duty to maintain, repair, replace or restore, and other matters concerning the administration of the Condominium.

(o) Following Notice and Hearing, levy liquidated charges against Co-Owners for violations of the requirements of the Condominium Instruments or the Regulations, provided no charge shall exceed Twenty-Five and No/100 ($25.00) Dollars per such violation, together with additional actual damages, cost of collection and reasonable attorney's fees, other than as provided for in Article V, Section 5.7, of these Bylaws. Each day that such violation exists may be considered a separate violation.

(p) Impose reasonable charges for preparation or recording of amendments to the Condominium Instruments, or for the issuance of reports, certificates, and documentation permitted by the Condominium Instruments or required by law, to the person requesting the same.

(q) Without limits, but in pursuit of the foregoing powers, and the purposes for which the Council of Co-Owners was created, to do any and all things lawfully permitted to be done by a corporation under the laws of the State of South Carolina, and a condominium Council of Co-Owners under the Horizontal Property Regime Act, (the Condominium Act), now in effect or as amended or replaced, if applicable or if agreed to by the Council of Co-Owners.

(r) Following Notice and Hearing, grant or withhold approval of any action which changes the exterior appearance of the Condominium, alters any portion of the Common Elements, or affects the structural or mechanical integrity of a Dock or its fixtures.

(s) Sue and be sued, and appear on behalf and for the benefit of all Co-Owners in any matter of common concern including class actions for the Co -Owners as a class, in and before any court, office, agency, board, commission or department of the state or any political subdivision, and appeal from any judgments, orders, decisions or decrees rendered therein.

(t) To the extent desirable, create requirements for reasonable reserves for dredging, maintenance, repair and replacement of the Dock System and Common Elements, working capital, bad debts, depreciation, obsolescence, or other proper purposes agreed to by the Council of Co-Owners, and designate and establish trust funds for the benefit of Co-Owners or the Council of Co-Owners delegating thereto the collection and assessment powers permitted to the Council of Co-Owners by law or covenant to hold and disburse the funds so collected.

(u) Taking any and all such actions as may be necessary to comply with applicable city, county, state, or federal regulations, specifically including the Office of Ocean and Coastal Resource Management.

Section 2.3. Manager. The Board of Directors may employ for the Condominium a Professional Manager, to perform such duties and services as the Board of Directors shall authorize, and for such term as the Board may set. The Board of Directors may delegate to the Manager all of the powers granted to the Board of Directors by these Bylaws, other than the powers set forth in Article 11, Section 2.2, subparagraphs (b), (e), (f), (g), (h), (i), 0), (k), (n), (o), (p), (q), (r) and (s).

Section 2.4. Removal of Members of the Board of Directors. At any regular or special meeting of Co-Owners, any director, other than a director elected by Declarant, may be removed with or without cause by a majority of the Co-Owners and a successor may then and there or thereafter be elected to fill the vacancy thus created. A director whose removal has been proposed by the Co-Owners shall be given an opportunity to be heard at the meeting if present.

Section 2.5. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the Co-Owners, may be filled by vote of a majority of the remaining directors at a special meeting of the Board of Directors held for that purpose at any time after the occurrence of any such vacancy, even though the directors present at such meeting may constitute less than a quorum, and each person so elected shall be a director for the remainder of the term of the director so replaced, and until a successor shall be elected.

Section 2.6. Organization Meeting. The initial Board of Directors shall be appointed or removed by Declarant as the owner of all Units and shall serve until the organizational meeting of Co-Owners. The first meeting of the elected Board of Directors shall be held within ten (10) days after the first organizational meeting of the Co-Owners at such time and place as shall be fixed by the Co-Owners at the meeting at which such Board of Directors shall have been elected, and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, providing a majority of the directors shall be present thereat.

Section 2.7. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least two (2) such meetings shall be held during the fiscal year. Written notice of regular

meetings of the Board of Directors shall be given to each director by mail or by hand at least three (3) business days prior to the day named for such meeting.

Section 2.8. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) business days written notice to each director given by mail or by hand, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors may be called in like manner and on like notice on the written request of at least twenty-five percent (25%) of the directors.

Section 2.9. Waiver of Notice. Any director may, at any time, waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 2.10. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present any business which might have been transacted at the meeting originally called, may be transacted without further notice.

Section 2.11. Fidelity Bonds. To the extent reasonably available, the Board of Directors shall obtain adequate fidelity bonds for all officers, employees and agents of the Council of Co-Owners handling or responsible for Council of Co-Owners funds. The premiums on such bonds shall constitute a Common Expense.

Section 2.12. Compensation. No director shall receive any compensation from the Council of Co-Owners for acting as such.

ARTICLE III
CO-OWNERS

Section 3. 1. Organizational Meeting. The organizational meeting of the Co-Owners shall take place within one hundred eighty (180) days of the filing of the Master Deed.

Section 3.2. Annual Meeting. Annual meetings of the Co-Owners shall be held on the first Monday in March of each year as set by the Board of Directors or at such time reasonably thereafter as may be adopted by resolution of the Board of Directors. At such meeting, the directors shall, subject to the provisions of these Bylaws and the Master Deed, be elected by ballot of the Co-Owners, in accordance with the provisions of Article 11 of these Bylaws. The

Co-Owners may transact such other business at such meetings as may property come before them.

Section 3.3. Place of Meetings. Meetings of the Co-Owners shall be held at the principal office of the Council of Co-Owners or at such other suitable place convenient to the Co-Owners as may be designated by the Board of Directors or the President.

Section 3.4. Special Meetings. It shall be the duty of the President to call a special meeting of the Co-Owners if so directed by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by not less than twenty-five percent (25%) of the Co-Owners.

Section 3.5. Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting of the Co-Owners, except as provided in Article 11, Section 2.1(d), at least fifteen (15) days, but not more than fifty (50) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Co-Owner of record, at such address of such Co-Owner as appears in the records of the Council of Co-Owners. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice. No business shall be transacted at a special meeting except as stated in the notice. No notice need be given to Co-Owners who attend a meeting in person or who waive notice in writing executed and filed on the corporate records before or within ten (10) days after the meeting. If all Co-Owners are present or consent thereto in writing, any business may be transacted, other than business which requires consent by mortgagees and for which sufficient consent by mortgagees has not been received.

Section 3.6. Adjournment of Meeting. If any meeting of Co-Owners cannot be held because a quorum has not attended, a majority of the Co-Owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 3.7. Order of Business. The order of business at all meetings of the Co-Owners shall be as follows:

(a) Roll call (or check-in procedure).

(b) Proof of notice of meeting.

(c) Reading of minutes of preceding meeting.

(d) Reports.

(e) Election of members of the Board of Directors (when required).

(f) Old business.

(g) New business.

Section 3.8. Voting.

(a) When a vote or any other action by Co-Owners provided for herein or in the Condominium Instruments requires a specific percentage, portion or fraction of Co-Owners, such percentage, portion or fraction shall mean, unless otherwise stated in the Condominium Instruments, such percentage, portion or fraction in the aggregate of such voting power equal to the percentage interest in the Common Elements shown on the Master Deed.

(b) If a Unit is owned by more than one person, such persons shall agree among themselves how a vote for such Unit shall be cast. Individual co-owners may not cast fractional votes. A vote by a co-owner for the entire ownership interest of a Unit shall be deemed to be pursuant to a valid proxy, unless another co-owner of the same Unit objects prior to or at the time the vote is cast, in which case the votes of such co-owners shall not be counted.

(c) A corporate Co-Owner's vote may be cast by any officer of such corporation in the absence of express notice of the designation of a specific person by the board of directors or bylaws the owning corporation. A partnership Co-Owner's vote may be cast by any general partner of the owning partnership in the absence of express notice of the designation of a specific person by the owning partnership. The directors may require reasonable evidence that a person voting on behalf of a corporate owner or partnership owner is qualified so to vote.

(d) A written proxy terminates eleven (11) months after its date, but shall expire earlier if it specifies a shorter term or limits its use to a particular meeting not yet held but to be held within eleven (11) months from its date.

Section 3.9. Quorum. Except as may be otherwise provided in these Bylaws, a majority of the Co-Owners present in person or by proxy, at any meeting of Co-Owners shall constitute a quorum at all meetings of the Co-Owners.

Section 3.10. Majority Vote. The vote of Co-Owners holding at least fifty-one percent (51 %) of the percentage interest in the Common Elements at a meeting at which a quorum shall be present shall be binding upon all Co-Owners for all purposes except where in the Master Deed or these Bylaws or by law, a higher percentage vote is required.

ARTICLE IV
OFFICERS

Section 4. 1. Designation. The principal officers of the Council of Co-Owners shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected

by the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary, and such other officers as in its judgment may be necessary. The President and Vice President, but no other officers, need be members of the Board of Directors. Any two offices may be held by the same person, except the offices of President and Vice President, the offices of Secretary and Treasurer, and the offices of President and Secretary. The office of Vice President may be vacant.

Section 4.2. Election of Officers. The officers of the Council of Co-Owners shall be elected annually by the Board of Directors at the organization meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 4.3. Removal of Officers. Upon the affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor may be elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for that purpose.

Section 4.4. President. The President shall be the chief executive officer of the Council of Co-Owners. He shall preside at all meetings of the Co-Owners and of the Board of Directors. He shall have all of the general powers and duties which are incident to the office of president of a corporation organized under the laws of the State of South Carolina and consistent with the powers granted to the Board of Directors herein, including, but not limited to, the power to appoint committees from among the Co-Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Council of Co-Owners.

Section 4.5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or by the President.

Section 4.6. Secretary. The Secretary shall keep the minutes of all meetings of the Co-Owners and the Board of Directors and he shall have charge of such books and papers as the Board of Directors may direct.

Section 4.7. Treasurer. The Treasurer shall have the responsibility for Council of Co-Owners funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data. He shall be responsible for the deposit of all monies and other valuable effects in such depositories as may from time to time be designated by the Board of Directors. He may endorse on behalf of the Council of Co-Owners for collection only, checks, notes and other obligations, and shall deposit the same and all monies in the name of and to the credit of the Council of Co-Owners in such banks as the Board may designate. He may have

custody of and shall have the power to endorse for transfer on behalf of the Council of Co-Owners, stock, securities or other investment instruments owned or controlled by the Council of Co-Owners, or as fiduciary for others.

Section 4.8. Agreements, Contracts, Deeds, Checks, Etc. All agreements, contracts, deeds, leases, checks and other instruments of the Council of Co-Owners shall be executed by any officer of the Council of Co-Owners or by such other person or persons as may be designated by the Board of Directors.

ARTICLE V
COMMON EXPENSES AND COMMON CHARGES

Section 5.1. Determination of Common Expenses and Fixing of Common Charges. The Board of Directors shall from time to time, and at least annually, and subject to Notice and Hearing, prepare a budget and include it in an Annual Report to Co-Owners for the Council of Co-Owners and determine the Common Charges and establish their due date. Notwithstanding the foregoing, during the twelve month period following the initial conveyance of the first Unit to be sold to a Co-Owner other than the Declarant, the Common Charges set forth in the budget prepared by the Declarant and given to each Co-Owner prior to the sale of a Unit to that Co-Owner, cannot be increased by more than ten percent (10%) unless necessary to provide for unexpected increases in fixed recurring expenses of the Council of Co-Owners.

Section 5.2. Common Expenses. The Common Expenses shall include:

(a) The costs of maintaining and repairing the Common Elements and any real and personal property owned by the Council of Co-Owners, including dredging and the cost of a Manager and including emergency repairs and including any Commercial Unit owned by the Council of Co-Owners.

(b) The costs of restoring or repairing the Condominium, to the extent provided in Article IX.

(c) Such amounts as the Board of Directors deems proper for the operation of the Condominium and the Council of Co-Owners, including without limitation an amount for a Common Expense working capital reserve, and sums necessary to make up any deficit in income from Common Charges in any prior year.

(d) Expenses incurred in leasing or otherwise acquiring the right to use, either exclusively or in common with others, recreational or other facilities for the benefit of all Co-Owners.

(e) Such amounts as may be required for the purchase or lease of any Unit to be acquired by the Council of Co-Owners or its designee.

(f) Premiums for insurance pertaining to the Condominium, the Council of Co-Owners and the Board of Directors.

(g) Any other costs and expenses in connection with the operation and administration of the Condominium and the Council of Co-Owners designated as Common Expenses by the Board of Directors or by vote of the Co-Owners.

(h) Such amounts as the Board of Directors deems proper for a reserve fund for replacements of capital improvements, which may be deposited in a trust fund for holding and disbursing amounts collected for such purposes.

Section 5.3. Common Charges and Income. The Common Expenses shall be assessed against all Units (and their owners) as Common Charges and any profits (it is the stated purpose of the Council to operate on a non-profit basis) may be distributed to all Units equally or be transferred to replacement reserves upon approval of a majority of the owners. Expenses for the maintenance and repair of Limited Common Elements shall be assessed against those Units to which those elements have been allocated.

Section 5.4. Payment of Common Charges. All Co-Owners shall be obligated to pay the Common Charges or installments thereof at such time or times as the Board of Directors shall determine.

Section 5.5. No Waiver. No Co-Owner may exempt himself from liability for Common Charges by waiver of the use or enjoyment of any part of the Property or by abandonment of his Unit.

Section 5.6. Non-Liability After Conveyance. No Co-Owner shall be liable for the payment of any Common Charges assessed against his Unit subsequent to a sale, transfer or other conveyance of all such Co-Owner's interest in such Unit.

Section 5.7. Remedies. If any Common Charge is not paid when due, such Common Charge shall be delinquent and, together with interest and late charges as herein provided and cost of collection, including reasonable attorneys' fees, shall be a continuing lien on the Unit of the delinquent owner, as well as an indebtedness of the Co-Owner. Interest on delinquent Common Charges shall be established by the Board of Directors and shall accrue on the delinquent amount from the due date thereof until collected. The Board of Directors may by resolution, subject to Notice and Comment, establish late charges to defray the extra expenses and costs incurred by a Co-Owner's failure to pay Common Charges promptly. The Board of Directors shall attempt to recover such amounts by an action brought against such Co-Owner or by foreclosure of the lien, or both. The Board of Directors, on behalf of all Co-Owners, shall have the power to purchase such Unit at a foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant thereof (other than for the election of members of the Board of Directors), convey or otherwise deal with the same. A suit to recover a money judgment for

delinquent amounts shall be maintainable without foreclosing or waiving the liens securing the same. Upon title to a Unit vesting in the heirs, successors, devisees, personal representatives or assigns of the owner, they shall become personally liable for the payment of such Common Charges assessed prior to such acquisition, except:

(a) The lien for all sums assessed by the Council of Co-Owners, but unpaid, for the share of the Common Expenses chargeable to any Unit shall be prior to all other liens, except all sums unpaid on mortgages of record.

(b) Where a mortgagee or a purchaser at a foreclosure sale obtains title to a Unit, such acquirer of title, its or his heirs, successors, transferees or assigns, shall not be liable for the unpaid share of the Common Expenses or assessments by the Council of Co-Owners chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer, but such expenses or assessments, if not fully satisfied out of the proceeds of such sale, shall become Common Expenses collectible from all of the Co-Owners, including such acquirer, its or his heirs, Successors, transferees or assigns.

(c) The Board of Directors shall upon demand at any time furnish to any Co-Owner or applicable mortgagee a certificate in writing signed by an officer of the Council of Co-Owners, or an authorized agent of the Council of Co-Owners, setting forth any Common Charges then due and unpaid. Such certificate shall be conclusive evidence of payment of any Common Charges not therein stated as being unpaid.

ARTICLE VI
OPERATION OF THE PROPERTY

Section 6. 1. Abatement and Enjoinment of Violations by Co-Owners. The violation of any Regulation adopted by the Board of Directors, or the breach of any provision of a Condominium Instrument, shall give the Board of Directors the rights, subject to Notice and Hearing, in addition to any other rights set forth in these Bylaws (i) to enter the Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Co-Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed liable for any manner of trespass; or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

Section 6.2. Maintenance and Repair.

(a) Except as provided in Article IX, all maintenance or any repairs to any Unit, ordinary or extraordinary, shall be made by and at the expense of the owner of such Unit. Each Co-Owner shall also be responsible for all damages to any and all other Units and to the Common Elements, that his failure so to do may engender.

11

(b) All maintenance, repairs and replacements to the Common Elements (unless otherwise provided in Article IX or in Article VI, Section 6.2, subsection [c]), and all maintenance and repair of parking areas shall be made by the Board of Directors and be charged to all Co-Owners as a Common Expense (unless necessitated by the negligence, misuse or neglect of a Co-Owner, or provided for under Article VI, Section 6.8 hereby in which case such expense shall be charged to such Co-Owner).

(c) Except as provided in Article IX, all maintenance of and nonstructural repairs to the Limited Common Element shall be performed by and at the expense of the owner of the Unit to which such Limited Common Elements are appurtenant. If a Co-Owner fails to keep a Limited Common Element for which he is responsible in a sightly and safe condition and in good repair, the Council of Co-Owners may perform the necessary maintenance and repair and charge the cost thereof to such Co-Owner, which cost shall be treated for all purposes, if not paid when due, as a past due general assessment subject to the remedies provided for in Article V, Section 5.7 hereof.

Section 6.3. Restrictions on Conduct and Use of Property. In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of the Property shall be restricted to and shall be in accordance with the following provisions (which may be more specifically detailed in the Regulations):

(a) The Common Elements shall be used only for the furnishing of the services and facilities for which they are designed and reasonably suited, and which are incidental to the use of the Units to which they are appurtenant. The Common Elements shall be for the sole use of Co-Owners, their guests and invitees.

(b) No nuisances shall be allowed on the Property nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with the peaceful possession or proper use of the Property by the Co-Owners, their guests and invitees.

(c) No immoral, improper, offensive, or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed, including, but not limited to, any Office of Ocean and Coastal Resource Management permit applicable to the Dock System. Violations of law, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be corrected, by and at the sole expense of the Co-Owners or the Board of Directors, whichever shall have the obligation to maintain or repair such portion of the Property.

(d) Any lease of a Unit shall be consistent with these Bylaws. The Board of Directors shall have the power to terminate such lease, and bring summary proceedings to evict the tenant in the name of the Co-Owner/landlord thereunder, in the event of failure by the tenant to perform any obligation in the Condominium Instruments and Regulations. Each tenant of a

Unit shall be deemed to have attorned to the Council of Co-Owners as landlord under the lease with respect to enforcement of any provision of the Condominium Instruments and Regulations, provided that no enforcement proceedings shall be undertaken against a tenant by the Council of Co-Owners without prior notice to the Co-Owner, and a reasonable opportunity given to the Co-Owner to cure any default or to enforce the provision, before the Council of Co-Owners will proceed with enforcement proceedings.

Section 6.4. Additions, Alterations or Improvements. Whenever in the judgment of the Board of Directors the Common Elements shall require additions, alterations or improvements which are intended to be assessed as Common Charges and the cost of which will equal or exceed a sum equal to ten percent (10%) of the operating budget then in effect, the making of such additions, alterations or improvements shall require approval by a Majority of Co-Owners. Any additions, alterations or improvements costing less than such sum may be voted by the Board of Directors. In either case, Notice and Comment shall be required.

Section 6.5. Additions, Alterations or Improvements by Co-Owners. No Co-Owner shall make any structural addition, structural alteration, or structural improvement in or to the Condominium or the Dock subject to such Co-Owners Moorage Easement without the prior written consent thereto of the Board of Directors. The Board of Directors shall have the obligation to answer any written request by a Co-Owner for approval of a proposed structural addition, alteration or improvement within sixty (60) days after such request and failure to do so within the stipulated time shall constitute a consent by the Board of Directors to the proposed addition, alteration or improvement. Any application to any governmental authority for a permit to make an addition, alteration or improvement shall be executed by the Board of Directors only, without however incurring any liability on the part of any director of the Council of Co-Owners to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having any claim for injury to persons or damage to property arising therefrom. The provisions of this Section may be superseded in whole or in part by resolution of the Board of Directors and their administration may be assigned to a committee, subject to Notice and Comment. The provisions of this Section shall not apply to portions of the Condominium while owned by the Declarant.

Section 6.6. Right of Access. The Manager and any other person authorized by the Board of Directors or the Manager shall have the right of access to all portions of the Property for the purpose of correcting any condition threatening a Unit or the Common Elements, and for the purpose of performing installations, alterations or repairs, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Co-Owner. In case of an emergency, no such request or notice is required and such right of entry shall be immediate, whether the Co-Owner is present at the time or not.

Section 6.7. Regulations. Regulations concerning the use of the Units and the Common and Limited Elements may be promulgated and amended by the Board of Directors, subject to

Notice and Comment. Notice of such Regulations shall be given to each Co-Owner prior to the time when the same shall become effective.

Section 6.8. Special Services. If upon request, or on an emergency basis, the Council of Co-Owners provides any service to any Unit, other than the services described in the Condominium Instruments to be provided to all Units, those services shall be specially assessed against the Unit to which the service is provided, and may be collected in the same manner as a Common Charge against such Unit.

ARTICLE VII
MORTGAGES

Section 7.1. Notice to Board of Directors. A Co-Owner who mortgages his Unit shall notify the Council of Co-Owners of the name and address of his mortgagee. Such mortgagee shall thereafter be entitled to all rights and privileges under the Master Deed for Mortgagees.

Section 7.2. Notice of Default. The Board of Directors, when giving notice to a Co-Owner of a default, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Board of Directors.

Section 7.3. Examination of Books. Each mortgagee of an Unit shall be permitted to examine the records and books of account of the Council of Co-Owners and the vouchers accrediting the entries made thereon at reasonable times, which times shall be set and announced for general knowledge.

ARTICLE VIII
INSURANCE

Section 8.1. Coverage. To the extent reasonably available, the Board of Directors shall obtain and maintain insurance coverage as set forth in this Article VIII, Sections 8.2, 8.3 and 8.4. Premiums for such insurance shall be Common Expenses.

Section 8.2. Physical Damage. All Docks and improvements (as defined in Subsection (e) hereof), and all of the personal property owned by the Council of Co-Owners shall be insured against risk of physical damage as follows:

(a) Amounts: As to real property, including the Dock System and any other improvements, for an amount equal to the full replacement cost of such property subject to physical damage; as to personal property, for an amount equal to its actual cash value. Prior to obtaining any insurance under this Section, and at least annually thereafter, the Board of

Directors shall obtain an appraisal from a qualified appraiser for the purpose of determining the replacement cost of such real property.

(b) Risks Insured Against: The insurance shall afford protection against loss or damage by reason of.

(1) Fire and other perils, including wind, normally covered by extended coverage.

(2) Vandalism and malicious mischief

(3) Such other risk of physical damage as from time to time may be customarily covered with respect to docks and improvements similar in construction, location and use as those on the Property, including, without limitation, flood insurance and builder's risk coverage for improvements under construction.

(4) Such other risks of physical damage as the Board of Directors may from time to time deem appropriate.

(c) Other Provisions: The insurance shall include, without limitation, the following provisions:

(1) Waivers by the insurer of rights of subrogation, other than those based on fraud or criminal acts, against the Council of Co-Owners, its directors and officers, and the Co-Owners.

(2) That the insurance shall not be affected or diminished by reason of any other insurance carried by any Co-Owner Mortgagee of a Unit.

(3) That the insurance shall not be affected or diminished by any act or neglect of any Co-Owner or any occupants or owners of any improvements when such act or neglect is not within the control of the Council of Co-Owners.

(4) That the insurance shall not affected or diminished by failure of any Co-Owner or any occupants or owners of any improvements to comply with any warranty or condition when such failure to comply is not within the control of the Council of Co-Owners.

(5) Such deductible as to loss, and coinsurance features, as the Board of Directors in its sole judgment deems prudent and economical.

(6) That the insurance may not be cancelled or substantially modified (except for the addition of property or increases in amount of coverage) without at least thirty (30) days prior written notice to the insured, and to all mortgagees.

(7) Provisions for identification of mortgagees and for the allocation of their several interests to specific Units or other Property.

(8) The standard mortgagee clause, except that any loss otherwise payable to named mortgagees shall be payable in the manner set forth in subsection (10 hereinbelow).

(9) Adjustment of loss shall be made with the Board of Directors.

(10) Proceeds for losses shall be payable to the Council of Co-Owners or its appointed trustee.

(11) The named insured shall be the Council of Co-Owners.

(d) Evidence of Insurance: The insured shall make arrangements for Certificates of Insurance for all mortgagees and Co-Owners.

(e) Definition: As used in this Section, the term "docks and improvements" shall include, without limitation, the Dock System, fixtures and installations and replacements thereof as shown on such plans or other records as the Board of Directors may adopt for this purpose.

Section 8.3. Liability Insurance. The Board of Directors shall obtain and maintain public liability insurance for bodily injury and property damage in such limits as the Board of Directors may from time to time determine, insuring the Council of Co-Owners, the Manager (at the discretion of the Board of Directors), and each Co-Owner with respect to their liability arising from ownership, maintenance or repair of the Property, including, without limitation, liability arising from construction operations (except as provided in subsection (d) hereinbelow). Such liability insurance shall also cover cross-liability claims among the insured parties. The Board of Directors shall review such limits at least annually. The insurance provided under this Section shall include, without limitation, the following provisions:

(a) That the insurance shall not be affected or diminished by any act or neglect of any Co-Owner or any occupants of any improvements when such act or neglect is not within the control of the Council of Co-Owners.

(b) That the insurance shall not be affected or diminished by failure of any Co-Owner or any occupants of any improvements to comply with any warranty or condition when such failure to comply is not within the control of the Council of Co-Owners.

(c) Waivers by the insurer of rights of subrogation, other than those based on fraud or criminal acts, against the Co-Owners, and the Council of Co-Owners, its directors and officers.

(d) No liability insurance need be provided for a Co-Owner with respect to his Unit and any Limited Common Elements used exclusively by him.

Section 8.4. Workmen's Compensation Insurance. The Board of Directors shall obtain and maintain Workmen's Compensation Insurance if necessary to meet the requirements of the laws of the State of South Carolina.

Section 8.5. Other Insurance. The Board of Directors is authorized to obtain and maintain such other insurance as it may from time to time deem appropriate.

ARTICLE IX
DAMAGE TO OR DESTRUCTION OF PROPERTY

Section 9. 1. Duty to Repair or Restore. Any portion of the Condominium damaged or destroyed shall be repaired or restored promptly by the Board of Directors, except as provided in Sections 9.4, 9.5 and 9.7 hereinbelow.

Section 9.2. Estimate of Cost. Promptly after the damage or destruction and thereafter as it deems advisable, the Board of Directors shall obtain reliable and detailed estimates of the cost of repair or restoration. The Board of Directors may retain the services of an architect to assist in the determination of such estimates and in the supervision of repair and restoration.

Section 9.3.Collection of Construction Funds. Construction funds may consist of insurance proceeds, condemnation awards, proceeds of assessments against Co-Owners, and other funds received on account of or arising out of the damage or destruction.

(a) Insurance Proceeds: The Board of Directors shall adjust losses under physical damage insurance policies. Such losses shall be payable in accordance with Section 8.2(c)(10) herein.

(b) Assessment of Owners: If insurance proceeds and funds described in subsection (c) below are insufficient for the necessary repair and restoration to be done at the Council of Co-Owners= costs, such deficiency shall be, unless otherwise provided by law a Common Expense and the Board of Directors shall assess Common Charges therefor payable as specified in the resolution authorizing the same, which Common Charges shall be turned over by the Board of Directors to the Trustee.

(c) Payments by Others: All funds received on account of or arising out of such damage or destruction shall be turned over by the Board of Directors to the Trustee if one is appointed.

(d) Condemnation Awards: Condemnation awards shall be payable in accordance with Article XXI of the Master Deed.

Section 9.4. Plans and Specifications. Any repair or restoration must be either substantially in accordance with the plans adopted by the Board of Directors pursuant to Section 8.2(e) herein, (and may also include additional improvements for which funds are made available), or according to plans and specifications approved by the Board of Directors and by a Majority of Co-Owners and the holders of first mortgages encumbering seventy-five percent (75%) of the Units subject to mortgages.

Section 9.5. Disbursement of Construction Funds. The trustee, as defined in Section 9.8 herein, if appointed, shall deduct from the construction funds its actual costs, expenses and a reasonable fee for the performance of its duties, and shall disburse the balance in the following manner:

(a) Damage or destruction not exceeding $100,000.00: In the event of damage or destruction which is the responsibility of the Board of Directors to insure, not exceeding One Hundred Thousand Dollars ($100,000.00) and upon receipt of proper certification of such fact from the Board of Directors, the trustee, if appointed, shall deliver such balance to the Board of Directors, and the Board of Directors shall thereupon administer said balance in the same manner as required of the trustee, if appointed, pursuant to this Article VIII.

(b) Damage or destruction Exceeding $100,000.00: In the event of damage or destruction which is the responsibility of the Board of Directors to insure exceeding One Hundred Thousand Dollars ($100,000.00), a trustee shall be appointed by the Board of Directors and shall apply such balance to pay directly, or to reimburse the Board of Directors for the payment for, the costs of such repair or restoration, including the costs of temporary repairs for the protection of the Property pending the completion of permanent repairs and restoration, upon written request of the Board of Directors in accordance with Section 10.8(a) herein, and if an architect or engineer has been retained by the Board of Director, upon presentation of an architect's certificate stating that the work represented by any such payment has been completed satisfactorily.

(c) Surplus Funds: If, after payment of all repairs and restoration, there remains any surplus funds, such funds shall be paid to Co-Owners in proportion to their contributions resulting from assessments levied against them pursuant to Section 9.3(b) herein; provided, however, that no Co-Owner shall receive a sum greater than that actually contributed by him. Any surplus remaining after such payments

shall be paid to the Board of Directors and shall be part of the general income of the Council of Co-Owners.

Section 9.6. Determination Not to Repair or Restore. If the Dock System is damaged to the extent of eighty (80%) percent of its then replacement cost, the Dock System shall be repaired or restored unless otherwise agreed by all Co-Owners of Dock Units and the holders of mortgage liens affecting at least seventy-five percent (75%) of the Units subject to mortgages, in which event, the Dock System shall be deemed to be owned in common by the Co-Owners, and each Co-Owner shall own that percentage of the undivided interest in common as he previously owned in the Common Elements. Any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Co-Owner of the Property; and the Property shall be subject to an action for partition at the suit of any Co-Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property, if any, shall be considered as one fund and shall be divided among all the Co-Owners in accordance with their interests therein, after first paying all liens out of each of the respective interests.

Section 9.7. Certificates. The trustee, if appointed, may rely on the following certifications:

(a) By the Board of Directors: The Board of Directors shall certify to the trustee, if appointed, in writing as to the following matters:

(1) Whether or not damaged or destroyed property is to be repaired or restored.

(2) In the opinion of the Board of Directors the cost of repair or restoration may exceed One Hundred Thousand Dollars ($100,000.00).

(3) The amount or amounts to be paid for repairs or restoration and the names and addressed of the parties to whom such amounts are to be paid.

(b) By Attorneys: The Board of Directors shall furnish the trustee, if appointed, in the event that any payments are to be made to owners or mortgagees, with an Attorney's Certificate of Title or Title Insurance Policy based on a search of the land records from the date of the recording of the original Declaration stating the names of the Co-Owners and the mortgagees.

Section 9.8. Trustee. The Board of Directors shall enter into and keep in force a trust agreement with a bank in the State of South Carolina with trust powers to receive, administer and disburse funds pursuant to this Article IX. Such trust agreement shall incorporate the Master Deed and Bylaws by reference and shall provide that upon termination thereof, all monies or funds held by the trustee shall be turned over only to a successor trustee which shall also be a bank in the State of South Carolina with trust powers designated trustee pursuant to this Article

IX. No amendment of the Master Deed or these Bylaws shall be binding on the trustee until the trustee receives notice of such amendment.

ARTICLE X
LIMITATIONS OF LIABILITY; INDEMNIFICATION

Section 10. 1. Tort Liability. The Co-Owners and the Council of Co-Owners shall each be deemed to have released and exonerated each other from any tort liability other than that based on fraud or criminal acts to the extent to which such liability is satisfied by proceeds of insurance carried by any such party.

Section 10.2. Contracts. No Co-Owner and no director or officer of the Council of Co-Owners shall have any personal liability under any contract made by any of them on behalf of the Council of Co-Owners, except for the obligation of Co-Owners to pay Common Charges lawfully assessed.

Section 10.3. Indemnification. The directors and officers of the Council of Co-Owners shall be entitled to indemnification, as provided in Section 33-31-851, Code of Laws of South Carolina, 1976, as amended, (the provisions of which are hereby incorporated by reference and made a part hereof). The Board of Directors may obtain insurance covering such indemnification and the premiums for such insurance shall be a Common Expense.

ARTICLE XI
RECORDS

Section 11.1. Records and Audits. The Declarant and the Council of Co-Owners shall maintain accounting records according to generally accepted accounting practices. Such records shall include (i) a record in chronological order of all receipts and expenditures affecting the property and its administration; (ii) an account for each Unit which shall designate the name and address of each Co-Owner, the amount of each Common Charge, the dates on which the Common Charge comes due, the amounts paid in the account, and the balance due; (iii) a record of the actual cost, irrespective of discounts and allowances, of the maintenance and repair of the Common Elements; and (iv) an accurate account of the current balance in the reserve for replacement and for emergency repairs. On the written petition of Co-Owners of not less than twenty-five percent (25%) of the Units, a certified audit by an independent certified public accountant shall be made, but not more than once in any consecutive twelve month period: provided the cost of the audit shall be a Common Expense.

Section 13.3. Executive Sessions. Meetings may be held in Executive Session, without giving notice and without the requirement that they be open to the Co-Owners, provided that no action is taken at such sessions requiring the affirmative vote of the meeting.

ARTICLE XIV
MISCELLANEOUS

Section 14.1. Notices. All notices to the Council of Co-Owners or the Board of Directors shall be delivered to the office of the Manager, or if there be no Manager, to the office of the Council of Co-Owners, or to such other address as the Board of Directors may hereafter designate from time to time, by notice in writing to all Co-Owners and to all mortgagees of Units. Except as otherwise provided, all notices to any Co-Owner shall be sent to his address as it appears in the records of the Council of Co-Owners. All notices to mortgagees of Units shall be sent by registered or certified mail, return receipt requested, to their respective addresses, as designated by them from time to time, in writing, to the Board of Directors. All notices shall be deemed to have been given when mailed, except notices of changes of address which shall be deemed to have been given when received.

Section 14.2. Fiscal Year. The Board of Directors shall establish the fiscal year of the Council of Co-Owners.

Section 14.3. Waiver. No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 14.4. Office. The principal office of the Council of Co-Owners shall be on the Property or at such other place as the Board of Directors may from time to time designate.

Section 14.5. Master Deed. The provisions of the Master Deed made by THE SLIPS AT RIPLEY, INC., a South Carolina Corporation, (of which these Bylaws are a schedule) as it may be amended or supplemented from time to time, are incorporated herein by reference, as if fully set forth herein, and shall control in the event of any conflict between those provisions and the provisions of these Bylaws.

ARTICLE XV
AMENDMENTS TO BYLAWS

Section 15.1. Amendments to Bylaws. These Bylaws shall be amended only in accordance with the Master Deed and by vote of two thirds (2/3) of the Co-Owners, at any meeting of the Council of Co-Owners duly called for such purpose, following written notice to all Co-Owners and to their mortgagees appearing on the records of the Council of Co-Owners, except that if such amendment directly or indirectly changes the boundaries of any Unit, the undivided interest in the Common Elements appertaining thereof, liability for Common Elements appertaining thereto, the Limited Common Elements appertaining thereto, the liability for Common Expenses appertaining thereto, or the rights to Common Profits appertaining thereto, the number of votes in the Council of Co-Owners appertaining thereto, such

amendments shall require the affirmative vote of all of the Co-Owners. Notwithstanding the foregoing, no amendment which diminishes any rights reserved to the Declarant shall be adopted without the consent of the Declarant. No amendment shall be of legal effect until set forth in an amendment to the Master Deed and such amendment is recorded in the Register of Mesne Conveyance Office for Charleston County, South Carolina.

The Declarant reserves the right to amend the By-Laws of the Council of Co-Owners for the good of the development as determined by the Declarant so long as Declarant maintains its control as set forth in Section 12.3 of the Master Deed..

THE FOREGOING WERE DULY ADOPTED AS THE BYLAWS OF THE SLIPS AT RIPLEY, COUNCIL OF CO-OWNERS, INC., A CORPORATION NOT FOR PROFIT UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA, AT THE FIRST MEETING OF THE BOARD OF DIRECTORS ON _____, 2004.

THE SLIPS AT RIPLEY
PROPERTY OWNERS
ASSOCIATION, INC.

CORPORATE SEAL

BY:_____
Secretary

Approved:

_____
President

22

THE FOREGOING WERE DULY ADOPTED AS THE BYLAWS OF THE SLIPS AT RIPLEY PROPERTY OWNERS ASSOCIATION, INC., A CORPORATION NOT FOR PROFIT UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA, AT THE FIRST MEETING OF THE BOARD OF DIRECTORS ON July 29, 2004.

THE SLIPS AT RIPLEY
PROPERTY OWNERS
ASSOCIATION, INC.

CORPORATE SEAL

BY: _____
W. H. KNIGHT, President

P:\Clients\East Coast Trading\THE SLIPS AT RIPLEY\BYLAWS REVISED.The Slips.072604.wpd

23

EXHIBIT
E

BK Y503PG634

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

RIPLEY LIGHT MARINA

REAL ESTATE AGREEMENT

THIS REAL ESTATE AGREEMENT ("Agreement") is made this 29th of April, 2004 by **Ripley Cove, LLC**, a South Carolina limited liability company (the "Developer") and **Ripley Light Marina POA, Inc.**, a South Carolina non-profit corporation (the "Master POA").

RECITALS

A. The Developer has acquired title to the real property more fully described below as the "Residential Property", the "Dry Stack Property", and the "Wet Slip Property", collectively, the "Ripley Light Marina Property" or the "Property".

B. The Developer intends to develop the Residential Property into a residential development, to transfer the Dry Stack Property to an unrelated third party and to submit the Wet Slip Property to a horizontal property regime; and

C. The Developer has created the Master POA for the benefit of the Residential Property, the Dry Stack Property and the Wet Slip Property, and desires to establish certain easements over the Ripley Light Marina Property, and to establish certain operating agreements for the joint management of the Ripley Light Marina Property, which agreements shall run with the land and shall be binding on the Developer's successors and assigns.

ARTICLE 1.
DEFINITIONS

1.1 Consumer Price Factor. The percentage (rounded to the nearest one-tenth) resulting from dividing the Consumer Price Index for All Urban Consumers-United States (the "CPI-US"), published by the United States Department of Labor during the month the calculation is to be done by the CPI-US published during the month of this Agreement. The CPI-US published during the month of this Agreement is 187.4. By way of illustration only to show a hypothetical determination of the Consumer Price Factor, if the CPI-US were 206.1 in January, 2009, the Consumer Price Factor would by 206.1 divided by 187.4 or 1.1.

1.2 Dry Stack Lot 4A That portion of the real property known as Lot 4A Combined as more fully described on the attached **Schedule 1.2**, together will all improvements located thereon.

1.3 Dry Stack Lot 6 A The real property known as Lot 6A as more fully described on the attached **Schedule 1.3**, together with all improvements located thereon.

1.4 Dry Stack Lot 7 That portion of the real property known as Lot 7 as more fully described on the attached **Schedule 1.4**, together will all improvements located thereon, including all piers, bulkhead, boardwalk, gangways, floating docks, fixed docks and related

improvements, including one-half of the dock immediately east of the lift area within Dry Stack Lot 7.

1.5 Dry Stack Property. Collectively the real property and improvements located on Dry Stack Lot 4A, Dry Stack Lot 6A, Service Dock and Dry Stack Lot 7.

1.6 Master POA Ripley Light Marina POA, Inc., a South Carolina non-profit corporation.

1.7 Dry Stack AssessmentThe Dry Stack Assessment shall be $12,500 per year, as a adjusted by the Consumer Price Factor. The Master POA shall use the Dry Stack Assessment solely to meet its dredging obligations under this Agreement.

1.8 Non-Residential Wet Slips. The wet slips within the Wet Slip Regime that have not been legally restricted as Residential Wet Slips in Phase I. No more than 51 wet slips shall be designated as Non-Residential Wet Slips by the Developer in Phase I.

1.9 Property. Ripley Light Marina Property which is collectively the Residential Property, the Wet Slip Property and the Dry Stack Property.

1.10 Residential POA. The property owners association to be created for the Residential Property. Until the Residential POA is organized and operational, the term "Residential POA" shall mean the Developer.

1.11 Residential Property. That portion of the real property known as Lot 4A Combined as more fully described on the attached **Schedule 1.11**, which shall be all of Lot 4A Combined less and excepting Dry Stack Lot 4A and less and excepting Wet Slip Lot 4A.

1.12 Residential Wet Slips The wet slips within the Wet Slip Regime that have been permanently restricted to ownership by owners of residential units or parcels within the Residential Property in accordance with the requirements of the City of Charleston for the elimination of separate parking spaces for such wet slips. Not less than thirty (30) wet slips will be legally and permanently restricted by the Developer as Residential Wet Slips in accordance with City of Charleston parking requirements.

1.13 Ripley Light Marina Property. Collectively, the Residential Property, the Wet Slip Property and the Dry Stack Property.

1.14 Service Dock. Collectively, the fixed piers, bulkhead, boardwalks, gangways, floating docks and fixed docks attached to Dry Stack Lot 7 and more fully described on the attached **Schedule 1.14**.

1.15 Tagged Marina Parking Area. The seventy-two (72) permanent parking spaces to be provided by the Developer in accordance with ARTICLE 3 of this Agreement for the exclusive use of the owners of the Non-Residential Wet Slips and the employees and dry stack tenants of the Dry Stack Property.

{00590545.7}

1.16 Wet Slips. The Residential Wet Slips and the Non-Residential Wet Slips.

1.17 Wet Slip Lot 4A. That portion of the real property known as Lot 4A Combined as more fully described on the attached **Schedule 1.17**, together with all improvements located thereon, including all piers, bulkhead, boardwalks, gangways, floating docks, fixed docks and related improvements.

1.18 Wet Slip Lot 7. That portion of the real property known as Lot 7 as more fully described on the attached **Schedule 1.18**, together with all improvements located thereon, including all piers, bulkhead, boardwalks, gangways, floating docks, fixed docks and related improvements.

1.19 Wet Slip POA. The property owners association to be created for the Wet Slip Regime. Until the Wet Slip POA is organized and operational, the term "Wet Slip POA" shall mean the Developer.

1.20 Wet Slip Property. Collectively the real property and improvements located on Wet Slip Lot 4A and Wet Slip Lot 7.

1.21 Wet Slip Regime. The horizontal property regime to which the Wet Slip Property shall be submitted.

ARTICLE 2.
MASTER POA

2.1 Property Subject to Agreement The Developer hereby subjects the Ripley Light Marina Property to this Agreement. The restrictions, easements, obligations and covenants shall run with the land and shall be binding on the owners of the Property, their successors, heirs and assigns.

2.2 Master POA The Wet Slip POA and the owner of the Dry Stack Property shall be members of the Master POA. The bylaws for the Master POA are attached as **Exhibit A**. The Wet Slip POA shall appoint two (2) of the three (3) Master POA directors, and the owner of the Dry Stack Property shall appoint one (1) of the three (3) directors. In the event that Dry Stack Lot 4A or Dry Stack Lot 7 is at any time owned by any person or entity other than the owner of Dry Stack Lot 6A, the owner of Dry Stack Lot 6A shall have the right to appoint the one director of the Master POA allotted to the Dry Stack Property and will also be responsible for paying the Dry Stack Assessment, unless such owners of the Dry Stack Property enter into a recorded agreement otherwise allocating such rights and obligations. Even though the Residential POA is not a member of the Master POA, the Master POA shall have the right to enforce the obligations owed by the Residential POA to the Property.

2.3 High Quality Project The Developer shall develop the Property as a high quality project. After the transfer of the common areas to the Master POA, the Master POA shall maintain the walkway around the marina basin in an attractive and good condition, commensurate with a high quality project. The owner of the Dry Stack Property shall maintain the Dry Stack Property in an

attractive and good condition, commensurate with a high quality project, including without limitation the bulkheads, the Service Dock and all improvements relating to the Dry Stack Property. The Wet Slip POA shall maintain the Wet Slip Property in an attractive and good condition, commensurate with a high quality project, including without limitation the bulkheads, wet slips and all improvements related to the Wet Slip Property. The Residential POA shall maintain the Residential Property in an attractive and good condition, commensurate with a high quality project, including without limitation all improvements related to the Residential Property. In the event that any owner fails to maintain its property in accordance with the provisions of this Agreement, the Master POA shall give not less than thirty (30) days notice of default. If the owner fails to cure the default within the designated period of time, the Master POA shall have the right to effect the repairs and maintenance and to assess such owner for the costs.

2.4 Marina Interests To the extent that the Master POA holds any licenses, permits or approvals relating to the marina facilities, including any docks, piers, gangway, floating docks and similar improvements, the Master POA shall hold these interests for the benefit of the Wet Slip POA and the owner of the Dry Stack Property.

2.5 General Obligations of Master POA. The Master POA shall be responsible for the dredging of the channel and areas adjacent to the Wet Slips and the Service Dock as provided in **Section 2.6**. The Master POA shall be responsible for managing the Tagged Marina Parking Area as provided in **ARTICLE 3**. The Master POA shall be responsible for obtaining adequate liability insurance for the common areas over which the Master POA has control, either by means of ownership or by permanent easements. The owner of the Dry Stack Property shall maintain adequate liability insurance on all of the Dry Stack Property, including the Service Dock and shall be responsible for its own casualty insurance. The Residential POA shall maintain adequate liability insurance on the Residential Property and shall be responsible for its own casualty insurance. The Wet Slip POA shall maintain adequate liability on all of the Wet Slip Property and shall be responsible for its own casualty insurance.

2.6 Dredging The Master POA shall undertake to keep the channel of the marina dredged and to maintain the areas around the Wet Slips and the Service Dock to a depth of seven (7') feet at mean low tide in the channel and six (6') feet at mean low tide around the floating dock areas and the Service Dock.

2.7 Access Easements. The Developer hereby grants to the Master POA permanent, transmissible, assignable, appurtenant, commercial easements for access across the walkway around the marina basin for the non-exclusive use and benefit of the owners of the Wet Slips, the Dry Stack Property and the Residential Property. The walkway around the marina basin shall cross the Dry Stack Lot 4A in a location reasonably acceptable to the owner of the Dry Stack Property. The Developer hereby grants to the Wet Slip POA an access easement across the gangway located with the Service Dock property that connects the dock area which is partially within the Dry Stack Property and partially within the Wet Slip Property.

2.8 Service Dock The Service Dock shall be used to provide fee based, ancillary services to the Wet Slip Property and others, including fuel service and bilge pump out services. The Service Dock shall not be converted to individual wet slips.

{00590545.7}

2.9 Garbage Collection Each of the Residential POA, the Wet Slip POA and the owner of the Dry Stack Property shall be responsible for their own refuse and garbage collection and disposal. Each will contract to have its garbage collected in sufficiently frequent intervals so that there is no unpleasant odors and the Property has a neat and attractive appearance and environment.

2.10 Public Walkway on Residential Property The Developer intends to construct a public walkway around the perimeter of the marina basin on the Residential Property. The Residential POA shall pay 100% of the cost of maintaining this walkway.

2.11 Management Company The Master POA shall employ one or more persons or firms to perform the Master POA duties under this Agreement.

ARTICLE 3.
TAGGED MARINA PARKING

3.1 Developer To Create Parking. The Developer agrees to create, improve and otherwise provide, at the Developer's expense, for the benefit of the owners of the Non-Residential Wet Slips and the Dry Stack Property permanent parking spaces that are equal to the greater of (a) seventy two (72) parking spaces and (b) the cumulative City of Charleston zoning requirements for the Non-Residential Wet Slips and the Dry Stack Property ("Tagged Marina Parking Area"). The Tagged Marina Parking Area shall be located first on the Wet Slip Lot 7, Dry Stack Lot 7 and Dry Stack Lot 6A and any remaining deficiency shall be located on the Residential Property within a reasonable distance from the docks. The Tagged Marina Parking Areas shall provide permanent parking that is exclusive to the Non-Residential Wet Slip owners and the Dry Stack Property owner. Developer shall be solely responsible for obtaining City of Charleston approval for the parking plan for the Property and specifically for the Tagged Marina Parking Areas within three months of the date of this Agreement. Upon approval by the City of Charleston and approval of the subdivision plats for the Residential Property, the Developer and all parties subject to this Agreement shall execute an amendment to this Agreement which shall more specifically locate the Tagged Marina Parking Areas in accordance with the approved parking plan. The Developer shall improve, stripe and place appropriate signs on all Tagged Marina Parking Areas.

3.2 Permanent Parking Easements. The Developer hereby grants to the Master POA permanent, transmissible, assignable, appurtenant, commercial easements for parking across the Tagged Marina Parking Areas for the exclusive use and benefit of the owners of the Non-Residential Wet Slips and the owner of the Dry Stack Property. During any construction on the Residential Property that adversely impacts the Tagged Marina Parking Areas, the Developer shall provide temporary substitute parking on a one to one parking space basis; the Developer shall properly identify such temporary parking with suitable signage.

3.3 Limitation on Issuance of Parking Tags The Master POA shall issue numbered, hanging parking tags for the Tagged Marina Parking Areas, shall keep a record of all tags

(including any replacement tags) that have been issued, shall adopt policies and procedures relating to the Tagged Marina Parking Areas and shall otherwise police and enforce the provisions of this Agreement relating to such parking. The Master POA shall hire a manager to police and enforce parking restrictions in the Tagged Marina Parking Areas. The Master POA shall issue no more than one parking tag to each Non-Residential Wet Slip. If there are more than one owner of a Non-Residential Wet Slip, such owners shall determine among themselves how to share the use of the one parking tag. The Master POA shall issue no more than one parking tag to each dry stack space and no more than four parking tags for the Dry Stack Property employees. If there are more than one tenant of a dry stack space, such tenants shall determine among themselves how to share the use of the one parking tag. All Tagged Marina Parking Areas shall be available on a first come basis to the tag holders; provided, however, the Master POA shall be entitled to designate the Tagged Marina Parking Areas within Dry Stack Lot 6 as exclusive to dry stack tag holders. The owner of the Dry Stack Property and the directors of the Wet Slip POA shall have the right to inspect the records of the Master POA relating to the Tagged Marina Parking Areas and the issued parking tags during week day business hours.

3.4 Maintenance, Insurance and Taxes. The owner of the land subject to a Tagged Parking Areas easement shall maintain the parking spaces, pay the ad valorem taxes and carry liability insurance which names the other owners as additional insureds.

ARTICLE 4.
SUBDIVISION OBLIGATIONS

4.1 Dry Stack Lot 7. As soon as practical after the date of this Agreement, the Developer agrees to cause Lot 7 to be subdivided into Dry Stack Lot 7 and Wet Slip Lot 7. The Developer will pay all expenses incurred in connection with the subdivision of Lot 7. The Developer agrees that no part of Lot 7 will be submitted to the Wet Slip Regime until the fee simple title to Dry Stack Lot 7 has been conveyed to the then current owner of Dry Stack Lot 6. As soon as the subdivision plat is recorded, the Developer agrees to convey fee simple title to Dry Stack Lot 7 to the then current owner of Dry Stack Lot 6, free and clear of all encumbrances except for those existing at the time the Developer acquired Lot 7 or those authorized by this Agreement. The Developer agrees not to encumber the fee simple title to Dry Stack Lot 7 prior to the transfer of Dry Stack Lot 7 except as provided in this Agreement.

4.2 Dry Stack Lot 4. As soon as practical after the date of this Agreement, the Developer agrees to cause Dry Stack Lot 4A to be subdivided as a separate parcel from Lot 4A Combined. The Developer will pay all expenses incurred in connection with this subdivision of Dry Stack Lot 4A. As soon as the subdivision plat is recorded, the Developer agrees to convey fee simple title to Dry Stack Lot 4A to the then current owner of Dry Stack Lot 6, free and clear of all encumbrances except for those existing at the time the Developer acquired Lot 4A Combined or those authorized by this Agreement. The Developer agrees not to encumber the fee simple title to Dry Stack Lot 4A prior to the transfer of Dry Stack Lot 4A , except as provided in this Agreement. Dry Stack Lot 4 shall not be subject to the restrictive covenants encumbering the Residential Property, shall not be subject to any assessments, rights of first refusals or other provisions of such restrictive covenants. The exterior design of the

improvements to be constructed on Dry Stack Lot 4A shall be subject to the prior approval of the Developer, which approval shall not be unreasonably withheld or delayed.

ARTICLE 5.
EXCLUSIVE RIGHTS

The owner of the Dry Stack Property shall have the exclusive right to sell gasoline, oil, diesel, marine supplies, ice, beer, soft drinks, snacks and other convenience foods on the Ripley Light Marina Property and none of these products shall be sold within the Residential Property or the Wet Slip Property. Notwithstanding any provision to the contrary, the Residential Property may include food and drink services at any pool facilities located on the Residential Property.

ARTICLE 6.
MASTER POA ASSESSMENTS AND ENFORCEMENT POWERS

6.1 Assessments. The Residential POA shall be responsible only for those costs and expenses that are specified in this Agreement to be paid by the Residential POA. In the event that the Residential POA shall breach its obligations under this Agreement, any payments or expenses incurred by the Master POA with such a breach shall constitute an assessment against the Residential POA which is enforceable in accordance with this Article. The Dry Stack Property owner shall be assessed only for those costs and expenses of the Master POA that are specified in this Agreement to be paid by the owner of the Dry Stack Property and the annual Dry Stack Assessment. The remaining expenses and costs of the Master POA shall be paid by the Wet Slip POA.

6.2 Sub-POA Obligations The Developer agrees that the organizational documents of both the Residential POA and the Wet Slip POA shall include the right of each POA to assess its property owners and to lien the property of any owner that fails to pay the POA's assessments. The Developer agrees that the organizational documents of both Residential POA and the Wet Slip POA shall incorporate the obligations of this Agreement and shall entitle the Master POA to lien the property of any owner for such owner's pro rata share of any unpaid assessment or obligation owed by the Residential POA or the Wet Slip POA to the Master POA. The Developer agrees that the organizational documents for both the Residential POA and the Wet Slip POA shall entitle the Master POA to review the records of the POA to obtain information on the POA's owners and status of assessment payments.

6.3 Annual Budget and Annual Assessment. Each year, the Board of Directors of the Master POA shall develop a budget to cover the costs of the Master POA's obligations under this Agreement and shall assess the Wet Slip POA for the amount that exceeds the Dry Stack Assessment. The Dry Stack Assessment can only be used for dredging expenses. Each member of the Master POA shall pay its assessment within thirty (30) days of notice of the amount of its assessment from the Board.

6.4 Special Assessments. In the event that expenses exceed the annual budget, the Board of Directors of the Master POA shall have the right to make special assessments and shall

give notice to the Wet Slip POA for the amount of the special assessment. The Wet Slip POA shall pay the special assessment within thirty (30) days of notice from the Board.

6.5 Effect of Nonpayment of Assessments; Remedies of Master POA. All assessments and other sums payable hereunder by the Residential POA, the Wet Slip POA and the owner of the Dry Stack Property, together with interest on any unpaid balance, costs and attorneys' fees incurred by the Master POA in collecting the same, shall be the obligation of such owner or POA. If any proper assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the lesser of: (a) two percent (2%) per annum plus the prime rate of interest as established by Bank of America, as the same may fluctuate from time to time or (b) the maximum interest rate allowed by applicable law. In addition to other rights and remedies of the Master POA as provided herein or by law, the Master POA shall also have the following rights and remedies:

(1) if the Residential POA or the Wet Slip POA has failed to pay its proper assessment or obligation to the Master POA because property owners who are members of the Residential POA or the Wet Slip POA have failed to pay the assessments against them, the Master POA shall have the right to file a lien against such property owners for its unpaid assessments and the Master POA shall have the same rights of collection and enforcement against such property owner as the Master POA has against the owner of the Dry Stack Property.. The Wet Slip POA and the Residential POA agree to make its records available to the Master POA to determine which property owners have failed to pay their assessments to such POA.

(2) file a notice of lien in the Charleston County R.M.C. Office, setting forth the amount of the unpaid lien, the property description and the name of the owner of the Dry Stack Property or the property owner who owns a part of the Wet Slip Property or the property owner who owns a part of the Residential Property, as applicable.

(3) foreclose the lien against the applicable property, whereby all accrued interest, costs, and reasonable attorneys' fees, shall be added to the amount of such assessment.

(4) in the event that the owner of the Dry Stack Property or the Wet Slip POA fails to pay its assessments within sixty (60) days of notice of default, the Master POA may revoke and invalidate the parking tags assigned to such member of the Master POA until the past due assessments and related costs have been paid in full.

The lien provided for in this Article shall be in favor of the Master POA and shall be for the benefit of the Master POA and all property owners of the Ripley Light Marina Property. The

Master POA may hold, lease, mortgage and convey any real or personal property that has been foreclosed.

6.6 Subordination of the Lien to the Mortgages. The lien for assessments provided for herein shall be subordinate to the lien of any mortgage now or hereafter existing on any part of the Ripley Light Marina Property. The sale or transfer of any such real property shall not affect the assessment lien; provided, however, that the sale or transfer of any such real property pursuant to a foreclosure or any proceedings in lieu thereof shall extinguish any such assessment lien existing prior to such foreclosure sale or any such proceedings in lieu thereof. Notwithstanding the extinguishment of any such assessment lien upon any foreclosure, the Master POA shall retain all rights to enforce the payment of past due assessments pursuant to all other rights and remedies provided hereby against the property owner who owned such real property prior to such foreclosure or proceeding in lieu thereof.

6.7 Escrow for Dry Stack Assessment The Master POA shall use the Dry Stack Assessment solely for dredging expenses. The Master POA shall maintain the funds from the Dry Stack Assessment in a segregated, interest bearing escrow account until needed for dredging payments.

ARTICLE 7.
MISCELLANEOUS

7.1 Amendments This Agreement shall not be modified, amended or supplemented without the written approval of the Wet Slip POA, Residential POA and owner of the Dry Stack Property.

7.2 Run with Land The terms, provisions, easements, restrictions and covenants contained in this Agreement shall run with the Ripley Light Marina Property and shall be binding on the Developer, its successors in title, heirs and assigns and the subsequent owners of the Dry Stack Property, the Wet Slip Property and the Residential Property.

7.3 Term The permanent easements shall be perpetual. Any provision which is subject to the South Carolina Uniform Statutory Rule Against Perpetuity shall have a term of ninety (90) years. All other provisions shall have a perpetual term.

7.4 Severability. The determination by any court of competent jurisdiction that any provisions of this Declaration are unlawful, void or unenforceable, either in whole or in part, shall not affect the validity of any other provisions of this Agreement.

7.5 Rules and Regulations. The Board of Directors of the Master POA may adopt reasonable rules and regulations regarding the administration of this Agreement.

7.6 Developer Reservation The Developer reserves the right to add additional wet slips in future development phases.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Ripley Cove, LLC, a South Carolina limited liability Company, has caused these presents to be executed the day and year first above written.

IN THE PRESENCE OF:

RIPLEY COVE, LLC

By: _____
William M. Belote, ~~Member~~ MANAGER

~~By: Pavilion Development Corporation, Its Member~~

By: _____
Lowell Frasier
Title: MANAGER

Ripley Light Marina,POA, Inc. a South Carolina non-profit corporation

By: _____
Its: ~~Vice~~ President

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that Ripley Cove, LLC, a South Carolina limited liability company, by Lowell Frazier its Mgr, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

_____
Notary Public for
My Commission Expires: 6/6/10

(00590545.7)

Schedule 1.2
Dry Stack Lot 4A

ALL that certain piece, parcel or tract of land situate, lying and being in Charleston County, South Carolina, shown as "Dry Stack Lot 4A, 2,982 sq. ft., 0.06 acres" on a plat entitled "MAP SHOWING LOT 6A WITH LEASE LOTS 'DRY STACK LOT 4A', 'DRY STACK SERVICE DOCK' AND 'DRY STACK LOT 7' ASHLEY POINTE LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" dated April 23, 2004 prepared by W. Mason Lindsey, Jr., R.L.S. No. 11909 of Lindsey Land Surveying Co., containing 0.06 acres, more or less, being bounding on the east by the Dry Stack Service Dock and Dry Stack Lot 7, on the South by the right-of-way of Ashley Pointe Drive., on the West by , and on the North by the remainder of Lot 4A Combined. SAID tract being more particularly described as follows:

BEGINNING at a point in the concrete sidewalk on the northern side of Ashley Point Drive to the west of the grate inlet and running S 58°02'43"W a distance of 233.66 feet to a Scribe Mark in the Concrete, being the POINT OF BEGINNING; Thence N 58°03'10" East along the sidewalk running along the right of way of Ashley Point Drive a distance of 9.99 feet to a point; thence running N65°30'11"E a distance of 21.07 feet to a point; thence turning and running N 66°11'37"E a distance of 38.82 feet to a point; thence turning and running N 89°02'01"W a distance of 22.01 feet to a point; thence turning and running N 64°18'25"W a distance of 15.67 feet to a point; thence turning and running N 42°31'49"E a distance of 52.45 feet to a point; thence turning and running S 64°39'21"E a distance of 4.29 feet to a point; thence turning and running S 59°16'58"W a distance of 22.58 feet to a point; thence turning and running S 65°35'11"E a distance of 37.72 feet to a point; thence turning and running S16°21'13"E a distance of 1.75 feet to a point; thence turning and running S 33°43'55"E a distance of 10.28 feet to a point; being the Point of Beginning.

{00590545.7}

Schedule 1.3
Dry Stack Lot 6A

Parcel 3

LEGAL DESCRIPTION FOR LOT 6A, ASHLEY POINTE

All that piece, parcel or tract of land lying and being to the east of the terminus point of Merritt Road on the Ashley River in the City of Charleston, Charleston County, State of South Carolina, measuring and containing Zero and Eight Hundred Ninety-One One-Thousandths (0.891) acres and identified as being Lot 6A, Ashley Point, U.S. Shelter Corporation and generally bounded on the north and west by the Ashley Point Drive right of way, on the east by Lot 2B (Ashley Inns, A Limited Partnership), and on the south by the proposed expressway connector right of way and Lots E1$ and E2$ (U.S. Shelter Corporation), and more particularly located as follows: (Reference is hereby made to a plat entitled Revised Subdivision Plat of Tract A Known as Ashley Pointe, Lands of U.S. Shelter Corporation dated September 26, 1986, by G. Robert George & Associates, Inc.): Beginning at a point at the intersection of the east right of way line of Albemarle Road and the south right of way line of Merritt Road, North Forty-Eight (48) Degrees, Thirty-Eight (38) Minutes Fifty-Seven (57) Seconds East, a distance of Two Hundred Seventy-Eight and Sixty-Seven One-Hundredths (278.67) feet to an iron pin; thence across the right of way of Merritt Road North Forty-Five (45) Degrees Twenty-Five (25) Minutes Thirty-Eight (38) Seconds West a distance of Forty-Eight and Seventy One-Hundredths (48.70) feet to an iron pin found in the north right of way line of Merritt Road and common corner to the lands of Specialties, Inc.; thence crossing the right of way of the relocated Merritt Road with the north right of way line of the abandoned Merritt Road North Forty-Eight (48) Degrees Seventeen (17) Minutes Fifty-Seven (57) Seconds East a distance of One Hundred Fifty-Seven and Fifty One-Hundredths (157.50) feet to an iron pin and common corner to Lots E2$ and MR1$ (U.S. Shelter Corporation) in the east right of way line of the relocated Merritt Road; thence with said right of way line along a curve to the left (Radius = Two Hundred Eight-Five and Forty-Four One-Hundredths (285.44) feet; Delta Angle = Zero Four (04) Degrees Thirty-One (31) Minutes Forty-Three (43) Seconds) a curve length of Twenty-Two and Fifty-Six One-Hundredths (22.56) feet to an iron pin; thence North Zero Nine (09) Degrees Forty-Nine (49) Minutes Thirty-Five (35) Seconds East a distance of One Hundred Twenty-Two and Thirty-Five One-Hundredths (122.35) feet to an iron pin in the south right of way terminus line of Ashley Pointe Drive and the north right of way line of the proposed expressway connector, thence with the right of way line of the proposed expressway connector along a curve to the left (Radius – Six Hundred Sixty-Six and Twenty One-Hundredths (666.21) feet; Delta Angle = Zero Two (02) Degrees Fifty (50) Minutes Forty-Three (43) Seconds) a curve length of Thirty-Three and Zero Eight One-Hundredths (33.08) feet to an iron pin and point of beginning of Lot 6A, more particularly described as follows: Beginning at an iron pin, said pin being the true point of beginning of Lot 6A in the north right of way line of the proposed expressway connector and the south right of way terminus of Ashley Pointe Drive; thence with the north right of way line of the proposed expressway connector along a curve to the left (Radius = Six Hundred Sixty-Six and Twenty One-Hundredths (666.20) feet; Delta Angle = Twenty-Two (22) Degrees Fourteen (14) Minutes Thirteen (13) Seconds; and passing at Eight-Eight and Zero Six One-Hundredths (88.06) feet the northeast property corner of Lot E2$ (U.S. Shelter Corporation), in all, a total curve length of

{00590545.7}

Two Hundred Fifty-Eight and Fifty-Six One-Hundredths (258.56) feet to an iron pin; thence North Seventy-Two (72) Degrees Fifty-Three (53) Minutes Thirty-Two (32) Seconds East a distance of One Hundred Three and Fifty-Four One-Hundredths (103.54) feet to an iron pin and common corner to Lot 2B (Ashley Inns, A Limited Partnership) and Lot 2C (U.S. Shelter Corporation); thence with the west line of Lot 2B North Twenty-Five (25) Degrees Fifty-Three (53) Minutes Zero Four (04) Seconds West a distance of One Hundred Forty-Nine and Forty-Four One-Hundredths (149.44) feet to an iron pin in the south right of way line of Ashley Pointe Drive; thence with said right of way line South Sixty-Five (65) Degrees Thirteen (13) Minutes Twenty-Five (25) Seconds West a distance of Two Hundred Forty-Three and Sixty-Six One-Hundredths (243.66) feet to an iron pin; thence South Fifty-Seven (57) Degrees Nineteen (19) Minutes Thirty-Three (33) Seconds West a distance of Seventy-Nine and Eighteen One-Hundredths (79.18) feet to an iron pin; thence along a curve to the left (Radius = Thirty-Eight and Seventy-Eight One-Hundredths (38.78) feet; Delta Angle = Forty-Five (45) Degrees Fifty-Two (52) Minutes Zero One (01) Seconds) a curve length of Thirty-One and Zero Four One-Hundredths (31.04) feet to an iron pin; thence South Thirty-Five (35) Degrees Thirty-Six (36) Minutes Nineteen (19) Seconds East a distance of Twenty-Six and Ninety-Six One-Hundredths (26.96) feet to an iron pin and point of beginning of Lot 6A.

Lot 6A herein conveyed is also shown on a plat entitled "Revised Subdivision Plat of Tract 'A' Known as Ashley Point Lands of U.S. Shelter Corp." dated September 16, 1988, and recorded in the RMC Office for Charleston County in Plat Book BM at pages 13, 14 and 15; said lot having such size, shape, metes, bounds and dimensions as will be shown on said plat, reference being made thereto for a more complete description.

Being a portion of the property conveyed to Span U.S.A., Inc. by deed of Shelter Realty Holdings Limited Partnership dated December 16, 1987, and recorded December 18, 1987, in Book K171 at page 279 in the RMC Office for Charleston County, SAVING AND EXCEPTING that property conveyed to the South Carolina Department of Highways and Public Transportation dated August 16, 1993, and recorded in the RMC Office for Charleston County in Book A238 at page 684.

Being a portion of the property conveyed to Ripley Cove, LLC, a South Carolina limited liability company by deed of Span-U.S.A., Inc. dated April 29, 2004 and recorded in the RMC Office for Charleston County simultaneously herewith.

{00590545.7}

Schedule 1.4
Dry Stack Lot 7

ALL that certain piece, parcel or tract of land situate, lying and being in Charleston County, South Carolina, shown as "Dry Stack Lot 7, 6,859 sq. ft., 0.15 acres" on a plat entitled "MAP SHOWING LOT 6A WITH LEASE LOTS 'DRY STACK LOT 4A', 'DRY STACK SERVICE DOCK' AND 'DRY STACK LOT 7' ASHLEY POINTE LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" dated April 23, 2004 prepared by W. Mason Lindsey, Jr., R.L.S. No. 11909 of Lindsey Land Surveying Co., containing 0.15 acres, more or less, being bounding on the North by Dry Stack Service Dock, on the west by Dry Stack Lot 4A, on the South by the Right of way of Ashley Pointe Drive and on the east by West Slip Lot 7. SAID tract being more particularly described as follows:

BEGINNING at a point in the concrete sidewalk on the northern side of Ashley Point Drive to the west of the grate inlet at a Scribe Mark in the Concrete, being the Point of Beginning, and running along a curve having a radius of 3048.77 feet, a chord of 50.75 feet, and a bearing of N 57°39'27"E to a point, thence turning and running N 32°49'10"W a distance of 7.77 feet to a point; thence turning and running N78°03'25"W a distance of 30.71 feet to a point; thence turning and running S54°12'52"W a distance of 24.34 feet to a point, thence running S54°12'52"W a distance of 22.08 feet to a point; thence running S53°45'00"W a distance of 66.54 feet to a point; thence running S64°22'30"W a distance of 88.28 feet to a point; thence running S39°32'05"W a distance of 65.45 feet to a point; thence turning and running N 16°21'13"W a distance of 1.75 feet to a point; thence turning and running S 33°43'55"E a distance of 10.28 feet to a point; thence turning and running S58°02'43"W a distance of 233.66 feet to a point; being the Point of Beginning.

(00590545.7)

Schedule 1.11
Residential Property

Parcel 4A

All that certain piece, parcel or tract of land situate, lying and being in the City of Charleston, Charleston County, South Carolina, shown as Combined Parcel 4A, containing 5.035 acres on a plat of survey entitled, "Property Line Adjustment Plat Showing 5.035 Acres Owned by Pre-Stress Concrete Company About to be Purchased by Span U.S.A., Inc." dated May 20, 1988, prepared by G. Robert George & Associates, Inc., recorded in the RMC Office for Charleston County, South Carolina in Plat Book BS, at Pages 128; having the metes and bounds shown thereon.

SAVING AND EXCEPTING that parcel conveyed to the South Carolina Department of Highways and Public Transportation by deed dated August 6, 1993 and recorded in Book W-241, Page 505 in the RMC Office for Charleston County.

Being the same property conveyed to Fred Collins by Deed of Robert C. McNair dated May 27, 1984 and recorded May 31, 1994 in Book P-243, Page 879 in the RMC Office for Charleston County.

Being a portion of the property conveyed to Ripley Cove, LLC, a South Carolina limited liability company by deed of Fred Collins dated April __, 2004 and recorded in the RMC Office for Charleston County simultaneously herewith.

SAVING AND EXCEPTING:1. DRY STACK LOT 4A PROPERTY; and 2. THE WET SLIP LOT 4A PROPERTY

{00590545.7}

Schedule 1.14
Service Dock

ALL that certain piece, parcel or tract of land situate, lying and being in Charleston County, South Carolina, shown as "Dry Stack Service Dock, 18,577 sq. ft., 0.42 acres" on a plat entitled 'MAP SHOWING LOT 6A WITH LEASE LOTS 'DRY STACK LOT 4A', 'DRY STACK SERVICE DOCK' AND 'DRY STACK LOT 7' ASHLEY POINTE LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" dated April 23, 2004 prepared by W. Mason Lindsey, Jr., R.L.S. No. 11909 of Lindsey Land Surveying Co., containing 0.42 acres, more or less, being bounding on the west by Dry Stack Lot 4A and Lot 4A Combined, on the North by a canal, on the East by Wet Slip Lot 7, and on the South by Dry Stack Lot 7. SAID tract being more particularly described as follows:

BEGINNING at a point in the concrete sidewalk on the northern side of Ashley Point Drive to the west of the grate inlet and running along a curve having a radius of 3048.77 feet, a chord of 50.75 feet, and a bearing of N 57°39'27"E to a point, thence turning and running N 32°49'10"W a distance of 7.77 feet to a point; thence turning and running N78°03'25"W a distance of 30.71 feet to a point; thence turning and running S54°12'52"W a distance of 24.34 feet to a point, being the POINT OF BEGINNING; Thence running S54°12'52"W a distance of 22.08 feet to a point; thence running S53°45'00"W a distance of 66.54 feet to a point; thence running S64°22'30"W a distance of 88.28 feet to a point; thence running S39°32'05"W a distance of 65.45 feet to a point; thence turning and running N 16°21'13"W a distance of 1.75 feet to a point; thence turning and running N 65°35'11"W a distance of 37.72 feet to a point; thence turning and running N28°26'27"W a distance of 27.95 feet to a point; thence running N 27°43'22"E a distance of 6.08 feet to a point; thence running N 30°46'37"E a distance of 19.00 feet to a point; thence running N 25°33'30"E a distance of 26.80 feet to a point; thence turning and running N 56°48'40"E a distance of 171.17 feet to a point; thence running N 56°52'00"E a distance of 38.39 feet to a point; thence turning and running S 33°59'40"E a distance of 74.18 feet to a point; being the Point of Beginning.

{00590545.7}

Schedule 1.17
Wet Slip Lot 4A

All of the bulkheads, piers, gangways and docks appurtenant to the Residential Property, together with a permanent, transmissible, assignable, appurtenant, commercial easement for access, ingress and utilities having a width of ten feet along the water's edge of the Residential Property.

{00590545.7}

Schedule 1.18
Wet Slip Lot 7

Lot 7

All that certain piece, parcel or tract of land, with the buildings and improvements thereon, situate, lying and being in the City of Charleston, Charleston County, South Carolina, being known as Lot 7 as shown on a plat entitled, "REVISED SUBDIVISION PLAT OF TRACT 'A' KNOWN AS ASHLEY POINTE, LANDS OF U.S. SHELTER CORP." dated September 26, 1988 and recorded in the RMC Office for Charleston County in Plat Book BM, at Pages 13, 14 and 15; said lot having such size, shape, metes, bounds and dimensions as will be shown on said plat, reference being made thereto for a more complete description.

Being the same property conveyed to Span-U.S.A., Inc. by deed of Shelter Realty Holdings Limited Partnership dated December 16, 1987, and recorded December 18, 1987 in Book K-171, Page 279 in the RMC Office for Charleston County.

TMS No. 421-12-00-009

ALSO

All that piece, parcel or tract of land, situate, lying and being on Albemarle Point Road, in the City of Charleston, Charleston County, South Carolina, more particularly described as follows:

1. A plat captioned, "Plat of Property of Merritt Dredging Company" dated November 30, 1982 by Josiah M. Williams, III, RLS, which plat is recorded in the RMC Office for Charleston County in Plat Book AW, at Page 151.

2. A plat captioned, "Plat of Property Owned by Seaboard Coast Line Railroad, City of Charleston, Charleston County, South Carolina" by K.T. Dubis, P.E. and L.S., dated February 3, 1983, and recorded in the RMC Office for Charleston County on December 15, 1983 in Plat Book AY, at Page 174.

Being the same property conveyed to Span-U.S.A., Inc. by quitclaim deed of U.S. Shelter Corporation dated May 16, 1988, and recorded June 13, 1988 in Book L-175, Page 220 in the RMC Office for Charleston County.

Being a portion of the property conveyed to Ripley Cove, LLC, a South Carolina limited liability company by deed of Span-U.S.A., Inc. dated April ___, 2004 and recorded in the RMC Office for Charleston County in Book ____, Page ____.

SAVING AND EXCEPTING
DRY STACK LOT 7

SAVING AND EXCEPTING
SERVICE DOCK

{00590545.7}

Exhibit A
By-Laws for Master POA

BYLAWS
OF
RIPLEY LIGHT MARINA POA, INC.

ARTICLE 1
ASSOCIATION

1.1 Name. The name of the corporation is **Ripley Light Marina POA, Inc.** (the "Association"). The Association is a nonprofit, mutual benefit corporation organized under the laws of South Carolina.

1.2 Principal Office. The address of the initial principal office of the Association is set forth in the Association's Articles of Incorporation. The Association may have such other offices, either within or outside the State of South Carolina, as the Board of Directors may determine. The Board may by Majority vote change the principal office of the Association, provided that within thirty days of such change, the Association shall file a notice of change of principal office with the Secretary of State of South Carolina.

1.3 Registered Agent. The Board may by Majority vote change the registered agent of the Association. Such change shall be effective upon delivery to the Secretary of State of South Carolina the required notice of change.

1.4 Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. All capitalized terms used, which are not defined herein, shall have the same meaning as set forth in the **Real Estate Agreement** filed in the Public Records, in the County of Charleston, State of South Carolina, as it may be amended (the "REA"), unless the context indicates otherwise.

ARTICLE 2
MEMBERS

2.1 Membership. The Members of the Association shall be as set forth in the REA.

2.2 Meetings. The Directors shall call any meetings of the Members as may be required by law.

ARTICLE 3
BOARD OF DIRECTORS

3.1 Authority, Composition and Selection.

(a) Governing Body. The affairs of the Association shall be governed by a Board of Directors. Each Director shall have one equal vote.

(b) Number of Directors. The Board shall consist of three Directors.

(c) Appointment of Directors. Two of the three Directors shall be appointed by, and may be replaced at any time by, the Wet Slip POA. One of the three Directors shall be appointed by, and may be replaced at any time by, the owner of the Dry Stack Property.

3.2 Regular Meetings. Regular meetings of the Board may be held at such time and place as a majority of the Directors shall determine, but at least one such meeting shall be held during each fiscal year. Directors shall be given notice of regular meetings at least 5 days prior to such meeting.

3.3 Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President or any Director. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; (d) facsimile transmission (FAX); or (e) telegram, charges prepaid. All such notices shall be given at the Director's telephone number or sent to the Director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least seven business days before the time set for the meeting. Notices given by personal delivery, telephone, FAX, or telegraph shall be delivered at least 48 hours before the time set for the meeting.

3.4 Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, which is to be filed with the minutes in the corporate records. A Director's attendance at a meeting waives any required notice of the meeting unless the Director objects to the lack of notice upon arriving at the meeting or prior to the vote on the matter which was not appropriately noticed.

3.5 Telephonic Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

3.6 Quorum of Board of Directors. At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

(00592995.)

3.7 Compensation. Directors shall not receive any compensation from the Association for acting as such. However, any Director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other Directors. Nothing herein shall prohibit the Association from compensating a Director, or any entity with which a Director is affiliated, for services or supplies furnished to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association, provided that such Director's interest and the material facts of the transaction were made known to the Board prior to entering into such contract and such contract was approved by a majority of the disinterested Board members.

3.8 Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.9 Open Meetings. All meetings of the Board shall be open to all Members; provided that, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than Directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

3.10 Action Without a Formal Meeting. Any action that may be taken at a Board of Director's meeting, may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Directors and filed with the minutes in the corporate records. Such consent shall have the same force and effect as a unanimous vote of the Board.

3.11 Borrowing. The Association shall have the power to borrow money for any legal purpose subject to prior unanimous approval of the Board.

ARTICLE 4
OFFICERS

4.1 Officers. The officers of the Association shall be a President, Secretary and Treasurer. The President and Secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person.

4.2 Election and Term of Office. The Board shall elect the officers of the Association by Majority vote, to serve until their successors are elected.

4.3 Removal and Vacancies. The Board may remove any officer by Majority vote whenever in its judgment the best interests of the Association will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4 Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for receiving assessments.

4.5 Resignation. An officer may resign at any time by delivering written notice to the Association. A resignation is effective when the notice is effective or at any later time specified in the notice.

4.6 Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by such person or persons as may be designated by the Board.

4.7 Compensation. Compensation of officers shall be subject to the same limitations as compensation of Directors under Article 3.7.

ARTICLE 5
COMMITTEES

5.1 General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate, subject to the restrictions set forth in the Articles of Incorporation and any further limitations imposed by the REA.

ARTICLE 6
MISCELLANEOUS

6.1 Conflicts. If there are conflicts between the provisions of South Carolina law, the Articles of Incorporation, the REA, and these By-Laws, the provisions of South Carolina law, the REA, the Articles of Incorporation and these By-Laws (in that order) shall prevail.

6.2 Books and Records.

(a) Corporate Records.

(i) Principle Office. The following records shall be kept at the Association's principle office: the REA, By-Laws, and Articles of Incorporation, including any amendments; copies of all resolutions adopted by the Board; the minutes of any meetings of the Members and copies of all written communications to Members within the preceding three years; names and addresses of current Directors and officers; and the most recent version of all reports filed with the Secretary of State.

(ii) Permanent Records. The Association shall also maintain the following records at its principle office or at some other suitable place as determined by the

Board: minutes of all Board meetings; and a record of all actions taken by the Members, Board or committee of the Board, with or without a meeting.

(iii) Membership List. The Association shall maintain a list of its Members arranged alphabetically.

(b) Inspection by Members. A Member is entitled to inspect and copy, at a reasonable time and location to be specified by the Board, for a proper purpose reasonably related to his or her interest in the Association, any and all of the records specified in this section of the Bylaws. A Member must give the Association written notice of this desire at least five days prior to the requested inspection date. The Association may impose a reasonable charge to cover the costs of labor and material for providing such copies.

6.3 Notices.

(a) Address. Except as otherwise provided in the REA, the Articles of Incorporation, or these By-Laws, all notices, demands, bills, statements, or other communications under the REA or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(i) if to a Member, at the address which the Member has designated in writing and filed with the Secretary of the Association or, if no such address has been designated, at the address of the property of such Member; or

(ii) if to the Association or Board, at the principal office of the Association or to the registered agent of the Association.

(b) Effective Date. Written notice is effective at the earliest of the following;

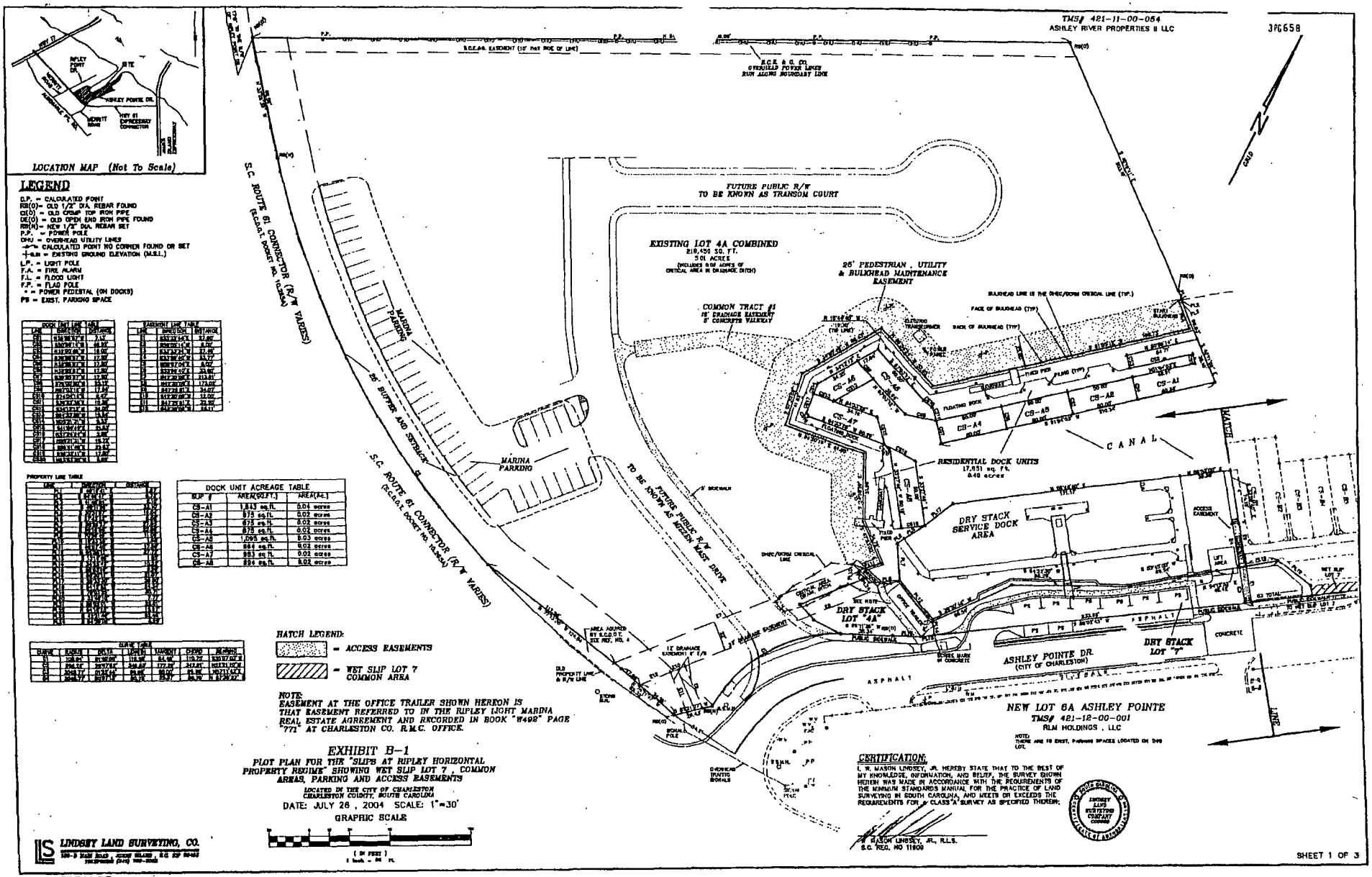
(i) when received;

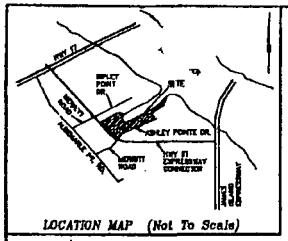
(ii) five days after its deposit in the United States mail, if correctly addressed, with first class postage affixed;

(iii) on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

6.5 Amendment. Amendments to these By-Laws shall become effective upon recordation in the Public Records, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted.

{00592995.}


TMS# 421-11-00-054
ASHLEY RIVER PROPERTIES II LLC
3PG658
LOCATION MAP (Not To Scale)
LEGEND
S.C. ROUTE 61 CONNECTOR (R/W VARIES)
FUTURE PUBLIC R/W TO BE KNOWN AS TRANSOM COURT
EXISTING LOT 4A COMBINED
218,450 SQ. FT.
5.01 ACRES
25' PEDESTRIAN, UTILITY & BULKHEAD MAINTENANCE EASEMENT
COMMON TRACT #1
25' DRAINAGE EASEMENT
5' CONCRETE WALKWAY
MARINA PARKING
25' BUFFER AND SETBACK
TO BE KNOWN AS MIZZEN MAST DRIVE
RESIDENTIAL DOCK UNITS
17,651 sq. Ft.
0.40 acres
CANAL
DRY STACK SERVICE DOCK AREA
DRY STACK LOT "4A"
DRY STACK LOT "7"
ASHLEY POINTE DR.
(CITY OF CHARLESTON)
NEW LOT 6A ASHLEY POINTE
TMS# 421-12-00-001
RLM HOLDINGS, LLC
DOCK UNIT ACREAGE TABLE
HATCH LEGEND:
= ACCESS EASEMENTS
= WET SLIP LOT 7 COMMON AREA
NOTE:
EASEMENT AT THE OFFICE TRAILER SHOWN HEREON IS THAT EASEMENT REFERRED TO IN THE RIPLEY LIGHT MARINA REAL ESTATE AGREEMENT AND RECORDED IN BOOK "W498" PAGE "771" AT CHARLESTON CO. R.M.C. OFFICE.
EXHIBIT B-1
PLOT PLAN FOR THE "SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME" SHOWING WET SLIP LOT 7, COMMON AREAS, PARKING AND ACCESS EASEMENTS
LOCATED IN THE CITY OF CHARLESTON
CHARLESTON COUNTY, SOUTH CAROLINA
DATE: JULY 28, 2004 SCALE: 1"=30'
GRAPHIC SCALE
CERTIFICATION:
I, W. MASON LINDSEY, JR. HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN;
W. MASON LINDSEY, JR., R.L.S.
S.C. REG. NO 11909
LINDSEY LAND SURVEYING, CO.
SHEET 1 OF 3



LOCATION MAP (Not To Scale)

LEGEND

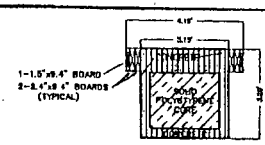
C.P. = CALCULATED POINT
RB(O)= OLD 1/2" DIA. REBAR FOUND
CT(O) = OLD CROWN TOP IRON PIPE
OE(O) = OLD OPEN END IRON PIPE FOUND
RB(N)= NEW 1/2" DIA. REBAR SET
P.P. = POWER POLE
OHU = OVERHEAD UTILITY LINES
-+- = CALCULATED POINT NO CORNER FOUND OR SET
+8.0ft = EXISTING GROUND ELEVATION (M.S.L.)
L.P. = LIGHT POLE
F.A. = FIRE ALARM
F.L. = FLOOD LIGHT
F.P. = FLAG POLE
= POWER PEDESTAL (ON DOCKS)
PS = ENST. PARKING SPACE

FUTURE DEVELOPMENT LINE TABLE		
LINE	DIRECTION	DISTANCE
L01	S79°31'31"E	5.43'
L02	S54°31'11"E	97.39'
L03	N33°34'41"E	2.47'
L04	N19°19'08"E	13.20'
L05	N18°18'43"E	10.00'
L06	N20°24'14"E	8.82'
L07	S19°29'33"E	8.88'
L08	S83°25'27"E	5.86'
L09	S22°31'27"E	10.17'
L010	N19°31'53"E	8.17'
L011	S20°15'27"E	29.82'
L012	S48°31'27"E	13.06'
L013	S41°28'33"W	29.00'
L014	S47°28'28"W	5.17'
L015	S19°31'31"E	19.00'
L016	N70°28'31"E	8.00'
L017	S17°28'28"W	10.00'
L018	S68°31'31"E	8.24'
L019	N58°28'31"E	4.83'
L020	S19°28'31"E	8.00'

CURVE TABLE					
CURVE	RADIUS	DELTA	LENGTH	CD	BEARING
C1	50.00'	63°37'30"	55.53'	52.71'	S77°39'31"E
C2	361.17'	16°01'19"	99.09'	98.78'	S83°29'43"E
C3	483.83'	13°37'21"	117.09'	116.79'	N83°31'08"W
C4	50.00'	63°37'30"	55.53'	52.71'	N13°31'31"E
C5	50.00'	90°00'00"	78.54'	70.71'	N 34°31'28" W

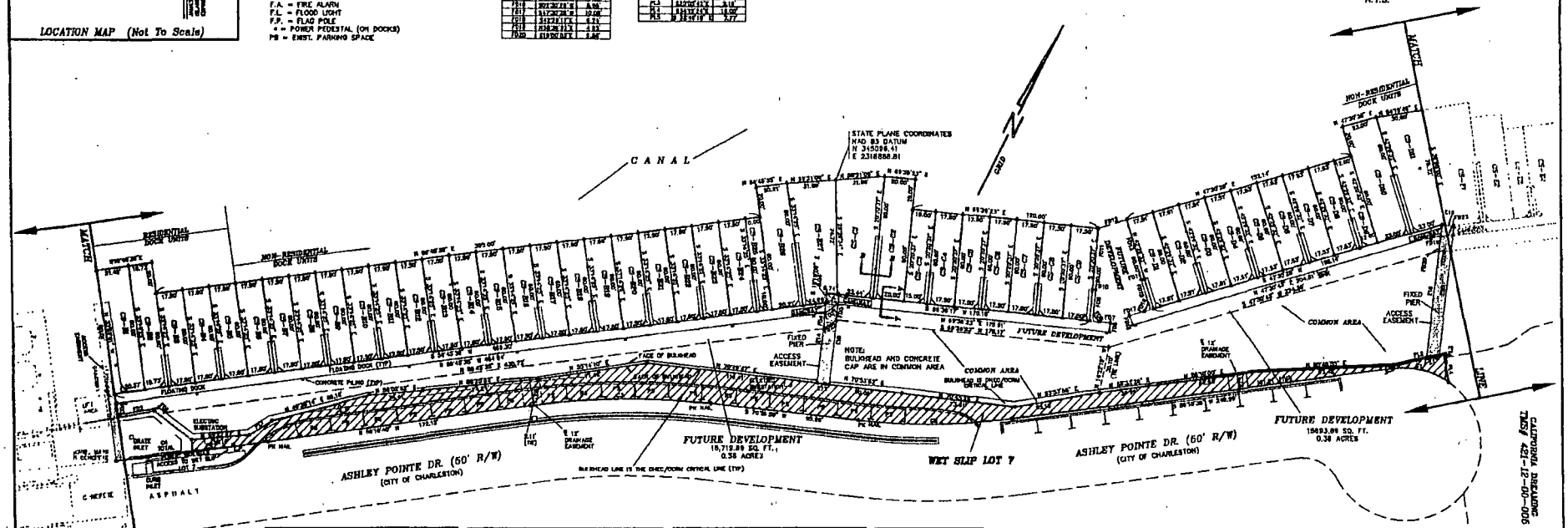
LINE	DIRECTION	DISTANCE
L01	S 19°31'31" E	19.00'
L02	S 70°28'29" W	10.00'
L03	S 19°31'31" E	19.00'
L04	S 70°28'29" W	8.00'

PROPERTY LINE TABLE		
LINE	DIRECTION	DISTANCE
PL1	N33°06'06"E	12.54'
PL2	S55°53'54"E	51.86'
PL3	S33°06'06"W	3.10'
PL4	N34°15'10"W	18.00'
PL5	S 19°19'19" E	5.77'



TYPICAL SECTION B-B
N.T.S.

TYPICAL SECTION A-A
N.T.S.



DOCK UNITS ACREAGE TABLE		
SLIP #	AREA(60 FT.)	AREA(Ac.)
CS-B1	1,872 sq.ft.	0.04 acres
CS-B2	1,858 sq.ft.	0.03 acres
CS-B3	1,060 sq.ft.	0.02 acres
CS-B4	1,050 sq.ft.	0.02 acres
CS-B5	1,050 sq.ft.	0.02 acres
CS-B6	1,600 sq.ft.	0.02 acres
CS-B7	1,055 sq.ft.	0.02 acres
CS-B8	1,050 sq.ft.	0.02 acres
CS-B9	1,050 sq.ft.	0.01 acres
CS-B10	1,050 sq.ft.	0.02 acres
CS-B11	1,050 sq.ft.	0.02 acres
CS-B12	1,050 sq.ft.	0.02 acres
CS-B13	1,060 sq.ft.	0.02 acres
CS-B14	1,050 sq.ft.	0.02 acres
CS-B15	1,053 sq.ft.	0.02 acres
CS-B16	1,050 sq.ft.	0.02 acres
CS-B17	1,050 sq.ft.	0.02 acres
CS-B18	1,050 sq.ft.	0.02 acres

DOCK UNITS ACREAGE TABLE		
SLIP #	AREA(60 FT.)	AREA(Ac.)
CS-B19	1,050 sq.ft.	0.02 acres
CS-B20	1,050 sq.ft.	0.02 acres
CS-B21	1,050 sq.ft.	0.02 acres
CS-B22	1,050 sq.ft.	0.02 acres
CS-B23	1,050 sq.ft.	0.02 acres
CS-B24	1,050 sq.ft.	0.02 acres
CS-B25	800 sq.ft.	0.01 acres
CS-B26	1,617 sq.ft.	0.04 acres
CS-B27	2,121 sq.ft.	0.05 acres
CS-C1	2,126 sq.ft.	0.05 acres
CS-C2	1,800 sq.ft.	0.04 acres
CS-C3	800 sq.ft.	0.02 acres
CS-C4	1,050 sq.ft.	0.02 acres
CS-C5	1,050 sq.ft.	0.02 acres
CS-C6	1,050 sq.ft.	0.02 acres
CS-C7	1,050 sq.ft.	0.02 acres
CS-C8	1,050 sq.ft.	0.02 acres
CS-C9	1,050 sq.ft.	0.02 acres

DOCK UNITS ACREAGE TABLE		
SLIP #	AREA(60 FT.)	AREA(Ac.)
CS-D1	1,050 sq.ft.	0.02 acres
CS-D2	1,050 sq.ft.	0.02 acres
CS-D3	1,051 sq.ft.	0.02 acres
CS-D4	1,050 sq.ft.	0.02 acres
CS-D5	1,053 sq.ft.	0.02 acres
CS-D6	1,053 sq.ft.	0.03 acres
CS-D7	1,053 sq.ft.	0.02 acres
CS-D8	1,053 sq.ft.	0.03 acres
CS-D9	720 sq.ft.	0.02 acres
CS-D10	1,840 sq.ft.	0.04 acres
CS-D11	2,091 sq.ft.	0.05 acres

EASEMENT LINE TABLE		
LINE	DIRECTION	DISTANCE
E1	S79°31'31"E	3.81'
E2	N10°31'29"E	88.92'
E3	N79°27'58"E	7.97'
E4	S10°31'43"E	88.81'
E5	S82°46'17"W	8.48'
E6	N10°30'03"W	87.89'
E7	S79°41'58"W	2.82'
E8	S10°31'43"E	85.05'
E9	S31°19'18"W	17.89'
E10	S31°19'18"W	10.79'

HATCH LEGEND:
= ACCESS EASEMENTS
= WET SLIP LOT 7 COMMON AREA

NOTE:
EASEMENT AT THE OFFICE TRAILER SHOWN HEREON IS THAT EASEMENT REFERRED TO IN THE RIPLEY LIGHT MARINA REAL ESTATE AGREEMENT AND RECORDED IN BOOK "W492" PAGE "771" AT CHARLESTON CO. R.M.C. OFFICE.

EXHIBIT B-2

PLOT PLAN FOR THE "SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME" SHOWING WET SLIP LOT 7, COMMON AREAS, PARKING AND ACCESS EASEMENTS

LOCATED IN THE CITY OF CHARLESTON
CHARLESTON COUNTY, SOUTH CAROLINA

DATE: JULY 26, 2004 SCALE: 1"=30'

GRAPHIC SCALE

CERTIFICATION:

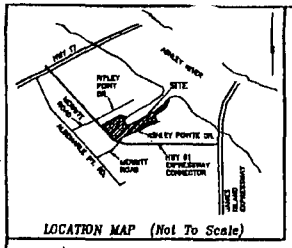
I, W. MASON LINDSEY, JR. HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN.

W. MASON LINDSEY, JR., R.L.S.
S.C. REG. NO 11909

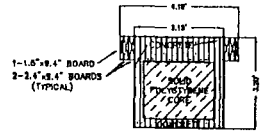
LINDSEY LAND SURVEYING, CO.

SHEET 2 OF 3

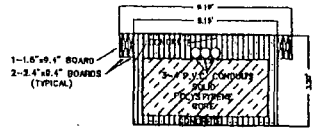
959



LOCATION MAP (Not To Scale)



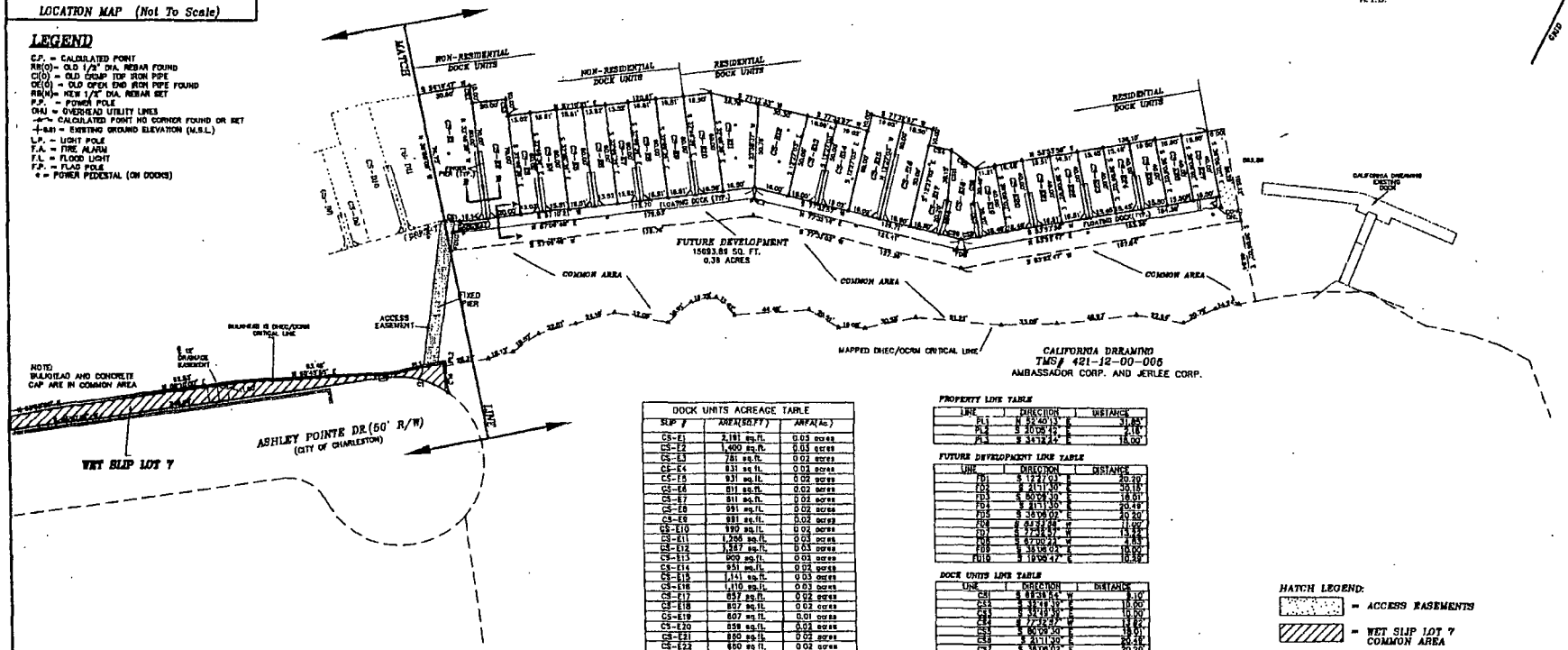
TYPICAL SECTION B-B
N.T.S.



TYPICAL SECTION A-A
N.T.S.

LEGEND

C.P. = CALCULATED POINT
RB(O)= OLD 1/2" DIA. REBAR FOUND
CI(O) = OLD CRIMP TOP IRON PIPE
OE(O) = OLD OPEN END IRON PIPE FOUND
RB(N)= NEW 1/2" DIA. REBAR SET
P.P. = POWER POLE
OHU = OVERHEAD UTILITY LINES
-+- CALCULATED POINT NO CORNER FOUND OR SET
+8.8 = EXISTING GROUND ELEVATION (M.S.L.)
L.P. = LIGHT POLE
F.A. = FIRE ALARM
F.L. = FLOOD LIGHT
F.P. = FLAG POLE
⊕ = POWER PEDESTAL (ON DOCKS)



CALIFORNIA DREAMING
TMS# 421-12-00-005
AMBASSADOR CORP. AND JERLEE CORP.

DOCK UNITS ACREAGE TABLE

SLIP #	AREA(SQ.FT.)	AREA(Ac.)
CS-E1	2,191 sq.ft.	0.05 acres
CS-E2	1,400 sq.ft.	0.03 acres
CS-E3	781 sq.ft.	0.02 acres
CS-E4	831 sq.ft.	0.02 acres
CS-E5	831 sq.ft.	0.02 acres
CS-E6	811 sq.ft.	0.02 acres
CS-E7	811 sq.ft.	0.02 acres
CS-E8	991 sq.ft.	0.02 acres
CS-E9	881 sq.ft.	0.02 acres
CS-E10	1197 sq.ft.	0.03 acres
CS-E11	1,298 sq.ft.	0.03 acres
CS-E12	1,287 sq.ft.	0.03 acres
CS-E13	900 sq.ft.	0.03 acres
CS-E14	851 sq.ft.	0.02 acres
CS-E15	1,141 sq.ft.	0.03 acres
CS-E16	1,110 sq.ft.	0.03 acres
CS-E17	857 sq.ft.	0.02 acres
CS-E18	807 sq.ft.	0.02 acres
CS-E19	807 sq.ft.	0.01 acres
CS-E20	858 sq.ft.	0.02 acres
CS-E21	850 sq.ft.	0.02 acres
CS-E22	850 sq.ft.	0.02 acres
CS-E23	818 sq.ft.	0.01 acres
CS-E24	818 sq.ft.	0.01 acres
CS-E25	820 sq.ft.	0.01 acres
CS-E26	820 sq.ft.	0.01 acres
CS-E27	820 sq.ft.	0.01 acres

PROPERTY LINE TABLE

LINE	DIRECTION	DISTANCE
PL1	N 82°40'13" E	31.85'
PL2	S 20°05'45" E	2.18'
PL3	S 34°12'24" E	18.00'

FUTURE DEVELOPMENT LINE TABLE

LINE	DIRECTION	DISTANCE
FD1	S 13°27'01" E	20.20'
FD2	S 41°11'30" E	30.15'
FD3	S 80°09'30" E	18.01'
FD4	S 41°11'30" E	20.48'
FD5	S 38°09'02" E	20.20'
FD6	S 62°32'58" W	11.00'
FD7	S 27°38'57" W	13.33'
FD8	S 62°00'22" W	2.83'
FD9	S 38°09'02" E	10.00'
FD10	S 19°09'47" E	10.58'

DOCK UNITS LINE TABLE

LINE	DIRECTION	DISTANCE
CS1	S 89°31'54" W	9.10'
CS2	S 34°16'19" E	10.00'
CS3	S 38°13'39" E	10.00'
CS4	S 27°38'57" W	13.82'
CS5	S 80°09'30" E	18.01'
CS6	S 41°11'30" E	20.48'
CS7	S 38°09'02" E	20.20'
CS8	S 62°32'58" W	11.00'
CS9	S 27°38'57" W	13.33'
CS10	S 13°27'01" E	20.20'
CS11	S 41°11'30" E	30.15'

HATCH LEGEND:
= ACCESS EASEMENTS
= WET SLIP LOT 7 COMMON AREA

NOTE:
EASEMENT AT THE OFFICE TRAILER SHOWN HEREON IS THAT EASEMENT REFERRED TO IN THE RIPLEY LIGHT MARINA REAL ESTATE AGREEMENT AND RECORDED IN BOOK "W498" PAGE "771" AT CHARLESTON CO. R.M.C. OFFICE.

CERTIFICATION:
I, W. MASON LINDSEY, JR. 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 'A' SURVEY AS SPECIFIED THEREIN;

W. MASON LINDSEY, JR., R.L.S.
S.C. REG. NO 11805

LINDSEY LAND SURVEYING, CO.

EXHIBIT B-3

PLOT PLAN FOR THE "SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME" SHOWING WET SLIP LOT 7, COMMON AREAS, PARKING AND ACCESS EASEMENTS

LOCATED IN THE CITY OF CHARLESTON
CHARLESTON COUNTY, SOUTH CAROLINA

DATE: JULY 26, 2004 SCALE: 1"=30'

GRAPHIC SCALE

(IN FEET)
1 inch = 30 ft.

RECORDER'S PAGE
This page Must remain with the original document.

BK Y503PG661

Recording Fee 104.00
State Fee —
County Fee —
Postage —
TOTAL 104.00
A

RETURN DOCUMENTS TO
DAVID AND SCHWARTZ, P.A.

FILED
Y503 563
2004 JUL 30 PM 1:41
CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

PID VERIFIED BY ASSESSOR
REP MW
DATE 8/6/04

RECEIVED FROM RMC
AUG - 6 2004
PEGGY A. MOSELEY
CHARLESTON COUNTY AUDITOR

(843) 958-4800 2 Courthouse Square Charleston, SC 29401

CHARLESTON COUNTY Online Tax System

• MAIN MENU
• CONTACTS
• EXIT

- Billing Information -

Account (PID):	421-11-00-100	Appraised (FMV):	136,000
Tax Year:	2006	Assessment:	8160
Prior Year:	NA	Mills:	x 0.2366
Status:	Current (Paid)		
Receipt:	2006-159144	Base Tax:	1930.67
Previous Receipt:	NA	Penalties:	+ 0.00
Next Receipt:	NA	Interest:	+ 0.00
Billed:	09-30-2006	Credits:	- 250.24
Paid Date:	12-29-2006	User Fee:	+ (Other)
Actual Date:	01-06-2007	SW Fee:	+ 0.00
		Net Tax:	1680.43
Mortgage Co:	NA	Amount Paid:	-1680.43
		Nulla Bona Amount:	- 0.00
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	- 0.00
		CURR Due:	0.00

- Property Information -

Legal Description:	MERRITT ROAD CSB1 - **UNIT CSBI**
Subdivision:	THE SLIPS AT RIPLEY HPR
Deed:	04-25-2005 A534-809
Plat:	Y503563
Land Use:	OTHER LAND USE
General Use:	CER
Parcel:	744

Buildings	Appraisal	Assessment
Others (6%)	136,000	8,160
Totals:	136,000	8,160

Acreage		Appraisal	
High:	0.00	Land:	1000
Marsh:	0.00	Improvements:	135000
Swamp:	0.00	Buildings:	0
Total:	0.00	Total:	136000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	MERRITT ROAD CSB1
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	PO BOX 30307
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29417

Selections | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

PLAINTIFF'S EXHIBIT 14A

CHARLESTON COUNTY Online Tax System

- MAIN MENU
- CONTACTS
- EXIT

- Billing Information -

Account (PID):	421-11-00-100	Appraised (FMV):	136,000
Tax Year:	2007	Assessment:	8160
Prior Year:	NA	Mills:	x 0.2438
Status:	Current (Refund Paid)		----------
Receipt:	2007-164859	Base Tax:	1989.41
Previous Receipt:	NA	Penalties:	+ 0.00
Next Receipt:	2007-975114	Interest:	+ 0.00
Billed:	09-28-2007	Credits:	- 243.44
Paid Date:	12-31-2007	User Fee:	+ (Other)
Actual Date:	01-09-2008	SW Fee:	+ 0.00

		Net Tax:	1745.97
Mortgage Co:	NA	Amount Paid:	-1745.97
		Nulla Bona Amount:	-1745.97
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	-1745.97

		CURR Due:	0.00

- Property Information -

Legal Description:	MERRITT ROAD CSB1 - **UNIT CSBI**
Subdivision:	THE SLIPS AT RIPLEY HPR
Deed:	04-25-2005 A534-809
Plat:	Y503563
Land Use:	OTHER LAND USE
General Use:	CER
Parcel:	744

Buildings	Appraisal	Assessment
Others (6%)	136,000	8,160
Totals:	136,000	8,160

Acreage		Appraisal	
High:	0.00	Land:	1000
Marsh:	0.00	Improvements:	135000
Swamp:	0.00	Buildings:	0
Total:	0.00	Total:	136000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	MERRITT ROAD CSB1
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	PO BOX 30307
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29407

Selections | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

CHARLESTON COUNTY Online Tax System

• MAIN MENU
• CONTACTS
• EXIT

- Billing Information -

Account (PID):	421-11-00-100	Appraised (FMV):	136,000
Tax Year:	2007	Assessment:	8160
Prior Year:	NA	Mills:	x 0.2438
Status:	Current (Paid)		
Receipt:	2007-975114	Base Tax:	1989.41
Previous Receipt:	2007-164859	Penalties:	+ 0.00
Next Receipt:	NA	Interest:	+ 0.00
Billed:	**02-06-2008**	Credits:	- 243.44
Paid Date:	**02-06-2008**	User Fee:	+ (Other)
Actual Date:	02-06-2008	SW Fee:	+ 0.00
		Net Tax:	1745.97
Mortgage Co:	NA	Amount Paid:	-1745.97
		Nulla Bona Amount:	- 0.00
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	- 0.00
		CURR Due:	0.00

- Property Information -

Legal Description:	MERRITT ROAD CSB1 - **UNIT CSBI**
Subdivision:	THE SLIPS AT RIPLEY HPR
Deed:	04-25-2005 A534-809
Plat:	Y503563
Land Use:	OTHER LAND USE
General Use:	CER
Parcel:	744

Buildings	Appraisal	Assessment
Others (6%)	136,000	8,160
Totals:	136,000	8,160

Acreage		Appraisal	
High:	0.00	Land:	1000
Marsh:	0.00	Improvements:	135000
Swamp:	0.00	Buildings:	0
Total:	0.00	Total:	136000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	MERRITT ROAD CSB1
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	78 ASHLEY POINTE DR 300
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29407

Selections | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

CHARLESTON COUNTY Online Tax System

- MAIN MENU
- CONTACTS
- EXIT

- Billing Information -

Account (PID):	421-11-00-100	Appraised (FMV):	136,000
Tax Year:	2008	Assessment:	8160
Prior Year:	NA	Mills:	x 0.2561
Status:	Current (Paid)		
Receipt:	2008-169027	Base Tax:	2089.78
Previous Receipt:	NA	Penalties:	+ 0.00
Next Receipt:	NA	Interest:	+ 0.00
Billed:	**09-30-2008**	Credits:	- 225.76
Paid Date:	**01-10-2009**	User Fee:	+ (Other)
Actual Date:	01-10-2009	SW Fee:	+ 0.00
		Net Tax:	1864.02
Mortgage Co:	NA	Amount Paid:	-1864.02
		Nulla Bona Amount:	- 0.00
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	- 0.00
		CURR Due:	0.00

- Property Information -

Legal Description:	MERRITT ROAD CSB1 - **UNIT CSBI**
Subdivision:	THE SLIPS AT RIPLEY HPR
Deed:	04-25-2005 A534-809
Plat:	Y503563
Land Use:	OTHER LAND USE
General Use:	CER
Parcel:	744

Buildings	Appraisal	Assessment
Others (6%)	136,000	8,160
Totals:	136,000	8,160

Acreage		Appraisal	
High:	0.00	Land:	1000
Marsh:	0.00	Improvements:	135000
Swamp:	0.00	Buildings:	0
Total:	0.00	Total:	136000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	MERRITT ROAD CSB1
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	78 ASHLEY POINT DR STE 300
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29407

Selections | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

CHARLESTON COUNTY Online Tax System

• MAIN MENU
• CONTACTS
• EXIT

- Billing Information -

Account (PID):	421-11-00-100	Appraised (FMV):	136,000
Tax Year:	2009	Assessment:	8160
Prior Year:	NA	Mills:	x 0.2601
Status:	Current (Paid)		----------
Receipt:	2009-171082	Base Tax:	2122.41
Previous Receipt:	NA	Penalties:	+ 0.00
Next Receipt:	NA	Interest:	+ 0.00
Billed:	09-30-2009	Credits:	- 193.12
Paid Date:	12-31-2009	User Fee:	+ (Other)
Actual Date:	01-13-2010	SW Fee:	+ 0.00

		Net Tax:	1929.29
Mortgage Co:	NA	Amount Paid:	-1929.29
		Nulla Bona Amount:	- 0.00
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	- 0.00

		CURR Due:	0.00

- Property Information -

Legal Description:	MERRITT ROAD CSB1 - **UNIT CSBI**
Subdivision:	THE SLIPS AT RIPLEY HPR
Deed:	04-25-2005 A534-809
Plat:	Y503563
Land Use:	OTHER LAND USE
General Use:	CER
Parcel:	744

Buildings	Appraisal	Assessment
Others (6%)	136,000	8,160
Totals:	136,000	8,160

Acreage		Appraisal	
High:	0.00	Land:	1000
Marsh:	0.00	Improvements:	135000
Swamp:	0.00	Buildings:	0
Total:	0.00	Total:	136000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	MERRITT ROAD CSB1
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	78 ASHLEY POINT DR STE 300
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29407

Selections | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

CHARLESTON COUNTY Online Tax System

• MAIN MENU
• CONTACTS
• EXIT

- Billing Information -

Account (PID):	421-11-00-100	Appraised (FMV):	136,000
Tax Year:	2010	Assessment:	8160
Prior Year:	NA	Mills:	x 0.2601
Status:	Current (Nulla Bona)		----------
Receipt:	2010-171749	Base Tax:	2122.41
Previous Receipt:	NA	Penalties:	+ 0.00
Next Receipt:	2010-179818	Interest:	+ 0.00
Billed:	09-30-2010	Credits:	- 193.12
Paid Date:	NA	User Fee:	+ (Other)
Actual Date:	NA	SW Fee:	+ 0.00

		Net Tax:	1929.29
Mortgage Co:	NA	Amount Paid:	- 0.00
		Nulla Bona Amount:	-1929.29
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	- 0.00

		CURR Due:	0.00

- Property Information -

Legal Description:	MERRITT ROAD CSB1 - **UNIT CSBI**
Subdivision:	THE SLIPS AT RIPLEY HPR
Deed:	04-25-2005 A534-809
Plat:	Y503563
Land Use:	OTHER LAND USE
General Use:	CER
Parcel:	744

	Appraisal	Assessment
Buildings		
Others (6%)	136,000	8,160
Totals:	136,000	8,160

Acreage		Appraisal	
High:	0.00	Land:	1000
Marsh:	0.00	Improvements:	135000
Swamp:	0.00	Buildings:	0
Total:	0.00	Total:	136000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	MERRITT ROAD CSB1
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	78 ASHLEY POINT DR STE 300
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29407

Selections | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

CHARLESTON COUNTY Online Tax System

- MAIN MENU
- CONTACTS
- EXIT

- Billing Information -

Account (PID):	421-11-00-100	Appraised (FMV):	96,000
Tax Year:	2010	Assessment:	5760
Prior Year:	NA	Mills:	x 0.2601
Status:	Current (Paid)		
Receipt:	2010-179818	Base Tax:	1498.17
Previous Receipt:	2010-171749	Penalties:	+ 0.00
Next Receipt:	NA	Interest:	+ 0.00
Billed:	11-24-2010	Credits:	- 136.32
Paid Date:	01-12-2011	User Fee:	+ (Other)
Actual Date:	01-12-2011	SW Fee:	+ 0.00
		Net Tax:	1361.85
Mortgage Co:	NA	Amount Paid:	-1361.85
		Nulla Bona Amount:	- 0.00
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	- 0.00
		CURR Due:	0.00

- Property Information -

Legal Description:	MERRITT ROAD CSB1 - **UNIT CSBI**
Subdivision:	THE SLIPS AT RIPLEY HPR
Deed:	04-25-2005 A534-809
Plat:	Y503563
Land Use:	OTHER LAND USE
General Use:	CER
Parcel:	744

Buildings	Appraisal	Assessment
Others (6%)	96,000	5,760
Totals:	96,000	5,760

Acreage		Appraisal	
High:	0.00	Land:	1000
Marsh:	0.00	Improvements:	0
Swamp:	0.00	Buildings:	95000
Total:	0.00	Total:	96000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	MERRITT ROAD CSB1
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	78 ASHLEY POINT DR STE 300
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29407

Selections | Tax Info | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

CHARLESTON COUNTY Online Tax System

- MAIN MENU
- CONTACTS
- EXIT

- Billing Information -

Account (PID):	421-11-00-268	Appraised (FMV):	550,000
Tax Year:	2006	Assessment:	33000
Prior Year:	NA	Mills:	x 0.2366
Status:	Current (Paid)		
Receipt:	2006-159145	Base Tax:	7807.80
Previous Receipt:	NA	Penalties:	+ 0.00
Next Receipt:	NA	Interest:	+ 0.00
Billed:	**09-30-2006**	Credits:	-1012.00
Paid Date:	**12-29-2006**	User Fee:	+ 0.00
Actual Date:	01-06-2007	SW Fee:	+ 0.00
		Net Tax:	6795.80
Mortgage Co:	NA	Amount Paid:	-6795.80
		Nulla Bona Amount:	- 0.00
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	- 0.00
		CURR Due:	0.00

- Property Information -

Legal Description:	18 MIZZEN MAST DR SF3 - **LOT SF-3**
Subdivision:	NA
Deed:	04-25-2005 A534-809
Plat:	EH-576
Land Use:	VACANT
General Use:	VCR
Parcel:	10R

Buildings	Appraisal	Assessment
Others (6%)	550,000	33,000
Totals:	550,000	33,000

Acreage		Appraisal	
High:	0.14	Land:	550000
Marsh:	0.00	Improvements:	0
Swamp:	0.00	Buildings:	0
Total:	0.14	Total:	550000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	18 MIZZEN MAST DR SF3
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	PO BOX 30307
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29417

Selections | Tax History | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

PLAINTIFF'S EXHIBIT 14 B

CHARLESTON COUNTY Online Tax System

- MAIN MENU
- CONTACTS
- EXIT

- Billing Information -

Account (PID):	421-11-00-268	Appraised (FMV):	550,000
Tax Year:	2007	Assessment:	33000
Prior Year:	NA	Mills:	x 0.2438
Status:	Current (Refund Paid)		----------
Receipt:	2007-164860	Base Tax:	8045.40
Previous Receipt:	NA	Penalties:	+ 0.00
Next Receipt:	2007-975115	Interest:	+ 0.00
Billed:	09-28-2007	Credits:	- 984.50
Paid Date:	12-31-2007	User Fee:	+ 0.00
Actual Date:	01-09-2008	SW Fee:	+ 0.00
		Net Tax:	7060.90
Mortgage Co:	NA	Amount Paid:	-7060.90
		Nulla Bona Amount:	-7060.90
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	-7060.90
		CURR Due:	0.00

- Property Information -

Legal Description:	18 MIZZEN MAST DR SF3 - **LOT SF-3**
Subdivision:	NA
Deed:	04-25-2005 A534-809
Plat:	EH-576
Land Use:	VACANT
General Use:	VCR
Parcel:	10R

Buildings	Appraisal	Assessment
Others (6%)	550,000	33,000
Totals:	550,000	33,000

Acreage		Appraisal	
High:	0.14	Land:	550000
Marsh:	0.00	Improvements:	0
Swamp:	0.00	Buildings:	0
Total:	0.14	Total:	550000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	18 MIZZEN MAST DR SF3
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	PO BOX 30307
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29407

Selections | Tax Record | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

CHARLESTON COUNTY Online Tax System

• MAIN MENU
• CONTACTS
• EXIT

- Billing Information -

Account (PID):	421-11-00-268	Appraised (FMV):	550,000
Tax Year:	2007	Assessment:	33000
Prior Year:	NA	Mills:	x 0.2438
Status:	Current (Paid)		----------
Receipt:	2007-975115	Base Tax:	8045.40
Previous Receipt:	2007-164860	Penalties:	+ 0.00
Next Receipt:	NA	Interest:	+ 0.00
Billed:	02-06-2008	Credits:	- 984.50
Paid Date:	02-06-2008	User Fee:	+ 0.00
Actual Date:	02-06-2008	SW Fee:	+ 0.00

		Net Tax:	7060.90
Mortgage Co:	NA	Amount Paid:	-7060.90
		Nulla Bona Amount:	- 0.00
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	- 0.00

		CURR Due:	0.00

- Property Information -

Legal Description:	18 MIZZEN MAST DR SF3 - **LOT SF-3**
Subdivision:	NA
Deed:	04-25-2005 A534-809
Plat:	EH-576
Land Use:	VACANT
General Use:	VCR
Parcel:	10R

Buildings	Appraisal	Assessment
Others (6%)	550,000	33,000
Totals:	550,000	33,000

Acreage		Appraisal	
High:	0.14	Land:	550000
Marsh:	0.00	Improvements:	0
Swamp:	0.00	Buildings:	0
Total:	0.14	Total:	550000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	18 MIZZEN MAST DR SF3
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	78 ASHLEY POINTE DR 300
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29407

Selections | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

CHARLESTON COUNTY Online Tax System

• MAIN MENU
• CONTACTS
• EXIT

- Billing Information -

Account (PID):	421-11-00-268	Appraised (FMV):	550,000
Tax Year:	2008	Assessment:	33000
Prior Year:	NA	Mills:	x 0.2561
Status:	Current (Paid)		
Receipt:	2008-169028	Base Tax:	8451.30
Previous Receipt:	NA	Penalties:	+ 0.00
Next Receipt:	NA	Interest:	+ 0.00
Billed:	**09-30-2008**	Credits:	- 913.00
Paid Date:	**01-10-2009**	User Fee:	+ 0.00
Actual Date:	01-10-2009	SW Fee:	+ 0.00
		Net Tax:	7538.30
Mortgage Co:	NA	Amount Paid:	-7538.30
		Nulla Bona Amount:	- 0.00
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	- 0.00
		CURR Due:	0.00

- Property Information -

Legal Description:	18 MIZZEN MAST DR SF3 - LOT SF-3
Subdivision:	NA
Deed:	04-25-2005 A534-809
Plat:	EH-576
Land Use:	VACANT
General Use:	VCR
Parcel:	10R

Buildings	Appraisal	Assessment
Others (6%)	550,000	33,000
Totals:	550,000	33,000

Acreage		Appraisal	
High:	0.14	Land:	550000
Marsh:	0.00	Improvements:	0
Swamp:	0.00	Buildings:	0
Total:	0.14	Total:	550000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	18 MIZZEN MAST DR SF3
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	78 ASHLEY POINT DR STE 300
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29407

Selections | Back to Search | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

CHARLESTON COUNTY Online Tax System

- Billing Information -

Account (PID):	421-11-00-268	Appraised (FMV):	550,000
Tax Year:	2009	Assessment:	33000
Prior Year:	NA	Mills:	x 0.2601
Status:	Current (Paid)		
Receipt:	2009-171083	Base Tax:	8583.30
Previous Receipt:	NA	Penalties:	+ 0.00
Next Receipt:	NA	Interest:	+ 0.00
Billed:	09-30-2009	Credits:	- 781.00
Paid Date:	12-31-2009	User Fee:	+ 0.00
Actual Date:	01-13-2010	SW Fee:	+ 0.00
		Net Tax:	7802.30
Mortgage Co:	NA	Amount Paid:	-7802.30
		Nulla Bona Amount:	- 0.00
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	- 0.00
		CURR Due:	0.00

- Property Information -

Legal Description:	18 MIZZEN MAST DR SF3 - **LOT SF-3**
Subdivision:	NA
Deed:	04-25-2005 A534-809
Plat:	EH-576
Land Use:	VACANT
General Use:	VCR
Parcel:	10R

Buildings	Appraisal	Assessment
Others (6%)	550,000	33,000
Totals:	550,000	33,000

Acreage		Appraisal	
High:	0.14	Land:	550000
Marsh:	0.00	Improvements:	0
Swamp:	0.00	Buildings:	0
Total:	0.14	Total:	550000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	18 MIZZEN MAST DR SF3
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	78 ASHLEY POINT DR STE 300
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29407

Selections | Refund | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

CHARLESTON COUNTY Online Tax System

- Billing Information -

Account (PID):	421-11-00-268	Appraised (FMV):	550,000
Tax Year:	2010	Assessment:	33000
Prior Year:	NA	Mills:	x 0.2601
Status:	Current (Nulla Bona)		
Receipt:	2010-171750	Base Tax:	8583.30
Previous Receipt:	NA	Penalties:	+ 0.00
Next Receipt:	2010-179819	Interest:	+ 0.00
Billed:	09-30-2010	Credits:	- 781.00
Paid Date:	NA	User Fee:	+ 0.00
Actual Date:	NA	SW Fee:	+ 0.00
		Net Tax:	7802.30
Mortgage Co:	NA	Amount Paid:	- 0.00
		Nulla Bona Amount:	-7802.30
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	- 0.00
		CURR Due:	0.00

- Property Information -

Legal Description:	18 MIZZEN MAST DR SF3 - LOT SF-3
Subdivision:	NA
Deed:	04-25-2005 A534-809
Plat:	EH-576
Land Use:	VACANT
General Use:	VCR
Parcel:	10R

	Appraisal	Assessment
Buildings		
Others (6%)	550,000	33,000
Totals:	550,000	33,000

Acreage		Appraisal	
High:	0.14	Land:	550000
Marsh:	0.00	Improvements:	0
Swamp:	0.00	Buildings:	0
Total:	0.14	Total:	550000

- Owner Information -

Current Owner:	ZAN LLC	Tax Address:	18 MIZZEN MAST DR SF3
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	78 ASHLEY POINT DR STE 300
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29407

Selections | Receipts | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

CHARLESTON COUNTY Online Tax System

- MAIN MENU
- CONTACTS
- EXIT

- Billing Information -

Account (PID):	421-11-00-268	Appraised (FMV):	435,000
Tax Year:	2010	Assessment:	26100
Prior Year:	NA	Mills:	x 0.2601
Status:	Current (Paid)		
Receipt:	2010-179819	Base Tax:	6788.61
Previous Receipt:	2010-171750	Penalties:	+ 0.00
Next Receipt:	NA	Interest:	+ 0.00
Billed:	11-24-2010	Credits:	- 617.70
Paid Date:	01-12-2011	User Fee:	+ 0.00
Actual Date:	01-12-2011	SW Fee:	+ 0.00
		Net Tax:	6170.91
Mortgage Co:	NA	Amount Paid:	-6170.91
		Nulla Bona Amount:	- 0.00
MLOD Factor:	No		
		Refund Amount:	- 0.00
		Transfer Amount:	- 0.00
		CURR Due:	0.00

- Property Information -

Legal Description:	18 MIZZEN MAST DR SF3 - **LOT SF-3**
Subdivision:	NA
Deed:	04-25-2005 A534-809
Plat:	EH-576
Land Use:	VACANT
General Use:	VCR
Parcel:	10R

Buildings	Appraisal	Assessment
Others (6%)	435,000	26,100
Totals:	435,000	26,100

Acreage		Appraisal	
High:	0.14	Land:	435000
Marsh:	0.00	Improvements:	0
Swamp:	0.00	Buildings:	0
Total:	0.14	Total:	435000

- Owner Information -

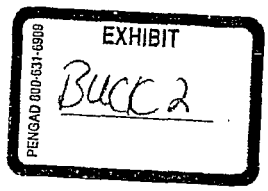
Current Owner:	ZAN LLC	Tax Address:	18 MIZZEN MAST DR SF3
Current Co-Owner:	NA		
Tax District:	63	Mail Address:	78 ASHLEY POINT DR STE 300
Jurisdiction:	01	City State Zip:	CHARLESTON SC 29407

Selections | Tax Detail | Credits | Main Menu

Copyright ©2011 Charleston County. All Rights Reserved

CCM III
Design & Drafting, LLC

2173 Weeorivers Road
Charleston, SC 29412
843.762.6993 :: 843.442.4184



November 29, 2005

Mr. Edgar A. Buck

Drafting Services	:	**Residence at Ripley Cove**
Job No.	:	**05-040**

Total to Date: **$ 3800.00**

Thank you,

Eugene C. Morrison III, Manager

JOINT
PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
Charleston, South Carolina 29403-5107
and the
S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

REGULATORY DIVISION
Refer to: P/N # 2007-01329-2IR

June 13, 2008

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Section 401 of the Clean Water Act (33 U.S.C. 1344), and the South Carolina Coastal Zone Management Act (48-39-10 et.seq.) an application has been submitted to the Department of the Army and the S.C. Department of Health and Environmental Control by

RIPLEY LIGHT MARINA PROPERTY OWNERS ASSOCIATION
ATTN: MR. COLLIN BRUNER
C/O SENTRY MANAGEMENT, INC.
POST OFFICE BOX 12710
CHARLESTON, SOUTH CAROLINA 29422-2710

for an After-the-Fact and a Proposed Work permit for 1) existing modifications within the marina, 2) change in use from a public use marina to a private use marina, and 3) proposed work to install a jet dock in

RIPLEY COVE ADJACENT TO THE ASHLEY RIVER

at 56 Ashley Pointe Drive in Ripley Cove, Charleston County, South Carolina
Latitude: 32.77722; Longitude: -79.96194

In order to give all interested parties an opportunity to express their views

NOTICE

is hereby given that written statements regarding the proposed work will be received by both of the above mentioned offices until

12 O'CLOCK NOON, MONDAY, JULY 14, 2008

from those interested in the activity and whose interests may be affected by the proposed work.

The After-the-Fact work consists of replacement of two (2) pilings without prior notification at slips E1/E2 and E22/E23; construction of five (5) dock extensions at slips B16/B17, C7/C8, C9, D1, and D2/D3; construction of two (2) docks at slips E11/E12, and E27; and two (2) floating docks located landward, behind slips C8/C9 and D2. Three of the dock extensions are 4' x 21' and two are 4' x 22' in length. The docks are each 4' x 20' in length. The floating docks behind the slips are 12.5' x 18' and 9.5' x 12', respectively. The proposed work consists of installation of an additional floating jet dock at slip E26. The proposed jet dock would be 11.8' x 25' which would not extend past the installed piling for the finger dock.

PLAINTIFF'S EXHIBIT 15A

Further, the channel that extends between Ripley Light Marina (south side of cove) and the Ripley Light Yacht Club (north side of cove) has been modified according to the arrangement and length of docks at both marinas while maintaining safe navigation within the cove.

In addition, this marina was originally permitted as a public use marina. However, the slips have been sold to private owners, which was not the intent of the original permit. Therefore, this marina is being re-advertised as a private marina.

NOTE: The existing marina was permitted for a fuel dock and pump out capability. This remains the same.

NOTE: Plans depicting the work described in this notice are available and will be provided, upon receipt of a written request, to anyone that is interested in obtaining a copy of the plans for the specific project. The request must identify the project of interest by public notice number and a self-addressed stamped envelope must also be provided for mailing the drawings to you. Your request for drawings should be addressed to the

U.S. Army Corps of Engineers
ATTN: REGULATORY DIVISION
69A Hagood Avenue
Charleston, South Carolina 29403-5107

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the South Carolina Department of Health and Environmental Control in accordance with provisions of Section 401 of the Clean Water Act. As such, this notice constitutes a request, on behalf of the applicant, for certification that this project will comply with applicable effluent limitations and water quality standards. The work shown on this application must also be certified as consistent with applicable provisions the Coastal Zone Management Program (15 CFR 930). The District Engineer will not process this application to a conclusion until such certifications are received. The applicant is hereby advised that supplemental information may be required by the State to facilitate the review.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the existing work impacts 0.02 acres and the proposed work impacts 0.007 acres of estuarine substrates and emergent wetlands utilized by various life stages of species comprising the red drum, shrimp, and snapper-grouper management complexes. Our initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Pursuant to Section 7(c) of the Endangered Species Act of 1973 (as amended), the District Engineer has consulted the most recently available information and has determined that the project is not likely to adversely affect any Federally endangered, threatened, or proposed species or result in the destruction or adverse modification of designated or proposed critical habitat. This public notice serves as a request for written concurrence from the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on this determination.

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), this public notice also constitutes a request to Indian Tribes to notify the District Engineer of any historic properties of religious and cultural significance to them that may be affected by the proposed undertaking.

In accordance with the NHPA, the District Engineer has also consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein, and this worksite is not included as a registered property or property listed as being eligible for inclusion in the Register. To insure that other cultural resources that the District Engineer is not aware of are not overlooked, this public notice also serves as a request to the State Historic Preservation Office to provide any information it may have with regard to historic and cultural resources.

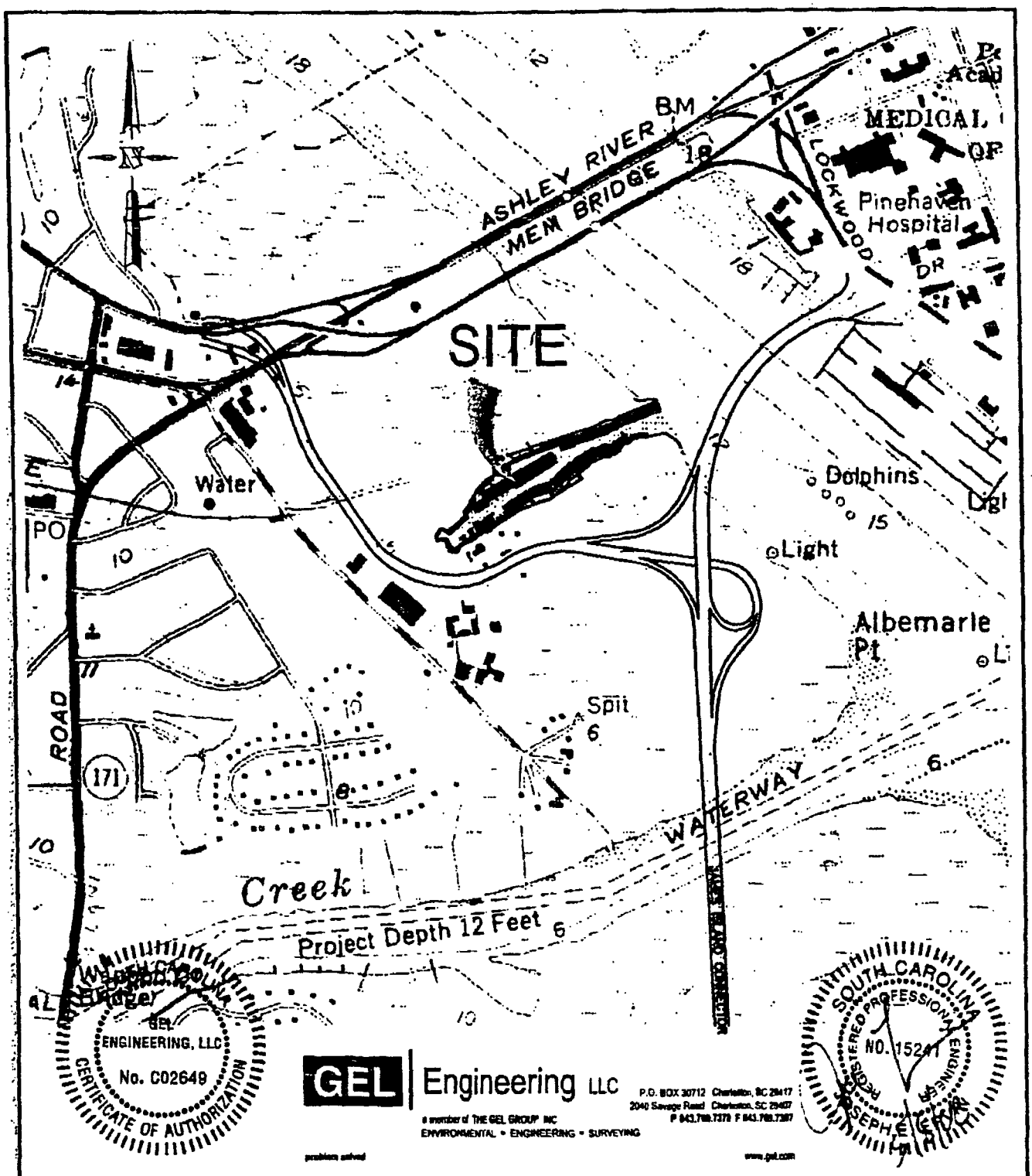
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest. In cases of conflicting property rights, the Corps of Engineers cannot undertake to adjudicate rival claims.

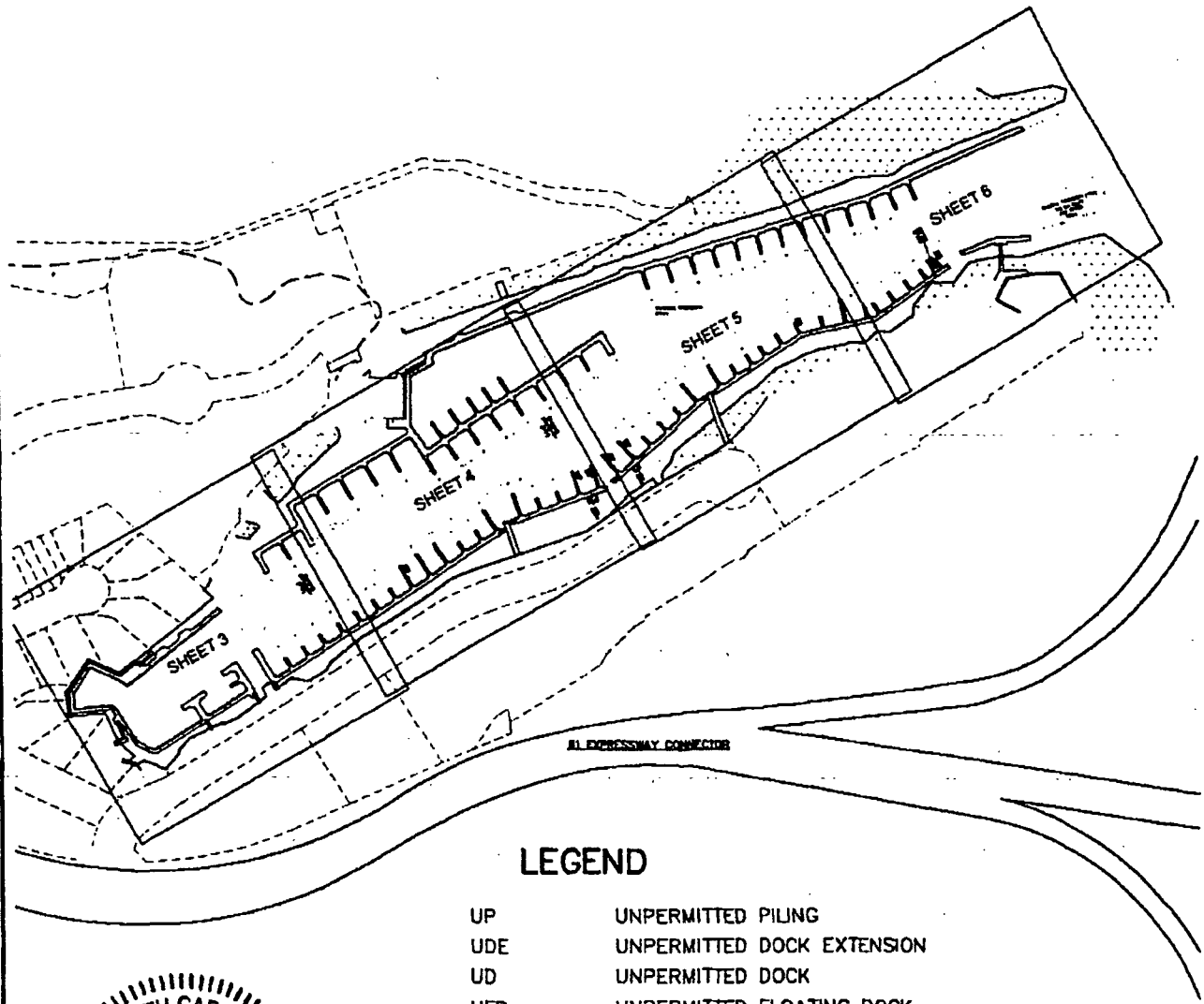
The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

If there are any questions concerning this public notice, please contact Robin Coller-Socha at 843-329-8044 or toll free at 1-866-329-8187.

Josh Young
Project Manager
SCDHEC OCRM



PURPOSE: PERMIT MODIFICATION	FIGURE 1 QUAD LOCATION MAP SCALE: 1"= 1000' 0 500' 1000'	PROPOSED: RIPLEY LIGHT MARINA BASIN
		AT: RIPLEY LIGHT MARINA
		IN: ASHLEY RIVER
SURVEY DATUM: CHARLESTON 7.5 QUAD	RIPLEY LIGHT MARINA, POA 56 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	COUNTY OF: CHARLESTON, SOUTH CAROLINA
		SHEET: 1 OF 8 DATE: 5/6/08



LEGEND

UP	UNPERMITTED PILING
UDE	UNPERMITTED DOCK EXTENSION
UD	UNPERMITTED DOCK
UFD	UNPERMITTED FLOATING DOCK
PR	PILING REPLACEMENT

SOUTH CAROLINA
GEL ENGINEERING, LLC
No. C02649
CERTIFICATE OF AUTHORIZATION

SOUTH CAROLINA
REGISTERED PROFESSIONAL ENGINEER
NO. 15241
JOSEPH E. EDENS

GEL Engineering LLC
a member of THE GEL GROUP INC
ENVIRONMENTAL • ENGINEERING • SURVEYING
problem solved

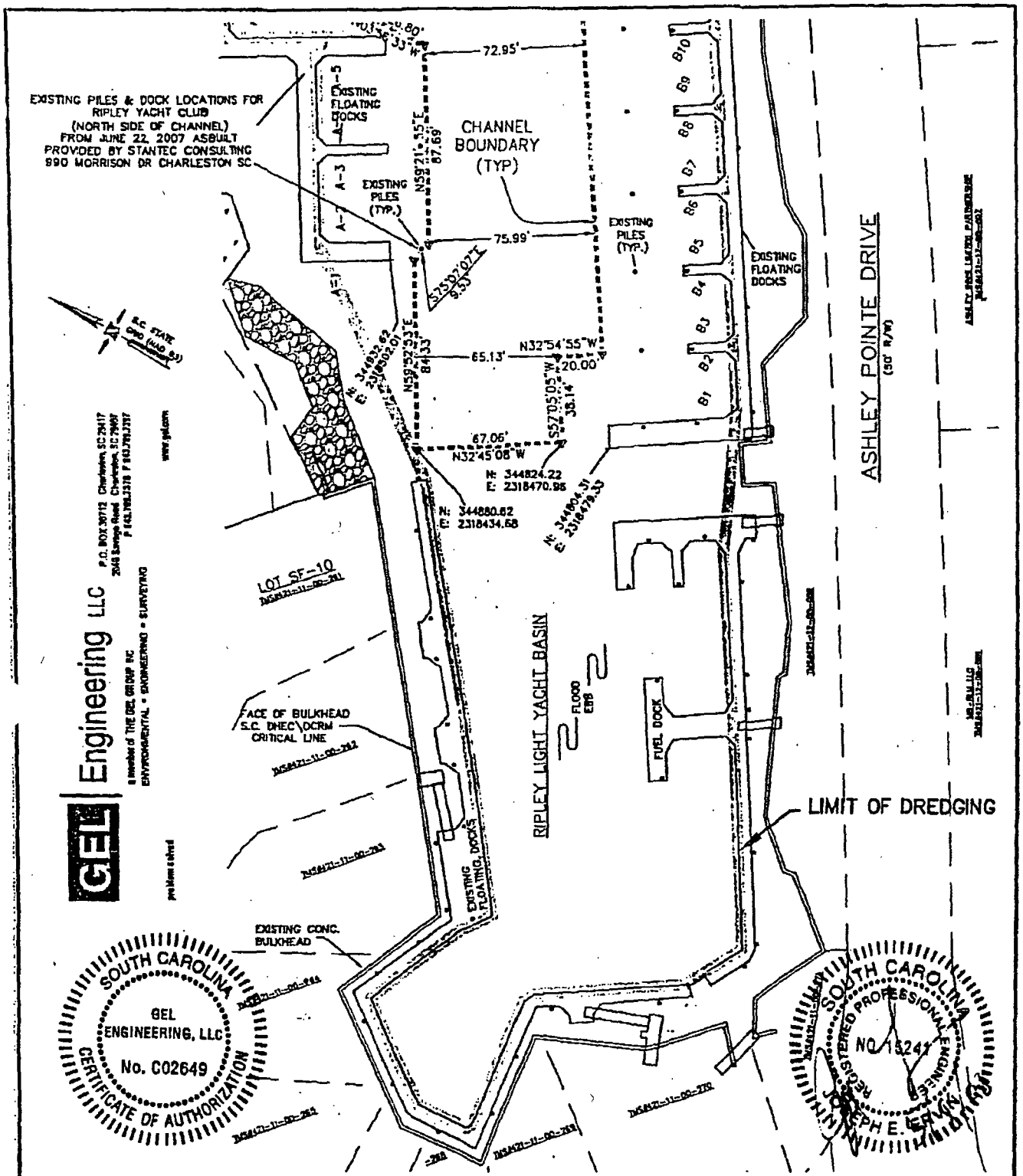
P.O. BOX 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.769.7379 F 843.769.7387
www.gel.com

PURPOSE: PERMIT MODIFICATION	FIGURE 2 OVERALL PLAN VIEW NOT TO SCALE	PROPOSED: RIPLEY LIGHT MARINA BASIN AT: RIPLEY LIGHT MARINA IN: ASHLEY RIVER
SURVEY DATUM: MLW	RIPLEY LIGHT MARINA, POA 58 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	COUNTY OF: CHARLESTON, SOUTH CAROLINA SHEET: 2 OF 8 DATE: 5/8/08

SENT001970

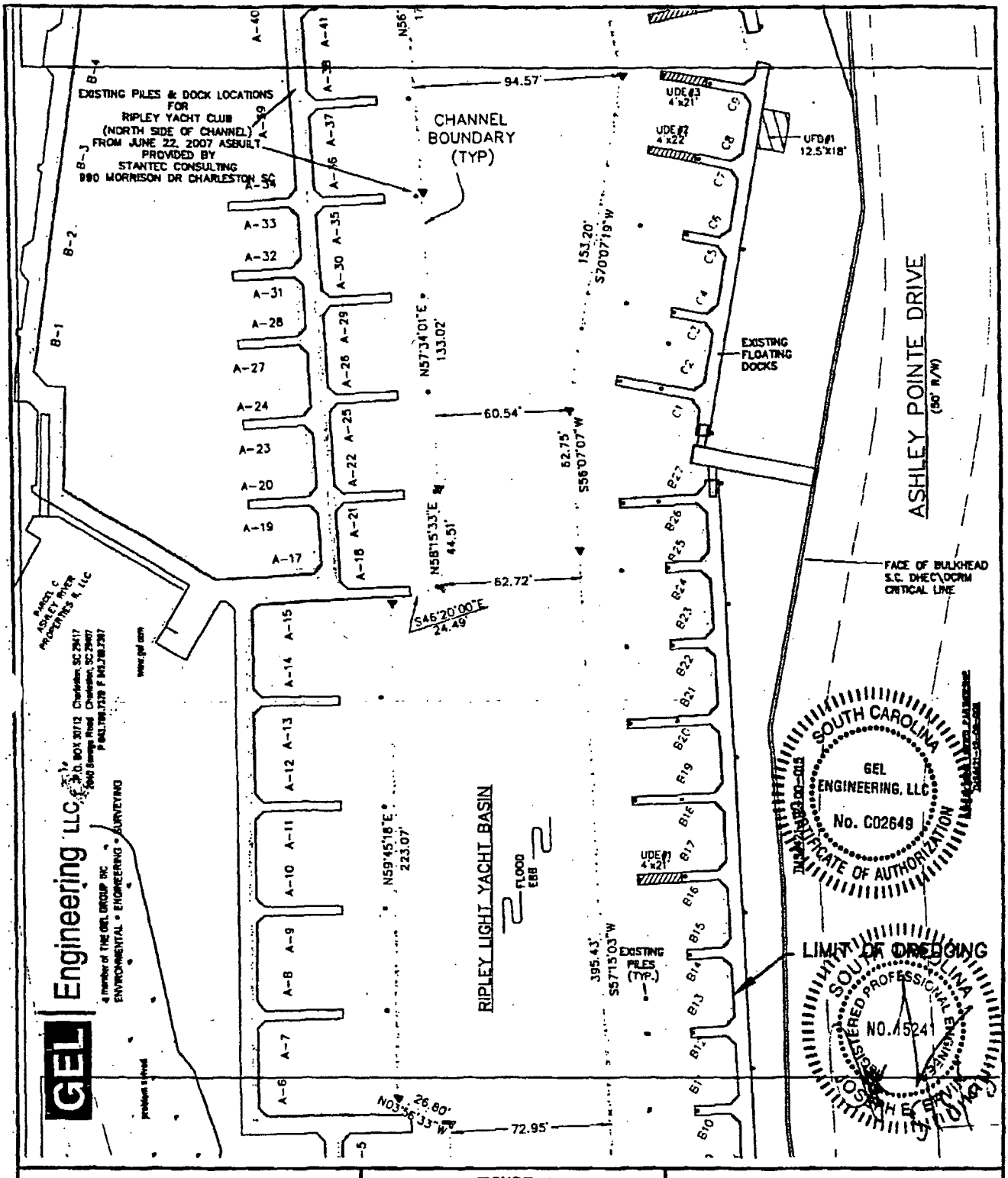
GEL ENGINEERING, LLC

a member of THE GEL GROUP, INC.



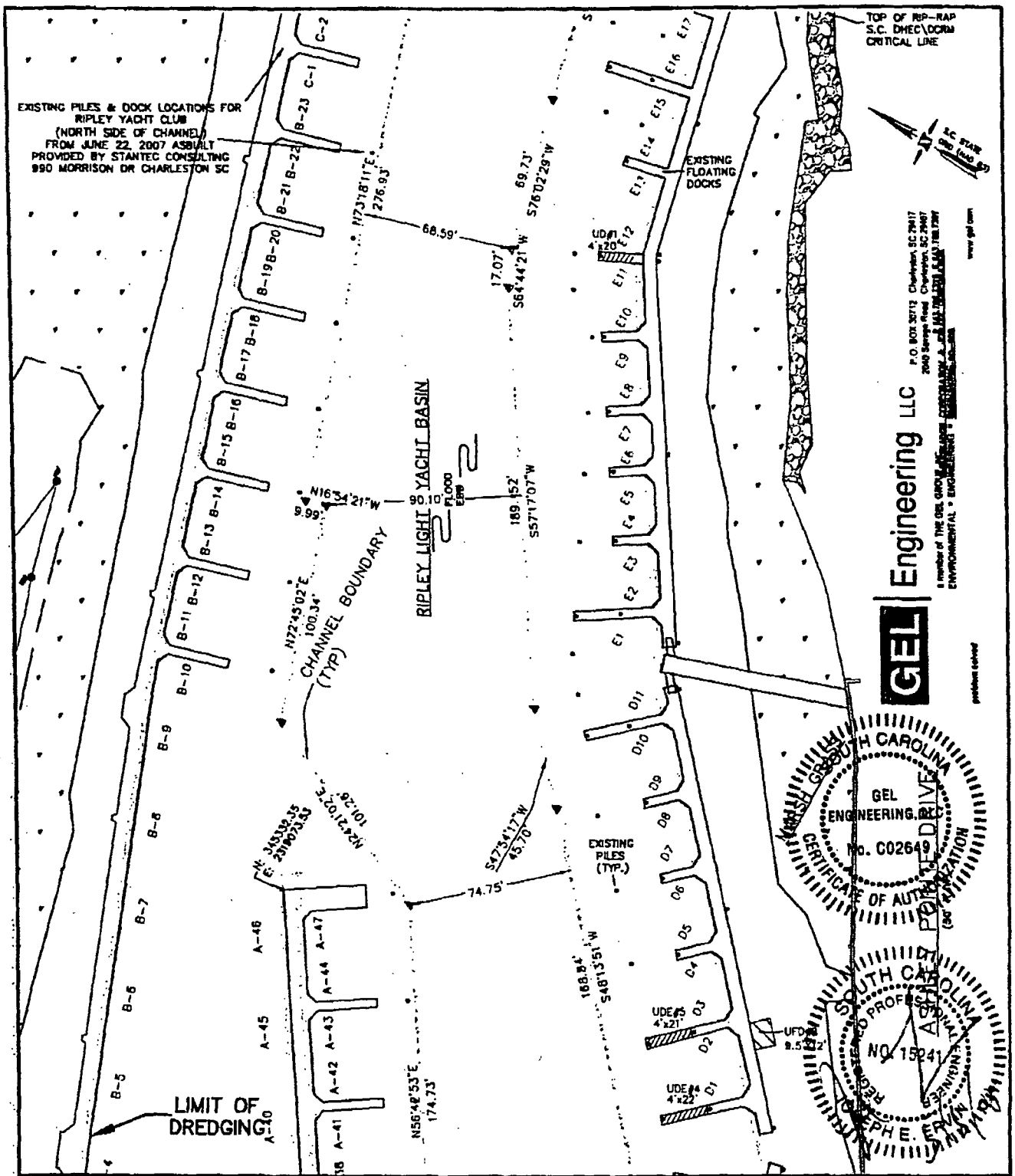
PURPOSE: PERMIT MODIFICATION	FIGURE 3 PLAN VIEW	PROPOSED: RIPLEY LIGHT MARINA BASIN
	SCALE: 1"=60'	AT: RIPLEY LIGHT MARINA
		IN: ASHLEY RIVER
SURVEY DATUM: MLW	RIPLEY LIGHT MARINA, POA 58 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	COUNTY OF: CHARLESTON, SOUTH CAROLINA
		SHEET: 3 OF 8 DATE: 5/8/08

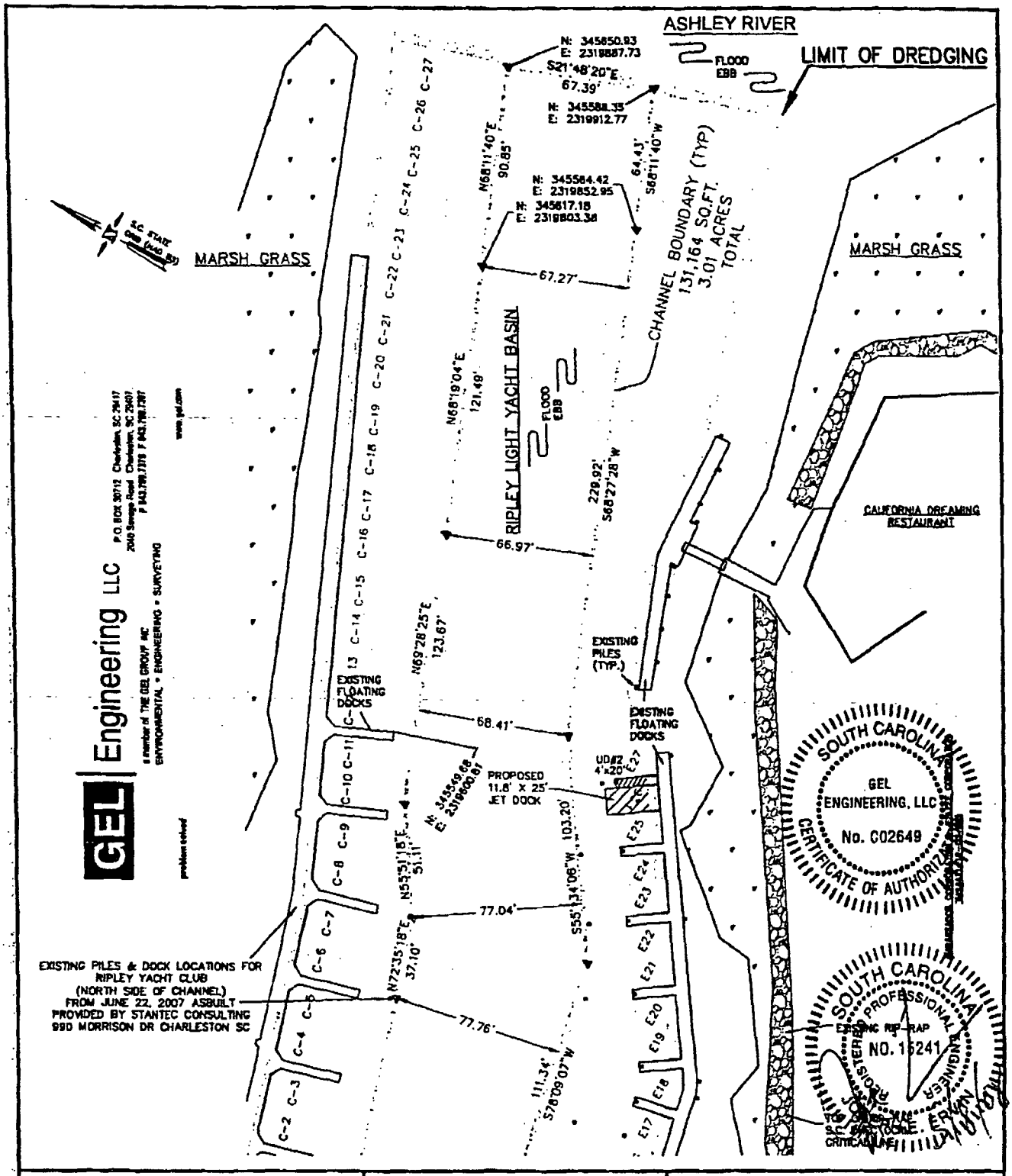
SENT001070 GEL ENGINEERING, LLC a Member of THE GEL GROUP, INC.



PURPOSE: PERMIT MODIFICATION	FIGURE 4 PLAN VIEW	PROPOSED: RIPLEY LIGHT MARINA BASIN
	SCALE: 1"=60'	AT: RIPLEY LIGHT MARINA
		IN: ASHLEY RIVER
		COUNTY OF: CHARLESTON, SOUTH CAROLINA
SURVEY DATUM: MLW	RIPLEY LIGHT MARINA, POA 58 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	SHEET: 4 OF 8 DATE: 5/8/08

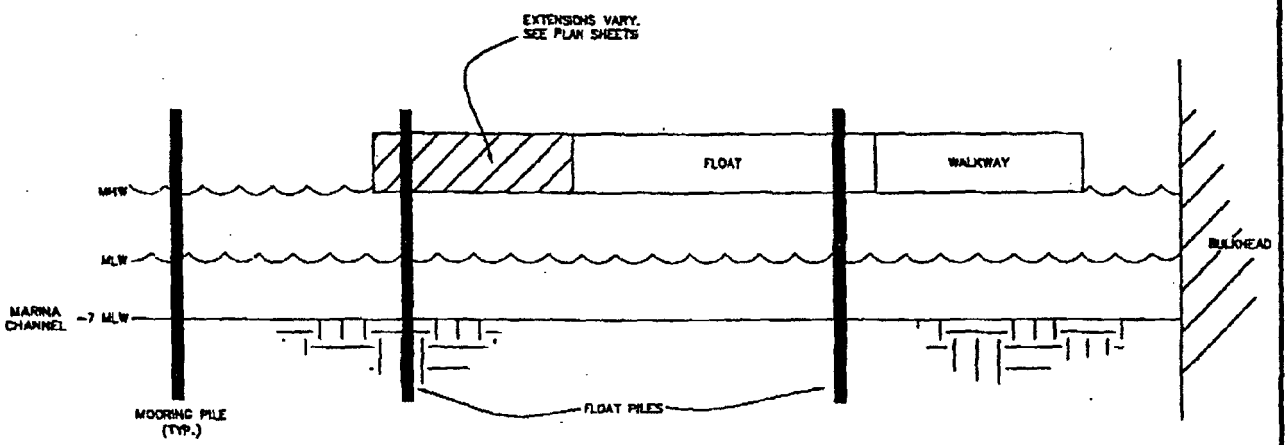
SPNT0001070 GEL ENGINEERING, LLC a Member of THE GEL GROUP INC.


EXISTING PILES & DOCK LOCATIONS FOR RIPLEY YACHT CLUB (NORTH SIDE OF CHANNEL) FROM JUNE 22, 2007 ASBUILT PROVIDED BY STANTEC CONSULTING 990 MORRISON DR CHARLESTON SC
TOP OF RIP-RAP S.C. DHEC\OCRM CRITICAL LINE
EXISTING FLOATING DOCKS
RIPLEY LIGHT YACHT BASIN
CHANNEL BOUNDARY (TYP)
EXISTING PILES (TYP.)
LIMIT OF DREDGING
N17°31'11"E 276.93'
68.59'
S76°02'29"W 89.73'
S64°44'21"W 17.07'
N16°34'21"W 9.99'
90.10'
S57°17'07"W 189.52'
N72°45'02"E 100.34'
N24°21'02"E 101.26'
S47°34'17"W 45.70'
74.75'
S48°13'51"W 188.84'
N56°48'53"E 174.73'
GEL Engineering LLC
GEL ENGINEERING, LLC
GEL ENGINEERING, INC.
No. C02649
CERTIFICATE OF AUTHORIZATION
SOUTH CAROLINA
PROFESSIONAL ENGINEER
No. 15241
JOSEPH E. ASHLEY, JR.
REGISTERED
PURPOSE: PERMIT MODIFICATION
SURVEY DATUM: MLW
FIGURE 5
PLAN VIEW
SCALE: 1"=60'
RIPLEY LIGHT MARINA, POA
56 ASHLEY POINTE DRIVE
CHARLESTON, SOUTH CAROLINA 29407
PROPOSED: RIPLEY LIGHT MARINA BASIN
AT: RIPLEY LIGHT MARINA
IN: ASHLEY RIVER
COUNTY OF: CHARLESTON, SOUTH CAROLINA
SHEET: 5 OF 8
DATE: 5/8/08
SENT00107C
GEL ENGINEERING, LLC
a Member of THE GEL GROUP, INC.



PURPOSE: PERMIT MODIFICATION	FIGURE 6 PLAN VIEW SCALE: 1"=60'	PROPOSED: RIPLEY LIGHT MARINA BASIN AT: RIPLEY LIGHT MARINA IN: ASHLEY RIVER
SURVEY DATUM: MLW	RIPLEY LIGHT MARINA, POA 56 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	COUNTY OF: CHARLESTON, SOUTH CAROLINA SHEET: 6 OF 8 DATE: 5/8/08

SENT00107C GEL ENGINEERING, LLC a Member of THE GEL GROUP, INC.



SOUTH CAROLINA
GEL
ENGINEERING, LLC
No. C02649
CERTIFICATE OF AUTHORIZATION

GEL Engineering LLC

a member of THE GEL GROUP INC
ENVIRONMENTAL • ENGINEERING • SURVEYING

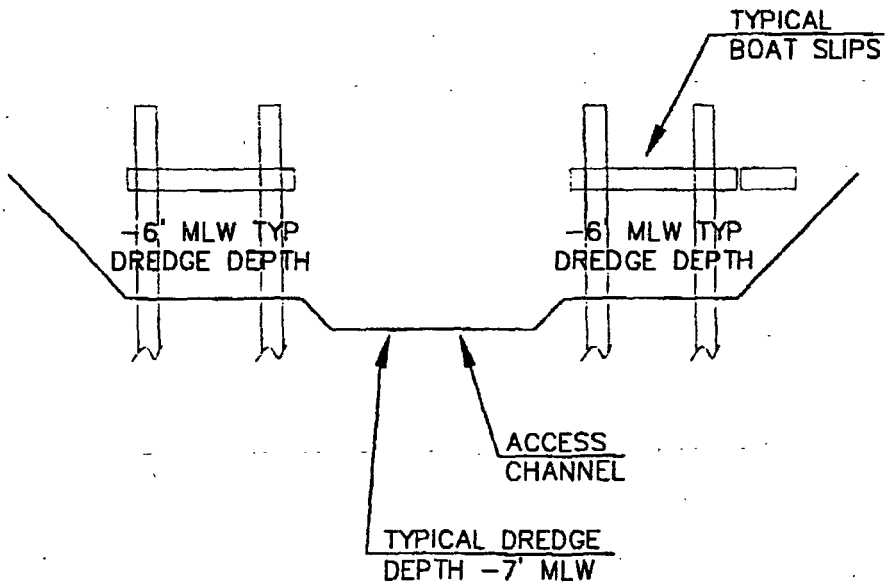
problems solved

P.O. BOX 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.769.7378 F 843.769.7387

www.gel.com

SOUTH CAROLINA
REGISTERED PROFESSIONAL ENGINEER
NO. 15241
JOSEPH E. ERVIN

PURPOSE: PERMIT MODIFICATION	FIGURE 7 TYPICAL CROSS-SECTION VIEW	PROPOSED: RIPLEY LIGHT MARINA BASIN
	NOT TO SCALE	AT: RIPLEY LIGHT MARINA
		IN: ASHLEY RIVER
SURVEY DATUM: MLW	RIPLEY LIGHT MARINA, POA 58 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	COUNTY OF: CHARLESTON, SOUTH CAROLINA
		SHEET: 7 OF 8 DATE: 11/20/07



SOUTH CAROLINA
GEL
ENGINEERING, LLC
No. C02649
CERTIFICATE OF AUTHORIZATION

GEL Engineering LLC
a member of THE GEL GROUP INC
ENVIRONMENTAL • ENGINEERING • SURVEYING
problem solved

P.O. BOX 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.769.7370 F 843.769.7387
www.gel.com

SOUTH CAROLINA
REGISTERED PROFESSIONAL ENGINEER
NO. 15241
JOSEPH E. ERVIN

PURPOSE: PERMIT MODIFICATION	FIGURE 8 TYPICAL CHANNEL CROSS-SECTION VIEW NOT TO SCALE	PROPOSED: RIPLEY LIGHT MARINA BASIN AT: RIPLEY LIGHT MARINA IN: ASHLEY RIVER
SURVEY DATUM: MLW	RIPLEY LIGHT MARINA, POA 58 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	COUNTY OF: CHARLESTON, SOUTH CAROLINA SHEET: 8 OF 8 DATE: 5/8/08

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	Civil Action No. 2008-CP-10-2641
	)	
Zan, LLC,	)	
	)	
Plaintiff,	)	
Vs.	)	
	)	
Ripley Cove LLC, W.H. Knight, Karl A McMillan, Individually and as the principle of Karl A. McMillan Inc., St. Andrews Title & Abstract Agency, Inc. Chicago Title Insurance Company, and Charles A. Funk & Lillian M. Funk,	)	
Defendants.	)	

FILED
2011 MAR 22 PM 12: 25
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

AFFIDAVIT OF W.H. KNIGHT

PERSONALLY appeared before me, W.H. Knight, who, first being duly sworn, states as follows:

1. I am W.H. Knight and a resident of Dublin, Georgia.

2. I was authorized to be and I was the signatory for Ripley Cove, LLC to the Agreement to Buy and Sell Real Estate (the "Agreement") from Ripley Cove, LLC to Zan, LLC which is attached hereto.

3. At no time during the negotiations or finalization of the Agreement, did I make a representation to Mr. Edgar Buck, or any other representative of Zan LLC that Ripley Cove that I or any entity associated with Ripley Cove would install additional pilings in the vicinity of the slip to be sold to Zan, LLC without approval of the United State Army Corp of Engineers and the OCRM Division of DHEC.

4. I attempted to obtain permission from the United State Army Corp of Engineers and the OCRM Division of DHEC in the summer of 2005 to install additional pilings in the slip as requested by Mr. Buck. However, the United State Army Corp of Engineers in Charleston denied my request for placement of the additional pilings. I dealt with Ms Robin Socha who explained that the Corps would only deal with the holder of the permit, which at that time was the condominium regime for the marina and that the site of the pilings was in the channel and unacceptable to them from the standpoint of safe navigation.

5. From my discussions with Mr. Buck, it was clear to me that he understood that the United State Army Corp of Engineers and the OCRM Division of DHEC approval was required to place additional pilings anywhere in the waters of the Ripley canal and marina. It is my belief that he understood that the offer made by Ripley Cove was to attempt to place the pilings was made as a matter of good faith to him as a slip purchaser, but that no guarantee could be made concerning securing approval of the Corps and OCRM. It is my belief and my understanding based on my discussion with Mr. Buck that he understood there was no guarantee concerning the placement of the additional pilings when he entered into the contract to purchase the boat slip and when he closed on the purchase of the boat slip.

FURTHER AFFIANT SAYETH NOT.

W.H. Knight

SWORN to before me this 22ND day of March, 2011.

Notary Public for South Carolina
My Commission Expires: My Commission Expires October 10, 2013

ZAN LLC DAMAGES

Deposit	2/4/2005	$ 5,000.00	$ 3,612.24	**$ 8,612.24**
Paid at Closing	4/5/2005	$ 680,589.78	$ 476,065.32	**$ 1,156,655.10**
Architect Invoice	11/29/2005	$ 3,800.00	$ -	**$ 3,800.00**
Dues/Regime Fees	12/23/06 to 4/7/08	$ 7,943.44	$ -	**$ 7,943.44**
Interest on Note	12/22/06 to 07/25/11	$ 237,365.33	$ -	**$ 237,365.33**
Insurance	4/5/05 to present	$ 5,540.00	$ -	**$ 5,540.00**
Real Estate Taxes	12/21/06 to 1/12/11	$ 43,949.77	$ -	**$ 43,949.77**
		$ 935,238.55	$ 479,677.56	**$ 1,414,916.11**

ZAN LLC DAMAGES

Item	Paid	Amount	PJ Interest to 7/25/11	TOTAL
Deposit	2/4/2005	$ 5,000.00	$ 3,612.24	**$ 8,612.24**
Paid at Closing	4/5/2005	$ 680,589.78	$ 476,065.32	**$ 1,156,655.10**
Architect Invoice	11/29/2005	$ 3,800.00	$ -	**$ 3,800.00**
Dues/Regime Fees	12/23/06 to 4/7/08	$ 7,943.44	$ -	**$ 7,943.44**
Interest on Note	12/22/06 to 07/25/11	$ 237,365.33	$ -	**$ 237,365.33**
Insurance	4/5/05 to present	$ 5,540.00	$ -	**$ 5,540.00**
Real Estate Taxes	12/21/06 to 1/12/11	$ 43,949.77	$ -	**$ 43,949.77**
		$ 935,238.55	$ 479,677.56	$ 1,414,916.11

		Beg Bal	2005 (330 days)	2006	2007	2008	2009	2010	2011 (206 days)	Total Interest
2/4/2005	Deposit	5,000.00	$ 395.55	$ 472.11	$ 513.42	$ 558.34	$ 607.20	$ 660.33	$ 405.29	$ 3,612.24
4/5/2005	Closing	680,589.78	$ 44,051.87	$ 63,406.14	$ 68,954.18	$ 74,987.67	$ 81,549.09	$ 88,684.64	$ 54,431.72	$ 476,065.32
		Closing Bal Fwd	$ 724,641.65	$ 788,047.80	$ 857,001.98	$ 931,989.65	$ 1,013,538.75	$ 1,102,223.39	$ 1,156,655.10	

	Interest	Insurance	Regime fees
2010	$ 8,386.83	$ 2,452.00	0
2009	$ 19,505.93	$ -	$ -
2008	$ 47,156.38	$ -	$ 1,160.00
2007	$ 80,825.96	$ -	$ 1,840.00
2006	$ 50,061.39	$ 2,442.00	$ 3,787.40
2005	$ 26,534.61	$ 646.00	$ 1,156.04
	$ 232,471.10	$ 5,540.00	$ 7,943.44
2011	$ 4,894.23		
	$ 237,365.33		

JAN	689.32
FEB	712.31
MAR	689.33
APR	712.31
MAY	689.33
JUN	712.31
JUL	689.32
AUG	
	4894.23

ZAN LLC DAMAGES

Item	Paid	Amount	PJ Interest to 7/25/11	TOTAL
Deposit	2/4/2005	$ 5,000.00	$ 3,612.24	$ 8,612.24
Paid at Closing	4/5/2005	$ 680,589.78	$ 476,065.32	$ 1,156,655.10
Architect Invoice	11/29/2005	$ 3,800.00	$ -	$ 3,800.00
Dues/Regime Fees	12/23/06 to 4/7/08	$ 7,943.44	$ -	$ 7,943.44
Interest on Note	12/22/06 to 07/25/11	$ 237,365.33	$ -	$ 237,365.33
Insurance	4/5/05 to present	$ 5,540.00	$ -	$ 5,540.00
Real Estate Taxes	12/21/06 to 1/12/11	$ 43,949.77	$ -	$ 43,949.77
		$ 935,238.55	$ 479,677.56	$ 1,414,916.11

		Beg Bal	2005 (330 days)	2006	2007	2008	2009	2010	2011 (206 days)	Total Interest
2/4/2005	Deposit	5,000.00	$ 395.55	$ 472.11	$ 513.42	$ 558.34	$ 607.20	$ 660.33	$ 405.29	$ 3,612.24
4/5/2005	Closing	680,589.78	$ 44,051.87	$ 63,406.14	$ 68,954.18	$ 74,987.67	$ 81,549.09	$ 88,684.64	$ 54,431.72	$ 476,065.32
		Closing Bal Fwd	$ 724,641.65	$ 788,047.80	$ 857,001.98	$ 931,989.65	$ 1,013,538.75	$ 1,102,223.39	$ 1,156,655.10	

	Interest	Insurance	Regime fees
2010	$ 8,386.83	$ 2,452.00	0
2009	$ 19,505.93	$ -	$ -
2008	$ 47,156.38	$ -	$ 1,160.00
2007	$ 80,825.96	$ -	$ 1,840.00
2006	$ 50,061.39	$ 2,442.00	$ 3,787.40
2005	$ 26,534.61	$ 646.00	$ 1,156.04
	$ 232,471.10	$ 5,540.00	$ 7,943.44
2011	$ 4,894.23		
	$ 237,365.33		

JAN	689.32
FEB	712.31
MAR	689.33
APR	712.31
MAY	689.33
JUN	712.31
JUL	689.32
AUG	
	4894.23

ZAN LLC DAMAGES

Item	Paid	Amount	PJ Interest to 7/25/11	TOTAL
Deposit	2/4/2005	$ 5,000.00	$ 3,612.24	$ **8,612.24**
Paid at Closing	4/5/2005	$ 680,589.78	$ 476,065.32	$ **1,156,655.10**
Architect Invoice	11/29/2005	$ 3,800.00	$ -	$ **3,800.00**
Dues/Regime Fees	12/23/06 to 4/7/08	$ 7,943.44	$ -	$ **7,943.44**
Interest on Note	12/22/06 to 07/25/11	$ 237,365.33	$ -	$ **237,365.33**
Insurance	4/5/05 to present	$ 5,540.00	$ -	$ **5,540.00**
Real Estate Taxes	12/21/06 to 1/12/11	$ 43,949.77	$ -	$ **43,949.77**
		$ 935,238.55	$ 479,677.56	$ **1,414,916.11**

		Beg Bal	2005 (330 days)	2006	2007	2008	2009	2010	2011 (206 days)	Total Interest
2/4/2005	Deposit	5,000.00	$ 395.55	$ 472.11	$ 513.42	$ 558.34	$ 607.20	$ 660.33	$ 405.29	$ 3,612.24
4/5/2005	Closing	680,589.78	$ 44,051.87	$ 63,406.14	$ 68,954.18	$ 74,987.67	$ 81,549.09	$ 88,684.64	$ 54,431.72	$ 476,065.32
		Closing Bal Fwd	$ 724,641.65	$ 788,047.80	$ 857,001.98	$ 931,989.65	$ 1,013,538.75	$ 1,102,223.39	$ 1,156,655.10	

	Interest	Insurance	Regime fees
2010	$ 8,386.83	$ 2,452.00	0
2009	$ 19,505.93	$ -	$ -
2008	$ 47,156.38	$ -	$ 1,160.00
2007	$ 80,825.96	$ -	$ 1,840.00
2006	$ 50,061.39	$ 2,442.00	$ 3,787.40
2005	$ 26,534.61	$ 646.00	$ 1,156.04
	$ 232,471.10	$ 5,540.00	$ 7,943.44
2011	$ 4,894.23		
	$ 237,365.33		

JAN	689.32
FEB	712.31
MAR	689.33
APR	712.31
MAY	689.33
JUN	712.31
JUL	689.32
AUG	
	4894.23

NEWKIRK
ENVIRONMENTAL, INC
CHARLESTON, SC • BLUFFTON, SC

RECEIVED
MAR 3 0 2005
DHEC-OCRM
CHARLESTON OFFICE

March 28, 2005

Mr. Travis Hughes
Chief, Permits Branch
U.S. Army Corps of Engineers
Charleston District
69A Hagood Avenue
Charleston, SC 29403-5107

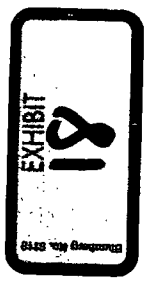
Mr. Mr. Curtis Joyner
Manager, Critical Area Permitting
SCDHEC-OCRM
1362 McMillan Ave., Ste. 400
Charleston, SC 29405

RE: (Ripley Cove, LLC-Maintenance Dredging)
Charleston County, SC

Dear Travis and Curtis,

Enclosed for your review and use is an application for Federal and State permits to conduct maintenance dredging at Ripley Light Marina in order to restore adequate depths for safe and unobstructed navigation, in Charleston County, South Carolina. Also enclosed is a copy a letter from Mr. Mark C. Brandenburg, attorney representing the Citadel, allowing Ripley Cove, LLC to use the existing Citadel Disposal Site to place the dredged material from the proposed maintenance dredging operation. Also, please note that DA Permit #2000-1P-582 currently authorizes the maintenance dredging work and disposal of the material in the Citadel's Disposal Site. A portion of the maintenance dredging work authorized by the referenced permit was conducted but no maintenance dredging work was conducted at the marina site. Ripley Cove, LLC is requesting its own permit to accomplish the maintenance dredging work since the permittee for DA Permit #2000-1P-582 was not agreeable to a partial transfer nor would it allow the work to be accomplished under the existing valid permit. Since the Citadel's Disposal Site was improved to provide sufficient capacity to hold the material to be removed under DA Permit #2000-1P-582, and since all of the work was not accomplished, sufficient capacity should exist at the site to hold the material proposed to be removed under the requested permit.

A check, made payable to SCDHEC-OCRM, in the amount of $1,000.00, is attached to cover SCDHEC-OCRM's required processing fee.



Post Office Box 746, Mt. Pleasant, South Carolina 29465-0746 • 1887 Clements Ferry Road, Charleston, South Carolina 29492
Telephone (843) 388-6585 • Facsimile: (843) 388-6580

E-Mail: general@newkirkenv.com
www.newkirkenv.com

Please do not hesitate to contact me with any questions or comments you may have concerning this application.

Sincerely,

Robert H. Riggs
Newkirk Environmental, Inc.

cc: Quinton Epps, SCDHEC-EQC

Enclosures

Joint Federal and State Application Form For Activities Affecting Waters of the United States or Critical Areas of the State of South Carolina	This Space for Official Use Only. Application # 52098 Date Received: Project Manager:

Authorities: 33 USC 401, 33 USC 403, 33 USC 407, 33 USC 408, 33 USC 1341, 33 USC 1344, 33 USC 1413 and Section 48-39-10 et. seq of the South Carolina Code of Laws. These laws require permits for activities in, or affecting, navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. The Corps of Engineers and the State of South Carolina have established a joint application process for activities requiring both Federal and State review or approval. Under this joint process, you may use this form, together with the required drawings and supporting information, to apply for both Federal and/or State permit(s).

Drawings and Supplemental Information Requirements: In addition to the information on this form, you must submit a set of drawings and, in some cases, additional information. A completed application form together with all required drawings and supplemental information is required before an application can be considered complete. See the attached instruction sheets for details regarding these requirements. You may attach additional sheets if necessary to provide complete information.

1. Applicant's Name.	4. Agent's Name (an agent is not required).
Ripley Cove, LLC **c/o Mr. Michael Belote**	**NEWKIRK ENVIRONMENTAL, INC.**
2. Applicant's Address.	5. Agent's Address.
P.O. Box 678 **Dublin, GA 31040**	**P.O. Box 746** **Mt. Pleasant, SC 29465**
3. Applicant's Contact Number (include area code). Residence: Business: **478-275-3724** FAX:	6. Agent's Contact Number (include area code). Residence: Business: **843/388-6585** FAX: **843/388-6580**
7. Project Title. **Ripley Cove at Ripley Light Marina**	9. Project Location. Street Address: County: Latitude: **32° 46' 34"** Longitude: **79° 57' 53"**
8. Nearest Waterbody to project site (if known). **Ashley River**	

10. Directions to the Site (attach additional sheets if needed).

Attached

11. Description of the Overall Project and of Each Activity In or Affecting U.S. Waters or State Critical Areas (attach additional sheets if needed).

Attached

P 1,000 4/1/05

12. Overall Project Purpose and the Basic Purpose of Each Activity In or Affecting U.S. Waters (attach additional sheets if needed).

Attached

RECEIVED

MAR 30 2005

DHEC-OCRM

CHARLESTON OFFICE

13. Type and Quantity of Materials To Be Discharged.			14. Type and Quantity of Impacts to U.S. Waters (including wetlands)				
Dirt or Topsoil:		cy	Filling:		☐ acres ☐ sq.ft.		cy
Clean Sand:		cy	Backfill & Bedding:		☐ acres ☐ sq.ft.		cy
Mud:	8,241	cy	Landclearing:		☐ acres ☐ sq.ft.		cy
Clay:		cy	Dredging or Excavation:	2.0	☐ acres ☐ sq.ft.		cy
Gravel,Rock, or Stone:		cy	Flooding:		☐ acres ☐ sq.ft.		cy
Concrete:		cy	Draining:		☐ acres ☐ sq.ft.		cy
Other (describe):		cy	Shading:		☐ acres ☐ sq.ft.		cy
TOTAL:	8,241	cy	TOTALS	2.0	☐ acres ☐ sq.ft.		cy

15. Names and Addresses of All Adjoining Property Owners (attach additional sheets if needed).

See Attached Public Notice Mailing List Data Form.

16. Has any portion of the work already commenced? If yes, describe all work that has been done and the dates of the work.

No

17. List all Certifications, Approvals, and Denials received from Federal, State, or Local Agencies for work described in this application.

18. Authorization of Agent.

I hereby authorize the agent whose name is given in block number 4 of this application to act in my behalf in the processing of this application and to furnish supplemental information in support of this application.

W.M. Bostick 3/25/05

Applicant's Signature Date

19. Certification.

Application is hereby made for a permit or permits to authorize the work and uses of the work as described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent for the applicant.

W.M. Bostick 3/25/05 Robert R. Logan 3-25-05

Applicant's Signature Date Agent's Signature Date

The application must be signed by the person who desires to undertake the proposed activity or it may be signed by a duly authorized agent if the authorization statement in blocks 4 and 18 have been completed and signed. 18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than $10,000 or imprisoned not more than five years or both.

Submit the completed application form with the required drawings and all supporting information as indicated below.

Send all original application materials to:
U.S. Army Corps of Engineers
Charleston District, Regulatory Branch
69A Hagood Avenue, ATTN: CESAC-CO-P
Charleston, South Carolina 29402
(803) 727-4330

Send one complete copy to:
S.C. Dept. of Health & Environmental Control
Office of Ocean and Coastal Resource Management
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405
(803) 744-5838

Send one complete copy to:
S.C. Dept. of Health & Environmental Control
Office of Environmental Quality Control
2600 Bull Street
Columbia, South Carolina 29201
(803) 734-5300

March 25, 2005

U.S. Army Corps of Engineers
69 A Hagood Avenue
Charleston, SC 29403-5107

To Whom It May Concern:

This is to certify that the work subject to the jurisdiction of the U.S. Army Corps of Engineers as described in my application dated March 25, 2005 is, to the best of my knowledge, consistent with the South Carolina Coastal Zone Management Program.

Since my project is located in the Coastal Zone of South Carolina, I understand that the U.S. Army Corps of Engineers must provide this statement to the SC Department of Health and Environmental Control (SCDHEC)-Office of Ocean and Coastal Resource Management (OCRM) for its review and that a Department of the Army permit will not be issued until the SCDHEC-OCRM concurs with my findings. I also understand that additional information concerning my project may be required by the SCDHEC-OCRM to facilitate its review of my project and additional certifications may be required for other Federal or State authorizations.

W. M. Belote
SIGNATURE OF APPLICANT

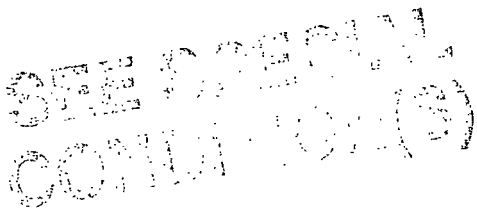
W. M. Belote
PRINTED NAME

P.O. Box 678
Dublin, GA 31021
ADDRESS

South Carolina Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management

CRITICAL AREA & WATER QUALITY CERTIFICATION PERMIT

Permittee:	**Ripley Cove LLC**
Permit Number:	**2005-1W-122-P**
Date of Issuance:	**August 02, 2005**
Expiration Date:	**August 02, 2010**
Location:	**On and adjacent to the Ashley River at Ripley Light Marina, adjacent to Ashley Pointe Drive, Charleston, Charleston County, South Carolina.**



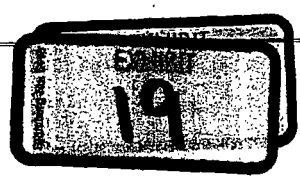
This permit/certification is issued under the provisions of 25A S.C. Code Ann. Regs. 61-101 (Supp. 2003), *et seq.*, and 23A S.C. Code Ann. Regs. 30-1 through 30-18 (Supp. 2003). Additionally, as required by R.61-101, Department staff have reviewed plans for this project and determined there is a reasonable 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 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.

This permit contains required certification pursuant to Section 401 of the Clean Water Act. Work may not commence under this permit until thirty (30) days after final signature by an OCRM official. No work may be performed under this permit should an administrative appeal be filed within this 30 day period. PLEASE CAREFULLY READ THE ENCLOSED "NOTICE OF APPEAL PROCEDURE."

Please carefully read the project description and any special conditions, which may appear on this permit/certification, as they will affect the work that is allowed. If there are no special conditions, then the work is authorized as described in the project description and as modified by general conditions. The general conditions are also a part of this permit/certification and should be read in their entirety. The S. C. Contractor's Licensing Act of 1999, enacted as Section 40-11-5 through 430, requires that all construction with a total cost of $5,000 or more be performed by a licensed contractor with a valid contractor's license for marine class construction, except for construction performed by a private landowner for strictly private purposes. Your signature on and acceptance of this permit denotes your understanding of the stated law regarding use of licensed contractors. **All listed special and general conditions will remain in effect for the life of the project, if work commences during the life of the permit. This applies to permittee, future property owners, or permit assignees.**

DESCRIPTION OF THE AUTHORIZED PROJECT

This permit has been issued authorizing the dredging work as requested. Specifically, the work as shown on the attached plans consists of hydraulically dredging approximately 8,421 cubic yards of material over a two acre area and pumping it via pipeline to the Citadel's confined disposal area located upstream of the dredge site.



CRITICAL AREA PERMIT SPECIAL CONDITIONS

1. Provided that if the Citadel's confined disposal facility is not available for use, an alternative upland confined disposal facility must be approved before any dredging work can take place.

WATER QUALITY SPECIAL CONDITIONS

1. All necessary measures must be taken to prevent oil, tar, trash, debris and other pollutants from entering the adjacent waters or wetlands.

2. Dredging activities must avoid to the greatest extent possible, encroachment into any wetland areas not designated as impact areas.

3. The applicant must implement best management practices on the upland portion of the project during construction to minimize erosion and migration of sediments off site, as proposed. These practices may include use mulches, hay bales, silt fences, or other devices capable of preventing erosion, migration of sediments.

4. Dredging must be limited, when possible, to the winter months (November 1 through March 31).

5. Dredged material must be placed in Citadel's confied disposal area located just up stream of the project site as shown in Drawing 1 of the public notice drawings

6. The excavated area must be sloped such that the rear is no deeper than the front and the front is no deeper than the adjacent portion of the Ashley River to maintain circulation.

7. The applicant must coordinate with Charleston County to insure appropriate mosquito abatement procedures are employed in the area of the disposal area.

8. Once the project is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to the environment.

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.

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.

2005-1W-122-P

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

(PERMITTEE) (DATE)

Ripley Cove LLC

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 M. Joyner

or his Designee Other Authorized State Official

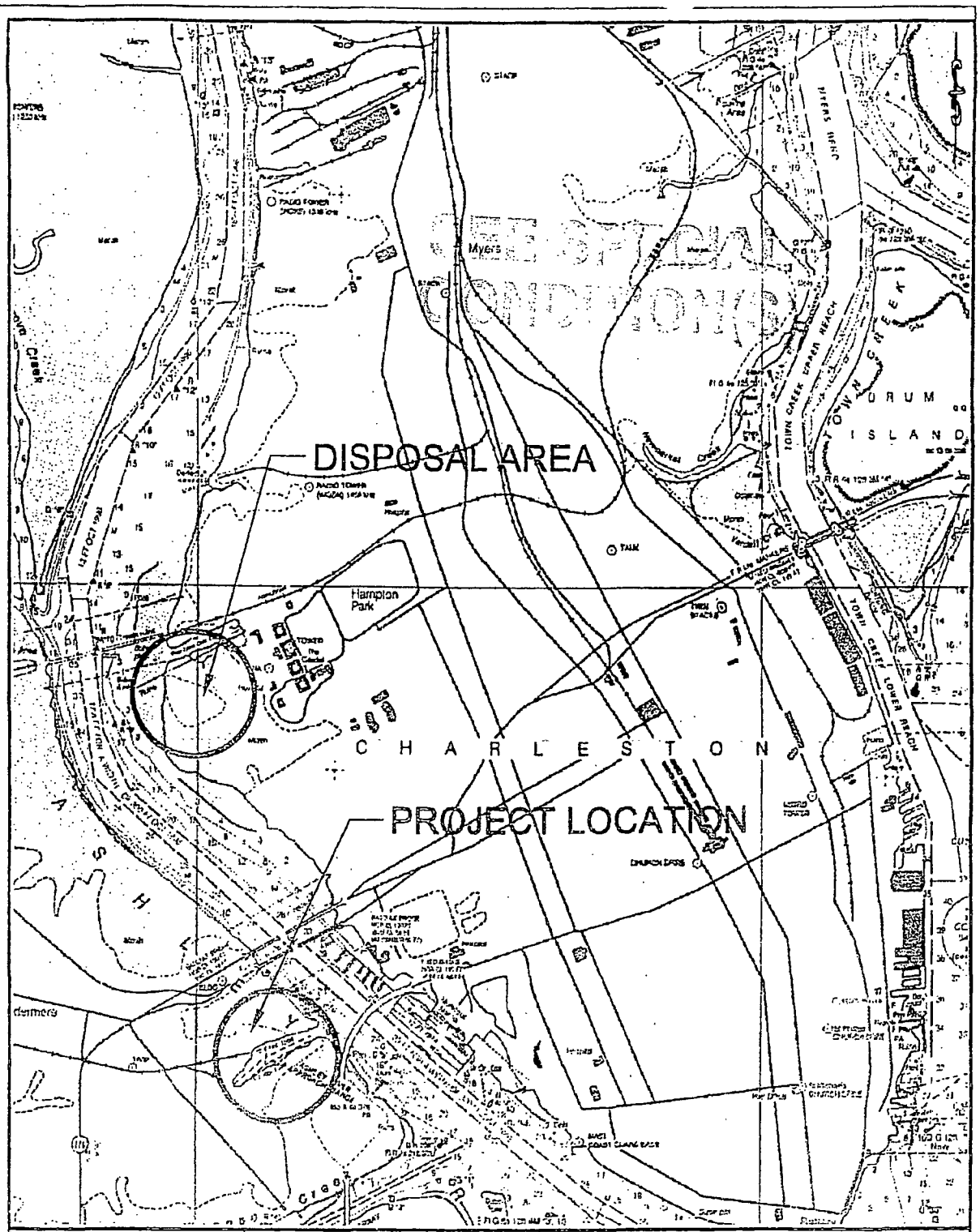
PLEASE SIGN AT X AND RETURN

GENERAL CONDITIONS:

This construction and use 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 Coastal 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 0dverse 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 OCRM 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 OCRM.
8. That this permit may not be transferred to a third party without prior written notice to the OCRM, 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 the permit placard 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 OCRM 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 OCRM intends to revoke the permit, Permittee agrees to immediately stop work pending resolution of the revocation.
13. That the OCRM 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 Coastal OCRM'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 OCRM shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to the OCRM. (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 OCRM or the State of South Carolina or any employee, agent, or representative of the Coastal OCRM or 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 OCRM assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.

4 of 12



Fletcher Group
ENGINEERING & ENVIRONMENTAL SOLUTIONS

NOT TO SCALE

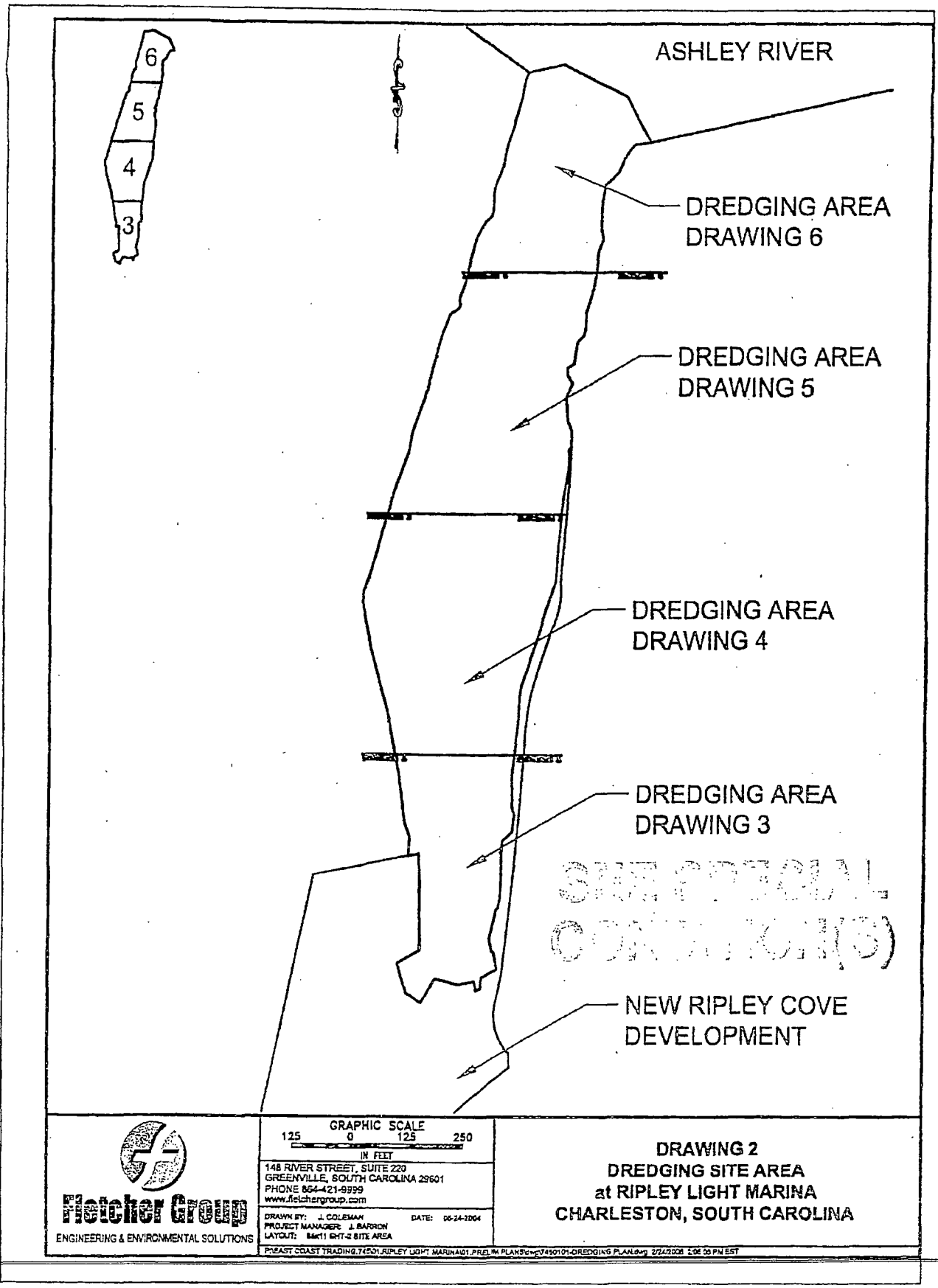
148 RIVER STREET, SUITE 220
GREENVILLE, SOUTH CAROLINA 29601
PHONE 864-421-9999
www.fletchergroup.com

DRAWN BY: J. COLEMAN DATE: 02-23-2005
PROJECT MANAGER: J. BARRON
LAYOUT: 8.5x11 SHT-1 SITE LOC

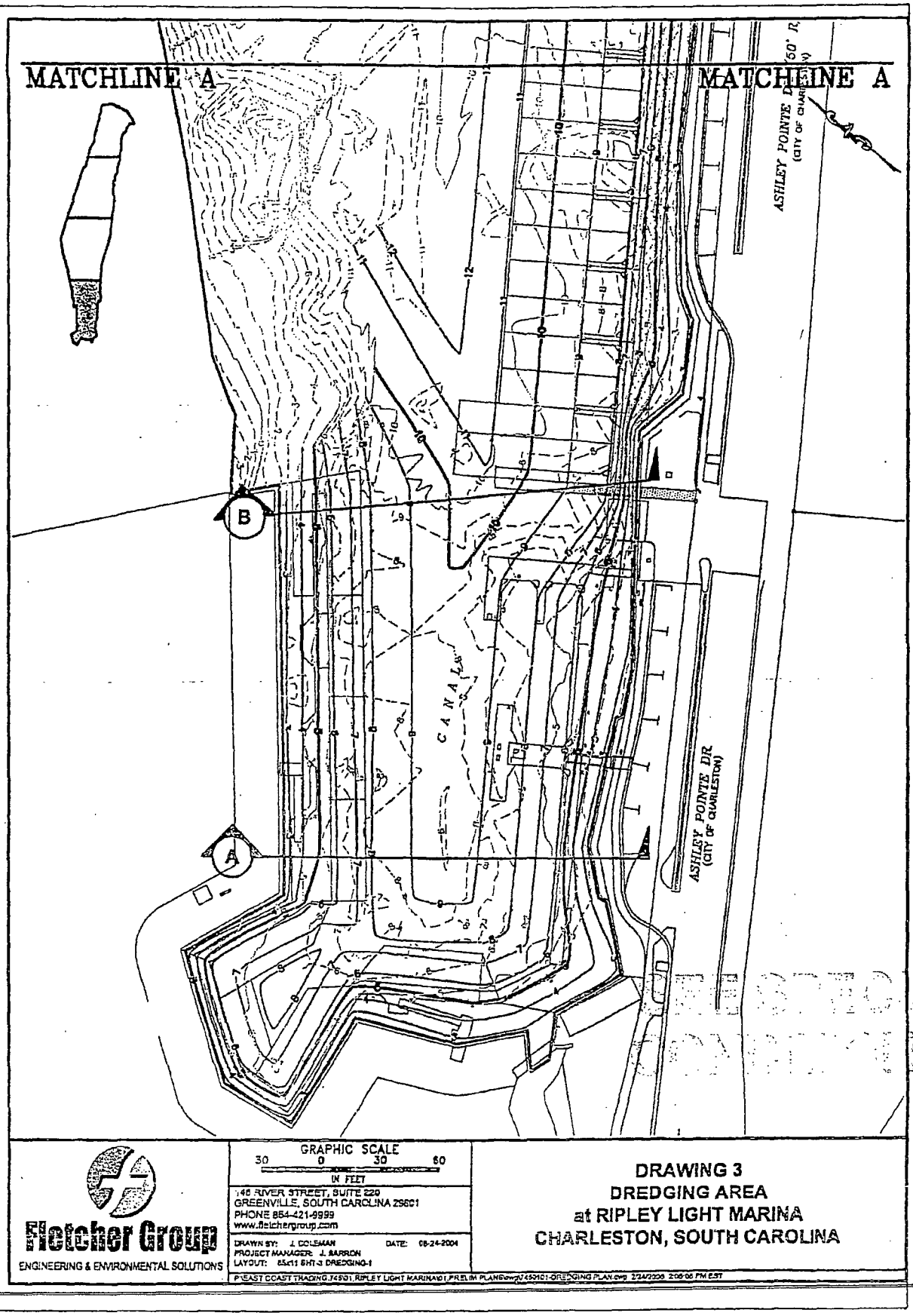
DRAWING 1
DREDGING SITE LOCATION MAP
at RIPLEY LIGHT MARINA
CHARLESTON, SOUTH CAROLINA

F:\EAST COAST TRADING,745101,RIPLEY LIGHT MARINA\01,PRELIM PLANS\wc\745010-DREDGING PLAN.dwg 2/24/2005 2:06:26 PM EST

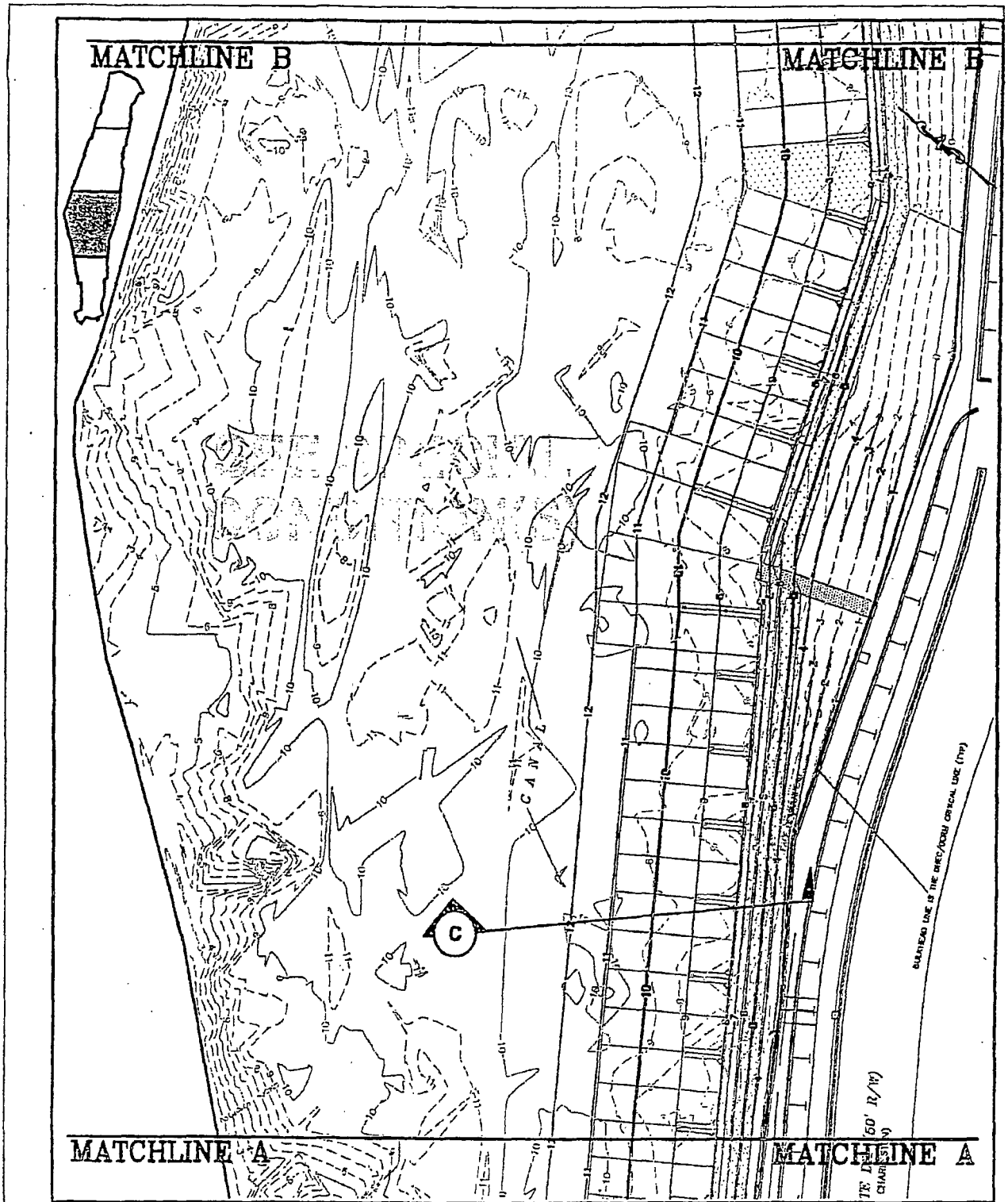
5 of 12


6
5
4
3
ASHLEY RIVER
DREDGING AREA
DRAWING 6
DREDGING AREA
DRAWING 5
DREDGING AREA
DRAWING 4
DREDGING AREA
DRAWING 3
NEW RIPLEY COVE
DEVELOPMENT
GRAPHIC SCALE
125 0 125 250
IN FEET
148 RIVER STREET, SUITE 220
GREENVILLE, SOUTH CAROLINA 29601
PHONE 864-421-9999
www.fletchergroup.com
DRAWN BY: J. COLEMAN
DATE: 06-24-2004
PROJECT MANAGER: J. BARRON
LAYOUT: 8½x11 RHT-2 SITE AREA
Fletcher Group
ENGINEERING & ENVIRONMENTAL SOLUTIONS
DRAWING 2
DREDGING SITE AREA
at RIPLEY LIGHT MARINA
CHARLESTON, SOUTH CAROLINA

6 of 12


MATCHLINE A
MATCHLINE A
ASHLEY POINTE DR (60' R
(CITY OF CHARLESTON)
B
A
CANAL
ASHLEY POINTE DR
(CITY OF CHARLESTON)
GRAPHIC SCALE
30 0 30 60
IN FEET
146 RIVER STREET, SUITE 220
GREENVILLE, SOUTH CAROLINA 29601
PHONE 864-421-9999
www.fletchergroup.com
DRAWN BY: J. COLEMAN
DATE: 08-24-2004
PROJECT MANAGER: J. BARRON
LAYOUT: 85x11 SHT-3 DREDGING-1
P:\EAST COAST TRADING,74501 RIPLEY LIGHT MARINA\01 PRELIM PLANS\dwg\74501-DREDGING PLAN.dwg 2/24/2006 2:06:06 PM EST
Fletcher Group
ENGINEERING & ENVIRONMENTAL SOLUTIONS
DRAWING 3
DREDGING AREA
at RIPLEY LIGHT MARINA
CHARLESTON, SOUTH CAROLINA

7 of 12



GRAPHIC SCALE
30 0 30 60
IN FEET

Fletcher Group
ENGINEERING & ENVIRONMENTAL SOLUTIONS

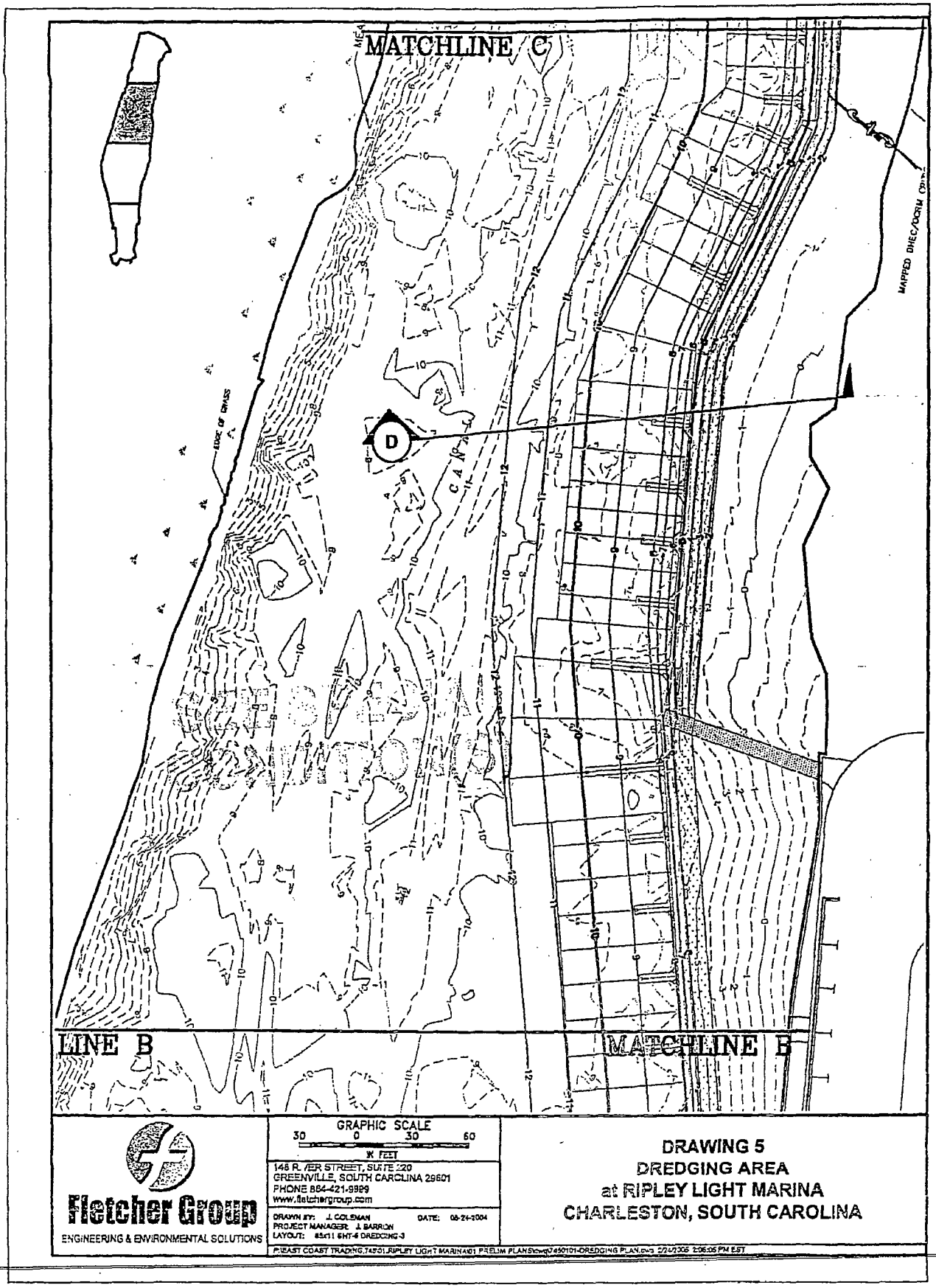
148 RIVER STREET, SUITE 220
GREENVILLE, SOUTH CAROLINA 29601
PHONE 864-421-9999
www.fletchergroup.com

DRAWN BY: J. COLEMAN DATE: 06-24-2004
PROJECT MANAGER: J. BARRON
LAYOUT: 8.5x11 EXT-1 DREDGING-2

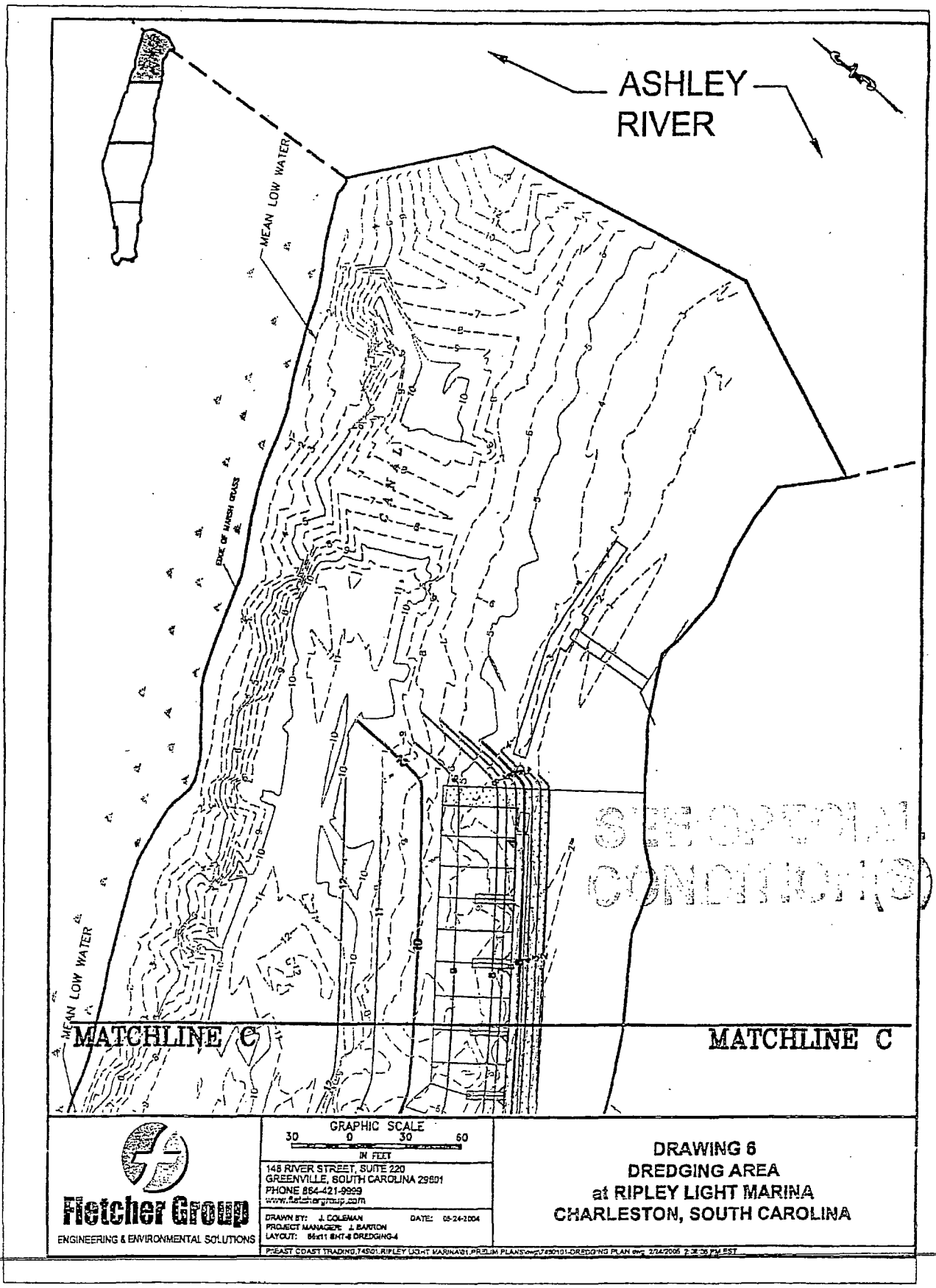
P:\EAST COAST TRADING,745\01.RIPLEY LIGHT MARINA\01.PRELIM PLANS\dwg\745101-DREDGING PLAN.dwg 2/24/2005 2:02:06 PM EST

DRAWING 4
DREDGING AREA
at RIPLEY LIGHT MARINA
CHARLESTON, SOUTH CAROLINA

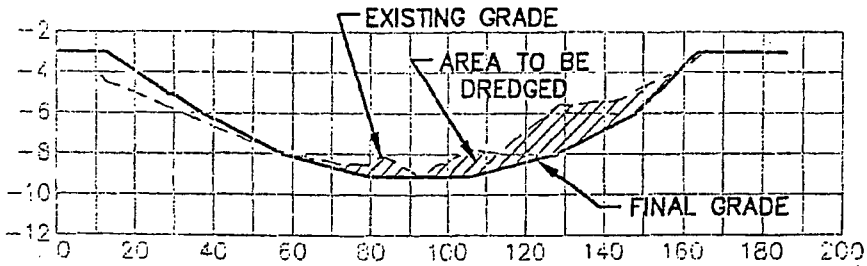
8 of 12


MATCHLINE C
MATCHLINE B
LINE B
EDGE OF GRASS
D
CANAL
MAPPED DHEC/OCRM (OCRM)
GRAPHIC SCALE
30 0 30 60
IN FEET
Fletcher Group
ENGINEERING & ENVIRONMENTAL SOLUTIONS
148 RIVER STREET, SUITE 220
GREENVILLE, SOUTH CAROLINA 29601
PHONE 864-421-9999
www.fletchergroup.com
DRAWN BY: J. COLEMAN
DATE: 08-24-2004
PROJECT MANAGER: J. BARRON
LAYOUT: 85x11 SHT-6 DREDGING-3
P:\EAST COAST TRADING,74501,RIPLEY LIGHT MARINA\01 PRELIM PLANS\dwg\7450101-DREDGING PLAN.dwg 2/24/2005 2:06:05 PM EST
DRAWING 5
DREDGING AREA
at RIPLEY LIGHT MARINA
CHARLESTON, SOUTH CAROLINA

9 of 12


ASHLEY
RIVER
MEAN LOW WATER
EDGE OF MARSH GRASS
MEAN LOW WATER
MATCHLINE C
MATCHLINE C
SUBMISSION
CONDITIONS
Fletcher Group
ENGINEERING & ENVIRONMENTAL SOLUTIONS
GRAPHIC SCALE
30 0 30 60
IN FEET
148 RIVER STREET, SUITE 220
GREENVILLE, SOUTH CAROLINA 29601
PHONE 864-421-9999
www.fletchergroup.com
DRAWN BY: J. COLEMAN
DATE: 05-24-2004
PROJECT MANAGER: J. BARTON
LAYOUT: 8&x11 ENT-8 DREDGING-4
P:\EAST COAST TRADING\74501.RIPLEY LIGHT MARINA\01.PRELIM PLANS\dwg\74501101-DREDGING PLAN.dwg 2/24/2005 2:36:36 PM EST
DRAWING 6
DREDGING AREA
at RIPLEY LIGHT MARINA
CHARLESTON, SOUTH CAROLINA

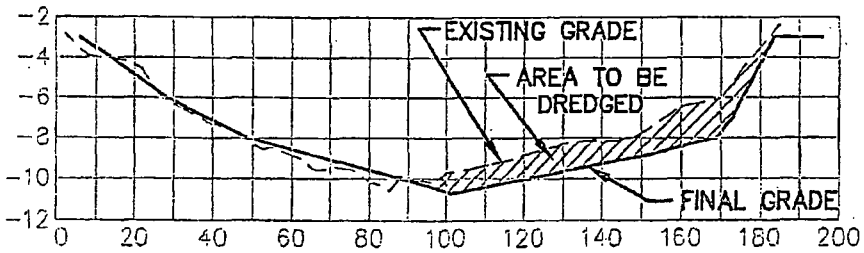
10 of 12



DREDGING SECTION A

VERTICAL SCALE: 1" = 8'
HORIZONTAL SCALE: 1" = 40'

SEE OPTIONAL CONDITION(S)



DREDGING SECTION B

VERTICAL SCALE: 1" = 8'
HORIZONTAL SCALE: 1" = 40'

Fletcher Group
ENGINEERING & ENVIRONMENTAL SOLUTIONS

GRAPHIC SCALE
20 0 20 40
IN FEET

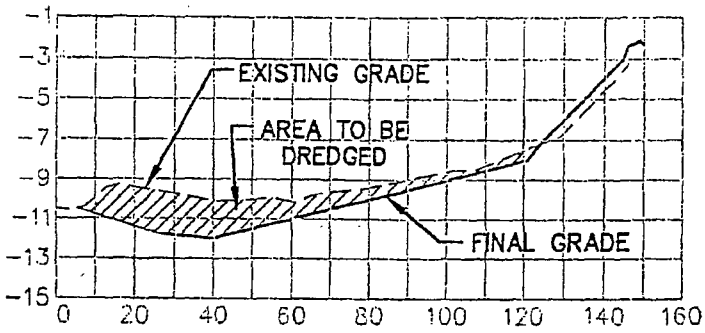
148 RIVER STREET, SUITE 220
GREENVILLE, SOUTH CAROLINA 29601
PHONE 864-421-9999
www.fletchergroup.com

DRAWN BY: J. COLEMAN DATE: 09-24-2004
PROJECT MANAGER: J. BARRON
LAYOUT: 8.5x11 SHT-7 DREDGING SECTIONS A & B

P:\EAST COAST TRADING.745\07.RIPLEY LIGHT MARINA\01.PRELIM PLANS\dwg\745101-DREDGING PLAN.dwg 2/24/2005 2:04:55 PM EST

DRAWING 7
DREDGING SECTIONS A & B
at RIPLEY LIGHT MARINA
CHARLESTON, SOUTH CAROLINA

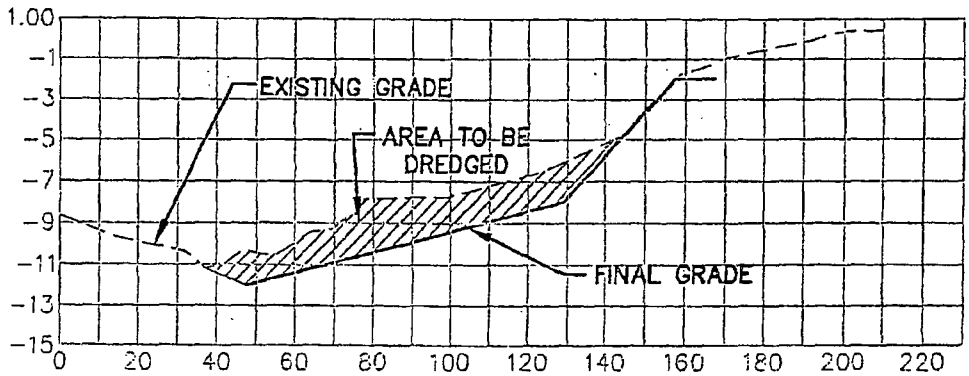
11 of 12



DREDGING SECTION C

VERTICAL SCALE: 1" = 8'
HORIZONTAL SCALE: 1" = 40'

SEE SPECIAL CONDITION(S)



DREDGING SECTION D

VERTICAL SCALE: 1" = 8'
HORIZONTAL SCALE: 1" = 40'

Fletcher Group
ENGINEERING & ENVIRONMENTAL SOLUTIONS

148 RIVER STREET, SUITE 220
GREENVILLE, SOUTH CAROLINA 29601
PHONE 864-421-9999
www.fletchergroup.com

GRAPHIC SCALE
20 0 20 40
IN FEET

DRAWN BY: J. COLEMAN DATE: 06-24-2004
PROJECT MANAGER: J. BARRON
LAYOUT: 8&x11 SHT-8 DREDGING SECTIONS C & D

P:\EAST COAST TRADING,T\450\1.RIPLEY LIGHT MARINA\01 PRELIM PLANS\dwg\T450101-DREDGING PLAN.dwg 2/24/2005 2:06:06 PM EST

DRAWING 8
DREDGING SECTIONS C & D
at RIPLEY LIGHT MARINA
CHARLESTON, SOUTH CAROLINA

12 of 12

NEWKIRK ENVIRONMENTAL, INC.
1887 Clements Ferry Road
Charleston, SC 29492
(843) 388-6585
FAX (843) 388-6580

LETTER OF TRANSMITTAL

TO:
Mr. Curtis Joyner

SC DHEC-OCRM

1362 McMillan Avenue, Suite 400

Charleston, SC 29405

DATE: August 18, 2005	PROJECT: Ripley Cove, LLC
ATTENTION:	
RE: Permit #2005-1W-122-P#	

WE ARE SENDING YOU ☐ ATTACHED ☐ BY HAND ____ THE FOLLOWING ITEMS:

COPIES	DATE	NO.	DESCRIPTION
1	8/18/05		Permit signed by Applicant

THESE ARE TRANSMITTED AS CHECK BELOW:

- ☒ For approval
- ☐ For your use
- ☐ As requested
- ☐ For review and comment
- ☐ Approved as submitted
- ☐ Approved as noted
- ☐ Returned for corrections
- ☐ Materials returned after loan to us
- ☐ Resubmit ____ copies for approval
- ☐ Submit ____ copies for distribution
- ☐ Return ____ corrected prints
- ☐ Other:

REMARKS:

Please call us at Newkirk Environmental, Inc. when the permit is ready to be issued and we will have it picked up by courier.

If you have any questions, please do not hesitate to contact us.

Thank You.

COPY TO: _____ SIGNED: Jeffery Vereen
NEWKIRK ENVIRONMENTAL, INC.

RECEIVED
AUG 22 2005
DHEC-OCRM
CHARLESTON OFFICE

BK X545PG201

STATE OF SOUTH CAROLINA)
) INDENTURE DEED
COUNTY OF CHARLESTON)

KNOW ALL MEN BY THESE PRESENTS, that, **RIPLEY COVE, LLC**, in the County and State aforesaid, for and in consideration of the sum of FIVE AND NO/100 ($5.00) DOLLARS AND OTHER VALUABLE CONSIDERATION, to it in hand paid, at and before the sealing of these presents by **PAVILION DEVELOPMENT CORPORATION**, in the County and State aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said **PAVILION DEVELOPMENT CORPORATION**, its Heirs and Assigns, the following described property, to-wit:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION AND RESTRICTIONS ON OWNERSHIP OF DOCK UNITCS B 2

THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING:

1. Taxes and assessments for the current year, a lien, not yet due and payable.

2. Terms, Conditions, Restrictions, Easements, Rights to Repurchase, Assessments and Obligations of the Master Deed for the Slips at Ripley Horizontal Property Regime, dated July 29, 2004 and recorded in Book Y 503 Page 563 RMC Office aforesaid.

3. All facts and conditions, which may be shown by survey and physical examination of the unit;

4. Any applicable zoning and/or development laws and ordinances, including those of Charleston County and the City of Charleston;

5. Navigable servitude of the U.S. Government and State of South Carolina or any political division thereof and rights of the public to the use of any navigable waters covering any land included in the description of the insured premises; provided, however, the limit of such navigable servitude is the line formed by the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management Critical Line and the bulkhead Line (whichever would cause the navigable servitude to be larger), and the general public has no right in and to any of the improvements which may be located within the area of the navigable servitude;

6. Rights and jurisdiction vested in the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management by law, including the power of said agency to mandate the removal or modification of any docking facility constructed in accordance with its permitting authority;

7. Rights of the United States or other governmental entities, if any, which rights may exist in addition to the right to permit dock construction and regulate use vested in the South

EXHIBIT 18

Carolina Department of Health and Environmental Control - Office of Coastal Resources Management.

8. Restrictions and Conditions set out and imposed by the Horizontal Property Act, Chapter 31 Code of Laws of the State of South Carolina, 1976;

9. Terms and conditions of all permits and licenses issued by federal, state, and local governments, their respective agencies, and quasi-governmental or private agencies having jurisdiction over the Project, including the U.S. Army Corps of Engineers, the South Carolina Department of Health and Environmental Control, the Office of Ocean and Coastal Resources Management and the City of Charleston;

10. Interests created by, or limitations on use imposed by, the Federal Coastal Zone Management Act, or other federal law or regulations promulgated pursuant to said state or federal laws.

11. Ripley Light Marina Real Estate Agreement dated April 29, 2004 and recorded April 29, 2004 in Book W 492 Page 771 in the RMC Office for Charleston County.

12. Drainage Easement to the City of Charleston dated December 13, 2004 and intended to be recorded in the RMC Office for Charleston County.

13. Title to streets as shown on said plat and deed to City of Charleston dated December 13, 2004 and intended to be recording in the RMC Office for Charleston County.

Being a portion of the same property conveyed to Ripley Cove, LLC by deed of Fred Collins and Span U.S.A., Inc. dated April 29, 2004 and recorded in Book S-492 at Page 255 in the RMC Office for Charleston County.

TMS#: 421-11-00-267 as to Lot SF 4
TMS#: 421-11-00-___as to Dock CS B 2

GRANTEE'S ADDRESS: PO Box 51307
Piedmont SC 29673

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 Marian Chamberlain, her Heirs and Assigns forever.

SUBJECT to easements, affirmative obligations, agreements, payments, covenants, plats, restrictions referred to in subparagraphs 1 through 13 above, Grantor does hereby bind itself, its successors and assigns, to warrant and forever defend, all and singular, the said Premises unto the said Grantee hereinabove named, and the Grantee's heirs and assigns against the Grantor and the Grantor's successors and assigns and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS its Hand and Seal, this 23rd day of March in the year of our Lord Two Thousand and Five and in the Two Hundred and Twenty-ninth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Ripley Cove, LLC

By: W. M. Bebote

Its: Managing Director

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

I hereby certify that Ripley Cove, LLC by W. M. Bebote its member on March 23, 2005 personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

(SEAL)
Notary Public for South Carolina
My Commission expires: 3-16-10

THE GRANTEE assumes and agrees to observe and perform all obligations under the Master Deed, By-Laws and any Rules or Regulations set forth in the Master Deed for the Slips at Ripley Horizontal Property Regime, and the Ripley Light Marina Real Estate Agreement dated April 29, 2004, including, but not limited to, the payment of assessments for common expenses, liability for dredging assessments, and also agree that their conveyance is subject to all reservations and restrictions of record, easements and rights of way of record, including those as set out above and shown on the aforesaid plot pan and plat.

THE GRANTEE further agrees not to make, execute or deliver any deed or conveyance separating the ownership of Lot SF 4 and Dock Unit CS B 2.

WITNESSES:

Pavilion Development Corporation

By: _____
Lawrence E. McNair, Jr.
Its: Authorized Signatory

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 23rd day of March, 2005, by Pavilion Development Corporation by its Authorized Signatory

_____
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 3/16/10

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, known and designated as Lot SF 4, Ripley Cove, on a plat entitled "PLAT SHOWING THE SUBDIVISION OF LOT 4A RESIDENTIAL PROPERTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA", prepared by W. Mason Lindsey, Jr., R.L.S., dated December 27, 2004 and recorded in Plat Book EH at Page 581 in the RMC Office for Charleston County. Reference to said plat is hereby craved for a more accurate and complete description.

AND

Dock Unit CS B 2 in the SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, a Horizontal Property Regime established pursuant to the South Carolina Horizontal Property Act, Section 27-31-10 et Seq., and submitted by Master Deed of the SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, dated July 29, 2004 and recorded July 30, 2004 in the RMC Office for Charleston County in Book Y 503 Page 563 and as it may be thereafter amended from time to time (the "Master Deed"), together with an undivided interest in the appurtenant common elements, all as described more fully in the Master Deed.

RESTRICTION ON RESIDENTIAL DOCK UNITS

OWNERSHIP OF FEE SIMPLE, ABSOLUTE TITLE TO Dock Unit CS B 2 HEREIN CONVEYED IS LIMITED AND RESTRICTED TO THE OWNER OR OWNERS, AS THE CASE MAY BE, OF FEE SIMPLE, ABSOLUTE TITLE TO LOT SF 4 HEREIN CONVEYED, ALL AS MORE FULLY SET FORTH AND PROVIDED IN THE MASTER DEED FOR THE SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME DATED JULY 29, 2004, AND RECORDED IN BOOK Y503 AT PAGE 563, RMC OFFICE FOR CHARLESTON COUNTY.

THE SAME PERSON MAY OWN ONE OR MORE RESIDENTIAL DOCK UNITS AND RESIDENTIAL LOTS. THE CO-OWNER OF A RESIDENTIAL DOCK UNIT SHALL NOT LEASE OR RENT HER, HER OR ITS RESIDENTIAL DOCK UNIT TO ANOTHER PERSON OR ENTITY; PROVIDED, HOWEVER, THAT THE CO-OWNER OF ONE RESIDENTIAL DOCK UNIT CAN LEASE HIS, HER OR ITS RESIDENTIAL DOCK UNIT TO ANOTHER CO-OWNER OF ANOTHER RESIDENTIAL DOCK UNIT OR TO A CONDOMINIUM OWNER IN THE SAME PROJECT.

THERE SHALL BE NO SUBDIVISION OR JUDICIAL PARTITION OF Dock Unit CS B 2 AND LOT SF 4 HEREIN CONVEYED. NO PERSON OR MORTGAGEE SHALL SEEK ANY SUBDIVISION OR JUDICIAL PARTITION UNLESS THE PARTICULAR RESIDENTIAL DOCK UNIT, WHICH IS THE SUBJECT OF SUCH SUBDIVISION OR PARTITION ACTION, HAS BEEN REMOVED FROM THE PROVISIONS OF THE MASTER DEED FOR THE SLIPS AT RIPLEY AND SUCH REMOVAL HAS BEEN APPROVED IN WRITING BY THE CITY OF CHARLESTON.

THE AFORESAID COVENANTS AND RESTRICTIONS ARE SET FORTH HEREIN IN ORDER TO PROTECT THE QUIET AND PEACEFUL ENJOYMENT OF THE ADJACENT PROPERTY OWNERS AND ALSO TO COMPLY WITH THE PARKING REQUIREMENTS OF THE CITY OF CHARLESTON.

NO PARTITION BY MORTGAGEES

NO MORTGAGEE MAY SEEK A LEGAL OR EQUITABLE JUDICIAL PARTITION OR SEPARATION OF OWNERSHIP OF Dock Unit CS B 2 AND LOT SF 4 HEREIN CONVEYED_____

TMS #421-11-00-267 Lot SF 4
TMS # 421-12-00-____ Dock Unit CS B 2

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

AFFIDAVIT Date of Transfer of Title
Closing Date March 23, 2005

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 Ripley Cove, LLC
TO Pavilion Development Corporation ON March 23, 2005

3. Check one of the following: The DEED is
(A)_____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 distribution to a trust beneficiary.
(C) X EXEMPT from the deed recording fee because. (Exemption # 8)
(Explanation, if required) _____
(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)_____The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $_____.
(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 is computed as follows:
(A)_____the amount listed in item 4 above.
(B)_____the amount listed in item 5 above. (No amount, place zero)
(C)_____subtract line 6(B) from line 6(A) and place the result.

7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: attorney

8. Check if Property other than Real Property is being transferred on this Deed.
(A)_____Mobile Home
(B)_____Other

9. _____ DEED OF DISTRIBUTION - ATTORNEY'S AFFIDAVIT:
ESTATE OF _____, deceased
CASE NUMBER _____. Personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in the State of South Carolina; that (s)he has prepared the Deed of Distribution for the Personal Representative in the Estate of _____, deceased and that the grantee(s) therein are correct and conform to the estate file for the above named decedent.

10. I understand that a person required to furnish this affidavit who wilfully 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.

Sworn this 23rd day of March, 2005
Notary Public for South Carolina
My Commission Expires 7-26-11

Signed _____
Grantor, Grantee, or Attorney that prepared this form

_____
Type or Print Name here

RECORDER'S PAGE
This page must remain with the Original Document

BK X545PG208

Recording Fee 13.00
State Fee
County Fee EXEMPT
Postage
Total 13.00 C

RETURN DOCUMENTS TO
DAVID AND SCHWARTZ, P.A.

FILED
X545-201
2005 JUL 20 PM 4:24
CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

RECEIVED FROM RMC
AUG 17 2005

PID VERIFIED BY ASSESSOR
REP
DATE 8/17/05
TMS# 421-11-00-101

(843) 958-4800 2 COURTHOUSE SQUARE CHARLESTON, SOUTH CAROLINA 29402-0726

CERTIFIED
TRUE COPY
CHARLIE LYBRAND
REGISTER MESNE CONVEYANCE
CHARLESTON COUNTY, SC
DATE: July 25, 2011
BY: Charlie Lybrand B.L.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDENTURE DEED

KNOW ALL MEN BY THESE PRESENTS, that, PAVILION DEVELOPMENT CORPORATION, in the County and State aforesaid, for and in consideration of the sum of ONE MILLION NINE HUNDRED FIFTY THOUSAND AND NO/100 ($1,950,000.00) DOLLARS, to me in hand paid, at and before the sealing of these presents by REAL ONE, INC., in the County and State aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said REAL ONE, INC., its Heirs and Assigns, the following described property, to-wit:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION AND RESTRICTIONS ON OWNERSHIP OF DOCK UNITS

THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING:

1. Taxes and assessments for the current year, a lien, not yet due and payable.

2. Terms, Conditions, Restrictions, Easements, Rights to Repurchase, Assessments and Obligations of the Master Deed for the Slips at Ripley Horizontal Property Regime, dated July 29, 2004, and recorded in Book Y503 Page 563, RMC Office aforesaid.

3. All facts and conditions, which may be shown by survey and physical examination of the unit;

4. Any applicable zoning and/or development laws and ordinances, including those of Charleston County and the City of Charleston;

5. Navigable servitude of the U.S. Government and State of South Carolina or any political division thereof and rights of the public to the use of any navigable waters covering any land including in the description of the insured premises; provided, however, the limit of such navigable servitude is the line formed by the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management Critical Line and the bulkhead Line (whichever would cause the navigable servitude to be larger), and the general public has no right in and to any of the improvements which may be located within the area of the navigable servitude;

6. Rights and jurisdiction vested in the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management by law, including the power of said agency to mandate the removal or modification of any docking facility constructed in accordance with its permitting authority;

7. Rights of the United States or other governmental entities, if any, which rights may exist in addition to the right to permit dock construction and regulate use vested in the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management.

8. Restrictions and Conditions set out and imposed by the Horizontal Property Act, Chapter 31 Code of Laws of the State of South Carolina, 1976;

9. Terms and conditions of all permits and licenses issued by federal, state, and local governments, their respective agencies, and quasi-governmental or private agencies having jurisdiction over the Project, including the U.S. Army Corps of Engineers, the South Carolina Department of Health and Environmental Control, the Office of Ocean and Coastal Resources Management and the City of Charleston;

10. Interests created by, or limitations on use imposed by, the Federal Coastal Zone Management Act, or other federal law or regulations promulgated pursuant to said state or federal laws.

11. Ripley Light Marina Real Estate Agreement dated April 29, 2004 and recorded April 29, 2004 in Book W 492 Page 771 in the RMC Office for Charleston County.

12. Drainage Easement to the City of Charleston dated December 13, 2004, and intended to be recorded in the RMC Office for Charleston County.

13. Title to streets as shown on said plat and deed to the City of Charleston dated December 13, 2004, and intended to be recorded in the RMC Office for Charleston County.

This being the identical property conveyed to Pavilion Development, LLC by deed of Ripley Cove, LLC dated March 23, 2005, and recorded simultaneously herewith.

TMS#: 421-11-00-267 (Lot SF 4)
421-11-00-266 (Lot SF 5)
421-11-00-260 (Lot SF 11)
421-11-00-259 (Lot SF 12)
421-11-00-___ (Unit CS B-2)
421-11-00-___ (Unit CS B-3)
421-11-00-___ (Unit CS B-4)
421-11-00-___ (Unit CS B-5)

GRANTEE'S ADDRESS: 160 Main Road
Johns Island, SC 29455

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 MARINE SLIPS, LLC, its Heirs and Assigns forever.

SUBJECT to easements, affirmative obligations, agreements, payments, covenants, plats, restrictions referred to in subparagraphs 1 through 11 above, grantor does hereby bind itself, its successors and assigns, to warrant and forever defend, all and singular, the said Premises unto the said Grantee hereinabove named, and the Grantee's heirs and assigns against the Grantor and the Grantor's successors and assigns and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS my Hand and Seal, this 20 day of July, in the year of our Lord Two Thousand and Five and in the Two Hundred and Thirtieth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Pavilion Development Corporation

By: _____

Its: President

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

The foregoing instrument was acknowledged before me this 20th day of July, 2005, by Pavilion Development Corporation by its President.

SWORN to before me this 20 day of July, 2005.

_____ (SEAL)

Notary Public for South Carolina

My Commission expires: 3-16-10

THE GRANTEE assumes and agrees to observe and perform all obligations under said Master Deed and By-Laws and any Rules or Regulations adopted form time to time, including, but not limited to, the payment of assessments for common expenses, liability for dredging assessments, and also agree that this conveyance is subject to all reservations and restrictions of record, easements and rights of way of record, including those as set out above and shown on the aforesaid plot pan and plat.

WITNESSES:

REAL ONE, INC.

By:

Its: President

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 20 day of July, 2005, by REAL ONE, INC.

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 3-16-10

Exhibit "A"

ALL those certain lots, pieces or parcels of land, together with the buildings and improvements thereon, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, known and designated as Lot SF 4, Lot SF 5, Lot SF 11 and Lot SF 12, Ripley Cove, on a Plat entitled "PLAT SHOWING THE SUBDIVISION OF LOT 4A RESIDENTIAL PROPERTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA", prepared by W. Mason Lindsey, Jr., R.L.S., dated December 17, 2004 and recorded in Plat Book EH at Page 576 in the RMC Office for Charleston County. Reference to said plat is hereby craved for a more accurate and complete description.

AND

Dock Units CS B-2, CS B-3, CS B-4 and CS B-5 in THE SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, a Horizontal Property Regime established pursuant to the South Carolina Horizontal Property Act, Section 27-31-10 et seq., and submitted by Master Deed of the SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, dated July 29, 204, and recorded July 30, 2004, in the RMC Office for Charleston County in Book Y503, page 563 and as it may be thereafter amended from time to time (the "Master Deed"), together with an undivided interest in the appurtenant common elements, all as described more fully in the Master Deed.

RESTRICTION ON RESIDENTIAL DOCK UNITS

OWNERSHIP OF FEE SIMPLE, ABSOLUTE TITLE TO Dock Unit CS B-2, HEREIN CONVEYED IS LIMITED AND RESTRICTED TO THE OWNER OR OWNERS, AS THE CASE MAY BE, OF FEE SIMPLE ABSOLUTE TITLE TO LOT SF 4, HEREIN CONVEYED; DOCK UNIT CS B-3 HEREIN CONVEYED IS LIMITED AND RESTRICTED TO THE OWNER OR OWNERS, AS THE CASE MAY BE, OF FEE SIMPLE ABSOLUTE TITLE TO LOT SF 5, HEREIN CONVEYED; DOCK UNIT CS B-4, HEREIN CONVEYED IS LIMITED AND RESTRICTED TO THE OWNER OR OWNERS, AS THE CASE MAY BE, OF FEE SIMPLE ABSOLUTE TITLE TO LOT SF 11, HEREIN CONVEYED; and DOCK UNIT CS B-5, HEREIN CONVEYED IS LIMITED AND RESTRICTED TO THE OWNER OR OWNERS, AS THE CASE MAY BE, OF FEE SIMPLE ABSOLUTE TITLE TO LOT SF 12, ALL AS MORE FULLY SET FORTH AND PROVIDED IN THE MASTER DEED FOR THE SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME DATED JULY 29, 2004, AND RECORDED IN BOOK Y503 AT PAGE 563 IN THE RMC OFFICE FOR CHARLESTON.

THE SAME PERSON MAY OWN ONE OR MORE RESIDENTIAL DOCK UNITS AND RESIDENTIAL LOTS. THE CO-OWNER OF A RESIDENTIAL DOCK UNIT SHALL NOT LEASE OR RENT HIS, HER OR ITS RESIDENTIAL DOCK UNIT TO ANOTHER PERSON OR ENTITY; PROVIDED, HOWEVER, THAT THE CO-OWNER OF ONE RESIDENTIAL DOCK UNIT CAN LEASE HIS, HER OR ITS RESIDENTIAL DOCK

UNIT TO ANOTHER CO-OWNER OF ANOTHER RESIDENTIAL DOCK UNIT OR TO A CONDOMINIUM OWNER IN THE SAME PROJECT.

THERE SHALL BE NO SUBDIVISION OR JUDICIAL PARTITION OF DOCK UNIT CS B-2 AND LOT SF 4; DOCK UNIT CS B-3 AND LOT SF 5; DOCK UNIT CS B-4 AND LOT SF 11; AND DOCK UNIT CS B-5 AND LOT SF 12 HEREIN CONVEYED. NO PERSON OR MORTGAGEE SHALL SEEK ANY SUBDIVISION OR JUDICIAL PARTITION UNLESS THE PARTICULAR RESIDENTIAL DOCK UNIT, WHICH IS THE SUBJECT OF SUCH SUBDIVISION OR PARTITION ACTION, HAS BEEN REMOVED FROM THE PROVISIONS OF THE MASTER DEED FOR THE SLIPS AT RIPLEY AND SUCH REMOVAL HAS BEEN APPROVED IN WRITING BY THE CITY OF CHARLESTON.

THE AFORESAID COVENANTS AND RESTRICTIONS ARE SET FORTH HEREIN IN ORDER TO PROTECT THE QUIET AND PEACEFUL ENJOYMENT OF THE ADJACENT PROPERTY OWNERS AND ALSO TO COMPLY WITH THE PARKING REQUIREMENTS OF THE CITY OF CHARLESTON.

NO PARTITION BY MORTGAGEES

NO MORTGAGEE MAY SEEK A LEGAL OR EQUITABLE JUDICIAL PARTITION OR SEPARATION OF OWNERSHIP OF DOCK UNIT CS B-2 AND LOT SF 4; DOCK UNIT CS B-3 AND LOT SF 5; DOCK UNIT CS B-4 AND LOT SF 11; AND DOCK UNIT CS B-5 AND LOT SF 12 HEREIN CONVEYED.

Subject to all easements, restrictions and rights of way of record.

This being the identical property conveyed to Pavilion Development Corporation by deed of Ripley Cove, LLC dated March 23, 2005, and recorded simultaneously herewith.

TMS#: 421-11-00-267 (Lot SF 4)
TMS#: 421-11-00-266 (Lot SF 5)
TMS#: 421-11-00-260 (Lot SF 11)
TMS#: 421-11-00-259 (Lot SF 12)

BK X545PG181

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

AFFIDAVIT

Date of Transfer of Title
Closing Date July 20, 2005

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:** Pavilion Development Corporation **TO** Real One, Inc. **dated** July 20, 2005

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 distribution to a trust beneficiary.
   C)_____EXEMPT from the deed recording fee because. (Exemption #_____)
   (Explanation, if required)_____.
   (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 $1,950,000.00.
   (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 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 $_____.

6. The DEED Recording Fee is computed as follows:
   (A) 1,950,000.00 the amount listed in item 4 above.
   (B)_____the amount listed in item 5 above. (No amount, place zero)
   (C) 1,950,000.00 subtract line 6(B) from line 6(A) and place the result.

7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney

8. Check if Property other than Real Property is being transferred on this Deed.
   (A)_____Mobile Home
   (B)_____Other

9. _____ DEED OF DISTRIBUTION - ATTORNEY'S AFFIDAVIT:
   ESTATE OF _____, deceased
   CASE NUMBER _____. Personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in the State of South Carolina; that (s)he has prepared the Deed of Distribution for the Personal Representative in the Estate of _____, deceased and that the grantee(s) therein are correct and conform to the estate file for the above named decedent.

10. 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.

Sworn this 20th day July 2005
Anna S. Ashley
Notary Public for South Carolina
My Commission Expires 7-26-11

Signed _____
Grantor, Grantee, or Attorney that prepared this form
Dan M. David
Type or Print Name here

RECORDER'S PAGE
This page must remain with the Original Document

BK X545PG182

Recording Fee 13.00
State Fee 5070.00
County Fee 2145.00
Postage
Total 7228.00
C

RETURN DOCUMENTS TO
DAVID AND SCHWARTZ, P.A.

FILED
X545-175
2005 JUL 20 PM 4:28
CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

RECEIVED FROM RMC
AUG 17 2005

PID VERIFIED BY ASSESSOR
REP LDS
DATE 8/17/05
TM S# 421-11-00-101 CSB-2
421-11-00-102 CSB-3
~~421-11-00-103 CSB-4~~
421-11-00-104 CSB-5

(843) 958-4800 2 COURTHOUSE SQUARE CHARLESTON, SOUTH CAROLINA 29402-0726

CERTIFIED
TRUE COPY
CHARLIE LYBRAND
REGISTER MESNE CONVEYANCE
CHARLESTON COUNTY, SC
DATE: July 25 2011
BY: Charlie Lybrand
B.L.

BK Y520PG424

STATE OF SOUTH CAROLINA)
) INDENTURE DEED
COUNTY OF CHARLESTON)

KNOW ALL MEN BY THESE PRESENTS, that, **RIPLEY COVE, LLC,** in the County and State aforesaid, for and in consideration of the sum of SEVEN HUNDRED THOUSAND AND NO/100 ($700,000.00) DOLLARS, to it in hand paid, at and before the sealing of these presents by **EAST COASTING TRADING CO. INC.,,** in the County and State aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said **EAST COASTING TRADING CO. INC.,,** his Heirs and Assigns, the following described property, to-wit:

ALL that certain lot, piece or parcel of land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, known and designated as Lot SF 3, Ripley Cove, on a plat entitled "PLAT SHOWING THE SUBDIVISION OF LOT 4A RESIDENTIAL PROPERTY LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA", prepared by W. Mason Lindsey, Jr., R.L.S., dated December 17, 2004 and recorded in Plat Book EH at Page 581 in the RMC Office for Charleston County. Reference to said plat is hereby craved for a more accurate and complete description.

Being a portion of the same property conveyed to Ripley Cove, LLC by deed of Fred Collins and Span U.S.A., Inc. dated April 29, 2004 and recorded in Book S-492 at Page 255 in the RMC Office for Charleston County.

TMS#: a portion of 421-11-00-073

AND

DOCK UNIT B-1 in the SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, a Horizontal Property Regime established pursuant to the South Carolina Horizontal Property Act, Section 27-31-10 et Seq., and submitted by Master Deed of the SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME, dated July 29, 2004 and recorded July 30, 2004 in the RMC Office for Charleston County in Book Y 503 Page 563 and as it may be thereafter amended from time to time (the "Master Deed"), together with an undivided interest in the appurtenant common elements, all as described more fully in the Master Deed.

THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING:

1. Taxes and assessments for the current year, a lien, not yet due and payable.

2. Terms, Conditions, Restrictions, Easements, Rights to Repurchase, Assessments and Obligations of the Master Deed for the Slips at Ripley Horizontal Property Regime, dated July 29, 2004 and recorded in Book Y 503 Page 563 RMC Office aforesaid.

DEFENDANT'S EXHIBIT
20

3. All facts and conditions which may be shown by survey and physical examination of the unit;

4. Any applicable zoning and/or development laws and ordinances, including those of Charleston County and the City of Charleston;

5. Navigable servitude of the U.S. Government and State of South Carolina or any political division thereof and rights of the public to the use of any navigable waters covering any land including in the description of the insured premises; provided, however, the limit of such naviagable servitude is the line formed by the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management Critical Line and the bulkhead Line (whichever would cause the navigable servitude to be larger), and the general public has no right in and to any of the improvements which may be located within the area of the navigable servitude;

6. Rights and jurisdiction vested in the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management by law, including the power of said agency to mandate the removal or modification of any docking facility constructed in accordance with its permitting authority;

7. Rights of the United States or other governmental entities, if any, which rights may exist in addition to the right to permit dock construction and regulate use vested in the South Carolina Department of Health and Environmental Control - Office of Coastal Resources Management.

8. Restrictions and Conditions set out and imposed by the Horizontal Property Act, Chapter 31 Code of Laws of the State of South Carolina, 1976;

9. Terms and conditions of all permits and licenses issued by federal, state, and local governments, their respective agencies, and quasi-governmental or private agencies having jurisdiction over the Project, including the U.S. Army Corps of Engineers, the South Carolina Department of Health and Environmental Control, the Office of Ocean and Coastal Resources Management and the City of Charleston;

10. Interests created by, or limitations on use imposed by, the Federal Coastal Zone Management Act, or other federal law or regulations promulgated pursuant to said state or federal laws.

11. Ripley Light Marina Real Estate Agreement dated April 29, 2004 and recorded April 29, 2004 in Book W 492 Page 771 in the RMC Office for Charleston County.

12. Drainage Easement to the City of Charleston dated December 13, 2004 and intended to be recorded in the RMC Office for Charleston County.

13. Title to streets as shown on said plat and deed to City of Charleston dated December 13, 2004 and intended to be recording in the RMC Office for Charleston County.

14. Master Deed for the Slips at Ripley Horizontal Property Regime dated July 29, 2004 and recorded July 30, 2004 in Book Y-503 at Page 563 in the RMC Office for Charleston County.

15. RESTRICTION ON RESIDENTIAL DOCK UNITS. OWNERSHIP OF FEE SIMPLE, ABSOLUTE TITLE TO THE THIRTY-ONE (31) DOCK UNITS DESIGNATED AS CS-A1 THROUGH CS-A8, INCLUSIVE, AND CS-B1 THROUGH CS-B5, INCLUSIVE, AND CS-

E10 THROUGH CS-E27, INCLUSIVE (EACH OF THE AFORESAID DOCK UNITS BEING REFERRED TO HEREIN SINGULARLY AS A UNIT AND/OR A RESIDENTIAL DOCK UNIT AND COLLECTIVELY AS UNITS AND/OR THE RESIDENTIAL DOCK UNIT), TOGETHER WITH THE USAGE THEREOF (EXCEPTING THE LEASING OF SAID UNIT WHICH MAY BE PERMITTED PURSUANT TO PROVISIONS HEREIN),SHALL AT ALL TIMES BE LIMITED AND RESTRICTED TO THE OWNER OR OWNERS, AS THE CASE MAY BE, OF FEE SIMPLE ABSOLUTE TITLE TO THE THIRTY-ONE (31) LOTS DESCRIBED AS LOTS SF1 THROUGH SF12, INCLUSIVE, AND TH1 THROUGH TH18, INCLUSIVE WHICH ARE SHOWN ON THAT CERTAIN PLAT PREPARED BY LINDSAY LAND SURVEYING CO., TO BE RECORDED IN THE RMC OFFICE FOR CHARLESTON COUNTY. THE OWNERSHIP OF EACH OF THE 31 RESIDENTIAL DOCK UNITS SHALL BE LIMITED, RESTRICTED, TIED AND ASSIGNED TO ONE OF THE 31 SPECIFIC RESIDENTIAL LOTS AS SET FORTH ABOVE. THE SPECIFIC RESIDENTIAL DOCK UNIT THAT IS TO BE ATTACHED TO THE SPECIFIC RESIDENTIAL LOT SHALL BE DETERMINED AND IDENTIFIED BY THE INITIAL PURCHASER AT CLOSING AND DESIGNATED IN THE DEED OF CONVEYANCE, BUT IN ALL CASES, SAID RESIDENTIAL LOT AND RESIDENTIAL DOCK UNIT SHALL BE FROM THOSE AS SET FORTH HEREIN ABOVE.

THE SAME PERSON MAY OWN ONE OR MORE RESIDENTIAL DOCK UNITS AND RESIDENTIAL LOTS. THE CO-OWNER OF A RESIDENTIAL DOCK UNIT SHALL NOT LEASE OR RENT HIS, HER OR ITS RESIDENTIAL DOCK UNIT TO ANOTHER PERSON OR ENTITY; PROVIDED, HOWEVER, THAT THE CO-OWNER OF ONE RESIDENTIAL DOCK UNIT CAN LEASE HIS, HER OR ITS RESIDENTIAL DOCK UNIT TO ANOTHER CO-OWNER OF ANOTHER RESIDENTIAL DOCK UNIT OR TO A CONDOMINIUM OWNER IN THE SAME PROJECT.

THERE SHALL BE NO SUBDIVISION OR JUDICIAL PARTITION OF A RESIDENTIAL DOCK UNIT AND ITS RESPECTIVE RESIDENTIAL LOT. NO PERSON SHALL SEEK ANY SUBDIVISION OR JUDICIAL PARTITION UNLESS THE PARTICULAR RESIDENTIAL DOCK UNIT, WHICH IS THE SUBJECT OF SUCH SUBDIVISION OR PARTITION ACTION, HAS BEEN REMOVED FROM THE PROVISIONS OF THIS MASTER DEED AND SUCH REMOVAL HAS BEEN APPROVED IN WRITING BY THE CITY OF CHARLESTON.

THE AFORESAID COVENANTS AND RESTRICTIONS ARE SET FORTH HEREIN IN ORDER TO PROTECT THE QUIET AND PEACEFUL ENJOYMENT OF THE ADJACENT PROPERTY OWNERS AND ALSO TO COMPLY WITH THE PARKING REQUIREMENTS OF THE CITY OF CHARLESTON.

NOTWITHSTANDING THE ABOVE, THE OWNERS OF UNITS CS-B1 THROUGH CS-B5 AND CS-E10 THROUGH CS-E27 MAY, AT SOME TIME IN THE FUTURE, LEASE THEIR SLIPS, SUBJECT TO THE PROVISIONS HEREIN AND SUBJECT TO THE CITY OF CHARLESTON REQUIREMENTS, INCLUDING, WITHOUT LIMITATION, ADDITIONAL PARKING SPACES. SUCH LEASES MAY BE ALLOWED WITHOUT THE REVISION OR AMENDMENT OF THE MASTER DEED.

Being a portion of the same property conveyed to Ripley Cove, LLC by deed of Fred Collins and Span U.S.A., Inc. dated April 29, 2004 and recorded in Book S-492 at Page 255 in the RMC Office for Charleston County.

TMS#: 421-11-00-095

BK Y520PG427

GRANTEE'S ADDRESS: 212 South Calhoun Street

Dublin, GA 31021

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 J. Mark Caldwell, his Heirs and Assigns forever.

SUBJECT to easements, affirmative obligations, agreements, payments, covenants, plats, restrictions referred to in subparagraphs 1 through 15 above, grantor does hereby bind himself, his heirs and assigns, to warrant and forever defend, all and singular, the said Premises unto the said Grantee hereinabove named, and the Grantee's heirs and assigns against the Grantor and the Grantor's heirs and assigns and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS its Hand and Seal, this 30th day of December, in the year of our Lord Two Thousand and Four and in the Two Hundred and Twenty-ninth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Ripley Cove, LLC

By: W H Knight

Its: Manager

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

I hereby certify that Ripley Cove, LLC by W H Knight its Manager personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

SWORN to before me this

30 day of December, 2004.

(SEAL)

Notary Public for South Carolina

My Commission expires: 3-16-10

THE GRANTEE assumes and agrees to observe and perform all obligations under said Master Deed and By-Laws and any Rules or Regulations adopted from time to time, including, but not limited to, the payment of assessments for common expenses, liability for dredging assessments, and also agree that this conveyance is subject to all reservations and restrictions of record, easements and rights of way of record, including those as set out above and shown on the aforesaid plot pan and plat.

WITNESSES:

East Coast Trading Co., Inc.

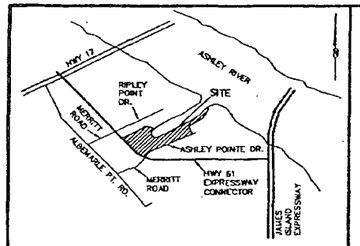
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 31 day of December 2004, by East Coast Trading Inc., Co.

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 3-16-10

Y503PG659
Y503PG659



LOCATION MAP (Not To Scale)

LEGEND

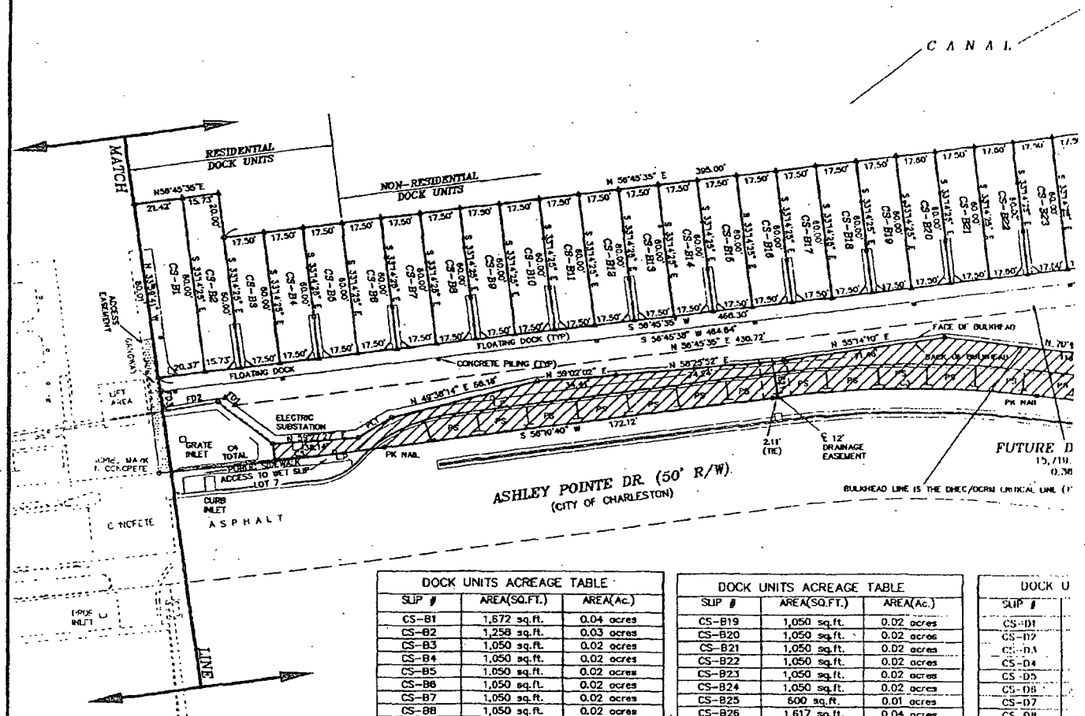
C.P. = CALCULATED POINT
RB(O)= OLD 1/2" DIA. REBAR FOUND
CI(O) = OLD CRIMP TOP IRON PIPE
OE(O) = OLD OPEN END IRON PIPE FOUND
RB(N)= NEW 1/2" DIA. REBAR SET
P.P. = POWER POLE
OHU = OVERHEAD UTILITY LINES
= CALCULATED POINT NO CORNER FOUND OR SET
+8.81 = EXISTING GROUND ELEVATION (M.S.L.)
L.P. = LIGHT POLE
F.A. = FIRE ALARM
F.L. = FLOOD LIGHT
F.P. = FLAG POLE
= POWER PEDESTAL (ON DOCKS)
PS = EXIST. PARKING SPACE

FUTURE DEVELOPMENT LINE TABLE		
LINE	DIRECTION	DISTANCE
FD1	S78°29'31"E	5.33'
FD2	N54°25'11"E	27.29'
FD3	N33°39'41"W	7.35'
FD4	N19°18'06"W	10.30'
FD5	N19°18'42"W	10.00'
FD6	N20°28'54"W	8.27'
FD7	N49°39'23"E	8.95'
FD8	S85°20'37"E	5.66'
FD9	S20°20'37"E	16.17'
FD10	N69°39'23"E	2.17'
FD11	S20°20'37"E	39.83'
FD12	S46°07'37"W	19.08'
FD13	S42°29'32"E	39.80'
FD14	S47°30'28"W	2.17'
FD15	S42°29'32"E	18.20'
FD16	S02°30'28"W	5.66'
FD17	S47°30'28"W	10.06'
FD18	S42°29'32"E	6.24'
FD19	N58°30'28"E	4.55'
FD20	S19°00'03"E	9.86'

CURVE	RADIUS	ARC LE
C1	50.00'	43°30'32"
C2	369.87'	14°10'19"
C3	189.50'	181°00"
C4	2010.17'	01°32'45"
C5	3044.77'	00°59'39"

LINE	DIRECTION
FD21	S 11°29'50" W
FD22	N 30°12'39" E
FD23	N 59°29'01" E
FD24	S 42°29'32" E

PROPERTY LINE TABLE		
LINE	DIRECTION	DISTANCE
PL1	N32°30'00"E	17.01'
PL2	N32°30'13"E	31.83'
PL3	S20°05'42"E	2.10'
PL4	S34°32'24"E	10.00'
PL5	S 32°49'10" E	7.02'



DOCK UNITS ACREAGE TABLE		
SLIP #	AREA(SQ.FT.)	AREA(Ac.)
CS-B1	1,672 sq.ft.	0.04 acres
CS-B2	1,258 sq.ft.	0.03 acres
CS-B3	1,050 sq.ft.	0.02 acres
CS-B4	1,050 sq.ft.	0.02 acres
CS-B5	1,050 sq.ft.	0.02 acres
CS-B6	1,050 sq.ft.	0.02 acres
CS-B7	1,050 sq.ft.	0.02 acres
CS-B8	1,050 sq.ft.	0.02 acres
CS-B9	1,050 sq.ft.	0.02 acres
CS-B10	1,050 sq.ft.	0.02 acres
CS-B11	1,050 sq.ft.	0.02 acres
CS-B12	1,050 sq.ft.	0.02 acres
CS-B13	1,050 sq.ft.	0.02 acres
CS-B14	1,050 sq.ft.	0.02 acres
CS-B15	1,050 sq.ft.	0.02 acres
CS-B16	1,050 sq.ft.	0.02 acres
CS-B17	1,050 sq.ft.	0.02 acres
CS-B18	1,050 sq.ft.	0.02 acres

DOCK UNITS ACREAGE TABLE		
SLIP #	AREA(SQ.FT.)	AREA(Ac.)
CS-B19	1,050 sq.ft.	0.02 acres
CS-B20	1,050 sq.ft.	0.02 acres
CS-B21	1,050 sq.ft.	0.02 acres
CS-B22	1,050 sq.ft.	0.02 acres
CS-B23	1,050 sq.ft.	0.02 acres
CS-B24	1,050 sq.ft.	0.02 acres
CS-B25	600 sq.ft.	0.01 acres
CS-B26	1,617 sq.ft.	0.04 acres
CS-B27	2,121 sq.ft.	0.05 acres
CS-C1	2,126 sq.ft.	0.05 acres
CS-C2	1,600 sq.ft.	0.04 acres
CS-C3	900 sq.ft.	0.02 acres
CS-C4	1,050 sq.ft.	0.02 acres
CS-C5	1,050 sq.ft.	0.02 acres
CS-C6	1,050 sq.ft.	0.02 acres
CS-C7	1,050 sq.ft.	0.02 acres
CS-C8	1,050 sq.ft.	0.02 acres
CS-C9	1,050 sq.ft.	0.02 acres

DOCK U	
SLIP #	
CS-D1	
CS-D2	
CS-D3	
CS-D4	
CS-D5	
CS-D6	
CS-D7	
CS-D8	
CS-D9	
CS-D10	
CS-D11	

DEFENDANT'S EXHIBIT
21 BB

CERTIFICATION:

I, W. MASON LINDSEY, JR. HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN;

W. MASON LINDSEY, JR., R.L.S.
S.C. REG. NO 11909

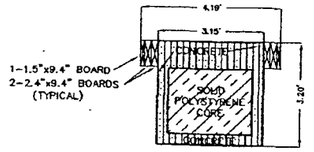
SOUTH CAROLINA LINDSEY LAND SURVEYING COMPANY CODES

LINDSEY LAND SURVEYING, CO.
150-D MAIN ROAD, JOHNS ISLAND, S.C. ZIP 29455
TELEPHONE (843) 768-3058

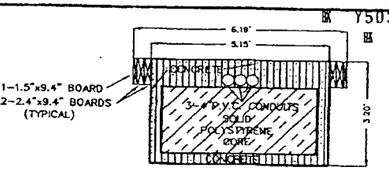
RIPLEY-PLAT-P02.DWG FB-72

CURVE TABLE			
TANGENT	CHORD	BEARING	
19.97'	37.09'	S77°56'54"W	
50.00'	98.23'	N63°20'47"E	
38.85'	116.79'	S63°18'48"W	
50.00'	98.98'	N57°11'41"E	
24.62'	49.23'	N 56°43'05" E	

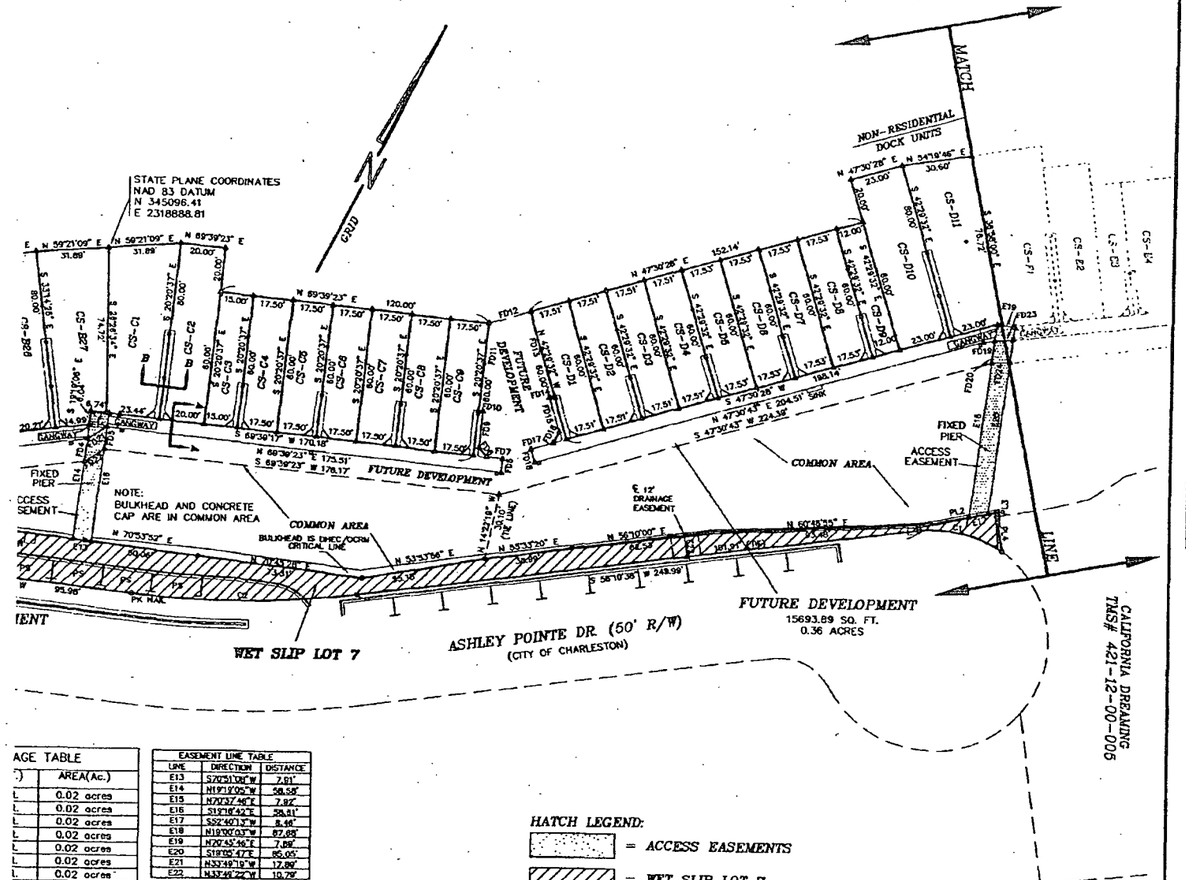
LINE TABLE	
0.22'	
10.41'	
8.06'	
8.01'	



TYPICAL SECTION B-B
N.T.S.



TYPICAL SECTION A-A
N.T.S.



AGE TABLE	
.)	AREA(Ac.)
L.	0.02 acres
L.	0.02 acres
L.	0.02 acres
L.	0.02 acres
L.	0.02 acres
L.	0.02 acres
L.	0.02 acres
L.	0.02 acres
L.	0.02 acres
L.	0.04 acres
L.	0.05 acres

EASEMENT LINE TABLE		
LINE	DIRECTION	DISTANCE
E13	S70°51'08"W	7.01'
E14	N19°19'05"W	58.58'
E15	N70°37'46"E	7.92'
E16	S19°16'45"E	58.91'
E17	S32°50'13"W	8.49'
E18	N19°00'03"W	87.69'
E19	N70°45'46"E	7.88'
E20	S19°00'47"E	85.05'
E21	N33°49'19"W	17.86'
E22	N33°49'22"W	10.79'

HATCH LEGEND:
= ACCESS EASEMENTS
= WET SLIP LOT 7 COMMON AREA

NOTE:
EASEMENT AT THE OFFICE TRAILER SHOWN HEREON IS THAT EASEMENT REFERRED TO IN THE RIPLEY LIGHT MARINA REAL ESTATE AGREEMENT AND RECORDED IN BOOK "W492" PAGE "771" AT CHARLESTON CO. R.M.C. OFFICE.

CERTIFIED TRUE COPY
CHARLIE LYBRAND
REGISTER MESNE CONVEYANCE
CHARLESTON COUNTY, SC
DATE: 5-6-11
BY: Charlie Lybrand, RB

EXHIBIT B-2

PLOT PLAN FOR THE "SLIPS AT RIPLEY HORIZONTAL PROPERTY REGIME" SHOWING WET SLIP LOT 7, COMMON AREAS, PARKING AND ACCESS EASEMENTS

LOCATED IN THE CITY OF CHARLESTON
CHARLESTON COUNTY, SOUTH CAROLINA

DATE: JULY 26, 2004 SCALE: 1"=30'

GRAPHIC SCALE
30 0 15 30 60 120
(IN FEET)
1 inch = 30 ft.

SHEET 2 OF 3

Issuing Agency Contract
Amendment

WHEREAS, by that certain contract between Chicago Title Insurance Company and your agency dated August 9, 1978, your agency name is set forth as St. Andrews Title and Abstract Agency.

NOW THEREFORE, it is hereby agreed between Chicago Title Insurance Company and your agency and you, as agent, that your agency name be changed to St. Andrews Title and Abstract Agency, Inc.

SO AGREED, this 27th day of September, 1991.

AGENT: St. Andrews Title and Abstract Agency, Inc.

BY: _____ Pres

CHICAGO TITLE INSURANCE COMPANY

BY: Nancy K. Hallman

EXHIBIT 22

CHICAGO TITLE INSURANCE COMPANY

ISSUING AGENCY CONTRACT

AMENDMENT

WHEREAS, Paragraph 2A of that certain Issuing Agency Contract between Chicago Title Insurance Company and St. Andrews Title & Abstract Agency sets forth certain limits to your authority to issue policies without written approval of Chicago Title Insurance Company; and

WHEREAS, Chicago Title Insurance Company as Principal under said contract desires to increase your authority;

NOW THEREFORE, Chicago Title Insurance Company hereby amends Paragraph 2A to increase your authority to $500,000.00.

DATE: July 28, 1987

CHICAGO TITLE INSURANCE COMPANY

BY: _____
Joseph R. Santoli, Vice President

41-055

CHICAGO TITLE INSURANCE COMPANY
ISSUING AGENCY CONTRACT
AMENDMENT

WHEREAS, Paragraph 2A of that certain Issuing Agency Contract between Chicago Title Insurance Company and St. Andrews Title & Abstract Agency sets forth certain limits to your authority to issue policies without written approval of Chicago Title Insurance Company; and

WHEREAS, Chicago Title Insurance Company as Principal under said contract desires to increase your authority;

NOW THEREFORE, Chicago Title Insurance Company hereby amends Paragraph 2A to increase your authority to $300,000.00.

DATE: February 11, 1986

CHICAGO TITLE INSURANCE COMPANY

BY: Joseph R. Santoli
JOSEPH R. SANTOLI
VICE PRESIDENT

CHICAGO TITLE INSURANCE COMPANY
ISSUING AGENCY CONTRACT
AMENDMENT

WHEREAS, The South Carolina Department of Insurance takes the position that the use of the word "company" by a title agency is misleading and prohibited by regulation; and

WHEREAS, by that certain contract between Chicago Title Insurance Company and your agency dated August 9, 1978, your agency name is set forth as St. Andrews Title & Abstract Company;

NOW THEREFORE, in order to comply with the Insurance Department regulation, it is hereby agreed between Chicago Title Insurance Company and your agency and you, as agent, that your agency name be changed to St. Andrews Title & Abstract Agency.

SO AGREED, this 30th day of April, 1984.

AGENT: St. Andrews Title & Abstract Agency

BY: _____
Dan David, Agent

CHICAGO TITLE INSURANCE COMPANY

BY: _____
Joseph R. Santoli
Vice President

CHICAGO TITLE INSURANCE COMPANY
ISSUING AGENCY CONTRACT

CHICAGO TITLE INSURANCE COMPANY ("Principal"), and **ST. ANDREWS TITLE AND ABSTRACT COMPANY** ("Agent") agree as follows:

1. **Appointment of Agent.** Principal appoints Agent as an Agent of Principal for the promoting and transacting of a title insurance business in the county(ies) of **Charleston, Berkeley and Dorchester** in the State of **South Carolina, and other counties with the approval of the principal**

Agent may validate, countersign, issue and deliver commitments, policies and endorsements of Principal on forms supplied by Principal in the manner as provided by this agreement and the rules of the Principal as shall from time to time be furnished to the Agent. Principal and Agent agree that business under this contract shall be conducted in accordance with the laws and regulations of the above named state.

2. **Limitations on Agents' authority.** Agent shall not, without written approval of principal:
   - A. Commit Principal to a risk in excess of $ **100,000.00**
   - B. Commit Principal to a risk which Principal has by rules determined to be an extraordinary or extra-hazardous risk or which Agent knows to be based upon a disputed title.
   - C. Alter forms furnished by Principal except in cases authorized by Principal.
   - D. Adjust any claim for loss for which Principal may become liable.
   - E. Accept service of process on Principal.
   - F. Incur bills or debts chargeable to the Principal.
3. **Duties of Agent.** Agent Shall:
   - A. Receive and process applications for title insurance in a timely, prudent and ethical manner with due regard to recognized title insurance underwriting practices and in accordance with the rules and instructions of Principal.
   - B. Supply at Agent's expense office space and qualified personnel for the handling of business under this agreement.
   - C. Prepare, maintain and preserve a file for each application for title insurance. Such file shall include all supporting documents which enable Agent to issue such insurance, including but not limited to, affidavits, lien waivers, surveys, searches, examinations, and work sheets, together with a copy of commitments, policies and endorsements issued. Title to same shall vest in Principal.
   - D. Send to Principal a copy of each policy and endorsement issued by said Agent.
   - E. Keep a policy register in a form approved by Principal showing the disposition of all policies and other pre-numbered forms furnished by Principal. Upon request by Principal, Agent shall furnish a statement accounting for all such forms.
   - F. Keep safely in accounts separate from Agents' personal or operating accounts all funds received by Agent from any source in connection with transactions in which Principal's title insurance is involved and to disburse said funds only for the purposes for which same were entrusted.
4. **Duties of Principal.** Principal shall:
   - A. Furnish Agent forms of commitments, policies, endorsements and forms for the accounting of the same required for the transaction of business hereunder.
   - B. Furnish to Agent rules and instructions for guidance in transacting business hereunder.
   - C. Determine all risk assumption questions submitted by Agent.
   - D. Arrange for reinsurance where required, to the extent such reinsurance is available.
5. **Rates and Remittances.** Attached hereto and made a part hereof is a Schedule of Rates and Remittances. Agent shall quote, charge and collect the Rates set forth therein. Principal may change or revise said Rates from time to time on due notice to Agent. Agent shall report and remit to Principal as required by the Schedule of Rates and Remittances.
6. **Liability of Agent.** Agent shall be liable to Principal (1) for omissions or other inaccuracies in any commitment or policy resulting in loss to Principal arising from Agent's deliberate or intentional disregard of the terms of this contract or other instructions given to Agent by Principal, or from any Acts of Agent so grossly negligent as to constitute such disregard; and (2) for loss or misapplication of customer funds, documents, or other things of value entrusted to Agent in any custodial or fiduciary capacity resulting in loss to Principal.
7. **Examination of Records.** Agent agrees that at any reasonable time or times Agent will cause to be submitted for examination by Principal all files, books and accounts and other records of Agent relating to the business carried on hereunder and to the closings of transactions committed to the issuance of Principal's policies of insurance. Such right of examination may be exercised after termination of this contract.
8. **Shortages of Funds.** In the event a shortage is revealed or discovered in Agent's accounts of funds entrusted to Agent by others or in the remittances due Principal hereunder, then Principal may declare immediately due and payable any debts owed by Agent, including any funds for which Principal may be responsible or have a liability therefor. Principal shall have a lien on all property of Agent as security for the repayment thereof. On demand by Principal, Agent shall immediately make good the shortage or convey and deliver possession of such property to Principal. A conveyance of such property shall not of itself relieve Agent of further liability for said shortage, but may be utilized to mitigate the liability of Agent therefor.
9. **Claims.** If a policy claim is made to Agent, if Agent receives notice of a potential claim, or if Agent receives notice of litigation which may result in a claim, Agent shall immediately give notice to Principal and shall lend all reasonable assistance, without charge to Principal, in investigating, adjusting or contesting said claim. Agent shall not be required to act as or provide counsel in connection with said claim.
10. **Assignment.** This contract is not assignable except upon written consent of the parties hereto. This contract is, however, binding on and inures to the benefit of any corporate successor of Principal.
11. **Termination of Contract.** Either party hereto may cancel this contract by the giving of thirty (30) days written notice of intent to cancel by registered or certified mail to the other party. Such written notice to Principal shall be addressed to the principal office of the Company or to the branch office of the Company supervising the Agent. Such written notice to Agent shall be sent to the last known business address of the Agent. In the event of material breach of this contract by either party hereto, the other may terminate immediately by giving notice in the manner above set forth. Material breach on the part of Agent includes material deviation from the rules promulgated by Principal and furnished to the Agent. In the event of termination Agent shall at once furnish to Principal a complete accounting of all remittances due hereunder and of all commitments, policies and endorsements furnished by Principal to Agent and deliver to Principal all forms and all files kept pursuant to paragraph 3-C relating to commitments and policies of Principal.

IN WITNESS WHEREOF THIS CONTRACT IS EXECUTED THIS 9th DAY OF August 19 78.

AGENT

By _____ (Seal)

CHICAGO TITLE INSURANCE COMPANY

By _____

ATTEST: _____

P-3073 Rev. 3/78

Chicago Title Insurance Company

SCHEDULE OF RATES AND REMITTANCES

Attached to and forming a part of Contract between

Chicago Title Insurance Company (Principal)

and ~~ST. ANDREWS TITLE AND ABSTRACT COMPANY~~ (Agent)_____

dated AUGUST 9, 1978

RATES

1. Attached hereto and incorporated herein is a manual setting forth the rates for title insurance of Principal for the area covered by this contract. Agent shall quote, charge and collect said rates for each policy issued.

2. For extraordinary or extra-hazardous risks and for extensions of policy coverage not provided for in said manual, Principal reserves the right to set and determine the charge.

3. If said manual does not include service or processing charges, Agent shall determine and fix those charges in accordance with his usual and customary practices.

REMITTANCES

4. For each commitment, policy and endorsement of Principal issued by Agent pursuant to this contract, Agent shall report and remit 90 per cent of the rates set forth in manual referred to in Paragraph numbered "1" of this Schedule.

5. For charges made pursuant to Paragraph numbered "2" of this Schedule, Agent shall remit an amount as shall be agreed upon between Principal and Agent.

6. Where Principal purchases reinsurance or excess coinsurance, a decision which rests solely with Principal, the division of the rates as herein provided shall be computed on the net amount remaining after deducting the cost thereof. Agent shall remit to Principal the cost of such reinsurance or coinsurance.

7. At the time of the execution of this contract Principal has supplied to Agent an Agency Billing and Statistical Manual which sets forth the manner and time of reporting the issuance of commitments, policies and endorsements and the time and method of remitting therefor by Agent to Principal. Such reporting and remitting shall be in accordance with the provisions of that manual and subsequent amendments thereto as supplied to Agent.

8. Compensation. Principal's compensation shall be the amount required to be remitted hereunder by Agent. Agents' compensation shall be the rates and charges herein required to be collected, less the amounts remitted to Principal.

PRINCIPAL

AGENT

Chicago Title Insurance Company

SCHEDULE OF RATES AND REMITTANCES

Attached to and forming a part of Contract between

Chicago Title Insurance Company (Principal)

and ST. ANDREWS TITLE & ABSTRACT COMPANY (Agent)_____

dated 1-7-92

RATES

1. Attached hereto and incorporated herein is a manual setting forth the rates for title insurance of Principal for the area covered by this contract. Agent shall quote, charge and collect said rates for each policy issued.

2. For extraordinary or extra-hazardous risks and for extensions of policy coverage not provided for in said manual, Principal reserves the right to set and determine the charge.

3. If said manual does not include service or processing charges, Agent shall determine and fix those charges in accordance with his usual and customary practices.

REMITTANCES

4. The amount to be remitted to the Principal as its compensation for the assumption of the risks incident to the issuance of its title policies shall be fifty (50%) per centum of the premiums set forth in said booklet for the issuance of its policies until the amount remitted totals $2,500.00 in any calendar year. Thereafter, and for the balance of that calendar year, the rate of remittance by the Agent shall be forty (40%) per centum of such premiums, and within thirty (30) days of Agent's remitting said $2,500.00 to Principal, Principal shall remit to Agent $500.00, thereby causing the effective rate of remittance by Agent to be forty (40%) per centum of said premiums for the subject calendar year.

5. For charges made pursuant to Paragraph numbered "2" of this Schedule, Agent shall remit an amount as shall be agreed upon between Principal and Agent.

6. Where Principal purchases reinsurance or excess coinsurance, a decision which rests solely with Principal, the division of the rates as herein provided shall be computed on the net amount remaining after deducting the cost thereof. Agent shall remit to Principal the cost of such reinsurance or coinsurance.

7. At the time of the execution of this contract Principal has supplied to Agent an Agency Billing and Statistical Manual which sets forth the manner and time of reporting the issuance of commitments, policies and endorsements and the time and method of remitting therefor by Agent to Principal. Such reporting and remitting shall be in accordance with the provisions of that manual and subsequent amendments thereto as supplied to Agent.

8. Compensation. Principal's compensation shall be the amount required to be remitted hereunder by Agent. Agents' compensation shall be the rates and charges herein required to be collected, less the amounts remitted to Principal.

PRINCIPAL

AGENT

Chicago Title Insurance Company

SCHEDULE OF RATES AND REMITTANCES

Attached to and forming a part of Contract between

Chicago Title Insurance Company (Principal)

and ST. ANDREWS TITLE & ABSTRACT COMPANY (Agent)_____

dated January 12, 1984

RATES

1. Attached hereto and incorporated herein is a manual setting forth the rates for title insurance of Principal for the area covered by this contract. Agent shall quote, charge and collect said rates for each policy issued.

2. For extraordinary or extra-hazardous risks and for extensions of policy coverage not provided for in said manual, Principal reserves the right to set and determine the charge.

3. If said manual does not include service or processing charges, Agent shall determine and fix those charges in accordance with his usual and customary practices.

REMITTANCES

4. For each commitment, policy and endorsement of Principal issued by Agent pursuant to this contract, Agent shall report and remit 40 per cent of the rates set forth in manual referred to in Paragraph numbered "1" of this Schedule.

5. For charges made pursuant to Paragraph numbered "2" of this Schedule, Agent shall remit an amount as shall be agreed upon between Principal and Agent.

6. Where Principal purchases reinsurance or excess coinsurance, a decision which rests solely with Principal, the division of the rates as herein provided shall be computed on the net amount remaining after deducting the cost thereof. Agent shall remit to Principal the cost of such reinsurance or coinsurance.

7. At the time of the execution of this contract Principal has supplied to Agent an Agency Billing and Statistical Manual which sets forth the manner and time of reporting the issuance of commitments, policies and endorsements and the time and method of remitting therefor by Agent to Principal. Such reporting and remitting shall be in accordance with the provisions of that manual and subsequent amendments thereto as supplied to Agent.

8. Compensation. Principal's compensation shall be the amount required to be remitted hereunder by Agent. Agents' compensation shall be the rates and charges herein required to be collected, less the amounts remitted to Principal.

PRINCIPAL

AGENT

FORM 3074 CHICAGO TITLE INSURANCE COMPANY—STANDARD FORM AGENCY CONTRACT—ATTORNEY AGENT—NO ABSTRACT PLANT.

41-055

CHICAGO TITLE INSURANCE COMPANY

ISSUING AGENCY CONTRACT

CHICAGO TITLE INSURANCE COMPANY, hereinafter called "principal," and

St. Andrews Title and Abstract Company

hereinafter referred to as "agent" agree as follows:

1. **Appointment of agent—agent's territory.** The principal appoints the agent to be an agent of the principal for the transaction of its title insurance business in the following county or counties:

Charleston, Berkeley and Dorchester Counties, South Carolina and other counties in the State of South Carolina with the approval of the principal.

Said county or counties are hereinafter referred to as "the agent's territory."

2. **Authority of agent.** Agent may sign, countersign, and issue commitments, binders, title reports, and title insurance policies of principal, on forms supplied by the principal, on land located in the agent's territory and in the counties contiguous to the agent's territory, provided that such contiguous land is part of a tract of which a portion is located in the agent's territory. The agent shall also have authority to procure (without expense to the principal except where authorized by the principal) all necessary instruments and documents required for the issuance of binders, commitments, title reports, and policies and to collect all charges for the issuance of principal's title insurance policies.

3. **Limitations on agent's authority.** The agent shall not, without written approval of the principal:

A. Incur bills or debts chargeable to the principal.

B. Adjust any claim for loss.

C. Accept service of process on the principal.

D. Commit the principal to (a) a risk in excess of $100,000.00; (b) a risk involving a title where a dispute exists among attorneys; (c) a risk where the agent has knowledge of defects, adverse claims, or questions of title known or rumored in the community; (d) an extraordinary risk as set forth in the principal's rules, instructions or manuals. All such titles, together with the supporting abstract, certificate of title, chain of title (if no abstract is furnished), searches, and a statement of the special question involved, if any, shall be submitted to the principal for consideration before a binder, commitment, title report, or policy is issued.

E. Alter forms furnished by the principal except pursuant to rules promulgated by the principal.

4. **Duties of the agent.** The agent shall:

A. Receive and process applications for title insurance in accordance with usual and customary practices and procedures of responsible title insurance companies in the conduct of their business in a prudent, safe, sound, and ethical manner and according to recognized title insurance underwriting principles, and the rules, regulations and instructions of principal. Each binder, commitment, title report, or policy issued by the agent shall be based upon one of the following:

a. A determination of insurability based upon a search by the agent of all relevant public records including, without limiting the generality of the foregoing, all public records relating to deeds, mortgages, taxes, assessments, oil, mineral and water rights, rights in submerged land, mechanics' liens, wills, judicial proceedings, and bankruptcies, but if in any given instance the agent elects not to check a particular public record, such as a bankruptcy proceeding instituted outside of the agent's territory, he will set forth this fact in his binder, commitment, or title report and inform the principal of the circumstances before any policy is issued.

b. A determination of insurability based upon an abstract prepared by the agent or by another abstracter whose work is accepted by prudent local title examining attorneys and whose abstracts show and certify that they in fact show all relevant public records as hereinabove described. Where any abstract used is incomplete in its coverage, it must be supplemented by a check of the records not covered.

c. A determination of insurability based upon the agent's indexes and records supplemented to the extent necessary by an abstract or search of the public records.

B. Preserve in his possession all supporting documents which enable him to issue a binder, commitment, title report, or policy, including affidavits, lien waivers, searches, and work sheets. Title to same shall vest in the principal on issuance of the policy. Abstracts may be returned to the applicant if he so demands, but otherwise should be retained by the agent. Requests to microfilm and destroy supporting documents shall be referred to the principal.

C. Collect all premiums for title insurance policies hereunder and remit the portion of each premium owed to the principal under the remittance schedule hereinafter described on or before the time set forth in such remittance schedule. The agent assumes full responsibility for the collection of all premiums for title insurance policies issued under this contract.

D. Prepare a carbon copy of any binder, commitment, title report, and policy issued by the agent.

E. Send to the principal with each remittance a carbon copy of each policy and endorsement thereto issued during the period covered by the remittance. A copy of any endorsement issued after the remittance and policy copy have been forwarded to the principal shall be included with the policy copies forwarded on the first forwarding date following the issuance of such endorsement.

F. Keep a policy register in form approved by the principal in which the agent shall enter a record of all policy forms furnished agent by principal and wherein the agent shall keep an accurate record of the disposition of all such forms. Whenever so requested by principal, agent shall furnish a statement covering all policy forms received by agent, listing all such forms and showing those agent then has in possession and accounting for all such forms not then held by agent. For all policies not accounted for upon demand, agent shall be liable in damages for any loss resulting to the principal by reason of the loss or wrongful use of any such policy.

G. Supply at his own expense office space and qualified personnel for the handling of principal's business hereunder.

H. Keep safely in accounts separate from the agent's individual accounts all funds received by the agent from any source in connection with transaction in which the principal's title insurance is involved and to disburse said funds only for the purposes for which same were entrusted.

FORM 2081 (R. 5/76)—CHICAGO TITL [illegible] MPANY STANDARD FORM REMITTANCE SCH E—U.S. EPT TEXAS AND CALIFORNIA

CHICAGO TITLE INSURANCE COMPANY

REMITTANCE SCHEDULE FORMING PART OF CONTRACT BETWEEN CHICAGO TITLE INSURANCE COMPANY, A CORPORATION, AS PRINCIPAL, AND St. Andrews Title and Abstract Company **AS AGENT, DATED** June 21, 1977

1. The booklet attached hereto entitled "Policies and Prices of Chicago Title Insurance Company" and hereby made a part of this contract sets forth the rates to be quoted in the agent's territory. The amount to be remitted to the principal as its compensation for the assumption of the risks incident to the issuance of its title policies shall be Fifty (50%) per centum of the premiums set forth in said booklet for the issuance of its policies. Said premiums do not include the service charges described in paragraph 4 below.

2. The agent's compensation consists of his charges to the customer less the remittances made to the principal.

* [redacted]

4. Charges set forth in the principal's rate booklet entitled "Policies and Prices of Chicago Title Insurance Company" covering assignments of mortgage loans, extensions of mortgage loans, simultaneous issue of owner's and mortgage policies, and binders or commitments are deemed service charges. With respect to charges for assignments of mortgage loans, and extensions of mortgage loans, these are divided equally between principal and agent. As to a simultaneous issue of owner's and mortgage policies the agent remits $2.50 to the principal and the agent retains the balance. A charge made for an ordinary commitment is retained by the agent, but the charge for a commitment on a construction loan if in excess of $10.00, is divided equally between principal and agent.

5. A premium charge for a leasehold policy issued simultaneously with a policy on the fee is divided between the principal and agent in the same proportion as the premium for the fee policy.

ATTACH HERE "POLICIES AND PRICES" BOOKLET

* 3. Remittances and policy copies are to be mailed to the principal upon receipt of a statement for same.

GENERAL ENGINEERING

A Division of General Engineering Laboratories, Inc.

P.O. BOX 30712 • CHARLESTON, SC 29417
2040 SAVAGE ROAD 29407
(843) 766-7378 • FAX (843) 769-7397
WEBSITE: http://www.gel.net
ENGINEERING • ENVIRONMENTAL •
GEOTECHNICAL • LAND SURVEYING

TOPOGRAPHIC AND ASBUILT SURVEY FOR RIPLEY LIGHT MARINA AND CONCEPTUAL LAYOUT FOR RIPLEY LIGHT YACHT CLUB MARINA

PREPARED FOR
RIPLEY LIGHT DEVELOPMENT CORPORATION, LLC.
LOCATED IN THE CITY OF CHARLESTON
CHARLESTON CCUNTY, SOUTH CAROLINA

SCALE
AS SHOWN

PROJECT NUMBER
RPLYQ0100C

SHEET NUMBER
1
OF 1

APPROVED
MAC

DRAWN/CHECKED
MAC/FDB

DATE SURVEYED
SEPTEMBER 18, 2000

LAST REVISED

MARK A. CORNELIUS
SOUTH CAROLINA
No. 18253
PROFESSIONAL LAND SURVEYOR
MARK A. CORNELIUS

CERTIFICATE OF AUTHORIZATION
SOUTH CAROLINA
GENERAL ENGINEERING LABORATORIES, INC.
No. C00139

LOCATION MAP
NOT TO SCALE

SITE
ASHLEY RIVER
ASHLEY RIVER
ASHLEY PHOSPHATE
CHARLESTON
DANIEL ISLAND
CLEMENTS FERRY RD
ASHLEY PHOSPHATE RD
RIVERDALE DR
SAVANNAH HWY
17
61

SURVEY NOTES

1. BOUNDARY LINES ARE SHOWN FOR INFORMATION ONLY CERTIFICATION IS NOT INTENDED OR IMPLIED.
2. ALL ELEVATIONS ARE BASED ON U.S.G.S. MONUMENT 10 051, PID: CJ0372, ELEVATION 16.70 (NAVD).

GRAPHIC SCALE
(IN FEET)
1 INCH = 50 FT.

BOAT DOCK SUMMARY

50' BOAT LENGTH - 36	
40' BOAT LENGTH - 24	
35' BOAT LENGTH - 16	
20' BOAT LENGTH - 53	
TOTAL BOATS	129

	129			
	33	30	63	3

AMBASSADOR CORPORATION & JERLEE CORPORATION
T.M.S NO 421-12-00-005

ASHLEY INNS LIMITED PARTNERSHIP
T.M.S. NO. 421-12-00-006

RIPLEY POINT ASSOC.
T.M.S. NO. 421-11-00-083
PARCEL 6B

RIPLEY POINT ASSOC.
T.M.S. NO. 421-11-00-084
PARCEL 7

RIPLEY POINT ASSOC.
T.M.S. NO. 421-11-00-080
COMMON AREA #1

RIPLEY POINT ASSOC.
T.M.S. NO. 421-08-00-002
PARCEL 8

ASHLEY POINTE DRIVE

MARSH GRASS

EXISTING CONC. DOCKS TO BE REMOVED

EXISTING TIMBERS

EXISTING CONC. DOCKS TO BE REMOVED

EXISTING CONC. DOCKS TO BE REMOVED

EXISTING DOCKS TO BE REMOVED

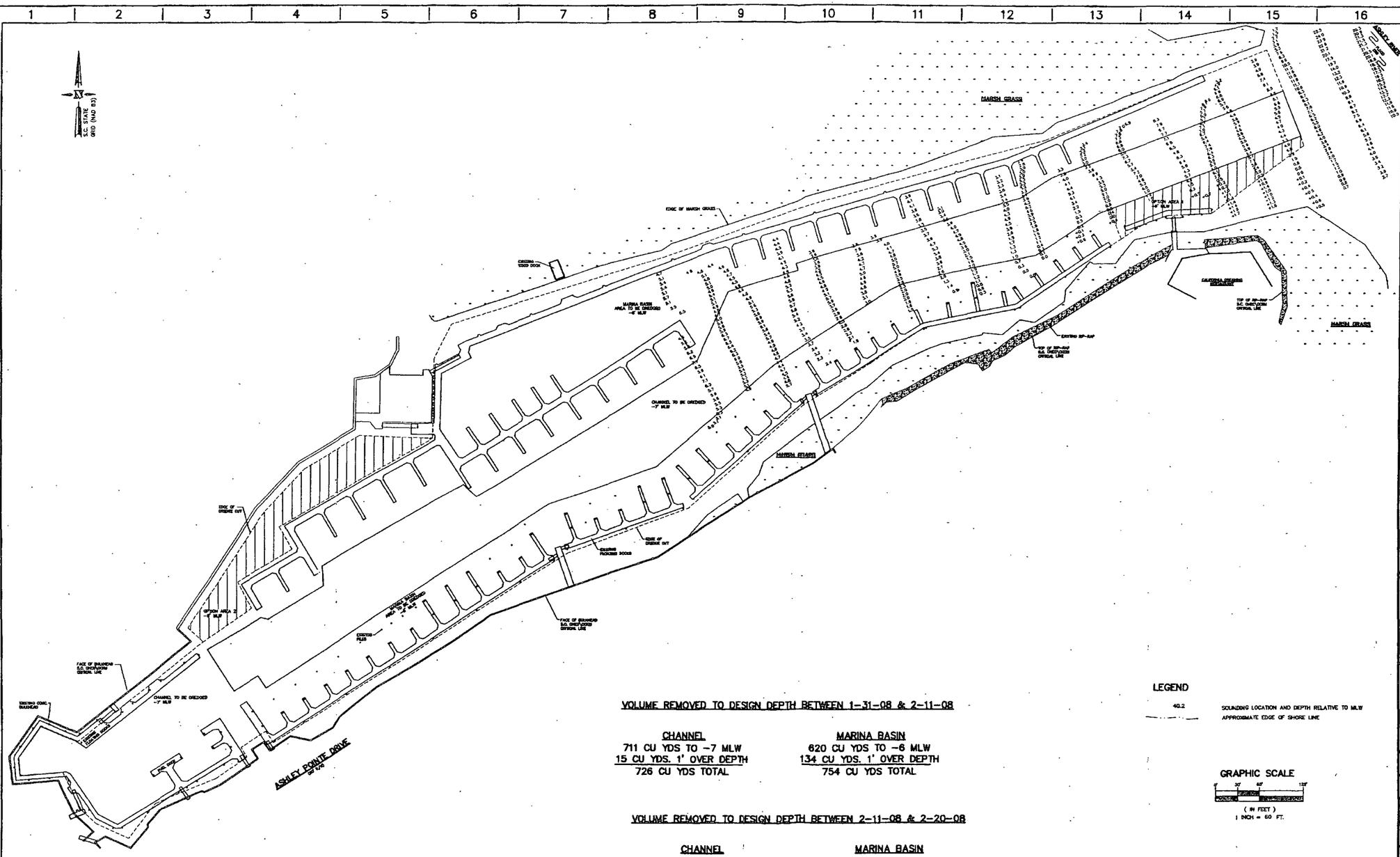
PROPOSED BULKHEAD

NEW CONCRETE RIP-RAP

EXISTING CONC. DOCKS TO BE REMOVED

EXISTING CONC. DOCKS TO BE REMOVED

EXISTING CONC. DOCKS TO BE REMOVED



NOTES

1. Soundings were taken by SONARPACE 406 FATHOMETER and are expressed in feet and tenths below mean low water.
2. Proposed dredge depth -6 & -7 MLW.
3. Mean tidal range 6.2.
4. The area shown by this chart is subject to silting. The actual depth following the date of the survey may be less than the depths shown. These depths were found on 2-20-08.
5. Horizontal Coordinates Systems Reference to South Carolina State Grid (NAD 83).

VOLUME REMOVED TO DESIGN DEPTH BETWEEN 1-31-08 & 2-11-08

CHANNEL	MARINA BASIN
711 CU YDS TO -7 MLW	620 CU YDS TO -6 MLW
15 CU YDS. 1' OVER DEPTH	134 CU YDS. 1' OVER DEPTH
726 CU YDS TOTAL	754 CU YDS TOTAL

VOLUME REMOVED TO DESIGN DEPTH BETWEEN 2-11-08 & 2-20-08

CHANNEL	MARINA BASIN
516 CU YDS TO -7 MLW	398 CU YDS TO -6 MLW
4 CU YDS. 1' OVER DEPTH	52 CU YDS. 1' OVER DEPTH
520 CU YDS TOTAL	451 CU YDS TOTAL

TOTAL VOLUME REMOVED FROM CHANNEL AND MARINA BASIN

2,451 CU YDS TOTAL

LEGEND

40.2 SOUNDING LOCATION AND DEPTH RELATIVE TO MLW

APPROXIMATE EDGE OF SHORE LINE

GRAPHIC SCALE

0 30' 60' 120'

(IN FEET)
1 INCH = 60 FT.

REVISIONS				
NO.	DATE	ISSUED BY	APPRVD BY	DESCRIPTION

GEL Engineering LLC
P.O. BOX 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.766.7227 F 843.766.7287
a member of THE GEL GROUP INC
ENVIRONMENTAL • ENGINEERING • SURVEYING
www.gel.com
gelsbiz.com/wd

PARTIAL POST-DREDGE HYDROGRAPHIC SURVEY OF RIPLEY LIGHT YACHT CLUB

PREPARED FOR
ASHLEY RIVER PROPERTIES II, LLC
LOCATED IN THE CITY OF CHARLESTON
CHARLESTON COUNTY, SOUTH CAROLINA

SOUTH CAROLINA CERTIFICATE OF AUTHORIZATION
GEL ENGINEERING, LLC No.C02649

SOUTH CAROLINA PROFESSIONAL LAND SURVEYOR No.18263 MARK A. CORNELIUS

MARK A. CORNELIUS
DATE SURVEYED
FEBRUARY 21, 2008
LAST REVISED
DRAWN/CHECKED
DRL/MAC
APPROVED
MAC
SCALE
AS SHOWN
PROJECT NUMBER
APR200207C
SHEET NUMBER
1
OF 1

EXHIBIT 24

© COPYRIGHT GEL ENGINEERING, CHARLESTON, SOUTH CAROLINA, INC. ALL RIGHTS RESERVED. REPRODUCTION OR USE OF THIS DOCUMENT, IN WHOLE OR PART, WITHOUT WRITTEN PERMISSION OF GEL ENGINEERING, LLC IS PROHIBITED.
THIS IS NOT A VALID PRINT COPY OF THIS DOCUMENT UNLESS SIGNED AND ORIGINAL SEAL AND A BLUE EMBOSSED SEAL OF THE BOARD OF SURVEYORS

PLOTTED: Feb 22, 2008 - 10:07am BY: drl FILE LOCATION: J:\Consulting Client Files\A-D\A\apr2-Ashley River Properties II\APR200207C-HYDRO-PRE\DWG\APR200207C-HID-2-20-08.dwg LAYOUT TAB: Model

DEPARTMENT OF THE ARMY PERMIT

Permittee DONALD C. SPANN

POST OFFICE BOX 5231
GREENVILLE, SOUTH CAROLINA 29606

Permit No. 84-2T-253

Issuing Office CHARLESTON DISTRICT

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

To construct a marina and dredge in a canal for use by the general public in accordance with the attached drawings entitled Construction of Fuel Dock and Service Dock with Dry Stack Pier in the Ashley River - Charleston - Charleston County - SC - Application: Southern U. S. Realty Corp. - Sheets 1-10 of 10 dated 10 December 1986.

COPY

Project Location:

This project is located in the Ashley River at south of the U. S. Highway #17 at Merritt Road in Charleston County, South Carolina.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 30 June 1995. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

ENG FORM 1721, Nov 86 EDITION OF SEP 82 IS OBSOLETE *33 CFR 325 (Appendix A))*

EXHIBIT 25

1

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

SEE PAGE FOUR FOR SPECIAL CONDITIONS

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

( ) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

84 AT 253

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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

_____ _____

(PERMITTEE) *(DATE)*

DONALD C. SPANN

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

_____ _____

(DISTRICT ENGINEER) *(DATE)*

STEWART H. BORNHOFT, LTC
or his Designee
Clarence A. Ham

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

_____ _____

(TRANSFEREE) *(DATE)*

* U S GOVERNMENT PRINTING OFFICE: 1986 — 717-425

SPECIAL CONDITIONS FOR 84-2T-253

a. That those conditions which are contained in the S. C. Coastal Council permit are endorsed by this document and that any modification to those conditions or minor addition to the work shown on the attached plans is hereby authorized provided such modification is required by the S. C. Coastal Council as a precondition to issuance of its permit.

b. That those conditions relating to water quality with special emphasis on Condition #2, which are contained in the certification of water quality issued by the S. C. department of Health and Environmental Control will be complied with.

c. All dredging will take place waterward of the existing vegetated marsh fringe.

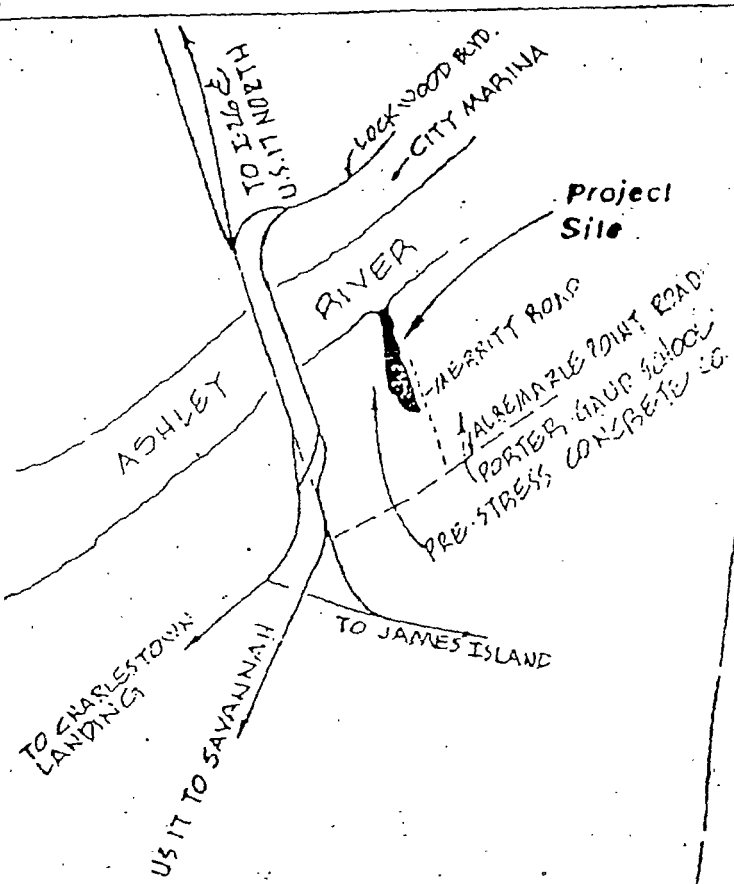
d. All riprap will be placed landward of the existing vegetated marsh fringe.

e. That the permittee recognizes that wave wash resultant from commercial vessel movements within the canal has the potential to jeopardize even properly moored vessels and that if the permittee fails to or is unable to maintain adequate depths of water within the canal, commercial vessels navigating therein will unavoidable jeopardize other vessels within the canal. Accordingly, the permittee agrees to;

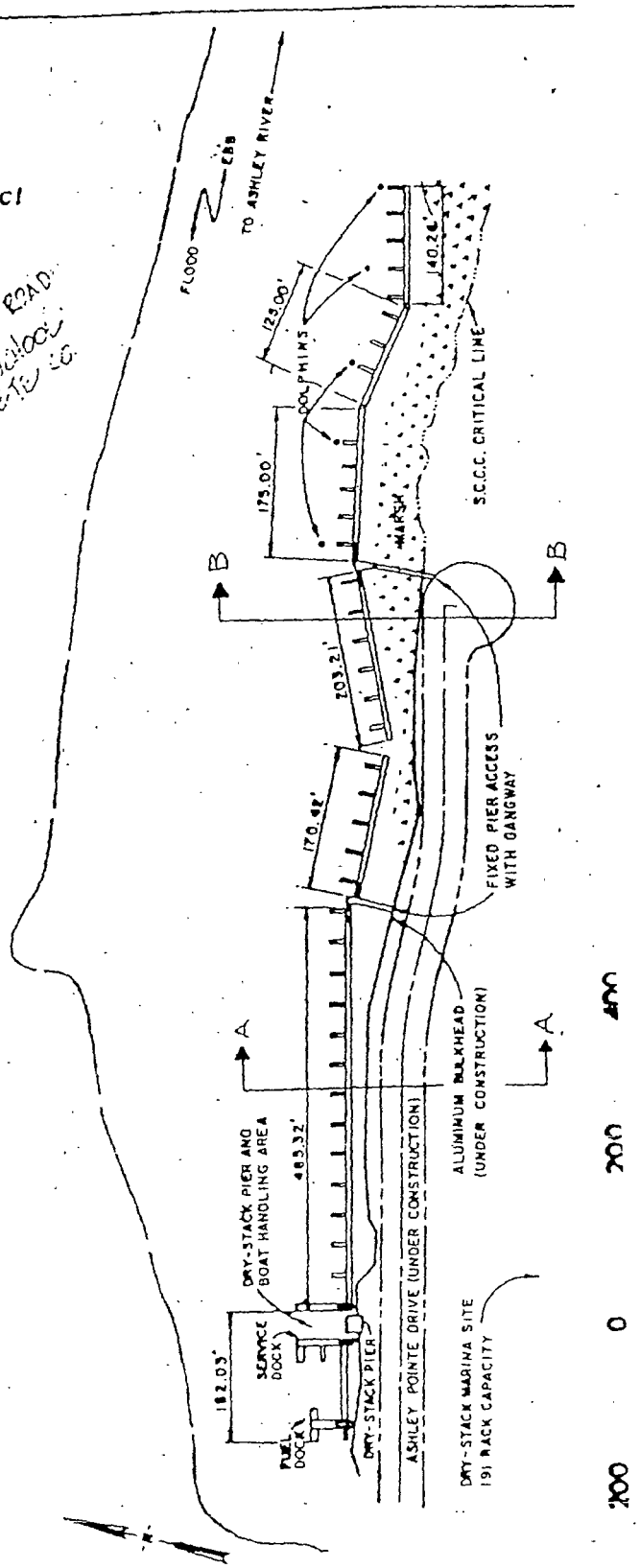
(1) both personally and by their actions and documents, ensure that itself, its successors and assigns will also cooperate with the duly designated representatives of Pre-stressed Concrete Company in mutual efforts to identify needed water depths and frequency of dredging.

(2) advise all parties using the permitted facilities that permission to do so is contingent upon cooperation with other competing interests within the canal and that they may be required to personally and independently relocate their vessels upon a need being identified by Pre-stressed Concrete Company and a ten day notice given. This relocation will not be required at intervals exceeding three consecutive days in any consecutive thirty days and will be prefaced only by the failure of the permittee or its successors and assigns to maintain water depths in the canal consistent with those authorized herein.

f. That the plans for maintenance dredging be presented to the District Engineer a minimum of thirty days prior to commencement of work.



LOCATION PLAN

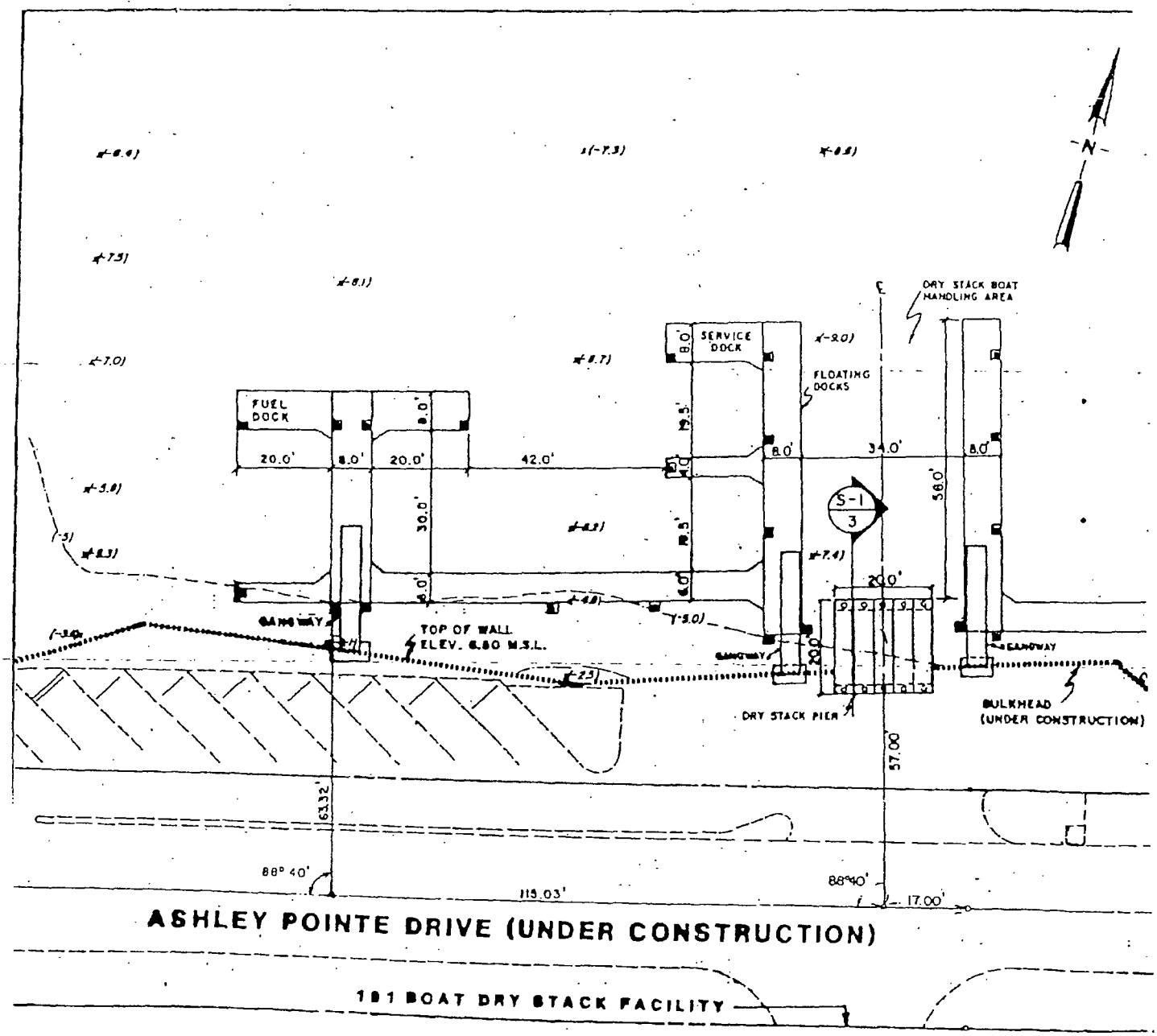


REFERENCES -

1. ARMY CORPS OF ENGINEERS PERMIT #84-2T-253, DATED 4-18-85
2. CONSTRUCTION DRAWINGS FOR ASHLEY POINTE DRIVE BY G. ROBERT GEORGE & ASSOCIATES, DATED DECEMBER 9, 1985
3. BULKHEAD ALIGNMENT PLANS FOR ASHLEY POINTE MARINA BY G. ROBERT GEORGE & ASSOCIATES, DATED MARCH 17, 1986

CONSTRUCTION OF FUEL DOCK AND SERVICE DOCK WITH DRY STACK PIER
IN THE ASHLEY RIVER
LOCATED IN: CITY OF CHARLESTON
COUNTY OF: CHARLESTON STATE OF: S.C.
APPLICATION BY: SOUTHERN U.S. REALTY CORP.
SHEET 1 OF 10 OCTOBER 6, 1986

Revised 12/10/86



BENCHMARK REFERENCE -
U.S.G.S. BRASS DISC STAMPED J69-1952
LOCATED ON THE NORTH END OF THE ASHLEY
RIVER BRIDGE ELEVATION 17.68 M.S.L.

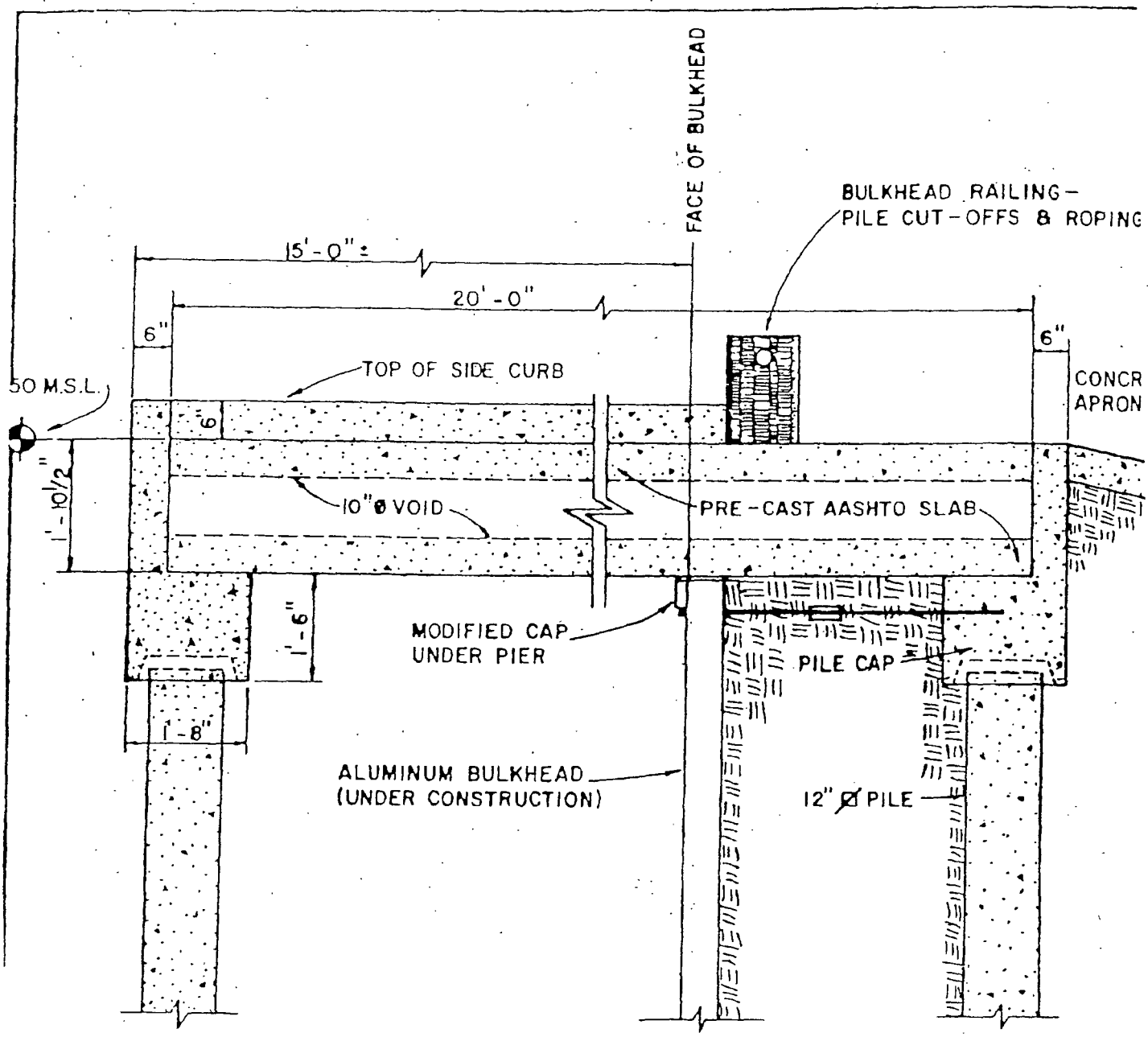
PLAN VIEW OF

FUEL DOCK, SERVICE DOCK, DRY STACK BOAT HANDLING AREA AND DRY STACK PIER

1"= 30' 30 0 30 6(scale feet

CONSTRUCTION OF FUEL DOCK AND SERVICE DOCK WITH DRY STACK PIER
IN THE ASHLEY RIVER
LOCATED IN: CITY OF CHARLESTON
COUNTY OF: CHARLESTON STATE OF: S.C.
APPLICATION BY: SOUTHERN U.S. REALTY CORP.
SHEET 2 OF 18 OCTOBER 6, 1986

12/10/86



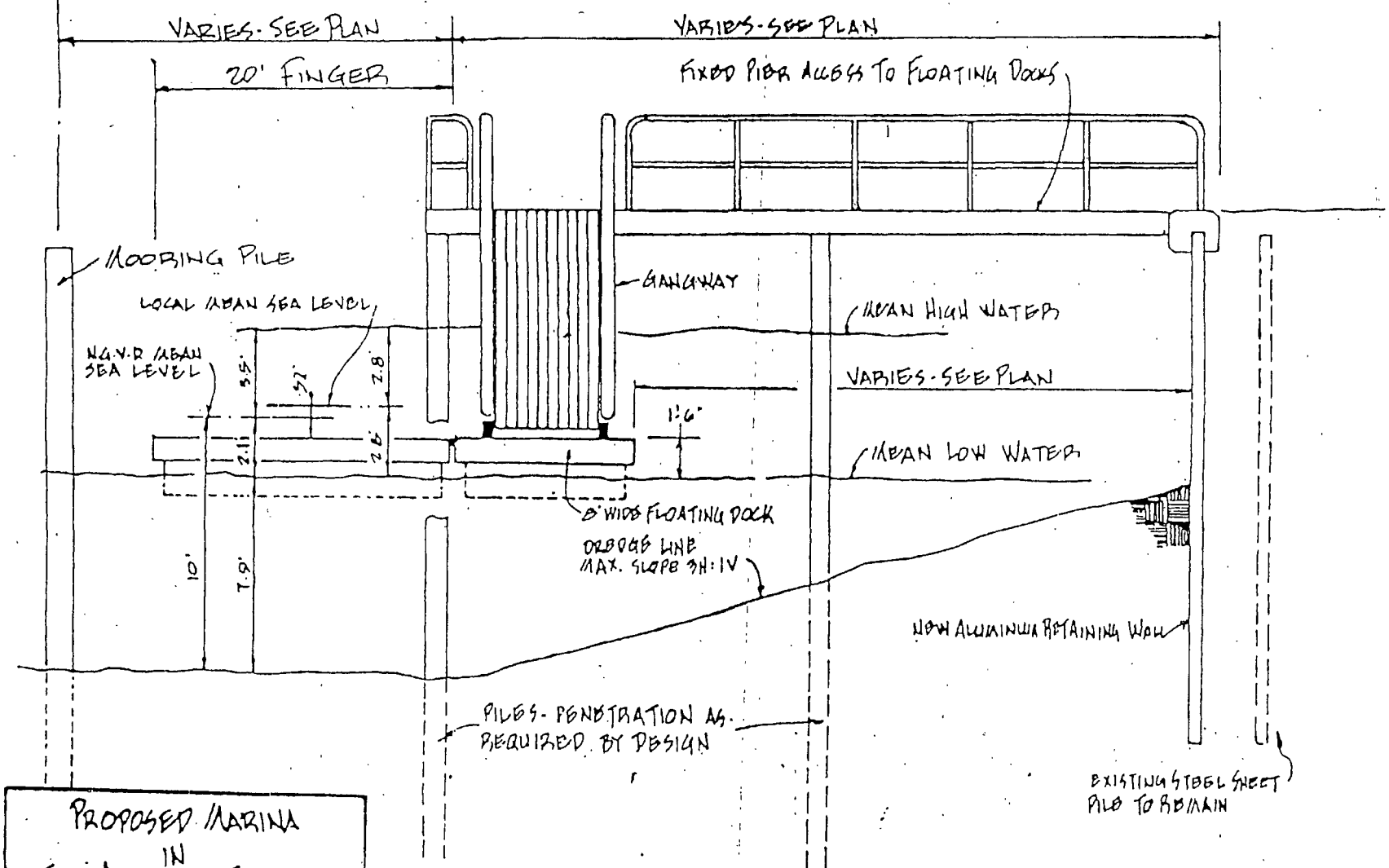
S-1 / 3

DRY STACK PIER SECTION

1"= 2'

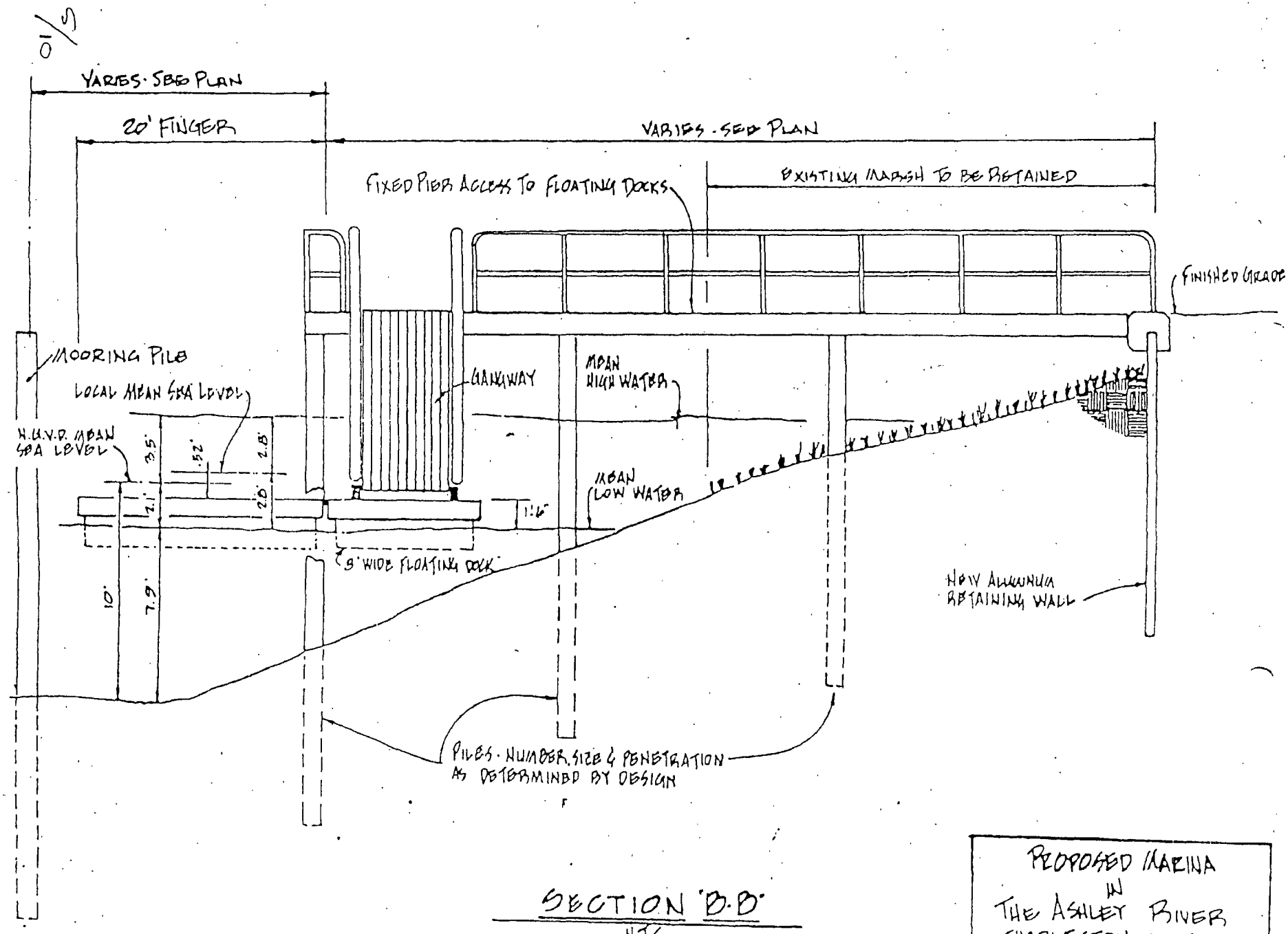
CONSTRUCTION OF FUEL DOCK AND SERVICE DOCK WITH DRY STACK PIER
IN THE ASHLEY RIVER
LOCATED IN: CITY OF CHARLESTON
COUNTY OF: CHARLESTON STATE OF: S.C.
APPLICATION BY: SOUTHERN U.S. REALTY CORP.
SHEET 3 OF 10 OCTOBER 6, 1986 12/10/86

506-7.7



PROPOSED MARINA
IN
THE ASHLEY RIVER
CHARLESTON CO. S.C.

SECTION "A-A"
NTS

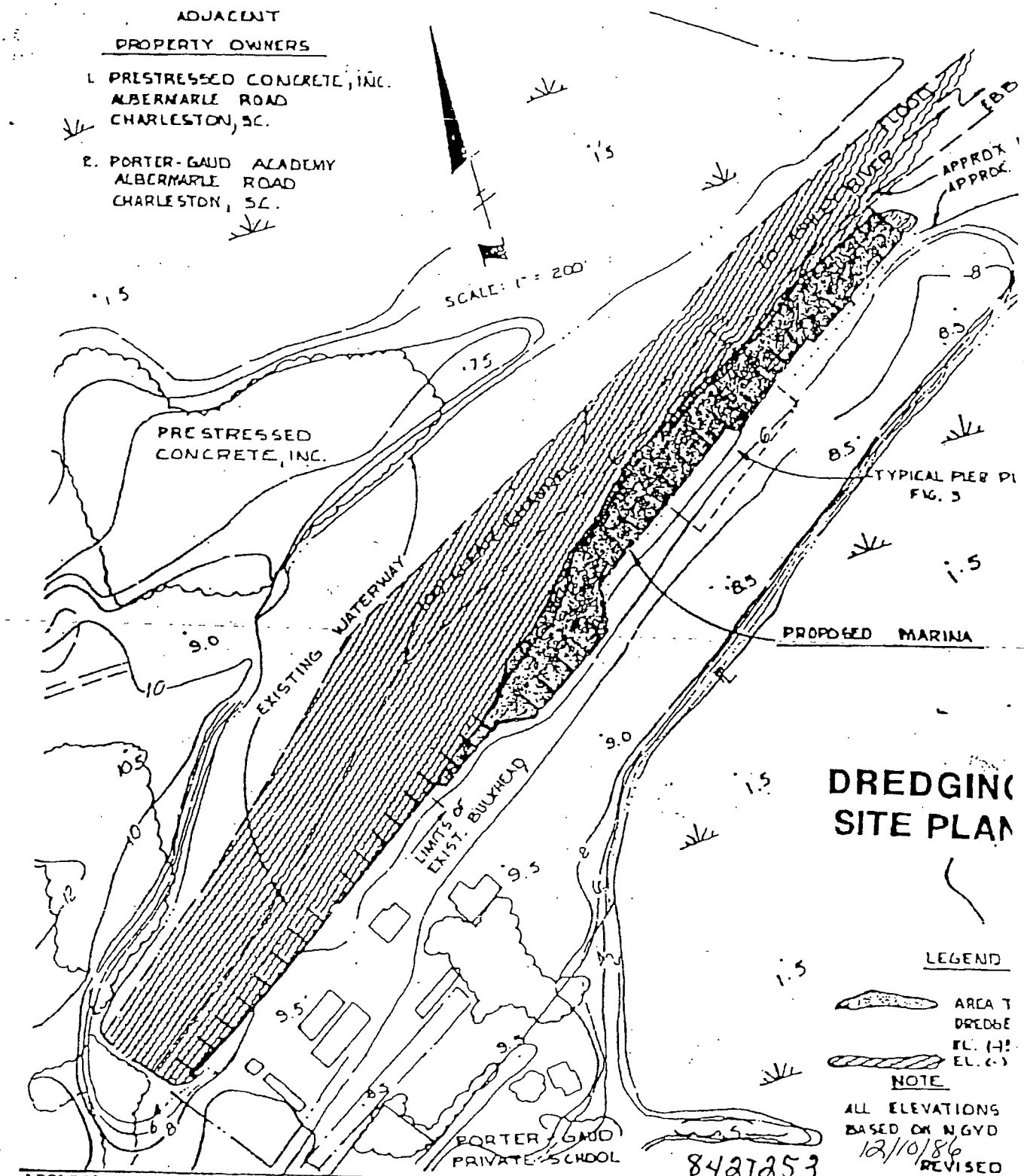


SECTION 'B-B'
NTS

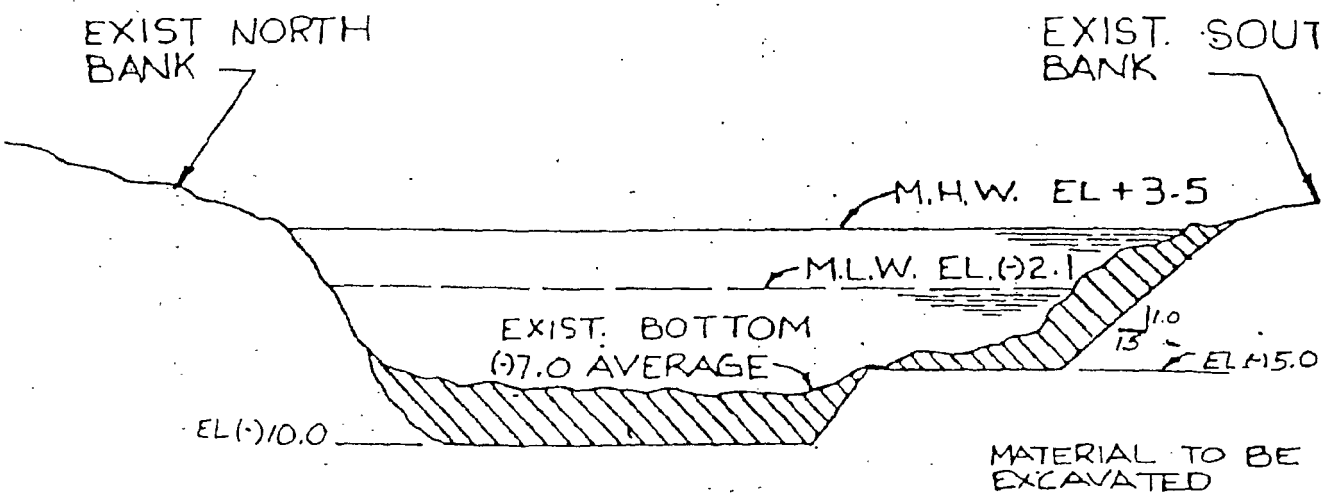
12/10/86

PROPOSED MARINA
IN
THE ASHLEY RIVER
CHARLESTON CO., S.C.

751


ADJACENT
PROPERTY OWNERS
1. PRESTRESSED CONCRETE, INC.
ALBERMARLE ROAD
CHARLESTON, SC.
2. PORTER-GAUD ACADEMY
ALBERMARLE ROAD
CHARLESTON, SC.
SCALE: 1" = 200'
PRESTRESSED
CONCRETE, INC.
EXISTING WATERWAY
LIMITS OF
EXIST. BULKHEAD
PROPOSED MARINA
TYPICAL PIER PI
FIG. 3
PORTER-GAUD
PRIVATE SCHOOL
DREDGIN(
SITE PLAN
LEGEND
NOTE
ALL ELEVATIONS
BASED ON N.G.V.D.
12/10/86
REVISED
APPLICATION BY:
SOUTHERN U.S REALTY CORP.
6/10
PROPOSED MARINA
LAT:32°46'00" LONG: 79°57'30"
CHARLESTON COUNTY
SOUTH CAROLINA
Date:
FIGU

842253



EXISTING CHANNEL SECTION

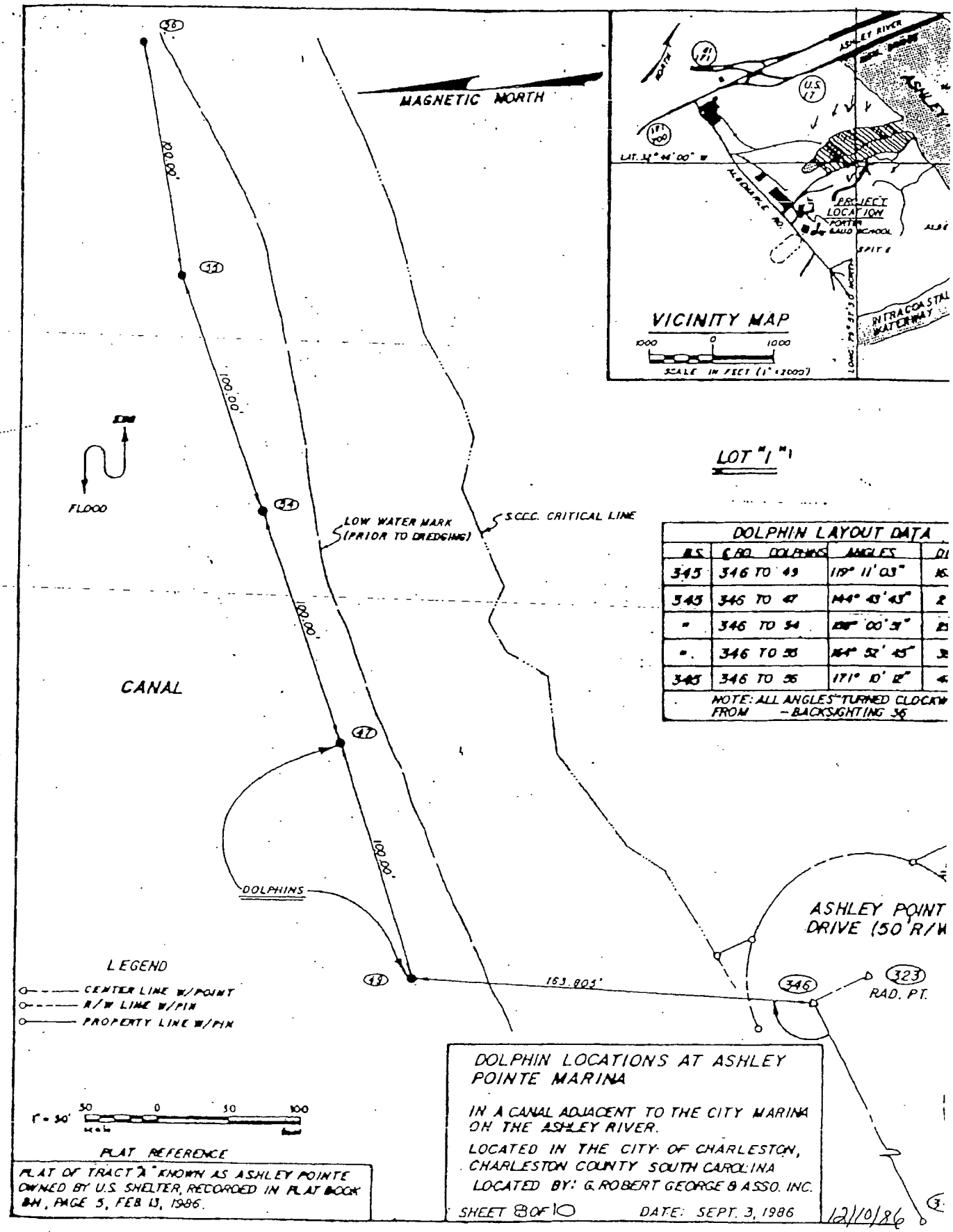
N.T.S.

7/10

12/10/8

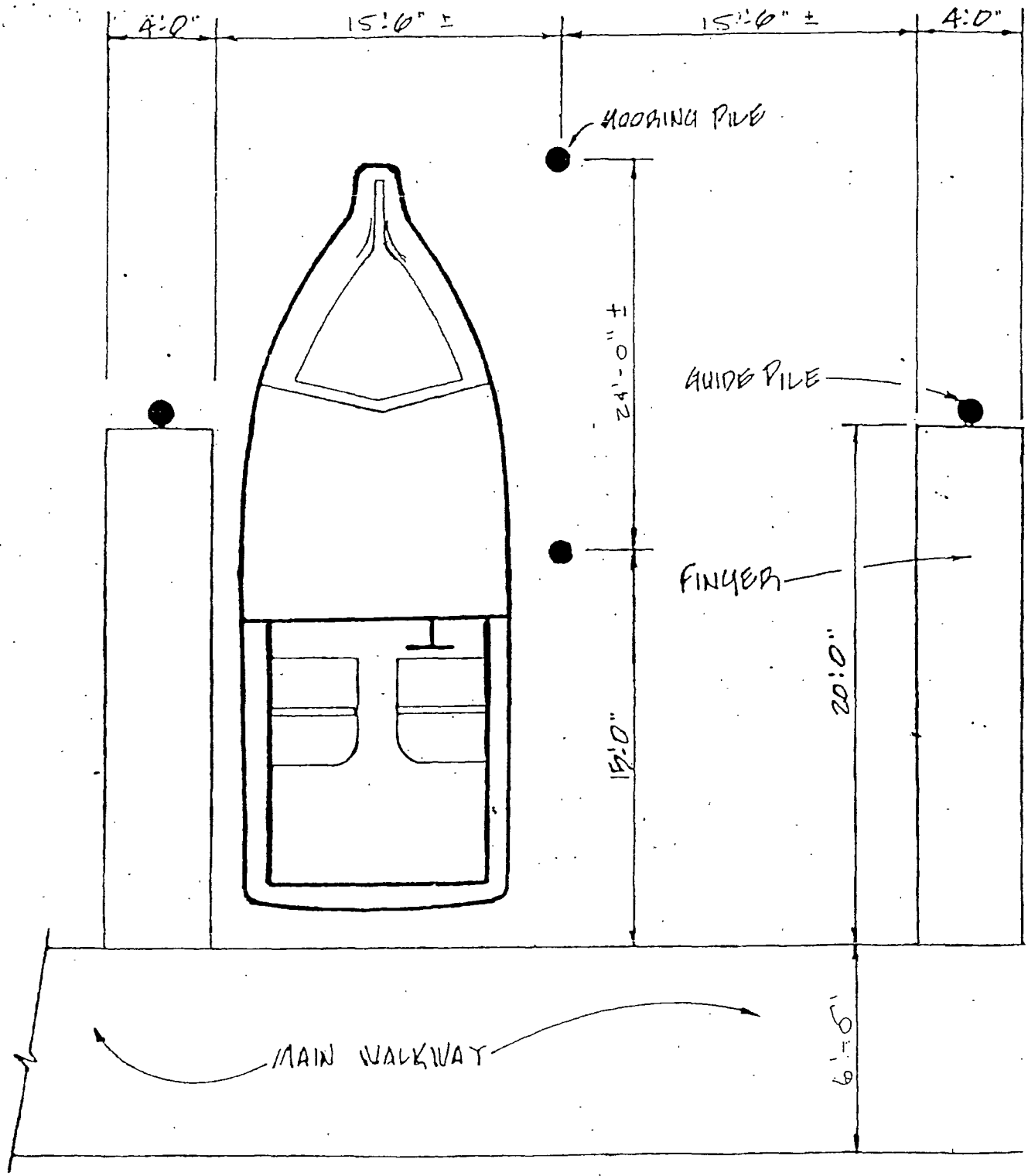
842T253 REVISED 4-L-B

APPLICATION BY:	PROPOSED MARINA LAT: 32°46'00" LONG: 79°57'30" CHARLESTON COUNTY SOUTH CAROLINA	Date: 3/8
SOUTHERN U.S. REALTY CORP.		FIGURE 2



DOLPHIN LAYOUT DATA			
FR.	TO DOLPHIN	ANGLES	DI
345	346 TO 49	119° 11' 03"	16
345	346 TO 47	144° 43' 43"	2
"	346 TO 54	158° 00' 31"	25
"	346 TO 55	164° 52' 45"	3
345	346 TO 56	171° 10' 12"	4

NOTE: ALL ANGLES TURNED CLOCKW

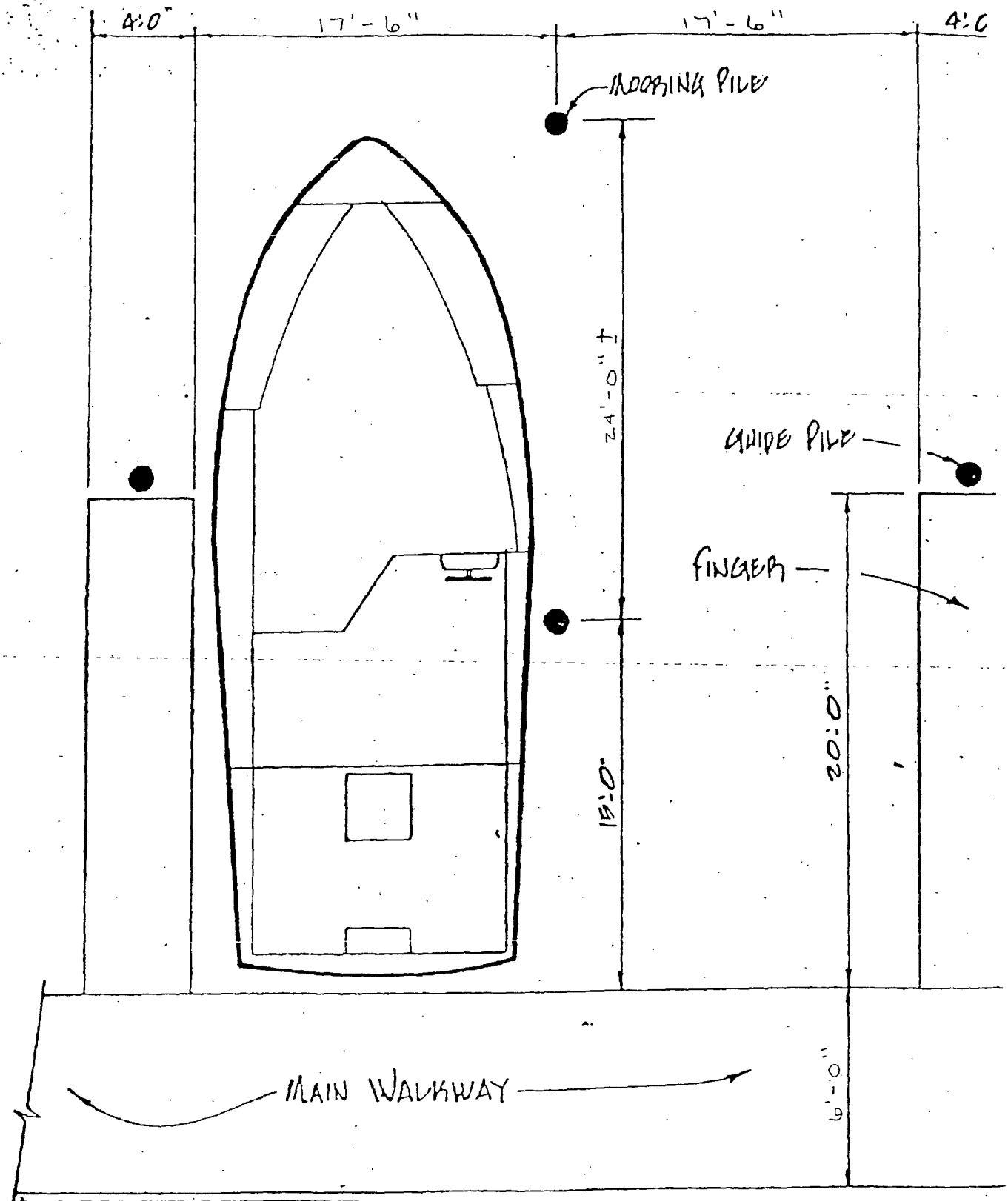


PROPOSED MARINA
IN
THE ASHLEY RIVER
CHARLESTON CO. S.C.
SOUTHERN U.S. REALTY CORP.

TYPICAL 30' BOAT SLIP
(floating docks)

12/10/86

9/10



PROPOSED MARINA
IN
THE ASHLEY RIVER
CHARLESTON CO., S.C.
SOUTHERN U.S. REALTY CORP

TYPICAL 35' BOAT SLIP
(floating docks)
12/10/86

10/10

D H E C

PROMOTE PROTECT PROSPER

SEE SPECIAL CONDITION(S)

C. Earl Hunter, Commissioner

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

January 12, 2011

RECEIVED
FEB - 8 2011
DIVM-17

Mr. Collin Bruner
P. O. Box 12710
Charleston, SC 29422-2710

Re: 2007-01329-2IR-P
Ripley Light Marina Property Owners Association

Dear Mr. Bruner:

The SCDHEC Office of Ocean and Coastal Resource Management has reviewed your application which seeks approval for modifications, a change of use, and After-The-Fact approval for additions to an existing marina at 56 Ashley Pointe Drive, in Ripley Cove, Charleston, Charleston County, South Carolina, and has issued a permit for this work. You should carefully read the description of the authorized project and any special conditions that have been placed on the permit, as these conditions may modify the permitted activity. In addition, there are a series of general conditions that should be reviewed. The original and one photocopy of the permit, as issued, are enclosed. After carefully reading the permit, if you wish to accept the permit as issued, sign and date in the signature block entitled "PERMITTEE" on the original version of the permit **and return it to this Department. Keep the photocopy for your records.**

PLEASE READ CAREFULLY: You are required to sign and return the original version of your permit to this Department. If this permit is not signed and returned within thirty (30) days of issuance, *OR* appealed within 15 days as described on the enclosed "Notice of Appeal Procedure", the Department reserves the right to cancel this permit. Please carefully review the enclosed "Notice of Appeal Procedure" for information and deadlines for appealing this permit.

We have also enclosed a "request for a construction placard" card. You must send in this card before the time you wish to start construction. At that time a construction placard will be sent to you to post at the construction site.

PLEASE NOTE: You are not authorized to commence work under the permit until we have received the original version of the entire permit signed and accepted by you, and a construction placard has been issued and posted at the construction site. The receipt of this permit does not relieve you of the responsibility of acquiring any other federal or local permits that may be required.

Sincerely,

Fred Mallett
Wetland Section Project Manager

Enclosure
cc: Mr. Blair Williams, Wetland Section Manager
Ms. Robin Coller-Socha, USACOE

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Ocean and Coastal Resource Management
Charleston Office · 1362 McMillan Avenue, Suite 400 · Charleston, SC 29405
Phone: 843-953-0200 · Fax: 843-953-0201 · www.scdhec.gov

EXHIBIT 26

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment

Notice of Appeal Procedure
Pursuant to S.C. Code Section 44-1-60

1. This decision of the S.C. Department of Health and Environmental Control (Department) becomes the final agency decision 15 calendar days after notice of the decision has been mailed to the applicant or respondent, unless a written request for final review accompanied by a filing fee in the amount of $100 is filed with the Department by the applicant, permittee, licensee, or affected person.

2. An applicant, permittee, licensee, or affected person who wishes to appeal this decision must file a timely written request for final review with the Clerk of the Board at the following address or by facsimile at 803-898-3393. A filing fee in the amount of $100 made payable to SC DHEC must also be received by the Clerk within the time allowed for filing a request for final review. However, if a request for final review is filed by facsimile, the filing fee may be mailed to the Clerk of the Board if the envelope is postmarked within the time allowed for filing a request for final review.

   Clerk of the Board
   SC DHEC
   2600 Bull Street
   Columbia, SC 29201

3. In order to be timely, a request for final review must be received by the Clerk of the Board within 15 calendar days after notice of the decision has been mailed to the applicant or respondent. If the 15th day occurs on a weekend or State holiday, the request is due to be received by the Clerk of the Board on the next working day. The request for final review must be received by the Clerk of the Board by 5:00 p.m. on the date it is due. A request for final review will be returned to the requestor if the filing fee is not received on time as described above.

4. The request for final review should include the following:
   a. the grounds on which the Department's decision is challenged and the specific changes sought in the decision
   b. a statement of any significant issues or factors the Board should consider in deciding whether to conduct a final review conference
   c. a copy of the Department's decision for which review is requested

5. If a timely request for final review is filed with the Clerk of the Board, the Clerk will provide additional information regarding procedures. If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within 30 calendar days after notice is mailed that the Board declined to hold a final review conference.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.

July 1, 2010

SEE SPECIAL CONDITION(S)

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

CRITICAL AREA PERMIT & COASTAL ZONE CONSISTENCY CERTIFICATION

Permittee(s):	**Ripley Light Marina Property Owners Association**
Permit Number(s):	**2007-01329-2IR-P**
Date of Issuance:	**January 12, 2011**
Expiration Date:	**Janaary 12, 2016**
Location:	**On and adjacent to Ashley River at 56 Ashley Pointe Drive, in Ripley Cove, Charleston, Charleston County, South Carolina**

This permit is issued under the provisions of S. C. Code Ann. Section 48-39-10, *et seq.*, and 23A S.C. Code Ann. Regs. 30-1 through 30-18 (Supp. 2005). Please carefully read the project description and any special conditions that may appear on this permit/certification as they will affect the work that is allowed. If there are no special conditions, then the work is authorized as described in the project description and as modified by the general conditions. The general conditions are also a part of this permit/certification and should be read in their entirety. The S. C. Contractor's Licensing Act of 1999, enacted as S.C. Code Ann. Section 40-11-5 through 430, requires that all construction with a total cost of $5,000 or more be performed by a licensed contractor with a valid contractor's license for marine class construction, except for construction performed by a private landowner for strictly private purposes. Your signature on and acceptance of this permit denotes your understanding of the stated law regarding use of licensed contractors. **All listed special and general conditions will remain in effect for the life of the project if work commences during the life of the permit. This applies to permittee, future property owners, or permit assignees.**

DESCRIPTION OF THE PROJECT, AS PERMITTED

This permit has been issued for the structures as requested with minor changes. Specifically, the permittee has been given After-The-Fact approval for placement of two (2) pilings without prior notification at slips E1/E2 and E22/E23. This permit also approves the construction of five (5) dock extensions at slips B16/B17, C7/C/8, C9, D1, and D2/D3; along with the construction of two (2) docks at slips E11/E12, and E27, and two (2) floating docks, installed landward, of slips C8/C9 and D2. Three of the dock extensions are 4' by 21' and two are 4' by 22' in length. The modified docks are each 4' by 20' in length. The floating docks behind the slips are 12.5' by 18' and 9.5' by 12' respectively. The proposed activity consists of installing an additional floating jet dock at slip E26. The proposed jet dock would be 11.8' by 25', and would not extend beyond the installed piling for the finger pier. **The unauthorized activities have been properly addressed through an Executed Consent Order 09C-017Y.** This purpose of this activity is to change the use from a public facility to that of a private facility and to make changes and modifications to that existing structure.

1/14

SEE SPECIAL CONDITION(S)

SPECIAL CONDITIONS

1. Provided no further additions, modifications or changes will take place at this marina without prior federal, state or local approval. Any additional unauthorized construction to this marine facility will be grounds for permit revocation.

2. Provided no portions of the permitted structures are constructed or installed as to create an impediment to navigation. Boats moored at docks within the marina cannot restrict the reasonable navigation or public use of State lands and waters.

3. Provided adequate litter receptacles must be located near all docks and walkways and around the marina facilities and should be maintained daily. Containers or other provisions for the disposal of oil, grease, old fuel, or other toxic or potentially hazardous substances should be found at the marina but shall not be placed over or near the water.

4. Provided any painting, major engine repair, or other maintenance which may result in a discharge to the water must be performed in a designated upland site and not in or over the waters of the marina.

5. Provided no live-aboards are allowed at this facility. Live-aboards are defined and those persons staying overnight on boats in excess of three consecutive nights.

6. Provided a functional wastewater pumpout system must be provided at the marina and must be adequate to handle all wastewater generated at the marina.

7. Provided the discharge of any kind of waste into state waters, including, but not limited to, garbage, refuse, trash or debris, will be prohibited at the marina. Any lease agreement used to rent dock space shall include a statement prohibiting the discharge of these items or general garbage or other deleterious substances into the waters of the marina. It will also stress the need to maintain good water quality within the marina.

8. Provided the storage or disposal of new or used batteries, oil or lubrication containers, fuel containers, solvents, toxic cleaners, paint cans, etc., on the marina docks is prohibited.

9. Provided the marina must have adequate booms available to isolate any oil or fuel spill around the fuel dock, a leaking boat, or a sunken boat. These booms must be stored in a location where they are quickly and easily accessible.

2/14

SEE SPECIAL CONDITION(S)

10. Provided that an as-built survey of the dock must be submitted to the Department within 90 days of the expiration date of the final construction placard. The survey must be performed by a registered land surveyor, must show all components of the dock, and must list the starting and ending coordinates of the dock walkway in the SC State Plane Coordinate System, which can be obtained by survey-grade Global Positioning System equipment.

11. Provided that in the event that archaeological or paleontological remains are found during the course of work, the applicant should notify the South Carolina Institute of Archaeology and Anthropology (Mr. James Spirek at 803-777-8170) pursuant to South Carolina Underwater Antiquities Act of 1991, (Article 5 Chapter 7, Title 54, Code of Laws of South Carolina, 1976). Archaeological remains consist of any materials made or altered by man, which remain from past historic or prehistoric times (ie, older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures, or non-recent vessel remains. Paleontological remains consist of old animal remains, original or fossilized, such as teeth, tusks, bone, or entire skeletons.

SCDHEC- 401 Water Quality Certification

1. Provided the applicant must implement Best Management Practices on the upland portion of the project during construction to minimize pollutant runoff, erosion, and migration of sediments on and off the project site during and after construction. These practices should include the use of appropriate grading and sloping techniques, mulches, vegetative buffer zones, runoff diversion measures, temporary stabilization, silt fences, source controls, filtration and/or infiltration practices, or other devices and practices capable of reducing or preventing pollutant runoff, erosion, migration of sediments, and bank failure. All disturbed land surfaces and sloped areas affected by the project must be stabilized and sloped with a minimum 3 to 1 slope upon project completion.

2. Provided all necessary measures must be taken to prevent oil, animal and sewage waste, tar, trash, debris and other pollutants from entering the adjacent waters or wetlands during construction.

3. Provided any lease agreement used to rent dock space shall include a statement prohibiting the discharge of oil and gas, paint, litter, debris, wastewater, other deleterious substances into the waters of the marina. It will also stress the need to maintain good water quality within the marina.

3|14

SEE SPECIAL CONDITION(S)

4. Provided 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.

5. Provided anti-fouling paints must not be used on any bulkheads, pilings, docks or dock support within the confines of the facility.

6. Provided construction activities must avoid to the greatest extend possible, encroachment into any wetland areas not designated as impact areas.

7. Provided litter receptacles must be located on areas approaching the dock or on the fixed pier head. Containers for toxic substances shall not be placed over or near the water.

8. Provided the floating docks must be constructed within an encased or encapsulated flotation device.

9. 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."

   These signs should be at least 14" by 18" in size so they can be read clearly.

10. Provided any painting, major engine repair, or other maintenance, which may result in a discharge to the water, must be preformed in a designated upland site.

11. Provided all efforts must be made to protect existing native riparian vegetation in and along the shoreline areas.

12. Provided the marina additions must be located and constructed with care to minimize disturbance and encroachment to shellfish beds and emergent marsh vegetation.

PERMITTEE'S ATTENTION IS DIRECTED TO GENERAL CONDITIONS NUMBERS FOUR (4) AND FIVE (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.

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.

4/14

SEE SPECIAL CONDITION(S)

Permit Number: 2007-01329-2IR-P

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

3/28/2011

(PERMITTEE(S)) (DATE)

Ripley Light Marina POA

~~C/O Colin Brazer~~ Bruce Wallace, President

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

Jan. 12, 2011

(WETLAND SECTION PROJECT MANAGER) (DATE)

Fred Mallett

Or his Designee

Other Authorized State Official

5/14

GENERAL CONDITIONS:

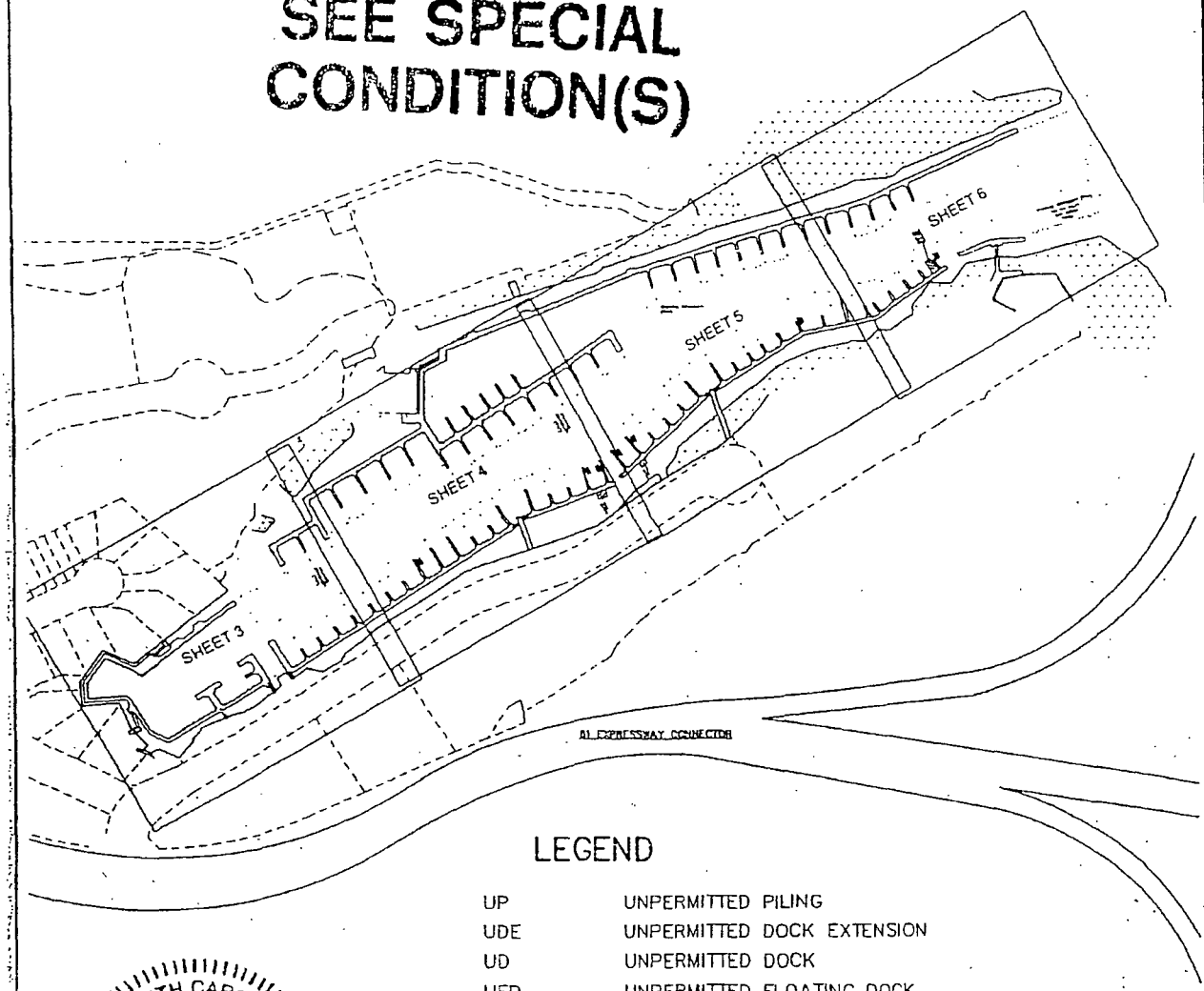
SEE SPECIAL CONDITION(S)

This construction and use permit is expressly contingent upon the following conditions which are binding upon 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 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 thirty 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 OCRM 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 OCRM.
8. That this permit may not be transferred to a third party without prior written notice to OCRM, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee 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 the permit construction placard 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. OCRM may require the permittee to modify activities or remove structures authorized herein if it is determined by 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 OCRM intends to revoke the permit, Permittee agrees to immediately stop work pending resolution of the revocation.
13. That OCRM 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 OCRM'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, OCRM shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to OCRM. (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 OCRM or the State of South Carolina or any employee, agent, or representative of OCRM or 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 others. This permit authorizes no invasion of adjacent private property, and OCRM assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.

6/14

SEE SPECIAL CONDITION(S)



LEGEND

UP	UNPERMITTED PILING
UDE	UNPERMITTED DOCK EXTENSION
UD	UNPERMITTED DOCK
UFD	UNPERMITTED FLOATING DOCK
PR	PILING REPLACEMENT

SOUTH CAROLINA
GEL ENGINEERING, LLC
No. C02649
CERTIFICATE OF AUTHORIZATION

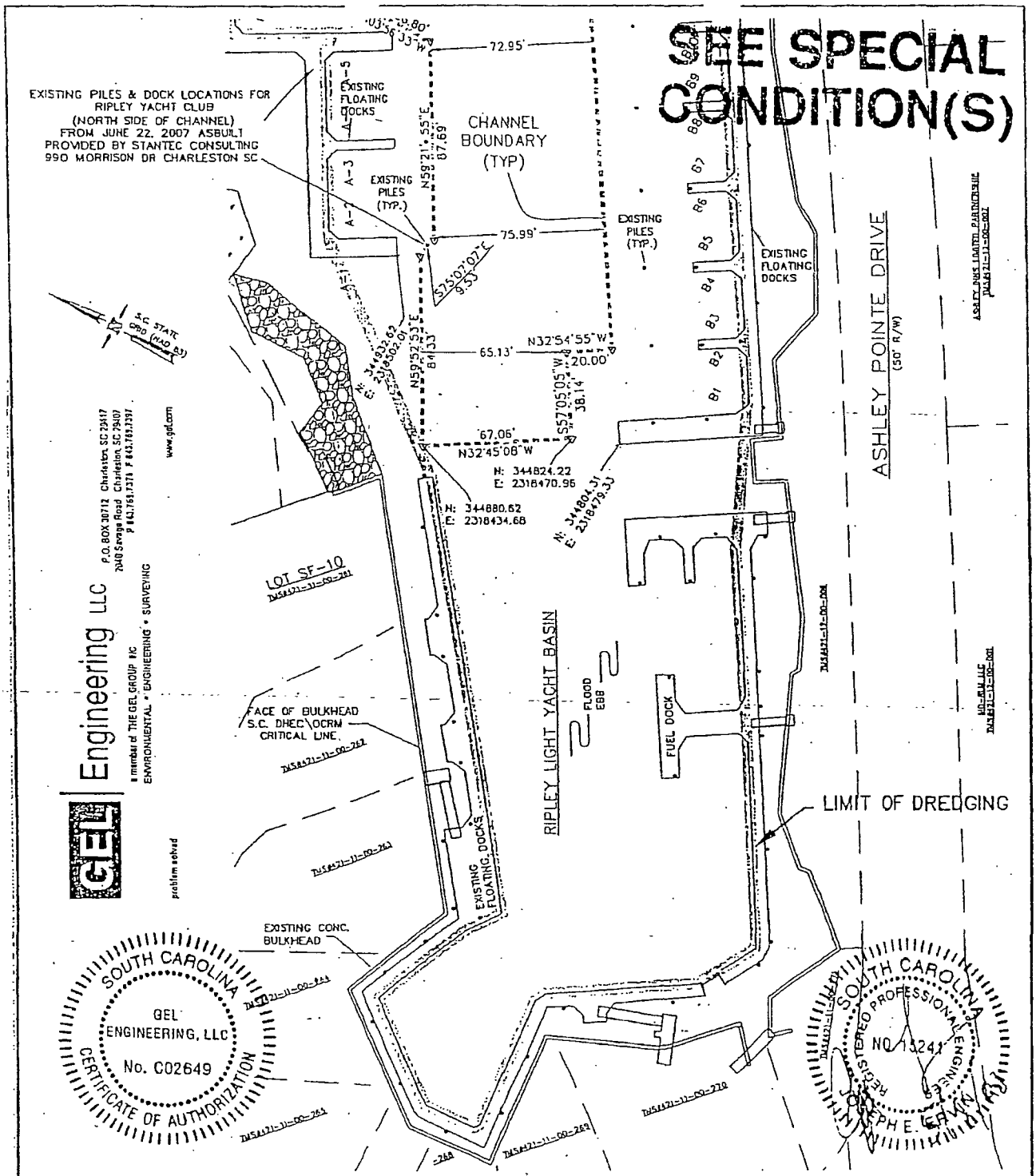
SOUTH CAROLINA REGISTERED PROFESSIONAL ENGINEER
NO. 19241
JOSEPH E. EASON

GEL Engineering LLC
a member of THE GEL GROUP INC
ENVIRONMENTAL • ENGINEERING • SURVEYING
problem solved

P.O. BOX 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.769.7378 F 843.769.7397
www.gel.com

PURPOSE: PERMIT MODIFICATION	FIGURE 2 OVERALL PLAN VIEW	PROPOSED: RIPLEY LIGHT MARINA BASIN
	NOT TO SCALE	AT: RIPLEY LIGHT MARINA
		IN: ASHLEY RIVER
SURVEY DATUM: MLW	RIPLEY LIGHT MARINA, POA 56 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	COUNTY OF: CHARLESTON, SOUTH CAROLINA
		SHEET: 2 OF 8 DATE: 5/8/08

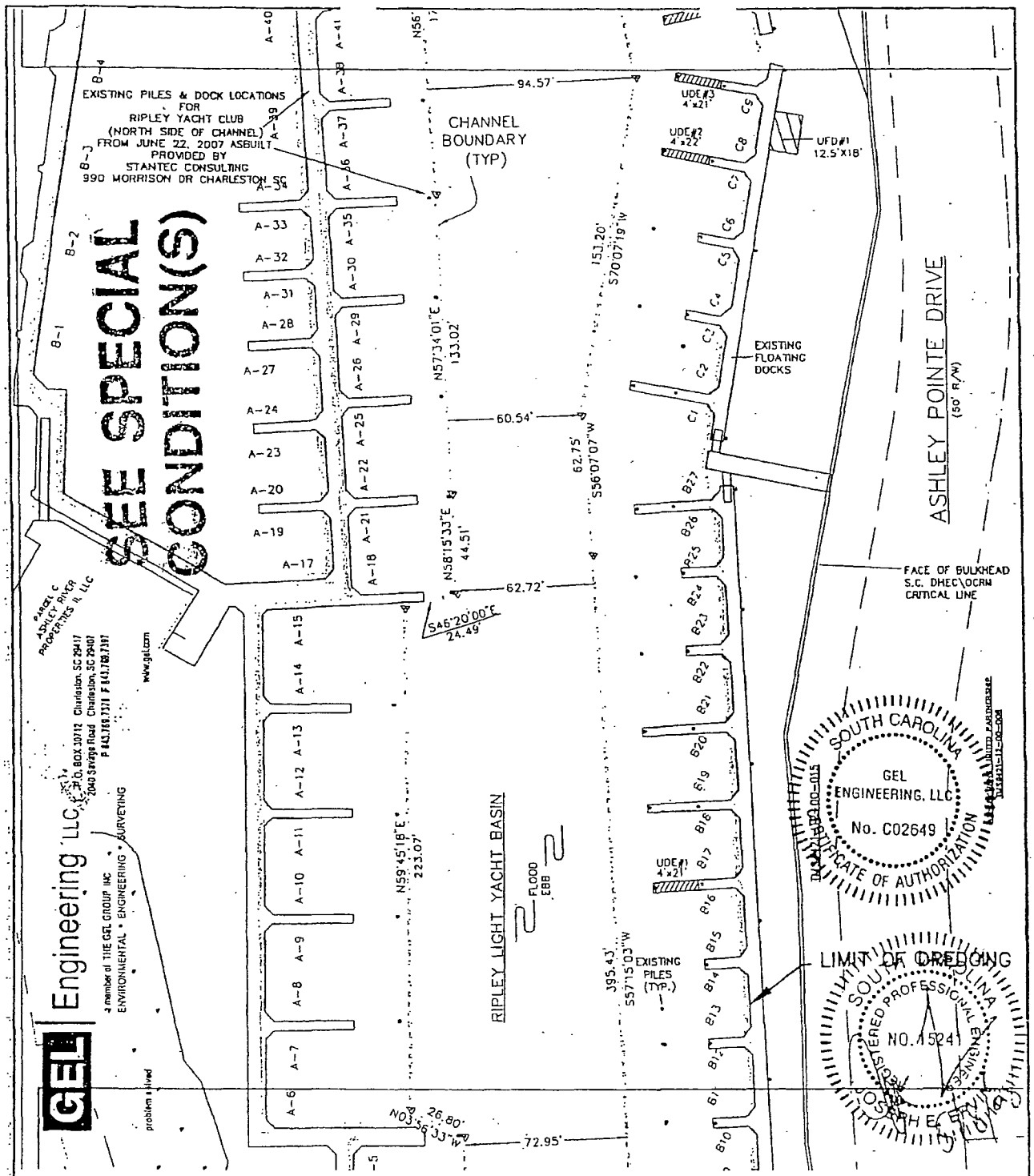
7/14



PURPOSE: PERMIT MODIFICATION	FIGURE 3 PLAN VIEW	PROPOSED: RIPLEY LIGHT MARINA BASIN
	SCALE: 1"=60'	AT: RIPLEY LIGHT MARINA
		IN: ASHLEY RIVER
SURVEY DATUM: MLW	RIPLEY LIGHT MARINA, POA 58 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	COUNTY OF: CHARLESTON, SOUTH CAROLINA
		SHEET: 3 OF 8 DATE: 5/8/08

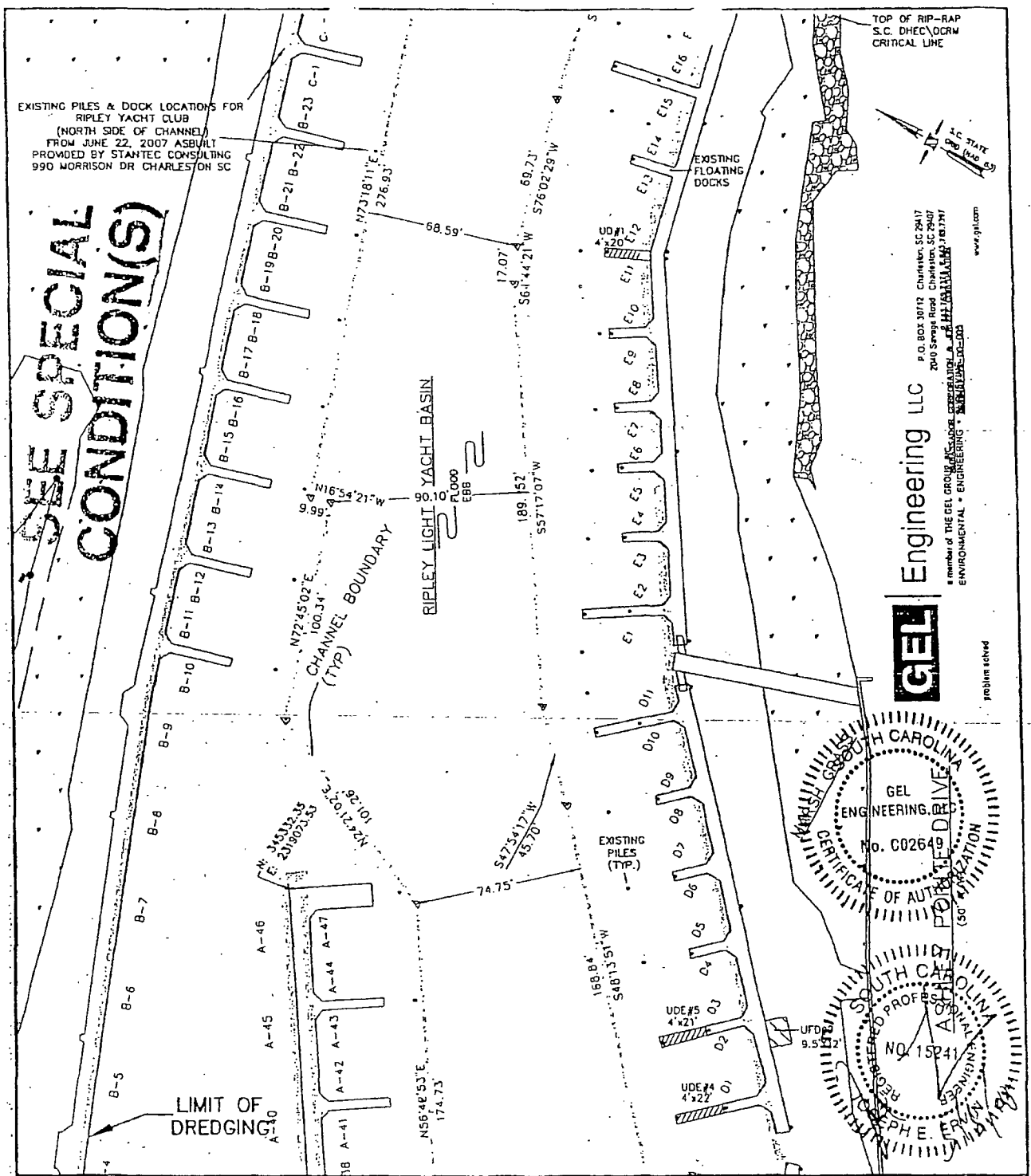
SCNT00107C GEL ENGINEERING, LLC a Member of THE GEL GROUP, INC.

8114

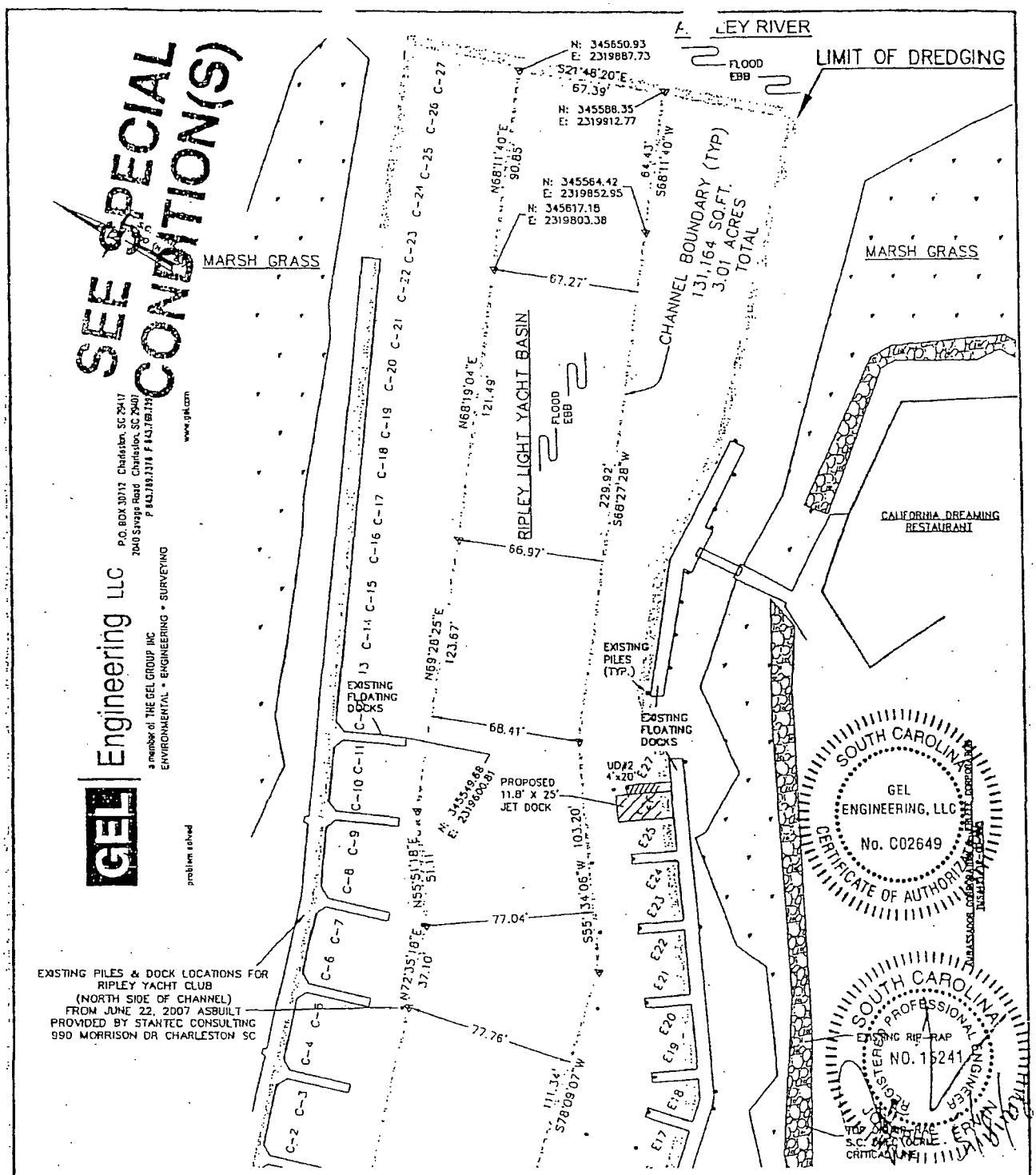


PURPOSE: PERMIT MODIFICATION	FIGURE 4 PLAN VIEW	PROPOSED: RIPLEY LIGHT MARINA BASIN
	SCALE: 1"=60'	AT: RIPLEY LIGHT MARINA
		IN: ASHLEY RIVER
SURVEY DATUM: MLW	RIPLEY LIGHT MARINA, POA 56 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	COUNTY OF: CHARLESTON, SOUTH CAROLINA
		SHEET: 4 OF 8 DATE: 5/8/08

9114


SEE SPECIAL CONDITION(S)
EXISTING PILES & DOCK LOCATIONS FOR RIPLEY YACHT CLUB (NORTH SIDE OF CHANNEL) FROM JUNE 22, 2007 ASBUILT PROVIDED BY STANTEC CONSULTING 990 MORRISON DR CHARLESTON SC
TOP OF RIP-RAP S.C. DHEC\OCRM CRITICAL LINE
EXISTING FLOATING DOCKS
RIPLEY LIGHT YACHT BASIN
CHANNEL BOUNDARY (TYP)
EXISTING PILES (TYP.)
LIMIT OF DREDGING
N73°18'11"E 276.93'
68.59'
S76°02'29"W 69.23'
S61°44'21"W 17.07'
N16°54'21"W 90.10'
FLOOD
EBB
189.52'
S57°17'07"W
N72°45'02"E 100.34'
N24°21'02"E 101.26'
S47°54'12"W 45.70'
74.75'
168.84'
S48°13'51"W
N56°48'53"E 174.73'
UD#1 4'x20'
UDE#5 4'x21'
UDE#4 4'x22'
UFD#3 9.5'x22'
GEL Engineering LLC
P.O. BOX 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
www.gel.com
GEL
problem solved
SOUTH CAROLINA
GEL ENGINEERING, LLC
No. C02649
CERTIFICATE OF AUTHORIZATION
SOUTH CAROLINA
REGISTERED PROFESSIONAL ENGINEER
No. 15241
JOSEPH E. STRAUB
PURPOSE: PERMIT MODIFICATION
SURVEY DATUM: MLW
FIGURE 5
PLAN VIEW
SCALE: 1"=60'
RIPLEY LIGHT MARINA, POA
56 ASHLEY POINTE DRIVE
CHARLESTON, SOUTH CAROLINA 29407
PROPOSED: RIPLEY LIGHT MARINA BASIN
AT: RIPLEY LIGHT MARINA
IN: ASHLEY RIVER
COUNTY OF: CHARLESTON, SOUTH CAROLINA
SHEET: 5 OF 8
DATE: 5/8/08
SENT00107C
GEL ENGINEERING, LLC
a Member of THE GEL GROUP, INC.

10/14

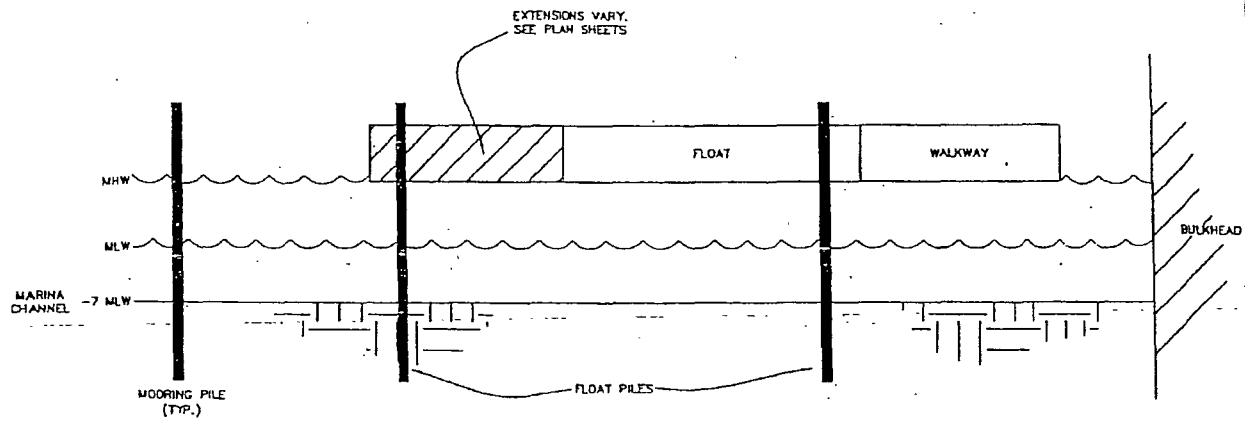


PURPOSE: PERMIT MODIFICATION	FIGURE 6 PLAN VIEW	PROPOSED: RIPLEY LIGHT MARINA BASIN
	SCALE: 1"=60'	AT: RIPLEY LIGHT MARINA
		IN: ASHLEY RIVER
SURVEY DATUM: MLW	RIPLEY LIGHT MARINA, POA 58 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	COUNTY OF: CHARLESTON, SOUTH CAROLINA
		SHEET: 8 OF 8 DATE: 5/8/08

SCNT00107C GEL ENGINEERING, LLC a Member of THE GEL GROUP, INC.

11/14

SEE SPECIAL CONDITION(S)



SOUTH CAROLINA
GEL ENGINEERING, LLC
No. C02649
CERTIFICATE OF AUTHORIZATION

GEL Engineering LLC
a member of THE GEL GROUP INC
ENVIRONMENTAL • ENGINEERING • SURVEYING
problem solved

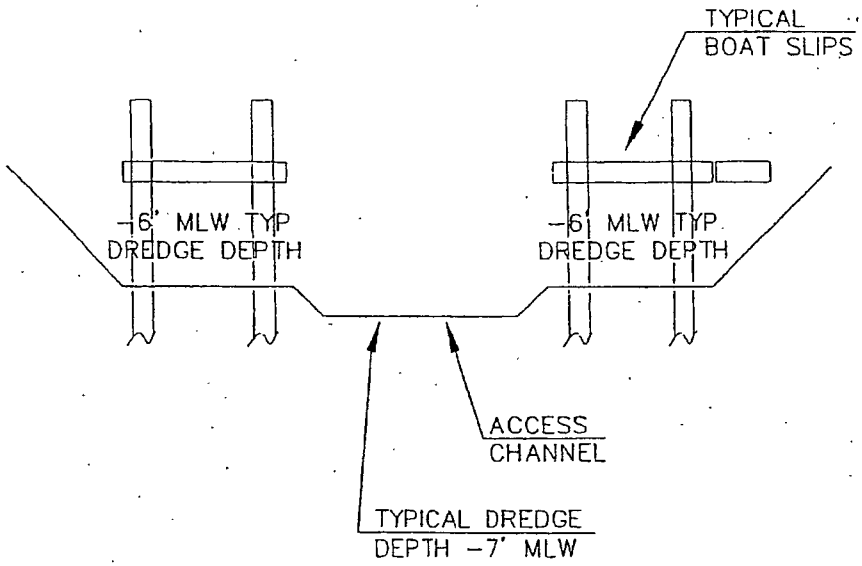
P.O. BOX 30712 Charleston, SC 29417
7040 Savage Road Charleston, SC 29407
P 843.769.7378 F 843.769.7397
www.gel.com

SOUTH CAROLINA REGISTERED PROFESSIONAL ENGINEER
NO. 15241
JOSEPH E. ERVIN

PURPOSE: PERMIT MODIFICATION	FIGURE 7 TYPICAL CROSS-SECTION VIEW	PROPOSED: RIPLEY LIGHT MARINA BASIN
	NOT TO SCALE	AT: RIPLEY LIGHT MARINA
		IN: ASHLEY RIVER
SURVEY DATUM: MLW	RIPLEY LIGHT MARINA, POA 58 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	COUNTY OF: CHARLESTON, SOUTH CAROLINA
		SHEET: 7 OF 8 DATE: 11/20/07

12/14

SEE SPECIAL CONDITION(S)



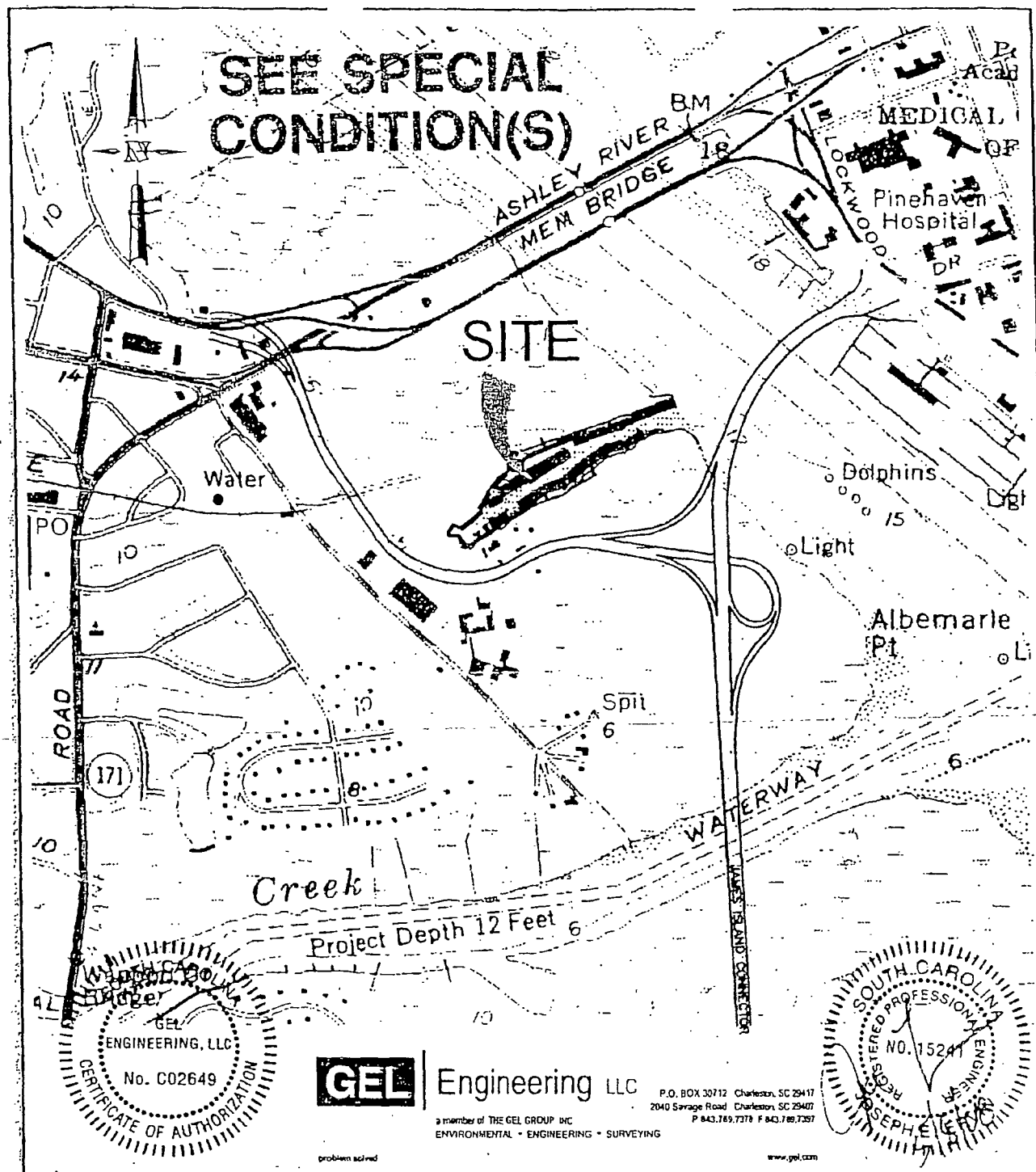
SOUTH CAROLINA
GEL
ENGINEERING, LLC
No. C02649
CERTIFICATE OF AUTHORIZATION

GEL Engineering LLC
P.O. BOX 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.769.7378 F 843.769.7397
a member of THE GEL GROUP INC
ENVIRONMENTAL • ENGINEERING • SURVEYING
problem solved
www.gel.com

SOUTH CAROLINA
REGISTERED PROFESSIONAL ENGINEER
NO. 15241
JOSEPH E. ERVIN

PURPOSE: PERMIT MODIFICATION	FIGURE B TYPICAL CHANNEL CROSS-SECTION VIEW NOT TO SCALE	PROPOSED: RIPLEY LIGHT MARINA BASIN
		AT: RIPLEY LIGHT MARINA
		IN: ASHLEY RIVER
SURVEY DATUM: MLW	RIPLEY LIGHT MARINA, POA 56 ASHLEY POINTE DRIVE CHARLESTON, SOUTH CAROLINA 29407	COUNTY OF: CHARLESTON, SOUTH CAROLINA
		SHEET: 8 OF 8 DATE: 5/8/08

13114



PURPOSE: PERMIT MODIFICATION

SURVEY DATUM: CHARLESTON 7.5 QUAD

FIGURE 1
QUAD LOCATION MAP
SCALE: 1"= 1000'
0 500' 1000'

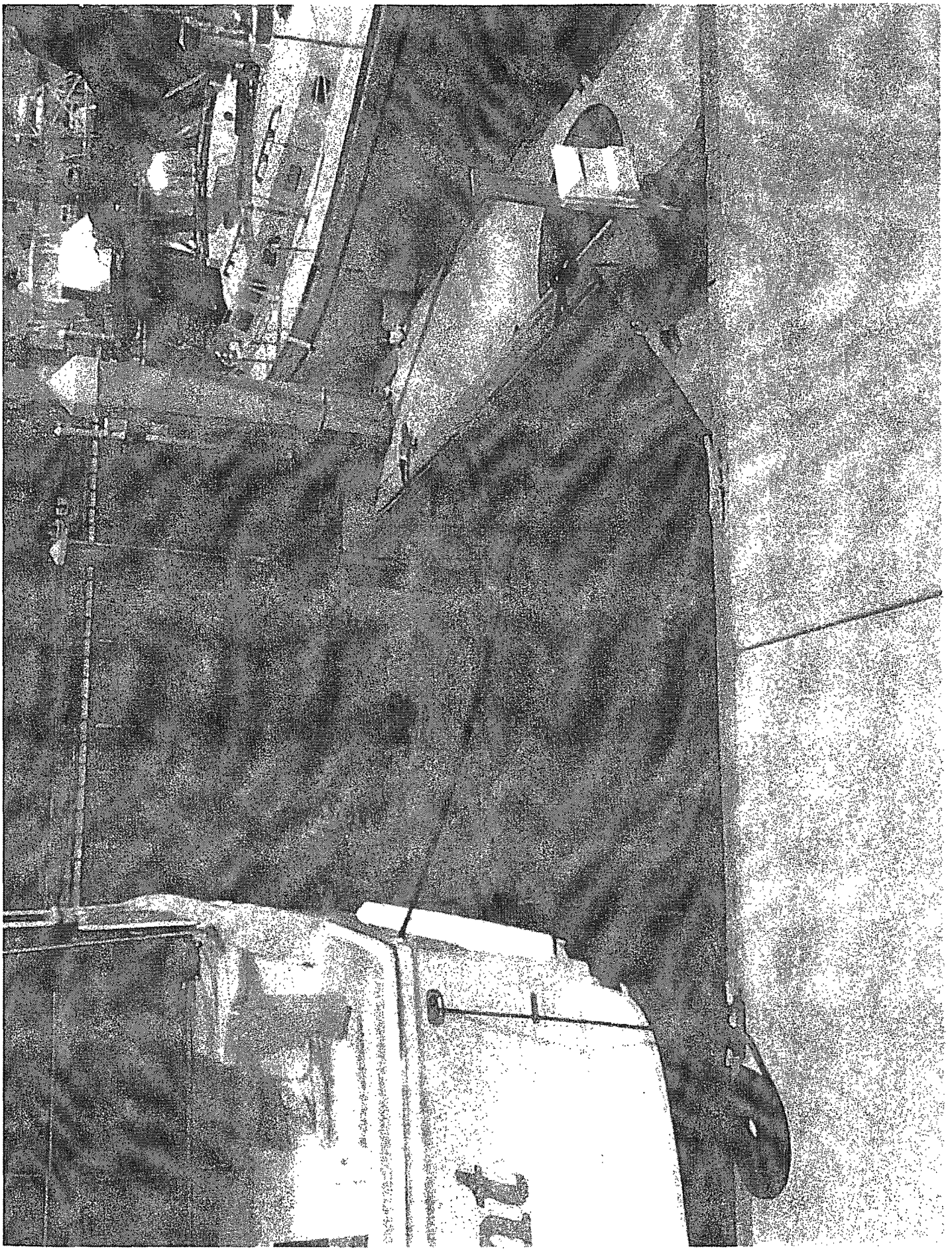
RIPLEY LIGHT MARINA, POA
56 ASHLEY POINTE DRIVE
CHARLESTON, SOUTH CAROLINA 29407

PROPOSED: RIPLEY LIGHT MARINA BASIN
AT: RIPLEY LIGHT MARINA
IN: ASHLEY RIVER
COUNTY OF: CHARLESTON, SOUTH CAROLINA
SHEET: 1 OF 8 DATE: 5/8/08

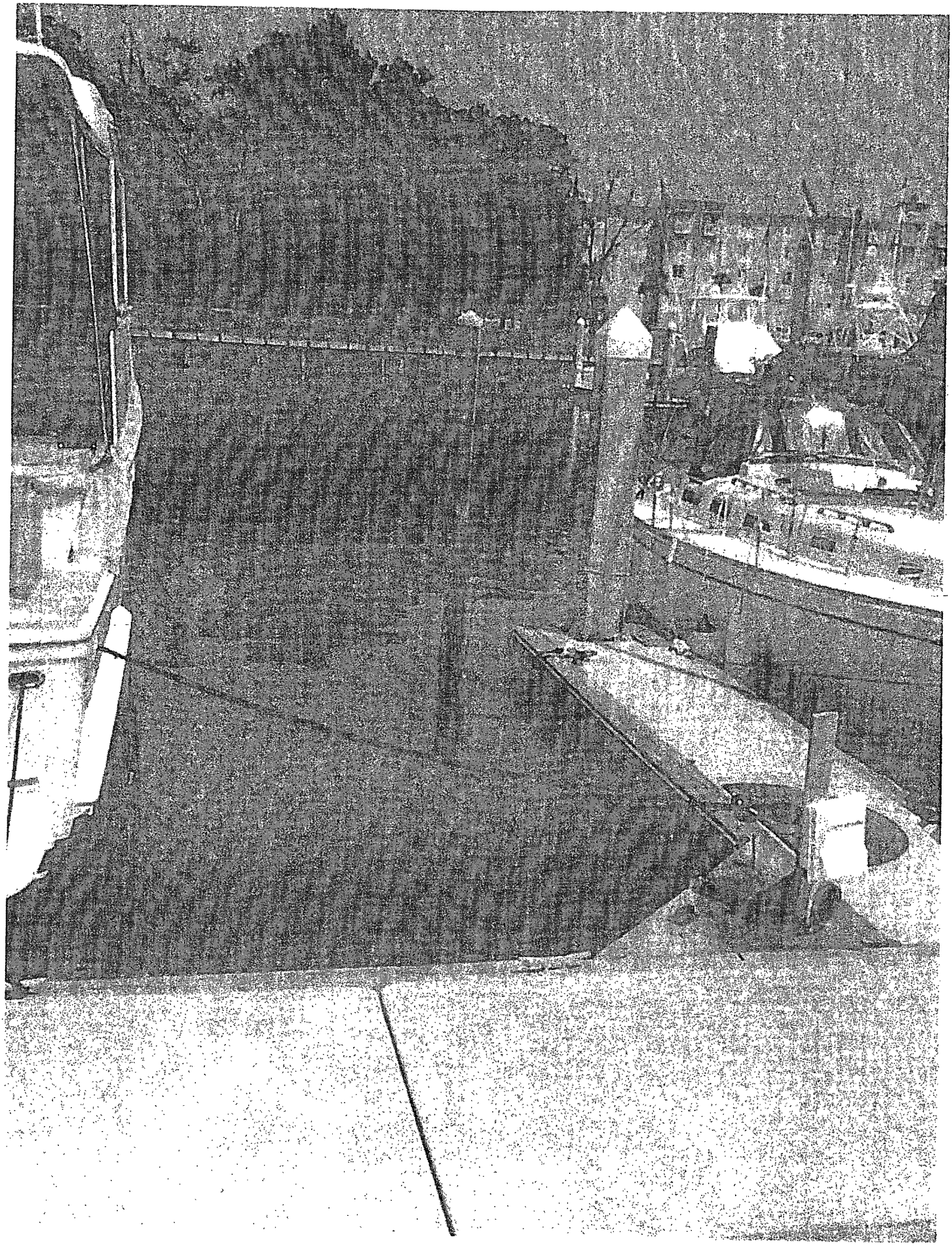
M1001107C GEL ENGINEERING, LLC a Member of THE GEL GROUP, INC.

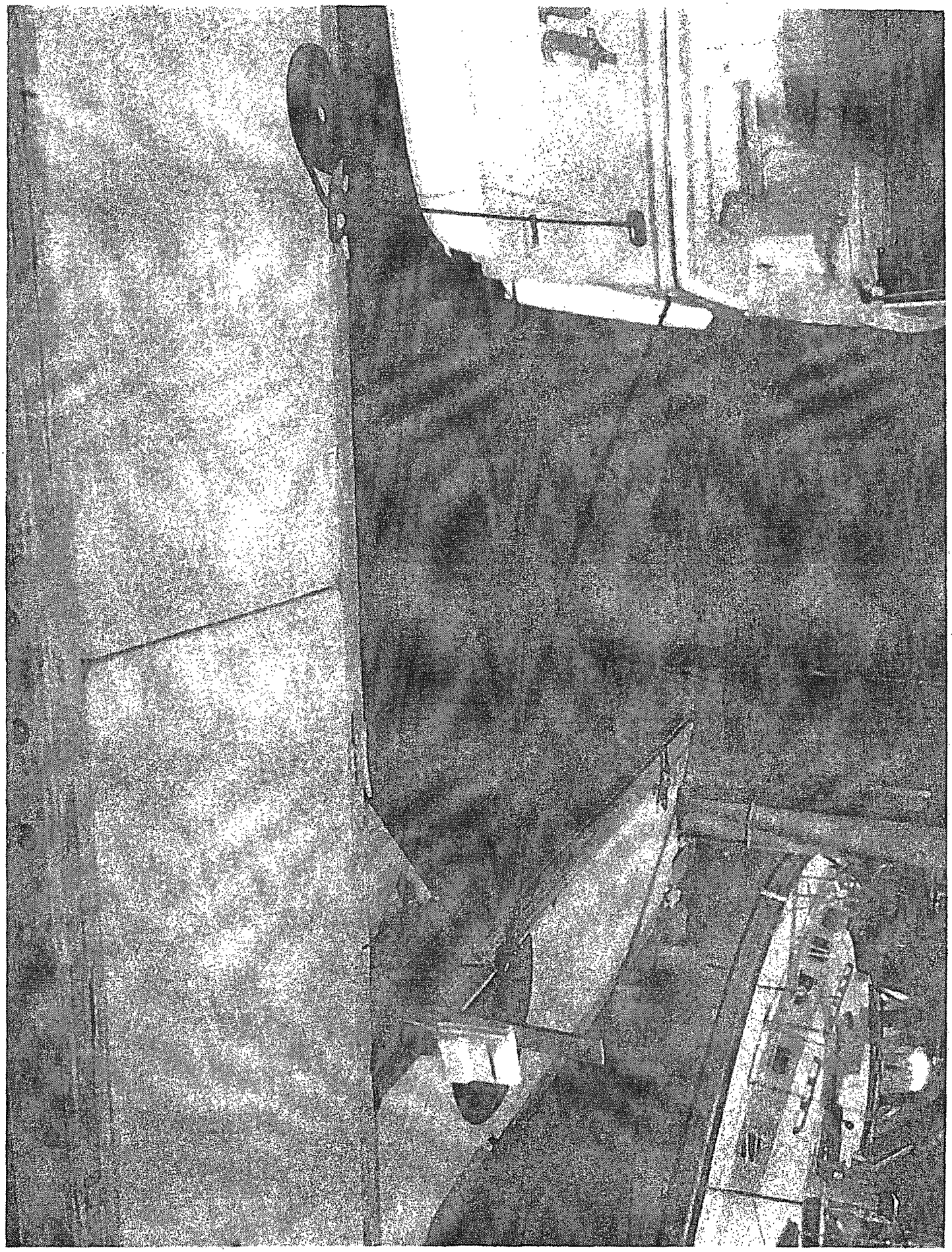
1 of 1

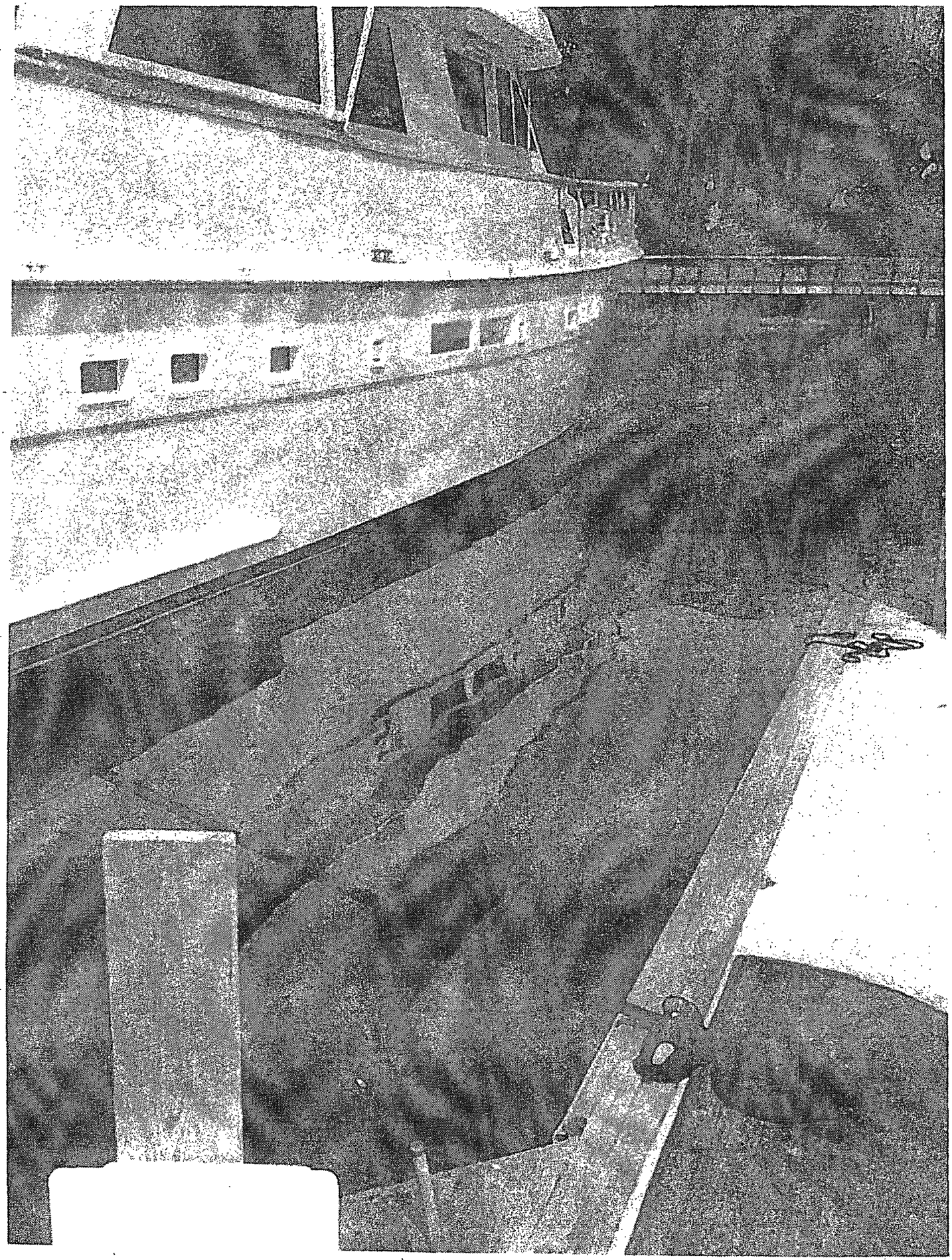
Lady Gallant
EXHIBIT



Pepsi-Cola
PEPSI-COLA BOTTLING CO.
WILMINGTON, DELAWARE







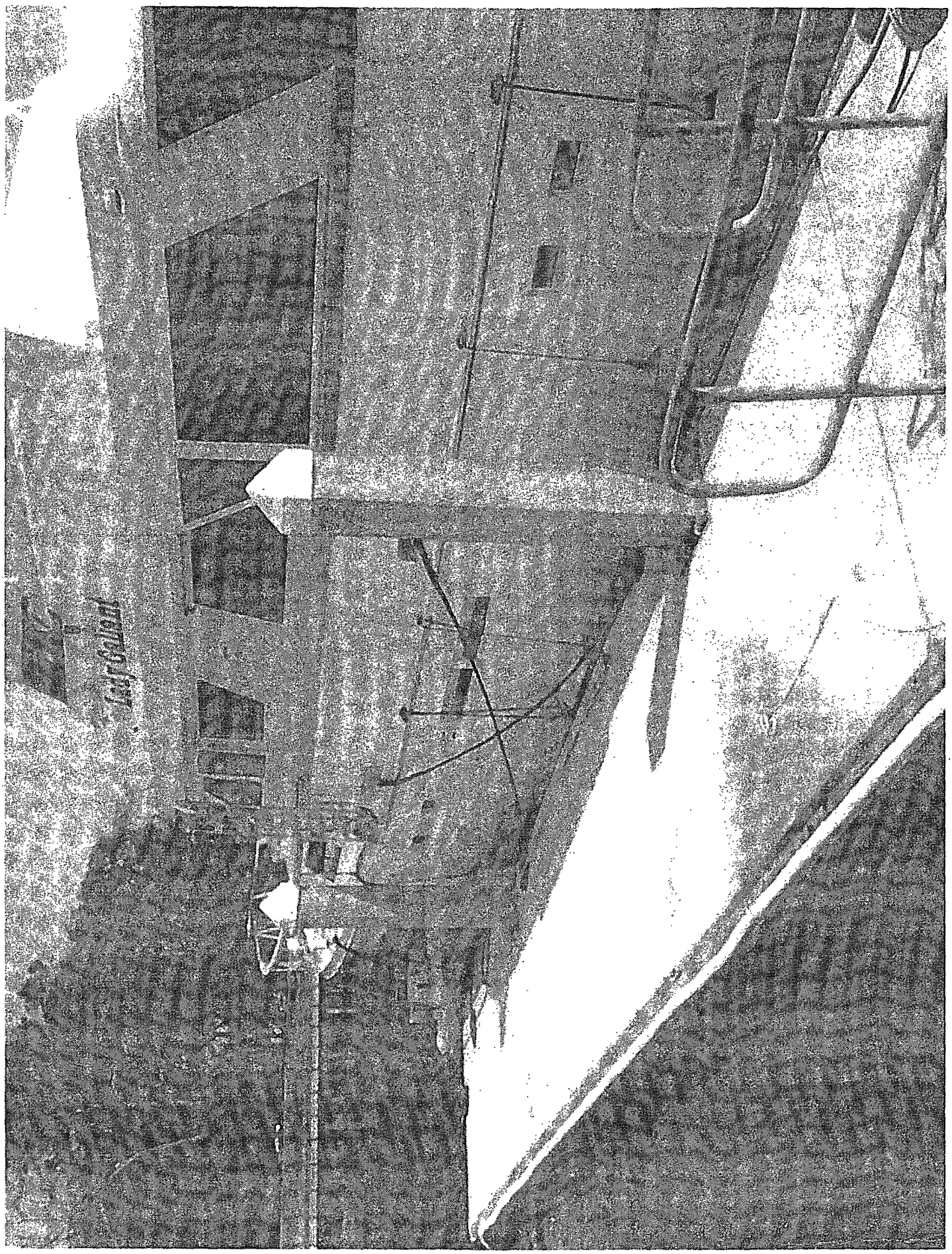


EXHIBIT
27
16 Country Club Dr, Charleston, SC 29412
Image U.S. Geological Survey
32°46'01.81" N 79°58
clev 14 ft

Image U.S. Geological Survey
© 2010 Google
©2010

Vessel Documentation Query by Name - Win

https://www4.nvdc.noaa.gov/pls/webpls/cgv_pkg.vessel_name_list

File Edit View Favorites Tools Help

Mount Pleasant, SC (29464) 81° F Partly Cloudy 70° F 82° F Weekend 10-Day Get weather on your phone

Favorites Suggested Sites Web Slice Gallery .AppleSyncInfo

Boat, Yacht, Ship Owners Lis... Vessel Documentation Q...

Page Safety Tools

Coast Guard Vessel Documentation

You asked for a vessel with a name like "ROOKIE IV". That selection resulted in 1 matches.

(1 of 1)

Vessel Name	ROOKIE IV	USCG Doc No	670420
Vessel Service	RECREATIONAL	IMO Number	
Trade Indicator	Coastwise Unrestricted Fishery Recreational	Call Sign	WCW8216
Hull Material	WOOD	Hull Number	KBG8417
Ship Builder	KNOWLES BOAT CO	Year Built	1984
		Length ft	60.4
Hailing Port	CHARLESTON SC	Hull Depth ft	9
Owner	BMC DISTRIBUTORS OF SOUTH CAROLINA LLC 78 ASHLEY POINTE DR SUITE 300 CHARLESTON SC 29407	Hull Breadth ft	17.6
		Gross Tonnage	60
		Net Tonnage	40
Documentation Issuance Date	March 17 2011	Documentation Expiration Date	April 30 2012
Previous Vessel Names:	No Vessel Name Changes	Previous Vessel Owners:	BMC DISTRIBUTORS OF SOUTH CAROLINA LLC BMC DISTRIBUTORS OF SC LLC

EXHIBIT 28

782

Annual Meeting Notice
Slips at Ripley HPR
Tuesday, April 26, 2005 at 10 am
Hampton Inn, 11 Ashley Point Drive

Please be advised the first Annual Meeting of the Slips at Ripley HPR will be held as noted above. The agenda for the meeting will be as follows:

1. Call to Order and Roll Call
2. Proof of notice of meeting and certification of Quorum.
3. Reports
4. Election of members of the Board.
5. New Business
6. Adjournment

The following is a brief summary of various items to be discussed at the meeting:

Status of Dredging and Dock Repairs
The Developer will provide an update on when dredging of the harbor will be accomplished. Until dredging is completed, the needed dock repairs can not be done.

There are a number of projects to be accomplished simultaneously with the dock repairs. These projects include replacement of the entire potable water system, rewiring electrical service to all slips on E dock, site lighting repair and replacement. We hope to begin some of this work prior to dredging.

Financial Condition
Owners are reminded that the quarterly assessment for common expenses is due 30 days from invoice date. In accordance with the governing documents, interest and late charges will be applied to delinquent accounts. It is important that each owner pay on a timely basis so that funds are available to pay the regime's bills. Of concern is the upcoming insurance renewal.

A statement of your account is included with this notice. Please remit payment.

Election of Directors
The governing documents provide that the Declarant's control period shall end at the earliest of either one year from the date of first conveyance (July 2005) or 60 days after 100% of the dock units are sold. The last of the dock units were sold earlier this month. Thus, the Declarant control period ends the end of May.

The documents provide that the Board shall consist of 3 to 7 owners, who shall be elected at the Annual meeting. It is my recommendation that for now the number of Board members be set at 3. The documents provide that at least one-third of the Directors terms shall expire each year. Thus, if the number of Board members is set at three, at the upcoming member one owner shall be elected for a three year term, one owner elected for a two year term and one owner elected for a one year term.

If you would be interested and willing to serve, please so note on the enclosed proxy.

Governing Document Highlights

Each owner should have a copy of the Master Deed and By-Laws for the regime. These are what spell out the rights and duties of the regime, the Board and the owners. If you have not received a copy, please contact our office and we will send you one. If you have a copy, please take a few moments to read them.. The following items are extracted from these documents:

Section 10.2 of the Master Deed provides that the owner of a residential dock unit SHALL not lease or rent his dock unit to another person or entity. Residential dock units are those units tied to single family lots, townhouses and the condominiums.

Section 13.4 of the Master Deed provides that rental of docks SHALL be subject to reasonable rules and regulations established by the Council of Co-Owners.

Section 22.1 of the Master Deed provides that each unit owner SHALL carry, at his expense, insurance with reasonable limits covering the owner's vessel and naming the Council as an insured and SHALL submit proof of insurance upon request by Council.

Each owner is hereby requested to complete the enclosed information sheet AND submit proof of insurance as noted above.

As it is important that a quorum be present, please complete and return the enclosed proxy, even if you plan to attend the meeting. Your proxy will be automatically rescinded if you are present.

I look forward to seeing you at the meeting.

Yours truly,

Michael R. Parades, PCAM, CPA
Management Agent

Enclosures

PROXY
ANNUAL MEETING OF THE SLIPS AT RIPLEY HPR
to be held at the Hampton Inn across from the marina
11 Ashley Point Drive
Tuesday, April 26, 2005 at 10:00 AM

I, _____ being the voting member of Unit _____ located at The Slips at Ripley HPR, Charleston, S.C., hereby designate:

_____ . Your representative

to be my proxy, to represent me on the issues to be discussed at this Annual Meeting of The Slips at Ripley HPR in the place, at the time specified above and granting said proxy the authority to act on my behalf on such business as might properly come before the meeting as fully as I could do if I were personally present with full power of substitution and revocation hereby ratifying and confirming all that my said proxy may do in my place instead.

Date this _____ day of _____, _____

Unit # _____

_____
(Owner's signature)

_____
(Printed Name)

_____ YES, I plan to attend the Annual Meeting.

_____ NO, I do not plan to attend the Annual Meeting.

_____ I would like to serve on the Board of Directors

PLEASE COMPLETE IN ENTIRETY

Proxies may be returned in the enclosed envelope or by fax to 843-795-0191.

Dear Owner:

We need to update the information in our owner files and are asking you to take a moment and complete the information below. This will enable us to verify all of our owner names, addresses and phone numbers. We also need the name of your boat(s), insurance company, any co-owners and where applicable, the contact information for renters. This information will help us contact the appropriate person in case of an emergency. Please return this form to our office. Thank you for your assistance.

1. Dock Number _____ 2. Boat Name(s)_____

_____

3. Owner(s) Name and Address _____

_____

_____

4. Insurance Company _____

5. Agent Name and number _____

6. Telephone Numbers:

Home _____
Work _____
Mobile _____
Fax _____
Email _____

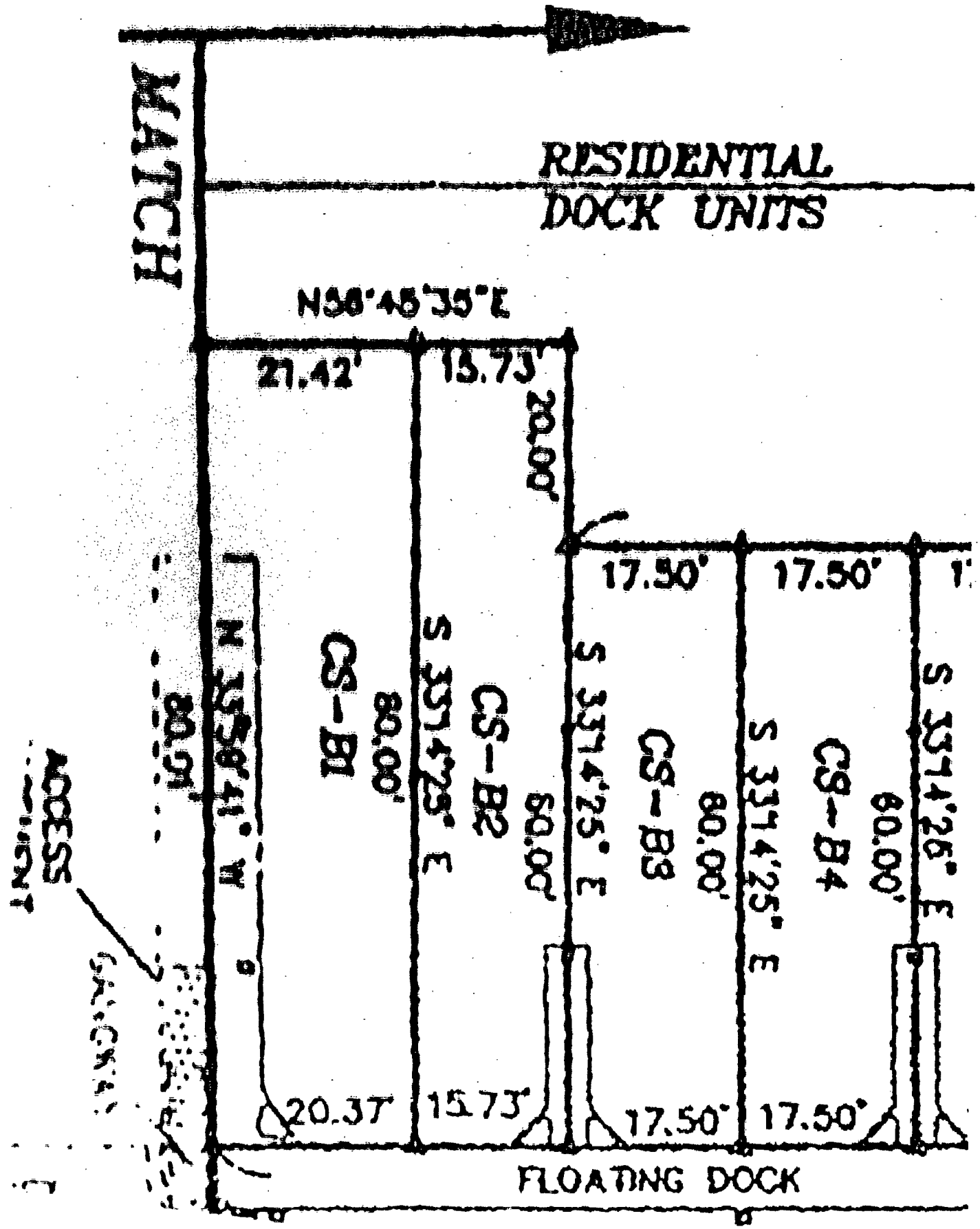
7. Contact Info for Renter
(where applicable)

Name _____

Address _____

_____

Telephones - Home _____
Work _____
Other _____

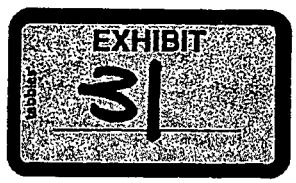

MATCH
RESIDENTIAL
DOCK UNITS
N58°46'35"E
21.42'
15.73'
20.00'
17.50'
17.50'
CS-B1
CS-B2
CS-B3
CS-B4
80.00'
S 33°14'25" E
N 33°14'25" W
60.00'
20.37'
15.73'
17.50'
17.50'
ACCESS
FLOATING DOCK

A30

Telecon with Jerry Chivers on 7/11/05

Mr. Chivers said he owned and had extended some of the docks. He had bought them from Mr. Doc Knight who owns a company, but Mr. Chivers could not remember the name of the company. He does not have a copy of the permit. He thought the permit was transferred when he bought the docks as part of the sale. He said he would not be doing any more work on site. He also said none of the docks extended out past the longest dock at the marina.

Robin Coller-Socha



Telecon with Anthony Rhodes on 7/13/05

Mr. Rhodes indicated that he now owned 12 of the docks and had extended 5 of them. He bought them from Reel One Company. He does not have a copy of the permit, however, he said he had a deeded plat showing that these could be 60-foot docks. He had been trying to get some work done at the docks, but it was delayed, so he talked to the Home Owners Association at the marina and was told to get the work done and send them the bill. He assumed they had the permit. He said they would not be doing any more work on site. He also said none of the docks extended out past the longest dock at the marina.

Robin Coller-Socha

VIOLATION ANALYSIS

Enforcement Case Name/Number: Ripley Light Marina (Chivers)
(SAC 60-2005-1117)

PREPARED BY:

Robin D. Coller-Socha
Biologist
EA & Enforcement Branch
Regulatory Division

Date: 23 August 2005

REVIEWED BY:

D. Hampton Hill, Sr.
Chief, EA & Enforcement Branch
Regulatory Division

Date: 29 Aug 2005

APPROVED BY:

Tina B. Hadden
Chief, Regulatory Division

Date: 9/21/05

In the event of recommended Penalty Action only:
CONCUR:

John Kassebaum
District Counsel
Charleston District

Date: _____

The project has a minor impact to the aquatic environment. The impact to aquatic resources is the addition of 23 feet of dock and placement of mooring pilings off the end of each dock.

2. Duration of the Violation	STATUS: Minor

According to the violation report, the work was completed in June 2005.

3. Relative Quality of the Aquatic Resource	STATUS: Minor

The project is located within an existing marina, and another marina is being constructed across the cove from this one. The violation will not result in a measurable change to the quality of the aquatic resource.

4. Significance of Impact	STATUS: Major

The adverse impact is to navigation. The marina under construction was permitted based on a distance between the two marinas to allow for a main channel with 80 feet of clearance to extend up through the cove. The extension of the docks may impact navigation when the new marina is constructed and in operation.

The overall seriousness of the violation is moderate.

B. ECONOMIC BENEFIT TO VIOLATOR	**STATUS:** Moderate

The docks are leased to boat owners.

C. KNOWLEDGE OF PERMIT REQUIREMENTS / DEGREE OF CULPABILITY	
1. Prior History of Responsible Party(ies)	STATUS: Minor

Mr. Chivers has no known history of past violations or identifiable knowledge of permitting requirements.

2. Degree of Culpability	STATUS: Moderate

Mr. Chivers acknowledged that he was responsible for the work.

D. GOOD-FAITH EFFORT / RECALCITRANCE OF VIOLATOR	STATUS: Positive

Mr. Chivers stated that he would not extend any more docks.

E. ABILITY TO PAY	STATUS: Unknown

The financial resources available to Mr. Chivers are unknown to this office.

F. OTHER MATTERS AS JUSTICE MAY REQUIRE	
1. Equity Issues	STATUS: Minor

The new docks are the private property of Mr. Chivers. Mr. Chivers accepted the responsibility for the work and was cooperative over the telephone.

2. State Coordination / Enforcement Action	STATUS: Minor

None.

G. RECOMMENDED ACTION

Mr. Chivers needs to provide this office with information identifying which docks are his. (Some of the lengthened docks belong to another individual whom is also under investigation for this violation). The dock ownership must be transferred to the new owner (Mr. Chivers). Docks that have been extended into the 80 foot channel clearance must be removed. Docks that do not extend into the 80 foot channel clearance may be authorized by a modification (after-the-fact) to the existing permit. Detailed drawings (surveys) indicating the length of the new additions and mooring piles in relation to the 80 foot channel clearance must be submitted to this office to 1) determine which additions must be removed and 2) for the existing permits to be modified, as necessary.

VIOLATION ANALYSIS

Enforcement Case Name/Number: Ripley Light Marina (Chivers)
(SAC 60-2005-1117)

PREPARED BY:

Robin D. Coller-Socha
Biologist
EA & Enforcement Branch
Regulatory Division

Date: 23 August 2005

REVIEWED BY:

D. Hampton Hill, Sr.
Chief, EA & Enforcement Branch
Regulatory Division

Date: 29 Aug 2005

APPROVED BY:

Tina B. Hadden
Chief, Regulatory Division

Date: 9/21/05

In the event of recommended Penalty Action only:
CONCUR:

John Kassebaum
District Counsel
Charleston District

Date: _____

VIOLATION ANALYSIS

VIOLATION FILE NUMBER: 60-2005-1117

AUTHORITY: ☐ Section 404 of the Clean Water Act
■ Section 10 of the Rivers and Harbors Act of 1899

STATUTE of LIMITATIONS BEGIN DATE: Violation report received June 2005

ALLEGED VIOLATOR: Jerry Chivers
142 Folly Road Blvd.
Charleston, South Carolina29407

ASSOCIATED PARTIES: Anthony Rhodes (owns additional docks that have been lengthened).

DATE VIOLATION NOTIFICATION ISSUED: Verbal Cease and Desist Issued July 11, 2005

Location of Unauthorized Work: The unauthorized extension of docks is located in Ripley Light Marina, in Charleston County, South Carolina.

Description of the Violation: Mr. Chivers bought some of the docks at Ripley Light Marina, but he does not have a copy of the permit. The original finger docks were 20 feet long. The new construction adds approximately 23 feet to the existing dock making each finger dock approximately 43 feet long with new mooring piles located off the end of each finger dock.

The original permit dated April 18, 1985 allowed for 24 foot finger docks with a mooring pile 19 feet from the end of each dock. A modification was issued on September 22, 1986 which included 30, 35 and 40 foot boat slips. This modification depicted a 20 foot finger dock with mooring piles located at 30, 35 and 41 feet from the main walkway. A final modification was issued on December 10, 1986 which included only 30 and 35 foot boat slips. This modification depicted 20 foot finger docks with mooring piles located 39 feet from the main walkway. There is no permit in the files that allows for the existing structures to be extended out to 43 feet from the main walkway.

EVALUATION OF THE VIOLATION:
This analysis will discuss those factors identified in the statute:

- ***Seriousness of the violation***
- ***Economic benefit***
- ***History of violations***
- ***Good-faith effort to comply with applicable requirements***
- ***Economic impact of penalty on the violator, ability to pay***
- ***Other matters as justice may require***

A. SERIOUSNESS OF THE VIOLATION	
1. Acreage of Affected Aquatic Area	STATUS: Minor

January 27, 2006

Received a call from Mr. Jerry Chivers giving his permission to fax/send any previous letters or documentation to his attorney, Mr. Sam Altman regarding the lengthened boat slips located Ripley Light Marina.

Robin D. Coller-Socha

VIOLATION ANALYSIS

Enforcement Case Name/Number: Ripley Light Marina (Rhodes)
(SAC 60-2005-1117)

PREPARED BY:

Robin D. Coller-Socha
Biologist
EA & Enforcement Branch
Regulatory Division

Date: 23 August 2005

REVIEWED BY:

D. Hampton Hill, Sr.
Chief, EA & Enforcement Branch
Regulatory Division

Date: 29 Aug 2005

APPROVED BY:

Tina B. Hadden
Chief, Regulatory Division

Date: 21 Sept 05

In the event of recommended Penalty Action only:
CONCUR:

John Kassebaum
District Counsel
Charleston District

Date: _____

VIOLATION ANALYSIS

VIOLATION FILE NUMBER: 60-2005-1117

AUTHORITY: ☐ Section 404 of the Clean Water Act
■ Section 10 of the Rivers and Harbors Act of 1899

STATUTE of LIMITATIONS BEGIN DATE: Violation report received June 2005

ALLEGED VIOLATOR: Mr. Anthony Rhodes
1947 Capri Drive
Charleston, South Carolina 29407

ASSOCIATED PARTIES: Mr. Jerry Chivers (owns other docks that have been lengthened)

DATE VIOLATION NOTIFICATION ISSUED: Verbal Cease and Desist Issued July 13, 2005

Location of Unauthorized Work: The unauthorized extension of docks is located in Ripley Light Marina, in Charleston County, South Carolina.

Description of the Violation: Mr. Rhodes bought 12 of the docks at Ripley Light Marina and extended five of them, but he does not have a copy of the permit. The original finger docks were 20 feet long. The new construction at seven of the marina docks adds approximately 23 feet to each existing dock making each finger dock approximately 43 feet long with new mooring piles located off the end of each finger dock. Mr. Rhodes stated that he had a deeded plat showing that these docks could be 60 feet long.

The original permit for Ripley Light Marina dated April 18, 1985 allowed for 24 foot finger docks with a mooring pile 19 feet from the end of each dock. A modification was issued on September 22, 1986 which included 30, 35 and 40 foot boat slips. This modification depicted a 20 foot finger dock with mooring piles located at 30, 35 and 41 feet from the main walkway. A final modification was issued on December 10, 1986 which included 30 and 35 foot boat slips. This modification depicted 20 foot finger docks with mooring piles located 39 feet from the main walkway. There is no permit in the files that allows for the existing structures to be extended out to 43 feet from the main walkway.

EVALUATION OF THE VIOLATION:
This analysis will discuss those factors identified in the statute:

- *Seriousness of the violation*
- *Economic benefit*
- *History of violations*
- *Good-faith effort to comply with applicable requirements*
- *Economic impact of penalty on the violator, ability to pay*
- *Other matters as justice may require*

A. SERIOUSNESS OF THE VIOLATION	
1. Acreage of Affected Aquatic Area	STATUS: Minor

The project has a minor impact to the aquatic environment. The impact to aquatic resources is the addition of 23 feet of dock and placement of mooring pilings off the end of each dock.

2. Duration of the Violation	STATUS: Minor

According to the violation report, the work was completed in June 2005.

3. Relative Quality of the Aquatic Resource	STATUS: Minor

The project is located within an existing marina, and another marina is being constructed across the cove from this one. The violation will not result in a measurable change to the quality of the aquatic resource.

4. Significance of Impact	STATUS: Major

The adverse impact is to navigation. The marina under construction was permitted based on a distance between the two marinas to allow for a main channel with 80 feet of clearance to extend up through the cove. The extension of the docks may impact navigation when the new marina is constructed.

The overall seriousness of the violation is moderate.

B. ECONOMIC BENEFIT TO VIOLATOR	STATUS: Moderate

The docks are leased to boat owners for monetary gain.

C. KNOWLEDGE OF PERMIT REQUIREMENTS / DEGREE OF CULPABILITY	
1. Prior History of Responsible Party(ies)	STATUS: Minor

Mr. Rhodes has no known history of past violations or identifiable knowledge of permitting requirements.

2. Degree of Culpability	STATUS: Moderate

Mr. Rhodes acknowledged that he was responsible for the work.

D. GOOD-FAITH EFFORT / RECALCITRANCE OF VIOLATOR	STATUS: Positive

Mr. Rhodes stated that he would not extend any more docks.

E. ABILITY TO PAY	STATUS: Unknown

The financial resources available to Mr. Rhodes are unknown to this office.

F. OTHER MATTERS AS JUSTICE MAY REQUIRE	
1. Equity Issues	STATUS: Minor

The new docks are the private property of Mr. Rhodes. Mr. Rhodes accepted the responsibility for the work and was cooperative over the telephone.

2. State Coordination / Enforcement Action	STATUS: Minor

None.

G. RECOMMENDED ACTION

Mr. Rhodes needs to provide this office with information identifying which docks are his. (Some of the lengthened docks belong to another individual whom is also under investigation for this violation). The dock ownership must be transferred to the new owner (Mr. Rhodes). Docks that have been extended into the 80 foot channel clearance must be removed. Docks that do not extend into the 80 foot channel clearance may be authorized by a modification (after-the-fact) to the existing permit. Detailed drawings (surveys) indicating the length of the new additions and mooring piles in relation to the 80 foot channel clearance must be submitted to this office to 1) determine which additions must be removed and 2) for the existing permits to be modified, as necessary.

I believe a fine is also in order

Jma Hadden

CHARLES ANTHONY RHODES

1947 Capri Drive
Charleston, South Carolina 29407
Phone: 843-906-4810

Date: September 29, 2005

To: **Ms. Tina B. Hadden**
Chief, Regulatory Division
DEPARTMENT OF THE ARMY
Charleston District, Corps of Engineers
69-A Hagood Avenue
Charleston, S. C. 29403-5107

CC: **Mrs. Robin Coller-Socha**
Phone: 866-329-8187 or 843-329-8044

Subject: **Response Letter**

Reference: 60-2005-1117

Dear Ms. Hadden:

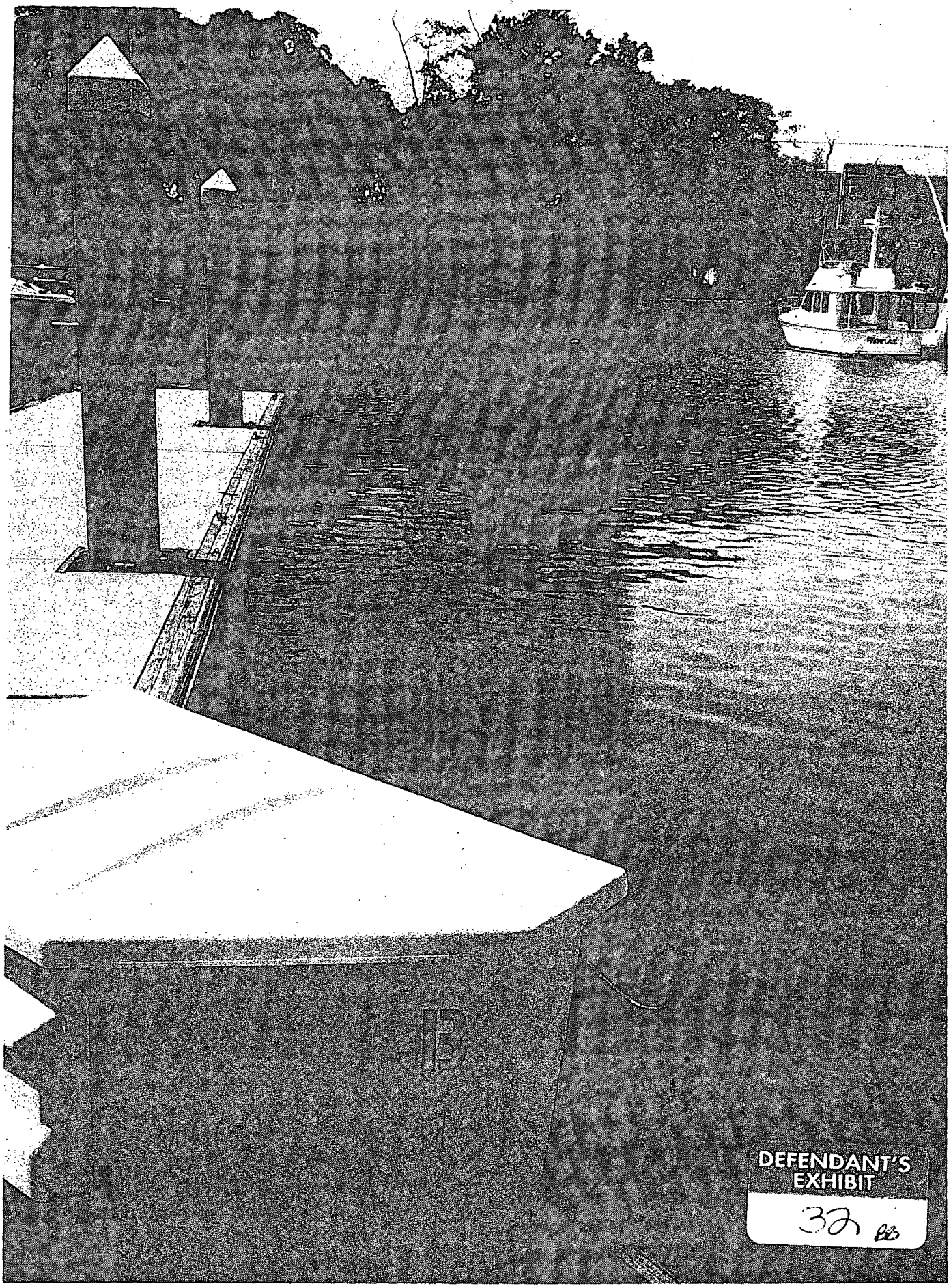
Per your notification to "cease and desist immediately from any additional construction...", I have complied with your directive as referenced in your letter to me, referenced above and dated September 21, 2005. No further construction will take place concerning the same in compliance to your letter.

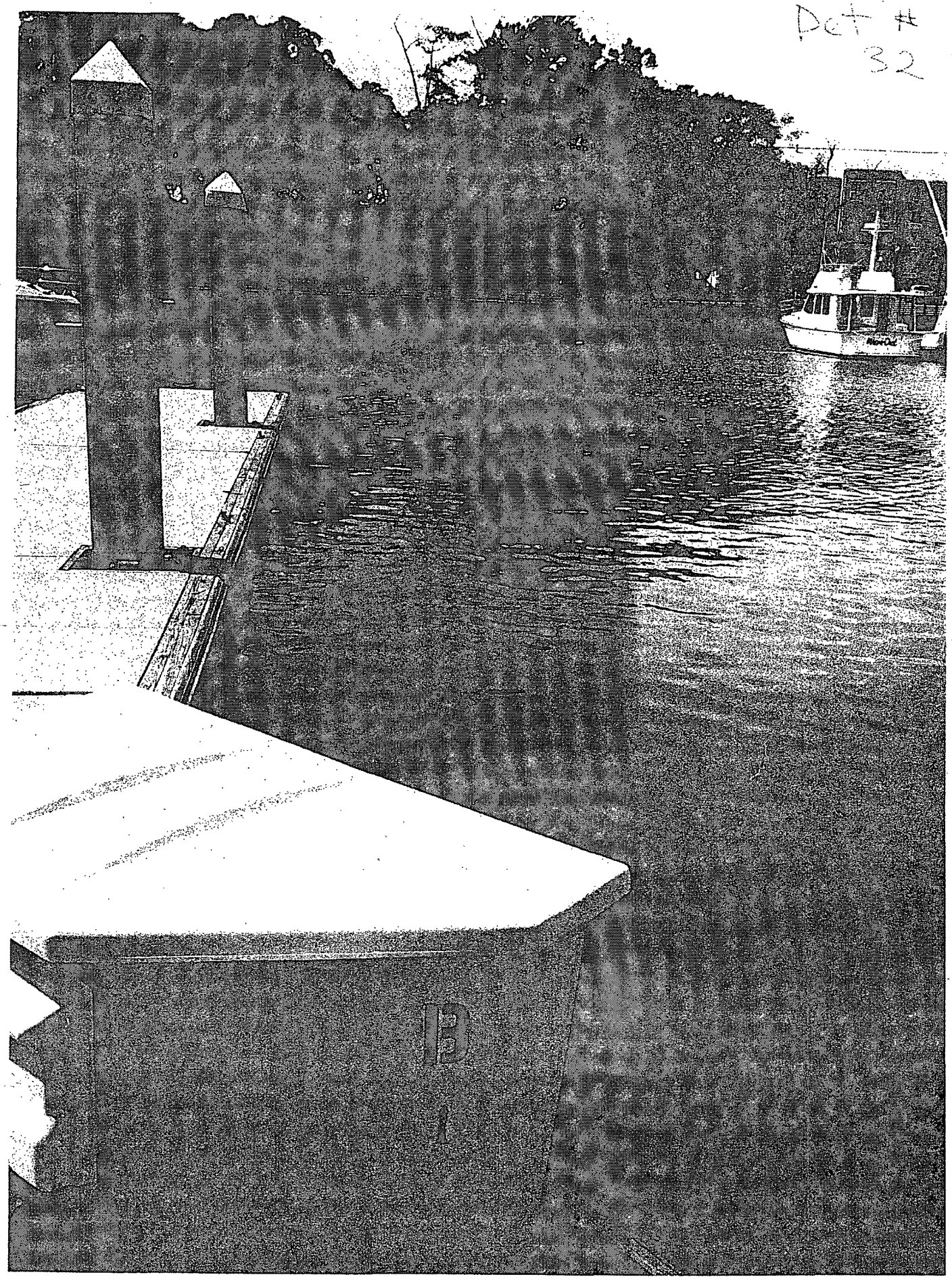
Enclosed with this letter is information and documents verifying ownership of the Dock Units. Marine Slips, LLC owns the dock units of which I am President. I have also provided a Plat Drawing recorded June 28, 2004, BK Z 499 PG003. This Plat identifies the extensions referred to in your letter with a yellow highlighter.

Please contact me for any further information.

Sincerely yours,

Charles Anthony Rhodes
Phone: 843-906-4810 or 843-566-9982


DEFENDANT'S
EXHIBIT
32 BB


Det #
32

STATE OF SOUTH CAROLINA)) COUNTY OF CHARLESTON)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT **CONSOLIDATED UNDER** **CASE No.: 2008-CP-10-2641** *CASE No: 2009-CP-10-3441*
ZAN, LLC,)) Plaintiff,) vs.)) RIPLEY COVE, LLC, W. H. KNIGHT,) KARL A. MCMILLAN Individually and as) the principal of Karl A. McMillan, Inc.,) ST. ANDREWS TITLE & ABSTRACT) AGENCY, INC., CHICAGO TITLE INS.) CO. and CHARLES A. FUNK & LILLIAN) M. FUNK) Defendants.)	**PLAINTIFF'S POST-TRIAL MEMORANDUM**

This case was tried before the Honorable J.C. Nicholson, Jr. on July 26-28, 2011. At the close of trial, the Court requested that Plaintiff brief two discrete issues: (1) under what circumstances can a title insurance company's agent bind the company; and (2) under what circumstances is the remedy of rescission warranted.

A. CHICAGO TITLE

i. The Title Insurance Context

Chicago Title claims that there is no defect in title because the title policy tracks the property description in the deed. However, it is black letter South Carolina law that when an insured makes specific inquiries of an agent as to specific coverage, the insured is entitled to rely on the agent's representations about coverage and the agent can bind the insurer to the coverage as represented. *See Kelly v. South Carolina Farm Bureau Mut. Ins. Co.*, 316 S.C. 319, 450 S.E.2d 59 (S.C.App.1994). *See also Holmes v. McKay*, 334 S.C. 433, 438-439, 513 S.E.2d 851, 854 (S.C.App.,1999) (An agent's assurance of a particular type of coverage can obligate an insurer to provide the promised coverage, even if the coverage is not included in the policy).

Indeed, Chicago Title concedes insurers are bound by the representations of their agents in "situations where a proposed insured informs an insurance agent for a life, health, or accident insurer that he or she desires a specific coverage" but claims the title insurance context is excepted from this rule. (Chicago Title letter brief pg. 1).

The Bucks specifically requested that the owner's title insurance policy include the new width of slip CS-B1 as promised by the Seller, and Chicago Title's authorized agent represented that the policy would include this coverage. Each and every person who attend the closing, Mr. Buck, Ms. Cantey, Ms. Carmody, and even Mr. David, himself testified that Mr. Buck asked for title insurance to cover the slip and Mr. David told him the coverage would be put in place. As Mr. David was Chicago Title's agent, signed a letter agreeing to alter the slip per the parties' agreement, and told the Bucks the policy would conform to the property as requested, Chicago Title is estopped from claiming there is no title defect.

Chicago Title concedes Dan David was its agent for purposes of procuring title insurance; it must as the agency agreement between Chicago Title and Mr. David was admitted into evidence. However, Chicago Title claims that a title insurer's relationship with its agent is unique from all other types of insurance such that the holding in *Kelly v. SC Farm Bureau* is inapplicable here. Chicago Title cites no authority for this proposition but instead relies on the testimony of its expert witness. However, Courts throughout the 4th Circuit have held that title insurance agents are general agents with respect to the solicitation and procurement of title insurance. *See e.g. Proctor v. Metropolitan Money Store Corp.*, 579 F.Supp.2d 724, 739 (D.Md. 2008) (Noting title insurance agents often "wear two hats" a settlement agent hat and an insurance agent hat and that "only one of which-his or her role in the provision of title insurance-involves a general agency relationship with the title insurance company sufficient to establish vicarious liability to any plaintiff."). Chicago Title may be correct in asserting that in a typical

situation, title insurance looks back in time and not forward, but this does not absolve it from liability for its agent's specific representations made to the Bucks about specific title insurance coverage on the property Zan, LLC was purchasing.

ii. Apparent Authority

To establish apparent authority, either the principal must intend to cause the third person to believe the agent is authorized to act for him, or he should realize his conduct is likely to create such belief. *WDI Meredith & Co. v. American Telesis, Inc.*, 359 S.C. 474, 597 S.E.2d 885 (Ct. App. 2004). Dan David is licensed with the SC Department of Insurance specifically as the agent for Chicago Title and Chicago Title only. *See Holmes v. McKay*, 334 S.C. 433, 438-439, 513 S.E.2d 851, 854 (S.C.App. 1999) (Holding insurance agents' licenses with insurers are, with respect to policies issued on the agents' efforts, evidence of agency with and authority to speak for and bind the insurers for which they are licensed. "This rule is consistent with the requirements of SC Code § 38-43-10 in that the licensing of the agent acts as evidence that the agent's acts were done 'at the instance or request of' the insurer.").

Further, Chicago Title provided policy forms in blank to be written and issued by Mr. David, St. Andrews Title is listed on the policy as the agent for Chicago Title, and Dan David's signature appears on the policy as "authorized signatory". Under these circumstances, Chicago Title should realize it placed St. Andrews and Mr. David in a position such that third-parties like the Plaintiff would believe Mr. David had authority to bind the company. *See WDI Meredith & Co. v. American Telesis, Inc.*, 359 S.C. 474, 597 S.E.2d 885 (Ct. App. 2004) (Under the doctrine of apparent authority, a principal is bound by its agent's acts when it has placed the agent in such a position that persons of ordinary prudence, reasonably knowledgeable with business usages

and customs, are led to believe the agent has certain authority, and they in turn deal with the agent based on that assumption).

In the typical insurance dispute concerning apparent authority, the insurer is claiming the agent is truly the agent of the insured rather than the insurer and thus cannot bind the company. In this case, Chicago Title concedes St. Andrews Title and Dan David are its agents but claims Mr. David did not have the authority to make representations to Mr. Buck about obtaining coverage. However, a general agent has the right to do not only what is customary in obtaining business, but whatever is reasonably incidental thereto. *Rickborn v. Liberty Life Ins. Co.*, 468 S.E.2d 292 (S.C. 1996). Further, persons dealing with a general agent, without notice of restrictions upon his authority, have the right to presume that his authority is coextensive with its apparent scope and is as broad as his title indicates. *Id.*

B. RESCISSION

Pursuant to South Carolina law, a contract may be rescinded in the following circumstances:

- When the mistake is mutual and is in reference to facts or supposed facts upon which the contract is based;
- When the mistake is mutual and consists in the omission or insertion of some material element affecting the subject matter or the terms and stipulations of the contract, inconsistent with the true agreement of the parties; and
- When the mistake is unilateral and has been induced by fraud, deceit, misrepresentation, concealment, or imposition of the party opposed to rescission

King v. Oxford, 282 S.C. 307, 318 S.E.2d 125 (Ct. App. 1984). The Plaintiff believes it has met its burden of clear and convincing evidence that the real estate contract at issue here can be rescinded under any of these grounds.

1. UNILATERAL MISTAKE INDUCED BY MISREPRESENTATION

As a general rule, a party induced to enter a contract by fraud or misrepresentation has a choice among causes of action and remedies and may choose to rescind the contract. *Baeza v. Robert E. Lee Chrysler, Plymouth, Dodge, Inc.*, 279 S.C. 468, 309 S.E.2d 763 (S.C.App.1983). There is no question that the Sellers, in order to induce Mr. Buck to close on the property, agreed to place two pilings; nor is there any dispute that the pilings were never placed. The testimony of Mr. Buck and Mr. McMillan with respect to the agreement to place the pilings is almost identical – at the beginning.

Mr. Buck testified that when he was first shown the slip, Mr. McMillan represented that Zan, LLC would be purchasing all of the space between the finger piers, which we now know is actually two slips. Mr. McMillan testified that he could understand why Mr. Buck was under that impression because he simply pointed out the slip to Mr. Buck from across the way. Mr. Buck testified that he asked for a plat showing the slips but was not given one until the day before the failed closing. Mr. McMillan confirmed this. Mr. Buck testified that he made it very clear he would not purchase the property if the *Rookie IV* would not fit in the slip. Mr. McMillan confirmed that the closing was conditioned on the *Rookie IV* fitting in the slip and that Mr. Buck canceled the first closing after receiving a plat of the slips. Both Mr. McMillan and Mr. Buck testified that after the failed closing Mr. McMillan called Mr. Buck, under the Sellers' instructions, to see what needed to be done in order to close the deal.

It is at this point where the testimony begins to diverge. Mr. Buck testified that Karl McMillan represented that the Sellers owned the adjoining slip and that the Sellers has no problem with carving out a few feet of slip CS-B2 in order to close the deal. Karl McMillan claims he never told Mr. Buck anything about the adjoining slip, but that he did tell Mr. Buck he

checked into it and the *Rookie IV* would fit in slip CS-B1 as platted, and Mr. Buck agreed to set a new closing date. It is illogical to claim that Mr. Buck, after reviewing the plat and seeing that his boat would not fit in the slip as platted, and after refusing to close because of this, would simply accept Karl McMillan's representation that the boat would fit and agree to close without any discussion of gaining additional feet from the only place it could come from, the adjoining slip. As the Sellers specifically authorized Karl McMillan to negotiate with Mr. Buck in order to close the deal, the Sellers are bound by the representations made by Mr. McMillan. *See WDI Meredith & Co. v. American Telesis, Inc.*, 359 S.C. 474, 597 S.E.2d 885 (Ct. App. 2004), *supra*.

i. The Bucks Reliance on the Representations of Karl McMillan was Reasonable and cannot Constitute Negligence

The Sellers claim that Mr. Buck and Ms. Cantey were not entitled to rely on the representations of Karl McMillan and were negligent and thus not entitled to rescission because they should have done some "due diligence" and researched the master deed and the title of the adjoining slip and contacted the city and OCRM and the Army Corp of Engineers to find out just how difficult it would be to give the Plaintiff any footage of the adjoining boat slip. However, in *Slack v. James*, 356 S.C. 479, 589 S.E.2d 772 (S.C. App 2003), the South Carolina Court of Appeals held that the recipient of a fraudulent misrepresentation of fact is justified in relying on its truth, although its falsity might have been discovered through investigation. "The person committing the fraud cannot defeat a claim for misrepresentation simply because the person defrauded is charged with notice under a recording statute, particularly where the misrepresented facts are peculiarly within the representor's knowledge." *Id.* Mr. McMillan testified that he was the listing agent for the Sellers (and is so named in the real estate contract) for the property and slips at Ripley Light Marina and that he had particular knowledge about the property and the slips being sold. The Bucks were entitled to rely on Mr. McMillan's representations that the

Seller owned the adjoining slip and that it would "be no problem" to give Mr. Buck the extra space he required to dock the *Rookie IV*.

ii. Damages

Rescission entitles the party to a return of the consideration paid as well as any additional sums necessary to restore him to the position occupied prior to the making of the contract. *Ellie, Inc. v. Miccichi*, 358 S.C. 78, 594 S.E.2d 485 (S.C.App. 2004). Therefore the Plaintiff is entitled to $1,414,916.11, representing a return of its purchase money and the incidental damage associated with owning the property for the last several years. (See Plaintiff's Trial Exhibit No. 17).

2. MUTUAL MISTAKE

i. The Mistake on the Facts Defeats the Purpose of the Contract

The best that can be said from the Sellers point of view is that there was a mutual mistake with respect to the agreement to place the pilings. Even if this is true, recession is still warranted.

To justify rescission of contract, an alleged mutual mistake must be common to both parties, and, by reason of it, each party must have done what neither intended. *Brazell v. Windsor*, 655 S.E.2d 736 (S.C. Ct. App. 2007). There is no dispute that the parties entered into an agreement that two pilings would be placed by the Sellers for Mr. Buck; the mistake concerns precisely where these pilings were to be placed. Mr. Buck, Ms. Cantey, and Ms. Carmody each testified that the Sellers agreed to place the pilings within what the Plaintiff now knows is slip CS-B2, in order to give Mr. Buck the 20-foot clearance necessary for Mr. Buck to dock the *Rookie IV* in the slip. Mr. McMillan testified that he was aware Mr. Buck was purchasing the property in order to dock the *Rookie IV* in the slip, and that Mr. Buck made clear he would not close unless his boat fit and had canceled the first closing after discovering he was not purchasing all of the space between the two finger piers. Mr. McMillan further testified that, based on his own research and a sketch he

prepared, he told Mr. Buck his boat would, in fact, fit in the slip and that the Sellers had agreed to place the pilings, "wherever Mr. Buck wanted them" as long as they were placed in slip CS-B1. Mr. Knight and Mr. Belote also testified that they had agreed to place the pilings, but believed they were to be placed in CS-B1. If Mr. McMillan's testimony is to be believed, there are two material mistakes at issue: (1) Mr. McMillan's mistaken belief that the *Rookie IV* would fit in the slip as platted; and (2) the mistake as to the location of the pilings.

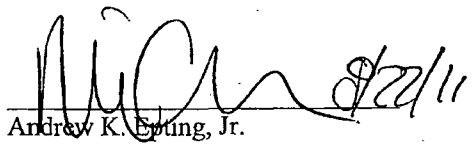
The general rule is that for a breach of contract to warrant rescission, the breach must be so fundamental and substantial as to defeat the purpose of the contract. *Ellie, Inc. v. Miccichi*, 358 S.C. 78, 594 S.E.2d 485 (S.C.App. 2004). The witnesses for both the Buyers and Sellers testified that the property was being purchased to dock the *Rookie IV*. It is undisputed that Mr. Buck canceled the initial closing because he knew the boat would not fit in the slip as platted. The mutual mistake as to the location of the pilings is thus so substantial and fundamental as to defeat the purposed of the contract. Common sense dictates that Mr. Buck would not purchase a slip too small to dock his boat. The *Rookie IV* has never been docked in the slip, nor has Ms. Cantey built on the upland parcel.

ii. Return to the Status Quo

In the absence of fraud, rescission is appropriate as a remedy only if both parties can be returned to the status quo prior to the contract. *Brazell v. Windsor*, 682 S.E.2d 824 (S.C. 2009). As no improvements have been made to the property, the property can be returned to the Sellers in the exact same condition as before the sale, returning the Sellers to the status quo. Thus, if rescission were ordered, the Plaintiff would be entitled to $1,414,916.11 in order to return it to the status quo. (See Plaintiff's Trial Exhibit No. 17).

[signature on following page]

Respectfully Submitted By:



Andrew K. Epting, Jr.
Michelle N. Endemann
ANDREW K. EPTING, JR., LLC
3 State Street
Charleston, SC 29401
843-377-1871; Fax: 843-377-1310

ATTORNEYS FOR PLAINTIFF

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	**CONSOLIDATED UNDER**
COUNTY OF CHARLESTON	)	Civil Action No. 2010-CP-15-2641
ZAN, LLC,	)	
	)	Civil Action No. 2009-CP-10-3441
Plaintiff,	)	
	)	
vs.	)	**POST –TRIAL MEMORANDUM BY RIPLEY COVE, LLC, W.H. KNIGHT, EAST COAST TRADING CO., AND W.M. BELOTE**
RIPLEY COVE, LLC, W.H. KNIGHT, KARL A MCMILLAN, Individually and as the principal of Karl A. McMillan, Inc., ST. ANDREWS TITLE & ABSTRACT AGENCY, INC., CHICAGO TITLE INSURANCE COMPANY, and CHARLES A. FUNK & LILLIAN M. FUNK,	)	
Defendants.	)	

This case was tried non-jury on July 26-28, 2011. At the conclusion of the trial ,the Court requested memoranda from all parties on the claims advanced by the Plaintiff. In this memorandum, these Defendants will summarize the evidence and present their arguments as to why the evidence failed to establish any claim against these Defendants.

I.

SUMMARY OF THE EVIDENCE

The facts concerning the events leading up to the contract of sale between Plaintiff, Zan, LLC, and Ripley Cove, LLC were not in dispute. The marina at Ripley Cove was originally permitted by the Army Corps of Engineers and the SC Coastal Council in 1984. All of the pilings, floating docks and other structures that make up the marina are authorized pursuant to that permit. Def. Exh. 25. The canal is a tidal waterway and is classified as a navigable water of the United States for purposes of federal law (the Rivers and Harbors Act of 1899) and as critical area for purposes of State law (the Coastal Zone Management Act). Any alteration of the canal

either through placement of structures in the canal or by dredging the canal bottom requires permits from the Corps and from the State, now acting through the Ocean and Coastal Resources Management Division of DHEC.

The marina was managed as a rental facility until its purchase by Ripley Cove, LLC from Freddy Collins. At that time, as required by federal and state regulations, the marina permit was transferred from Collins to Ripley Cove, LLC. Ripley Cove, LLC is a limited liability corporation, fifty percent of which is owned by W.M. Belote and fifty percent by Pavilion Development. Pavilion is a corporation owned by Lowell Frazier and Larry McNair. Upon acquiring the marina and surrounding high land, Ripley began the process of converting it to a condominium regime. A number of upland home lots were subdivided. A plat was prepared identifying the marina slips as condominium units with specific dimensions and a Master Deed for the marina slips was recorded in August 2004. Plt. Exh. 13. A number of the upland home lots were identified as tied to a marina slip, the specific slip to be confirmed at the time of sale. Plt. Exh. 13, p. 17. The Master Deed explains that the owner of each slip was acquiring the right to use the area of water within a given slip and to use the docks, pilings and walkways – all common elements owned by the Slips at Ripley Property Owners Association – subject to the power of the government to regulate these structures and the navigable waters of the canal. Plt. Exh. 13, p. 1. The Master Deed also provided that upon the earlier of two events – one year after the sale of the first marina slip or 60 days after the sale of the last marina slip by Ripley Cove – the property owners association would take over control of the marina. Plt. Exh. 13, p. 22. The POA took over control of the marina at the end of May 2005, 60 days after the final sale of slips by Ripley Cove. Def. Exh. 29.

Most of the marina slips were sold by Ripley Cove in 2004. Belote and the owners of Pavilion agreed to have Ripley convey the remaining slips to themselves. On December 30, 2004, Ripley Cove conveyed upland lot 3 and marina slip B1 to East Coast Trading Company, a company owned entirely by Belote. Def. Exh. 4 (See derivation clause). Belote at that time authorized Karl McMillan, a real estate broker who had been acting as the selling agent for Ripley Cove to sell these properties.

W.H. Knight, a long time associate of Belote, assisted Ripley Cove throughout the process of conversion of the marina to a condominium regime. He dealt with the various regulatory authorities including the City of Charleston, the Corps of Engineers and OCRM. He was the primary contact between McMillan and Ripley Cove. Knight was an independent contractor of Ripley Cove and received a percentage commission on properties sold at the project. Belote, Knight and McMillan all testified that McMillan's authority for both Ripley Cove and later for East Coast Trading Co. was limited to finding a buyer and bringing the buyer to Knight or Belote for confirmation of the terms of sale. He had no authority to make any representations or promises for Ripley Cove or East Coast Trading not expressly approved by them.

In early 2005, Edgar Buck began to look for a home lot for his daughter Suzanne and a boat slip for his boat, *Rookie IV*. Buck approached McMillan, whom he had known since McMillan was a child, and asked about the project at Ripley Cove. Buck conducted the negotiations with McMillan and did not deal with either Belote or Knight prior to closing on the sale. At some point prior to signing a contract, McMillan met Buck and his daughter at the marina and toured the home lot. From a point across the marina canal, McMillan pointed out the area where slip B1 is located and told Buck and his daughter that was the location of the slip they

would purchase with the upland lot # 3. The testimony of Buck and his daughter (now Suzanne Cantey) was that McMillan pointed to the area between the long floating dock next to the dry stack facility and the shorter floating dock toward the Ashley River. McMillan did not have a plat at the time to show them, but testified that he emphasized that slip B1 was the area nearest the long dock next to the dry stack facility. There were no pilings or other physical markings of the boundary between B1 and B2 visible from the opposite bank of the canal. However, along the walkway leading to the slips of B Dock, electric box covers are plainly marked with "B1" at the edge of B1 and with "B2" at the edge of B2. Def. Exh. 32.

On February 3, 2005, Suzanne Buck signed a contract on behalf of Zan, LLC, a limited liability company of which she is the managing member and which is owned by her and her father. Plt. Exh. 3. The contract provides that Zan, LLC is to purchase Lot 3 for $700,000.00. It does not specify a particular boat slip to be sold with Lot 3, but the Master Deed provides that Lot 3 is tied to one of the B Dock slips to be determined upon contract. The contract provides for a due diligence period of 21 days for the buyer. Plt. Exh. 3, para. 13. It also provides at paragraph 26 that the contract may only be modified by a written agreement signed by both parties. At the time of sale, East Coast Trading Co. owned Lot 3 and slip B1. The contract was executed in the name of Ripley Cove, LLC by Knight on February 4, 2005. Knight, Belote and McMillan testified that it was simply an error for the contract to be listed in the name of Ripley Cove, LLC, as that company no longer had any interest in Lot 3 of slip B1. Belote and Knight offered undisputed testimony that at no time did Belote, Knight or East Coast Trading Co. disavow the contract with Zan and instead treated it as a contract between Zan and East Coast Trading Co.

A closing was set for early March 2005 but was postponed by the parties. A second closing date of April 5, 2005 was set. On March 23, 2005, Ripley Cove, LLC conveyed the remaining marina slips to Pavilion Development, including slip B2 which borders B1.

Two days before the closing, Buck received a copy of the plat showing the boundaries of slip B1. Buck testified the *Rookie IV* requires twenty feet clearance. He testified that until that time, he believed he was being conveyed all of the space between the two floating docks – the space shown on the plat as slips B1 and B2. Buck examined that plat and saw that the long floating dock next to the dry stack facility occupied part of slip B1. Buck visited the marina and measured the width of the slip and the distance occupied by the floating dock. He testified that his measurements showed that slip B1 would not afford his boat the needed twenty feet clearance. He testified that he concluded that the only way his boat could use the slip was if several feet of B2 were conveyed to him along with the originally platted width of B1.

Buck testified he contacted McMillan and told him he would not close unless he were conveyed part of slip B2. He says he explained that as there was a slip next to B1, it would be necessary for two pilings to be installed between the slips to protect his boat from injury from a boat entering slip B2. He says he told McMillan that in order to get the necessary twenty feet clearance for his boat and the two pilings, part of B2 would have to be conveyed along with all of B1. Buck testified that McMillan told him that his clients owned B2 and could work out what Buck needed and that they would install the pilings for him.

McMillan denied Buck asked him at any time to have his clients convey part of B2 to Zan and testified that he did not have the authority to make such a promise to a buyer. McMillan acknowledged that Buck requested that East Coast install two pilings, but it was his recollection that Buck wanted them on the line between slips B1 and B2 for the purpose of marking off his

slip and to better secure the bow of his boat. At the closing on April 5, 2005, Buck was present along with his daughter, Suzanne, and Lynn Carmody, the realtor for Zan, LLC. Dan David was the closing attorney and a long time friend of Buck's. David had performed legal work for Ripley Cove, LLC involved with the condominium conversion of the marina, including participating in drafting the Master Deed and overseeing approval of the subdivision plat. David testified that Buck was fully aware of his involvement with Ripley Cove, LLC prior to the closing. David and Belote testified that David did not represent East Coast at the closing and that he was not an agent for East Coast. The deed was executed on behalf of East Coast Trading Co. by Knight pursuant to a power of attorney. Plt. Exh. 4.

David testified that at the closing Buck requested that East Coast agree to install two pilings in the canal at locations he would specify. David called Knight to verify that East Coast would install the pilings. Knight contacted Belote who confirmed he would pay for installing the pilings and Knight relayed this to David. David testified that Buck requested written confirmation that the pilings would be installed by East Coast Trading and David prepared a letter. This letter does not specify any location of for the pilings, saying only, "This is to confirm that two pilings will be replaced (sic) in line with the existing pilings of the adjoining boat slips as shown on the plat recorded in Plat Book EH at Pages 172-174." Plt. Exh. 5.

Buck's and his daughter's testimony differ from David's in that they say Buck told David the pilings had to be located inside the boundary of slip B2, that slip B1 by itself was too narrow for his boat and that a part of slip B2 had to be conveyed to Zan along with all of B1. It is unclear from Plaintiff's case exactly what width of B2 was, according to Plaintiff, to be conveyed. The most consistent distance – and the distance which Buck claimed he was entitled to in his final testimony at the trial – was two feet. Lynn Carmody was also present at the

closing but had no recollection of what the precise agreement was between the parties, only that David's letter satisfied Buck. Buck and his daughter also claimed that they demanded and that David agreed to provide title insurance covering both the pilings and the additional width to be carved out of slip B2.

David denied that Buck or his daughter ever asked that some of slip B2 be conveyed to Zan. He also denied that he ever agreed to provide title insurance covering either the piling placement or conveyance of part of slip B2. He explained that to subdivide slip B2 would, pursuant to the Master Deed, require a complete revision of the Master Deed as well as approval of a new plat of the marina slips and consent of all purchasers of the slips. By April 5, 2005, all of the marina slips had been sold. David emphatically said that had Buck or his daughter made closing contingent on conveyance of any part of slip B2, as they claim, he would have refused to close the sale. David had closed the transfer of slip B2 from Ripley Cove to Pavilion on March 23, 2005, only two weeks prior to the Zan closing, and, therefore, knew that Ripley Cove no longer owned slip B2. Had Buck asked him about a conveyance of part of slip B2, he said he would have explained all of these facts to Buck.

All parties present at the closing testified that Suzanne Buck signed the deed from East Coat to Zan acknowledging that the property was subject to the Master Deed and the rules and regulations governing the condominium regime. The deed also provided 13 specific special conditions and reservations. Numbers 5, 6, 7, 9 and 10 note that the marina slip is subject to the navigation servitude of the State and the United States and the permitting authority that springs from that power over navigable waters including at condition 6, "the power of said agency to mandate the removal or modification of any docking facility constructed in accordance with its permitting authority." Plt. Exh. 4.

Based on his own personal experience with having a substantial docking facility permitted on Wappoo Cut adjacent to his home in 1984, 1989 and in the mid 1990s, Buck admitted that he was well aware of the power of the State and federal governments over any structure placed in navigable waters. Def. Exh. 27. He also testified that he understood that any pilings placed in the canal would be the property of the POA and not of Zan. While he testified that if the pilings had been placed as he wanted and then removed by either the government or the POA, he would sue who ever removed the pilings, he nonetheless acknowledged that any such pilings would be subject to removal at the instance of either the POA or the government regulatory agencies – the Corps and OCRM.

Buck and David testified that at the end of the closing, David advised that Buck contact Knight for the purpose of meeting at the marina to specify the exact location for the pilings. It is unclear exactly when this meeting took place, but it was either sometime in May of June of 2005 according to Mr. Buck's testimony. Knight testified that at the meeting it was his recollection that Buck wanted the pilings located so that his slip would be marked off. Buck testified that he told Knight the pilings had be located inside B2 so as to provide twenty feet of clearance and to protect his boat from injury by boats entering slip B2. Knight denied that Buck ever mentioned acquiring any part of B2 or locating the pilings inside B2. It is uncontested that the owner of B2 had the right to have that slip free of any incumbrances interfering with free use of the water surface within the boundaries of B2. Plt. Exh. 13, p. 16 (Section 10.1).

Shortly after the meeting with Buck, Knight testified that he visited the Corps of Engineers office in Charleston and discussed the possibility of placing two pilings in the canal at slip B1 with Robin Socha with whom he had up until that time a good working relationship. Knight testified that he was not allowed to apply for a permit for the pilings and that when he

visited Socha, she was already aware of the existence of a number of pilings and extended walkways installed without Corps authorization in violation of the Rivers and Harbors Act. The Corps' enforcement file documents that the Corps was informed of the existence of these illegal structures in June 2005, concluded that they were installed by two slip owners, Jerry Chivers and Anthony Rhodes, and commenced an enforcement action against both men. Def. Exh. 31. When the matter remained unresolved, the Corps sent the manager of the condominium regime, Sentry Management, a letter in July 2006 in which the Corps demanded that steps be taken to remove the illegal structures that interfered with navigation and to have the others either removed or permitted. Def. Exh. 31. Collin Bruner, who was managing the marina POA at the time testified as did David, Belote and Knight that the Corps made it known they were threatening to revoke the entire marina permit.

In uncontested testimony, Bob Riggs, former chief of permitting functions for the Corps in Charleston, and Fred Mallet, with OCRM's permitting office, explained that so long as unpermitted structures remained in a marina, such as those installed by Rhodes and Chivers, both agencies' regulations forbid consideration of any additional structures such as the pilings Buck wanted placed next to Zan's slip. In fact, the POA applied to authorize some of the unauthorized structures installed by Rhodes and Chivers in a permit application that went out on public notice on June 15, 2008. Plt. Exh. 15A. A permit was finally issued by OCRM on January 12, 2011 modifying the original 1984 permit so as to permit those structures. Def. Exh. 26. The other illegal structures installed by Rhodes and Chivers, according to the testimony of Bruner and Knight, were removed by Ripley Cove, LLC so that required maintenance dredging of the canal could be done. This work was not performed or paid for by Rhodes or Chivers according to Knight.

Knight testified that he was aware when he visited the Corps, the POA Board had already taken over control of the marina and, thus, the permit. For this reason, according to the undisputed testimony of Riggs, Mallet, Bruner, David and as acknowledged by Buck, approval of the pilings Buck wanted would have to be sought by the POA and not East Coast or Ripley Cove. He nevertheless attempted to smooth the way for approval of the pilings as he had a working relationship with both the Corps and OCRM at the time and the POA did not. His efforts were simply blocked by the effect of discovery of the illegal structurs installed by Rhodes and Chivers.

David recorded the deed from East Coast Trading to Zan and upon receipt of a recorded copy, forwarded it to Zan by letter of September 13, 2005 in which he said that Zan was the owner in fee simple of both Lot SF3 and Dock Unit CS B1. Plt. Exh. 11. Buck and his daughter both testified that they did not read the deed either at the closing or when it was sent to them in September 2005. Buck testified that he simply waited for the pilings to be installed, making occasional inquiries as to when this would be accomplished. He explained that nearly three years later, when he learned that slip B2 was, in fact, owned by someone other than East Coast or Ripley Cove, he decided to file suit as it was clear to him at that point that part of B2 could not be conveyed to him. Neither Buck nor his daughter explained why they did not realize this at the time they closed on the conveyance of slip B1, why they did not read the Master Deed, why they did not insist that conveyance of a specific portion of B2 be made the subject of a written agreement prior to closing or why they never inquired prior to closing about the ownership of B2. Their testimony is that they simply relied on "professionals", referring specifically to David and McMillan to insure that the received what they claim they said was necessary for the property to be of use to them.

Both Buck and his daughter acknowledged that without conveyance to Zan of part of slip B2 – Buck used the number two feet several times – slip B1 even with pilings in place would have been useless to Zan as the *Rookie IV* could not use the slip. While the evidence is not conclusive as to whether this is correct or not, and Buck never took the boat the short distance from his house to slip B1 to determine if it would fit in B1, there is no question that the Bucks' allegations are founded on the claim that they expected to receive a conveyance of part of slip B2. Buck's final statement in his rebuttal testimony was that he only bought B1 on the expectation that he would be conveyed two feet of slip B2.

II.

EVIDENCE CONCERNING DAMAGES

Both Buck and his daughter testified that they received a recorded copy of the same deed delivered to them at the closing on April 5, 2005 in September 2005. That deed did not reflect transfer of any part of slip B2. Neither Buck nor his daughter read the deed. Buck testified that he expected the pilings to be placed between slips B1 and B2 and periodically asked about the status. Nearly three years later, when Buck says he came to realize that East Coast did not own slip B2 and, therefore, could not convey any part of that property to Zan, he filed this suit.

Zan placed the entire property, slip B1 and upland lot 3, on the market for sale for some $800,000, according to the testimony of Tommy Hartnett, and has left it on the market at that price without success. This price is some $100,000 more than Zan paid for the property. At no time did Buck or his daughter or anyone seek to have the pilings permitted by the Corps and OCRM either through a direct application or by asking the POA to include two pilings in the POA's permit application which was processed by those agencies between 2008 and 2011. The undisputed testimony is that neither the Corps or OCRM would have found two pilings between

B1 and B2 in the location Buck identified objectionable. Collin Bruner testified that the POA would have included such a request in its permit application if Zan had requested it and would agree to make a separate application today if Zan asked for one. Belote and Knight testified that East Coast has always been willing to pay for installation of two pilings if they were permitted and remains willing to do so today.

Buck claimed that Zan sustained damages as the result of not being conveyed part of slip B2 in the form of costs including taxes paid on the property, POA dues paid on the property, insurance, and fees to an architect to design a house for lot 3. The only documents submitted in support of these claimed costs were an invoice from an architect and print outs from the Charleston County website reflecting taxes assessed on slip B1 and Lot 3. In addition, Buck claimed that Zan paid $226,445.14 in interest. There is no recorded mortgage on the property, however, and according to Dan David, the sale to Zan was a cash sale. No document of any kind was submitted into evidence by Zan confirming the existence of any debt associated with the property. Zan also seeks to have all of the purchase price returned to it and claims entitlement to prejudgment interest on the purchase price.

III.

LEGAL ANALYSIS OF ZAN, LLC'S CLAIMS

A. Agency: Neither Karl McMillan nor Dan David had actual or apparent authority to bind any of these Defendants to convey part of slip B2 to Zan, LLC.

The evidence is uncontested that Karl McMillan was not given actual authority by East Coast to commit that company to convey any property other than the property which was the subject of the February 2005 contract – Lot 3 and Slip B1. He was no more than a real estate broker retained by both Ripley Cove and East Coast to find buyers for properties being offered for sale by those companies at prices they were willing to accept. He was required to secure

approval for any terms from his principal and he did not have authority to execute such contracts or deeds of conveyance. Knight had the authority to execute contracts and deeds for East Coast pursuant to a power of attorney according to his testimony and that of Belote.

Similarly, Dan David acted in this transaction solely as the attorney for Zan. While he represented East Coast, Belote and Ripley Cove in other matters, he was not their attorney for purposes of this transaction according to his testimony and that of Belote. No evidence to the contrary was offered by Zan. There is no inference that an individual, including a lawyer, is an agent in a subsequent transaction based on representation of the principal in previous transactions. Caughman v. Smith, 28 S.C. 605, 5 S.E. 362 (1887); Paramount Fund, Inc. v. Cusaac, 282 S.C. 497, 319 S.E.2d 354 (Ct. App. 1984). In this case, no evidence was presented that raises an inference that David was the agent for East Coast with respect to Zan's purchase of property at the Ripley Marina.

McMillan was a real estate broker for East Coat but the evidence was uncontested that he did not have actual authority to bind East Coast to sell any part of slip B2 to Zan. For Zan to rely on actions or statements by McMillan as binding on East Coast (or Ripley or Belote), it must prove that those actions or statements were made with apparent authority. A principal may be bound by acts of an agent if such acts or statements are within the scope of the agent's apparent authority, which is, "that authority which a reasonably prudent man, induced by the principal's acts or conduct, and in exercise of reasonable diligence and sound discretion, under similar circumstances with the party dealing with the agent, and with like knowledge, would naturally suppose the agent to have." Glenn Falls Indemnity Co. v. Palmetto Bank, 23 F.Supp. 844, 848 (W.D.S.C. 1938); aff'd 104 F.2d 671 (4th Cir. 1939).

However, in order for apparent authority to bind the principal, there must have existed: 1) a conscious or implied representation or manifestation by the principal, 2) a reasonable reliance by a third party upon that representation and 3) a detrimental change of position by the third party due to reliance on the representation. Graves v. Serbin Farms, Inc., 306 S.C. 60, 409 S.E.2s 769 (1991). Specifically, a principal can not be held responsible for contracts made by his agent unless the authority of the agent to contract for the principal can be proved. Bank of Hamburg, 18 S.C.L. (3 Rich.) 42 (1846). A real estate broker is an agent of limited authority and the law does not presume that a broker retained to find a buyer for his principal's property has the authority to enter into a contract. Gallant v. Todd, 235 S.C. 428, 111 S.E.2d 779 (1960), referring to the suggestion of this particular apparent authority as "a dangerous doctrine." Nor, does the law presume that the selling agent has the power to materially modify the terms of the contract of sale. Adrian & Vollers v. Lane, 13 S.C. 183 (1880). Moreover, subsequent to a purchaser signing a contract with a principal that specifies that no verbal statements made by the principal's agent should modify the written terms of the contract, the purchaser cannot alter the terms of the contract based on oral agreements with an agent. Oxweld Acetylene Co. v. Davis 115 S.C. 426, 106 S.E. 157 (1921). This rule is consistent with the fundamental requirement for finding apparent authority that the principal must manifest implied consent to the exercise of authority by the agent so that the third party is justified in the belief that the agent has such authority. Charleston , S.C. Registry for Golf and Tourism v. Young, Clement, Rivers & Tisdale, 598 S.E.2d 717 (Ct. App. 2004; R & G Construction, Inc. v. Lowcountry Regional Transp. Auth., 343 S.C. 424, 540 S.E.2d 113 (Ct. App. 2001).

The contract executed by Zan for purchase of the property at issue (Plt. Exh. 3) includes the following language barring verbal modification of its terms:

26. ENTIRE BINDING AGREEMENT: This written instrument, including additional terms and conditions set forth on any documents intended by the parties to be included, expresses the entire agreement and all promises, covenants, and warranties between Buyer and Seller. **It can be changed only by a subsequently written instrument signed by both parties.** Both Buyer and Seller hereby acknowledge that they have not received or relied upon any statements or representations by either Broker or their agents which are not expressly stipulated herein. **The benefits and obligations shall inure to and bind the parties hereto and their heirs, assigns, successors**, executors, or administrators. Whenever used, singular includes plural, and use of any gender shall include all. (Emphasis supplied).

The contract Zan alleges whereby East Coast was obliged to convey it part of slip B2 and install two pilings inside that slip, Zan claims arose from representations by Karl McMillan and from the letter sent to Zan's realtor, Lynn Carmody. Plt. Exh. 5. The law of agency in South Carolina, particularly the Oxweld case, does not permit a finding of apparent authority from verbal representations from a putative agent where the written contract between the parties so clearly forbids verbal modification. As to the letter from Dan David to Lynn Carmody, it is not signed by anyone acting on behalf of either Ripley Cove or East Coast, and, therefore, is also not sufficient to bind either of those companies.

Additionally, South Carolina law has long held that it is unreasonable to rely on verbal representations of a real estate broker as to facts that a purchaser could readily discovery through the exercise of due diligence. When a claim of misrepresentation by a purchaser is directed at statements made by a real estate broker or a closing attorney and relates to the extent of property a seller has agreed to convey to the buyer, the law in South Carolina is that it is, "the duty of the plaintiff to examine the records and to know what he was buying...If the purchaser investigates for himself and nothing is done to prevent his investigation from being as full as he chooses, he cannot say that he relied on

the vendor's representation." Yawkey v. Lowndes, 150 S.C. 493, 148 S.E. 554 (1929), quoting Farrar v. Churchill, 135 U.S. 609, 10 S.Ct. 771, 34 L.Ed. 246; and Shillinglaw v. Sims 86 S.C. 76, 67 S.E. 906 (1910). In this case, the Bucks could easily have discovered that East Coast did not own or control slip B2 by asking their own closing attorney, Dan David, by examining the records of the Register of Mesne Conveyance, or by requiring that East Coast execute a written contract to convey the specific property the Bucks believed they required. They did none of those things and now seek to have this Court impose a significant material modification of their contract to purchase Lot 3 and slip B1 on East Coast, or, alternatively, to hold East Coast and Belote liable for what they claim were misrepresentations by Karl McMillan. Even if the Bucks' are believed, the reliance they claim to have made on representations by McMillan was unreasonable.

B. Claims Against Ripley Cove, LLC (Breach of Contract and Negligent Misrepresentation/Constructive Fraud):

The evidence is undisputed that in February 2005, when Zan contracted to buy the property, it was owned not by Ripley Cove, but by East Coast Trading Company and had been since December 30, 2004. Exh. 4, Derivation Clause. Execution of the contract in the name of Ripley Cove was simply a scrivener's error. Ripley Cove could not, therefore, have contracted to sell the property to Zan. East Coast assumed the contract and honored its terms. East Coast was paid the purchase price, not Ripley Cove. At closing, the deed delivered to and accepted by Zan was executed by East Coast, not Ripley Cove. There was never a contract and could not be a contract between Ripley Cove and Zan. To the extent that any obligation by Ripley Cove arose from the contract document executed in February 2005, those obligations were merged into the deed delivered to Zan by East Coast on April 5, 2005. Hughes v. Greenville Country Club, 283 S.C. 448, 322 S.E.2d 827 (Ct. App. 1984), quoting Charleston & Western Carolina Railway Co.

v. Joyce, 231 S.C. 493, 99 S.E.2d 187, 192 (1957), "this deed is the last document signed by the appellant and is really the contract between the parties for interpretation." There is no basis for any action in contract by Zan against Ripley Cove.

Similarly, there is no evidence of any representation of any kind by Ripley or by any person acting on its behalf to Zan. The only representations alleged by Zan prior to the closing on the property were those Buck and his daughter claimed were made by Karl McMillan, whom the undisputed evidence confirms was merely a real estate broker acting for East Coast with the limited authority to bring East Coast a buyer at a price acceptable to East Coast. Buck and his daughter also claimed that Dan David, their own closing attorney, made representations to them at closing on April 5, 2005. The evidence is undisputed that David was not acting as an attorney or agent for Ripley Cove at any point in the events leading up to the transaction at issue. There is no allegation by Zan of any misrepresentation by Ripley Cove or anyone acting on its behalf. Therefore, there is no basis for any claim of misrepresentation by Ripley Cove.

C. W. M. Belote (Negligent Misrepresentation):

Zan's Amended Complaint alleges only that Belote was the registered agent of East Coast Trading Company. He is, in fact, the sole proprietor of East Coast, which the undisputed evidence confirms is a viable Georgia corporation. The complaint makes no specific allegation of any representations made by Belote to Zan or anyone acting on Zan's behalf. Nor was any evidence introduced of any representations by Belote. The only evidence is that Belote agreed to pay to have two pilings placed in the canal between slips B1 and B2 if they could be permitted by the Corps of Engineers and OCRM, but that he did not agree that placement of these pilings was a condition of sale of the property to Zan – the reason being that permitting of the pilings by these two government agencies was not certain. Zan's only evidence of misrepresentation prior

to closing on the purchase of the property was the claim by Buck that Karl McMillan said that slip B2 was owned by the seller – East Coast – and that part of B2 would be conveyed to Zan and two pilings placed in the portion of B2 to be conveyed.

None of the evidence can be construed as a representation by Belote. Any statement by McMillan would at most have been a representation by East Coast, if McMillan had authority to make the representation. Belote could only be liable for a tort committed by East Coast if he personally participated and there is no evidence that he participated in conveying any misrepresentation to Zan. Rowe v. Hyatt, 321 S.C. 366, 468 S.E.2d 649 (1996). There is also no allegation in the complaints by Zan and no proof that the corporate shield of East Coast should be pierced so as to attach any liability of East Coast to Belote directly.

D. W. H. Knight (Breach of Contract):

The sole evidence concerning Knight's involvement in the events surrounding the sale of the property to Zan is that: 1) he signed the contract with Zan (mistakenly) on behalf of Ripley Cove; 2) he was called by Dan David during the closing and asked to get confirmation that East Coast would install two pilings between B1 and B2; and 3) he met Buck some weeks after the closing either in May or June 2005 and told Buck that East Coast would install pilings between the two slips if they could be permitted by the Corps of Engineers and OCRM.

There is no evidence of any contract between Zan and Knight and, therefore, no basis for any claim against him based on contract.

E. East Coast Trading Company and W. H. Knight (Negligent Misrepresentation):

The complaints filed by Zan allege that Knight and East Coast negligently misrepresented that East Coast would install two pilings and that Zan purchased the property based on that representation. Zan also asserted a claim against Knight for constructive fraud. At trial, Zan's

evidence was that the pilings had to be *placed inside slip B2* and that he had to get title to part of B2. Buck claimed that Karl McMillan represented that East Coast could convey part of B2 to Zan.

The first prong of any claim of misrepresentation is that a representation must be proven. This seminal element was not proven by Zan. Buck's allegation that McMillan represented that East Coast would convey part of slip B2 to Zan was denied by McMillan. David, who had closed the transfer of title to slip B2 from Ripley Cove to Pavillion in March 2005, testified that he did not tell Buck or his daughter that part of B2 could or would be transferred to Zan and that had he known this was imperative for Zan, he would not have closed the sale at all. Knight and Belote testified that they were never asked by anyone before or after the closing on the property to Zan about Zan's wish to acquire part of B2.

Regardless of whether Zan's allegation is, as stated in the complaints, for negligent misrepresentation, or for fraud in the inducement, as they seem to allege, another necessary element of proof is that Zan *reasonably relied* on the representations claimed to have been falsely made. McLaughlin v. Williams, 379 S.C. 451, 666 S.E.2d 667 (Ct. App. 2008). When a claim of misrepresentation is directed at statements made by a real estate broker or a closing attorney and relates to the extent of property a seller has agreed to convey to the buyer, the duty of the buyer is to do his own investigation so as to know what he is buying. If nothing is done to prevent his investigation from being as full as he chooses, he cannot say that he relied on the vendor's representation. Yawkey.

Moreover, the facts of this case show that any reliance on a representation by Buck or his daughter that part of B2 would be conveyed to Zan after the closing on April 5, 2005 was not reasonable. Buck admitted that he had a copy of the Master Deed in his possession which

specifically forbid the subdivision of slip B2 or its separation from its companion upland lot. Exh. 13, p 17. Buck admitted that there was no written confirmation of a promise to convey Zan part of slip B2 after the closing and that he was relying solely on what he says he *believed he was told verbally* by Karl McMillan despite the clear provisions in the Master Deed forbidding such a subdivision of a boat slip. Buck's own characterization of his actions show them to have been wholly unreasonable, even if his claim of reliance is believed.

Additionally, as to the claim against Knight for constructive fraud, the law in South Carolina is that in a constructive fraud claim, where there is no confidential or fiduciary relationship, and an arm's length transaction between mature, educated people is involved, there is no right to rely. Armstrong v. Collins, 366 S.C. 204, 621 S.E.2d 368 (Ct. App. 2005), quoting Ardis v. Cox, 314 S.C. 512, 431 S.E.2d 267 (Ct. App. 1993). Buck testified that he conducted all the negotiations related to the purchase by Zan of the property and that over his life he has engaged in many significant real estate transactions as well as owning and running a successful building supply business. He noted that the value of his real estate purchases might be as high as $1 billion. The evidence is that the transaction by Zan was an arms length transaction between mature, experienced individuals. There was no fiduciary relationship and no right to rely by Zan sufficient to support a claim of constructive fraud.

For any claim based on misrepresentation, whether cast as negligent misrepresentation or fraud in the inducement, the misrepresentation must relate to a present or pre-existing fact rather than a statement of future events or an unfulfilled promise. Turner v. Milliman, 381 S.C. 101, 671 S.E.2d 636 (Ct. App. 2010); and Brown v. Stewart, 348 S.C. 33, 41-42, 557 S.E.2d 676, 680 (Ct.App.2001). The only exception to this rule is where there is proof that the party making the

representation never intended to keep the promise, but made it only to induce the other party to perform.

In this case, there is no proof that Knight and East Coast never intended to install pilings in the canal. Knight testified that, even though by the time he met with Buck, was shown where Buck wanted the pilings and visited the Corps of Engineers, only the POA could have applied for a permit for the pilings, he attempted to smooth the way for the application. It is important to note that Knight's testimony was that Buck asked that the pilings be placed between B1 and B2 and not inside B2 itself, as he knew that this placement would not be possible. His and Buck's versions of where Buck asked to have the pilings placed were completely different, Buck consistently claiming that he wanted part of B2 conveyed to Zan and to have the pilings placed inside B2.

As to the claim that Karl McMillan represented that East Coast owned B2 and would convey part of it to Zan, as explained above, this claim is not supported by the evidence and, even if Buck's claim about McMillan's statements is believed, the law does not sanction such reliance about the extent of property to be conveyed where the plaintiff was free to discover the true facts. Yawkey.

F. East Coast Trading Company (Breach of Contract):

Zan claims that East Coast breached its contract of sale and seeks to have the contract rescinded – essentially to have the purchase of the property nullified and to have its purchase price returned. The contract Zan's complaint claims was breached is a contract ancillary to the contract to purchase the property whereby East Coast agreed to install two pilings in the canal "in line with the existing pilings of the adjacent boat slips to insure that the surveyed boundary of

Dock Unit CS-B1 would not be physically encroached upon by any boats moored at Dock Unit CS-B2." Complaint in case 09-CP-10-3441, para. 11.

The testimony at trial by Buck and his daughter, however, is contrary to the allegation in the complaints. They testified that Zan negotiated not for pilings to mark the boundary of slip B1 and protect it from intrusion by boats in B2 – but for *part of B2 itself to be conveyed to Zan.* Installation of pilings as described in Zan's complaint, therefore, would, as Buck and his daughter admitted, have been useless unless they were installed well inside B2. The breach of contract alleged by Zan at trial, therefore, was not failure to install two pilings, but the failure to convey several feet of slip B2 to Zan. This is an entirely different matter from the mere installation of two pilings.

Installation of two pilings on the boundary of B1 and B2 could have been accomplished at any time once permit authorization was received from both the Corps of Engineers and OCRM. The undisputed testimony is that placement of pilings between the two slips, if requested by the POA, would not violate any consideration employed by those agencies in reviewing such requests. Once installed, of course, the pilings would be the property of the POA, not of Zan. Pilings, like all other structures in the canal, would also be subject to summary removal by these agencies pursuant to the dominant navigation servitude. Buck admitted he was well aware of these facts. They are specifically set forth in his deed and in the Master Deed in any event. The evidence is undisputed that had Buck asked the POA to include a request for pilings in this location in its permit request to the agencies to authorize previously installed but unauthorized structures at the marina, the request would have been granted and East Coast would have installed the pilings. Neither Buck nor his daughter ever made such a request. Doing this

was the necessary prerequisite to any claim that East Coast breached an agreement to install two pilings.

Abandoning the allegations of their complaints, Buck and his daughter testified that the *real* promise by East Coast was to convey part of slip B2 to them. They alleged that the promise was wholly verbal, made by Karl McMillan after Buck claims he informed McMillan that B1 was too narrow for his boat and that he would not purchase lot 3 and a boat slip unless the slip included part of B2 so as to make it wide enough to accommodate his boat. Nevertheless, Buck and his daughter closed on the purchase, in the process extracting a price reduction of $17,500. Plt. Exh. 9. They accepted a deed merely to lot 3 and slip B1 with no part of B2 included in the conveyance. Buck claims he expected to receive a new deed after the closing giving Zan part of B2. The credibility of this claim is savaged by Buck's and his daughter's own actions. When in September 2005, they received a recorded copy of the same deed Ms Buck signed at closing on April 5, 2005, they did nothing. Their claim that they simply did not look at the deed, given their allegations of such aggressive demands at the closing is not believable.

The credibility of the Bucks' allegations aside, their attempt to enforce an oral promise to convey more property than was contracted for originally runs afoul of two of the most well established principles of South Carolina real estate and contract law: The Statute of Frauds and the doctrine of merger.

1) Statute of Frauds:

S.C. Code § 32-3-10 provides that, "No action shall be brought whereby: (4) To charge any person upon any contract or sale of lands, tenements or hereditaments or any interest in or concerning them...Unless the agreement upon which such action shall be brought or some memorandum or note thereof shall be in writing and signed by the party to be charged or some

person thereunto by him lawfully authorized." To satisfy the Statute of Frauds, every essential element of the contract must be expressed in a writing signed by the party to be compelled. When the contract is for the sale of real property, the contract must contain a sufficient description of the land with its location or its boundaries so as to show with reasonable certainty what is to be conveyed. Otherwise, the promise is unenforceable. Fici v. Koon, 372 S.C. 341, 642 S.E.2d 602 (2007).

In this case it is uncontested that there is no writing setting forth a promise by any party to convey any part of slip B2 to Zan, much less a specifically described part of B2. The promise described by Buck and his daughter was wholly verbal and, thus, unenforceable by virtue of the Statute of Frauds.

There was some suggestion by Zan's counsel at trial that the pleadings in this case constitute a subsequent memorandum of the agreement taking it out of the Statute of Frauds. That is not the case. As noted above, the pleadings in this case make no mention whatsoever of an agreement to convey any part of slip B2. They can not, therefore, constitute such a memorandum. Robert Harmon & Bore, Inc. v. Jenkins 282 S.C. 189, 318 S.E.2d 371 (1984).

An oral contract to convey real estate may be taken out of the Statute of Frauds if there is proof of part performance in the form of either: 1) improvements of the real estate; 2) possession of the real estate; or 3) payment of the purchase price. Payment of the purchase price has been held to be, "the weakest evidence of part performance and will not suffice on its own to remove a contract from the Statute of Frauds." Bradshaw v. Ewing, 297 S.C. 242, 376 S.E.2d 264 (1989). There is no evidence in this case of either improvements to or possession of slip B2 by either Zan or East Coast. The purchase price paid by Zan was that set forth in the original contract for lot 3 and slip B1, as reduced slightly through negotiation by the parties.

The Bucks' allegation of an oral agreement to convey them part of slip B2 is, as explained, not credible. Even if it were, however, any such agreement would be unenforceable pursuant to the Statute of Frauds.

2) Merger

The Court of Appeals summarized the doctrine of merger in Hughes v. Greenville Country Club, 283 S.C. 448, 322 S.E.2d 827 (1984):

"South Carolina recognized the merger doctrine in St. Philip's Church v. Zion Presbyterian Church, 23 S.C. 297 (1885). St. Philip's Church leased certain land to the founders of Glebe Street Presbyterian Church on the condition the land be used for a Presbyterian church only. Eventually St. Philips deeded the land to Glebe Street, Glebe Street deeded the land to Zion Presbyterian Church, and Zion deeded the land to Mount Zion African Methodist Episcopal Church. St. Philips brought an action against Zion to recover the land, arguing the condition in the lease to Glebe Street attached to the deed. The court entered judgment for Zion relying on the merger doctrine. "The deed was absolute on its face and in its terms. No such conditions as those appearing in the lease were incorporated in the deed." At 315. The merger doctrine has also been applied in Yawkey v. Lowndes, 150 S.C. 493, 148 S.E. 554, 562-563 (1929) ("[w]hatever may have been the plaintiff's desires, as disclosed in his telegrams, it is certain that all the negotiations were merged in the deed"); Charleston & Western Carolina Railway Co. v. Joyce, 231 S.C. 493, 99 S.E.2d 187, 192 (1957) ("[t]his deed is the last document signed by the appellant and is really the contract between the parties for interpretation"); and Wilson v. Landstrom, 281 S.C. 260, 315 S.E.2d 130, 132 (Ct.App.1984) ("[t]he deed and mortgage delivered and accepted at closing, not the prior contract, represented the final bargain of the parties")."

"South Carolina also recognizes the contrary intent exception to the merger doctrine. "[I]n the absence of ... agreements which are not intended to be merged in the deed, upon the acceptance of a deed tendered in performance of an agreement to convey, the written or oral agreement is merged in the deed ...." Charleston & Western, 99 S.E.2d at 193 (quoting 55 Am.Jur. Vendor and Purchaser 327). The courts that have had occasion to develop this exception have held the party denying merger has the burden of proving by clear and convincing evidence that merger was not intended. Knight v. Hedden, 112 Ga.App. 847, 146 S.E.2d 556, 558 (1965), 26 C.J.S. Deeds Section 91(c) (1956)."

Even if there was, as alleged by the Bucks, an oral agreement by East Coast to convey a portion of slip B2 to Zan, that agreement was merged into the deed upon its acceptance by Zan at the closing on April 5, 2005. As to the contrary intent exception, not only is there no clear and convincing evidence that the promise to convey slip B2 was not intended to be merged into the deed, Buck testified specifically that he expected to receive a deed showing conveyance of some part of slip B2. His own testimony was not that the agreement was to survive the deed; his testimony was that the agreement was supposed to be *manifested in the deed.* This is precisely the fact situation involved in the Yawkey case where the purchaser claimed he had negotiated for more land than was actually conveyed in the deed. The Supreme Court held that any such agreement must be merged into the deed of conveyance.

3) No case for breach of contract was established.

Zan's claim for breach of contract is fatally lacking in both proof and a legal basis. Contrary to the allegations in Zan's complaints, the Bucks testified that their contact with East Coast required conveyance of a portion of slip B2, a property East Coast did not own. Zan made no effort to determine ownership of B2, the Bucks claiming they relied solely on what they say

were representations by Karl McMillan as real estate broker for East Coast. Without requiring the alleged agreement to be reduced to writing, the Bucks proceeded to close on a property which they admit they knew was different than what they claim they were entitled to – slip B1 alone with no part of B2 added. There is no evidence that Belote or anyone else with authority on behalf of East Coast promised to give Zan part of B2.

As a matter of law, even if what the Bucks say can be construed to be an agreement, it is unenforceable. It violates the Statute of Frauds as it was not reduced to writing. And the law requires that such an agreement be deemed to be merged into the deed which Zan willingly accepted at the closing.

G. The Confusion of Zan, LLC's Claims and its Request for Damages:

Zan has presented its case from pleadings through trial as if its principals were unsure of what its real claims are. As explained above, the allegations in the two complaints it inexplicably filed differ substantially from each other and from the testimony its principals offered at trial. Indeed, the very contract that lies at the heart of this dispute is described differently in the two complaints and even more radically from the contract the Bucks claimed was formed with East Coast.

Zan's plea for relief is similarly confusing. In the first complaint (2008-CP-10-2641), Zan sued Belote and East Coast for Breach of Contract seeking only rescission of the deed and return of the purchase price. In that same complaint it sued Belote and East Coast for Negligent Misrepresentation seeking only actual damages and did not plead punitive damages. In the second complaint (2009-CP-10-3441), Zan sued Ripley Cove and Knight – not Belote or East Coast. Zan sued Ripley for Breach of Contract seeking to rescind the deed – an impossibility in that the deed was not executed by Ripley but by East Coast – and *alternatively* actual damages.

In that suit, Zan also sued Knight and Ripley for Negligent Misrepresentation and Constructive Fraud seeking both actual damages and punitive damages. Of course, as noted above, the Constructive Fraud allegation makes out allegations more consistent with Fraud in the Inducement.

Neither the Court nor these Defendants should be forced to synthesize incoherent allegations of the Plaintiff's case. Nevertheless, the following characterization of Plaintiff's case seems reasonable. Zan is seeking alternatively either rescission or actual damages for breach of contract from East Coast – as no contract is alleged, or could be, with any other party. Zan is also seeking actual damages for Negligent Misrepresentation from Belote and East Coast and actual and punitive damages for Negligent Misrepresentation and Constructive Fraud from Ripley and Knight.

1) Rescission of a Deed:

Rescission of a contract, including of a deed, will be granted for breach of contract only if the breach is "so substantial and fundamental as to defeat the purpose of the contract." Rogers v. Salisbury Brick Corp., 299 S.C. 141, 382 S.E.2d 915 (1989), quoting Elliot v. Snyder, 246 S.C. 186, 143 S.E.2d 374,375 (1965). Rescission will not be granted for a minor or casual breach of a contract. If, as Zan originally alleged in its complaints, the breach of contract was the failure to install two pilings in the canal, that fact, even if a breach of contract, would, on the evidence presented at trial, not warrant rescission. The undisputed evidence is that Zan could easily have gotten the pilings permitted acting through the POA, but simply did nothing once East Coast was unable to get the pilings permitted. At most, Zan would be entitled to some incremental cost incurred in coordinating with the POA to have the pilings authorized.

Failure to install the pilings, however, is not the deficiency in performance by East Coast the Bucks claimed at trial. They claimed East Coast owed them part of slip B2 and that without title to several feet of B2, the pilings would have been useless to them as the pilings had to be placed inside B2 to provide Buck adequate space for his boat. They characterized the alleged agreement as one to convey them a boat slip big enough to accommodate Buck's boat – the *Rookie IV*. They testified that they "discovered" the agreement had been breached when the deed ultimately sent to them – and when they finally examined it – did not convey them any part of slip B2 as they claim to have expected would occur *after the closing*.

Where one party to a contract seeks rescission of a contract based on misapprehension as to his own property, it has long been held that as owner, he is in the best position to evaluate his property and will not be heard to claim he was misled into a contract by fraud, misrepresentation, concealment or imposition on the part of the other party regarding that property. In King v. Oxford, 282 S.C. 307, 318 S.E.2d 125 (Ct. App. 1984), the owner of a company sought rescission claiming the buyer defrauded or him as to the value of the stock of the company (or alternatively that they were mistaken as to the value). The court held that the owner of the company was in the best position to evaluate its value and his lack of diligence in ascertaining that value precluded recovery or rescission for fraud or mistake. The court relied on Williams v. Bruce, 110 S.C. 421, 96 S.E. 905 (1918) in which the seller of timber was denied recovery in a suit for fraud against the buyer claiming the value of the timber was misrepresented by the buyer. The court went on to explain:

> This is but one example of the often stated principle that "one cannot rely upon misstatement of facts, if the truth is easily within his reach." Flowers v. Price, 190 S.C. 392, 396, 3 S.E.2d 38, 39 (1939); O'Shields v. Southern Fountain Mobile Homes, Inc., supra; accord, Mobley v. Quattlebaum, 101 S.C. 221, 85 S.E. 585 (1915); J.B. Colt Co. v. Britt, 129 S.C. 226, 123 S.E. 845 (1924).

> It is the policy of the courts not only to discourage fraud, but also to discourage negligence and inattention to one's own interests. Torres v. State Farm Fire & Casualty Co., 438 So.2d 757 (Ala.1983). Courts do not sit for the purpose of relieving parties who refuse to exercise reasonable diligence or discretion to protect their own interests. Mobley v. Quattlebaum, supra. A party must avail himself of the knowledge or means of knowledge open to him. Id. The court will not protect the person who, with full opportunity to do so, will not protect himself. J.B. Colt Co. v. Britt, supra.

In this case, the Bucks are essentially claiming that East Coast assured them the *Rookie IV* would fit inside the property that was to be conveyed to them. They are, therefore, like the parties in the cases above who seek the court to protect them from their failure to protect their own interests, first by determining for themselves *exactly* the size slip they needed, second by insuring they had an enforceable agreement providing for conveyance of a slip of that size, and third by not purchasing a slip they should have known was not large enough for their boat. The Bucks, not Karl McMillan and not East Coast, were in a position to know whether what was being conveyed would accommodate a specific boat. Like the parties in the cases cited above, the Bucks should be denied rescission of the deed for the property at issue. The Bucks concede that they received title to exactly the property they contracted for in February 2005 and exactly the property described in the deed they accepted at closing on April 5, 2005.

2) Proximate Causation as to Damages and the Duty to Mitigate:

It is axiomatic that recoverable damages for either breach of contract or tort are limited to those which proximately flow from the wrong complained of. Akin to the proximate cause limitation on damages is the rule that the party seeking damages must take reasonable steps to mitigate his damages and do nothing to exacerbate the damages incurred. There may be no recovery of damages for "losses which the person injured might have prevented by reasonable efforts and expenditures." Hawkins v. Greenwood

Development Corp., 328 S.C. 585, 493 S.E.2d 875 (Ct. App. 1997); Rathborne, Hair & Ridgway Co. v. Williams, 59 F.Supp. 1 (D.S.C. 1945).

In this case, the Bucks testified they took no steps to determine if they had been conveyed part of slip B2 – this being what they claim to be the source of their injury – until nearly three years after the closing. They knew the pilings had not been installed. At any point after the April 5, 2005 closing, they could have asked Dan David, their closing attorney, or Doc Knight or Mike Belote, if part of B2 was to be conveyed to them. They could have checked the RMC records to see if slip B2 was even owned by East Coast or Ripley Cove. They did nothing even after they were sent the recorded deed (which they admitted they did not look at) which showed they had only been conveyed slip B1 as originally platted. Had they quickly determined, as they had a duty to do – under their version of the facts – that what they had been conveyed was only slip B1, they could have put the slip up for sale, during a time when the undisputed evidence is that these properties were readily salable. Instead, they waited for years. Only three years later did they place the property for sale, according to Tommy Hartnett, at a price $100,000 more than they paid for it and at a time after the market for real estate had severely declined. Mr. Hartnett also testified that the Bucks never reduced the price on the property and, as a result, have been unable to sell it.

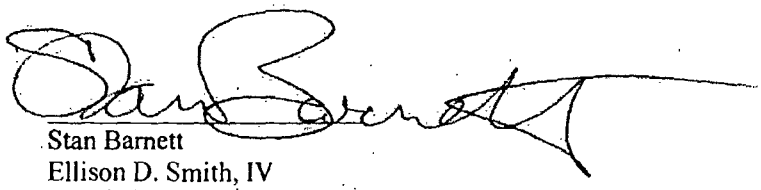
These actions establish that, even if Zan is entitled to any damages as the result of not being conveyed part of slip B2, the Bucks failed to mitigate their damages by discovering in a timely fashion that they had not been conveyed what they say was promised and by selling the property so as to mitigate damages. Had they done so, they would have recouped the sales price, according to the undisputed evidence, and avoided all other costs associated with purchase and ownership of the property.

IV.

CONCLUSION

Zan, LLC has not carried the burden of proof on any of the causes of action as to these Defendants. While Zan has asserted causes of action based on alleged misrepresentation, the claim by Zan is in reality only one alleging breach of what Zan claims was a contract to convey part of slip B2, property none of these Defendants owned or in which any of them possessed any interest. Zan's claim is founded solely on what Mr. Buck and his daughter claim was their reliance on representations by a real estate broker representing East Coast Trading Company, Karl McMillan, whom they allege told them his clients owned slip B2 and would make sure the Bucks received what they claim to have said they had to have – part of slip B2 where they wanted two pilings installed. Any reliance they made on such representations, if they were made at all, was not reasonable and under South Carolina law of agency, of contract and of misrepresentation can not form the basis of any cause of action against these Defendants. Ripley Cove, LLC, East Coast Trading Company, W. M. Belote and W. H. Knight respectfully request that judgment be entered in their favor on all of the causes of action.

Respectfully submitted,



Stan Barnett
Ellison D. Smith, IV
SMITH, BUNDY, BYBEE & BARNETT, P.C.
1037 Chuck Dawley Blvd., Bldg. F, Suite 100
Post Office Box 1542
Mt. Pleasant, SC 29465-1542
(843) 881-1623
ATTORNEYS FOR DEFENDANTS
EAST COAST TRADING COMPANY, INC., RIPLEY COVE, LLC, W.H. KNIGHT AND W.M. BELOTE

August 18, 2011
Mt. Pleasant, S.C.

SMITH, BUNDY, BYBEE & BARNETT, P.C.
ATTORNEYS AT LAW
1037 CHUCK DAWLEY BOULEVARD
SUITE 100, BUILDING F
POST OFFICE BOX 1542
MOUNT PLEASANT, SC 29465
(843) 881-1623
FAX (843) 881-4406
FED. ID # 57-0988087

ELLISON D. SMITH, IV
W.H. BUNDY, JR.
RICHARD D. BYBEE
STAN BARNETT

M. BRENT MCDONALD

STAN BARNETT
stanleyb@s3blaw.com
Direct Line (843) 513-1033

August 23, 2011

The Honorable J.C. Nicholson, Jr.
Circuit Judge
Charleston County Courthouse
100 Broad St.
Charleston SC 29401

RE: Zan, LLC v. East Coast Trading Co., et al.
Consolidation Cases: 2008-CP-10-2641
2009-CP-10-3441

Dear Judge Nicholson:

In the Post Trial Memorandum filed by the Plaintiff yesterday, there are three things that I feel I need to address.

On page 2, the memo says Dan David promised that title insurance would cover a new slip width and provided a letter "agreeing to alter the slip." It also says that the Seller (my client) promised the Bucks part of slip B2. These statements are completely at odds with the testimony. Mr. David did not testify as represented in the Plaintiff's memorandum and his letter does not refer to any alteration of the slip. It merely talks about placing pilings in the canal. In addition, the Plaintiff's memorandum incorrectly claims that Lynn Carmody testified that David made this representation. She did not. She testified all she remembered was that there was an agreement and specifically said several times she did not recall what the details of the agreement were.

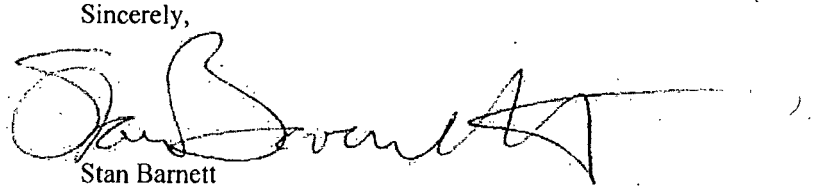
Starting at page 7, the Plaintiff's memorandum makes an argument that rescission of the deed in this case is warranted because of mutual mistake. The Plaintiff's complaints do not allege anything which could be construed to be an argument for mutual mistake. Plaintiff's Pre-Trial Brief does not mention mutual mistake. There was, therefore, no notice by Plaintiff that this claim was to be made in the case. No motion has been made by Plaintiff to amend their complaint or conform the pleadings to the

proof presented at trial. Nor was there any proof put forward to support a finding of mutual mistake. The different testimony by the Bucks on the one hand and Karl McMillan, Dan David, Mike Belote and Doc Knight on the other as to whether the Bucks were told East Coast Trading Company was to convey them part of slip B2 does not constitute a mutual mistake. To justify rescission, a mistake of fact must be mutual so that the parties both operate under exactly the same mistaken belief. Young v. Cooler, 347 S.C. 362, 555 S.E.2d 410 (Ct. App. 2001), in which both parties believed incorrectly that Defendant's primary carrier had lower limits of coverage than in fact were in place; Truck South, Inc. v. Patel, 339 S.C. 40, 528 S.E.2d 424 (2000). In this case, if the Bucks' testimony is believed, they thought East Coast was going to convey them part of slip B2 after the closing on April 5, 2005. As they conceded in their memorandum, the principals and agents of East Coast did not believe this at the time of the closing on April 5, and there was, therefore, no mutual mistake of fact. Plaintiff's characterization of the law regarding mutual mistake is simply incorrect.

Finally, the Plaintiff claims that "common sense" supports the notion that the Bucks would not purchase a boat slip they could not use. The Court asked a question in the same vein: why would Buck buy a slip he could not use? The undisputed evidence is that at the time the Bucks purchased lot 3 and slip B1, these properties were readily marketable and the market value was rising. One entirely plausible reason for the Bucks to purchase the property regardless of whether the *Rookie IV* would fit in slip B1 was as an investment, like so many others at the time, hoping to sell it for a profit. In fact, the Bucks have had the property on the market for sale at a price that would yield a profit of $100,000, according to Tommy Hartnett. Having waited too long to make a profit on the property as a practical matter, the Bucks simply want out of the deal.

With kindest regards, I remain

Sincerely,



Stan Barnett

Cc: Counsel of Record
W. M. Belote
W. H. Knight

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	**CONSOLIDATED UNDER**
		CASE No.: 2008-CP-10-2641
ZAN, LLC,	)	*CASE No: 2009-CP-10-3441*
	)	
Plaintiff,	)	
vs.	)	
	)	
RIPLEY COVE, LLC, W. H. KNIGHT, KARL A. MCMILLAN Individually and as the principal of Karl A. McMillan, Inc., ST. ANDREWS TITLE & ABSTRACT AGENCY, INC., CHICAGO TITLE INS. CO. and CHARLES A. FUNK & LILLIAN M. FUNK	)	**PLAINTIFF'S POST TRIAL MEMORANDUM ON DAMAGES**
Defendants.	)	

This case was tried before the Honorable J.C. Nicholson, Jr. on July 26-28, 2011. The Court has indicated that it will rule in favor of Plaintiff with respect to Defendants Ripley Cove, LLC, W. H. Knight, East Coast Trading Co., Inc., W.M. Belote (collectively the "Sellers"), and Karl A. McMillan individually and as the principal of Karl A McMillan, Inc. (collectively "McMillan") and has requested that Plaintiff brief the issue of damages.

A. SELLERS

1. Breach of Contract Warranting Rescission

The purpose of an award of damages for breach of contract is to put the plaintiff in as good a position as he would have been in if the contract had been performed. *Minter v. GOCT, Inc.*, 322 S.C. 525, 528, 473 S.E.2d 67, 70 (S.C.App. 1996). The measure of damages for breach of contract is the loss actually suffered by the contractee as the result of the breach. *South Carolina Finance Corp. of Anderson v. West Side Finance Co.* 236 S.C. 109, 122, 113 S.E.2d 329, 335 (S.C.1960). The loss actually suffered by Mr. Buck is that he is left with property he cannot use, but has had to maintain for the last several years.

This case presents a unique situation as there is no issue with the upland parcel the Bucks purchased with the slip. Ordinarily, if part of a contract can be performed, the damages could be divided. However, in this case the Master Deed specifically forbids the separation of upland parcel from boat slip. Mr. Buck does not have the option of selling the slip and keeping the property, and even if he did, the value of the property is derived from the private boat slip attached to it. Thus, as this transaction is one organic transaction it must addressed as such. To consider the value of slip alone fails to compensate the Plaintiff for the loss actually suffered.

Further, Zan's motivation for purchasing the particular property at issue was the boat slip that Mr. Buck was led to believe was wide enough to dock the *Rookie IV*. Mr. Buck never would have purchased the property without a slip of sufficient size to dock his boat. In fact, Mr. Buck canceled the initial closing when he discovered the *Rookie IV* would not fit in the slip as platted. Therefore, awarding Plaintiff damages relating to the cost of putting in the pilings also fails to compensate Plaintiff for the loss it actually suffered as placing the pilings (even assuming the Sellers are now able to place the pilings) still leaves the Bucks with a boat slip too narrow to use.

As the breach of contract with respect to the agreement to place the pilings is so substantial and fundamental as to defeat the purpose of the contract, the Bucks are entitled to rescission. "Rescission entitles a party to a return of the consideration paid as well as any additional sums necessary to restore him to the position occupied prior to the making of the contract." *Ellie Inc. v. Miccichi*, 358 S.C. 78, 594 S.E.2d 485 (S.C.App. 2004).

Therefore, the Bucks are entitled to a return of the consideration paid, $685,589.78, plus incidental damages in the amount of $61,223.21 which represents:

i. regime fees paid in the amount of $7,943.44;

ii. insurance paid in the amount of $5,540.00;

iii. real estate taxes paid in the amount of $43,949.77; and

iv. architect fees in the amount of $3,800.00.

The Sellers are entitled to a return of the property together with a credit in the amount of $28,710.00 from the Bucks representing rental income received from renting the slip. Thus, the Bucks would return the property and receive a judgment against the Sellers in the amount of $718,112.99 (consideration paid + incidentals – rental income).

2. Negligent Misrepresentation

In the alternative, Plaintiffs have plead and proved that the Sellers are liable in tort for negligent misrepresentation. The measure of damages for negligent misrepresentation is the difference between the value the plaintiff would have received if the facts had been as represented and the value the plaintiff actually received. *Fields v. Yarborough Ford, Inc.*, 307 S.C. 207, 414 S.E.2d 164 (S.C. 1992). Further, the plaintiff is entitled to recover any consequential loss which is the natural and proximate result of the misrepresentation. *Id.*

Here, the Bucks contracted to purchased the property for $685,589.78; however, as the Bucks cannot make use of the property, to them the value is $0.[1] However, there is residual value in the property; the fair market value of the property. Thus, the value of what the Bucks actually received is whatever it can be sold for today.

Mr. Buck testified that the property is worth approximately $350,000.00 in today's

[1] *See Austin v. Stokes-Craven Holding Corp.*, 387 S.C. 22, 44-45, 691 S.E.2d 135, 146 - 147 (S.C. 2010) (Where Plaintiff, as a result of misrepresentation, unknowingly purchased a truck that had been wrecked and testified that the vehicle was worth "nothing" given he would not have bought it had he known that it had been wrecked, the Supreme Court held testimony of zero value was competent evidence of actual damages and upheld verdict of $26,371.10, the differential of the purchase price less the zero retail value.)

market[2], which is consistent with Mr. Hartnett's testimony. Mr. Hartnett testified that in early 2010, when he completed his appraisal, the property was worth approximately $500,000.00, but that the values of similar property in the area have decreased about 30% since 2010, making his estimate approximately $350,000.00.

Therefore, the Plaintiff is entitled to the difference in value, which equals $335,589.78, plus consequential loss resulting from the misrepresentation in the amount of $61,223.21 comprised of the real estate taxes, regime fees, architect fees, and insurance premiums paid by the Bucks. Under this theory of liability, the Plaintiff is entitled to a judgment in the amount $396,812.99.

B. McMILLAN

Plaintiff has sued Mr. McMillan and his company for negligent misrepresentation and fraud in the inducement. Mr. McMillan is the Sellers' agent and acted at the direction of the Sellers when he initially showed Plaintiff the property and when he contacted Mr. Buck after the failed closing to negotiate for the Sellers. Under South Carolina law, principal and agent are joint tortfeasors. *See E.A. Prince & Son, Inc. v. Selective Insurance Co. of the Southeast*, 818 F.Supp. 910 (D.S.C. 1993). Therefore, Plaintiff is entitled to judgment against McMillan in the amount of $396,812.99 as described more fully above.

[Signatures on following page]

[2] *See Abercrombie v. Abercrombie,* 372 S.C. 643, 647, 643 S.E.2d 697, 699 (Ct.App.2007) (recognizing the general rule in South Carolina that a property owner is competent to offer testimony as to the value of his property).

Respectfully Submitted By:

Andrew K. Epting, Jr.
Michelle N. Endemann
ANDREW K. EPTING, JR., LLC
3 State Street, Charleston, SC 29401
843-377-1871; Fax: 843-377-1310

This 9 day of September 2011

ATTORNEYS FOR PLAINTIFF

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	**CONSOLIDATED UNDER**
COUNTY OF CHARLESTON	)	Civil Action No. 2010-CP-15-2641
ZAN, LLC,	)	
	)	Civil Action No. 2009-CP-10-3441
Plaintiff,	)	
	)	
vs.	)	**SECOND**
	)	**POST –TRIAL MEMORANDUM BY RIPLEY**
RIPLEY COVE, LLC, W.H. KNIGHT, KARL A MCMILLAN, Individually and as the principal of Karl A. McMillan, Inc., ST. ANDREWS TITLE & ABSTRACT AGENCY, INC., CHICAGO TITLE INSURANCE COMPANY, and CHARLES A. FUNK & LILLIAN M. FUNK,	)	**COVE, LLC, W.H. KNIGHT, EAST COAST TRADING CO., AND W.M. BELOTE CONCERNING DAMAGES**
	)	
Defendants.	)	

In response to the Court's request, the Defendants, Ripley Cove, LLC, W. H. Knight, W.M. Belote and East Coast Trading Company, hereby provide their legal analysis of what damages are appropriate should the Court decide that any of these Defendants are liable to Plaintiff. The Plaintiff's claims against these Defendants are of two types: breach of contract and tort (specifically, negligent misrepresentation and constructive fraud). While the Court has indicated a preliminary finding of liability against these Defendants, this memorandum is based on the assumption that the Court is only inclined to find East Coast Trading Company liable.[1]

As explained in these Defendants' original Post Trial Memorandum, only East Coast was under contract with Plaintiff and only East Coast conveyed title to the subject property to Plaintiff. For this reason, there could be no breach of contract finding against any other party regardless of how the evidence is weighed. As to the tort claims based on misrepresentation

[1] These Defendants continue to maintain, as explained in their Post Trial Memorandum, that the evidence docs not support a finding of liability against any of these Defendants on either contract or tort theories.

alleged by Plaintiff, there is no evidence that any of these Defendants made any representation directly to Plaintiff concerning either placement of pilings or conveyance of part of slip B2. Plaintiff's witnesses testified that the only direct communication they had with any of these Defendants was with W. H. Knight and this was not until after they had closed on purchase of the property – a meeting with him to designate where the two pilings were to be placed. The statements Plaintiff allege constitute the misrepresentation underlying both the negligent misrepresentation and constructive fraud claims were made solely by Karl McMillan. It is uncontested that McMillan was a real estate broker acting only for East Coast and not for any of the other Defendants in the transaction that gave rise to this case.

The Court has also indicated that no damages will be awarded for interest, either pre-judgment interest or interest on any debt for which the property was offered as security and that no punitive damages will be awarded. These elements of damages are, therefore, not discussed below.

MEASURE OF DAMAGES

The general measure of damages for breach of contract is what is required to place the non-breaching party in the position he would be in had there been no breach and in appropriate cases also those damages incurred in reliance on the expectation that the contract would not be breached. In this case, Plaintiff alleges that East Coast did not place two pilings in the canal so as to allow use of slip B1 for mooring the *Rookie IV*. Plaintiff does not dispute that the property conveyed was as represented by East Coast. Lot 3, the upland lot, was usable for construction of a house. Slip B1 was usable for mooring a boat. The only complaint is that slip B1 was too narrow for one boat, the *Rookie IV*. The measure of damages is generally referred to as the expectation interest of the non-breaching party and includes: a) the loss of value to him of the

deficiency in performance; b) any other loss, including incidental or consequential loss caused by the deficiency in performance; c) less any cost not incurred by reason of the breach. (The latter is not a consideration in this case).

In this case, the Plaintiff received property consistent with the contract in every respect except that the boat slip, Plaintiff claims, was too narrow for a specific boat and not consistent with a second contract Plaintiff alleges was made by East Coast (though McMillan) to convey two feet of slip B2 and place two pilings between the slip B1 and the remainder of slip B2 so as to protect any boat using slip B1 from being damaged by boats entering and leaving slip B2.

Plaintiff has asked that the contract of sale be rescinded and the purchase price refunded. Rescission is an extraordinary remedy and is only warranted where the breach is so fundamental as to deny the non-breaching party the entire benefit of the bargain. Rescission of a contract, including of a deed, will be granted for breach of contract only if the breach is "so substantial and fundamental as to defeat the purpose of the contract." Rogers v. Salisbury Brick Corp., 299 S.C. 141, 382 S.E.2d 915 (1989), quoting Elliot v. Snyder, 246 S.C. 186, 143 S.E.2d 374,375 (1965).

In this case, Plaintiff was not denied the entire benefit of the bargain. Plaintiff's testimony is that the two purposes for purchase of the property were to acquire a lot where one of the principals of Zan, LLC, Suzanne Buck, could construct a home (on lot 3) and to acquire a place where Edgar Buck could moor his boat, the *Rookie IV* (in slip B1). Plaintiff claims that prior to the sale, the contract was modified to provide that Zan would be conveyed title to part of slip B2 (some two feet) so that two pilings could be installed for the purpose of protecting any vessel using slip B1. Plaintiff closed on the purchase of lot 3 and slip B1 on April 5, 2005, Plaintiff claims, because East Coast, through McMillan, provided assurance that a new deed

would be delivered showing title to part of slip B2 and that the pilings would be installed. A recorded copy of the deed to the property was received by the Bucks in September 2005. Plt. Exh. 11, letter from Dan David dated September 13, 2005. The deed showed that no part of slip B2 was conveyed to Plaintiff. Plaintiff was aware, or certainly should have been, therefore, no later than October 1, 2005 that the there was to be no conveyance of part of slip B2 to Plaintiff. At no time was Plaintiff deprived of the use of the *Rookie IV* which remained moored at Edgar Buck's home on Wappoo Cut (or in Florida during the winter).

As rescission is not a proper remedy, Plaintiff's damages for the alleged breach of contract are limited to the difference in value of the property purchased and the value of the property promised at the time of the breach of contract. Bannon v. Knauss, 282 S.C. 589, 320 S.E.2d 470 (Ct. App. 1984). This is also the measure of damages for the misrepresentation alleged by Plaintiff – that Plaintiff was not conveyed what was represented would be conveyed and that East Coast did not install the two pilings between slips B1 and B2. Starkey v. Bell, 281 S.C. 308, 315 S.E.2d 153 (Ct. App. 1984).

For purposes of assessing damages in such cases, the value of property is determined at the time of breach (or of the injury – in this case the when Plaintiff knew or should have known East Coast did not provide what was allegedly represented to Plaintiff) not the date of filing suit or the date of trial. There is no testimony to support the proposition that a wider boat slip would have been worth more than slip B1 as platted. Tommy Hartnett testified that boat slips are valued based on their length and not their width. They are not valued based on their ability to accommodate a specific vessel. Moreover, at the time it became clear that no part of slip B2 was conveyed to Plaintiff, Plaintiff could have put the property up for sale. The uncontested testimony of Knight, Belote and McMillan was that, at that time in late 2005, these properties

were selling easily in the price range paid by Plaintiff for lot 3 and slip B1 – $700,000. Indeed, lot 4 and slip B2 were sold on November 29, 2005 for $725,000. Plt. Exh. 12. The plat of the boat slips shows that slip B2 is significantly narrower and shorter than slip B1 and, therefore, has more limited use. In spite of the inferiority of slip B2, that property and its companion upland lot sold for $25,000 more than slip B1 and lot 3.

In this case, at the time of sale – April 5, 2005 – and at the time the alleged breach was clear, or should have been clear to Plaintiff – October 1, 2005 – there was no difference in the value of the property from a market value standpoint, since Plaintiff could have sold the property, lot 3 and slip B1, for at least what had been paid by Plaintiff, $700,000. Plaintiff's failure to put the property up for sale in October 2005 after it was clear that no part of slip B2 was going to be conveyed to Plaintiff was a decision for which these Defendants are not responsible. Plaintiff was under a duty to mitigate its damages by placing the property up for sale immediately upon realizing it was not suited for the use for which it was purchased, as alleged by Plaintiff. Blackwell v. Paccar, Inc., 302 S.C. 294, 395 S.E.2d 736 (Ct. App. 1990). Plaintiff is not entitled, therefore, to be compensated for the drastic drop in market value of the property which occurred in the years after purchase of the property. Adams v. Orr, 260 S.C. 92, 194 S.E. 2d 232 (1973); Coleman v. Levkoff, 128 S.C. 487, 490 S.E. 875 (1924); and Sullivan v.Anderson, 81 S.C. 478, 62 S.E. 862 (1908).

As to consequential damages that are directly related to the breach of contract alleged, Plaintiff seeks reimbursement for a set of plans for a house to be constructed on lot 3 which cost $3,800. Plt. Exh. 17. The cost of the house plans would be properly recoverable only if their use was limited to this specific property. There is no proof that is the case and no reason based on

the evidence to suspect such a limited utility of the plans. Plaintiff could, therefore, use the plans on another piece of property or sell the plans.

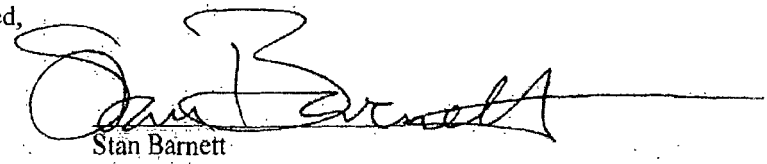
As the placement of the pilings was important to Plaintiff, regardless of the slip width, so that a boat moored in slip B1 would not be injured by a boat entering of leaving slip B2, the cost of installing these pilings is also a proper measure of damage if the failure to install the pilings is deemed a breach of contract. The undisputed testimony by W. H. Knight and W. M. Belote is that the cost to install two pilings was $2,000 each or $4,000. In addition, POA dues for one year and insurance for one year would be reasonable consequential damages. Plaintiff has not broken these costs down, but they seem to be approximately $1,000 per year for taxes and for insurance, or $2,000 total for these costs. Plaintiff submitted evidence of the taxes paid on the property for 2006, $1,680.43 for slip B1 and $6,795.80, a total of $8,476.23. Some portion of this cost is a damage reasonably related to Plaintiff's purchase and ownership of the property for the time it should have taken to sell the property.

CONCLUSION

Plaintiff received property that was substantially what was promised. The measure of damages for the alleged failure to deliver property exactly as promised is the difference between the market value of the property as received and the market value of what was promised as of the time of the alleged breach of contract and/or of the injury suffered be reason of the alleged misrepresentation. The evidence establishes that there was no difference in value of the property actually conveyed to Plaintiff. Plaintiff would be entitled, however, to the foreseeable consequential damages in the form of the cost to install pilings between the two slips and POA dues, insurance and taxes paid during the period Plaintiff was obliged to place the property up

for sale after the Bucks knew of should have known they were not being conveyed any part of slip B2 – that date being no later than October 1, 2005.

Respectfully submitted,



Stan Barnett
Ellison D. Smith, IV
SMITH, BUNDY, BYBEE & BARNETT, P.C.
1037 Chuck Dawley Blvd., Bldg. F, Suite 100
Post Office Box 1542
Mt. Pleasant, SC 29465-1542
(843) 881-1623
ATTORNEYS FOR DEFENDANTS EAST COAST TRADING COMPANY, INC., RIPLEY COVE, LLC, W.H. KNIGHT AND W.M. BELOTE

September 8, 2011
Mt. Pleasant, S.C.

CERTIFICATE OF SERVICE

I, Cindy Glover, an employee of Smith, Bundy, Bybee & Barnett, P.C., hereby certify that true and correct copies of the Second Post-Trial Memorandum by Ripley Cove, LLC, W.H. Knight, East Coast Trading Co. and W.M. Belote was served on the undersigned parties by depositing copies of same in the United States Mail, postage prepaid, first class, this 9th day of September, 2011, addressed as follows:

Andrew K. Epting, Jr. Esquire
3 State Street
Charleston, SC 29401

Dan M. David, Esq.
David & Schwartz, P.A.
757 St. Andrews Blvd.
Charleston, SC 29417

Richard S. Dukes, Esquire
Turner Padget Graham & Laney, PA
Gateway Center, Suite 200
40 Calhoun Street
Charleston, SC 29401

Cindy Glover

Mt. Pleasant, South Carolina

2008-CP-10-2641

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO: ~~2009-CP-10-3441~~

ZAN, LLC,

Plaintiff,

vs.

RIPLEY COVE, LLC, W. H. KNIGHT, KARL A. McMILLAN Individually and as the principal of Karl A McMillan, Inc., SLIPS AT RIPLEY PROPERTY OWNERS ASSOCIATION, INC., AND RIPLEY LIGHT MARINA POA, INC., SENTRY MANAGEMENT, INC., individually and as Agent of the above named Property Owners Associations, ST. ANDREWS TITLE & ABSTRACT AGENCY, INC., and CHARLES A. FUNK & LILLIAN M. FUNK

Defendants.

ORDER OF DEFAULT

FILED
2010 JAN 20 AM 9:06
JULIE J. ARMSTRONG
CLERK OF COURT
BY

16 - 1013

IT APPEARING to me that the Summons and Complaint in the above entitled action having been personally served on Karl A. McMillan, individually and as the principal of Karl A. McMillan, Inc. defendant in the within cause of action, on June 16, 2009, as appears from Exhibit A, the attached affidavit of Service, and that no Notice of Appearance, Answer, or other pleading has been served or received in response thereto by the Defendant or its attorney as appears from Exhibit B, the attached affidavit of Andrew K. Epting Jr., Esquire;

NOW, THEREFORE, upon the motion of Andrew K. Epting, Jr., Esquire, attorney for the Plaintiff, the defendant, Karl A. McMillan, individually and as the principal of Karl A. McMillan, Inc. is hereby declared to be in default.

IT IS ORDERED, that this matter is referred to the presiding judge of the Court of Common Pleas for the Ninth Circuit for a final hearing on the damages.

AND IT IS SO ORDERED.

Presiding Judge
Ninth Judicial Circuit

On this 11th day of January 2010
Charleston, South Carolina

Charleston Investigative Associates, LLC
6650 Rivers Avenue, Suite 1427, Charleston, SC 29406, Phone: (843) 576-1427
E-mail: jnrumchak@comcast.net, Cell: (843) 834-3970, Fax: 1-800-878-1377
A member of the Society of Former Special Agents of the Federal Bureau of Investigation

AFFIDAVIT OF SERVICE (✓)
AFFIDAVIT OF NON SERVICE ( )

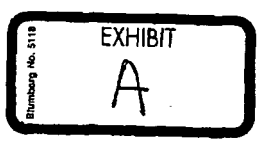
PLAINTIFF: ZAN, LLC
-vs-
DEFENDANT: KARL A. McMILLAN, ET. AL.

The Undersign, JAMES R. RUMCHAK hereby certifies that he/~~she~~ served the SUMMONS + COMPLAINT in this action on Defendant KARL A. McMILLAN by delivering same to:
(✓) the defendant, KARL A. McMILLAN personally
( ) _____ a person of discretion
residing at the defendant's residence and leaving with (him /~~her~~) one copy at
Ruby Tuesday - Summerville on the 16th day of June 2009
A.M. _____ P.M. 12:05

This is to certify that I, ~~I~~ _____, Private Investigator, on _____, 20____ tried to serve _____ in the above action on the defendant _____ did go to the address provided for the defendant, did question the persons in the vicinity of the address, but failed to effect service on the defendant for the following reasons _____

( ) UNABLE TO LOCATE
( ) DEFENDANT MOVED, LEFT NO FORWARDING ADDRESS
( ) DECEASED
( ) ITEMS NOT FOUNDED

James R. Rumchak
INVESTIGATOR



ANDREW K. EPTING, JR.
ATTORNEY AT LAW

January 4, 2010

The Honorable R. Markley Dennis, Jr.
Chief Administrative Judge—9th Circuit
P.O. Box 1800
Moncks Corner, SC 29461

Re: Zan, LLC v. East Coast Trading Co., Inc., et al
Case No: ~~09-CP-10-3441~~
08-CP-10-2641

Dear Judge Dennis,

Enclosed please find a proposed Order of Default Judgment against Karl A. McMillan, individually and as the principal of Karl A. McMillan, Inc., together with the accompanying affidavit. Also enclosed please find the motion/order cover sheet and the filing fee in the amount of $25.00. If the order meets with your approval, would you please sign and forward to the clerk for filing?

As always, with kindest regards,

ANDREW K. EPTING, JR., LLC

S/Drew Epting

Andrew K. Epting, Jr.

AKE:mnn

cc: Stanley E. Barnett, Esquire (Ripley Cove, LLC and W. H. Knight)
I. Keith McCarty, Esquire (Ripley Light Marina POA)
Craig Burgess, Esquire (Slips at Ripley POA)
Richard S. Dukes, Jr, Esquire (Sentry Management, Inc)
Julian H. Hines, Esquire (Charles and Lilian Funke)

ANDREW K. EPTING, JR., LLC
3 STATE STREET · CHARLESTON, S.C. 29401
PHONE: (843) 377-1871 · AKE@EPTING-LAW.COM · FAX: (843) 377-1310

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON ZAN, LLC Plaintiff, vs. EAST COAST TRADING CO., INC. W.M. BELOTE, KARL A. MCMILLAN, INC., SENTRY MANAGEMENT, INC & RIPLEY COVE PROPERTY OWNERS ASSOCIATION, INC. Defendant.	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO. 2008-CP-10-2641 ORDER OF DEFAULT

FILED
2009 MAR -5 AM 11:56
JULIE J. ARMSTRONG
CLERK OF COURT
BY

IT APPEARING to me that the Summons and Complaint in the above entitled action having been personally served on Karl A. McMillan, Inc. defendant in the within cause of action, on October 12, 2008, as appears from the attached affidavit of Service, and that no Notice of Appearance, Answer, or other pleading has been served or received in response thereto by the Defendant or its attorney as appears from the attached affidavit of Andrew K. Epting Jr., Esquire;

NOW, THEREFORE, upon the motion of Andrew K. Epting, Jr., Esquire, attorney for the Plaintiff, the defendant, Karl A. McMillan, Inc. is hereby declared to be in default.

~~IT IS ORDERED, that the Plaintiff herein have judgment against defendant, Karl A McMillan, Inc. in the sum of~~ n/a ~~together with the costs and disbursements of this case.~~

AND IT IS SO ORDERED.

Presiding Judge
Ninth Judicial Circuit

On this 3rd day of March 2009
Charleston, South Carolina

This matter is referred to the presiding Judge of the Court of Common Pleas for the Ninth Circuit for a final hearing on the damages.

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON ZAN,LLC Plaintiff, vs. EAST COAST TRADING CO., INC. W.M. BELOTE, KARL A. MCMILLAN, INC., SENTRY MANAGEMENT, INC & RIPLEY COVE PROPERTY OWNERS ASSOCIATION, INC. Defendant.	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO. 2008-CP-10-2641 AFFIDAVIT OF DEFAULT

2009 FEB 12 4:
JULIE J. ARMSTRONG
CLERK OF COURT
BY
FILED

PERSONALLY appeared before me Andrew K. Epting, Jr., Esquire, who, being duly sworn, states that he is the Attorney for the Plaintiffand that more than thirty (30) days have elapsed since the service ofthe Summons and Amended Complaint, exclusive ofthe date of service, upon the Defendant Karl A. McMillan, Inc., and that no Answer, Demurrer or Notice of Appearance has been served upon him as required by the Summons in this action; and that the Defendant is not a member ofthe military service; and the Defendant is in default.

ANDREW K. EPTING, JR., LLC

Andrew K. Epting, Jr., Esquire
3 State Street
Charleston, SC 29401
P: 843-377-1871
F: 843-377-1310
ake@epting-law.com

ATTORNEY FOR PLAINTIFF

Sworn to and Subscribed before me
This 10th day of ~~January~~ FEBRUARY 2009.

Notary Public for South Carolina

My Commission Expires 6/14/17

Charleston Investigative Associates, LLC

6650 Rivers Avenue, Suite 1427, Charleston, SC 29406, Phone: (843) 576-1427
E-mail: jnrumchak@comcast.net, Cell: (843) 834-3970, Fax: 1-800-878-1377
A member of the Society of Former Special Agents of the Federal Bureau of Investigation

AFFIDAVIT OF SERVICE (✓)
AFFIDAVIT OF NON SERVICE ( )

PLAINTIFF: ZAN, LLC

-vs-

DEFENDANT: EAST COAST TRADING CO. INC., W.M. Belote, KARL A. McMILLAN, ET. AL.

The Undersign, James R. RumcHAK hereby certifies that he/she served the Summons + Complaint in this action on defendant KARL A. McMILLAN by delivering same to:
(✓) the defendant, KARL A. McMILLAN personally
( ) _____ a person of discretion residing at the defendant's residence and leaving with (him / her) one copy at BROAD + State Streets CHAS. S.C on the 22nd day of October 2008
A.M._____ P.M. 4:00

FILED
2008 FEB 12 PM 4:02
BY J. ARMSTRONG
CLERK OF COURT

This is to certify that I, _____, Private Investigator, on _____, 20____ tried to serve _____ in the above action on the defendant _____ did go to the address provided for the defendant, did question the persons in the vicinity of the address, but failed to effect service on the defendant for the following reasons _____

( ) UNABLE TO LOCATE
( ) DEFENDANT MOVED, LEFT NO FORWARDING ADDRESS
( ) DECEASED
( ) ITEMS NOT FOUNDED

James R. Rumchak
INVESTIGATOR

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**FOR THE NINTH JUDICIAL CIRCUIT**
COUNTY OF CHARLESTON	)	**CASE #: 2009-CP-10-3441**
ZAN, LLC,	)	
	)	
Plaintiff,	)	
	)	
	)	
RIPLEY COVE, LLC, W.H. KNIGHT, KARL A. McMILLAN Individually and as the principal of Karl A. McMillan, Inc., SLIPS AT RIPLEY PROPERTY OWNERS ASSOCIATION, INC, AND RIPLEY LIGHT MARINA POA, INC., SENTRY MANAGEMENT, INC., individually and as Agent of the above named Property Owners Associations, ST. MATTHEWS TITLE & ABSTRACT AGENCY, INC., CHICAGO TITLE INSURANCE COMPANY and CHARLES A. FUNK & LILLIAN M. FUNK,	)	**MOTION FOR RELIEF FROM DEFAULT**
	)	
Defendants,	)	
	)	

FILED
2011 AUG 19 PM 2:45
JULIE J. ARMSTRONG
CLERK OF COURT
BY

TO THE PLAINTIFF ABOVE NAMED:

PLEASE TAKE NOTICE that the Defendants Karl A. McMillan and Karl A. McMillan, Inc., intend to move before the Honorable Court at a date and time to be set by the Court for an Order relieving them from default.

This motion is grounded upon the following:

a) That in the Amended Complaints served upon the McMillan Defendants, the only allegation against these Defendants is that these Defendant represented that pilings were to be erected to mark the boundaries between the Plaintiff's dock unit and the adjoining unit.

b) That the Plaintiff has now attempted to expand its case to allege that it did not receive additional area within its purchased dock unit and upon which it relies to establish its damages, none of which was alleged in the

Amended Complaint served upon the McMillan Defendants.

c) That McMillan did not answer the Amended Complaint because he acknowledges that pilings were promised to the Plaintiff, however, it is unfair and inequitable for the McMillan Defendants to be held potentially liable for damages for a allegation that Plaintiff did not receive an expanded dock unit, when the Amended Complaint served upon them did not put them on notice of such claim.

d) Additionally, when the McMillan Defendants were served, Karl A. McMillan was in the midst of a bilateral expensive Family Court action occupying much of his time and resources, which, along with the nature of allegations influenced him not to respond to the Amended Complaint.

e) The McMillan Defendants have other meritorious defenses, specifically that the Amended Complaint alleges only a breach of a future promise and not a misrepresentation of existing facts.

In the alternative, the McMillan Defendants move the Court to strictly limit Plaintiff's alleged damages to only those directly and proximately flowing from the failure to sink two (2) pilings to mark the surveyed boundary of Plaintiff's dock unit and further to find that Plaintiff is collaterally estopped and equitably estopped from the award of any damages against the McMillan Defendants that are not awarded against the other Defendants named in the Second Cause of Action of the Amended Complaint.

Respectfully Submitted,

KERRY W. KOON
147 Wappoo Creek Drive, Ste 203
Charleston, SC 29412
(843) 795-7000
ATTORNEY FOR DEFENDANTS McMILLAN

At Charleston, South Carolina
This 19th day of July, 2011.

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**FOR THE NINTH JUDICIAL CIRCUIT**
COUNTY OF CHARLESTON	)	**CASE #: 2009-CP-10-3441 and CASE #: 2008-CP-10-2641**
ZAN, LLC,	)	
	)	
Plaintiff,	)	
	)	
	)	
RIPLEY COVE, LLC, W.H. KNIGHT, KARL A. McMILLAN Individually and as the principal of Karl A. McMillan, Inc., SLIPS AT RIPLEY PROPERTY OWNERS ASSOCIATION, INC, AND RIPLEY LIGHT MARINA POA, INC., SENTRY MANAGEMENT, INC., individually and as Agent of the above named Property Owners Associations, ST. MATTHEWS TITLE & ABSTRACT AGENCY, INC., CHICAGO TITLE INSURANCE COMPANY and CHARLES A. FUNK & LILLIAN M. FUNK,	)	**AFFIDAVIT OF KARL A. McMILLAN**
	)	
Defendants,	)	
	)	

2011 NOV 21 PM 12:22
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Personally appeared before me KARL A. McMILLAN, who, first being duly sworn deposes and says as follows.

At the time I was served with the Amended Complaint in Case number: 2008-CP-10-2641 and at the time I was served with the Complaint in Case number: 2009-CP-10-3441, I was involved in a bitter and expensive Family Court action. I reviewed the allegations of the Complaint against me and saw that they related only to the alleged failures to sink two (2) pilings on the boundary of the dock unit purchased by the Plaintiff and the adjoining unit. Because the pilings had been promised I did not defend this action. Only later did I learn that the Plaintiff had expanded its allegations to include the alleged failure to adjust the property line to give the

Plaintiff a larger unit. This is untrue and had such been alleged in the Complaint I would have vigorously defended this action.

Further, if the Court does not grant my motion to be relieved of default, I respectfully request that the Court limit any inquiry of damages to only those directly and proximately flowing from the failure to sink two (2) pilings and not on the expanded allegations of failure to adjust the boundary of the dock unit, which was never alleged in the Amended Complaints served upon me.

Further, I request the Court not consider any damages against me or my company that are not awarded against other Defendants under the same causes of action in which I am accused.

KARL A. McMILLAN

SWORN to and subscribed before me
this 19 day of August, 2011.

Notary Public for South Carolina
My Commission Expires: 6/10/2021

MARY O. GUYNN
NOTARY
PUBLIC
SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas for the Ninth Circuit

J.C. Nicholson, Jr., Active/Retired Circuit Court Judge

CONSOLIDATED Under Case No.: 2008-CP-10-2641
And Case No: 2009-CP-10-3441

Appellate Case No.: 2012209606

Zan, LLC.....Appellant,

v.

Ripley Cove LLC, W. H. Knight, Karl A. McMillan, individually and as the principal of Karl A. McMillan, Inc., W.M. Belote, East Coast Trading Co., St. Andrews Title & Abstract Agency, Inc., Chicago Title Ins. Co., and Charles A. Funk & Lillian M. Funk,.....Defendants,

Of whom Ripley Cove, LLC, W.H. Knight, Karl A. McMillan, individually and as the principal of Karl A. McMillan, Inc., W.M. Belote, and East Coast Trading Co., are the.....Respondents.

Zan, LLC.....Plaintiff,

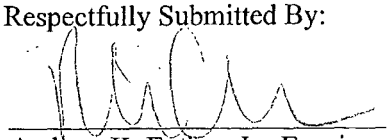
v.

East Coast Trading Co.....Defendant.

CERTIFICATE OF COUNSEL

The undersigned certifies the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully Submitted By:



Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
ANDREW K. EPTING, JR., LLC
46a State Street, Charleston, SC 29401
P: (843) 377-1871; F: (843) 377-1310

On this 1 Day of February 2013
Charleston, SC

ATTORNEYS FOR APPELLANT

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas for the Ninth Circuit

J.C. Nicholson, Jr., Active/Retired Circuit Court Judge

CONSOLIDATED Under Case No.: 2008-CP-10-2641
And Case No: 2009-CP-10-3441

Appellate Case No.: 2012209606

ZAN, LLC.....Appellant

v.

Ripley Cove LLC, W. H. Knight, Karl A. McMillan, individually and as the principal of Karl A. McMillan, Inc., W.M. Belote, East Coast Trading Co., St. Andrews Title & Abstract Agency, Inc., Chicago Title Ins. Co., and Charles A. Funk & Lillian M. Funk,.....Defendants,

Of whom Ripley Cove, LLC, W.H. Knight, Karl A. McMillan, individually and as the principal of Karl A. McMillan, Inc., W.M. Belote, and East Coast Trading Co. are the.....Respondents.

Zan, LLC.....Plaintiff,

v.

East Coast Trading Co.....Defendant.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on each Respondent who has filed a brief by hand delivery addressed to their attorney of record as follows:

STAN BARNETT
1037 Chuck Dawley Blvd
Mt Pleasant, SC 29464

February 1, 2013

FEB 0 8 2013
SC Court of Appeals

ANDREW K. EPTING, JR., LLC

By _____
Andrew K. Epting, Jr.
Michelle N. Endemann
46A State Street, Charleston, SC 29401
843-377-1871; Fax: 843-377-1310

Attorneys For Appellant ZAN, LLC