

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

MAY 14 2 18 PM '82

STATE OF NORTH CAROLINA
 COUNTY OF NEW HANOVER

DECLARATION OF EASEMENTS, COVENANTS,
 CONDITIONS, AND RESTRICTIONS FOR
 WAYNICK HARBOUR BOATOWNERS ASSN., INC.

THIS DECLARATION, made this 23rd day of October, 1981, by WALTER G. KING, hereinafter referred to as "DECLARANT", and MARYLYNN C. KING, wife of WALTER G. KING, who joins in this Declaration solely to convey any marital rights she may have in the property which is the subject of this Declaration;

WITNESSETH:

THAT WHEREAS, DECLARANT is the owner of certain sound front property in the Town of Wrightsville Beach, New Hanover County, North Carolina, upon which DECLARANT has granted, or has agreed to grant, to TERRY TURNER, INC., as Developer for the Association herein referred to, or to the Association directly, the right and easement to construct and maintain a private pier and boat docking facility to be known as "WAYNICK HARBOUR BOAT DOCKING FACILITY", along the water front area of Banks Channel at Wrightsville Beach, a plat of which is hereto attached as Exhibit "A" and incorporated by reference.

NOW, THEREFORE, DECLARANT hereby declares that all of the properties comprising the boat docking facility to be known as WAYNICK HARBOUR BOAT DOCKING FACILITY and shown on the plat thereof hereto attached as Exhibit "A" shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said boat docking facility, and all of which easements, covenants, restrictions and conditions shall run with the land and be binding upon all parties having or acquiring any right, title or interest in the described premises or any part thereof, and shall inure to the benefit of each member of the Association.

ARTICLE I

DEFINITIONS

Section 1. ASSOCIATION shall mean and refer to WAYNICK HARBOUR BOATOWNERS ASSN., INC., a North Carolina non-profit corporation, its successors and assigns.

Section 2. PROPERTIES shall mean and refer to that certain real property with all improvements, reparian rights and amenities associated therewith to be known as "WAYNICK HARBOUR BOAT DOCKING FACILITY" as shown and described on Exhibit "A" hereto attached, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. COMMON AREA shall mean all real and personal property subject to the easements herein granted by the DECLARANT to the Association for the common use and enjoyment of the members of the Association.

LAW OFFICES
 BURNEY, BURNEY, BAREFOOT & BAIN
 110 NORTH FIFTH AVENUE - POST OFFICE BOX 89
 WILMINGTON, N. C. 28402

Draftsman: DAVID C. BAREFOOT

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Section 4. BOAT SLIP shall mean and refer to the space in and above the water adjacent to Banks Channel for the docking of a boat as shown diagrammatically on Exhibit "A" hereto attached. The term "Boat Slip" and "Docking Space" shall have the same meaning and may be used interchangeably.

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

Section 6. MEMBER shall mean and refer to every person or entity who has a membership in the Association.

Section 7. DECLARANT shall mean and refer to WALTER G. KING, who shall retain fee simple title to the real estate which is subject to this Declaration.

ARTICLE II

MEMBERSHIP

Section 1. CLASSES OF MEMBERS. There shall be two (2) classes of members and memberships in the Association:

A. Class A. There shall be three (3) Class A memberships which shall equal the number of townhouse lots in WAYNICK HARBOUR TOWNHOUSE CONDOMINIUM. The Class A memberships shall be appurtenant to and may not be separated from the ownership of the three (3) townhouse lots in WAYNICK HARBOUR TOWNHOUSE CONDOMINIUM. Every conveyance or transfer of a townhouse lot in WAYNICK HARBOUR TOWNHOUSE CONDOMINIUM, whether by deed, will or inheritance, shall be conclusively presumed to include the transfer and conveyance of the Class A membership in this Association which shall be appurtenant to the ownership of said townhouse lot, whether or not reference to the transfer of such membership is contained in the deed, will or other muniment of title transferring the townhouse lot. Membership shall not include persons or entities who hold an interest in such townhouse lot merely as security for the performance of an obligation.

B. Class B. There shall be only one (1) Class B member, who shall be the DECLARANT or his successor in title as the owner of fee simple title to the property which is subject to this Declaration.

Section 2. TRANSFER OF CLASS A MEMBERSHIPS. Class A memberships shall not be transferable except as an incident or appurtenance to the transfer of ownership of a townhouse lot or unit in WAYNICK HARBOUR TOWNHOUSE CONDOMINIUM. Every conveyance or transfer, whether by deed, will or inheritance of a townhouse unit in WAYNICK HARBOUR TOWNHOUSE CONDOMINIUM shall be conclusively presumed to include the transfer and conveyance of the Class A membership in this Association appurtenant to the same whether or not reference to the transfer of such membership is contained in the deed, will or other muniment of title transferring the property.

Section 3. TRANSFER OF CLASS B MEMBERSHIP. The Class B membership shall be transferrable only by deed, will or inheritance from the DECLARANT of the fee simple title to the property which is subject to this Declaration, to which said property, the Class B membership shall be appurtenant.

Section 4. ASSIGNMENT OF BOAT SLIPS. The Class B member shall be assigned boat slips 1, 5, 6 and 7. The Association shall assign one of the remaining boat slips to each of the Class A members. The boat slips so assigned may be exchanged among the members of the Association, except that no Class A member may transfer or sell his Class A membership except as an incident to the sale of his townhouse unit in WAYNICK HARBOUR TOWNHOUSE CONDOMINIUM.

Section 5. RIGHTS OF MEMBERS.

A. Each member of the Corporation shall have the exclusive rights, subject to the provisions hereof and subject to the By-Laws and Rules and Regulations promulgated by the Board of Directors to occupy, possess and lawfully use the boat slip assigned to such member.

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

- (1) To limit the number of guests of members;
- (2) In accordance with its Articles and By-Laws to borrow money for the purpose of improving the properties, common area and facilities;
- (3) To suspend all rights of any member for any period during which any dues or assessments against such member remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published Rules and Regulations; and to lease or otherwise lawfully use such rights during any such period of suspension.

Section 6. VOTING RIGHTS. There shall be a total of five (5) eligible votes for any matter to be voted upon by the Association: Each Class A member shall be entitled to one (1) vote and the Class B member shall be entitled to two (2) votes. Except as provided in Article VIII, Section 4, all matters shall be decided by a majority vote.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. Each owner of each Class A membership agrees to pay to the Association:

- A. Annual assessments or charges; and
- B. Special assessments for capital improvements;
- C. Such assessments to be fixed, established and collected from time to time as herein provided, and shall be a charge on the Class A membership and shall be a continuing lien upon the membership against which such assessment is made. Each assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such membership at the time when the assessments fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them, but the lien shall be a continuing lien against the membership so transferred.

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

Section 3. DETERMINATION OF ANNUAL ASSESSMENTS.

A. The Association shall determine from time to time the sum or sums necessary and adequate for the annual assessment for common expenses. At the annual meeting of the Association, such budget shall be submitted to the members for approval. As approved, the budget shall constitute the basis for all annual assessments for common expenses against the owners of Class A memberships, which assessments shall be due and payable periodically as determined by the Association. The Class B member shall not be liable for annual assessments. Common expenses shall include expenses for the operation, maintenance, repair or replacement of the common area and facilities including, but not limited to the pier, pilings and floating docks. The pier, all insurance premiums and expenses relating thereto, the cost of all utilities for water and electrical service to the pier facilities, all ad valorem taxes assessed against the properties, and any other expenses designated as common expenses from time to time by the Association.

B. The Association is specifically empowered on behalf of the Association to make and collect assessments and to maintain, repair and replace the common area and facilities, including the docks and boat slips. Assessments shall be payable periodically as determined by the Association.

Section 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.

In addition to the Annual Assessments authorized above, the Association may levy in any assessment year, a Special Assessment applicable to that year only, against Class A members only, except as provided in Section 5 below, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common area, including the necessary fixtures and personal property related thereto, or defraying in whole or in part the cost of any dredging.

Section 5. SPECIAL ASSESSMENTS FOR REPAIRS OF DAMAGE TO PIER AND FACILITIES. Except as provided in Section 7 below, all damages to the pier and facilities, regardless of origin, up to \$3,000.00 shall be paid in full by a special assessment levied against Class A members only. Damages to the pier and facilities in excess of \$3,000.00 shall be paid by the members as a special assessment in the following manner:

A. 75% of the excess shall be paid as a special assessment by the Class A members.

B. 25% of the excess shall be paid as a special assessment by the Class B member.

Section 6. SPECIAL ASSESSMENT FOR REPLACEMENT OF PIER AND FACILITIES. If the pier and facilities are completely destroyed or if the same must be replaced due to normal wear and tear, the decision for replacement and reconstruction shall be made by the Association with the entire cost thereof paid as a special assessment as set forth in Section 5 above.

Section 7. SPECIAL ASSESSMENTS FOR REPAIRS OF DAMAGE CAUSED BY FAULT. If a member, assignee or lessee or one of their guests, damages or destroys by his or her fault, any of the property in the common area including the pier, boat slips and facilities, the Association may levy a special assessment upon the owner of such Class A or Class B membership for the full cost of repair or replacement of such damage or destruction.

Section 8. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS, DUE DATES. The annual assessments provided for herein shall commence as to each membership on the first day of the month following its acquisition by a member; provided, however, that no assessments shall be made upon memberships for docking spaces until after the construction of the tie pilings for those docking spaces is completed. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Association shall fix the amount of the annual assessment against each Class A membership at least thirty (30) days in advance of each annual assessment. Written notice of the annual assessment shall be sent to every member. The due date shall be established by the Association. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments against a specified membership have been paid. A reasonable charge may be made by the Association for the issuance of the certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. NON-PAYMENT OF ASSESSMENTS. Any assessment or any portion thereof which is not paid when due shall be delinquent. If any annual or special assessment against any Class A member is not paid within thirty (30) days after the due date, the same shall become a lien against the membership and the townhouse unit in WAYNICK HARBOUR of the delinquent Class A member. If any special assessment levied against a Class B member under Sections 5 or 6 above is not paid when due shall be delinquent, and if not paid within thirty (30) days after the due date, the same shall become a lien against the fee simple title to the sound front property and the membership of the Class B member which is subject to this Declaration. The liens for assessments herein provided for shall become effective against such real property of the delinquent member when filed in the office of the Clerk of Superior Court of New Hanover County in the manner provided by Article VIII of Chapter 44 of the General Statutes of North Carolina, as the same may be, from time to time, amended. Upon such filing, such lien shall have the same priority and shall be enforceable by the Association in the same manner as liens under Section 22 of Chapter 47A of the General Statutes of North Carolina, as the same may be, from time to time, amended. In addition to such assessment, the delinquent member shall be liable for interest upon the full amount of the assessment at the rate of 15% per annum from the due date until paid and for costs and reasonable attorney fees required to collect such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his membership.

Section 10. SUBORDINATION TO MORTGAGES. The lien of all assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust or pledge of the membership. Sale or transfer of any membership shall not affect the assessment lien. However, the sale or transfer of any membership which is subject to any mortgage or pledge pursuant to a decree of foreclosure under such mortgage or pledge or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such member from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE IV

MAINTENANCE

The Association shall keep and maintain all boat slips, pilings, floating docks and other improvements to the pier and sound front property in a safe and good working condition and shall have the right of ingress and egress to maintain, repair or replace all or any portion of the pier, boat slip, pilings, floating docks, facilities and improvements to the property subject to this Declaration.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. IMPROVEMENTS AND ALTERATIONS, ETC. No building, fence, wall, sign, dock box or other structure shall be commenced, stored, erected or maintained upon the pier facilities, common area or other property subject to this Declaration, nor shall any addition to or change or alteration thereof be made until the plans and specifications showing the size, design, construction and location of said change shall have been approved by the Association.

Section 2. DOCK BOX AND SAIL BOAT BIN. Subject to the provisions of Section 1 above, any member shall have the right to construct a dock box and a sail boat bin on the sound front area at the sole cost and expense of the member constructing the same. The Association shall have the right, but not the obligation, to repair and maintain such dock box or sail boat bin, should the member or members constructing the same fail to do so, and any cost involved shall immediately be repaid to the Association by such member or members. If not paid in full when due, such costs shall be treated as a special assessment as provided in Section 7 of Article III above, and shall be collected accordingly.

ARTICLE VI

USE RESTRICTIONS

Section 1. RULES AND REGULATIONS. The Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the properties including boat slips.

Section 2. USE OF PROPERTIES, ETC. No portion of the properties, common area or any boat slip may be leased, rented or used for any commercial purpose, without approval of the Association.

Section 3. QUIET ENJOYMENT. No obnoxious or offensive activity shall be carried on, in or upon the properties, the common area or any boat slip, nor shall anything be done which may be or may become a nuisance or annoyance to any member, assignee or lessee.

ARTICLE VII

EASEMENTS

Section 1. ACCESS EASEMENTS. The DECLARANT hereby grants to the Association a perpetual easement over the premises described on Exhibit "A" hereto attached for access to the waters of Banks Channel together with the right and easement to construct and maintain the pier and facilities shown on the attached Exhibit "A" which shall be constructed at the sole expense of the Class A members.

Section 2. UTILITY EASEMENTS. The DECLARANT shall grant and establish such utility easements and rights of way to public utilities as may be necessary to provide water and electrical service to the pier and facilities.

ARTICLE VIII

GENERAL PROVISIONS AND ENFORCEMENT

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

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

Section 3. DURATION. The covenants, conditions and restrictions of this Declaration shall run with and bind the properties, common area and boat slips, and shall inure to the benefit or be enforceable by the Association, or any member, their respective legal representatives, heirs, successors and assigns, subject to this Declaration, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time such covenants shall be automatically extended for successive periods of ten (10) years each, unless terminated by unanimous vote of the Association.

Section 4. AMENDMENT. This Declaration may be amended by a four-fifths (4/5) majority vote of the members of the Association, cast in person or by proxy at a meeting duly held in accordance with the by-laws. All amendments shall be certified by the Secretary of the Association and shall be effective from the date of recording of the amendment as certified, in the office of the Register of Deeds of New Hanover County. It shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any membership in the Association; provided, however, that in no event may this Declaration be amended so as to deprive the DECLARANT of any rights herein granted or reserved unto DECLARANT without the express written consent of the DECLARANT.

ARTICLE IX

INSURANCE

Section 1. The Association, as a common expense, shall, at all times, maintain public liability insurance on the property in the minimum amount of \$500,000.00 per person and \$1,500,000.00 for all persons per accident (with inflationary escalation of protection in terms of the 1979 dollar, the re-evaluation of the coverage needed to be made every three years interpolated one and one-half years in advance), naming DECLARANT or his assigns and the Association as insured, as their interests may appear, and shall maintain such other insurance upon such terms and for such amounts as may be reasonably necessary from time to time to protect the property, common area and boat slips, which insurance shall be payable in case of loss to the Association for the benefit of all members. The Association shall have the sole authority to deal with the insurer in the settlement of all claims under this Section. Duplicate policies and premium notices shall be mailed to all insureds.

Section 2. All insurance maintained by the Association under Section 1 above shall be obtained without prejudice to the right of each member to insure his personal property for his own benefit of his own expense. In no event shall the insurance coverage obtained by the Association be brought into contribution with the insurance purchased by individual members or their mortgagees.

ARTICLE X

RIGHT OF FIRST REFUSAL

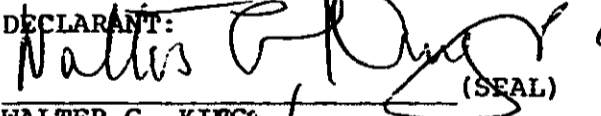
The DECLARANT hereby grants to the Class A Members of the Association, the right of first refusal to meet any offer for purchase of the Class B Membership should the DECLARANT, his heirs, successors or assigns offer to sell or convey the Class B Membership and fee simple to the Properties to any person or entity other than to a trust created by DECLARANT or to a member of DECLARANT's family whether related by blood or marriage to any degree.

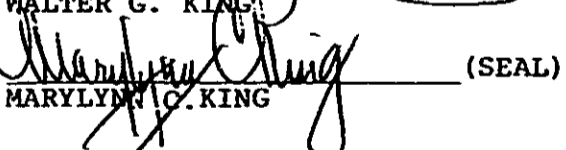
ARTICLE XI

NOTICE OF SALE

Written notice shall be given to all members of the listing and the terms for the sale of any Class A Membership and townhouse unit before the same may be offered for sale to the public.

IN WITNESS WHEREOF, the DECLARANT, WALTER G. KING, and his wife, MARYLYNN C. KING, have this day executed this instrument and hereunto affixed their seals, all the day and year first above written.

DECLARANT:


WALTER G. KING (SEAL)


MARYLYNN C. KING (SEAL)

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I, a notary public of the county and state aforesaid, certify that WALTER G. KING, DECLARANT, and his wife, MARYLYNN C. KING, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

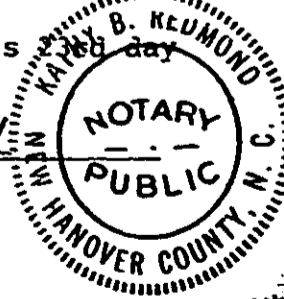
WITNESS my hand and official stamp or seal, this 24th day of October, 1981.

My Commission Expires:

3-17-85



Notary Public



STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

JOINDER AND ASSIGNMENT

TERRY TURNER, INC. joins in the execution of this DECLARATION for the purpose of assigning to the Association and it does hereby assign, transfer and convey to WAYNICK all HARBOUR BOATOWNERS ASSOCIATION, INC./rights granted to it by that Deed of Easement recorded in Book 1193 at Page 1741 of the New Hanover County Registry.

TERRY TURNER, INC.

BY: *Terry Turner*
President

ATTEST:

Margaret H. Turner
Secretary



STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I, *Kathy B. Redmond*, a Notary Public of New Hanover County, North Carolina, certify that *Margaret H. Turner* personally came before me this day and acknowledged that she is the Secretary of TERRY TURNER, INC., a corporation and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by herself as its Secretary.

WITNESS my hand and notarial seal, this 23rd day of October, 1981.



Kathy B. Redmond
NOTARY PUBLIC

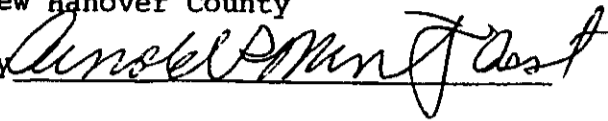
My Commission Expires: 3-17-85

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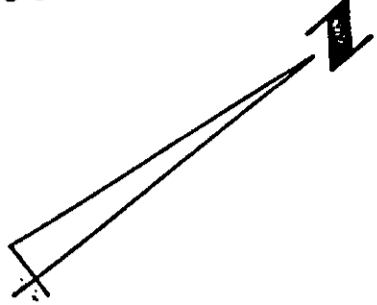
The foregoing certificates of KATHY B. REDMOND, a notary public, are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

REBECCA P. TUCKER,
Register of Deeds for
New Hanover County

By



BANKS CHANNEL



STATE OF NORTH CAROLINA
NEW HANOVER COUNTY
THE RECORDING CERTIFICATE OF POWER IN SAID NOTARY PUBLIC OF
NEW HANOVER COUNTY IS REFERRED TO BE CONSISTENT WITH THE
DAY OF _____ 19__

REBECCA P. TURNER, REGISTER OF DEEDS

NORTH CAROLINA
NEW HANOVER COUNTY
I, CLARENCE WILLIAMS, A NOTARY PUBLIC FOR SAID COUNTY AND STATE
DO HEREBY CERTIFY THAT THE SAID CERTIFICATE OF POWER IS
THE ONLY AND SOLE COPY ON RECORD IN THIS OFFICE AND THAT THE
RECORDING BY ME (OR MY DEPUTY) OF SAID CERTIFICATE OF POWER
AND THE SAID CERTIFICATE OF POWER IS THE ONLY AND SOLE
COPY ON RECORD IN THIS OFFICE AND THAT THE SAID CERTIFICATE
OF POWER IS THE ONLY AND SOLE COPY ON RECORD IN THIS OFFICE
AND THAT THE SAID CERTIFICATE OF POWER IS THE ONLY AND SOLE
COPY ON RECORD IN THIS OFFICE.

CLARENCE WILLIAMS
NOTARY PUBLIC
NEW HANOVER COUNTY
NORTH CAROLINA

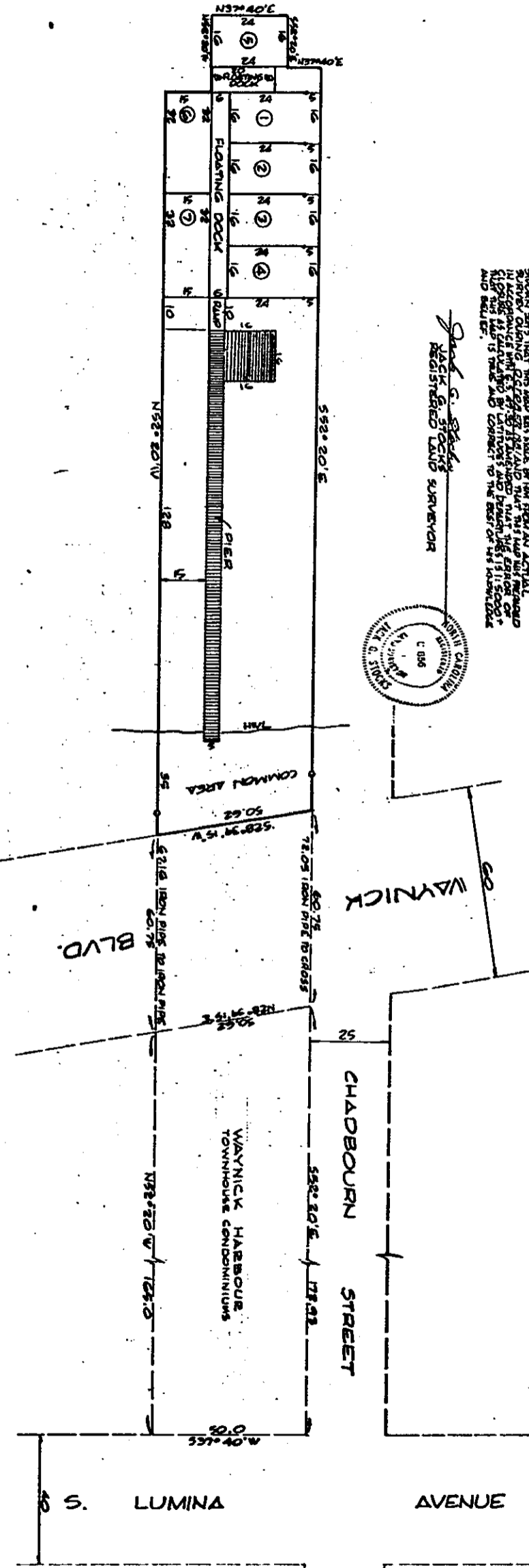


JACK G. STOCKS
REGISTERED LAND SURVEYOR
NORTH CAROLINA
C 006
A 51, 46, 825



NORTH CAROLINA
NEW HANOVER COUNTY
FILED FOR REGISTRATION ON _____ DAY OF
_____ 19__ AT _____

REBECCA P. TURNER, REGISTER OF DEEDS



JACK G. STOCKS
REGISTERED LAND SURVEYOR
N.C. REGISTRATION NO. 1852
WILMINGTON, N.C.

WAYNICK HARBOUR
BOAT DOCKING FACILITY
FOR
WAYNICK HARBOUR BOAT OWNERS ASSN. INC.

WRIGHTSVILLE BEACH
NEW HANOVER COUNTY
SCALE IN FEET
0 20 40 60 80 100
OCTOBER 1981
DEVELOPED BY TECHNICAL SURVEYING FOR WAYNICK HARBOUR BOAT DOCKING FACILITY
ISSUED UNDER PERMITAL REGISTRATION FROM DEPUTY REGISTER OF DEEDS, CLARENCE WILLIAMS

