

Return to:

Hope W. Calhoun, Esq.
Dunay, Miskel, and Backman, LLP
14 SE 4th Street
Suite 36
Boca Raton, Florida 33432

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SECOND AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS

(LAND USE PLAN AMENDMENT PC 6-30)

This Second Amended Declaration of Restrictive Covenants ("Second Amended Declaration") is executed as of this 1st day of October, 2015, by **SPL HOLDINGS, LLC**, a Colorado limited liability company, whose address is 848 Brickell Ave PH1, Miami, FL 33131 ("SPL"), and **SPL SOUTH HOLDINGS, LLC**, a Delaware limited liability company, whose address is 848 Brickell Ave PH1, Miami, FL 33131 ("SPL South") (collectively referred to herein as "Owner"), and shall be for the benefit of **BROWARD COUNTY**, a political subdivision of the State of Florida, with a post office address of 115 South Andrews Avenue, Fort Lauderdale, FL 33301 ("County"), and **THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**, with a post office address of 600 Southeast Third Avenue, Fort Lauderdale, FL 33301 ("School Board").

WHEREAS, Owner is the fee title owner of approximately 59.41 acres of land located in the City of Tamarac, Broward County, Florida, as more particularly described in Exhibit "A" attached hereto ("Property"); and

WHEREAS, SPL owns the portion of the Property located north of Commercial Boulevard and SPL South owns the portion of the Property located south of Commercial Boulevard, which are respectively identified as Sabal Palm North and Sabal Palm South on the site plan attached hereto as Exhibit "B"; and

WHEREAS, County previously approved Land Use Plan Amendment Application PC 06-30 for the Property, which changed the Property's land use designation from Commercial Recreation to Low Medium (10) Residential; and

WHEREAS, Owner's predecessor-in-interest to the Property voluntarily entered into a Declaration of Restrictive Covenants executed on August 2, 2007 and recorded on August 10, 2007 in Official Records Book 44460, Pages 1682 through 1698, of the Public Records of

Broward County, Florida ("Declaration") restricting development to 208 single family units (103 three-bedroom units and 105 four-bedroom units) and 288 townhouse units (214 two-bedroom units and 74 three-bedroom units), which at the time was anticipated to generate 64 elementary, 26 middle, and 24 high school students, for a total of 114 students; and

WHEREAS, Owner subsequently voluntarily entered into an Amended Declaration of Restrictive Covenants ("Amended Declaration") executed on May 24, 2013 and recorded on June 17, 2013 in Official Records Book 49898 Pages 625-634 which reduced the density and intensity (residential type) of development on the Property to a total of 434 single family units with no restriction on bedroom mix, at the time anticipated to generate 104 elementary, 54 middle, and 61 high school students, for total of 219 students; and

WHEREAS, consistent with the Amended Declaration, the Owner was required to pay educational impact fee for 258 single family residential units in addition to the Mitigation Payment for 176 vested single family residential units; and

WHEREAS, the Owner has satisfied the Mitigation Payment for 176 vested single family residential units in April 2014 by paying directly to the School Board the mitigation amount due; and

WHEREAS, Owner currently wants to increase the density of development to a total 496 (or an additional 62) single family units with no restriction of bedroom mix, which are anticipated to generate a total of 231 (115 elementary, 55 middle, and 61 high school) students, thus generating 12 (11 elementary and 1 middle school) additional students into Broward County Public Schools consistent with currently effective student generation rates contained in the Broward County Land Development Code (BCLDC), attached hereto as Exhibit "C"; and

WHEREAS, Broward County and the City of Tamarac, in conjunction with the School Board, have adopted public school concurrency since approval of the Declaration requiring all new residential development proposals to comply with development review criteria for school concurrency in Broward County, and in particular the change in density and residential type will necessitate public school concurrency review either at the plat or site plan (or functional equivalent) state of review; and

WHEREAS, the 62 additional single family residential units attributed to the increase in density will require Owner to pay education impact fees for the remaining 320 single family residential units, out of the proposed total of 496 single family residential units if Public School Concurrency (PSC) review determined capacity is available at impacted schools at the time of PSC review; and

WHEREAS, If PSC determines that capacity is not available at the impacted schools for the additional 320 residential units, then consistent with the provisions of the Second Amended Interlocal Agreement (SILA) and School Board Policy 1161, Owner will be required to mitigate the additional student impact; and

WHEREAS, Owner now wishes to revise the Amended Declaration to modify the

School Board approved school mitigation plan as provided in the Amended Declaration to reflect the current proposed density change and its anticipated student impact on Broward County Public Schools; and

WHEREAS, the School Board has agreed with the revised student mitigation plan outlined herein, and has requested the execution and recordation of this Second Amendment to Declaration to accomplish the parties' desire and intent.

NOW, THEREFORE, in consideration of the promises and covenants herein contained, Owner hereby declares that the Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, and regulations hereinafter set forth.

1. The above recitals are true and correct and are incorporated into this Third Amendment to Declaration by this reference.

2. Other than as amended herein, Owner hereby confirms, ratifies and reaffirms the covenants, restrictions and obligations contained in the Declaration and the Amended Declaration.

3. Prior to environmental review approval of construction plans as set forth within Chapter 27, Broward County Code of Ordinances, by the Development Management Division for the 177th building permit for construction or erection on the Property, Owner shall be subject to and pay the then applicable education impact fee(s) as contained in the Broward County Land Development Code (BCLDC) if School Capacity Availability Determination (SCAD) at Public School Concurrency (PSC) review determines that capacity is available at impacted schools.

4. If PSC determines that capacity is not available at the impacted schools for the additional 320 residential units, then consistent with the provisions of the Second Amended Interlocal Agreement (SILA) and School Board Policy 1161, Owner will be required to further mitigate the additional student impacts.

5. In the event that the total number of residential units changes from what is represented in the Application and there is an increase in the number of residential units or unit type(s), Owner shall submit an application to the Facility Planning and Real Estate Department for Public School Concurrency review and determination. In the event that changes in the overall mix of residential units results in a net reduction in the amount of units, no refund of any portion of the school impact and/or mitigation fees shall be due and owing to Owner by the County or the School Board.

6. Except as modified herein, all other terms and conditions of the Declaration and the Amended Declaration shall remain in full force and effect.

7. The County and the School Board are the beneficiaries of this Second

Amendment and as such, both or either may enforce this Second Amendment by action at law or in equity against any person or persons, entity or entities, violating or attempting to violate the terms of this Second Amended Declaration. Any failure of either the County or the School Board to enforce this Amended Declaration shall not be deemed a waiver of the right to do so thereafter.

8. This Second Amendment shall be recorded in the Public Records of Broward County, Florida, by Owner and the provisions hereof shall constitute a covenant running with the land and shall remain in full force and effect and binding upon the undersigned, its heirs, legal representatives, estate successors, grantees and assigns until released as provided for herein.

9. This Second Amendment constitutes the entire agreement, with regard to the subject matter contained herein, and may only be amended, modified or released with the consent of the parties. In the event of a conflict between the terms, covenants, restrictions or conditions of the Declaration and the Amended Declaration, the terms of this Second Amended Declaration shall control and prevail.

10. The undersigned hereto expressly covenants and represents that he/she has the authority to enter into this Second Amendment to Declaration and so bind all general partners and affiliated partnerships.

IN WITNESS WHEREOF, the undersigned has caused this Second Amendment to be executed this 15th day of October, 2015.

Signed, sealed and delivered In the presence of:

SPL HOLDINGS, LLC, a Colorado limited liability company,

by **FLORIDA REAL ESTATE VALUE FUND MANAGER, LLC**, a Florida limited liability company, sole General Partner of **FLORIDA REAL ESTATE VALUE FUND, LP**, a Delaware limited partnership, as Managing Member

By: 
Arnaud Karsenti, Managing Member

WITNESSES:

By: [Signature]
Print Name: Vanessa Chimeshya

By: [Signature]
Print Name: Tim Sanders

STATE OF FLORIDA

COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 1st day of October, 2015, by **Arnaud Karsenti**, Managing Member of FLORIDA REAL ESTATE VALUE FUND MANAGER, LLC, a Florida limited liability company, General Partner of FLORIDA REAL ESTATE VALUE FUND, LP, a Delaware limited partnership, Managing Member of **SPL HOLDINGS, LLC**, a Colorado limited liability company, on behalf of said entities. He is personally known to me or has produced _____ as identification.

Seal



Johanna E. Stumbaugh
Notary Public, State of
Florida My commission expires: 9.4.19

WITNESS

SPL SOUTH HOLDINGS, LLC, a Delaware Limited liability company, by **FLORIDA REAL ESTATE VALUE FUND MANAGER, LLC**, a Florida limited liability company, sole General Partner of **FLORIDA REAL ESTATE VALUE FUND, LP**, a Delaware limited partnership, as Managing Member

By: [Signature]
Print Name: Vanessa Chimeshya

By: [Signature]
Print Name: Tim Sanders

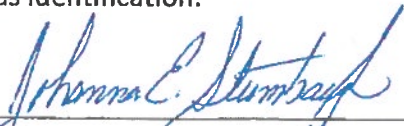
By: [Signature]
Arnaud Karsenti, Managing Member

STATE OF FLORIDA

COUNTY OF Miami-Dade

The instrument was acknowledged before me this 15th day of October, 2015 by **Arnaud Karsenti**, Managing Member of FLORIDA REAL ESTATE VALUE FUND MANAGER, LLC, a Florida limited liability company, General Partner of FLORIDA REAL ESTATE VALUE FUND, LP, a Delaware limited partnership, Managing Member of **SPL SOUTH HOLDINGS, LLC**, a Delaware limited liability company, on behalf of said entities. He is personally known to me or has produced as identification.

Seal



Notary Public, State of Florida
My Commission Expires: 9.4.19



EXHIBIT LIST

Exhibit A - Property Legal Description

Exhibit B -- Site Plan of Sabal Palm North and Sabal Palm South

Exhibit C -- Current Student Generation Rates

Exhibit "A"

[Property Legal Description]

Lots 1 through 26, inclusive, Block 4;

Lots 1 through 6, inclusive, Block 5;

Lots 1 through 15, inclusive, Block 6;

Lots 1 through 20, inclusive, Block 7;

Lots 1 through 11, inclusive, Block 8;

Lots 1 through 31 inclusive, Block 9;

Lots 1 through 14, inclusive, Block 10;

Lots 1 through 6, inclusive, Block 11;

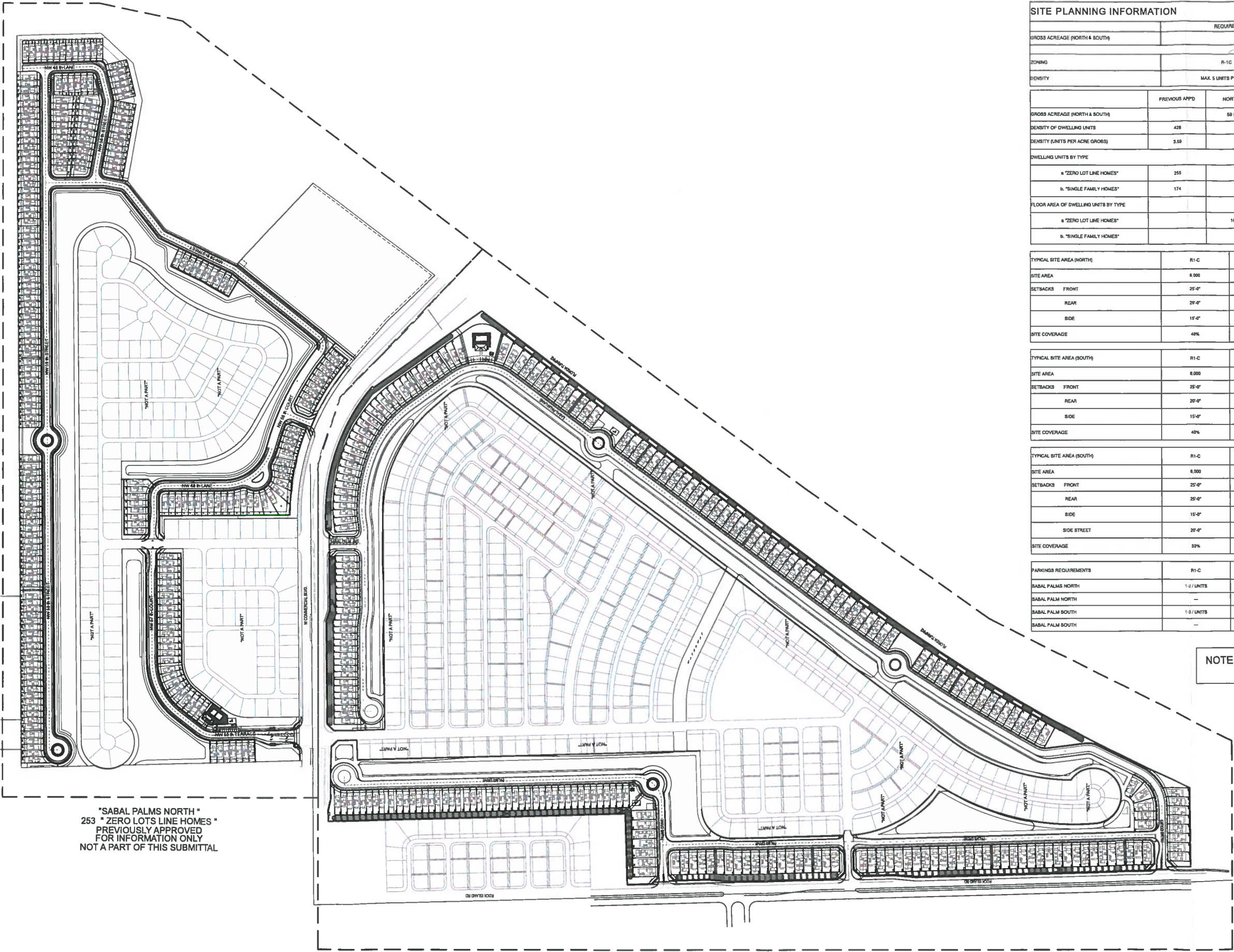
Lots 1 through 4, inclusive, Block 12;

Lots 1 through 26, inclusive, Block 13;

Lots 1 through 15, inclusive, Block 15;

Tract A; Tract B; Tract B-1; Tract B-2; Tract B-3; Tract B-4; Tract B-5; Tract B-11; Tract B-12; Tract B-14; Tract C-1; Tract C-2; Tract R-1; Tract R-2; and Tract R-3, of SABAL PALM BY PRESTIGE, according to the Plat thereof, as recorded in Plat Book 178, Page 71 through 87, inclusive, of the Public Records of Broward County, Florida.

Exhibit B



"SABAL PALMS NORTH"
253 "ZERO LOTS LINE HOMES"
PREVIOUSLY APPROVED
FOR INFORMATION ONLY
NOT A PART OF THIS SUBMITTAL

NOTE: HOMES ON LOTS ARE SHOWN FOR
GRAPHICAL PURPOSES ONLY

PROPOSED ARCHITECTURAL SITE PLAN
SCALE: 1:200'

"SABAL PALMS SOUTH"
111 "ZERO LOTS LINE HOMES"
132 "40' SINGLE FAMILY HOMES"
243 TOTAL SINGLE FAMILY HOMES

SITE PLANNING INFORMATION			
GROSS ACREAGE (NORTH & SOUTH)	REQUIRED	PROVIDED	
		119.952 ACRES	
ZONING	R-1C	R-1C	
DENSITY	MAX. 5 UNITS PER ACRE	4.086 UNITS PER ACRE	
	PREVIOUS APPD	NORTH PHASE I	SOUTH PHASE II
GROSS ACREAGE (NORTH & SOUTH)		59.59 ACRES	59.46 ACRES
DENSITY OF DWELLING UNITS	428	253	243
DENSITY (UNITS PER ACRE GROSS)	9.58	4.24	4.08
DWELLING UNITS BY TYPE			
a. "ZERO LOT LINE HOMES"	255	253	111
b. "SINGLE FAMILY HOMES"	174		132
FLOOR AREA OF DWELLING UNITS BY TYPE			
a. "ZERO LOT LINE HOMES"		1982-2219	1982-2319
b. "SINGLE FAMILY HOMES"			2140-2902
TYPICAL SITE AREA (NORTH)	R1-C	PROVIDED	NOTES
SITE AREA	8,000	2,800	ZERO LOT LINE CONFIGURATION
SETBACKS FRONT	25'-0"	25'-0" - 35'-0"	
REAR	20'-0"	15'-0"	TO OPTIONAL COVERED TERRACE
SIDE	15'-0"	5'-0" / ZERO	
SITE COVERAGE	40%	37.1% - 46.4%	
TYPICAL SITE AREA (SOUTH)	R1-C	PROVIDED	NOTES
SITE AREA	8,000	3,180	ZERO LOT LINE CONFIGURATION
SETBACKS FRONT	25'-0"	25'-0" - 25'-0"	
REAR	20'-0"	25'-4"	TO OPTIONAL COVERED TERRACE
SIDE	15'-0"	5'-0" / ZERO	
SITE COVERAGE	40%	32.8% - 40.7%	
TYPICAL SITE AREA (SOUTH)	R1-C	PROVIDED	NOTES
SITE AREA	8,000	4,000	SINGLE FAMILY HOME CONFIGURATION
SETBACKS FRONT	25'-0"	20'-0" - 25'-0"	
REAR	25'-0"	15'-0"	TO OPTIONAL COVERED TERRACE
SIDE	15'-0"	5'-0"	
SIDE STREET	20'-0"	16'-0"	
SITE COVERAGE	33%	36.3% - 51.7%	
PARKINGS REQUIREMENTS	R1-C	PROVIDED	NOTES
SABAL PALMS NORTH	1-2 / UNITS	3-4 / UNITS	8'-0" X 18'-0" MINIMUM SPACE 1-2 GARAGE SPACES / 2- DRIVEWAY SPACES
SABAL PALM NORTH	—	21	QUEST / HANDICAPPED
SABAL PALM SOUTH	1-3 / UNITS	3-4 / UNITS	8'-0" X 18'-0" MINIMUM SPACE 1-2 GARAGE SPACES / 2- DRIVEWAY SPACES
SABAL PALM SOUTH	—	13	QUEST / HANDICAPPED

PASCUAL
PEREZ
KILIDDJIAN

& ASSOCIATES
ARCHITECTS - PLANNERS
LICENSE # AA 26001357

EDGARDO PEREZ, AIA
LICENSE No.: AR 0015394
MARIO P. PASCUAL, AIA
LICENSE No.: AR 0008254
PETER KILIDDJIAN, F.A.
LICENSE No.: AR 0093067

AT THE BEACON CENTER
1300 NW 84th AVENUE
DORAL, FLORIDA 33126
TELEPHONE: (305) 592-1363
FACSIMILE: (305) 592-6865
http://www.ppkarch.com

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REVISIONS:
2015-03-04 DRC

OWNER:
SPL HOLDINGS LLC
& SPL SOUTH HOLDINGS LLC
4949 SW 75TH AVE
MIAMI, FL 33155
PHONE: 305-663-0460
CONTACT: DAVID DEKA
EMAIL: DDEKA@DRC.COM

CENTRAL PARC SOUTH
SITE PLAN
TAMARAC, FLORIDA

SEAL:
Edgardo Perez
o Perez

SN 4C 12 20 2A

SITE PLAN
DATE: 2014-12-22
SCALE: AS SHOWN
DRAWN: ID
CHECK BY: AS
JOB NO.: 12-10

SP-0.1

SHEET NO.:



Generation Rate Detailed Information

Single Family	<u>Bedrooms</u>	<u>Elem</u>	<u>Middle</u>	<u>High</u>
	2 or less	0.000	0.000	0.000
	3	0.173	0.091	0.107
	4 or more	0.232	0.111	0.122
	Average			
Townhouse/ Duplex/Villa	<u>Bedrooms</u>	<u>Elem</u>	<u>Middle</u>	<u>High</u>
	1 or less	0.060	0.000	0.000
	2	0.109	0.049	0.056
	3 or more	0.177	0.076	0.110
	Average			
Garden Apartment	<u>Bedrooms</u>	<u>Elem</u>	<u>Middle</u>	<u>High</u>
	1 or less	0.013	0.003	0.004
	2	0.136	0.056	0.044
	3 or more	0.193	0.113	0.123
	Average			
Mid Rise Apartment	<u>Bedrooms</u>	<u>Elem</u>	<u>Middle</u>	<u>High</u>
	Studio	0.008	0.004	0.004
	1	0.008	0.004	0.004
	2	0.028	0.013	0.021
	Average			
High Rise Apartment	<u>Bedrooms</u>	<u>Elem</u>	<u>Middle</u>	<u>High</u>
	Studio	0.010	0.004	0.006
	1	0.010	0.004	0.006
	2 or more	0.010	0.004	0.006
	Average	0.010	0.004	0.006
Mobile Home	<u>Bedrooms</u>	<u>Elem</u>	<u>Middle</u>	<u>High</u>
	1 or less	0.084	0.083	0.000
	2	0.084	0.083	0.000
	3 or more	0.182	0.182	0.000
	Average			

0.00 - No Students were observed in the sample.

Ordinance #2014-36 became effective January 26, 2015.