

Prepared by, Record and Return to:

Richard G. Coker, Jr.
Coker & Feiner
1404 S. Andrews Avenue
Ft. Lauderdale, FL 33316

AMENDMENT
TO
DECLARATION OF RESTRICTIVE COVENANTS
(LAND USE AMENDMENT PC 06-29)

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This Amendment to Declaration of Restrictive Covenants ("Amended Declaration") is entered into as of this 11th day of August, 2014, by **LDC MONTEREY VENTURES, LLC**, a Florida limited liability company, ("Owner") whose address is 550 Biltmore Way, Suite 1110, Coral Gables, Florida 33134, its successors and assigns, for the benefit of THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA whose address is 600 Southeast Third Avenue, Fort Lauderdale, FL 33301 ("School Board") and BROWARD COUNTY, a political subdivision of the State of Florida, whose address is 115 South Andrews Avenue, Fort Lauderdale, Florida 33301 ("County").

WHEREAS, Owner is the current fee title owner of that certain parcel of land approximately 34.1 acres in size located in the City of Tamarac, Florida, and described in **Exhibit "A"**, attached hereto ("Property"); and

WHEREAS, Broward County previously approved Land Use Plan Amendment Application PC 06-29 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 1773 through 1784, of the Public Records of Broward County, Florida ("Declaration") restricting development to 48 single family units (24 three-bedroom units and 24 four-bedroom units) and 184 townhouse units (138 two-bedroom units and 46 three-bedroom units), which at the time was anticipated to generate 25 elementary, 9 middle, and 10 high school students, for a total of 44 students; and

WHEREAS, Owner now intends to reduce the density and change the residential type to develop the Property with a total of 225 units consisting of 61 single family (43 three-bedroom and 18 four-bedroom) and 164 townhouse (all three-bedroom) units; and

WHEREAS, at the time the Development was proposed and the Declaration was approved, the then student generation rate/school impact fee study was being updated and the developer agreed that the development would be re-calculated with the new effective student generation rate; and

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WHEREAS, if the new computations resulted in additional elementary and middle school students the Owner's predecessor-in-interest agreed to pay the total cost per student station amount due for those additional students; and

WHEREAS, upon such calculation, it was determined that the development would generate three (3) additional middle school students; and

WHEREAS, the School Board has further determined that the proposed density reduction and change in residential type calculated utilizing the updated student generation rates will now generate 69 (33 elementary, 15 middle and 21 high school) students, thus generating 25 (8 elementary, 6 middle and 11 high school) additional students into Broward County Public Schools consistent with the School Board Opinion Letter dated September 27, 2013, attached hereto as **Exhibit "B"**; 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, Owner now wishes to amend the Declaration to modify the School Board approved school mitigation plan under the Declaration to reflect the current proposed density reduction and change in residential type and its anticipated additional 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 Amended 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 Amended 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.

3. Pursuant to the Declaration, Owner's predecessor-in-interest agreed to mitigate for student impacts by paying Student Station Cost Factors for 11 elementary and 9 middle school students. Further, in accordance with the Declaration and with the adoption of the new student generation rates, the Declarant shall pay additional Student Station Cost Factor for three (3) additional middle school students. However, the July 2014 total Student Station Cost Factors (which may change time to time) based on the revised unit mix of 225 residential units consisting of 43 three-bedroom and 18 four-bedroom single family units and 164 townhouse (all three-bedroom) is \$1,058,505.00 (for 33 elementary, and 15 middle), and the total Education Impact Fee for the same unit mix is \$1,243,624.00. Broward County impact fee regulations and School Board Policy 1161, require school mitigation to be no less than the school impact fees which are due at the time of payment, therefore, the total Education Impact Fee is due as payment to mitigate the student impact anticipated from the revised unit mix. Payment due may change time

to time and the actual payment due shall be determined as the time of payment. However, the total amount due shall not be less than \$1,243,624.00.

4. 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 first building permit for construction or erection of the first residential unit on the Property, Owner shall make one lump sum payment to the School Board the total Education Impact Fee due for the revised unit mix stated in paragraph 3 above. The amount due shall be determined at the time of payment and shall not be less than \$1,243,624.00. Once the mitigation is satisfied the 225 residential units (43 three-bedroom and 18 four-bedroom single family units) and 164 townhouse (all three-bedroom) contained in the project shall be vested for Public School Concurrency requirement.

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. Consistent with the understanding that the student generation rate/school impact fee study has been updated and that the student impacts resulting from the development has been recalculated with the new effective student generation rate, as specified herein, Paragraph 2.2 of the Declaration is hereby deleted in its entirety.

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

8. The County and the School Board are the beneficiaries of this Amended Declaration and as such, both or either may enforce this Amended Declaration by action at law or in equity against any person or persons, entity or entities, violating or attempting to violate the terms of this 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.

9. This Amended Declaration shall be recorded in the Public Records of Broward County, Florida, 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.

10. This Amended Declaration 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 Amended Declaration shall control and prevail.

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

IN WITNESS WHEREOF, the undersigned has caused this Amended Declaration to be executed this 11 day of August 2014.

Signed, sealed and delivered
In the presence of:

WITNESS:

LDC MONTEREY VENTURES, LLC,
a Florida limited liability company

[Signature]
Print Name: CLARA L. DIAZ

By: [Signature]
Print Name: DAVID SERVANSKY

[Signature]
Print Name: ISABEL MOREIRA

Print Title: VP

Address: 550 B. Hammockway
Suite 110
coral Gables FL 33134

STATE OF FLORIDA :
COUNTY OF MIAMI-DADE :

The foregoing instrument was acknowledged before me this 11th day of August, 2014, by David Servansky as VP of **LDC MONTEREY VENTURES, LLC**, a Florida limited liability company. He/She is personally known to me or has produced _____ as identification.

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

My Commission Expires:

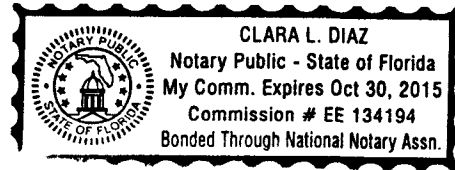


EXHIBIT LIST

Exhibit A -- Property Legal Description and Sketch

Exhibit B -- School Board Opinion Letter Dated September 27, 2013

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EXHIBIT "A"

All of the Plat of MONTEREY BY PRESTIGE, according to the Plat thereof, as recorded in Plat Book 178, Page 119, of the Public Records of Broward County, FL, LESS AND EXCEPT Tract "D" and Tract "E" thereof.

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EXHIBIT "B"

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REVISED



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

600 SOUTHEAST THIRD AVENUE, FORT LAUDERDALE, FLORIDA 33301 • TEL 754-321-2177 • FAX 754-321-2179

Chris O. Akagbosu, Director
Facility Planning and Real Estate Department
chris.akagbosu@browardschools.com

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September 27, 2013

Richard G. Coker, Jr. ESQ
Coker and Feiner
1404 South Andrews Avenue
Fort Lauderdale, FL 33316

Robert W. Runcie
Superintendent of Schools

Re: Amendment of Previously Approved Land Use Plan Amendment (LUPA) PC 06-29, Tamarac, SBBC-1332-2013

Dear Mr. Coker:

This correspondence is in response to your request dated May 16, 2013, regarding the issuance of an "Opinion Letter" by the School District on the above referenced LUPA application PC 06-29. Based on the review and utilizing the then adopted Student Generation Rates (Ordinance 97-40), the development consisting of 48 (24 three bedrooms and 24 four or more bedrooms) single family and 184 (138 two bedrooms and 46 three or more bedrooms) townhouse units were determined to generate 44 (25 elementary, 9 middle, and 10 high school) students into Broward County Public Schools.

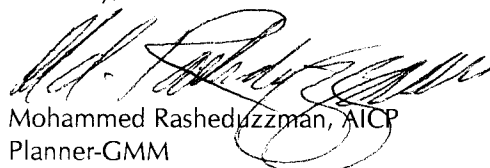
The applicant is now proposing to amend the residential unit mix in the LUPA PC 06-29 to 61 (43 three bedrooms and 18 four or more bedrooms) single family and 164 (all three or more bedrooms) townhouse units. Based on the currently effective Student Generation Rates contained in the Broward County Land Development Code, this proposed change will generate 69 (33 elementary, 15 middle, and 21 high school) students into Broward County Public Schools.

Therefore, the proposed changes will generate 25 (8 elementary, 6 middle, and 11 high school) additional students into Broward County Public Schools over the students anticipated in the currently approved residential unit mix stated in the currently effective Declaration of Restrictive Covenants (DRC) related to the project. Information regarding the school capacity for schools impacted by the LUPA can be obtained from the District Public School Concurrency Planning Document which is available at:

<http://www.broward.k12.fl.us/propertymgmt/new/growthmanagement/docs/PSCPD.pdf>

The District has no objection to the proposed amendment to the approved residential units mix. However, as you were advised, this amendment will also require an amendment to the existing DRC recorded in OR Book 44460, Pages 1,773 through 1,784. Please contact me via E-mail mohammed.rasheduzzaman@browardschools.com or at (754) 321-2173 if you have any additional questions or concerns regarding this request.

Sincerely,


Mohammed Rasheduzzaman, AICP
Planner-GMM

MR: mr

Cc: Chris Akagbosu, Director, Portfolio Management & Services Department
Jill Young, Director, Demographics & Student Assignments Department