

Return to: (enclose self-addressed stamped envelope)

Record and Return to:
Doug Marek, Esq.
Doug Marek, P.A.
101 Pineapple Grove Way
Delray Beach, Florida 33444
561 454-1610

CFN # 110557970
OR BK 48517 Pages 1930 - 1944
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BROWARD COUNTY COMMISSION
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This Instrument Prepared by:

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DECLARATION OF RESTRICTIVE COVENANTS

(Land Use Amendment PC 06-23
and
Land Use Amendment PC 07-2)

This Declaration of Restrictive Covenants ("Declaration") related to Broward County Public Schools student impacts is executed this 15th day of December 2011 by **PINEAPPLE GROVE PROPERTIES, LTD.**, a Florida limited partnership, its successors and assigns ("Pineapple Grove"), whose address is 101 Pineapple Grove Way, Delray Beach, Florida 33444 shall be for the benefit of **BROWARD COUNTY**, a political subdivision of the State of Florida, with a post office address at 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 3rd Avenue, Fort Lauderdale, FL 33301 ("School Board").

WHEREAS, Pineapple Grove is the fee simple owner of approximately 10.4 gross acres of land generally located on the southwest corner of SR7 and NW 31st Street in the City of Margate Florida, in Broward County, more particularly described in the attached Exhibit "A" ("Property"); and

WHEREAS, Pineapple Grove submitted Land Use Plan Amendment Application PC 06-23 ("PC 06-23") for the Property, to change the Property's designation from Commercial to irregular 12 permitting an additional 136 townhouse residential units which was anticipated to generate 37 additional students (19 elementary, 8 middle and 10 high school) students into Broward County Public Schools; and

WHEREAS, in connection with PC 06-23, Pineapple Grove voluntarily agreed to enter into this Declaration regarding the mitigation of student impacts for the 37 students which were the number of students anticipated to be generated by the future development of the additional 136 townhouse units proposed for the development of the Property consistent with the Public School Facility Impact Statement Report dated March 9th 2006, a copy of which is attached hereto as Exhibit "B", associated with the proposed development on the Property; and

WHEREAS, the Property is also part of a subsequent City of Margate's Land Use Plan Amendment PC 07-2 ("PC 07-2") which allows an additional 126 garden apartment units on the Property. The additional 126 residential units are not subject to a mitigation agreement and they are not vested from school concurrency review requirements; and

WHEREAS, since the approval of PC 06-23 and PC 07-2, Broward County and the City of Margate in conjunction with the School Board have adopted public school concurrency regulations which

require all new residential development proposals to comply with development review criteria for public school concurrency in Broward County, Florida; and

WHEREAS, Pineapple Grove now desires to build a total of 262 garden apartments (all 3 or more bedrooms); and

WHEREAS, the 262 garden apartment residential units are anticipated to generate a total of 63 (31 elementary, 14 middle, and 18 high school) students resulting in 26 (12 elementary, 6 middle, and 8 high school) additional students above the 37 (19 elementary, 8 middle and 10 high school) students that were subject to original mitigation agreement related to PC 06-23; and

WHEREAS, the additional 26 (12 elementary, 6 middle, and 8 high school) students will be subject to public school concurrency determination either at the plat or site plan stage of development review; and

WHEREAS, the School Board has agreed with the voluntary student mitigation plan outlined herein, and has requested the execution and recordation of this Declaration.

NOW, THEREFORE, the undersigned agree and covenant to the following:

1. The above recitals are true and correct and are incorporated herein.
2. 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 Pineapple Grove shall pay the cost for two modular classrooms to the School Board as mitigation for impact of the 37 (19 elementary, 8 middle, and 10 high school) students that were subject to the original agreed mitigation agreement related to PC 06-23. The total mitigation payment amount due shall be determined at the time of payment; however, the total mitigation payment shall be no less than \$500,000.00. Pineapple Grove shall obtain proof of the approved payment from the School Board and provide same to the Broward County Development Management Division. The School Board has issued a letter dated March 9, 2006, a copy of which are attached hereto as Exhibit "C", stating its concurrence with the payment of the fees referenced herein as mitigation for the students generated by PC 06-23. Said payment shall mitigate towards the cost of providing student stations for the 37 (19 elementary, 8 middle, and 10 high school) students anticipated from the Property and created as a result of the approval of PC 06-23. This voluntary commitment constitutes the totality of all obligations to pay school impact fees and mitigation fees subject to the provisions set forth within this Paragraph 2 above resulting from the approval of PC 06-23.

The 262 garden apartment residential units will be reviewed by the County and School Board and shall be subject to public school concurrency review process either at the plat or the site plan review stage whichever comes first. Said review shall determine the generation of additional students beyond the 37 (19 elementary, 8 middle and 10 high school) students and their impact to Broward County Public Schools. The payment of the mitigation fee as contemplated hereunder constitutes the agreed mitigation payment for PC 06-23 and does not provide nor should it be construed to apply to any student impacts resulting from PC 07-2 or the change resulting from the change in residential type or unit mix.

3. In the event that the total number of residential units or types change from what is represented by Pineapple Grove and there is an increase in the number of residential units and/or bedroom mix, Pineapple Grove agrees to provide written notification to the Executive Director, Facility Management, Planning and Site Acquisition of the School Board or designee, with a copy to the Broward County Development Management Division. The Executive Director, or designee, shall determine the

additional students anticipated from any increase in residential units beyond the 262 total units contemplated herein and notify Pineapple Grove and the County of any further increase in the number of anticipated students. Pineapple Grove shall if required then propose additional mitigation for the newly anticipated additional students, subject to the terms and provisions contained in the adopted School Board Growth Management Policy. Any such additional mitigation amount shall be paid, in full, to the School Board no later than the date in which Pineapple Grove obtains the first building permit for such residential units and shall be a condition of the School Board's delivery of any partial release of this Declaration of Restrictive Covenants for the subject unit. In the event that changes in the overall mix of residential units and/or mix of bedrooms result 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 Pineapple Grove by the County or the School Board.

4. Upon Pineapple Grove obtaining a final certificate of occupancy for any given residential unit, a copy of same shall be promptly delivered to Executive Director, Facility Management, Planning and Site Acquisition of the School Board and the Broward County Development Management Division, or their designees. Upon receipt of any such final certificate of occupancy and confirmation that the amount of bedrooms in the subject residential unit has not been increased, the School Board and County shall promptly deliver to Pineapple Grove, in recordable form, a release of this Declaration of Restrictive Covenants.

5. If any court of competent jurisdiction shall declare any section, paragraph or part thereof invalid or unenforceable, then such judgment or decree shall have no effect on the enforcement or validity of any other section, paragraph or part hereof, and the same shall remain in full force and effect.

6. The County and the School Board are the beneficiaries of these restrictive covenants and as such, both or either may enforce these restrictive covenants by action at law or in equity against any person or persons, entity or entities, violating or attempting to violate the terms of these Restrictions. Any failure of either the County or the School Board to enforce these restrictive covenants shall not be deemed a waiver of the right to do so thereafter.

7. This 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.

8. This 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.

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

EXHIBIT LIST

EXHIBIT "A"

PROPERTY LEGAL DESCRIPTION
(TOGETHER WITH A PROPERTY SKETCH)

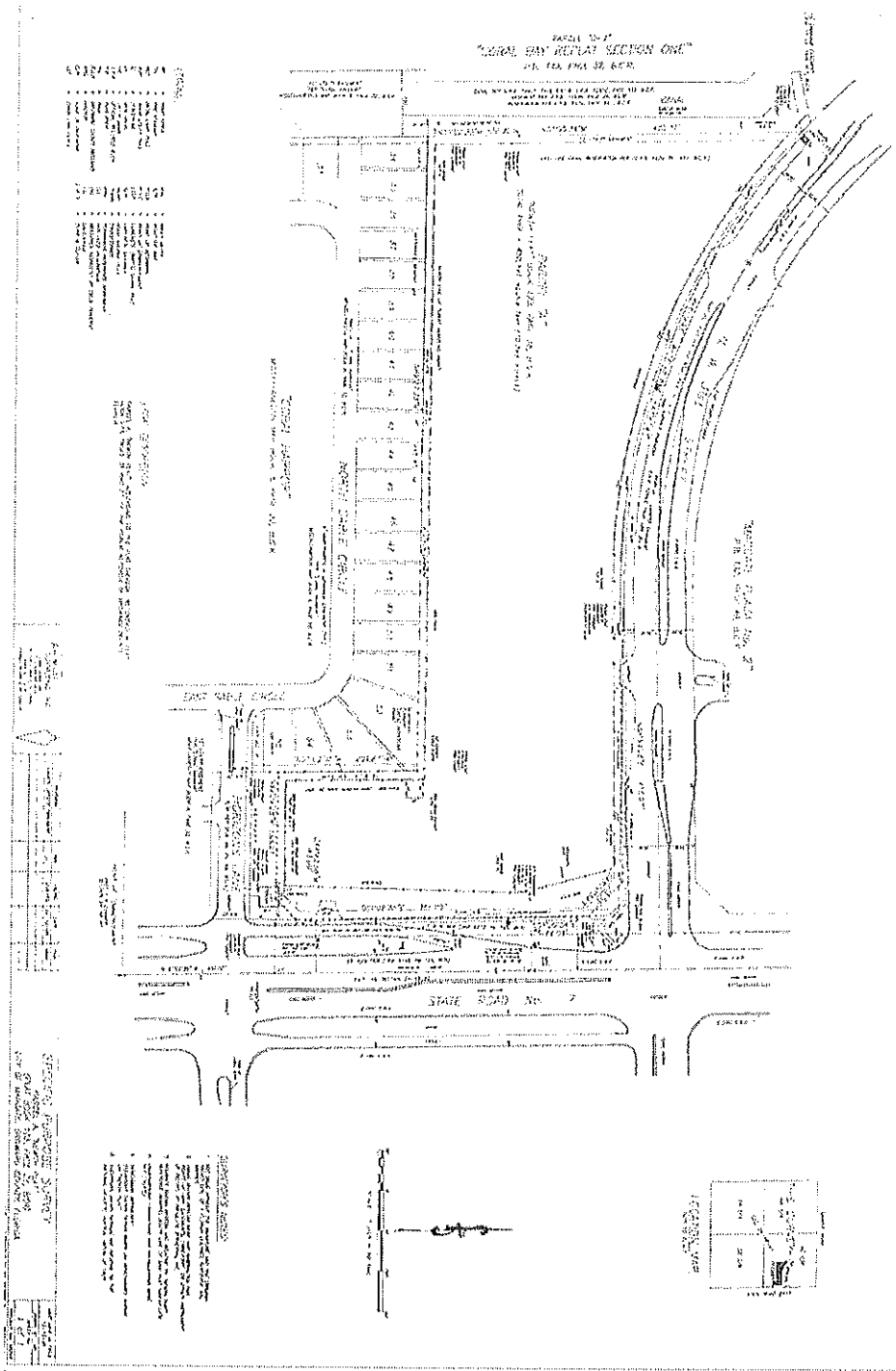
EXHIBIT "B"

PUBLIC SCHOOL FACILITY IMPACT STATEMENT REPORT

and

EXHIBIT "C"
LETTER OF CONCURRENCE

Exhibit "A"



Parcel A, NEWTH PLAT, according to the Plat thereof, recorded in Plat Book 173; Page 36 of the Public Records of Borward County, Florida

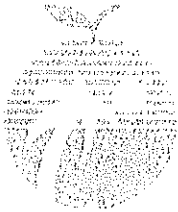


EXHIBIT "B"
PUBLIC SCHOOL FACILITY IMPACT
STATEMENT REPORT

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Sawgrass Technology Park, 1643 N. Harrison Parkway, Building H, Sunrise, Florida 33323 • TEL 754-321-8350 •
 FAX 754-321-8182

Chris O. Akagbosu, *Director*
Growth Management Division
Facility Management, Planning & Site Acquisition
 chris.akagbosu@browardschools.com

SCHOOL BOARD

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Vice Chair

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 ROBIN BARTLEMAN
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 MAUREEN S. DINNEN
 STEPHANIE A. KRAFT, ESQUIRE
 DR. ROBERT D. PARKS
 MARTY RUBINSTEIN

March 9, 2006

Dr. Frank Till
Superintendent of Schools

Charles F. Fink, President
 Charles F. Fink, Inc.
 5342 NW 92nd Lane
 Coral Springs, Florida 33067

RE: CITY OF MARGATE - LAND USE PLAN AMENDMENT No. 01-06-01

Dear Mr. Fink:

This correspondence is in response to your request regarding the student impact anticipated from the proposed development of 136 three-bedrooms townhouse units development in the City of Margate. The information provided by you indicates that the current land use designation for the approximately 10.43-acre site, located at the southwest corner of State Road 7 and NW 31st Street, is Commercial. The proposed land use designation is Residential 12 (R-12). Thus, the 136 townhouse units as proposed, is anticipated to generate a total of 37 (19 elementary, 8 middle and 10 high school) students into Broward County Public Schools, which will exacerbate overcrowded conditions at the impacted school(s).

The number of students generated is based on computations utilizing the three or more bedrooms townhouse student generation rates contained in the currently adopted Broward County Land Development Code (BCLDC). In the 2005/06 school year, students living in the area of the site are assigned to attend the schools listed in the table below.

School	2005 School Permanent Capacity	2005/06 Twentieth Day Membership Counts	Over/(Under) Capacity	2006/07 Enrollment Projections
Margate Elementary	861	1,146	(285)	1,125
Margate Middle	1,333	1,244	(89)	1,221
Coral Springs High	3,016	2,683	(333)	2,538

Based on the 2005/06 Twentieth-Day Membership Counts, and Enrollment Facility Planning and Inventory (EFPI) Report, Margate Elementary School is critically overcrowded in the 2005/06 school year, Margate Middle School is neutral ($\geq 90\%$ to 110% of permanent capacity), and Coral Springs High School is under enrolled ($< 90\%$ of permanent capacity).

In the currently Adopted District Educational Facilities Plan, FY 2005/06 – 2009/10, 37 classrooms addition are scheduled for Coral Springs High School. Please be advised that the capacity anticipated from the classrooms addition is included in the depicted permanent capacity for the School. In the 2005/06 school year, no charter school is located within a two-mile radius of the amendment site.

This application is subject to Section 7.8 of the Interlocal Agreement for Public School Facility Planning and School Board Policy 1161 as it relates to proposed residential applications with increased density impacting overcrowded schools. Also, Policy 1161 requires mitigation for schools that are considered overcrowded in the current or next effective school. As such, mitigation is only required for the 19 elementary school students.

In your letter dated February 7, 2006, you indicated that your client has voluntarily agreed to mitigate the anticipated middle and high school students by paying for two modular classrooms. Based on the current school impact fee schedule (effective October 1, 2005), the school impact fee due for the 136 townhouse units is \$291,856. The current cost for one modular classroom is \$212,000. Thus, the cost for two classrooms totals \$424,000, which is \$132,144 above the current school impact fee due for the project. Please be advised that School Board Policy 1161 requires that the cost for modular classroom shall be adjusted annually at the beginning of each fiscal year. Therefore, the total amount due will be based on the effective cost of one modular classroom when the payment due is made. The proposed mitigation complies with Policy 1161. However, the proposed mitigation is subject to specific School Board approval, and will be scheduled for the Board's consideration at a regular School Board meeting in April or May 2006.

As a condition for approval of this application by the City of Margate City Commission or pertinent agencies, staff requests that your client must execute a Declaration of Restrictive Covenant prior to the proposed land use designation becoming effective. At the minimum, the Restrictive Covenant must address the following:

1. The voluntary commitment cited above.
2. That the cited voluntary commitment must run with the property until the obligation is deemed fulfilled.
3. That payment of the total mitigation amount due will be made directly to the School Board of Broward County, Florida prior to the issuance of Broward County Department of Planning and Environmental Protection (DPEP) construction approval for the first building permit of the total units.

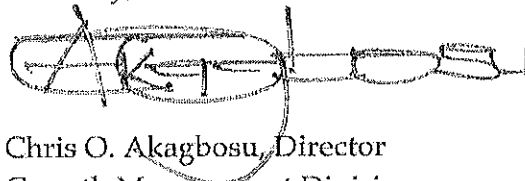
Correspondence containing this payment should be addressed to my attention at the above stated address. Furthermore, the Declaration of Restrictive Covenant must be submitted to my office for review and

deemed acceptable by the School Board Attorney's Office before execution and recordation. Also, an executed copy of the Restrictive Covenant must be provided to the Broward County School District. Be advised that a copy of the School District's standard Declaration of Restrictive Covenant document can be obtained via www.browardschools.com, by accessing the web page of the Facility Management, Planning and Site Acquisition Department, and by clicking on the Growth Management Division.

As you may be aware, the class size constitutional amendment requires that by the year 2010, the maximum number of students in the following school grades must be: Pre-kindergarten through 3rd grade – 18 students, 4th through 8th grade – 22 students, and 9th through 12th grade – 25 students. It should be noted that the permanent school capacity or Florida Inventory of School Housing (FISH) for the impacted schools reflects compliance with the class size constitutional amendment.

You can obtain additional information regarding Broward County Public Schools at www.browardschools.com and accessing the web pages of the School Boundaries Department and the Facilities and Construction Management Division. If you have questions or need further information, please email me at chris.akagbosu@browardschools.com or call me at 754-321-8352.

Sincerely,

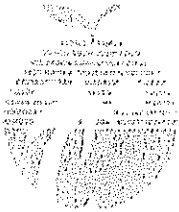


Chris O. Akagbosu, Director
Growth Management Division
Facility Management, Planning & Site
Acquisition Department

COA:coa

cc: Thomas J. Coates, Executive Director, Facility Management, Planning & Site Acquisition Department
Thomas Moore, Director, Boundaries Department
Emilio C. Esteban, Director, Environmental and Engineering Services, City of Margate

EXHIBIT "C"
LETTER OF CONCURRENCE



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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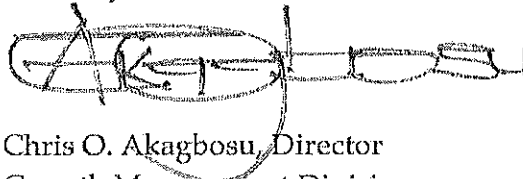
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cc: Thomas J. Coates, Executive Director, Facility Management, Planning & Site Acquisition Department
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