

Return to: (enclose self-addressed stamped envelope)

Name: Leigh R. Kerr, President
Leigh Robinson Kerr & Associates, Inc.
Address: 808 East Las Olas Boulevard #104
Fort Lauderdale, FL 33301

INSTR # 105535247
OR BK 40917 Pages 1604 - 1614
RECORDED 11/17/05 10:19:06
BROWARD COUNTY COMMISSION
DEPUTY CLERK 1034
#1, 11 Pages

This Instrument Prepared by: Leigh R. Kerr, AICP
Leigh Robinson Kerr & Associates, Inc.
808 E. Las Olas Blvd. #104
Ft. Lauderdale, FL 33301

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

AMENDED DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants ("Declaration") related to Broward County Public Schools student impacts is executed this 15 day of November, 2005 by **GOLF-TAM, INC.**, a Florida corporation, its successors and assigns ("Owner"), whose address is 2400 W. Prospect Rd, Oakland Park, FL 33309, 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, Owner is the fee simple owner of approximately 5 gross acres of land generally located at 2400 West Prospect Road, in the City of Oakland Park, Florida, in Broward County, more particularly described in the attached Exhibit "A" ("Property"); and

WHEREAS, ten (10) single family units are currently permitted on the Property pursuant to the existing Low (5) Residential and Park and Recreation land use designation which generates two (2) elementary, one (1) middle and one (1) high school student; and

WHEREAS, Owner has submitted Land Use Plan Amendment Application PC 04-22, ("Application") for the Property, to change the Property's designation from Low (5) Residential and Park and Recreation to Low Medium 10 Residential permitting an additional 20 residential units for a total of 30 townhouse units which are anticipated to generate eight (8) students consisting of four (4) elementary, two (2) middle and two (2) high school students or 4 additional students consisting of 2 elementary, 1 middle and 1 high school student; and

WHEREAS, in connection with the Application, Owner has voluntarily agreed to enter into this Declaration regarding the mitigation of student impacts for the four (4) additional students which is the number of students anticipated to be generated by the future development of the additional twenty (20) residential units proposed for the development of the Property consistent with the Public School Facility Impact Statement Report dated August 19, 2004, a copy of which is attached hereto as Exhibit "B", associated with the proposed development on the Property; and

WHEREAS, in furtherance of Owner's voluntary agreement regarding mitigation of the aforescribed student impacts, Owner caused to be filed that certain Declaration of Restrictive Covenants dated August 30, 2005, and recorded in the Public Records of Broward County, Florida on

September 7, 2005 in O.R. Book 40448, Page 864 (the "Declaration") in favor of the County and the Board; and

WHEREAS, the Owner acknowledges that the Declaration was mistakenly recorded and desires to reaffirm and ratify the covenants contained in the Declaration by this Amended Declaration; 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 the issuance of Department of Planning and Environmental Protection construction approval for the Property, Owner shall make payment to the County for the applicable school impact fees due based on Broward County Ordinance No. 97-40 for the 10 single family residential units currently permitted on the Property pursuant to the existing Low (5) Residential and Park and Recreation land use designation.

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 first building permit for construction or erection of the first residential unit, Owner shall make one lump sum payment to the School Board for the State of Florida established Student Station Cost Factors for the four (4) additional students consisting of two (2) elementary, one (1) middle and one (1) high school student generated by the additional 20 residential units. The total payment amount due shall be determined at the time of payment and based upon the then applicable e State of Florida established Student Station Cost Factors schedule; however, the total mitigation payment shall be no less than \$64,779.00. Owner shall obtain proof of such payment from the School Board and provide same to the Broward County Development Management Division. The School Board has issued a letter dated August 19, 2004, a copy of which is attached hereto as Exhibit "C", stating its concurrence with the payment of the fees referenced herein as mitigation for the students generated by the Application.

Said payment shall mitigate towards the cost of providing student stations for the total number of students anticipated from the Property and created as a result of the approval of Broward County Land Use Plan Amendment PC 04-22. This voluntary commitment constitutes the totality of all obligations to pay school impact fees and mitigation fees subject to the provisions set forth within Paragraph 2 and 3 above.

4. Once the mitigation payment has been made, no additional school impact fees will be required of Owner upon payment of the amount referenced in Paragraphs 2 and 3 above for the development referenced above. In the event that the total number of residential units change from what is represented in the Application and there is an increase in the number of residential units or unit type(s) changes from what is represented in the Application and there is an increase in the number of residential units and/or bedroom mix, Owner 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 30 total units contemplated herein and notify Owner and the County of any further increase in the number of anticipated students. Owner shall 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 Owner 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 Owner by the County or the School Board.

5. Upon Owner 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 Owner, in recordable form, a release of this Declaration of Restrictive Covenants.

6. 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.

7. 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.

8. 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.

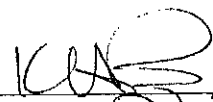
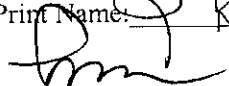
9. This Declaration constitutes the entire agreement, with regard to the subject matter contained herein, and may only be amended, modified or released with the consent of the parties.

10. 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.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed this 15 day of November, 2005.

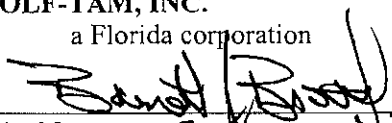
Signed, sealed and delivered
in the presence of:

WITNESSES:


Print Name: Kelly Ray

Print Name: Leigh E. Keor

GOLF-TAM, INC.

a Florida corporation

By: 
Print Name: BARRETT J. BROAD
Title: SEC/TREAS.
Address: 2400 W PROSPECT
FT. LAUD., FL. 33309

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 15 day of November, 2005, by B. Broad, as Sec/Treas of GOLF-TAM, INC., a Florida corporation, freely and voluntarily on behalf of said Corporation. He/She is personally known to me or has produced DL as identification.



Kelly A. Ray
Commission #DD258921
Expires: Oct 15, 2007
Bonded Thru
Atlantic Bonding Co., Inc.

Notary Public, State of Florida
My Commission Expires: 10/15/2007

Declaration-PC04-22(fnl2)
October 17, 2005

EXHIBIT LIST

EXHIBIT "A"

PROPERTY LEGAL DESCRIPTION
(TOGETHER WITH A PROPERTY SKETCH)

EXHIBIT "B"

PUBLIC SCHOOL FACILITY IMPACT STATEMENT REPORT

EXHIBIT "C"

SCHOOL BOARD LETTER OF CONCURRENCE

SKETCH ID DESCRIPTION

PORTION OF

SECTION 17, TOWNSHIP 49 SOUTH, RANGE 42 EAST

EXHIBIT A

1 of 2

LAND DESCRIPTION:

A parcel of land lying in Section 17, Township 49 South, Range 42 East, being more particularly described as follows:

COMMENCE at the Northeast corner of the Northwest One-Quarter (NW 1/4) of the Southeast One-Quarter (SE 1/4) of said Section 17; thence S88°01'31"W, 100.00 feet; thence S01°40'16"E, along the west line of Prospect Road, 441.16 feet to a point of curvature of a curve concave to the East, having a radius of 1246.28 feet and a central angle of 12°07'37"; thence southerly an arc distance of 263.78 feet to the POINT OF BEGINNING; thence continue along said arc, having a radius of 1246.28 feet and a central of 12°36'46"; thence southerly an arc distance of 274.35 feet; thence S88°21'04"W, 857.71 feet; thence N57°50'54"W, 100.00 feet; thence N32°09'06"E, 98.57 feet to a point of curvature of a curve concave to the northwest, having a radius of 100.00 feet and a central angle of 33°56'25"; thence northerly an arc distance of 59.24 feet to a point of tangency; thence N01°47'19"W, 39.39 feet to a point of curvature of a curve concave to the southeast, having a radius of 25.00 feet and a central angle of 90°00'00"; thence northerly an arc distance of 39.27 feet to a point of tangency; the preceding five courses and distances being along a private road and Lot 1, as shown on the the plat of GOLF-TAM VILLAGE, as recorded at Plat Book 119, Page 18 of the Public Records of Broward County, Florida; thence N88°12'41"E, 757.56 feet to the POINT OF BEGINNING.

Said lands lying and situate in Broward County, Florida, containing 217,812 square feet, (5.0003 acres) more or less.


NOTES:

1. Reproductions of this Sketch are not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.
2. No Title Opinion or Abstract to the subject property has been provided. It is possible that there are Deeds, Easements, or other instruments (recorded or unrecorded) which may affect the subject property. No search of the Public Records has been made by the Surveyor.
3. The land description shown hereon was prepared by the surveyor.
4. Data shown hereon was compiled from instrument(s) of record and does not constitute a boundary survey.
5. No underground improvements were located.
6. Bearings shown hereon are relative to the north line of the N.W. 1/4, S.E. 1/4, of Section 17, Township 49 South, Range 42 East having a bearing of S88°01'31"W.
7. Abbreviation Legend: L = Arc Length; L.B.= Licensed Business; P.B.= Plat Book; B.C.R.= Broward County Records; PG.= Page; P.L.S.= Professional Land Surveyor; P.O.B.= Point of Beginning; P.O.C.= Point of Commencement; R = Radius; Δ= Central Angle.

CERTIFICATION:

I HEREBY CERTIFY that the attached Sketch and Description of the hereon described property is true and correct to the best of my knowledge and belief as prepared under my direction. I FURTHER CERTIFY that this Sketch and Description meets the Minimum Technical Standards set forth in Chapter 61G17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Date: 5/10/04



JOHN T. DOOGAN, P.L.S.
Florida Registration No. 4409
AVIROM & ASSOCIATES, INC.
L.B. No. 3300

SKETCH NOT VALID WITHOUT SHEET 1 & 2

<table border="1"> <tr><td>REVISIONS</td></tr> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> </table>	REVISIONS					 <p>AVIROM & ASSOCIATES, INC. SURVEYING & MAPPING 50 S.W. 2ND AVENUE, SUITE 102 BOCA RATON, FLORIDA 33432 TEL. (561) 392-2594, FAX (561) 394-7125 ©2004 AVIROM & ASSOCIATES, INC. ALL RIGHTS RESERVED.</p>	<p>JOB NO. 7428 SCALE: 1" = 150' DATE: 05/05/04 DRAWN BY: C.L.P. SHEET: 1 OF: 2</p>
REVISIONS							

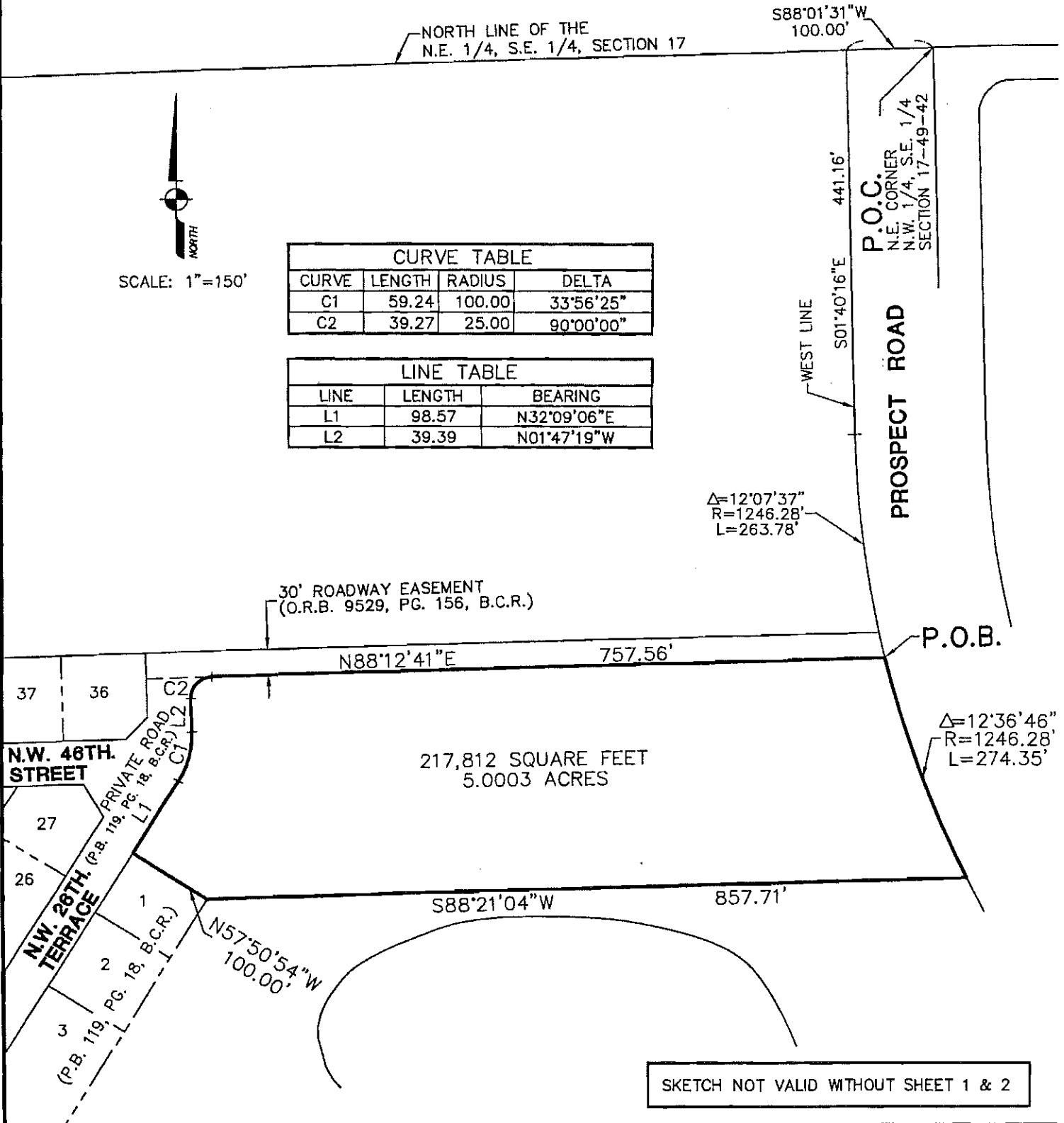
SKETCH ID DESCRIPTION
 PORTION OF
 SECTION 17, TOWNSHIP 49 SOUTH, RANGE 42 EAST

EXHIBIT A
 2 of 2

NORTH

 SCALE: 1"=150'

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	59.24	100.00	33°56'25"
C2	39.27	25.00	90°00'00"

LINE TABLE		
LINE	LENGTH	BEARING
L1	98.57	N32°09'06"E
L2	39.39	N01°47'19"W



SKETCH NOT VALID WITHOUT SHEET 1 & 2

REVISIONS



AVIROM & ASSOCIATES, INC.
SURVEYING & MAPPING
 50 S.W. 2ND AVENUE, SUITE 102
 BOCA RATON, FLORIDA 33432
 TEL. (561) 392-2594, FAX (561) 394-7125
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JOB NO. 7428
SCALE: 1" = 150'
DATE: 05/05/04
DRAWN BY: C.L.P.
SHEET: 2 OF: 2

The Nation's Largest Fully



Accredited School System

EXHIBIT B

Facility Management, Planning & Site Acquisition Department
 600 S.E. 3rd Avenue, 4th Floor
 Fort Lauderdale, Florida 33301

Land Use Plan Amendment Public School Facility Impact Statement

<u>Property Description</u>				
Type:	County	SEC 17	TWP 49	RNG 42
Amendment #:	PC 04-22			
Owner / Developer :	Castillo Grand, LLC			
Jurisdiction :	City of Oakland Park			
Current Land Use:	Low (5) Residential and Park and Recreation (Approx. 5.6 Ac.)			
Proposed Land Use:	Low Medium (10) Residential (Approx. 5.6 Ac.)			

<u>Potential Student Impact*</u>		<u>Additional Impact:</u>		<u>Cummulative Students From LUPA Approved Since:</u>			
Existing Permitted Units:	10	Elementary Students:	4	Since			
Proposed Units:	30	Middle Students:	2	Elem	Midd	High	Total
Net Change :	+20	High Students:	2	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Total:	8	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

* Note: Calculations are based upon the maximum student generation rates in the Land Development Code.

<u>Currently Assigned Schools*</u>	School Capacity	20th Day* Enrollment	Over/ (Under) Enrolled	<u>Projected Enrollment**</u>				
				04/05	05/06	06/07	07/08	08/09
Oriole Elementary	709	827	118	842	879	893	886	881
Lauderdale Lakes Middle	927	1,012	85	983	954	967	970	1,022
Anderson, Boyd H. High	2,773	2,691	-82	2,874	2,931	3,055	3,078	3,013

COMMENTS: Broward County Public Schools staff is advising the Broward County Planning Council, Broward County Commissioners, the applicant(s)/owner(s) and/or future developer(s) of the amendment site that based on the School District's 2003/04 Twentieth Day Membership Counts Report, Oriole Elementary and Lauderdale Lakes Middle Schools were overcrowded in the 2003/04 school year. The same schools are scheduled to serve the area of the site in the 2004/05 school year. Indications are that the current land use designation for the site permits the development of 10 single family units, which generates two elementary, one middle and one high school student for a total of four students. This application was reviewed as a potential 30 three or more bedrooms townhouse units development, and as currently proposed, is anticipated to generate a total of eight (four additional) students into Broward County Public Schools which will exacerbate overcrowded conditions at the impacted schools. This application is subject to the provisions of Section 7.8 of the Interlocal Agreement for Public School Facility Planning which calls for the mitigation of students generated by proposed residential density increase. However, the applicant has voluntarily committed to pay in one lump sum, the applicable cost per student station amount as mitigation towards the cost of providing student stations for the anticipated students. Staff concurs with the voluntary commitment (see attached correspondence). The applicant/owner is advised that temporarily, the School Board utilizes other options such as portable classrooms, multi-track year round education, double sessions or boundary changes to accommodate students generated from developments in the County. Information for charter schools located within a two-mile radius of the site was provided in a previous correspondence.

* Note: 2003/04 School Year Data - School attendance areas are subject to change each year.
 ** Adjusted Cohort projections - Cohort Survival Model, School Boundaries Department.

Planned and Funded Improvements in the Currently Adopted District Educational Facilities Plan

Elementary Schools: None
Middle Schools: None
High Schools: Boyd Anderson: Remolding of old kitchen/cafeteria to three classrooms. Bulk funding slated for FY 2005/06.
Comments:

Date: August 19, 2004

[Signature]
 By: Facility Management, Planning & Site Acquisition Department

EXHIBIT C

1 of 2

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA600 Southeast Third Avenue • 14th FL. FT. LAUDERDALE, FLORIDA 33301 • TEL 754-321-2161 • FAX 754-321-2179

THOMAS J. COATES, Executive Director
Facility Management, Planning & Site Acquisition
 tom.coates@browardschools.com

SCHOOL BOARD

Chair CAROLE L. ANDREWS
Vice Chair STEPHANIE ARMA KRAFT, ESQ.
 JUDIE S. BUDNICK
 DARLA L. CARTER
 BEVERLY A. CALLAGHER
 DR. ROBERT D. PARKS
 MARTY RUBINSTEIN
 LOIS WEXLER
 BENJAMIN J. WILLIAMS

DR. FRANK TILL
Superintendent of Schools

August 19, 2004

Henry Sniezek, Director
 Broward County Planning Council
 115 South Andrews Avenue, Room #307
 Fort Lauderdale, Florida 33301

Re: Revised Land Use Plan Amendment PC 04-22

Dear Mr. Sniezek:

Attached per the request from your staff, is the revised Public School Facility Impact Statement Report for Land Use Plan Amendment (LUPA) PC 04-22. Recent information provided by your office indicates that the current land use designation for LUPA 04-22 permits the development of 10 single-family units, which generates two elementary, one middle and one high school student for a total of four students. This application was reviewed as a potential 30 three or more bedrooms townhouse units development, and as currently proposed, is anticipated to generate a total of eight (**four additional**) students into Broward County Public Schools which will exacerbate overcrowded conditions at the impacted schools.

Schools that served the area of the amendment site in the 2003/04 school year were Oriole Elementary, Lauderdale Lakes Middle and Boyd Anderson High Schools. Based on the 2003/04 Twentieth-Day Membership Counts Report, Oriole Elementary and Lauderdale Lakes Middle Schools were overcrowded in the 2003/04 school year. The same schools are scheduled to serve the area of the amendment site in the 2004/05 school year.

In the currently adopted District Educational Facilities Plan, Fiscal Years (FY) 2004/05 to 2008/09, the old kitchen/cafeteria area of Boyd Anderson High School is scheduled for remodeling to create three classrooms. However, the bulk of the funding for the project is slated for FY 2005/06.

Charter schools located within a two-mile radius of the amendment site in the 2003/04 school year, and the Twentieth Day statistical data for the schools was provided in the correspondence dated July 19, 2004. The same charter schools with the inclusion of Charter Institute Annex (K-5), Eagle Academy (6) and Smart School Institute (9) are scheduled to serve the area of the site in the 2004/05 school year. However, North Broward Academy of Excellence (K-5) and North Lauderdale Academy (9-12) are not anticipated to serve the site in the 2004/05 school year.

This application is subject to the provisions of Section 7.8 of the Interlocal Agreement for Public School Facility Planning, which calls for the mitigation of students generated by proposed residential density

EXHIBIT C

2 of 2

Revised Land Use Plan Amendment PC 04-22
August 19, 2004
Page 2

increase. However, the applicant has voluntarily committed to pay in one lump sum (see attached correspondence from John McDonald), the applicable cost per student station amount as mitigation towards the cost of providing student stations for the anticipated students. This payment will be made prior to obtaining the Department of Planning and Environmental Protection (DPEP) approval for the first building permit for the units. Staff concurs with the voluntary commitment, and agrees that the commitment will satisfactorily contribute towards the provision of student stations for the anticipated students. Furthermore, staff requests that as a condition for approval of LUPA PC 04-22, and prior to the land use plan amendment becoming effective, the applicant or property owner must execute a Declaration of Restrictive Covenant that at the minimum addresses 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 the full payment of the applicable cost per student station amount will be made directly to the School Board of Broward County, Florida when due.

Correspondence containing this payment should be addressed to my attention at the above stated address. Additionally, the Declaration of Restrictive Covenant must be submitted to District staff for review and deemed recordable by Broward County before execution and recordation, and an executed copy of the Restrictive Covenant shall be provided to Broward County School District.

As you are aware, the recent 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. Therefore, it should be noted that the permanent school capacity for the impacted schools dropped significantly due to compliance with the class size constitutional amendment, and will continue to decrease until final compliance with the mandate.

Thank you for your continued cooperation and support on land use plan amendment matters pertaining to Broward County Public Schools. If you have questions or need further information, please contact me at chris.akagbosu@browardschools.com or at 754-321-2162.

Sincerely,



Chris Akagbosu, Coordinator
Growth Management Division
Facility Management, Planning & Site
Acquisition Department

COA:coa

Attachment

cc: Thomas J. Coates, Executive Director, Facility Management, Planning & Site Acquisition Department
Thomas Moore, Demographer/Statistician, School Boundaries Department