



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE	2020-02-04 10:05 - School Board Operational Meeting
AGENDA ITEM	ITEMS
CATEGORY	L. OFFICE OF PORTFOLIO SERVICES
DEPARTMENT	Facility Planning and Real Estate

Special Order Request	<input type="radio"/> Yes <input checked="" type="radio"/> No
Time	
Open Agenda	<input type="radio"/> Yes <input checked="" type="radio"/> No

ITEM No.:

L-2.

TITLE:

Release of Declaration of Restrictive Covenants Regarding Land Use Plan Amendment PC 05-23 and PC 07-20, Shoal Creek

REQUESTED ACTION:

Approve the Release of the Declaration of Restrictive Covenants (DRC) regarding the voluntary mitigation commitment for Land Use Plan Amendment (LUPA) PC 05-23 and PC 07-20, Shoal Creek Properties

SUMMARY EXPLANATION AND BACKGROUND:

In 2005, School District staff reviewed the application of LUPA PC 05-23, proposed by Shoal Creek Properties - Pompano, LLC (aka Vintage Park Apartments), for the development of 115 townhouse units located in the City of Pompano Beach.
See Supporting Docs for continuation of Summary Explanation and Background.
This item has been reviewed and approved as to form and legal content by the Office of the General Counsel and will be executed and recorded by Broward County after School Board approval.

SCHOOL BOARD GOALS:

Goal 1: High Quality Instruction Goal 2: Safe & Supportive Environment Goal 3: Effective Communication

FINANCIAL IMPACT:

There is no financial impact to the School District.

EXHIBITS: (List)

(1) Continuation of Summary Explanation and Background (2) Executive Summary (3) Release of Declaration of Restrictive Covenants (4) Second Amendment to Declaration of Restrictive Covenants (5) Amended and Restated Declaration of Restrictive Covenants (6) Declaration of Restrictive Covenants

BOARD ACTION:

APPROVED

(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

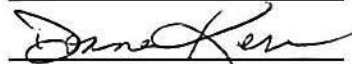
Name: Chris O. Akagbosu	Phone: 754-321-2162
Name:	Phone:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Senior Leader & Title

Leslie M. Brown - Chief Portfolio Services Officer

Approved In Open Board Meeting On: **FEB 04 2020**

By: 
School Board Chair

Signature

Leslie M. Brown
1/10/2020, 4:08:03 PM

Continuation of Summary Explanation and Background

Staff determined that the development would generate a total of 16 (8 elementary, 3 middle, and 5 high school) additional students into Broward County Public Schools and impact Norcrest Elementary, Deerfield Beach Middle, and Deerfield Beach High Schools. In 2006 Shoal Creek Properties – Pompano, LLC (Shoal Creek Properties), voluntarily committed to provide mitigation to address 3 additional middle school students attributed to the overcrowded school by paying, in one lump sum, the total cost of Student Station Cost Factors for 3 middle school students plus the applicable school impact fees for 115 townhouse units. Subsequently, Shoal Creek Properties recorded the required DRC and Amended DRC (for PC 05-23) to enable the legal enforcement of the voluntary mitigation commitment. Thereafter, in 2007, Shoal Creek Properties revised the LUPA (via PC 07-20) to change the land use designation to allow development of 249 mid-rise residential units. In 2012, Shoal Creek Properties voluntarily committed to pay Student Station Cost Factors for 3 middle school students and applicable school impact fees for 249 mid-rise units as the mitigation for the students anticipated from the development. Subsequently, in 2012, Shoal Creek Properties recorded the Second Amended DRC (for PC 07-20) to enable the legal enforcement of the revised voluntary mitigation commitment for 249 mid-rise residential units. On October 11, 2013, Shoal Creek Properties paid a total of \$305,290.00 in total mitigation due for the 249 mid-rise units (which addresses mitigation for 3 middle school students and school impact fees due for the project).

On September 4, 2019, Shoal Creek Properties, via its agent requested a Release of the property from the DRC. Staff recommends that the School Board approve the Release of the DRCs regarding the voluntary mitigation commitment for LUPA PC 05-23/PC 07-20, Shoal Creek Properties (aka Vintage Park Apartments).

Executive Summary

Release of Declaration of Restrictive Covenants Regarding Land Use Plan Amendments PC 05-23/PC 07-20, Shoal Creek

Shoal Creek Properties – Pompano, LLC (aka Vintage Park Apartments) Land Use Plan Amendment (LUPA) PC 05-23 consists of approximately 5.56 acres and is located west of Federal Highway and south of NW 48th Street in the City of Pompano Beach. In 2005, Golf-Tam, Inc. proposed a land use change from Commercial and Low (5) Residential to Irregular (21) Residential to permit the development of 115 townhouse residential units on the site. The District's review of the proposal indicated that the development would generate a total of 16 additional students (8 elementary, 3 middle, and 5 high school). Schools affected during the review period, the 2005-06 school year, were Norcrest Elementary, Deerfield Beach Middle, and Deerfield Beach High Schools; and at that time, it was determined that mitigation was due for the anticipated additional 3 middle school students plus applicable school impact fee due on 115 townhouse units.

On August 14, 2006, Shoal Creek Properties – Pompano, LLC, voluntarily committed to provide mitigation to address 3 additional middle school students attributed to the overcrowded school by paying, in one lump sum, the total cost of Student Station Cost Factors for 3 middle school students plus the applicable school impact fee for 115 townhouse units. Shoal Creek Properties – Pompano, LLC memorialized the mitigation commitment via execution and recordation of an Amended and Restated Declaration of Restrictive Covenants (DRC) (BK 42588, Pages 1,233 – 1,243) as the original DRC (BK 42549, Pages 705-715) contained the wrong mitigation amount.

In 2007, Shoal Creek Properties – Pompano, LLC, changed the land use designation for the site from Irregular (21) Residential to Irregular (36) Residential via LUPA PC 07-20. On June 11, 2012, Shoal Creek Properties – Pompano, LLC, voluntarily committed to provide mitigation to address 3 additional middle school students in one lump sum, the total cost of Student Station Cost Factors for 3 middle school students plus the applicable school impact fee for 115 townhouse units. Shoal Creek Properties – Pompano, LLC memorialized the mitigation commitment via execution and recordation of a Second Amendment to the DRC (BK 48854, Pages 149 – 166). On October 11, 2013, Shoal Creek Properties – Pompano, LLC, paid a total of \$305,290.00 in total mitigation due for the 249 mid-rise units (which addresses mitigation for 3 middle school students and school impact fees due for the project).

On September 4, 2019, Shoal Creek Properties – Pompano, LLC, via its agent requested a Release of the property from the DRC. Staff recommends that the School Board approve the Release of the DRCs regarding the voluntary mitigation commitment for LUPA PC 05-23/PC 07-20, Shoal Creek Properties – Pompano, LLC (aka Vintage Park Apartments).

PREPARED BY AND RETURN TO:
The School Board of Broward County, Florida
Kathleen C. Wright Administrative Building
600 Southeast 3rd Avenue
Fort Lauderdale, FL 33301

RELEASE OF

DECLARATION OF RESTRICTIVE COVENANTS

(Land Use Amendment PC 05-23 and PC 07-20)

THIS RELEASE OF DECLARATION OF RESTRICTIVE COVENANTS (the "Release") is made as of the 4th day of February, 2020 by **BROWARD COUNTY**, a political subdivision of the State of Florida ("County"), and **THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**, a body corporate and political subdivision of the State of Florida ("School Board").

WITNESSETH:

WHEREAS, Shoal Creek Properties – Pompano, LLC, a Florida limited liability company and (herein referred to as the "Original Owner") executed that certain

(i) Declaration of Restrictive Covenants dated August 7, 2006, and recorded in Official Records Book 42549, Page 705, Public Records of Broward County, Florida (the "Declaration") affecting certain real property located in the City of Pompano Beach, Florida, in Broward County, more particularly described in Exhibit "A" attached hereto (the "Property");

(ii) Amended and Restated Declaration of Restrictive Covenants filed in Official Records Book 42588, Page 1233; and

(iii) Second Amendment to Declaration of Restrictive Covenants filed in Official Records Book 48854, Page 149, (collectively the "Restrictive Covenants"); and

WHEREAS, the Original Owner has complied with the terms of the Restrictive Covenants; and

WHEREAS, the Property is now owned by **Bell Fund VI Pompano Beach, LLC**, a Delaware limited liability Company (the "Current Owner") who has requested that each of the above referenced Restrictive Covenants be release of record; and

WHEREAS, County and School Board now desire to release the referenced Declaration of Restrictive Covenants and their effect on the Property, in its entirety.

NOW THEREFORE, in consideration of the mutual covenants, promises and benefits contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged,

1. The above recitals are true and correct and incorporated herein by reference.
2. The Restrictive Covenants are hereby released, discharged and terminated and by these

presents, the County and School Board do release, discharge and terminate forever all of the right, title, interest, claim and demand which the County and School Board have under and by virtue of said Restrictive Covenants.

IN WITNESS WHEREOF, County and School Board have hereunto executed this Release of Declaration of Restrictive Covenants on the respective dates under each signature.

IN WITNESS WHEREOF, the parties have made and executed this Release on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same by Board action on the ____ day of _____, 2020, and THE BROWARD SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, signing by and through its Chair, authorized to execute same by Board action on the ____ day of _____, 2020.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

By: _____
Bertha Henry, County Administrator and
Ex-Officio Clerk of the
Board of County Commissioners
of Broward County, Florida

By: _____
Dale V.C. Holness, Mayor

____ day of _____, 2020

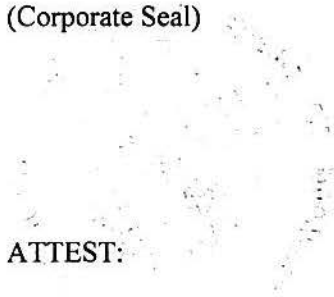
Approved as to form by
Office of County Attorney
Broward County, Florida
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By: _____
Deputy County Attorney

____ day of _____, 2020

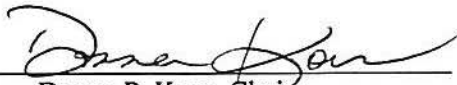
SCHOOL BOARD

(Corporate Seal)




ATTEST:

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By: 
Donna P. Korn, Chair

___ day of _____, 2020

By: 
Robert W. Runcie, Superintendent of Schools

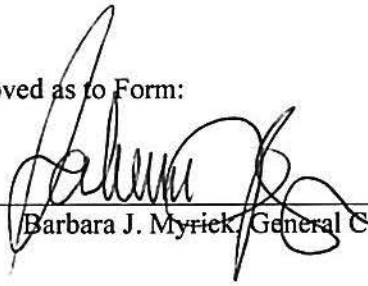
Approved as to Form:
By: 
Barbara J. Myrick, General Counsel

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1

ALL THAT PART OF THE NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 18, TOWNSHIP 48 SOUTH, RANGE 43 EAST, LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 8, (FORMERLY STATE ROAD NO. 4, U.S. HIGHWAY NO. 1), COMMONLY KNOWN AS FEDERAL HIGHWAY, LYING SOUTH OF A LINE PARALLEL TO SAID 528.57 FEET SOUTH OF THE NORTH LINE OF SAID NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18.

TOGETHER WITH: PARCEL 2

THAT PORTION THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 18, TOWNSHIP 48 SOUTH, RANGE 43 EAST, LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 4, ALSO KNOWN AS FEDERAL HIGHWAY, AS NOW LOCATED AND ESTABLISHED, WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18, THENCE RUNNING NORTH 89°07'30" EAST, A DISTANCE OF 486.8 FEET TO THE WEST BOUNDARY LINE OF SAID STATE ROAD NO. 4, ALSO KNOWN AS FEDERAL HIGHWAY, AS NOW LOCATED AND ESTABLISHED; THENCE SOUTH 87°14'30" WEST, ALONG THE WEST BOUNDARY OF SAID HIGHWAY, A DISTANCE OF 180 FEET TO A POINT; THENCE SOUTH 89°07'30" WEST, A DISTANCE OF 438.17 FEET TO A POINT ON THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18; THENCE NORTH 89°07'30" WEST, ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18, A DISTANCE OF 148.5 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH: PARCEL 1

A PORTION OF THE SOUTH 89.85 FEET OF THE NORTH 528.57 FEET OF THAT PART OF THE NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) LYING WEST OF THE RIGHT-OF-WAY OF FEDERAL HIGHWAY IN SECTION 18, TOWNSHIP 48 SOUTH, RANGE 43 EAST, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY BOUNDARY OF THE ABOVE DESCRIBED PROPERTY 1136.88 FEET WEST OF THE SOUTHEAST CORNER THEREOF; THENCE NORTH ALONG THE WESTERLY BOUNDARY THEREOF 79.08 FEET TO A POINT; THENCE EAST PARALLEL WITH THE SOUTHERLY BOUNDARY THEREOF 80 FEET TO A POINT; THENCE SOUTH PARALLEL WITH THE WESTERLY BOUNDARY THEREOF 79.08 FEET TO THE SOUTHERLY BOUNDARY; THENCE WEST ALONG THE SAID SOUTHERLY BOUNDARY 80 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN BROWARD COUNTY, FLORIDA, CONTAINING 8.87 ACRES MORE OR LESS.

NOTES:

1. THE BEARINGS, DISTANCES, AND AREA SHOWN HEREON AND ON THE ATTACHED SKETCH ARE SUBJECT TO CHANGE BASED ON THE FIELD LOCATION OF EXISTING PROPERTY MONUMENTATION.

THIS IS AN OFFICIAL COPY

2. THE BEARINGS SHOWN HEREON ARE BASED ON AN ASSUMED MERIDIAN. THE WEST RIGHT-OF-WAY OF FEDERAL HIGHWAY BEARS NORTH 07°18'34" EAST ACCORDING TO FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 86028-2328, SHEET 8 OF 20, DATED DECEMBER 21, 1977, REVISED NOVEMBER 24, 1980.

3. THE ABOVE DESCRIPTION IS BASED ON THE FOLLOWING DEEDS:

WARRANTY DEED OFFICIAL RECORDS BOOK 38637, PAGE 875 (LOT 6)
QUIT-CLAIM DEED OFFICIAL RECORDS BOOK 33188, PAGE 985 (LOT 6)
QUIT-CLAIM DEED OFFICIAL RECORDS BOOK 36780, PAGE 1890 (LOT 7)
WARRANTY DEED OFFICIAL RECORDS BOOK 30862, PAGE 1828 (LOT 6 & PARCELS "1" & "2")
WARRANTY DEED OFFICIAL RECORDS BOOK 31802, PAGE 1819 (PARCEL "3")

THE ABOVE DEEDS ARE ALL RECORDED IN THE OFFICIAL RECORDS OF BROWARD COUNTY, FLORIDA.

CERTIFICATE:

WE HEREBY CERTIFY THAT THE DESCRIPTION AND SKETCH CONFORMS TO CHAPTER 110.17-3, (FLORIDA ADMINISTRATIVE CODE), MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA AS ADOPTED BY THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, BOARD OF PROFESSIONAL LAND SURVEYORS IN SEPTEMBER, 1981, AS AMENDED, PURSUANT TO CHAPTER 472.827 OF THE FLORIDA STATUTES, AND IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF.

DRAVEN THOMPSON & ASSOCIATES, INC.
CERTIFICATE OF AUTHORIZATION LB371

DOUGLAS M. DAVIS
PROFESSIONAL SURVEYOR AND MAPPER NO. 4343
STATE OF FLORIDA

Return to: (enclose self-addressed stamp envelope)

Bonnie Miskel, Esquire
Siegel, Lipman, Dunay, Shepard & Miskel, LLP
5355 Town Center Road, Suite 801
Boca Raton, FL 33486

This Instrument Prepared by:

Bonnie Miskel, Esq.
Siegel, Lipman, Dunay, Shepard, & Miskel LLP
5355 Town Center Road, Suite 801
Boca Raton, Florida 33486

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SPACE ABOVE THIS LINE FOR PROCESSING DATA

SECOND AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS

(Land Use Plan Amendments PC 05-23 and PC 07-20)

This Second Amendment to Declaration of Restrictive Covenants ("Second Amendment") related to Broward County Public Schools student impacts is executed as of this 11 day of June, 2012, by SHOAL CREEK PROPERTIES – POMPANO LLC, a Florida limited liability company, its successors and assigns ("Shoal Creek") whose address is 3550 N. Moorings Way, Coconut Grove, Florida 33133, 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, Shoal Creek is the fee simple owner of approximately 5.56 gross acres of land generally located West of Federal Highway and south of N.W. 48 Street, in the City of Pompano Beach, Broward County, Florida, as more particularly described in Exhibit "A" attached hereto ("Property"); and

WHEREAS, Shoal Creek previously submitted Land Use Plan Amendment Application PC 05-23, ("Application") for the Property, to change the Property's designation from Commercial and Low (5) Residential to Irregular (21) Residential permitting additional residential units consisting of 115 townhouse units (63 two bedroom and 52 three or more bedroom) which were anticipated to generate 21 (11 elementary 4 middle and 6 high school) students; and

WHEREAS, Shoal Creek entered into that Declaration dated August 7, 2006, recorded in Official Records Book 42549, Page 705, of the Public Records of Broward County, Florida on August 7, 2006 ("Original Declaration"); and

WHEREAS, pursuant to the Original Declaration, in connection with the Application, Shoal Creek voluntarily agreed to mitigate student impacts for the three (3) additional middle school students consistent with the Public School Facility Impact Statement Report dated October 17, 2005, a copy of which is attached hereto as Exhibit "B," associated with the proposed development on the Property; and

WHEREAS, on August 14, 2006, Shoal Creek amended and restated the Original Declaration in its entirety to provide for a lump sum payment for school impact mitigation, recorded in Official Records Book 42588, Page 1233, of the Public Records of Broward County on August 14, 2006 ("First Amendment"); and

WHEREAS, Shoal Creek subsequently submitted Land Use Plan Amendment Application PC 07-20 amending the Property's designation from Irregular 21 to Irregular 36 ("Amendment") to allow 249 midrise residential units; and

WHEREAS, Shoal Creek now intends to change the density and the residential type to develop the Property with a total of 249 midrise residential units; and

WHEREAS, 249 midrise units are anticipated to generate a total of 12 (7 elementary, 3 middle and 2 high school) students on Broward County Public Schools;

WHEREAS, Broward County and the City of Pompano Beach, in conjunction with the School Board, have adopted public school concurrency since approval of the Declaration and the First Amendment 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) stage of review; and

WHEREAS, Shoal Creek now wishes to amend the Original Declaration and the First Amendment to reflect the current proposed change in density and in residential type and its anticipated additional student impact on Broward County Public Schools; and

WHEREAS, the school mitigation plan associated with the Original Declaration as amended by the First Amendment continues to apply to the development of the Property; and

WHEREAS, the School Board has requested the execution and recordation of this Second Amended Declaration to evidence Shoal Creek's desire and intent.

NOW, THEREFORE, in consideration of the promises and covenants herein contained, Shoal Creek 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 herein.
2. Other than as amended herein, Shoal Creek hereby confirms, ratifies and reaffirms the covenants, restrictions and obligations contained in the Original Declaration and the First Amendment.
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, Shoal Creek shall make one lump sum payment to the School Board for the Broward County School Impact Fee due for the 249 midrise units, plus the Florida established Student Station Cost Factors amount for the three (3) additional middle school students attributable to the overcrowded middle school related to Land Use Plan Amendment

Application PC 05-23. The total payment amount due shall be determined at the time of payment and shall be based upon the then current Broward County School Impact Fee schedule and the then applicable cost per Student Station Cost Factor Schedule; however, the total mitigation payment shall be no less than \$305,290.00. Shoal Creek 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 July 9, 2007, 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 05-23 and PC 07-20. 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 3.

4. Once the mitigation payment has been made, no additional school impact fees will be required of Shoal Creek upon payment of the amount referenced in Paragraph 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) and/or bedroom mix, Shoal Creek agrees to provide written notification to the Director, Growth Management Department of the School Board or designee, with a copy to the Broward County Development and Environmental Regulation Division. The Director, or designee, shall determine the additional students anticipated from any change in the residential type, bedroom mix or increase in residential units beyond the 249 midrise units contemplated herein and notify Shoal Creek and the County of any further increase in the number of anticipated students. If it is determined upon public school concurrency review that additional students would be generated by the change proposed to the approved development level reflected herein, and that excess permanent capacity would not be available to accommodate the anticipated additional students, Shoal Creek 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 satisfied in full prior to the School Board's delivery of any partial release of this Second Amended Declaration for the subject Property. 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 Shoal Creek by the County or the School Board.

5. Upon Shoal Creek obtaining a final certificate of occupancy for any given residential unit, a copy of same shall be promptly delivered to the Director, Growth Management Department of the School Board and the Broward County Development and Environmental Regulation 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 Shoal Creek, in recordable form, a release of this Second Amendment.

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 Second Amendment shall be recorded in the Public Records of Broward County, Florida, and the provisions hereof together with the Original Declaration and the First Amendment in their entirety and 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 Original Declaration, and the First Amendment, the terms of this Second Amendment shall control and prevail.

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 Second Amendment to be executed this 11 day of June, 2012.

Signed, sealed and delivered
in the presence of:

WITNESSES:

SHOAL CREEK PROPERTIES – POMPANO, LLC, a
Florida limited liability company, by URBAN VENTURES
AT POMPANO, LLC, a Florida liability company, its
Managing Member

Marcelina Morales
Print Name: Marcelina Morales
James W. Harris
Print Name: James W. Harris

By: James W. Harris MANAGER
Print Name: James W. Harris, Managing Member

STATE OF FLORIDA)
COUNTY OF Miami-Dade)

The foregoing instrument was acknowledged before me this 11th day of June, 2012, by JAMES W. HARRIS, Managing Member of URBAN VENTURES AT POMPANO, LLC, a Florida limited liability company, Managing Member of SHOAL CREEK PROPERTIES – POMPANO, LLC, a Florida limited liability company. He is personally known to me or has produced _____ as identification.

Seal: NOTARY PUBLIC-STATE OF FLORIDA
Marcelina Morales
Commission # EE003583
Expires: JULY 21, 2014
BONDED THRU ATLANTIC BONDING CO., INC.

Marcelina Morales
Notary Public, State of Florida
My Commission Expires: 7-21-14

JOINDER AND CONSENT OF MORTGAGEE

GREAT FLORIDA BANK, a Florida banking corporation ("Mortgagee") is the owner and holder of: (i) that certain Mortgage, Security Agreement executed March 29, 2005 by and between Shoal Creek Properties - Pompano LLC, a Florida limited liability company and Great Florida banking corporation, filed April 6, 2005, in Official Records Book 39384, Page 1040, as modified by Modification of Mortgage, Receipt of Future Advance and Extension Agreement dated as of March 29, 2008, filed of record in Official Records Book 45369, Page 955; Mortgage and Security Agreement executed by Shoal Creek Properties - Pompano II LLC, and James W. Harris and Kathy Harris in favor of Great Florida Bank, recorded May 14, 2008, in Official Records Book 45369, page 962; as modified by Modification to Mortgage and Security Agreement recorded July 7, 2012, in Official Records Book 47199, page 1246; all as modified Second Modification of Mortgage and Extension Agreement filed July 7, 2010 in Official Records Book 47199, page 1229; Second Modification to Mortgage and Security Agreement recorded April 19, 2012, in Official Records Book 48679, page 1111; Note and Third Modification of Mortgage and Extension Agreement recorded April 19, 2012, in Official Records Book 48679, page 1124; all of the Public Records of Broward County, Florida.

Mortgagee hereby consents to this Second Amendment and hereby subordinates the lien set forth in the Mortgage Documents and all of its rights thereunder to all of the rights of County and/or School Board set forth in this Declaration.

WITNESSES:

MORTGAGEE:

GREAT FLORIDA BANK,

a Florida banking corporation

By:

Printed Name: RONALD L. PLOUDE

Title: SENIOR VICE PRESIDENT

Address: 15050 NW 79th Court, #200

Miami Lakes, FL 33016

Printed Name: Barbara Bauta

Orhiana Orta

Printed Name: Marlene E Sanchez

Printed Name: Madeline E. Song

ACKNOWLEDGMENT

STATE OF FLORIDA)

) SS:

COUNTY OF MIAMI DADA

The foregoing instrument was acknowledged before me this 19 day of June, 2012 by Ronald L. Lourdes the S.U.P. of the GREAT FLORIDA BANK, a Florida banking corporation, freely and voluntarily under authority duly vested in him by said limited liability company. He is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 19 day of June, 2012.

Lourdes Alfonso

Notary Public

My Commission Expires:

Typed, printed or stamped name of Notary Public

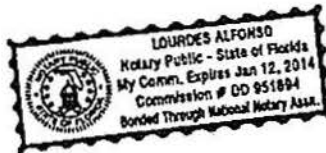


Exhibit "A"

[Property Legal Description]

Exhibit "B"

[Public School Facility Impact Statement Report dated October 17, 2005]

Exhibit "C"

[Public School Concurrence Letter dated July 9, 2007]

EXHIBIT "A"
PROPERTY LEGAL DESCRIPTION
(TOGETHER WITH A PROPERTY SKETCH)

PARCEL 1

ALL THAT PART OF THE NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 18, TOWNSHIP 48 SOUTH, RANGE 43 EAST, LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 8, (FORMERLY STATE ROAD NO. 4, U.S. HIGHWAY NO. 1), COMMONLY KNOWN AS FEDERAL HIGHWAY, LYING SOUTH OF A LINE PARALLEL TO AND 524.67 FEET SOUTH OF THE NORTH LINE OF SAID NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18.

TOGETHER WITH: PARCEL 2

THAT PORTION THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 18, TOWNSHIP 48 SOUTH, RANGE 43 EAST, LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 4, ALSO KNOWN AS FEDERAL HIGHWAY, AS NOW LOCATED AND ESTABLISHED, WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18, THENCE RUNNING NORTH 89°07'30" EAST, A DISTANCE OF 448.8 FEET TO THE WEST BOUNDARY LINE OF SAID STATE ROAD NO. 4, ALSO KNOWN AS FEDERAL HIGHWAY, AS NOW LOCATED AND ESTABLISHED; THENCE SOUTH 07°18'30" WEST, ALONG THE WEST BOUNDARY OF SAID HIGHWAY, A DISTANCE OF 180 FEET TO A POINT; THENCE SOUTH 89°07'30" WEST, A DISTANCE OF 428.27 FEET TO A POINT ON THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18; THENCE NORTH 80°38'30" WEST, ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18, A DISTANCE OF 148.5 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH: PARCEL 3

A PORTION OF THE SOUTH 89.05 FEET OF THE NORTH 524.67 FEET OF THAT PART OF THE NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) LYING WEST OF THE RIGHT-OF-WAY OF FEDERAL HIGHWAY IN SECTION 18, TOWNSHIP 48 SOUTH, RANGE 43 EAST, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY BOUNDARY OF THE ABOVE DESCRIBED PROPERTY 1131.88 FEET WEST OF THE SOUTHEAST CORNER THEREOF; THENCE NORTH ALONG THE WESTERLY BOUNDARY THEREOF 79.05 FEET TO A POINT; THENCE EAST PARALLEL WITH THE SOUTHERLY BOUNDARY THEREOF 80 FEET TO A POINT; THENCE SOUTH PARALLEL WITH THE WESTERLY BOUNDARY THEREOF 79.05 FEET TO THE SOUTHERLY BOUNDARY; THENCE WEST ALONG THE SAID SOUTHERLY BOUNDARY 80 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN BROWARD COUNTY, FLORIDA, CONTAINING 5.87 ACRES MORE OR LESS.

NOTES:

1. THE BEARINGS, DISTANCES, AND AREA SHOWN HEREON AND ON THE ATTACHED SKETCH ARE SUBJECT TO CHANGE BASED ON THE FIELD LOCATION OF EXISTING PROPERTY MONUMENTATION.

2. THE BEARINGS SHOWN HEREON ARE BASED ON AN ASSUMED MERIDIAN. THE WEST RIGHT-OF-WAY OF FEDERAL HIGHWAY BEARS NORTH $07^{\circ}13'30''$ EAST ACCORDING TO FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 86020-2325, SHEET 8 OF 20, DATED DECEMBER 21, 1977, REVISED NOVEMBER 24, 1980.

3. THE ABOVE DESCRIPTION IS BASED ON THE FOLLOWING DEEDS:

WARRANTY DEED	OFFICIAL RECORDS BOOK 38837, PAGE 978 (LOT 6)
QUIT-CLAIM DEED	OFFICIAL RECORDS BOOK 33186, PAGE 845 (LOT 8)
QUIT-CLAIM DEED	OFFICIAL RECORDS BOOK 36780, PAGE 1840 (LOT 7)
WARRANTY DEED	OFFICIAL RECORDS BOOK 30882, PAGE 1828 (LOT 6 & PARCELS "1" & "2")
WARRANTY DEED	OFFICIAL RECORDS BOOK 31902, PAGE 1819 (PARCEL "3")

THE ABOVE DEEDS ARE ALL RECORDED IN THE OFFICIAL RECORDS OF BROWARD COUNTY, FLORIDA.

CERTIFICATE:

WE HEREBY CERTIFY THAT THIS DESCRIPTION AND SKETCH CONFORMS TO CHAPTER 81017-4 (FLORIDA ADMINISTRATIVE CODE), MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA AS ADOPTED BY THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, BOARD OF PROFESSIONAL LAND SURVEYORS IN SEPTEMBER, 1981, AS AMENDED, PURSUANT TO CHAPTER 471027 OF THE FLORIDA STATUTES, AND IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF.

GRAVEN THOMPSON & ASSOCIATES, INC.
CERTIFICATE OF AUTHORIZATION LB371

DOUGLAS M. DAVE
PROFESSIONAL SURVEYOR AND MAPPER NO. 4343
STATE OF FLORIDA

EXHIBIT "B"

PUBLIC SCHOOL FACILITY IMPACT STATEMENT REPORT DATED OCTOBER 17, 2005



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

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

SCHOOL BOARD

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Tie Chair
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BENJAMIN J. WILLIAMS
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MALREUN S. DUNNEN
BEVERLY A. GALLAGHER
DR. ROBERT D. FARKS
MARY HUBINSKIN

October 17, 2005

Dr. Frank Till
Superintendent of Schools

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

Re: Voluntary Commitment for Land Use Plan Amendment PC 05-23

Dear Mr. Fink:

This correspondence is in response to your letter dated October 12, 2005 regarding the voluntary commitment to address the impact of the 3 additional middle school students anticipated from the proposed development of 115 townhouse units in the City of Pompano Beach. The development as proposed is anticipated to generate a total of 21 (11 elementary, 4 middle and 6 high school) or 16 additional students into Broward County Public Schools. Schools impacted in the 2005/06 school year are the currently under-enrolled Norcrest Elementary (< 90% of permanent capacity), the neutral (>=90% to 110% of permanent capacity) Deerfield Beach High School, and the 2006/07 projected overcrowded Deerfield Beach Middle School.

The voluntary commitment indicates that the applicant/owner of the above referenced amendment will pay the Florida established Student Station Cost Factor or cost per student station amount as mitigation for the 3 additional middle school students, plus the applicable school impact fee due for the 115 townhouse units. Utilizing the November 2005 Student Station Cost Factor Schedule, the cost per student station amount due translates to approximately \$47,850, and based on the current school impact fee schedule (effective October 1, 2005), the current school impact fee due is estimated at \$246,790.

The proposed voluntary commitment meets the mitigation provisions of School Board Policy 1161. However, be advised that the Student Station Cost Factor amount is adjusted each month based on the consumer price index, and the school impact fee schedule is adjusted annually on October 1. Therefore, the total mitigation amount due will be based on the Student Station Cost Factor amount in effect, and the applicable townhouse unit school impact fee contained in the effective school impact fee schedule when payment is made.

Voluntary Commitment for Land Use Plan Amendment PC 05-23
October 17, 2005
Page 2

As a condition for approval of the land use plan amendment by the Broward County Planning Council and the Broward County Commission, 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. Further, the Declaration of Restrictive Covenant must be submitted to District staff 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.

Thank you for your cooperation and please email at the above indicated email address or call me at 754.321.2162 if you have additional questions regarding this matter.

Sincerely,



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

COA:coa

cc: Thomas J. Coates, Executive Director, Facility Management, Planning and Site Acquisition
Omar Shim, Director, Capital Systems, Reporting and Control
Sharon Cruz, Deputy County Attorney
Henry Sniezek, Executive Director, Broward County Planning Council
David Danovitz, Director, Development Management Division

EXHIBIT "C"
PUBLIC SCHOOL CONCURRENCE LETTER DATED JULY 9, 2007



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Sawgrass Technology Park, 1643 N. Harrison Parkway, Building 11, 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

Chief
Fac Chair

SCHOOL BOARD

BEVERLY A. GALLAGHER
ROBIN BARTLEMAN
MALHEEN S. DINNER
JENNIFER LEONARD GOTTLIEN
PHYLLIS C. HOPE
STEPHANIE ARMA KRAFT, ESQ.
ROBERT D. PALMS, Ed.D.
ELEANOR SORIEL
DEJANINE J. WILLIAMS

James F. Notter
Superintendent of Schools

July 9, 2007

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

Re: Land Use Plan Amendments PC 07-19 through PC 07-21

Dear Mr. Sniezek:

Please find attached, Public School Facility Impact Statement Reports (PSFIS) for Land Use Plan Amendments (LUPA) PC 07-19 through PC 07-21. Please be advised that LUPA PC 07-21 as currently proposed is not anticipated to generate additional students into Broward County Public Schools. Additionally, the amendment site is not located adjacent to existing public schools; therefore, the amendment as proposed, will not have direct physical impact on Broward County Public Schools.

Information provided by your office regarding LUPA PC 07-19, also known as the Metropica DRJ, indicates that the current land use designations for the approximately 92.2-acre site consist of 78.5 acres of Commercial, 5.8 acres of Recreation and Open Space, 3.2 acres of Irregular (2.5) Residential, and 4.7 acres of Industrial. The application proposes a Transit Oriented Development (TOD) land use designation for the amendment site located at the northeast corner of Sunrise Boulevard and NW 136th Avenue in the City of Sunrise. The existing residential land use designation permits the development of a maximum of 8 single family units on the site, which would generate 4 (2 elementary, 1 middle and 1 high school) students. The application was reviewed as a potential 300 three or more bedrooms townhouse units and 2,500 two or more bedrooms high rise units, which would generate 236 (or 232 additional) students into Broward County Public Schools.

Land Use Plan Amendment PC 07-19 through 07-21
July 9, 2007
Page 2

Schools serving the area of the amendment site in the 2006/07 school year are depicted in the attached PSFIS Report. Based on the 2006/07 Twentieth-Day Membership Counts, and Enrollment and Facility Planning Inventory (EFPI) Report, Sawgrass Elementary School is under enrolled (< 90% of permanent capacity) and Bair Middle and Plantation High Schools are neutral (>= 90% to 110% of permanent capacity) in the 2006-07 school year and projected to maintain their current status through the 2008-09 school year.

Information regarding funded permanent capacity improvements contained in the adopted District Educational Facilities Plan, Fiscal Years 2006/07-2010/11 for pertinent impacted schools is provided in the attached Report. In the 2006/07 school year, there are no charter schools located within a two-mile radius of the amendment site.

This application is not subject to the provisions of School Board Policy 1161 as it relates to proposed residential development applications with increased density impacting critically overcrowded schools. This is because the impacted public schools are either neutral or under enrolled and projected to remain so for the next two effective school years. However, the applicant should be advised that school impact fees are due for the units.

The application for LUPA PC 07-20, also known as Vintage Park, in the City of Pompano Beach proposes to change the land use designations for a 6.5-acre site from Low (5) Residential and Irregular (21) Residential to Irregular (36) Residential. Under the County's existing residential land use designations, a maximum of 5 (four or more bedroom) single family and 115 (three or more bedroom) garden apartment units are permitted on the site, which generate 70 (33 elementary, 21 middle and 16 high school) students. The 5.5 acres of the amendment site's existing Irregular (21) Residential designation was established by County LUPA PC 05-23. District staff reviewed LUPA PC 05-23 as a potential 115 (63 two bedroom and 52 three or more bedroom) townhouse units development, which subsequently was approved by the Broward County Commission subject to an executed and recorded Declaration of Restricted Covenant, which requires the applicant (Shoal Creek Properties/- Pompano LLC) to restrict the property to 115 townhouse units and to pay the school impact fees due for the units plus the Student Station Cost Factor amount for the three additional middle school students attributable to PC 05-23 as mitigation for the proposed development impact to District Schools. To date, this mitigation has not been satisfied and must be addressed or satisfied prior to another land use change becoming effective for the amendment site.

This application was reviewed as a potential 234 (two or more bedroom) high-rise units, which generate 15 (or 55 less) students into Broward County Public Schools. The number of anticipated students is based on computations utilizing the maximum high-rise student generation rate contained in the currently adopted Broward County Land Development Code (BCLDC).

Schools serving the area of the amendment site in the 2006/07 school year are depicted in the attached PSFIS Report. However, based on the 2006/07 Twentieth-Day Membership Counts Report, Norcrest Elementary School is considered under enrolled (< 90% of permanent capacity) in the 2006/07 school year and Deerfield Beach Middle and High Schools are neutral (>=90% to 110% of permanent capacity). Norcrest Elementary

Land Use Plan Amendment PC 07-19 through 07-21
 July 9, 2007
 Page 3

and Deerfield Beach High Schools are projected to operate at under enrolled status for the next two effective school years, and Deerfield Beach Middle School is projected to drop to under enrolled status by the 2007/08 school year.

Information regarding funded permanent capacity improvements contained in the adopted District Educational Facilities Plan, Fiscal Years 2006/07-2010/11 for pertinent impacted schools is provided in the attached Report. In the 2006/07 school year, the charter schools located within a two-mile radius of the amendment site, and the Twentieth Day statistical data for the schools are depicted in Table 1 below.

Table 1, 2006/07 CHARTER SCHOOLS

Charter School	2006 Contract Capacity	Twentieth Day Enrollment	Over/(Under) Enrolled	2007/08 Projected Enrollment	2008/09 Projected Enrollment
Eagles Nest (K-5)	400	133	(267)	102	96
Eagles Nest (6-8)	89	420	(331)	66	66

Please be aware that the maximum capacity at each charter school is determined by the enrollment specified in the charter school agreement between the school and the School Board of Broward County, Florida. Some charter schools open under enrolled, but achieve maximum capacity as they add grade levels, move from leased facilities to permanent facilities, or increase public awareness about their school within the area they serve. Also, students attending or anticipated to attend pertinent charter schools are factored into the student enrollment projections for District schools.

This application (LUPA PC 07-20) is not subject to the provisions of School Board Policy 1161 as it relates to proposed residential development applications with increased density impacting critically overcrowded schools. This is because the impacted public schools are either neutral or under enrolled and projected to remain so for the next two effective school years. However, the applicant should be advised that an executed and recorded Declaration of Restrictive Covenant remains in effect for the property and requires payment of school impact fees plus the Student Station Cost Factor for the three additional middle school students attributable to PC 05-23.

As you are 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.

Land Use Plan Amendment PC 07-19 through 07-21
July 9, 2007
Page 4

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 email me at lisa.wight@browardschools.com or call me at 754-321-8356.

Sincerely,



Lisa Wight, Planner
Growth Management Division
Facility Management, Planning & Site
Acquisition Department

LLW:lw

Attachments

1. Public School Facility Impact Statement Report, LUPA PC 07-19 through PC 07-21.

cc: Thomas J. Coates, Executive Director, Facility Management, Planning & Site Acquisition Department
Chris O. Akagbosu, Director, Growth Management
Jill Young, Director, School Boundaries

PH 11

Return to:
Lorri Hall, Planner
Ruden, McClosky
200 East Broward Boulevard
Fort Lauderdale, Florida 33301

Prepared by:
Bonnie Miskel, Esq.
Ruden, McClosky
200 East Broward Boulevard
Fort Lauderdale, Florida 33301

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

AMENDED AND RESTATED DECLARATION OF RESTRICTIVE CONENANTS

THIS AMENDED AND RESTATED Declaration of Restrictive Covenants ("Declaration") related to Broward County Public Schools student impacts is executed this 14 day of August, 2006 by SHOAL CREEK PROPERTIES- POMPANO LLC, a Florida limited liability company, its successors and assigns ("Shoal Creek") whose address is 200 South Park Road, Suite 455, Hollywood, Florida, 33021, 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, Shoal Creek is the fee simple owner of approximately 5.56 gross acres of land generally located west of Federal Highway and south of N.W. 48 Street, in the City of Pompano Beach, Florida, in Broward County, more particularly described in the attached Exhibit "A" ("Property"); and

WHEREAS, Shoal Creek has submitted Land Use Plan Amendment Application PC 05-23, ("Application") for the Property, to change the Property's designation from Commercial and Low (5) Residential to Irregular (21) Residential permitting additional residential units consisting of 115 townhouse units which are anticipated to generate 21 students consisting of 11 elementary, 4 middle and 6 high school students; and

WHEREAS, the existing Low (5) Residential would permit the development of 12 single family units and, if developed, was determined to generate 5 students consisting of 3 elementary, 1 middle and 1 high school student, and with credit provided for the 1 middle school student that would be generated, mitigation is only due for the 3 additional middle school students attributable to the overcrowded middle school; and

WHEREAS, Shoal Creek entered into that Declaration dated August 7, 2006, recorded in Official Records Book 42549, page 705 of the Public Records of Broward County, Florida on August 7, 2006 ("Original Declaration"); and

FTL:1681965:1

WHEREAS, pursuant to the Original Declaration, in connection with the Application, Shoal Creek has voluntarily agreed to mitigate student impacts for the 3 additional students consistent with the Public School Facility Impact Statement Report dated October 17, 2005, a copy of which is attached hereto as Exhibit "B", associated with the proposed development on the Property; 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;

WHEREAS, Shoal Creek desires to amend and restate the Original Declaration, in its entirety, in accordance with the terms and provisions 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, Shoal Creek shall make one lump sum payment to the School Board for the Broward County School Impact Fee due for the 115 townhouse units, plus the Florida established Student Station Cost Factors amount for the three additional middle school students attributable to the overcrowded middle school. The total payment amount due shall be determined at the time of payment and shall be based upon the then current Broward County School Impact Fee schedule and the applicable cost per Student Station Cost Factor Schedule; however, the total mitigation payment shall be no less than \$305,290.00. Shoal Creek 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 October 17, 2005, 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 05-23. 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.

3. Once the mitigation payment has been made, no additional school impact fees will be required of Shoal Creek upon payment of the amount referenced in Paragraph 2 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) and/or bedroom mix, Shoal Creek 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 115 townhouse units contemplated herein and notify Shoal Creek and the County of any further increase in the number of anticipated students. Shoal Creek shall then purpose 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 Shoal Creek 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 Shoal Creek by the County or the School Board.

4. Upon Shoal Creek 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 Shoal Creek, 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. . The Original Declaration is hereby amended and restated in its entirety pursuant to the terms of this Declaration.

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.

[Reminder of page intentionally left blank]

10 1

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed this 14 day of August, 2006.

Signed, sealed and delivered
in the presence of:
WITNESSES:

[Signature]
Print Name: Beth R. [unclear]
[Signature]
Print Name: Lori Hall

SHOAL CREEK PROPERTIES -
POMPANO, LLC,
a Florida limited liability company

By: Urban Ventures At Pompano, LLC
its Managing Member

[Signature]
Print Name: James W. Harris
Title: Manager
Address: 200 South Park Road, Suite 456
Hollywood, FL 33021

STATE OF FLORIDA)
) SS
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 14th day of August, 2006, by James W. Harris, as Manager of Urban Ventures at Pompano, LLC, Managing Member of SHOAL CREEK PROPERTIES-POMPANO, LLC, a Florida Limited Liability Company, freely and voluntarily on behalf of said limited liability company. He/She is personally known to me or has produced _____ as identification or is known to me personally.

NOTARY PUBLIC-STATE OF FLORIDA
[Signature] Marcelina Morales
Commission # DD560114
Expires: JULY 21, 2010
..... HURV ATLANTIC BONDING CO, INC

[Signature] Marcelina Morales

11 11

EXHIBIT "A"
PROPERTY LEGAL DESCRIPTION
(TOGETHER WITH A PROPERTY SKETCH)

FTL:1509249.2

PARCEL 1

ALL THAT PART OF THE NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 18, TOWNSHIP 43 SOUTH, RANGE 43 EAST, LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 5, (FORMERLY STATE ROAD NO. 4, U.S. HIGHWAY NO. 1), COMMONLY KNOWN AS FEDERAL HIGHWAY, LYING SOUTH OF A LINE PARALLEL TO AND 525.87 FEET SOUTH OF THE NORTH LINE OF SAID NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18.

TOGETHER WITH: PARCEL 2

THAT PORTION THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 18, TOWNSHIP 43 SOUTH, RANGE 43 EAST, LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 4, ALSO KNOWN AS FEDERAL HIGHWAY, AS NOW LOCATED AND ESTABLISHED, WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18, THENCE RUNNING NORTH 89°07'30" EAST, A DISTANCE OF 448.8 FEET TO THE WEST BOUNDARY LINE OF SAID STATE ROAD NO. 4, ALSO KNOWN AS FEDERAL HIGHWAY, AS NOW LOCATED AND ESTABLISHED; THENCE SOUTH 07°44'30" WEST, ALONG THE WEST BOUNDARY OF SAID HIGHWAY, A DISTANCE OF 180 FEET TO A POINT; THENCE SOUTH 89°47'30" WEST, A DISTANCE OF 425.17 FEET TO A POINT ON THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18; THENCE NORTH 80°28'30" WEST, ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18, A DISTANCE OF 148.8 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH: PARCEL 3

A PORTION OF THE SOUTH 89.06 FEET OF THE NORTH 525.87 FEET OF THAT PART OF THE NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) LYING WEST OF THE RIGHT-OF-WAY OF FEDERAL HIGHWAY IN SECTION 18, TOWNSHIP 43 SOUTH, RANGE 43 EAST, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY BOUNDARY OF THE ABOVE DESCRIBED PROPERTY 1136.81 FEET WEST OF THE SOUTHEAST CORNER THEREOF; THENCE NORTH ALONG THE WESTERLY BOUNDARY THEREOF 79.06 FEET TO A POINT; THENCE EAST PARALLEL WITH THE SOUTHERLY BOUNDARY THEREOF 80 FEET TO A POINT; THENCE SOUTH PARALLEL WITH THE WESTERLY BOUNDARY THEREOF 79.05 FEET TO THE SOUTHERLY BOUNDARY; THENCE WEST ALONG THE SAID SOUTHERLY BOUNDARY 80 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN BROWARD COUNTY, FLORIDA, CONTAINING 5.87 ACRES MORE OR LESS.

NOTES:

- 1. THE BEARINGS, DISTANCES, AND AREA SHOWN HEREON AND ON THE ATTACHED SKETCH ARE SUBJECT TO CHANGE BASED ON THE FIELD LOCATION OF EXISTING PROPERTY MONUMENTATION.

SHEET 1 OF 3
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2. THE BEARINGS SHOWN HEREON ARE BASED ON AN ASSUMED MERIDIAN. THE WEST RIGHT-OF-WAY OF FEDERAL HIGHWAY BEARS NORTH 07°18'30" EAST ACCORDING TO FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 89628-3328, SHEET 4 OF 20, DATED DECEMBER 21, 1977, REVISED NOVEMBER 24, 1980.

3. THE ABOVE DESCRIPTION IS BASED ON THE FOLLOWING DEEDS:

WARRANTY DEED	OFFICIAL RECORDS BOOK 34827, PAGE 878 (LOT 6)
QUIT-CLAIM DEED	OFFICIAL RECORDS BOOK 33198, PAGE 898 (LOT 8)
QUIT-CLAIM DEED	OFFICIAL RECORDS BOOK 36790, PAGE 1888 (LOT 7)
WARRANTY DEED	OFFICIAL RECORDS BOOK 30982, PAGE 1828 (LOT 8 & PARCELS "1" & "2")
WARRANTY DEED	OFFICIAL RECORDS BOOK 31822, PAGE 1818 (PARCEL "3")

THE ABOVE DEEDS ARE ALL RECORDED IN THE OFFICIAL RECORDS OF BROWARD COUNTY, FLORIDA.

CERTIFICATE:

WE HEREBY CERTIFY THAT THIS DESCRIPTION AND SKETCH CONFORMS TO CHAPTER 61017-4 (FLORIDA ADMINISTRATIVE CODE), MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA AS ADOPTED BY THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, BOARD OF PROFESSIONAL LAND SURVEYORS IN SEPTEMBER, 1981, AS AMENDED, PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES, AND IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF.

GRAVEN THOMPSON & ASSOCIATES, INC.
CERTIFICATE OF AUTHORIZATION LB271

DOUGLAS M. DAVIS
PROFESSIONAL SURVEYOR AND MAPPER NO. 4343
STATE OF FLORIDA

SHEET 2 OF 3
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11 |

EXHIBIT "B"

PUBLIC SCHOOL FACILITY IMPACT STATEMENT REPORT

11 1

The Nation's Largest Fully



Accredited School System

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

Property Description		BDC 18	TWP 41	RNG 43
Type:	County			
Amendment #:	PC 05-23			
Owner / Developer:	TCR SF Properties			
Jurisdiction:	City of Pompano Beach			
Current Land Use:	Commercial and Low (5) Residential (Approx. 5.3 Acres)			
Proposed Land Use:	Irregular (21) Residential (Approx. 5.5 Acres)			

Potential Student Impact*		Additional Impact:		Cumulative Grades for From			
Existing Permitted Units:	12	Elementary Students:	11	LUPA Approved / Under			
Proposed Units:	115	Middle Students:	4	Since 1/03/05 to 6/26/05			
Net Change:	+103	High Students:	6	Elem	Md	Hgh	Total
			Total:	21			

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

Currently Assigned Schools*	School Capacity	2006 Day* Enrollment	Order (Under) Exceeds	Projected Enrollment**			
Norwest Elementary	1,023	760	272	772	759	741	713
Deerfield Beach Middle	1,442	1,304	92	1,471	1,575	1,632	1,619
Deerfield Beach High	2,434	2,473	39	2,423	2,290	2,154	2,241

COMMENTS: Staff is advising the Broward County Planning Council, the Broward County Commission, the applicant(s)/owner(s) and/or future developer(s) of the subject site that based on the School Director's 2005/06 Twenty-six Day Membership Count Report, Norwest Elementary School is under-enrolled (< 90% of permanent capacity) in the 2005/06 school year, Deerfield Beach Middle is neutral (>=90% 110% of permanent capacity), but is projected to be overcrowded in the 2006/07 school year, and Deerfield Beach High School is neutral. Indications are that the current land use designation for the site permits 12 single-family units, which generates 5 (3 elementary, 1 middle and 1 high school) students. This application was reviewed as a potential 115-unit residential development, and is anticipated to generate a total of 21 (or 26 additional) students into Broward County Public Schools, which will exacerbate overcrowded conditions at the pertinent impacted schools. This application is subject to the provision of School Board Policy 1161 as it relates to proposed incidental applications with increased density impacting overcrowded schools. Therefore, the owner/developer should be directed to provide mitigation for the applicable anticipated students. 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 secondary changes to accommodate students generated from developments in the County. Also, information on charter schools located within 1.25-mile radius of the site this school year is provided below.

* Note: 2005/06 School Year Data - School attendance areas are subject to change each year.
** Adjusted Cohort projections - Cohort Survival Model, School Demographic Department.

Identify Land Use/development in the Currently Assigned District Educational Facilities Plan

Elementary Schools: None
Middle Schools: Deerfield Beach Middle School: 6 modular classrooms addition, but funding slated for FY 2006/07.
High Schools: None
Comments: Single Unit (Order X-5): Enrollment - 112, Current Capacity - 400, Over/Under - (288), 2006/07 Projected Enrollment - 240; Single Unit (4-4): Enrollment - 44, Current Capacity - 400, Over/Under - (156), 2006/07 Projected Enrollment - 190

Date: October 12, 2005
By: Facility Management/Planning & Site Acquisition Department

EXHIBIT C



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
600 Southeast Third Avenue • 11th FL. FT. LAUDERDALE, FLORIDA 33301 • TEL 754-321-2161 • FAX 754-321-2179

Chris O. Akagbeu, Director
Growth Management Division
Facilities Management, Planning & Site Acquisition
chris.akagbeu@browardschools.com

SCHOOL BOARD
Gov STEPHANIE ARMAKRATI, MSQ
Vice Chair BENJAMIN J. WILLIAMS
CAROLE L. ANDREWS
RODIN BARTLEMAN
DARLA L. CARTER
MAUREEN S. DENNIS
BEVERLY A. O'NEILL
DR. ROBERT D. PARKS
MARTY RUBINSTEIN

October 17, 2005

Dr. Frank Till
Superintendent of Schools

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

Re: Voluntary Commitment for Land Use Plan Amendment PC 05-23

Dear Mr. Fink:

This correspondence is in response to your letter dated October 12, 2005 regarding the voluntary commitment to address the impact of the 3 additional middle school students anticipated from the proposed development of 115 townhouse units in the City of Pompano Beach. The development as proposed is anticipated to generate a total of 21 (11 elementary, 4 middle and 6 high school) or 16 additional students into Broward County Public Schools. Schools impacted in the 2005/06 school year are the currently under-enrolled Norcrest Elementary (< 90% of permanent capacity), the neutral (>90% to 110% of permanent capacity) Deerfield Beach High School, and the 2006/07 projected overcrowded Deerfield Beach Middle School.

The voluntary commitment indicates that the applicant/owner of the above referenced amendment will pay the Florida established Student Station Cost Factor or cost per student station amount as mitigation for the 3 additional middle school students, plus the applicable school impact fee due for the 115 townhouse units. Utilizing the November 2005 Student Station Cost Factor Schedule, the cost per student station amount due translates to approximately \$47,850, and based on the current school impact fee schedule (effective October 1, 2005), the current school impact fee due is estimated at \$246,790.

The proposed voluntary commitment meets the mitigation provisions of School Board Policy 1161. However, be advised that the Student Station Cost Factor amount is adjusted each month based on the consumer price index, and the school impact fee schedule is adjusted annually on October 1. Therefore, the total mitigation amount due will be based on the Student Station Cost Factor amount in effect, and the applicable townhouse unit school impact fee contained in the effective school impact fee schedule when payment is made.

Voluntary Commitment for Land Use Plan Amendment PC 05-23
October 17, 2005
Page 2

As a condition for approval of the land use plan amendment by the Broward County Planning Council and the Broward County Commission, 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. Further, the Declaration of Restrictive Covenant must be submitted to District staff 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.

Thank you for your cooperation and please email at the above indicated email address or call me at 754.321.2162 if you have additional questions regarding this matter.

Sincerely,



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

COA:coa

cc: Thomas J. Coates, Executive Director, Facility Management, Planning and Site Acquisition
Omar Shim, Director, Capital Systems, Reporting and Control
Sharon Cruz, Deputy County Attorney
Henry Sniezek, Executive Director, Broward County Planning Council
David Danovitz, Director, Development Management Division

FORM DECLARATION
NEW UNITS
March 28, 2005

Return to:
Lorri Hall, Planner
Ruden, McClosky
200 East Broward Boulevard
Fort Lauderdale, Florida 33301

Prepared by:
Bonnie Miskel, Esq.
Ruden, McClosky
200 East Broward Boulevard
Fort Lauderdale, Florida 33301

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants ("Declaration") related to Broward County Public Schools student impacts is executed this 17th day of August, 2006 by Shoal Creek Properties-Pompano LLC, a Florida limited liability company, its successors and assigns ("Shoal Creek") whose address is 200 South Park Road, Suite 455, Hollywood, Florida, 33021, 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, Shoal Creek is the fee simple owner of approximately 5.56 gross acres of land generally located west of Federal Highway and south of N.W. 48 Street, in the City of Pompano Beach, Florida, in Broward County, more particularly described in the attached Exhibit "A" ("Property"); and

WHEREAS, Shoal Creek has submitted Land Use Plan Amendment Application PC 05-23, ("Application") for the Property, to change the Property's designation from Commercial and Low (5) Residential to Irregular (21) Residential permitting additional residential units consisting of 115 townhouse units which is anticipated to generate 3 students; and

WHEREAS, in connection with the Application, Shoal Creek has voluntarily agreed to enter into this Declaration regarding the mitigation of student impacts for the 3 students which is the number of students anticipated to be generated by the future development of the additional 115 townhouse units proposed for the development of the Property consistent with the Public School Facility Impact Statement Report dated October 12, 2005, a copy of which is attached hereto as Exhibit "B", associated with the proposed development on the Property; 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;

FORM DECLARATION
NEW UNITS
March 28, 2005

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, Shoal Creek shall make one lump sum payment to the School Board of \$47,900 for ~~_____ (_____) modular classroom addition to be constructed at a location to be determined by the School Board [or state alternative mitigation option].~~ The total payment amount due shall be determined at the time of payment and based upon the then applicable cost for a modular classroom as calculated at the beginning of each fiscal year by the School Board. Shoal Creek 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 October 12, 2005, 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 05-23. 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.

3. Once the mitigation payment has been made, no additional school impact fees will be required of Shoal Creek upon payment of the amount referenced in Paragraph 2 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, Shoal Creek 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 115 townhouse units contemplated herein and notify Shoal Creek and the County of any further increase in the number of anticipated students. Shoal Creek shall then propose additional mitigation for the newly anticipated additional students. Any such additional mitigation amount shall be paid, in full, to the School Board no later than the date in which Shoal Creek 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 Shoal Creek by the County or the School Board.

4. Upon Shoal Creek 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 Shoal Creek, in recordable form, a release of this Declaration of Restrictive Covenants.

**FORM DECLARATION
NEW UNITS
March 28, 2005**

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.

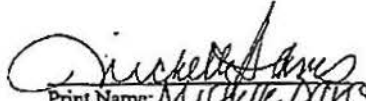
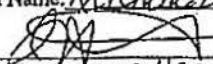
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FORM DECLARATION
NEW UNITS
March 28, 2005

7th IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed this
day of August, 2006.

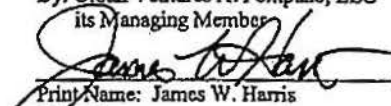
Signed, sealed and delivered
in the presence of:

WITNESSES:


Print Name: Michelle Davis

Print Name: Ivys Hernandez


SHOAL CREEK PROPERTIES -
POMPANO, LLC,
a Florida limited liability company

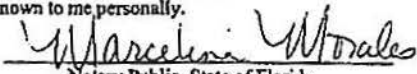
By: Urban Ventures At Pompano, LLC
its Managing Member


Print Name: James W. Harris
Title: Manager
Address: 200 South Park Road, Suite 456
Hollywood, FL 33021

STATE OF FLORIDA)
) SS
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this _____ day of _____
2006, by James W. Harris, as Manager of Urban Ventures At Pompano, LLC, Managing Member of
SHOAL CREEK PROPERTIES-POMPANO, LLC, a Florida Limited Liability Company, freely and
voluntarily on behalf of said limited liability company. He/She is personally known to me or has
produced _____ as identification or is known to me personally.

NOTARY PUBLIC-STATE OF FLORIDA
 Marcelina Morales
Commission # DD560114
Expires: JULY 21, 2010
BONDED THRU ATLANTIC BONDING CO., INC


Notary Public, State of Florida
My Commission Expires:

FORM DECLARATION
NEW UNITS
March 28, 2005

EXHIBIT "A"
PROPERTY LEGAL DESCRIPTION
(TOGETHER WITH A PROPERTY SKETCH)

FTL:1509246:2

FORM DECLARATION
NEW UNITS
March 28, 2005

PARCEL 1

ALL THAT PART OF THE NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 18, TOWNSHIP 48 SOUTH, RANGE 43 EAST, LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 5, (FORMERLY STATE ROAD NO. 4, U.S. HIGHWAY NO. 1), COMMONLY KNOWN AS FEDERAL HIGHWAY, LYING SOUTH OF A LINE PARALLEL TO AND 828.87 FEET SOUTH OF THE NORTH LINE OF SAID NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18.

TOGETHER WITH: PARCEL 2

THAT PORTION THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 18, TOWNSHIP 48 SOUTH, RANGE 43 EAST, LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF STATE ROAD NO. 4, ALSO KNOWN AS FEDERAL HIGHWAY, AS NOW LOCATED AND ESTABLISHED, WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18, THENCE RUNNING NORTH 89°07'30" EAST, A DISTANCE OF 448.5 FEET TO THE WEST BOUNDARY LINE OF SAID STATE ROAD NO. 4, ALSO KNOWN AS FEDERAL HIGHWAY, AS NOW LOCATED AND ESTABLISHED; THENCE SOUTH 87°12'34" WEST, ALONG THE WEST BOUNDARY OF SAID HIGHWAY, A DISTANCE OF 180 FEET TO A POINT; THENCE SOUTH 86°47'30" WEST, A DISTANCE OF 428.87 FEET TO A POINT ON THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18; THENCE NORTH 00°30'30" WEST, ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 18, A DISTANCE OF 148.8 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH: PARCEL 3

A PORTION OF THE SOUTH 89.88 FEET OF THE NORTH 828.87 FEET OF THAT PART OF THE NORTH ONE-HALF (N 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) LYING WEST OF THE RIGHT-OF-WAY OF FEDERAL HIGHWAY IN SECTION 18, TOWNSHIP 48 SOUTH, RANGE 43 EAST, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY BOUNDARY OF THE ABOVE DESCRIBED PROPERTY 1133.88 FEET WEST OF THE SOUTHEAST CORNER THEREOF; THENCE NORTH ALONG THE WESTERLY BOUNDARY THEREOF 78.88 FEET TO A POINT; THENCE EAST PARALLEL WITH THE SOUTHERLY BOUNDARY THEREOF 80 FEET TO A POINT; THENCE SOUTH PARALLEL WITH THE WESTERLY BOUNDARY THEREOF 78.88 FEET TO THE SOUTHERLY BOUNDARY; THENCE WEST ALONG THE SAID SOUTHERLY BOUNDARY 80 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN BROWARD COUNTY, FLORIDA, CONTAINING 6.87 ACRES MORE OR LESS.

NOTES:

- 1. THE BEARINGS, DISTANCES, AND AREA SHOWN HEREON AND ON THE ATTACHED SKETCH ARE SUBJECT TO CHANGE BASED ON THE FIELD LOCATION OF EXISTING PROPERTY MONUMENTATION.

SHEET 1 OF 3
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FORM DECLARATION
NEW UNITS
March 28, 2005

2. THE BEARINGS SHOWN HEREON ARE BASED ON AN ASSUMED MERIDIAN. THE WEST RIGHT-OF-WAY OF FEDERAL HIGHWAY BEARS NORTH 07°12'30" EAST ACCORDING TO FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 88020-2520, SHEET 8 OF 20, DATED DECEMBER 21, 1977, REVISED NOVEMBER 24, 1980.

3. THE ABOVE DESCRIPTION IS BASED ON THE FOLLOWING DEEDS:

WARRANTY DEED	OFFICIAL RECORDS BOOK 34837, PAGE 878 (LOT 5)
QUIT-CLAIM DEED	OFFICIAL RECORDS BOOK 33138, PAGE 988 (LOT 6)
QUIT-CLAIM DEED	OFFICIAL RECORDS BOOK 36780, PAGE 1880 (LOT 7)
WARRANTY DEED	OFFICIAL RECORDS BOOK 30862, PAGE 1828 (LOT 8 & PARCELS "1" & "2")
WARRANTY DEED	OFFICIAL RECORDS BOOK 31802, PAGE 1818 (PARCEL "3")

THE ABOVE DEEDS ARE ALL RECORDED IN THE OFFICIAL RECORDS OF BROWARD COUNTY, FLORIDA.

CERTIFICATE:

WE HEREBY CERTIFY THAT THIS DESCRIPTION AND SKETCH CONFORMS TO CHAPTER 81G17-8 (FLORIDA ADMINISTRATIVE CODE), MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA AS ADOPTED BY THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, BOARD OF PROFESSIONAL LAND SURVEYORS IN SEPTEMBER, 1981, AS AMENDED, PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES, AND IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF.

GRAVEN THOMPSON & ASSOCIATES, INC.
CERTIFICATE OF AUTHORIZATION LB271

DOUGLAS R. DAVIS
PROFESSIONAL SURVEYOR AND MAPPER NO. 4343
STATE OF FLORIDA

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SHEET 2 OF 3
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FORM DECLARATION
NEW UNITS
March 28, 2005

EXHIBIT "B"

PUBLIC SCHOOL FACILITY IMPACT STATEMENT REPORT

FTL:1509246:2

FORM DECLARATION
NEW UNITS
March 28, 2005

The Nation's Largest Fully



Accredited School System

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

Property Description		SEC 18	TWP 43	RNG 43
Type:	County			
Amendment #:	PC 05-23			
Owner / Developer:	TCR SP Properties			
Jurisdiction:	City of Pompano Beach			
Current Land Use:	Commercial and Low (5) Residential (Approx. 5.5 Acres)			
Proposed Land Use:	Irregular (21) Residential (Approx. 5.5 Acres)			

Potential Student Impact*		ASAC Impact:			Cumulative Students From LUPA Amendment History			
Existing Permitted Units:	12	Elementary Students:	11					
Proposed Units:	115	Middle Students:	4					
Net Change:	+103	High Students:	6					
		Totals:	21					

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

Currently Assigned Schools*	School Capacity	2nd Day Enrollment	Units (Under) Enrolled	Projected Enrollment**			
				06/07	07/08	08/09	09/10
Norcross Elementary	1,000	760	474	733	759	741	713
Deerfield Beach Middle	1,442	1,044	91	1,473	1,575	1,632	1,619
Deerfield Beach High	2,434	2,473	39	2,429	2,250	2,154	2,241

COMMENTS: Staff is advising the Broward County Planning Council, the Broward County Commission, the applicant(s)/owner(s) and/or future developer(s) of the subject site based on the School District's 2005/06 Tuesday Day Membership Counts Report, Norcross Elementary School is under-enrolled (< 50% of permanent capacity) in the 2005/06 school year, Deerfield Beach Middle is neutral (>=50% 110 % of permanent capacity), but is projected to be overcrowded in the 2006/07 school year, and Deerfield Beach High School is neutral. Indicated use that the current land use designation for the site permits 12 single family units, which generates 5 (3 elementary, 1 middle and 1 high school) students. This application was reviewed as a potential 115-unit/100-unit development, and is anticipated to generate a total of 21 (or 16 additional) students into Broward County Public Schools, which will exacerbate overcrowded conditions at the perimeter impacted schools. This application is subject to the provisions of School Board Policy 1161 as it relates to proposed residential applications with increased density impacting over-crowded schools. Therefore, the owner/developer should be allowed to provide mitigation for the applicable impacted schools. The applicant/owner is advised that separately the School Board will not other options such as portable classrooms, multi-track year round education, double session or boundary changes to accommodate students generated from developments to the County. Also, information on charter schools located within a two-mile radius of the site this school year is provided below.

* Note: 2005/06 School Year Data - School attendance rates are subject to change each year.
** Adjusted Cohort projections - Cohort Survival Model, School Boundaries Department.

Elementary and Middle Schools in the Community, Adjacent District Educational Facilities Area	
Elementary Schools:	None
Middle Schools:	Deerfield Beach Middle School; 6 modular classrooms addition, bulk funding slated for FY 2006/07.
High Schools:	None
Comments:	Byler K-8 (Orlando K-8): Enrollment - 112, Current Capacity - 400, Over(Under) - 238, 2006/07 Projected Enrollment - 240, Byler Mid (K-8): Enrollment - 66, Current Capacity - 400, Over(Under) - 334, 2006/07 Projected Enrollment - 280

Date: October 12, 2005
By: Facility Management, Planning & Site Acquisition Department

FORM DECLARATION
NEW UNITS
March 28, 2005

EXHIBIT "C"

SCHOOL BOARD LETTER OF CONCURRENCE



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
204 South Ocean Third Avenue, 12th FL, FT. LAUDERDALE, FLORIDA 33301 • TEL 754-371-3181 • FAX 754-331-3171

Chris Abagheon, Director
Ground Management Division
Facility Management, Planning & Strategic Initiatives
cra@schools.broward.k12.fl.us

SCHOOL BOARD
Chair: STEPHENNE AGUILAR
Vice Chair: MARGARET A. WILLIAMS
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KAREN BATTURMAN
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BEVERLY A. GALLAGHER
DR. ROBERT D. PALKE
MARTY PUSKASITNY
Dr. Frank Tate
Superintendent of Schools

October 12, 2005

Merry Sritzenek, Executive Director
Broward County Planning Council
115 South Andrews Avenue, Room 1307
Fort Lauderdale, Florida 33301

Re: Re-vised Report for Land Use Plan Amendment PC 05-23

Dear Mr. Sritzenek:

Please find attached per the request from your office, the revised Public School Facility Impact Statement Report (PSFIS) for Land Use Plan Amendment (LUPA) PC 05-23. Information provided by your office indicates that the current land use designation for the site permits 12 single-family units, which generates 5 (3 elementary, 1 middle and 1 high school) students. This application was reviewed as a potential 115-townhouse units development, and is anticipated to generate a total of 21 (11 elementary, 4 middle and 6 high school) or 15 additional students into Broward County Public Schools, which will exacerbate overcrowded conditions at the pertinent impacted schools.

Schools impacted by the amendment in the 2005/06 school year are depicted in the attached PSFIS Report. Based on the 2005/06 Twentieth Day Membership Counts Report, Norcrest Elementary School is under-enrolled (< 90% of permanent capacity) in the 2005/06 school year, Deerfield Beach Middle is neutral (>=90% 110% of permanent capacity), but is projected to be overcrowded in the 2006/07 school year, and Deerfield Beach High School is neutral. Therefore, the amendment as proposed will exacerbate overcrowded conditions at pertinent impacted schools.

Information regarding funded permanent capacity improvements contained in the Adopted District Educational Facilities Plan, Fiscal Years 2005/06-2009/10 for pertinent impacted schools are also provided in the attached Report.

Also, information regarding charter schools located within a two-mile radius of the amendment site in the 2005/06 school year is provided in the PSFIS Report. Please be aware that the maximum capacity at each charter school is determined by the enrollment specified in the charter school

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FTL:1509246:2

FORM DECLARATION
NEW UNITS
March 28, 2005

Re-Visited Report for Land Use Plan Amendment PC 05-23
October 12, 2005
Page 2

agreement between the school and the School Board of Broward County, Florida. Some charter schools open under enrolled, but achieve maximum capacity as they add grade levels, move from leased facilities to permanent facilities, or increase public awareness about their school within the area they serve. Deerfield Beach Middle School is projected to be overcrowded in the 2006/07 school year, and students attending or anticipated to attend pertinent charter schools are factored into the enrollment projections for District schools. Therefore, Eagles Nest (6-8) Charter School is not anticipated to completely relieve overcrowding at Deerfield Beach Middle School.

This application is subject to the provisions of School Board Policy 1161 as it relates to proposed residential applications with increased density impacting overcrowded schools. Thus, based on the provisions of School Board Policy 1161, mitigation is only required for the 3 additional anticipated middle school students. As such, the owner/developer should be directed to provide mitigation for the anticipated students. Also, the owner/developer should be advised that Policy 1161 mandates that any proposed mitigation shall not be less than the school impact fees due for the residential development.

As always, 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 email me at chris.akagbogu@browardschools.com or call me at 754-321-2112.

Sincerely,



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

CDA:xxx

Attachment

1. Re-Visited Public School Facility Impact Statement Report, LUPA PC 05-23

cc: Thomas J. Coates, Executive Director, Facility Management, Planning & Site Acquisition
Thomas Moore, Director, School Boundaries Department
Charles F. Fink, President, CFF Planning Services

Transforming Education: One Student at A Time
Broward County Public Schools is An Equal Opportunity/Equal Access Employer