

Return to: (enclose self-addressed stamped envelope)

Name: Marcie Oppenheimer Nolan, Esq.

Address: 1 Broward Boulevard, Suite 18
Fort Lauderdale, FL. 33305

This Instrument Prepared by: Alan L. Gabriel, Esq.

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DECLARATION OF RESTRICTIVE COVENANTS
(Land Use Plan Amendment PC 07-04)

This Declaration of Restrictive Covenants ("Declaration") related to Broward County Public Schools student impacts is executed this ____ day of January, 2015 by **STIRLING DAVIE, LLC**, a Georgia limited liability company, ("Stirling Davie"), whose address is 3350 Riverwood Pkwy, Atlanta, GA, 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, Bank Of America, N. A. ("BOA") was the fee simple owner of approximately 5.2 gross acres of land generally located on Davie Road Extension, south of Stirling Road in the City of Hollywood, Florida, in Broward County, more particularly described in the attached Exhibit "A" ("Property"); and

WHEREAS, BOA as the owner of the Property submitted Land Use Plan Amendment Application PC-07-4, ("Application") for the Property, to change the Property's designation from Commercial to Medium (16) Residential permitting an additional 80 residential three bedroom townhouse units which is anticipated to generate a total of twenty two (22) additional (11 elementary, 5 middle and 6 high school) students into Broward County Public Schools; and

WHEREAS, in connection with the Application, BOA voluntarily agreed to enter into a Declaration of Restrictive Covenants regarding the mitigation of student impacts for the eleven (11) elementary school students attributable to the overcrowded Driftwood Elementary School consistent with the Public School Facility Impact Statement Report dated November 21, 2006, 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 requested the execution and recordation of the Declaration of Restrictive Covenants; and

WHEREAS, Broward County and the City of Hollywood in conjunction with the School Board have adopted public school concurrency since the approval of PC 07-04, requiring all new residential development proposals to comply with development review criteria for public school concurrency in Broward County, Florida; and

WHEREAS, Stirling Davie, the current Property owner now desires to build 83 two bedroom garden apartments consistent with the Medium (16) Residential land use category; and

WHEREAS, the new residential units (83 two bedroom apartments) are anticipated to generate a total of 15 (8 elementary, 3 middle, and 4 high) students based on the currently effective student generation rates a table of which is attached hereto as Exhibit "C"; and

WHEREAS, the proposed 83 two bedroom garden apartments generate 7 less students (3 elementary, 2 middle, and 2 high) than that which were subject to the original mitigation determination.

NOW, THEREFORE, in consideration of the promises and covenants herein contained, Stirling Davie 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. 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, Stirling Davie shall pay the total school impact fee amount for the 83 (two bedroom) garden apartment units to the School Board (the "Mitigation Payment"). The total Mitigation Payment amount due shall be determined at the time of payment and based upon the then applicable school impact schedule; however, the total Mitigation Payment shall be no less than \$282,117.00. Stirling Davie shall obtain proof of the approved payment(s) from the School Board and provide same to the Broward County Development Management Division.

Said Mitigation 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 the Land Use Plan Amendment PC07-4. 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 Stirling Davie 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, Stirling Davie agrees to provide written notification to the Director, Facility Planning and Real Estate Department of the School Board or designee, with a copy to the Broward County Development Management Division. The Director, or designee, shall determine the additional students anticipated from any increase in residential units beyond the 83 total units contemplated herein and notify Stirling Davie and the County of any further increase in the number of anticipated students. Stirling Davie shall then propose additional mitigation for the newly anticipated additional students, subject to the terms and provisions contained in the adopted School Board Growth Management Policy. Any such additional mitigation amount shall be paid, in full, to the School Board no later than the date in which Stirling Davie 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 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 Stirling Davie by the County or the School Board.

4. Upon Stirling Davie obtaining a final certificate of occupancy for any given residential unit, a copy of same shall be promptly delivered to Director, Facility Planning and Real Estate Department 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 deliver to Stirling Davie in recordable form, a release of this Declaration.

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.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed this 28 day of January, 2015.

Signed, sealed and delivered in the presence of:

WITNESSES:

STIRLING DAVIE, LLC
a Georgia limited liability company

By: _____
Print Name: _____

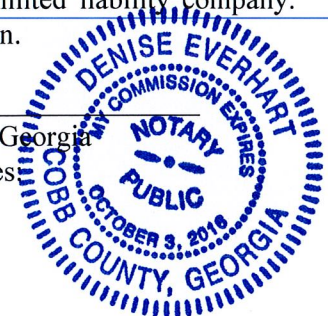
By: Ben M. Lefkowitz
Print Name: Benjamin M. Lefkowitz
Title: Manager
Address: 3350 Riverwood Pkwy
Ste 450
Atlanta, GA 30339

By: _____
Print Name: _____

STATE OF Georgia)
) SS
COUNTY OF Cobb)

The foregoing instrument was acknowledged before me this 28 day of January, 2015, by Benjamin M. Lefkowitz, as Manager of STIRLING DAVIE, LLC a Georgia 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.

Denise Everhart
Notary Public, State of Georgia
My Commission Expires _____



**MORTGAGEE
JOINDER AND CONSENT
BY THE
BANK OF NORTH GEORGIA**

The **BANK OF NORTH GEORGIA**, a Division of Synovus Bank, having an address of 3280 Peachtree Road NE, Atlanta, said Bank being the owner and holder of a Mortgage, Security Agreement and Fixture Filing by Stirling Davie, LLC, dated November 21, 2014 and recorded November 24, 2014, in Official Records Book 51268, Page 1324, of the Public Records of Broward County, Florida, does hereby join and consent to this Declaration of Restrictive Covenants (the "Declaration").

IN WITNESS WHEREOF, the undersigned, has caused these presents to be executed in its name this ___ day of January, 2015.

Signed, sealed and delivered
in the presence of:

WITNESSES:

BANK OF NORTH GEORGIA
a Division of Synovus Bank

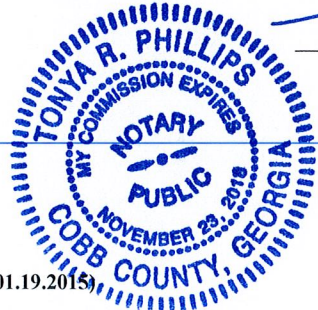
By: Crystal Lofton Lawson
Print Name: CRYSTAL LOFTON-LAWSON

By: Gail K. Harmeier
Print Name: Gail K. Harmeier
Title: Senior Vice President
Address: Terminus 100
3280 Peachtree Road, NE
Suite 500
Atlanta, GA 30305

By: _____
Print Name: _____

STATE OF Georgia)
) SS
COUNTY OF Fulton)

The foregoing instrument was acknowledged before me this 28th day of January, 2015, by Gail Harmeier, as VP of **BANK OF NORTH GEORGIA**, a Division of Synovus Bank, on behalf of said Corporation. He/She is personally known to me or has produced _____ as identification.



Tonya R. Phillips
Notary Public, State of Georgia
My Commission Expires:

EXHIBIT LIST

EXHIBIT "A"

PROPERTY LEGAL DESCRIPTION
(TOGETHER WITH A PROPERTY SKETCH)

EXHIBIT "B"

PUBLIC SCHOOL FACILITY IMPACT STATEMENT REPORT
Dated November 21, 2006

EXHIBIT "C"

TABLE OF CURRENTLY EFFECTIVE STUDENT
GENERATION RATES

DESCRIPTION:

THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4), LESS THE NORTH 53.00 FEET, LYING IN SECTION 2, TOWNSHIP 51 SOUTH, RANGE 41 EAST.

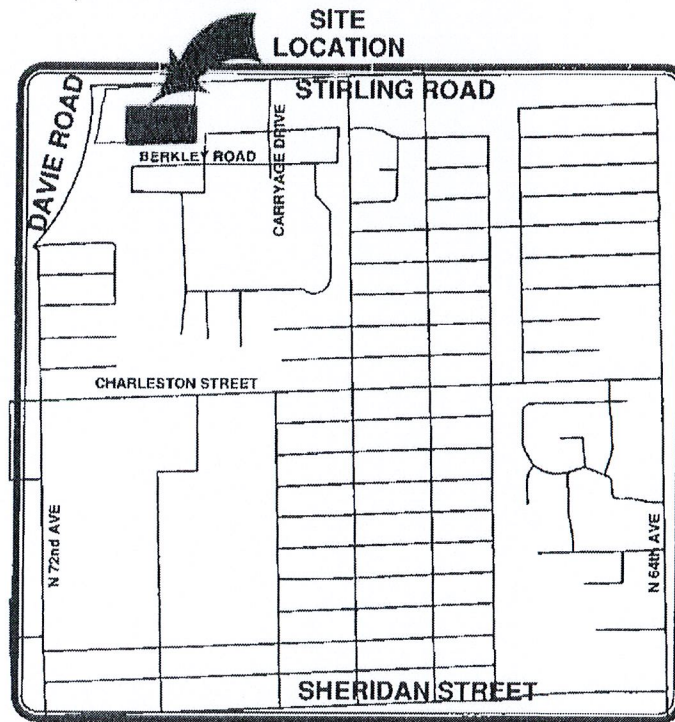
LESS AND EXCEPT:

ALL OF BANK OF AMERICA, WEST STIRLING, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 179, PAGE 20, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

ALL OF THE ABOVE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF PARCEL "A" OF SAID BANK OF AMERICA, WEST STIRLING; THENCE ALONG THE WEST LINE OF SAID PARCEL "A", ALSO BEING THE WEST LINE OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 2, SOUTH 01°28'42" EAST 253.04 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "A" ALSO BEING THE POINT OF BEGINNING; THENCE ALONG SOUTH LINE OF SAID PARCEL "A" NORTH 87°45'12" EAST 660.35 FEET TO THE EAST LINE OF SAID NORTHEAST ONE-QUARTER (NE 1/4); THENCE ALONG SAID EAST LINE OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 2, SOUTH 01°29'42" EAST 344.61 FEET; THENCE ALONG SOUTH LINE OF SAID NORTHEAST ONE-QUARTER (NE 1/4) SOUTH 87°44'45" WEST 660.45 FEET; THENCE ALONG WEST LINE OF SAID NORTHEAST ONE-QUARTER (NE 1/4) NORTH 01°30'58" WEST 344.70 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING, AND BEING IN THE CITY OF HOLLYWOOD, BROWARD COUNTY, FLORIDA AND CONTAINING 227589 SQUARE FEET (5.225 ACRES) MORE OR LESS.



SECTION 2, TOWNSHIP 51 SOUTH, RANGE 41 EAST

LOCATION MAP

N.T.S.

SEE SHEET 2 OF 2 FOR SKETCH

SKETCH & DESCRIPTION

THIS SKETCH DOES NOT REPRESENT A BOUNDARY SURVEY

CERTIFIED TO:

STIRLING DAVIE LLC.

I HEREBY CERTIFY THAT THIS SKETCH MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027, FLORIDA STATUTES. DATED THIS 2nd DAY OF FEBRUARY, 2015 A.D.

Martin P. Rossi
MARTIN P. ROSSI
PROFESSIONAL SURVEYOR AND MAPPER
STATE OF FLORIDA REGISTRATION No. 5857
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER
CERTIFICATE OF AUTHORIZATION: LB8860

MILLER LEGG

South Florida Office: 5747 N. Andrews Way
Ft. Lauderdale, Florida 33309-2364
954-436-7000 • Fax: 954-436-8664
www.millerlegg.com

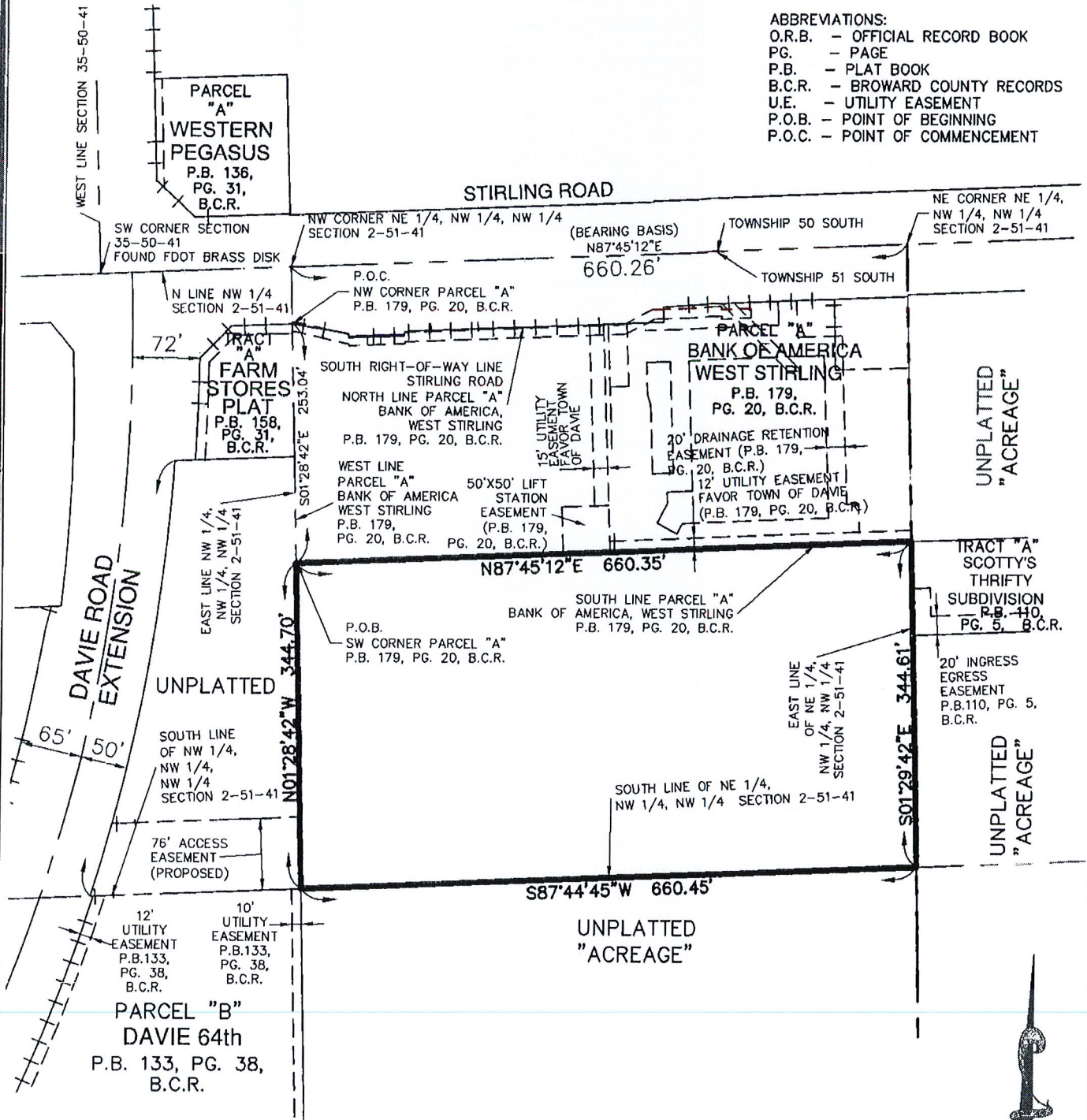
PROJECT NO. **14-00065**

FILE NO. **SH-1**

DRAWN BY: LP CHECKED BY: MR

DATE	REVISIONS	BY	CHK

ABBREVIATIONS:
 O.R.B. - OFFICIAL RECORD BOOK
 PG. - PAGE
 P.B. - PLAT BOOK
 B.C.R. - BROWARD COUNTY RECORDS
 U.E. - UTILITY EASEMENT
 P.O.B. - POINT OF BEGINNING
 P.O.C. - POINT OF COMMENCEMENT



SURVEY NOTES:

- BEARINGS SHOWN HEREON ARE BASED ON PLAT BEARING OF N 87°45'12" E ALONG THE NORTH LINE OF SECTION 2 TOWNSHIP 51 SOUTH, RANGE 41 EAST, AS SHOWN ON THE PLAT OF BANK OF AMERICA, WEST STIRLING (P.B. 179, PG. 20, B.C.R.)

GRAPHIC SCALE



(IN FEET)
 1 INCH = 150 FEET

MILLER LEGG

South Florida Office: 5747 N. Andrews Way
 Ft. Lauderdale, Florida - 33309-2364
 954-436-7000 - Fax: 954-436-8664
 www.millerlegg.com

Certificate of Authorization L.B. 6680

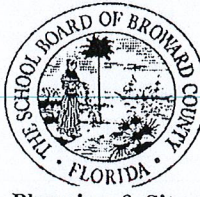
THIS SKETCH DOES NOT REPRESENT A BOUNDARY SURVEY

SKETCH & DESCRIPTION

PROJECT NO.
 14-00065

FILE NO.
 SH-2

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

Type: County
Amendment #: PC 07-4
Owner / Developer : Bank of America/Herity Group, LLC
Jurisdiction : City of Hollywood
Current Land Use: Commercial (Approx. 5.2 Gross Acres)
Proposed Land Use: Medium (16) Residential (Approx. 5.2 Gross Acres)

SEC 2

TWP 51

RNG 41

Potential Student Impact*

Additional Impact:

Cummulative Students From LUPA Approved Since:

Existing Permitted Units:	0	Elementary Students:	23				
Proposed Units:	83	Middle Students:	14	1/03/06-10/24/06			
Net Change :	+83	High Students:	12	Elem	Midd	High	Total
		Total:	49	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>

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

Currently Assigned Schools*

	School Capacity	20th Day* Enrollment	Over/ (Under) Enrolled	Projected Enrollment**				
				07/08	08/09	09/10	10/11	11/12
Driftwood Elementary	558	717	159	674	650	625	641	
Driftwood Middle	1,669	1,572	-97	1,574	1,627	1,639	1,704	
Hollywood Hills High	2,328	2,174	-154	2,178	2,158	2,180	2,200	

Staff is advising the Broward County Planning Council, Broward County Commission, the applicant(s)/owner(s) and/or future developer(s) of the amendment site that based on the 2006/07 Twentieth Day Membership Counts and Enrollment and Facility Planning Inventory (EFPI) Reports, in the 2006/07 school year Driftwood Elementary School is critically overcrowded (\geq 120% of permanent capacity), and Driftwood Middle and Hollywood Hills High Schools are neutral (\geq 90% to 110% of permanent capacity). This LUPA enables the development of 83 garden apartment units, which generates 49 students. However, the application indicates that the project will be limited to 80 townhouse units, which generates 22 additional (11 elementary, 5 middle and 6 high school) students into Broward County Public Schools. This application is subject to School Board Policy 1161 regarding proposed residential development with increased density impacting overcrowded schools. In a letter dated August 11, 2006, the applicant voluntarily agreed to pay the Florida established Student Station Cost factor amount for the 11 anticipated elementary students. Per School Board Policy 1161, a Declaration of Restrictive Covenant is required to be filed against the property prior to the land use becoming effective to enable legal enforcement of the voluntary commitment. Be advised that this commitment is based on District staff's original review of the City application for 80 townhouse units. The applicant is advised that temporarily, the School Board utilizes other options such as portable classrooms, multi-track year round education, double sessions or boundary changes to accommodate students generated from developments in the County.

* Note: 2006/07 School Year Data - School attendance areas are subject to change each year.

** Adjusted Cohort projections - Cohort Survival Model, School Boundaries Department

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

Elementary Schools: None

Middle Schools: Driftwood Middle: 6 modular classrooms addition to relinquish portables. Bulk funding for the project is slated for FY 2006/07.

High Schools: None

Comments: In the 2006/07 school year, Early Beginnings West Charter School (Pre K) is located within a two-mile radius of the amendment site. Additional information regarding charter schools is attached.

Date: November 21, 2006

By: Facility Management, Planning & Site Acquisition Department

“EXHIBIT C”

BROWARD COUNTY STUDENT GENERATION RATES SCHEDULE
(Adopted per Broward County ordinance 2008-11)

Dwelling Type	Bedrooms	Elementary	Middle	High	Total
Single Family	3 or less	0.175	0.077	0.096	0.348
Homes	4 or more	0.240	0.124	0.140	0.504
	Average	0.225	0.113	0.129	0.467
Townhouse, Duplex, Villa	1 or less	0.028	*	*	0.028
	2	0.058	0.026	0.034	0.117
	3 or more	0.126	0.061	0.084	0.271
	Average	0.106	0.051	0.070	0.227
Garden	1 or less	0.055	0.023	0.029	0.106
Apartment	2	0.093	0.039	0.053	0.185
	3 or more	0.120	0.055	0.069	0.244
	Average	0.093	0.040	0.052	0.185
Mid Rise	Average	0.027	0.011	0.008	0.046
High-Rise	Average	0.002	0.001	0.001	0.004
Mobile Home	1 or less	*	*	*	*
	2	0.084	0.083	*	0.167
	3 or more	0.182	0.182	*	0.364
	Average	0.084	0.083	*	0.167
* No students were observed in the sample.					