



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE	2020-10-06 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 07-04, Stirling Davie, LLC

REQUESTED ACTION:
Approve the Release of the Declaration of Restrictive Covenants (DRC) regarding the voluntary mitigation commitment for Land Use Plan Amendment (LUPA) PC 07-04, Stirling Davie, LLC.

SUMMARY EXPLANATION AND BACKGROUND:
In 2006, Broward County Public Schools staff reviewed the application for LUPA 07-04, proposed by Stirling Davie, LLC, for the development of 80 townhouse units located in the City of Hollywood.
The Release will be executed and recorded by Broward County after School Board approval. This item has been reviewed and approved as to form and legal content by the Office of the General Counsel.

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 District.

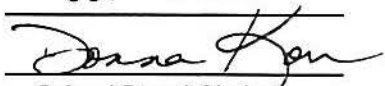
EXHIBITS: (List)
(1) Executive Summary (2) Release of Declaration of Restrictive Covenants - Land Use Amendment PC 07-04 (3) Executed and Recorded Declaration of Restrictive Covenants

BOARD ACTION:
APPROVED
(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

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

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Senior Leader & Title
John Sullivan - Task Assignment

Approved In Open Board Meeting On: **OCT - 6 2020**
By: 
School Board Chair

Signature
John J. Sullivan
9/14/2020, 5:02:00 PM

Executive Summary

Release of Declaration of Restrictive Covenants Regarding Land Use Plan Amendment PC 07-04, Stirling Davie, LLC

Stirling Davie, LLC, Land Use Plan Amendment (LUPA) PC 07-04 consists of approximately 5.2 acres and is located on Davie Road Extension and south of Stirling Road in the City of Hollywood. In 2006, Stirling Davie, LLC proposed a land use change from Commercial to Medium (16) Residential to permit the development of 80 townhouse (all three or more bedroom) residential units on the site. The Broward County Public Schools (BCPS) review of the proposal indicated that the development would generate a total of 22 additional students (11 elementary, 5 middle, and 6 high school). Schools affected during the review period, the 2006-07 school year, were Driftwood Elementary, Driftwood Middle, and Hollywood Hills High School; and at that time, it was determined that mitigation was due for the anticipated additional 11 elementary school students.

In 2015, Stirling Davie, LLC, changed the approved residential unit mix from 80 townhouse (all three or more bedroom) to 83 garden apartment (all two-bedroom) residential units. In 2015, Stirling Davie, LLC, voluntarily committed to provide mitigation to address additional student impact by paying the maximum school impact fee due for the 83-garden apartment (all two-bedroom) residential units. Subsequently, Stirling Davie, LLC, memorialized the mitigation commitment via the execution and recordation of a Declaration of Restrictive Covenant (Instr. # 112786180, Pages 1 – 9). In the same year, Stirling Davie, LLC, paid a total of \$314,570 in total mitigation due for the 83 garden apartment (all two-bedroom) units.

In April 2020, the current owner of the subject property, Triangle Professional Building Corporation, a Florida Corporation has requested via its agent that the referenced DRC be released of record. Staff recommends that the School Board approve the Release of the DRCs regarding the voluntary mitigation commitment for LUPA PC 07-04, Stirling Davie, LLC.

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 07-04)

THIS RELEASE OF DECLARATION OF RESTRICTIVE COVENANTS (the "Release") is made as of the *6th* day of *October*, 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, **Stirling Davie, LLC**, a Georgia limited liability company and (herein referred to as the "Original Owner") executed that certain Declaration of Restrictive Covenants and recorded on 02/03/2015 as Instrument # 112786180 in the Public Records of Broward County, Florida (the "Declaration") affecting certain real property located in the City of Hollywood, Florida, in Broward County, more particularly described in Exhibit "A" attached hereto (the "Property"); and

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

WHEREAS, the Property is now owned by **Triangle Professional Building Corp.**, a Florida corporation (the "Current Owner") who has requested that the above referenced Declaration of Restrictive Covenants be released of record; and

WHEREAS, County and School Board now desire to release the referenced Declaration and its 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 Declaration is 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 Declaration.

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

6th day of October, 2020

By: 
Robert W. Runcie, Superintendent of Schools

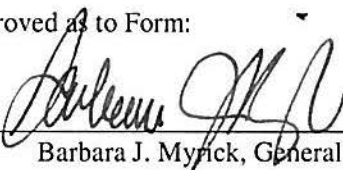
Approved as to Form:
By: 
Barbara J. Myrick, General Counsel

EXHIBIT "A"

LEGAL DESCRIPTION

INSTR # 112786180 Page 6 of 9

DESCRIPTION: SHEET 1 OF 2

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 STRUNG, 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 "K. 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.

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.

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

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

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.

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SITE LOCATION



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.

MILLER LEGG

South Florida Office: 5747 N. Andrews Way
 Ft. Lauderdale, Florida 33309-2364
 954-430-7000 · Fax: 954-436-8664
 www.millerlegg.com

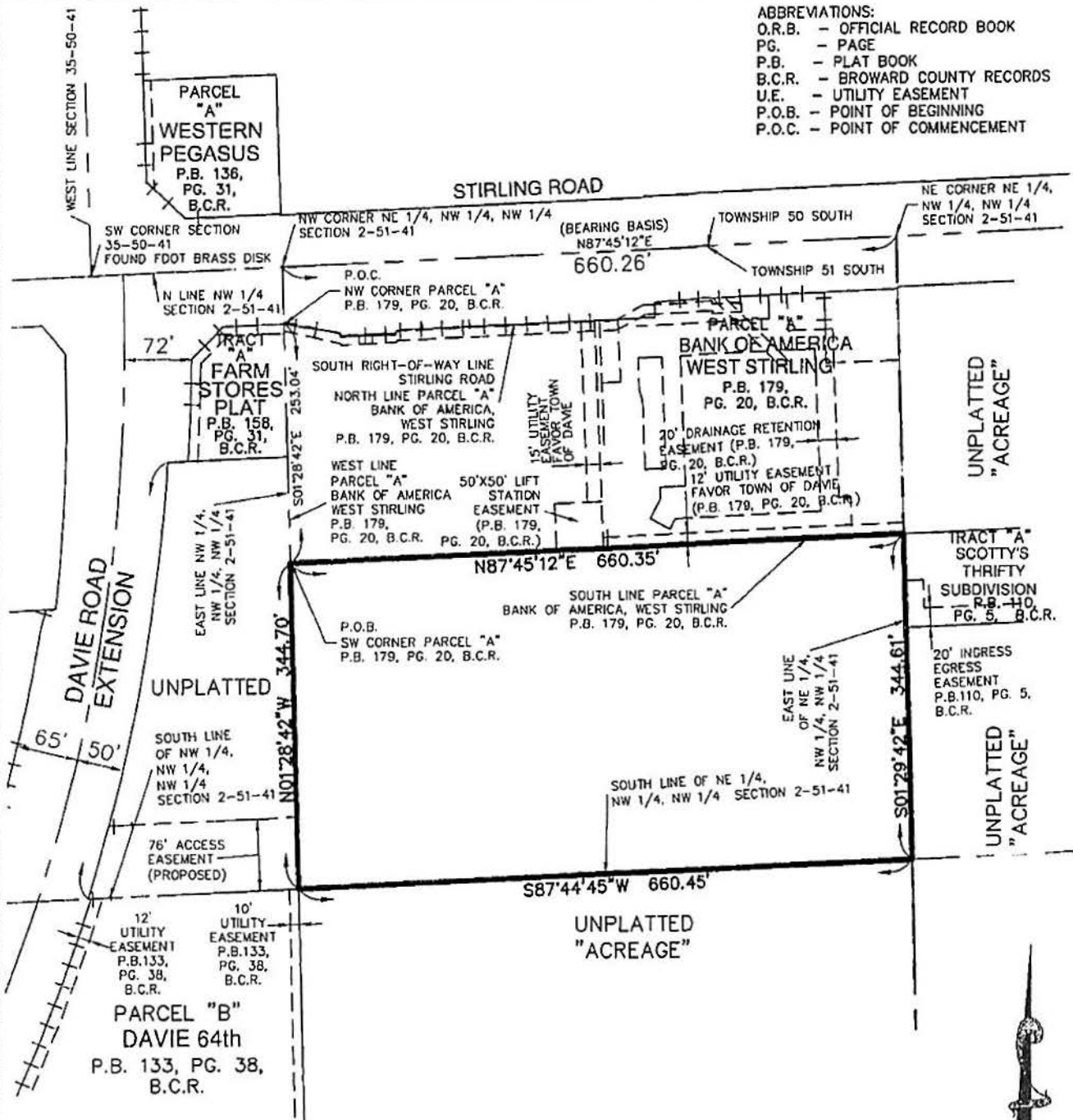
Martin P. Rossi
MARTIN P. ROSSI
 PROFESSIONAL SURVEYOR AND MAPPER
 STATE OF FLORIDA REGISTRATION No. 5857
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER
 CERTIFICATE OF AUTHORIZATION: LB8880

REVISIONS

DRAWN BY: LP CHECKED BY: MR

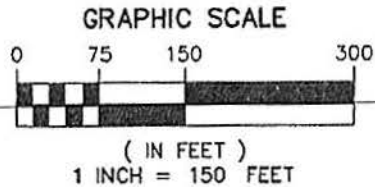
14-00065 SH-1

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:

1. BEARINGS SHOWN HEREON ARE 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.)



MILLER LEGG

South Florida Office: 5747 N. Andrews Way
 Ft. Lauderdale, Florida - 33309-2364
 954-436-7000 Fax: 954-436-8661
 www.millerlegg.com

Certificate of Authorization L.B. 6080

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 SEC 2 TWP 51 RNG 41
 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)

Potential Student Impact*

Additional Impact:

Cummulative Students From LUPA Approved Since:

Existing Permitted Units:	0	Elementary Students:	23	1/03/06-10/24/06			
Proposed Units:	83	Middle Students:	14	Elem	Midd	High	Total
Net Change :	+83	High Students:	12				
		Total:	49	0	0	0	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 (>= 120% of permanent capacity), and Driftwood Middle and Hollywood Hills High Schools are neutral (>=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.					