



MEMORANDUM

Agenda Item No. 8(D)(1)(A)

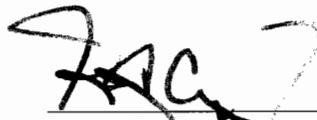
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: June 7, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution authorizing the acceptance of restrictive covenants running with the land in favor of Miami-Dade County by the Atrium at Aventura Condominium Association, Inc. for the property at 3131 NE 188 Street, by Uptown Marina Lofts Condominium Association, Inc.

The accompanying resolution was prepared by the Department of Environmental Resources Management and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.



R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum



Date: June 7, 2011

To: Honorable Joe A. Martinez, Chairman
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager

A handwritten signature in black ink, appearing to read "Alina T. Hudak".

Subject: Resolution Authorizing the Acceptance of Restrictive Covenants Running with the Land in Favor of Miami-Dade County by The Atrium at Aventura Condominium Association, Inc. for the Property at 3131 NE 188 Street, by Uptown Marina Lofts Condominium Association, Inc. for the Property at 3029 NE 188 Street, and by GM Atrium, LLC for the Property at Folio #28-2203-077-0040

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the acceptance of three (3) restrictive covenants running with the land in favor of Miami-Dade County. The covenants are submitted pursuant to Section 24-48.2(I)(B)(2)(b) of the Code of Miami-Dade County as part of a Class I permit application for the construction of a new multi-slip docking facility. The restrictive covenants are being proffered in order to transfer the use of proposed powerboat slips from one property to another and to adjust the total number of allowable powerboat slips at each property accordingly.

Scope

The subject properties are located within the City of Aventura, in Commission District 4.

Fiscal Impact/Funding Source

Not Applicable

Track Record/Monitor

Not Applicable

Background

The Department of Environmental Resources Management (DERM) is processing a Class I permit application to build a new 22-slip multi-family docking facility at 3131 NE 188 Street. The proposed project involves the transfer of powerboat slips among three (3) separate properties: the recipient site, The Atrium at Aventura Condominium (The Atrium Condo), the donor site, Uptown Marina Lofts Condominium Association, Inc. (Uptown Marina Lofts) and the submerged land parcel owned by GM Atrium, LLC (GM Atrium) which is adjacent to the recipient site. Site maps are provided in Attachments A and B. Based on the work proposed in the Class 1 permit application, the permit can be issued administratively but will not be issued prior to Board approval of this resolution.

The recipient site, The Atrium Condo property, is located at 3131 NE 188 Street along a canal that is identified by the Miami-Dade County Manatee Protection Plan (MDCMPP) as essential habitat for the West Indian Manatee (*Trichechus manatus*). The property is considered an "Existing Facility" as defined in the MDCMPP, based on its previous marine-related use. DERM has advised The Atrium Condo that in accordance with the recommendations of the MDCMPP guidelines, the maximum number of powerboat slips that can be authorized at the property is eight (8), provided that a covenant is proffered reflecting this restriction. The Atrium Condo is planning on using the eight (8) powerboat slips but would like to have a total of 22 powerboat slips. Therefore, The Atrium Condo is proposing to receive a transfer of 14 additional powerboat slips from the adjacent donor property owned by Uptown Marina Lofts.

The donor site, Uptown Marina Lofts, is located at 3029 NE 188 Street and was the former site of a commercial marina with a total of 204 powerboat slips. The Uptown Marina Lofts property has undergone redevelopment and is no longer using all of the existing powerboat slips that were historically in use at the site. A 29-powerboat slip docking facility has been previously permitted at Uptown Marina Lofts. In addition, the donor site has previously transferred 17 of their powerboat slips to another property in the area. As part of that transfer request, the Board approved Resolution No. R-1369-06 on December 5, 2006, accepting a restrictive covenant running with the land in favor of Miami-Dade County from Uptown Marina Lofts that limits their property to a total of 187 powerboat slips. The transfer of 14 slips to The Atrium Condo will limit the number of powerboat slips at Uptown Marina Lofts to a total of 173.

The submerged land parcel owned by GM Atrium is located adjacent to the property owned by The Atrium Condo and extends to the north bank of the canal. The total number of powerboat slips to be moored adjacent to the recipient site shall be limited to 22 powerboat slips.

The MDCMPP does not specifically address the issue of transfer of slips from one site to another. However, DERM recognizes that as a result of development trends, many properties where marine-related businesses operated in the past have been converted to residential developments. As a result, many of the boat slips that were associated with those businesses are no longer being used. In an effort to address the demand for powerboat slips, DERM is able to recommend approval of the transfer described above provided that the County accepts Restrictive Covenants proffered by the respective owners to notify present and future property owners that the number of approved powerboat slips has been modified because, in the opinion of DERM, the proposed transfer will not result in an increase in potential adverse impacts to manatees.

In the opinion of DERM, the proposed transfer of 14 powerboat slips from Uptown Marina Lofts to The Atrium Condo would not result in an increase in potential adverse impacts to manatees. This opinion is based on the historical use of the existing slips, the intended future use of the slips proposed for transfer, and the close proximity of the two sites.

Additionally, The Atrium Condo, Uptown Marina Lofts, and GM Atrium have executed the attached Restrictive Covenants Running with the Land in Favor of Miami-Dade County (Attachments C, D, and E). The restrictive covenant executed by The Atrium Condo authorizes a maximum of 22 powerboats to be moored at their property. The restrictive covenant executed by Uptown Marina Lofts provides for a corresponding decrease in allowable powerboats from 187 to 173. The restrictive covenant executed by GM Atrium restricts the number of allowable powerboats on their submerged lands adjacent to The Atrium Condo property to 22. If approved by the Board, these covenants will be incorporated as part of Class I permit 2010-CLI-PER-00221.

Attachments

Attachment A: Location Maps

Attachment B: Site Diagram

Attachment C: Restrictive Covenant for the Atrium at Aventura Condominium Association, Inc.

Attachment D: Restrictive Covenant for Uptown Marina Lofts Condominium Association, Inc.

Attachment E: Restrictive Covenant for GM Atrium, LLC


Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: June 7, 2010

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(D)(1)(A)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(D)(1)(A)
6-7-11

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE ACCEPTANCE OF RESTRICTIVE COVENANTS RUNNING WITH THE LAND IN FAVOR OF MIAMI-DADE COUNTY BY THE ATRIUM AT AVENTURA CONDOMINIUM ASSOCIATION, INC. FOR THE PROPERTY AT 3131 NE 188 STREET, BY UPTOWN MARINA LOFTS CONDOMINIUM ASSOCIATION, INC. FOR THE PROPERTY AT 3029 NE 188 STREET, AND BY GM ATRIUM, LLC FOR THE PROPERTY AT FOLIO #28-2203-077-0040, MIAMI-DADE COUNTY

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, the attached restrictive covenants running with the land in favor of Miami-Dade County by The Atrium at Aventura Condominium Association, Inc. for the Property at 3131 NE 188 Street, by Uptown Marina Lofts Condominium Association, Inc. for the Property at 3029 NE 188 Street, and by GM Atrium, LLC for the Property at Folio #28-2203-077-0040 in Aventura, Miami-Dade County, Florida, have been submitted pursuant to Section 24-48.2(I)(B)(2)(b) of the Code of Miami-Dade County; and

WHEREAS, the attached covenants have been executed and are being proffered to this Board for approval, as indicated in the Manager's memorandum, a copy of which is attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby accepts the attached restrictive covenants running with the land in favor of Miami-Dade County by The Atrium at Aventura Condominium Association, Inc., by Uptown Marina Lofts Condominium Association, Inc., and by GM Atrium, LLC, and their recording into the

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public records of Miami-Dade County at the expense of the applicant, in substantially the form attached hereto and made a part hereof, and pursuant to Resolution No. R-974-09, hereby directs the Mayor or Mayor's designee to provide recorded copies of the aforementioned covenants to the Clerk of the Board within thirty (30) days of the effective date of this Resolution and furthermore directs the Clerk of the Board to attach and permanently store recorded copies of the aforementioned covenants together with this Resolution.

The foregoing resolution was offered by Commissioner who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of June, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Abbie Schwaderer-Raurell

6

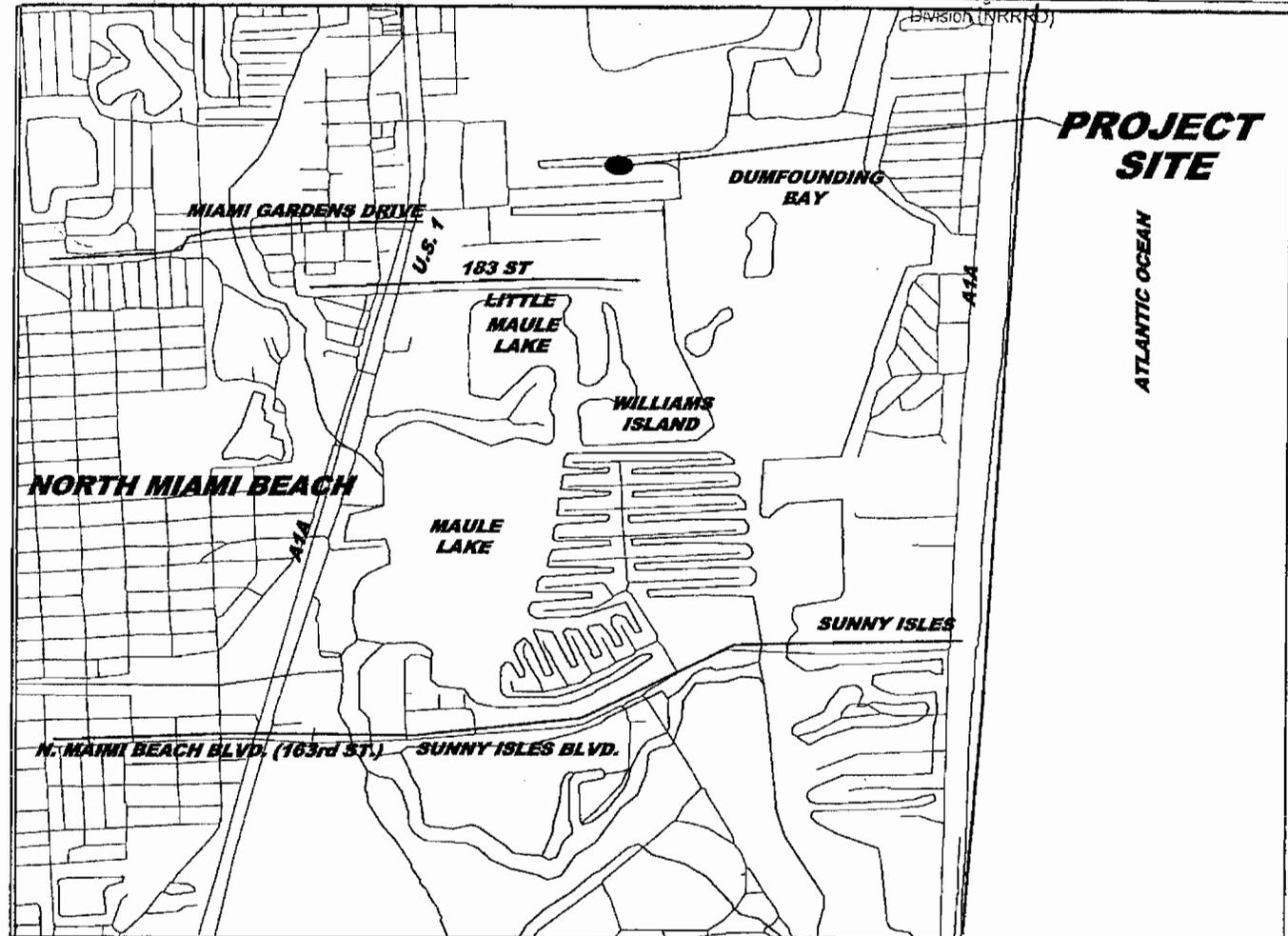
ATTACHMENT A

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FEB 07 2011

DERM Coastal Resources Section
Natural Resources Regulation & Restoration
DIVISION (NRRRD)

REV. DATE	DESCRIPTION



PROJECT SITE

ATLANTIC OCEAN

INDEX OF DRAWINGS

SHEET #	TITLE
1	VICINITY MAP & INDEX OF DRAWINGS
2	LOCATION MAP
3	EXISTING CONDITIONS
4	SITE PLAN
5	SECTIONS A-A & B-B

PURPOSE: VICINITY MAP & INDEX OF DRAWINGS
 DATUM: N/A
 JOB #: 2002-24
EAS
 2/3/11

EAS ENGINEERING, INC.

55 ALMERIA AVENUE CORAL GABLES 33134 (305)445-5553

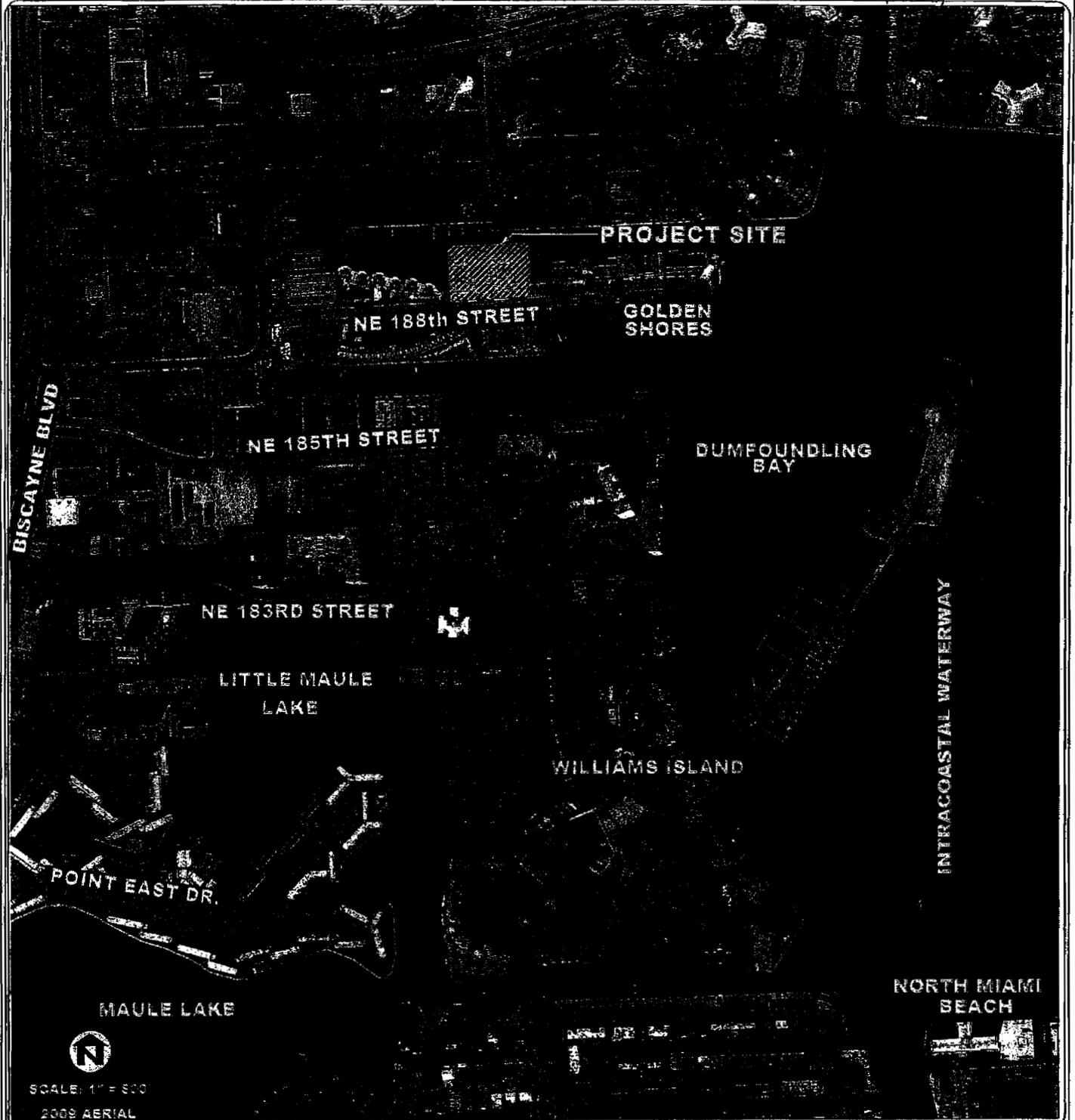
COUNTY OF MIAMI-DADE STATE OF FLORIDA
 APPLICATION BY:
 GM ATRIUM LLC
 999 VANDERBILT BEACH RD, #503 SECTION: 3
 NAPLES, FLORIDA 34108 TOWNSHIP: 52S
 SHEET 1 DATE: 05/06/10 RANGE: 42E

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DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRDD)

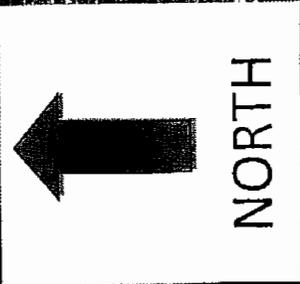
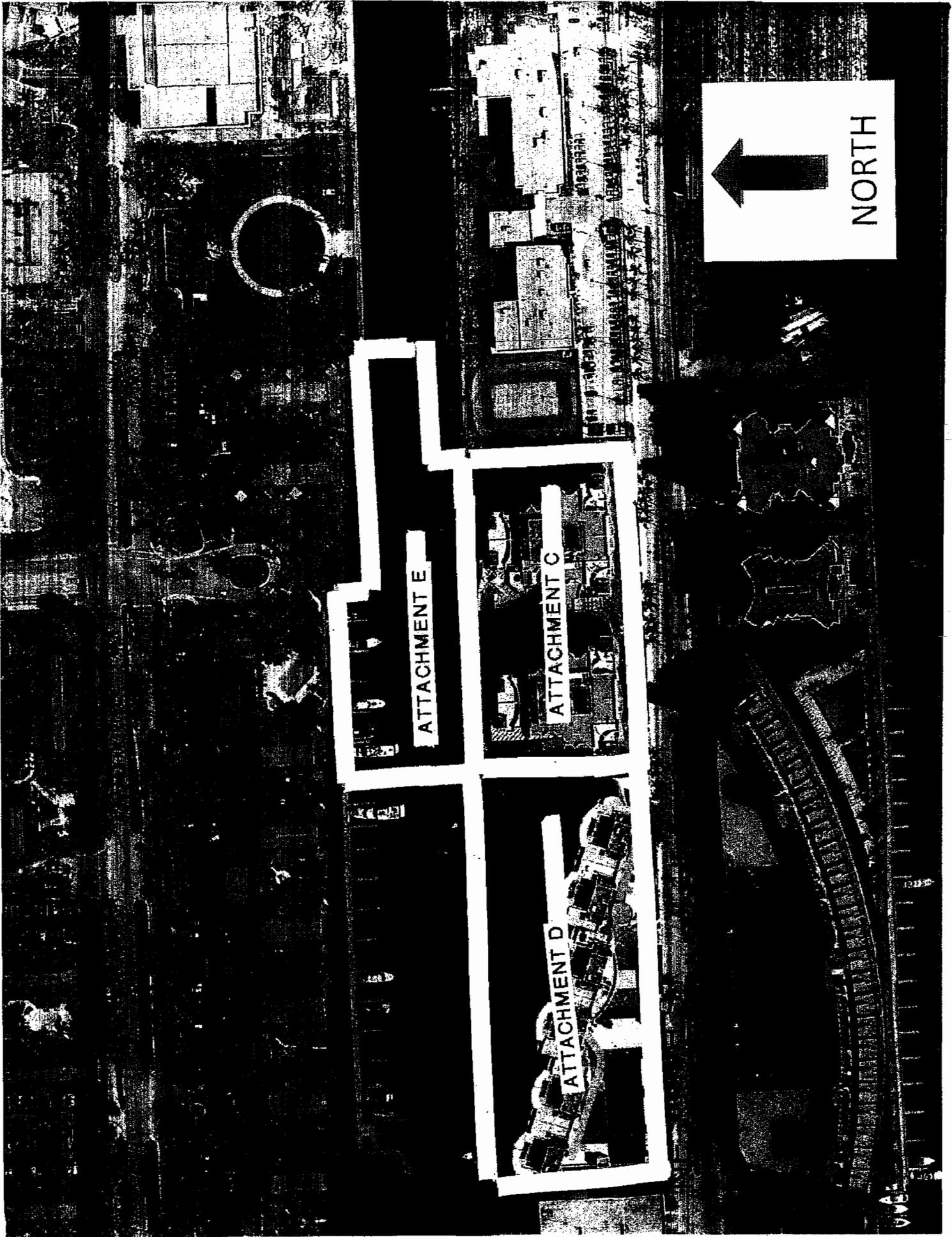
REV. DATE	DESCRIPTION



PURPOSE: LOCATION MAP
 DATUM: N/A
 JOB #: 2002-24
 EAS ENGINEERING, INC. 2/3/11
 55 ALMERIA AVENUE CORAL GABLES 33134 (305)445-5553

COUNTY OF MIAMI-DADE STATE OF FLORIDA
 APPLICATION BY:
 GM ATRIUM LLC
 999 VANDERBILT BEACH RD, #503 SECTION: 3
 NAPLES, FLORIDA 34108 TOWNSHIP: 52S
 SHEET 2 DATE: 05/06/10 RANGE: 42E

ATTACHMENT B



ATTACHMENT C

**RESTRICTIVE COVENANT RUNNING WITH THE LAND IN FAVOR OF
MIAMI-DADE COUNTY**

The undersigned, **The Atrium at Aventura Condominium Association, Inc.**, being the present owner(s) of the following real property (hereinafter called "the Property"), lying, being and situated in Miami-Dade County, Florida, to wit:

[Exhibit B]

pursuant to Section 24-48.2(I) (B) (2) (b) of the Code of Miami-Dade County, Florida hereby proffers this executed Restrictive Covenant Running With The Land in Favor of Miami-Dade County, Florida as part of Miami-Dade County Department of Environmental Resources Management Class I Permit Application Number [2010-CLIPER-00221]:

1. For the purposes of this Restrictive Covenant, "vessel" is herein defined as any water craft designed to float or navigate on water, including, but not limited to: sailboats, powerboats, rowboats, ships, boats, skiffs, houseboats, and inflatable boats.
2. For the purposes of this Restrictive Covenant, a "sailboat" is herein defined as any vessel with a displacement type hull designed to be propelled primarily by wind and if equipped with an auxiliary motor the vessel shall have only a single propeller. For the purposes of this Restrictive Covenant, a "powerboat" is herein defined as any vessel that is not a sailboat, provided it is equipped to be propelled with an engine.
3. For the purposes of this Restrictive Covenant, "docking facilities" is herein defined as a place where vessels may be moored or secured to a fixed or floating structure or to the shoreline and includes a place where vessels may be stored on the uplands at the Property if a means of placing or launching vessels into the water exists at the Property.
4. The undersigned agree(s) and covenant(s) that the maximum number of powerboats which shall be moored, secured, or stored at the docking facility, expanded docking facility or future docking facility located adjacent to the riparian uplands as described in Exhibit B at any one time is twenty-two (22) powerboats. This provision shall not apply to any rowboat, skiff or inflatable boat with an engine having a capacity of five (5) horsepower or less. This provision also shall not apply to any auxiliary vessel. "Auxiliary vessel" is herein defined as any watercraft which is associated, by ownership, design and common usage, with a primary vessel moored at the docking facility, expanded docking facility or future docking facility located adjacent to the riparian uplands as described in Exhibit B and which is affixed to, carried by, and stored on the primary vessel including, but not limited to, runabouts, tenders, and personal watercraft.

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DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

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5. The undersigned agree(s) and covenant(s) that approval of this Restrictive Covenant neither authorizes nor constitutes a permit of any kind for the mooring or storage of any vessels at the Property or for the construction of any docking facilities at the Property.
6. The undersigned agree(s) and covenant(s) that only those vessels owned by persons who own or lease a dwelling unit or commercial office at the Property shall be moored, secured, or stored at the docking facility, expanded docking facility or future docking facility. Dwelling unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities used for or intended to be used for living, sleeping, cooking and eating. For the purposes of this Restrictive Covenant, a dwelling unit shall not include rooming units.
7. This Restrictive Covenant shall run with the land and shall be recorded in the Public Records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned, and their heirs, successors, grantees and assigns until such time as same is modified or released in writing by Miami-Dade County, Florida.
8. The undersigned agree(s) and covenant(s) that this Restrictive Covenant and the provisions contained herein may be enforced against any person permitting, allowing, letting, causing or suffering any violation of the terms of this Restrictive Covenant by the Department of Environmental Resources Management, or its successor, by temporary, permanent, prohibitory, and mandatory injunctive relief as well as otherwise provided by law or ordinance and also may include an action for and to recover civil penalties, damages, costs and expenses, and attorney's fees in favor of Miami-Dade County against said person(s) as authorized by law or ordinance. All of the remedies provided herein shall be deemed to be independent and cumulative and shall be deemed to be supplemental to any remedies provided by law or ordinance.

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FEB 04 2011

DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

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IN WITNESS WHEREOF, the undersigned have caused this Covenant to be executed this 28th day of January, 2011.

Witnesses:

The Atrium at Aventura Condominium Association, Inc.

Sign Jennifer Gregory
Print Jennifer Gregory

Sign Sol Prizant
Print Sol Prizant

Sign Karen B. Ankeny
Print Karen B. Ankeny

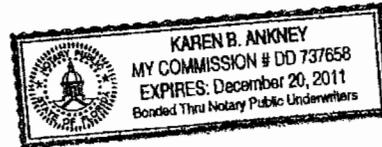
Title: President
Address: 3131 NE 188th Street
Aventura, FL 33180

STATE OF FLORIDA, COUNTY OF MIAMI-DADE:

The foregoing instrument was acknowledged before me this 28th day of January, 2011, by Sol Prizant as President, who is personally known to me and who did take an oath.

NOTARY PUBLIC:

sign Karen B. Ankeny
print _____
State of Florida (Seal)
My Commission Expires:



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DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

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Exhibit B

THE ATRIUM AT AVENTURA CONDO ATRIUM AT AVENTURA PB 165-95 TRS A B & C AS DESC IN
DECL OR 25456-2483 LOT SIZE 109202 SQ FT FAU 28 2203 077 0010

ATTACHMENT D

RESTRICTIVE COVENANT RUNNING WITH THE LAND IN FAVOR OF
MIAMI-DADE COUNTY

The undersigned, **Uptown Marina Lofts Condominium Association, Inc.**, being the present owner(s) of the following real property (hereinafter called "the Property"), lying, being and situated in Miami-Dade County, Florida, to wit:

[Exhibit A]

pursuant to Section 24-48.2(I) (B) (2) (b) of the Code of Miami-Dade County, Florida hereby proffers this executed Restrictive Covenant Running With The Land in Favor of Miami-Dade County, Florida as part of Miami-Dade County Department of Environmental Resources Management Class I Permit Application Number [2010-CLIPER-00221]:

1. For the purposes of this Restrictive Covenant, "vessel" is herein defined as any water craft designed to float or navigate on water, including, but not limited to: sailboats, powerboats, rowboats, ships, boats, skiffs, houseboats, and inflatable boats.
2. For the purposes of this Restrictive Covenant, a "sailboat" is herein defined as any vessel with a displacement type hull designed to be propelled primarily by wind and if equipped with an auxiliary motor the vessel shall have only a single propeller. For the purposes of this Restrictive Covenant, a "powerboat" is herein defined as any vessel that is not a sailboat, provided it is equipped to be propelled with an engine.
3. For the purposes of this Restrictive Covenant, "docking facilities" is herein defined as a place where vessels may be moored or secured to a fixed or floating structure or to the shoreline and includes a place where vessels may be stored on the uplands at the Property if a means of placing or launching vessels into the water exists at the Property.
4. The undersigned agree(s) and covenant(s) that the maximum number of powerboats which shall be moored, secured, or stored at the docking facility, expanded docking facility or future docking facility located adjacent to the riparian uplands as described in Exhibit A at any one time is one hundred and seventy-three (173) powerboats. This provision shall not apply to any rowboat, skiff or inflatable boat with an engine having a capacity of five (5) horsepower or less. This provision also shall not apply to any auxiliary vessel. "Auxiliary vessel" is herein defined as any watercraft which is associated, by ownership, design and common usage, with a primary vessel moored at the docking facility, expanded docking facility or future docking facility located adjacent to the riparian uplands as described in Exhibit A and which is affixed to, carried by, and stored on the primary vessel including, but not limited to, runabouts, tenders, and personal watercraft.

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FEB 04 2011

DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

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5. The undersigned agree(s) and covenant(s) that approval of this Restrictive Covenant neither authorizes nor constitutes a permit of any kind for the mooring or storage of any vessels at the Property or for the construction of any docking facilities at the Property.
6. The undersigned agree(s) and covenant(s) that only those vessels owned by persons who own or lease a dwelling unit or commercial office at the Property shall be moored, secured, or stored at the docking facility, expanded docking facility or future docking facility. Dwelling unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities used for or intended to be used for living, sleeping, cooking and eating. For the purposes of this Restrictive Covenant, a dwelling unit shall not include rooming units.
7. This Restrictive Covenant shall run with the land and shall be recorded in the Public Records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned, and their heirs, successors, grantees and assigns until such time as same is modified or released in writing by Miami-Dade County, Florida.
8. The undersigned agree(s) and covenant(s) that this Restrictive Covenant and the provisions contained herein may be enforced against any person permitting, allowing, letting, causing or suffering any violation of the terms of this Restrictive Covenant by the Department of Environmental Resources Management, or its successor, by temporary, permanent, prohibitory, and mandatory injunctive relief as well as otherwise provided by law or ordinance and also may include an action for and to recover civil penalties, damages, costs and expenses, and attorney's fees in favor of Miami-Dade County against said person(s) as authorized by law or ordinance. All of the remedies provided herein shall be deemed to be independent and cumulative and shall be deemed to be supplemental to any remedies provided by law or ordinance.
9. This Restrictive Covenant supersedes the Restrictive Covenant previously recorded in Official Record Book 25186, Page 2046-2050, in the Public Records of Miami-Dade County, Florida.

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FEB 04 2011

DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

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IN WITNESS WHEREOF, the undersigned have caused this Covenant to be executed this 28th day of January, 2011.

Witnesses:

Sign [Signature]
Print Rick Goldfarb

Sign [Signature]
Print Karen B. Ankney

Uptown Marina Lofts Condominium Association, Inc.

Sign [Signature]
Print Fernando Rodriguez

Title: President
Address: 3131 NE 188th Street
Aventura, FL 33180

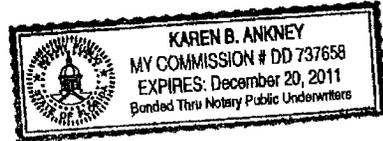
STATE OF FLORIDA, COUNTY OF MIAMI-DADE:

The foregoing instrument was acknowledged before me this 28th day of January, 2011, by Fernando Rodriguez as President, who produced FL Driver's license as identification and who did take an oath.

NOTARY PUBLIC:

sign [Signature]
print _____

State of Florida (Seal)
My Commission Expires:



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FEB 04 2011

DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

Exhibit A

UPTOWN MARINA LOFTS CONDO UPTOWN MARINA LOFTS PB 165-1 TRACTS A & B AS DESC IN
DEC OFF REC 24927-4179 LOT SIZE 253911 SQ FT FAU 28 2203 070 0010

ATTACHMENT E

**RESTRICTIVE COVENANT RUNNING WITH THE LAND IN FAVOR OF
MIAMI-DADE COUNTY**

The undersigned, **GM Atrium, LLC**, being the present owner(s) of the following real property (hereinafter called "the Property"), lying, being and situated in Miami-Dade County, Florida, to wit: .

[Exhibit C]

pursuant to Section 24-48.2(I) (B) (2) (b) of the Code of Miami-Dade County, Florida hereby proffers this executed Restrictive Covenant Running With The Land in Favor of Miami-Dade County, Florida as part of Miami-Dade County Department of Environmental Resources Management Class I Permit Application Number [2010-CLI-PER-00221]:

1. For the purposes of this Restrictive Covenant, "vessel" is herein defined as any water craft designed to float or navigate on water, including, but not limited to: sailboats, powerboats, rowboats, ships, boats, skiffs, houseboats, and inflatable boats.
2. For the purposes of this Restrictive Covenant, a "sailboat" is herein defined as any vessel with a displacement type hull designed to be propelled primarily by wind and if equipped with an auxiliary motor the vessel shall have only a single propeller. For the purposes of this Restrictive Covenant, a "powerboat" is herein defined as any vessel that is not a sailboat, provided it is equipped to be propelled with an engine.
3. For the purposes of this Restrictive Covenant, "docking facilities" is herein defined as a place where vessels may be moored or secured to a fixed or floating structure or to the shoreline and includes a place where vessels may be stored on the uplands at the Property if a means of placing or launching vessels into the water exists at the Property.
4. The undersigned agree(s) and covenant(s) that the maximum number of powerboats which shall be moored, secured, or stored at the docking facility, expanded docking facility or future docking facility located on the Property adjacent to the riparian uplands as described in Exhibit B at any one time is twenty-two (22) powerboats. This provision shall not apply to any rowboat, skiff or inflatable boat with an engine having a capacity of five (5) horsepower or less. This provision also shall not apply to any auxiliary vessel. "Auxiliary vessel" is herein defined as any watercraft which is associated, by ownership, design and common usage, with a primary vessel moored at the docking facility, expanded docking facility or future docking facility located on the Property adjacent to the riparian uplands as described in Exhibit B and which is affixed to, carried by, and stored on the primary vessel including, but not limited to, runabouts, tenders, and personal watercraft.

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FEB 04 2011

DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

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5. The undersigned agree(s) and covenants(s) that approval of this Restrictive Covenant neither authorizes nor constitutes a permit of any kind for the mooring or storage of any vessels at the Property or for the construction of any docking facilities at the Property.
6. This Restrictive Covenant shall run with the land and shall be recorded in the Public Records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned, and their heirs, successors, grantees and assigns until such time as same is modified or released in writing by Miami-Dade County, Florida.
7. The undersigned agree(s) and covenant(s) that this Restrictive Covenant and the provisions contained herein may be enforced against any person permitting, allowing, letting, causing or suffering any violation of the terms of this Restrictive Covenant by the Department of Environmental Resources Management, or its successor, by temporary, permanent, prohibitory, and mandatory injunctive relief as well as otherwise provided by law or ordinance and also may include an action for and to recover civil penalties, damages, costs and expenses, and attorney's fees in favor of Miami-Dade County against said person(s) as authorized by law or ordinance. All of the remedies provided herein shall be deemed to be independent and cumulative and shall be deemed to be supplemental to any remedies provided by law or ordinance.

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FEB 04 2011

DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

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IN WITNESS WHEREOF, the undersigned have caused this Covenant to be executed this 14 day of January, 2011.

Witnesses:

GM Atrium, LLC

Sign Margarette Elock
Print MARGARETTE ELOCK

Sign Dale Watchowski
Print Dale Watchowski

Sign Teresa P. Ososki
Print TERESA P. OSOSKI

Title: Manager
Address: One Towne Sq, #1600
Southfield, MI 48076

STATE OF MICHIGAN, COUNTY OF Oakland :

The foregoing instrument was acknowledged before me this 14th day of January, 2011, by Dale Watchowski as Manager, who is personally known to me and who did take an oath.

NOTARY PUBLIC:

sign Julie M. Morgenstern
print JULIE M. MORGENSTERN
State of Michigan (Seal)
My Commission Expires:

JULIE M. MORGENSTERN
NOTARY PUBLIC STATE OF MICHIGAN
COMMISSION EXPIRES FEB 28, 2012
ACTING IN COUNTY OF

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FEB 04 2011

DERM Coastal Resources Section
Natural Resources Regulation & Restoration
Division (NRRRD)

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Exhibit C

ATRIUM AT AVENTURA PB 165-95 T-22033 WATERWAY (SUBMERGED LAND) LOT SIZE 69972 SQ
FT FAU 28 2203 000 0010-0297 & 28 2203 052 0046