

Application No. 7

Commission District 10 Community Council 10

APPLICATION SUMMARY

Applicant/Representative:	Keep Bleau Green Committee, Inc./Felix Lasarte, Esq.
Location:	North of the Fontainebleau Boulevard and west of NW 87 Avenue
Total Acreage:	±112.0 Gross Acres, ±110.0 Net Acres
Current Land Use Plan Map Designation:	"Parks and Recreation" and "Medium Density Residential" (13 to 25 dwelling units per gross acre)
Requested Amendment to the CDMP:	<ol style="list-style-type: none">1. Modify existing Declaration of Restrictions in the Restrictions Table in Appendix A of the CDMP Land Use Element to exclude the ±5.2 gross-acre Parcel A. (Declaration of Restrictions recorded in Book 23413 Page 1136 of Miami-Dade County Official Records – as modified by the First Modification to the Declaration of Restrictions recorded on Book 26955, Page 908 of Official Records); and2. Redesignate Parcel A (±5.2 gross acres) on the Adopted 2020-2030 Land Use Plan map: From: "Parks and Recreation" To: "Medium Density Residential" (13 to 25 dwelling units per gross acre)
Amendment Type:	Standard
Existing Zoning/Site Condition:	GU and RU-4M/Covenant-Restricted Open Space and Multifamily Residences

RECOMMENDATIONS

Staff:	TRANSMIT AND ADOPT WITH ACCEPTANCE OF THE PROFFERED DECLARATIONS OF RESTRICTIONS (March 12, 2015)
Westchester Community Council	TO BE DETERMINED (March 26, 2015)
Planning Advisory Board (PAB) Acting as the Local Planning Agency:	TO BE DETERMINED (April 20, 2015)
Board of County Commissioners:	TO BE DETERMINED (May 6, 2015)
Final Action of Board of County Commissioners:	TO BE DETERMINED (July 22, 2015)

Staff recommends **“TRANSMIT AND ADOPT WITH ACCEPTANCE OF THE PROFFERED DECLARATIONS OF RESTRICTIONS”** the application to amend the Comprehensive Development Master Plan (CDMP) Land Use Element text and the Adopted 2020 and 2030 Land Use Plan (LUP) map to redesignate the ±5.2 gross-acre site from “Parks and Recreation” to “Medium Density Residential” (13 to 25 dwelling units per gross acre) for the following reasons:

Principal Reasons for Recommendations:

1. The application would facilitate development on a ±5.2-acre portion (herein referenced as Parcel A) of the former Fontainebleau East Golf Course that is currently restricted by a CDMP Declaration of Restrictions (covenant) to be used only as open space. The referenced CDMP covenant was accepted by the Board of County Commissioners (Board) in May 2005 (the May 2005 Covenant) upon adoption of the April 2004 CDMP Amendment Cycle Application No. 3. The May 2005 Covenant was modified in May 2009 and currently, among other things, restricts the use of ±82 acres (53.7%) of the former golf course, including Parcel A, to open space. The application proposes to further modify the May 2005 Covenant to exclude Parcel A and redesignate the parcel from “Parks and Recreation” to “Medium Density Residential” (13 to 25 dwelling units per gross acre). The proposed modification of the May 2005 Covenant and redesignation of Parcel A would allow, if approved, the development of a maximum of 130 multifamily units or certain public facilities and institutional type uses on the parcel generally consistent with the provisions of the CDMP. However, the applicant has proffered two separate covenants that propose to limit development on Parcel A to a charter school and community center, which development is also generally consistent with the provisions of the CDMP.

The “Parks and Recreation” text in the CDMP Land Use Element provides that restrictive covenants limiting the use of land to open space may be modified to require less acreage be kept as open space, but in no event should the open space be reduced to less than 50 percent of the original acreage [CDMP page I-52]. As discussed in the “Application Area: Background” on page 7-10, the application if approved would maintain ±76.6 acres or 50.3% of the former ±152.28-acre Fontainebleau East Golf Course, consistent with the above referenced “Parks and Recreation” text.

The Board adopted April 2004 Application No. 3 that effectively changed the Land Use Plan map designation for ±57.89 acres of the former ±152.28-acre golf course to “Medium Density Residential” and the remaining ±94.39 acres to “Parks and Recreation”. The referenced May 2005 covenant, among other things, restricted the use of the ±94.39-acre “Parks and Recreation” designated portion of the former golf course to open space. Subsequently in May 2009, the Board adopted Application No. 8 of the April 2008 CDMP amendment cycle with a modification to the April 2004 covenant that further reduced the “Parks and Recreation” designated area of the former golf course to ±82 acres (53.7%). The current application would reduce the remaining open space to ±76.6 acres or 50.3% of the original open space acreage.

2. The application proposes infill urban development on the ±5.2 gross-acre Parcel A consistent with the provisions of the CDMP. Land Use Element Objective LU-1, Policy LU-1C and Policy LU-10A require the County to give priority to infill development on vacant sites in currently urbanized areas, and redevelopment of substandard or underdeveloped environmentally suitable urban areas contiguous to existing urban development where urban services and facilities have the capacities to accommodate additional demand. The

applicant proposes to subdivide Parcel A into two separate tracts (Tract 1 and Tract 2) and to restrict development on each tract by a separate proffered covenant. The proffered covenant for Tract 1 proposes to limit development on the tract to a charter school and the other covenant proposes to limit development on Tract 2 to a community center (see Appendices Pages 85 and 89, respectively). As discussed in Principal Reason No. 3(ii) below, existing public facilities and services have adequate capacities to accommodate the impacts that would be generated by the proposed charter school and community center development, with the possible exception of roadways.

3. Approval of the application, in particular the requested redesignation of Parcel A to “Medium Density Residential”, would be generally consistent with the criteria for evaluating Land Use Plan map amendment applications pursuant to Policy LU-8E of the CDMP Land Use Element. Policy LU-8E requires LUP map amendment applications to be evaluated according to factors such as (i) the ability of the proposed amendment to satisfy a deficiency in the LUP map to accommodate projected population or economic growth of the County, (ii) impacts to County facilities and services, (iii) compatibility with abutting and nearby land uses, (iv) impacts to environmental and historical resources, and (v) the extent to which the proposed land use would promote transit ridership and pedestrianism pursuant to Objective LU-7 and associated policies. Each factor is discussed below.

- i. *Need:* The requested redesignation of the application site from its current “Parks and Recreation” designation to “Medium Density Residential” would increase the residential land capacity within the analysis area (Minor Statistical Area 3.2) where the site is located by a maximum of 130 multi-family units. An analysis of the residential capacity by type of dwelling units in Minor Statistical Area 3.2 shows the depletion of single-family units occurring in 2027 and for multi-family beyond the year 2025. The supply of residential land for both single-family and multi-family units is projected to be depleted by the year 2026. (See Supply and Demand Analysis on page 7-12.)

However, the applicant has proffered covenants proposing to limit development on the ±5.2-acre Parcel A to a charter school and a community center. If the application is approved with acceptance of the proffered covenants and Parcel A is developed as proposed, the application would not affect the residential land supply but would provide for additional recreational and educational facilities that could be of benefit to the area. According to the Miami-Dade County Public Schools analysis, the area Concurrency Service Area for Schools within which the site is located has very limited elementary school capacity—only three 3 seats available. Furthermore, the adjacent school Concurrency Service Area has a 242-seat deficiency in elementary schools (see Public Schools analysis on page 7-19 and Appendix B on Appendices Page 59). Therefore, approval of the application with the proffered covenants could assist in satisfying the deficiency in elementary school capacity in the general area.

- ii. *Public Facilities and Services.* The impacts that would be generated from the maximum allowable residential development on the application site, if approved with acceptance of the proffered covenant, would not cause a violation in the level of service standards for public services and facilities, with the exception of the potential impacts to roadways.

The applicant’s proffered covenants proposes to limit development on the site to a charter school and a community center. The applicant also submitted a traffic study that analyzed the proposed development assuming the charter school will have the

capacity for 1,200 students. The applicant's traffic study concluded that roadways adjacent to Parcel A would continue to operate within the adopted level of service standards with the projected traffic impacts from the proposed development during evening peak traffic periods (see Appendix C, Appendices Page 63 herein). Staff's evaluation of the application indicates that the projected traffic impacts from the 1,200-student school would cause Fontainebleau Boulevard to operate in violation of the adopted level of service standard (LOS E), in the morning peak traffic period (see Application Impact on page 7-22 in Roadways section). Staff requested the applicant to analyze the morning peak traffic period, which analysis the applicant submitted on March 12, 2015. The applicant's morning peak traffic period analysis indicates that Fontainebleau Boulevard would operate within the adopted LOS E standard with the impacts from the 1,200-student charter school (see Appendix C, Appendices Page 69). Staff is reviewing the applicant's morning peak traffic period analysis and will continue to work with the applicant to address the differences in the analyses.

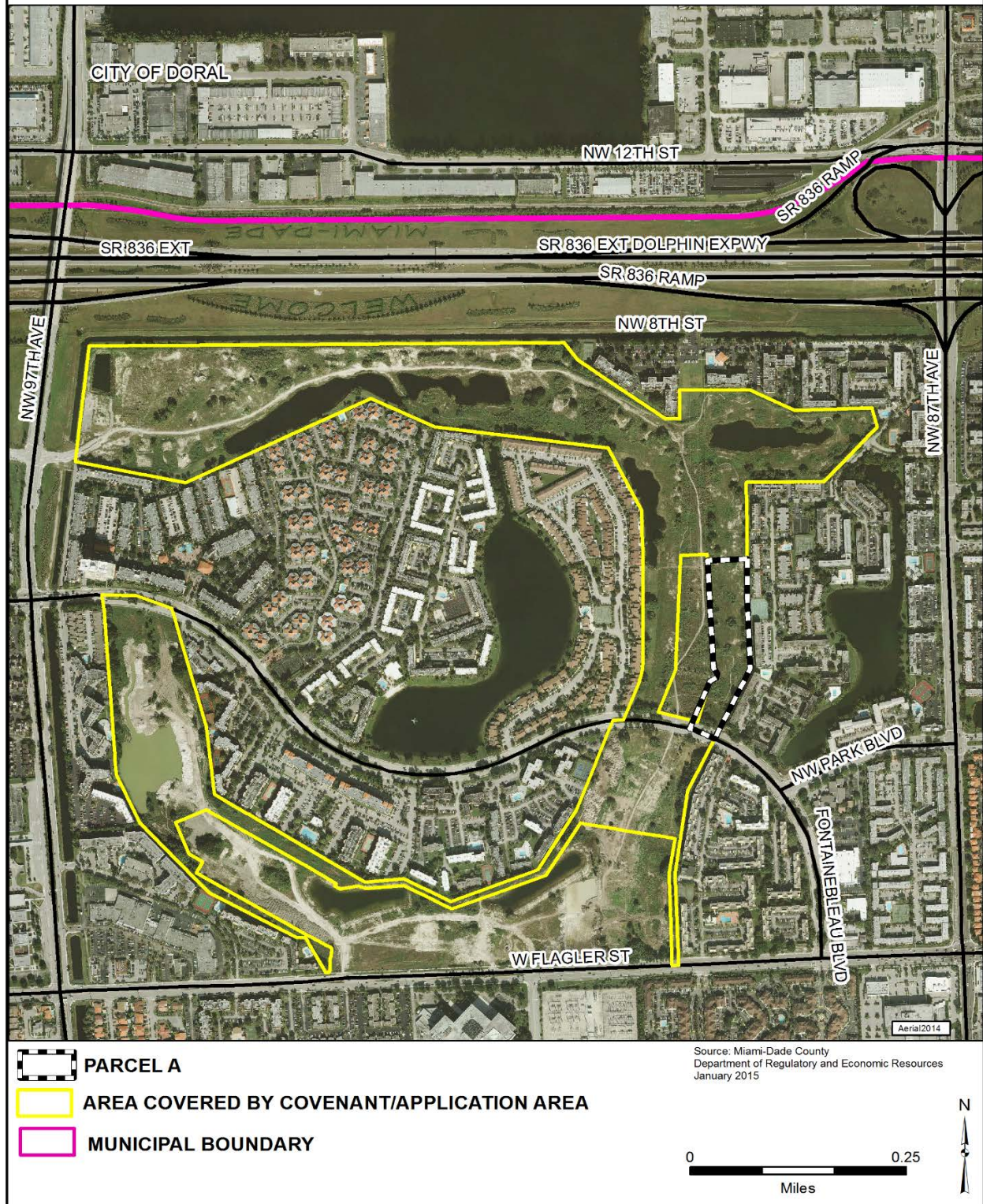
- iii. *Compatibility.* If the application is approved redesignating the ±5.2 acre Parcel A is to "Medium Density Residential" the development of the parcel with the maximum allowable 130 residential units or with the school and community center, as proposed in the proffered covenants, would be generally compatible with the existing and planned land uses adjacent to the parcel. The properties to the north, west and southwest are designated "Parks and Recreation" and restricted by the May 2005 Covenant to open space and the properties to the east and southeast are designated Medium Density Residential and developed with multi-family units. (See 'Existing Land Use' and 'CDMP Land Use' maps on pages 7-7 and 7-8.)
- iv. *Environmental and Historic Resources:* The application, if approved, would not impact any historic or archaeological resources, but could impact environmental resources such as endangered species and/or specimen sized trees that may exist on the site. (See "Environmental Conditions" section on page 7-13.)

The subject property is located within the United States Fish and Wildlife Service consultation area for the federally endangered Florida Bonneted Bat and may provide foraging or roosting habitat for the bat. The applicant is advised to consult with the Florida Fish and Wildlife Conservation Commission and the United States Fish and Wildlife Service regarding the protection of this species. The Applicant's proffered covenants commit to coordinating with the United States Fish and Wildlife Service and other relevant agencies to determine whether bonneted bats are present on the property and, if present, the process to be followed to ensure their protection.

Additionally, the application area may contain specimen-sized trees (trunk diameter 18 inches or greater) that are required to be preserved where reasonably possible, pursuant to Section 24-49.2(II) of the County Code.

- v. *Transit Ridership and pedestrianism.* The proposed CDMP land use amendment could support transit ridership and pedestrianism. The site is currently served by Metrobus Route 7, which provides local route services to the application area. Metrobus Route 7 provides 15/30-minute AM/PM peak period headways service on weekdays, 20 and 24-minute headway service during off-peak periods (midday and evenings respectively, after 8 pm) and 20-minute headway service on weekends.

APPLICATION NO. 7 AERIAL PHOTO



APPLICATION 7 ZONING MAP

CITY OF DORAL

CC

SR 836 RAMP

SR 836 RAMP

SR 836 EXT

SR 836 EXT

DOLPHIN OFF RAMP

NW 8TH ST

NW 7TH ST

PARK BLVD

W FLAGLER ST

NW 9TH AVE

SW 1ST ST

FONTAINEBLEAU BLVD

PAD

RU-4M

RU-4

RU-4L

RU-3M

RU-3L

RU-5A

RU-5M

BU-1

BU-1A

BU-2

BU-2L

AU

GU

EU-M

PARCEL A

AREA COVERED BY COVENANT/APPLICATION AREA

MUNICIPAL BOUNDARY

MIAMI-DADE ZONING DISTRICTS

DORAL ZONING DISTRICTS

CC CORRIDOR COMMERCIAL

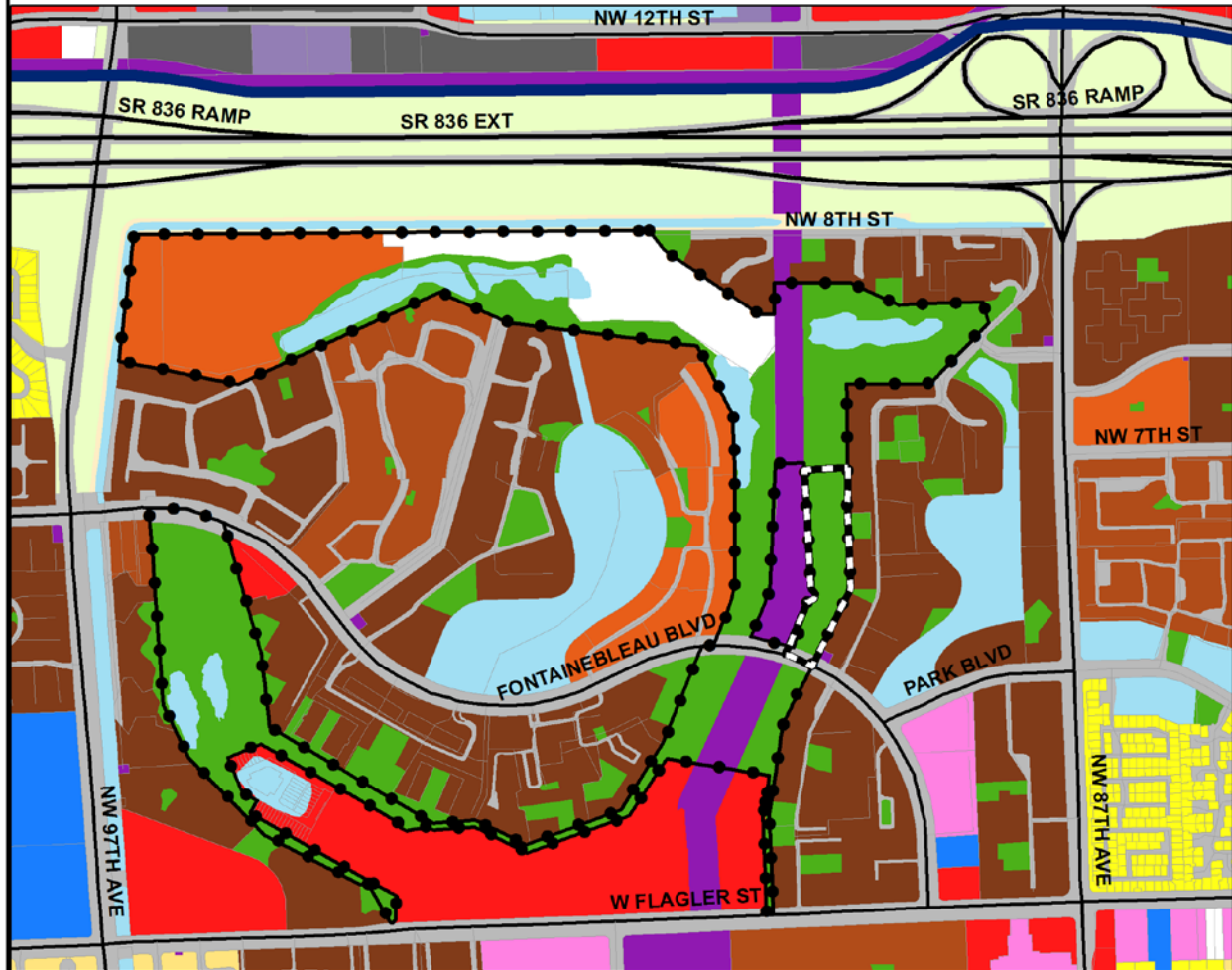
I INDUSTRIAL

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APPLICATION NO. 7 EXISTING LAND USE



- PARCEL A
- AREA COVERED BY COVENANT/APPLICATION
- MUNICIPAL BOUNDARY
- EXISTING LAND USE**
 - SINGLE-FAMILY
 - TWO-FAMILY DUPLEXES
 - TOWNHOUSES
 - LOW-DENSITY MULTI-FAMILY
 - HIGH-DENSITY MULTI-FAMILY
 - COMMERCIAL
 - OFFICE
 - INSTITUTIONAL
 - INDUSTRIAL

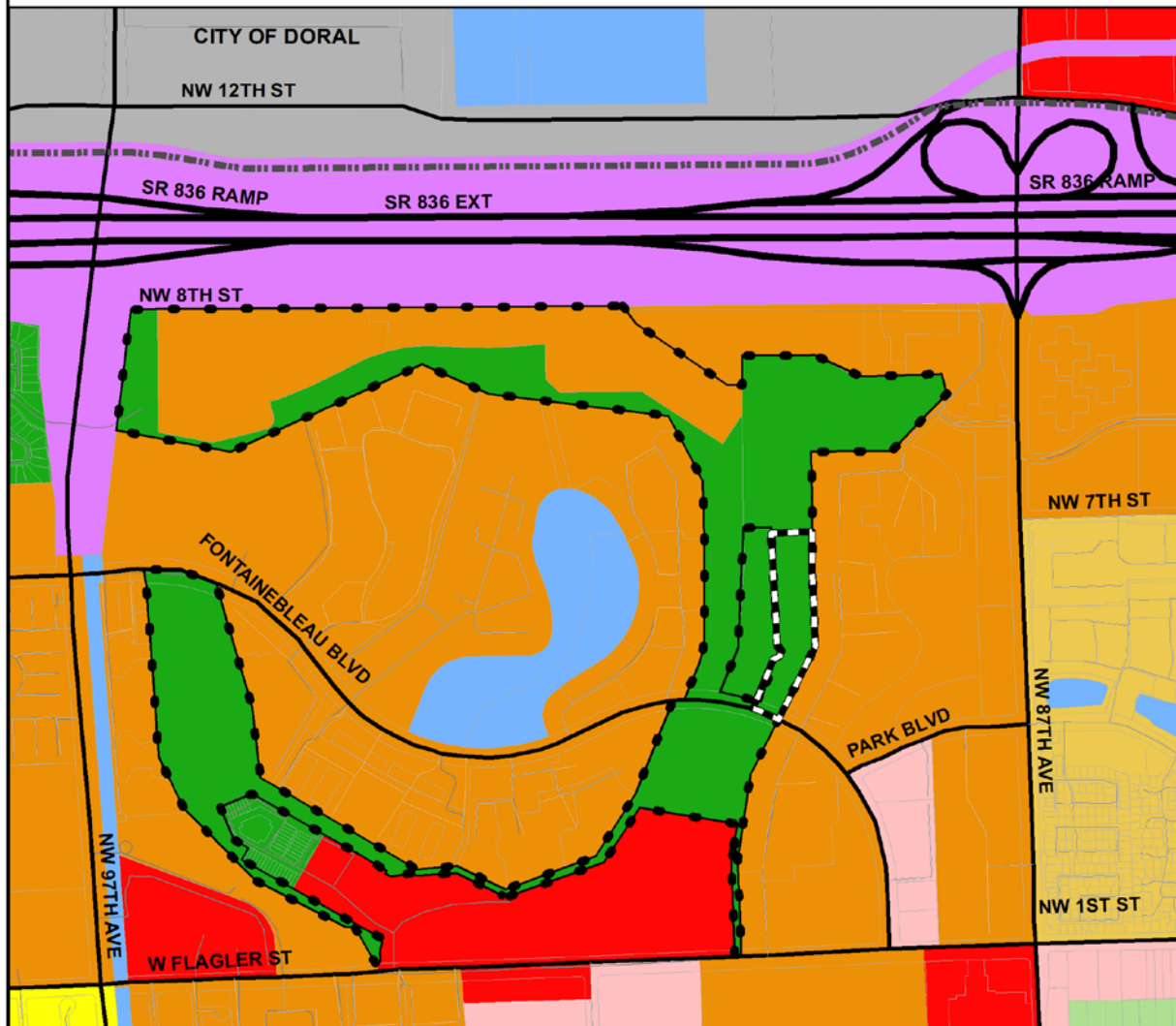
- INDUSTRIAL INTENSIVE
- COMMUNICATIONS, UTILITIES, TERMINALS
- STREETS, ROADS, EXPRESSWAYS, RAMPS
- STREETS, EXPRESSWAY
- PARKS, PRESERVES, CONSERVATION AREAS
- INLAND WATERS
- VACANT PRIVATELY OWNED, UNPROTECTED

0 0.25 0.5
Miles



Source: Miami-Dade County
Department of Regulatory and Economic Resources
January 2015

APPLICATION NO. 7 CDMP LAND USE

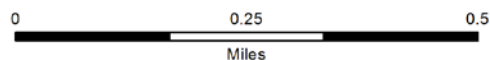


- PARCEL A
- AREA COVERED BY COVENANT/APPLICATION AREA
- MUNICIPAL BOUNDARY

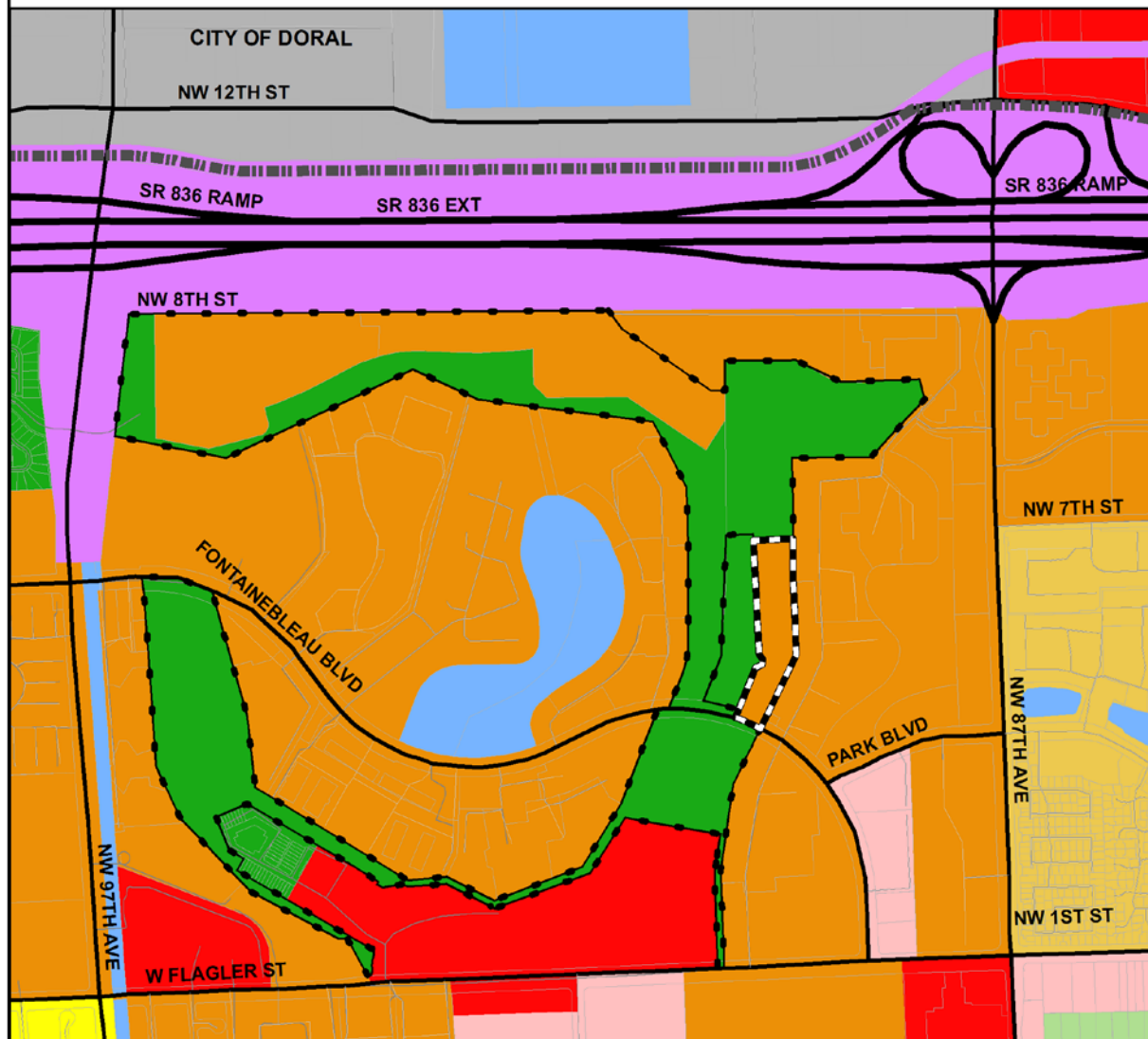
CDMP LAND USE

- | | |
|---------------------------------|---|
| ESTATE DENSITY | PARKS AND RECREATION |
| LOW DENSITY (2.5-6 DU/AC) | ENVIRONMENTALLY PROTECTED PARKS |
| LOW-MEDIUM DENSITY (6-13 DU/AC) | WATER |
| MEDIUM DENSITY (13-25 DU/AC) | TRANSPORTATION (ROW, RAIL, METRORAIL, ETC.) |
| INDUSTRIAL AND OFFICE | EXPRESSWAYS |
| BUSINESS AND OFFICE | MAJOR ROADWAYS (3 OR MORE LANES) |
| OFFICE/RESIDENTIAL | |

Source: Miami-Dade County
Department of Regulatory and Economic Resources
January 2015



APPLICATION NO. 7 PROPOSED CDMP LAND USE

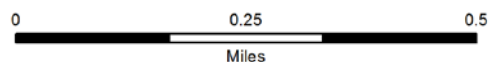


- PARCEL A
- AREA COVERED BY COVENANT/APPLICATION AREA
- MUNICIPAL BOUNDARY

CDMP LAND USE

- | | |
|---------------------------------|---|
| ESTATE DENSITY | PARKS AND RECREATION |
| LOW DENSITY (2.5-6 DU/AC) | ENVIRONMENTALLY PROTECTED PARKS |
| LOW-MEDIUM DENSITY (6-13 DU/AC) | WATER |
| MEDIUM DENSITY (13-25 DU/AC) | TRANSPORTATION (ROW, RAIL, METRORAIL, ETC.) |
| INDUSTRIAL AND OFFICE | EXPRESSWAYS |
| BUSINESS AND OFFICE | MAJOR ROADWAYS (3 OR MORE LANES) |
| OFFICE/RESIDENTIAL | |

Source: Miami-Dade County
Department of Regulatory and Economic Resources
January 2015



STAFF ANALYSIS

Background

The application seeks to modify an existing CDMP Declaration of Restrictions (covenant) that applies to ±112 acres (the application area) to exclude a ±5.2-acre portion of the acreage and to change the land use designation of the ±5.2 acres to allow for its development. The ±112-acre application area is a portion of the former ±152-acre Fontainebleau East Golf Course. The former golf course was restricted to be used only as a golf course by a 30-year covenant that expired prior to 2003. Subsequently, the former golf course has been the subject of several Comprehensive Development Master Plan (CDMP) amendment applications that changed the land use of the property and also encumbered the property through certain Declarations of Restrictions (covenants).

The former ±152-acre Fontainebleau East Golf Course was the subject of Application No. 3 of the April 2004 Application Cycle to amend the CDMP. This referenced application was adopted with acceptance of a proffered covenant by the Board of County Commissioners (Board) by Ordinance No. 05-92 in May 2005. The adopted April 2004 Application No. 3 effectively changed the Land Use Plan map designation for ±57.89 acres of the former golf course to "Medium Density Residential" and the remaining ±94.39 acres to "Parks and Recreation". The referenced May 2005 covenant is recorded in the County's Official Records Book 23413, Pages 1136 to 11421 (CFN 2005R0539838). The covenant, among other things, restricted the use of the ±94.39-acre "Parks and Recreation" designated portion of the former golf course to open space (approximately 62% of the overall golf course acreage) and limited residential development on the remaining acreage to 1,176 dwelling units. The adopted April 2004 CDMP amendment Application No. 3 was consistent with the "Parks and Recreation" text in the CDMP Land Use Element, which provides that up to 50% of privately owned land designated as "Parks and Recreation" and previously limited by deed restriction or restrictive covenant may be developed under certain conditions. The referenced "Parks and Recreation" text, on CDMP page I-51, states:

"The long-term use of golf courses or other private recreation or open space on privately owned land designated as Parks and Recreation may be previously limited by deed restriction or restrictive covenant. A new development plan governing such land set-aside for park, recreation or open space use (restricted lands) may be approved at public hearing by the Board of County Commissioners or the applicable zoning board only if the following is demonstrated: (1) that the restricted land is subject to a restrictive covenant relating to development served by the open space, that such restrictive covenant continues to limit the use of the land to open space, and that this limitation in the restrictive covenant may be modified only with the written consent of adjacent or proximate property owners or a prescribed percentage thereof; (2) that the required written consents of the adjacent or proximate property owners have been obtained; and (3) that the proposed development will replace park or recreation land or open space that has fallen into prolonged disuse or disrepair to the detriment of the surrounding neighborhood. The development plan for such land (1) shall provide for development compatible with adjacent development; (2) shall provide by restrictive covenant that **not less than two-thirds of the land subject to the new development plan (or such other proportion deemed appropriate by the Board of County Commissioners and/or appropriate Community Zoning Appeals Board but in no event less than 50 percent of such land) shall be maintained as Park, Recreational or open space** for use by residents or other

residents or users of the entire development for which the open space had originally been provided..." **[Emphasis added]**.

Subsequently in May 2009, the Board adopted Application No. 8 (Ordinance No. 09-28) filed in the April 2008 CDMP amendment cycle. The application modified the May 2005 Covenant to exclude ±39.4 acres of the former golf course and changed redesignated the ±39.4 acres from "Medium Density Residential (13-25 DU/Ac)" and "Parks and Recreation" to "Business and Office" on ±35.06 gross acres, and from "Medium Density Residential (13-25 DU/Ac)" to "Parks & Recreation" on ±4.36 acres. The modification to the May 2005 Covenant is recorded in the Official Record Book 26955, Pages 908 through 933 (CFN 2009R0541645). A separate covenant that placed certain restrictions and conditions on the ±39.4 acres was proffered and accepted by the Board on adoption of April 2008 Application No. 8 and was recorded in June 2009 (the June 2009 Covenant), Official Records Book 26921, Pages 1562 to 1582 (CFN 2009R0469946). The adopted April 2008 Cycle Application No. 8 reduced the acreage of the area covered by the May 2005 application to ±112 acres and the acreage remaining as open space to ±82 acres, or approximately 53.7% of the original golf course acreage.

In October 2014, the Board adopted Application No 1 of the November 2013 Cycle of CDMP Amendments, through Ordinance 14-100, which modified the June 2009 covenant. This covenant modification pertained to the hours of operations of businesses in the ±35-acre "Business and Office" designated portion of the former golf course that was excluded from May 2005 covenant, as discussed above. The acreage remaining in park and open space use remained unchanged.

Application Requests

As outlined above, the application seeks to modify the previously modified May 2005 Covenant to exclude ±5.2 acres (hereafter referenced as Parcel A) from the covenant restrictions and to redesignate Parcel A on the CDMP Land Use Plan map from "Parks and Recreation" to "Medium Density Residential" (see Map Series pages 7-5 through 7-9).

Given the request to change the CDMP Land Use Plan map applies to Parcel A, the analysis herein is specific to the ±5.2-acre Parcel A.

Location

The ±5.2 gross-acre Parcel A is located on the north side of Fontainebleau Boulevard and west of NW 87 Avenue in southwest unincorporated Miami-Dade County.

Existing Land Use

The ±5.2 acre Parcel A is currently vacant and is required by covenant to be maintained as open space for use by residents of the adjacent developments. (See Existing Land Use map on page 7-7: Photos of Site and Surroundings).

Land Use Plan Map Designation/Request

Parcel A is currently designated "Parks and Recreation" on the CDMP Adopted 2020 and 2030 Land Use Plan (LUP) map, (see CDMP Land Use Map on page 7-8). The "Parks and Recreation" category generally illustrates recreational areas of metropolitan significance, golf courses and parks larger than 40 acres, which are significant community features.

Based on the May 2005 Covenant, Parcel A is restricted to open space use. Under the requested "Medium Density Residential" designation with the requested covenant modification, Parcel A could be developed with 130 multi-family units. However, the applicant has proffered two separate

Declarations of Restrictions that propose to restrict the development of Parcel A to a charter school and a community center (see Appendix D on Appendices Page 75).

Zoning

The ±5.2-acre Parcel A is currently zoned GU (Interim – Uses depend on the character of neighborhood, otherwise EU-2 standards apply). The remaining portion of the site is zone RU-4M (Modified Apartment 35.9 units per net acre) (see Zoning Map on page 7-6).

Zoning History

Miami-Dade County zoning districts and zoning code regulations were first created in 1938. The subject ±5.2-acre Parcel A was initially designated GU and no rezoning has occurred on the site to date.

Adjacent Land Use and Zoning

Existing Land Uses

Abutting Parcel A to the east and north are mid-rise multi-family residential condominiums (the Pineside subdivision and the Pinebark subdivision). To the southeast, across Fontainebleau Boulevard, are the Fontainebleau Park subdivision comprising mid-rise multi-family residential condominiums. To the south across Fontainebleau Boulevard, west and north of Parcel A are covenant-restricted open space areas. Further south are the Fontainebleau Park shopping center and the Parkview residential subdivision of multi-family condominiums. Further west is the Oakview residential subdivision of multi-family condominiums.

Land Use Plan Map Designations

Properties east of Parcel A are designated “Medium Density Residential” on the LUP map. Properties to the south, across Fontainebleau Boulevard, are designated “Parks and Recreation” and “Medium Density Residential”, and further south are properties designated “Business and Office”. Properties to the west and north of Parcel A are also designated “Parks and Recreation” on the LUP map and beyond them are properties designated “Medium Density Residential”. (See CDMP Land Use Map on page 7-8.)

Zoning

The properties to the east of Parcel A are zoned RU-4 (Apartments at a density of 50 units per net acre) and GU, while properties to the south across Fontainebleau Boulevard, are zoned GU (Interim District), RU-4 and BU-1A (Limited Business District). Properties to the west and north of the subject parcel are zoned GU, RU-4 and RU-4M (Modified Apartment House 35.9 units per net acre). (See Zoning Map on page 7-6).

Supply and Demand

Residential

The combined vacant land for single-family and multi-family residential development in the Analysis Area (Minor Statistical Area 3.2) in 2014 was estimated to have a capacity for about 11,489 dwelling units, with about 55 percent of these units intended as multi-family. The annual average residential demand in this Analysis Area is projected to increase from 613 units per year in the 2010-2015 period to 1,054 units in the 2025-2030 period. An analysis of the residential capacity by type of dwelling units shows the depletion of single-family units occurring in 2027 and for multi-family by 2025 (See Table below). The supply of residential land for both single-family and multi-family units is projected to be depleted by the year 2026. The application, if approved is projected to increase the net supply of single family by 130 units, just over one (1) month supply

and will not alter the depletion year for both types of units. However, the applicant has by covenant proposed to restrict the development on Parcel A to a charter school and a community center, which would not affect the residential land supply.

Residential Land Supply/Demand Analysis
2014 to 2030: (MSA 3.2)

ANALYSIS DONE SEPARATELY FOR EACH TYPE, I.E. NO SHIFTING OF DEMAND BETWEEN SINGLE & MULTI-FAMILY TYPE	STRUCTURE TYPE		
	SINGLE-FAMILY	MULTIFAMILY	BOTH TYPES
CAPACITY IN 2014	6,330	5,159	11,489
DEMAND 2010-2010	114	299	613
CAPACITY IN 2015	6,016	4,860	10,876
DEMAND 2015-2020	443	422	865
CAPACITY IN 2020	3,801	2,750	6,551
DEMAND 2020-2025	488		953
		465	
CAPACITY IN 2025	1,361	425	1,786
DEMAND 2025-2030	540	514	1,054
CAPACITY IN 2030	0	0	0
DEPLETION YEAR	2027	2025	2026

Residential capacity is expressed in terms of housing units.

Housing demand is an annual average figure based Miami-Dade County's population projections.

Source: Miami-Dade Department of Regulatory and Economic Resources, Planning Division, Planning Research Section, February 2015.

Environmental Conditions

The following information pertains to the environmental conditions of Parcel A. All YES entries are further described below.

Flood Protection

Federal Flood Zone	AH-8
Stormwater Management Permit	Surface Water Management General Permit
County Flood Criteria, National Geodetic Vertical Datum (NGVD)	+6.8 feet

Biological Conditions

Wetlands Permit Required	No
Native Wetland Communities	No
Specimen Trees	Undetermined
Endangered Species Habitat	Undetermined
Natural Forest Community	No

Other Considerations

Within Wellfield Protection Area	No
Hazardous Waste	No
Contaminated Site	Yes

Drainage, Flood Protection and Stormwater Management

Any proposed development with more than 2.0 acres of impervious area within the subject property will require a DERM Surface Water Management General Permit for the construction and operation of the required surface water management system. The permit must be obtained prior to development of the site, Final Plat, and/or prior to obtaining Public Works Department approval of paving and drainage plans.

Parcel A is located within Zone AH-8 of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map. Any development will have to comply with the requirements of Chapter 11C of the Code for County flood protection.

The site shall be filled to a minimum elevation of 6.8 feet NGVD or County Flood Criteria. For construction of habitable structures within the subject application, the Lowest Floor Elevation requirement shall be the highest elevation in NGVD of the following references:

- Average crown of road fronting the property, plus 8 inches for residential, or plus 4 inches for commercial.
- County Flood Criteria 6.8 feet NGVD, plus 8 inches for residential, or plus 4 inches for commercial.
- Elevation of the back of the sidewalk (if any) fronting the property, plus 8 inches for residential, or plus 4 inches for commercial.
- The Base Flood Elevation for this area is found to be 8.0 feet NGVD (taken from the Flood Insurance Rate Maps (FIRM) for Miami Dade County).
- The stage generated by retention on-site of the 100-year rainfall event according to stage-storage calculations must be equal or less than the Base Flood Elevation

For compliance with stormwater quality requirements, all stormwater shall be retained on site utilizing properly designed seepage or infiltration drainage system. Drainage must be provided for the 5-year/1-day storm event. For compliance with stormwater quantity requirements designed to prevent flooding of adjacent properties, the site grading and development shall provide for the full on-site retention of the 100-year/3-day storm event and shall also comply with the requirements of Chapter 11C of the Code and all State and Federal Criteria. The proposed development order, if approved, will not result in the reduction of the Level of Service standards for flood protection set forth in the CDMP. However, the proposed CDMP amendment would result in additional impervious areas (up to 70%) that could generate additional runoff to adjacent properties. A stormwater management system must be constructed on-site to prevent impacts to adjacent properties.

Tree Preservation

The subject Parcel A may contain specimen-sized trees (trunk diameter 18 inches or greater). Section 24-49.2(II) of the Code requires that specimen-sized trees be preserved whenever reasonably possible. A Miami-Dade County Tree Removal/Relocation Permit is required prior to the removal and/or relocation of any tree that is subject to the Tree Preservation and Protection provisions of the Code.

Pursuant to Objective CON-8I of the CDMP and Section 24-49.9 of the Code, exotic pest plant and nuisance species as listed in the Code present on the property shall be removed prior to development or redevelopment and developed parcels shall be maintained to prevent the growth or accumulation of prohibited species.

Endangered Species Habitat

In November 2013, the United States Fish and Wildlife Service listed the Florida bonneted bat as endangered under the Endangered Species Act. The subject property is located within the United States Fish and Wildlife Service consultation area of the federally endangered Florida bonneted bat and provides a combination of open land and open water that is similar to other sites in Miami-Dade County where foraging or roosting by the Florida bonneted bat has been documented.

Objective CON-9 of the Conservation Element of the CDMP mandates the conservation of freshwater fish, wildlife and plants, as well as the preservation of habitat critical to endangered, threatened or rare species. Policy CON-9B in the Conservation Element of the CDMP states "All nesting, roosting and feeding habitats used by federal or State designated endangered or threatened species, shall be protected and buffered from surrounding development or activities...". In addition, Policy CON-9F requires that the County's planning for the future development of open space "...include the protection, conservation and/or restoration of wildlife habitats". The applicant is advised to consult with the Florida Fish and Wildlife Conservation Commission and the United States Fish and Wildlife Service at the earliest stage possible.

Contaminated Site

The site is a former golf course and has records of contamination under DERM tracking number AW-235. Any proposed development, drainage, dewatering, or sub-surface activities require review and approval from the DERM Environmental Monitoring and Restoration Division as it relates to environmental contamination.

Water and Sewer

Water Supply

The subject Parcel A is located within the MDWASD franchised water service area. The water supply will be provided by the Alexander Orr Water Treatment Plant which is presently producing water that meets Federal, State, and County drinking water standards. At the present time, there is adequate treatment and water supply capacity for the net increase in capacity proposed in this application; however, a Water Supply Certification will be required for this project at the time of development to determine water supply availability. At the time of development, the project will be evaluated for water supply availability and a water supply reservation will be made.

Water Treatment Plant Capacity

The County's adopted Level of Service (LOS) standard for water treatment is based on regional treatment system capacity. The regional water treatment system has a rated design capacity of 439.74 million gallons per day (MGD). Pursuant to CDMP Policy WS-2A, the regional water treatment system shall operate at a capacity that is no less than two percent, which is equivalent to 430.95 MGD. The total available water treatment plant capacity, 106.40 MGD, is calculated using the available plant capacity (430.95 MGD), subtracting the average of the actual water treated (302.62 MGD) and subtracting the water that is reserved through development orders (21.93 MGD, water that will be needed in the future).

As noted in the "Estimated Water Demand/Sewer Flow for Proposed Development by Land Use Scenario" table below, the maximum water demand for Residential (Scenario 1) development under the requested CDMP Land Use designation is estimated at 19,500 gpd. This represents an increase over the current demand. A Water Supply Certification Letter will be required at the time of development, at which time the proposed project will be evaluated for water supply availability and a water supply reservation will be made.

Estimated Water Demand/Sewer Flow
For Proposed Development by Land Use Scenario

Scenario	Use (Maximum Allowed)	Quantity (Units or Square Feet)	Water Demand Multiplier (Section 24-43.1 Miami- Dade Code)	Projected Water Demand (gpd)
Current CDMP Potential				
1	Restricted Open Space	0 homes	Not applicable	Not applicable
Requested CDMP Designation				
1	Residential	130MF	150 gpd	37,950

Source: Miami-Dade Water and Sewer Department; Department of Regulatory and Economic Resources, Planning Division; July 2014

Water System Connectivity

There is an existing 16-inch water main along Fontainebleau Boulevard from which the applicant may connect and extend a new 8-inch minimum water main to provide service to the subject property. Any public water main extension within the property shall be 12-inch minimum diameter. If two or more fire hydrants are to be connected to a public water main extension, then the water system shall be looped with two (2) points of connection.

Sewer Treatment Plant Capacity

The County's adopted LOS standard for wastewater treatment and disposal requires that the regional wastewater treatment and disposal system, consisting of North, Central, and South Districts Wastewater Treatment Plants, operate with a capacity that is two percent above the average daily flow for the preceding five years and a physical capacity of no less than the annual average daily sewer flow. The wastewater effluent must also meet all applicable federal, state, and county standards and all treatment plants must maintain the capacity to treat peak flows without overflow. The regional wastewater treatment system has a design capacity of 375.50 million gallons per day (mgd) and a 12-month average (period ending April 2014) of 322.85 mgd. The sum of the 12-month average and all reserved flows (30.61 mgd) represents 94.13% of the regional system design capacity. Therefore, the wastewater treatment system has 5.87% less 2% for a total of 3.87% or 14.53 mgd of capacity remaining.

Sewer System Connectivity

The wastewater flows for this application will be transmitted to the Central District Wastewater Treatment Plant for treatment and disposal. Currently, there is average wastewater treatment capacity for this application consistent with Policy WS-2A(2) of the CDMP. There is an existing 15-inch sanitary sewer force main located along Fontainebleau Boulevard to which the applicant shall install and connect a new 8-inch sewer gravity line required to provide service to the applicant's property. A sewage pump station may be required.

Solid Waste

The Miami-Dade County Public Works and Waste Management Department (PWWM) Solid Waste Functions oversees the proper collection and disposal of solid waste generated in the County through direct operations, contractual arrangements, and regulations. In addition, the Department directs the countywide effort to comply with State regulations concerning recycling, household chemical waste management and the closure and maintenance of solid waste sites no longer in use.

The subject Parcel A is located inside the PWWM Waste Collection Service Area (WCSA), which consists of all residents of the Unincorporated Municipal Service Area (UMSA) and eight municipalities.

Level of Service Standard

CDMP Policy SW-2A establishes the adopted Level of Service (LOS) standard for the County's Solid Waste Management System. This CDMP policy requires the County to maintain sufficient waste disposal capacity to accommodate waste flows committed to the System through long-term contracts or interlocal agreements with municipalities and private waste haulers, and anticipated uncommitted waste flows, for a period of five years. The PWWM assesses the solid waste capacity on system-wide basis since it is not practical or necessary to make determination concerning the adequacy of solid waste disposal capacity relative to individual applications. As of FY 2014-2015, the PWWM is in compliance with the adopted LOS standard.

Application Impacts

Application No. 7 is requesting a redesignation of Parcel A from "Parks and Recreation" to "Medium Density Residential" on the Adopted 2015 and 2025 LUP map. The "Medium Density Residential" designation is estimated to create approximately 130 multi-family residential units. Per Chapter 15 of the County Code, the PWWM does not actively compete for non-residential waste collection such as multi-family, commercial, business, office, and industrial services at this time; therefore waste collection services may be provided by a private waste hauler.

The PWWM has determined that the requested amendment will have no impact or any associated costs to the County; therefore, the PWWM has no objection to the proposed amendment.

Parks

The Miami-Dade County Parks, Recreation and Open Space Department has three Park Benefit Districts (PBDs). The subject application site is located inside Park Benefit District 1 (PBD-1), which generally encompasses the area of the County north of SW 8 Street.

Level of Service Standard

CDMP Policy ROS-2A establishes the adopted minimum Level of Service (LOS) standard for the provision of recreation open space in the Miami-Dade County. This CDMP policy requires the County to provide a minimum of 2.75 acres of local recreation open space per 1,000 permanent residents in the unincorporated areas of the County and a County-provided, or an annexed or incorporated, local recreation open space of five acres or larger within a three-mile distance from residential development. The acreage/population measure of the LOS standard is calculated for each Park Benefit District. A Park Benefit District is considered below LOS standard if the projected deficiency of local recreation open space is greater than five acres. Currently, PBD-1 has a surplus capacity of 156.45 acres of parkland, when measured by the County's concurrency LOS standard of 2.75 acres of local recreation open space per 1,000 permanent residents.

The "County Local Parks" table below lists all the parks within a 3-mile radius of the application site; four parks (Rockway, Brothers to the Rescue Memorial, Ruben Dario and Coral Estates) are larger than the required five acre park.

Application Impacts

The potential development of Parcel A under the existing CDMP land use designation does not include residential development, resulting in no impact based on the minimum LOS standard for local

recreational open space. The potential for residential development under the proposed land use designation is estimated at 130 multi-family dwelling units with an estimated population of 304, resulting in an impact of an additional 0.84 acres of local parkland. This would lower the concurrency LOS from 156.45 acres to 155.61 acres per 1,000 residents but still meet the adopted minimum LOS standard. If developed as a non-residential use, there would be no increase in population and there would be no additional impact to the CDMP Open Space spatial standards.

County Local Parks Within a 3-Mile Radius of Application Site		
Park Name	Acreage	Classification
Banyan Park	3.09	Neighborhood Park
Rockway Park	5.01	Community Park
Brothers to the Rescue Memorial Park	6.75	Single Purpose Park
Francisco Human Rights Park	2.88	Mini Park
Ruben Dario Park	14.97	Community Park
Westbrook Park	2.10	Neighborhood Park
Coral Estates Park	5.26	Community Park
Sunset Heights Park	0.37	Mini Park
Banyan Park	3.09	Neighborhood Park

Source: Miami-Dade County Parks, Recreation and Open Space Department, January 2015.

Fire and Rescue Service

The subject Parcel A is currently served by Miami-Dade County Fire Rescue Station No. 48 (Fontainebleau), located at 8825 NW 18 Terrace. This station is equipped with a Rescue and an Engine, and is staffed with seven (7) firefighter/paramedics 24 hours a day, seven days a week.

The Miami-Dade County Fire Rescue Department (MDFR) has indicated that the average travel time to incidents in the vicinity of the application site is approximately six (6) minutes. Performance objectives of national industry standards require the assembly of 15-17 firefighters on-scene within 8 minutes at 90% of all incidents. Travel time to incidents in the vicinity of the application site complies with the performance objective of national industry standards.

Level of Service Standard for Fire Flow and Application Impacts

CDMP Policy WS-2A establishes the County's minimum Level of Service standard for potable water. This CDMP policy requires the County to deliver water at a pressure no less than 20 pounds per square inch (psi) and no greater than 100 psi, unless otherwise approved by the Miami-Dade Fire Rescue Department. A minimum fire flow of 1,500 gallons per minute (gpm) is required for the "Medium Density Residential" CDMP designation. Presently, there are no fire flow deficiencies in the vicinity of the application site.

Given the current CDMP land use designation of "Parks and Recreation," and the lack of development type and occupancy, MDFR is unable to generate the exact number of annual alarms. However, upon review of the fire and emergency alarms in the vicinity of the subject application, it was determined that the low volume of alarms would result in a minimal impact to Station No. 48. The proposed CDMP land use designation of "Medium Density Residential" is anticipated to generate 36 annual alarms, and would result in a minimal impact to existing fire rescue services; if a charter school with a capacity of 1,200 students is constructed, it is

anticipated to generate 32 annual alarms. Fire and rescue service in the vicinity of Parcel A is adequate. As a result of current call volume, Station No. 48 will be able to handle the additional number of alarms.

In an effort to further enhance fire and rescue service, MDRF plans to construct Station No. 68 (Dolphin). MDRF owns a vacant parcel of land located at 11101 NW 17 Street in the City of Sweetwater, which will be used to construct Station No. 68. However, construction of Station No. 68 is unfunded and, therefore, commencement of the construction is unavailable at this time.

Public Schools

Level of Service Standard

The adopted Level of Service (LOS) standard for all public schools in Miami-Dade County is 100% utilization of Florida Inventory of School Houses (FISH) capacity with relocatable classrooms (CDMP Policy EDU-2A). This LOS standard, except for magnet schools, shall be applicable in each public school concurrency service area (CSA), defined as the public school attendance boundary established by Miami-Dade County Public Schools.

A planning level review, which is considered a preliminary school concurrency analysis, was conducted on this application based on the adopted LOS standard, the Interlocal Agreement (ILA) for Public Facility Planning between Miami-Dade County and Miami-Dade County Public Schools, and current available capacity and school attendance boundaries.

Section 7.5 of the ILA provides for “Public Schools Planning Level Review” (Schools Planning Level Review), of CDMP amendments containing residential units. This type of review does not constitute a public school concurrency review and, therefore, no concurrency reservation is required. Section 7.5 further states that “...this section shall not be construed to obligate the County to deny or approve (or to preclude the County from approving or denying) an application.”

Application Impact

This application, if approved with the proffered Declaration of Restrictions (covenant), would prohibit residential development on the subject Parcel A thereby generating no impact to public schools. However, if the application were to be approved without the proffered covenant, the maximum residential development of 130 multifamily units may increase the student population of the schools serving the application area by an additional 35 students – this number reflects an impact reduction of 22.36% for charter and magnet schools (schools of choice). Of the 35 students, 16 will attend elementary schools, 9 will attend middle schools students and 10 will attend senior high schools. The students will be assigned to those schools identified in the “Concurrency Service Area (CSA) Schools” table below. At this time, the middle and senior high school level have sufficient capacity available to serve the application; while the elementary school level does not meet school concurrency (there is a shortfall 13 seats). Nonetheless, a final determination of Public School Concurrency and capacity reservation will only be made at the time of approval of final plat, site plan or functional equivalent.

Section 9 of the ILA discusses implementation of school concurrency, indicating the test for school concurrency is at the time of a final subdivision, site plan or functional equivalent, not at the time of application for land use. Miami-Dade County Public Schools is required to maintain the adopted LOS standard throughout the five-year planning period. In the event that there is not sufficient capacity at the time of final subdivision, site plan or functional equivalent, the ILA and the Educational Element of the CDMP describe a proportionate share mitigation process.

Concurrency Service Area (CSA) Schools					
Facility Name	Net Available Capacity	Seats Required	Seats Taken	LOS Met	Source Type
Charles R. Hadley Elementary	3	16	3	No	Current CSA/5 Year Plan
Ruben Dario Middle	-39	9	0	No	Current CSA/5 Year Plan
Miami Palmetto Senior	536	10	10	Yes	Current CSA
Adjacent Concurrency Service Area Schools					
Seminole Elementary	-27	13	0	No	Adjacent CSA/5 Year Plan
EWB Stirrup Elementary	-59	13	0	No	Adjacent CSA/5 Year Plan
John I. Smith K-8 (Elem Comp)	-156	13	0	No	Adjacent CSA/5 Year Plan
Paul W. Bell Middle	531	9	9	Yes	Adjacent CSA
Source: Miami-Dade County Public Schools, January 2014.					
Miami-Dade County Department of Regulatory and Economic Resources, 2014.					

Roadways

The subject Parcel A is a ±5.2 net/gross acre property located on the north side of Fontainebleau Boulevard, a curvilinear four-lane divided roadway, and west of NW 87 Avenue, a four- and six-lane divided roadway, in unincorporated Miami-Dade County. Access to Parcel A is solely by Fontainebleau Boulevard, a four-lane divided Major Collector, which provides access to Park Boulevard--a four-lane divided roadway which connects to NW 87 Avenue to the east and continues south to West Flagler Street. Fontainebleau Boulevard also provides connectivity to NW 97 Avenue and NW 107 Avenue to the west. NW 107 Avenue and NW 87 Avenue, two major north-south corridors, provide connectivity to SR 836/Dolphin Expressway, a Major east-west limited access facility. West Flagler Street, a six-lane divided Minor Arterial, provides access to NW 107, NW 97 and NW 87 Avenues and to SR 826/Palmetto Expressway. SR 826/Palmetto Expressway provides regional connectivity to other areas of the County and state.

Traffic conditions are evaluated by the level of service (LOS), which is represented by one of the letters "A" through "F", with A generally representing the most favorable driving conditions and F representing the least favorable.

Existing Conditions

Existing traffic conditions on major roadways adjacent to and in the vicinity of Parcel A, which are currently monitored by the State (Year 2013) and the County (Year 2014), are operating at acceptable levels of service. NW 97 Avenue between NW 25 Street and NW 12 Street and from NW 12 Street to West Flagler Street is operating at LOS A (D is the adopted LOS standard); NW 87 Avenue between SR 836/Dolphin Expressway and West Flagler Street and from West Flagler Street to SW 8 Street is operating at LOS C (E is the adopted LOS standard); Fontainebleau Boulevard between NW 97 Avenue and Park Boulevard is operating at LOS D and from Park Boulevard to West Flagler Street is operating at LOS D (AM peak hour) and LOS C (PM peak hour) (E is the adopted LOS standard); Park Boulevard between Fontainebleau Blvd. and NW 87 Avenue is operating at LOS D (E is the adopted LOS standard); and West Flagler Street between NW 107 Avenue and NW 97 Avenue is operating at LOS C and between NW 97 Avenue and NW 87 Avenue is operating at LOS B (E+20% is the adopted LOS standard).

Trip Generation

The application seeks to re-designate the approximately five (5) acre Parcel A from the ±112.0 gross acre tract that was the subject of the April 2004 CDMP Amendment Application No. 3 from "Parks and Recreation" to "Medium Density Residential (13-25 DU/Ac)" on the county's adopted 2020 and 2030 Land Use Plan map. Two potential development scenarios (Scenario 1 and Scenario 2) for each of the current and requested CDMP land use designations were analyzed for traffic impacts. As the existing covenant on the application area restricts Parcel A to "Parks and Recreation," Scenario 1 and Scenario 2 assumes Parcel A is vacant and undeveloped under the existing CDMP designation. Scenario 1 under the requested CDMP land use designation assumes Parcel A is developed with approximately 130 multifamily residential dwelling units (apartments), and Scenario 2 assumes Parcel A is developed with a charter school and a recreational community center under the requested CDMP land use designation. Per the Applicant's Transportation Analysis (page 7-25 below), the charter school is assumed to have a capacity for 1,200 students in grades Kindergarten through 12 and the recreational community center approximately 3,500 square feet in size. The trip generation for each of these development scenarios is shown in the "Estimated AM and PM Peak Hour Trip Generation" table below.

Estimated AM Peak Hour Trip Generation By Current and Requested CDMP Land Use Designations			
Application No. 7	Current CDMP Designation and Assumed Use/ Estimated No. Of Trips	Requested CDMP Designation and Assumed Use/ Estimated No. Of Trips	Estimated Trip Difference Between Current and Requested CDMP Land Use
Scenario 1	"Parks and Recreation" Restricted to Open Space ¹ /	"Medium-Density Residential (13-25 DU/Ac)" 130 MF ³ /	
	0	67	+67
Scenario 2	"Parks and Recreation" Restricted to Open Space" ² /	"Medium-Density Residential (13-25 DU/Ac)" ⁴ / Charter School and Recreational Community Center	
	0	979 (972 + 7)	+979
Estimated PM Peak Hour Trip Generation By Current and Requested CDMP Land Use Designations			
Scenario 1	"Parks and Recreation" Restricted to Open Space ¹ /	"Medium-Density Residential (13-25 DU/Ac)" 130 MF ³ /	
	0	89	+89
Scenario 2	"Parks and Recreation" Restricted to Open Space" ² /	"Medium-Density Residential (13-25 DU/Ac)" ⁴ / Charter School and Recreational Community Center	
	0	214 (204 + 10)	+214

Source: Institute of Transportation Engineers, Trip Generation, 9th Edition, 2012; Miami-Dade County Department of Regulatory and Economic Resources, January 2015.

Notes: ^{1,2} Scenario 1 and Scenario 2 under the current CDMP land use designation has no PM peak hour vehicle trips assigned as the existing covenant on Parcel A restricts the site to "Parks and Recreation."

³ Scenario 1 under the requested CDMP land use designation assumes Parcel A is developed with 130 multifamily residential dwelling units (apartments).

⁴ Scenario 2 under the requested CDMP land use designation assumes Parcel A is developed with a school and recreational center.

Traffic Concurrency Evaluation (Concurrency)

An evaluation of AM and PM peak-period traffic concurrency conditions as of January 2015, which considers reserved trips from approved development not yet constructed, programmed roadway capacity improvements listed in the first three years of the County's adopted 2015 Transportation Improvement Program (TIP), and the AM and PM peak hour trips estimated to be generated by the potential development scenarios under the requested CDMP LUP map designation, indicates that all roadways—adjacent to and in the vicinity of Parcel A—that were analyzed for the residential development have available capacity to handle the additional traffic impacts that would be generated by the application and are projected to operate at acceptable levels of service.

However, if Parcel A were developed with a charter school with capacity for 1,200 students in grades Kindergarten through 12, the operating condition of Fontainebleau Boulevard from NW 97 Avenue to Park Boulevard will deteriorate from LOS D to LOS F during the AM peak hour period. See "Traffic Impact Analysis for AM and PM Peak Period Level of Service Hour Periods Operating Level of Service" tables below.

Application Impact

The "Estimated Peak AM and PM Hour Trip Generation" table above show the estimated number of AM and PM peak hour vehicle trips that would be generated by the two potential development scenarios (Scenario 1 and Scenario 2) that could occur under the requested CDMP land use designation of "Medium Density Residential (13-25 DU/ac)". As the existing covenant on Parcel A restricts the site to "Parks and Recreation," Scenario 1 and Scenario 2 assumes Parcel A is vacant and undeveloped under the existing CDMP designation. Under the requested CDMP land use designation, development Scenario 1 assumes Parcel A is developed with 130 multifamily residential dwelling units (apartments), and Scenario 2 assumes Parcel A is developed with a K-12 grade charter school with capacity for 1,200 students and a 3,500 sq. ft. recreational center. Scenario 1 (residential development) would generate approximately 67 vehicle trips during the AM peak period and 89 vehicle trips during the PM peak period. On the other hand, Scenario 2 (charter school and recreational center) would generate approximately 979 vehicle trips during the AM peak period and 214 vehicle trips during the PM peak period. In summary, the traffic impact analysis indicates that the roadways adjacent to and in the vicinity of Parcel A that were analyzed would have enough capacity to handle the additional traffic that would be generated by this application if developed with residential use. However, if the Parcel A is developed with a charter school with capacity for 1,200 students, the operating condition of Fontainebleau Boulevard is projected to deteriorate from LOS D to LOS F (E is the adopted LOS standard) during the AM peak hour period. However, this can be mitigated by reducing the student capacity of the charter school. See "Traffic Impact Analysis for AM and PM Peak Period Level of Service Hour Periods Operating Level of Service" tables below.

Staff requested the applicant to analyze the AM peak hour period, which was done and submitted on March 12, 2015. The applicant's morning peak traffic period analysis indicates that Fontainebleau Boulevard would operate within the adopted LOS E standard with the impacts from the 1,200-student charter school (see Appendix C Appendices Page 69). Staff is reviewing the applicant's AM peak hour period analysis and will continue to work with the applicant to address the differences between the applicant's and staff's analyses.

Traffic Impact Analysis on Roadways Serving the Amendment Site
Roadway Lanes, Existing and Concurrency AM Peak Period Operating Level of Service (LOS)

Sta. Num.	Roadway	Location/Link	Num. Lanes	Adopted LOS Std.*	Peak Hour Cap.	Peak Hour Vol.	Existing LOS	Approved D.O's Trips	Total Trips With D.O's Trips	Conc. LOS w/o Amend.	Amend. Peak Hour Trips	Total Trips With Amend.	Concurrency LOS with Amend.
Scenario 1: "Medium-Density Residential (13-25 DU/Ac)" – 130 multifamily residential dwelling units (apartments)													
9494	NW 97 Ave.	NW 25 St. to NW 12 St.	4 DV	D	4,580	1,932	A	147	2,079	A	5	2,084	A
9493**	NW 97 Ave.	NW 12 St. to Flagler St.	4 DV	D	2,610	1,696	A	0	1,696	A	5	1,701	A
1211	NW 87 Ave.	SR 836 to Flagler St.	6 DV	E	5,390	3,764	C	553	4,317	C	17	4,334	C
44	SW 87 Ave.	Flagler St. to SW 8 St.	4 DV	E	3,580	2,654	C	82	2,736	C	17	2,753	C
	Fontainebleau Blvd.	NW 97 Ave. to Park Blvd.	4 DV	E	2,736	2,274	D	9	2,283	D	67	2,350	D
	Fontainebleau Blvd.	Park Blvd. to W Flagler St.	4 DV	E	2,736	1,428	D	69	1,497	D	14	1,511	D
	Park Boulevard	Fontainebleau Blvd. to NW 87 Ave.	4 DV	E	2,736	1,429	D	0	1,429	D	31	1,460	D
9156	Flagler St.	NW 107 Ave. to NW 97 Ave.	6 DV	E+20%	4,440	2,067	C	289	2,356	C	13	2,369	C
9154**	Flagler St.	NW 97 Ave. to NW 87 Ave.	6 DV	E+20%	6,216	2,959	B	328	3,287	B	27	3,314	B
Scenario 2 "Medium-Density Residential (13-25 DU/Ac)" – Charter School and Recreational Community Center													
9494	NW 97 Ave.	NW 25 St. to NW 12 St.	4 DV	D	4,580	1,932	A	147	2,079	A	75	2,154	A
9493**	NW 97 Ave.	NW 12 St. to Flagler St.	4 DV	D	2,610	1,696	A	0	1,696	A	75	1,771	A
1211	NW 87 Ave.	SR 836 to Flagler St.	6 DV	E	5,390	3,764	C	553	4,317	C	245	4,562	C
44	SW 87 Ave.	Flagler St. to SW 8 St.	4 DV	E	3,580	2,654	C	82	2,736	C	245	2,981	C
	Fontainebleau Blvd.	NW 97 Ave. to Park Blvd.	4 DV	E	2,736	2,274	D	9	2,283	D	979	3,262	F
	Fontainebleau Blvd.	Park Blvd. to W Flagler St.	6 DV	E	2,736	1,428	D	69	1,497	D	211	1,708	D
	Park Boulevard	Fontainebleau Blvd. to NW 87 Ave.	4 DV	E	2,736	1,429	D	0	1,429	D	456	1,885	D
9156	Flagler St.	NW 107 Ave. to NW 97 Ave.	6 DV	E+20%	4,440	2,067	C	289	2,356	C	185	2,541	C
9154**	Flagler St.	NW 97 Ave. to NW 87 Ave.	6 DV	E+20%	6,216	2,959	B	328	3,287	B	396	3,683	C

Source: Compiled by the Miami-Dade County Department of Regulatory and Economic Resources and Florida Department of Transportation, January 2015.

Notes: DV= Divided Roadway; UD=Undivided Roadway.

* County adopted roadway level of service standard applicable to the roadway segment: D (90% capacity); E (100% capacity); E+20% (120% capacity) for roadways serviced with mass transit having 20 minutes or less headways in the Urban Infill Area (UIA).

** Traffic count are for these two stations are for the Year 2013. Traffic counts for all other stations are for the Year 2014

Scenario 1 under the requested CDMP land use designation assumes the Parcel A developed with 130 multifamily residential dwelling units (apartments).

Scenario 2 under the requested CDMP land use designation assumes the Parcel A developed with a 1,200 student K 12 Grade Charter School and a 3,500 sq. ft. Recreational Community Center.

Traffic Impact Analysis on Roadways Serving the Amendment Site
Roadway Lanes, Existing and Concurrency PM Peak Period Operating Level of Service (LOS)

Sta. Num.	Roadway	Location/Link	Num. Lanes	Adopted LOS Std.*	Peak Hour Cap.	Peak Hour Vol.	Existing LOS	Approved D.O's Trips	Total Trips With D.O's Trips	Conc. LOS w/o Amend.	Amend. Peak Hour Trips	Total Trips With Amend.	Concurrency LOS with Amend.
Scenario 1: "Medium-Density Residential (13-25 DU/Ac)" – 130 multifamily residential dwelling units (apartments)													
9494	NW 97 Ave.	NW 25 St. to NW 12 St.	4 DV	D	4,580	2,177	A	147	2,324	A	7	2,331	A
9493**	NW 97 Ave.	NW 12 St. to Flagler St.	4 DV	D	2,610	2,098	A	0	2,098	A	7	2,105	A
1211	SW 87 Ave.	SR 836 to Flagler St.	6 DV	E	5,390	3,491	C	553	4,044	C	22	4,066	C
44	SW 87 Ave.	Flagler St. to SW 8 St.	4 DV	E	3,580	2,521	C	82	2,603	C	7	2,610	C
	Fontainebleau Blvd.	NW 97 Ave. to Park Blvd.	4 DV	E	2,736	2,371	D	9	2,380	D	89	2,469	D
	Fontainebleau Blvd.	Park Blvd. to W Flagler St.	4 DV	E	2,736	1,150	C	69	1,219	D	22	1,241	D
	Park Boulevard	Fontainebleau Blvd. to NW 87 Ave.	4 DV	E	2,736	1,643	D	0	1,643	D	22	1,665	D
9156	Flagler St.	NW 107 Ave. to NW 97 Ave.	6 DV	E+20%	4,440	2,717	C	289	3,006	C	17	3,023	C
9154**	Flagler St.	NW 97 Ave. to NW 87 Ave.	6 DV	E+20%	6,216	3,462	B	328	3,790	B	38	3,828	B
Scenario 2 "Medium-Density Residential (13-25 DU/Ac)" – Charter School and Recreational Community Center													
9494	NW 97 Ave.	NW 25 St. to NW 12 St.	4 DV	D	4,580	2,177	A	147	2,324	A	17	2,341	A
9493**	NW 97 Ave.	NW 12 St. to Flagler St.	4 DV	D	2,610	2,098	A	0	2,098	A	17	2,115	A
1211	SW 87 Ave.	SR 836 to Flagler St.	6 DV	E	5,390	3,491	C	553	4,044	C	54	4,098	C
44	SW 87 Ave.	Flagler St. to SW 8 St.	4 DV	E	3,580	2,521	C	82	2,603	C	16	2,619	C
	Fontainebleau Blvd.	NW 97 Ave. to Park Blvd.	4 DV	E	2,736	2,371	D	9	2,380	D	214	2,594	D
	Fontainebleau Blvd.	Park Blvd. to W Flagler St.	6 DV	E	2,736	1,150	C	69	1,219	D	54	1,273	D
	Park Boulevard	Fontainebleau Blvd. to NW 87 Ave.	4 DV	E	2,736	1,643	D	0	1,643	D	54	1,697	D
9156	Flagler St.	NW 107 Ave. to NW 97 Ave.	6 DV	E+20%	4,440	2,717	C	289	3,006	C	40	3,046	C
9154**	Flagler St.	NW 97 Ave. to NW 87 Ave.	6 DV	E+20%	6,216	3,462	B	328	3,790	B	91	3,881	B

Source: Compiled by the Miami-Dade County Department of Regulatory and Economic Resources and Florida Department of Transportation, January 2015.

Notes: DV= Divided Roadway; UD=Undivided Roadway.

* County adopted roadway level of service standard applicable to the roadway segment: D (90% capacity); E (100% capacity); E+20% (120% capacity) for roadways serviced with mass transit having 20 minutes or less headways in the Urban Infill Area (UIA).

** Traffic count are for these two stations are for the Year 2013. Traffic counts for all other stations are for the Year 2014

Scenario 1 under the requested CDMP land use designation assumes Parcel A is developed with 130 multifamily residential dwelling units (apartments).

Scenario 2 under the requested CDMP land use designation assumes Parcel A is developed with a 1,200 student K 12 Grade Charter School and a 3,500 sq. ft. Recreational Community Center.

Applicant's Transportation Analysis

The applicant submitted a transportation analysis report titled *Traffic Impact Study Keep the Bleau Green* prepared by Richard Garcia & Associates, Inc. dated December 23, 2014. The analysis assumes Parcel A is developed with a charter school having capacity for 1,200 students in grades Kindergarten through 12 and a 3,500 square foot community center. County staff from the Miami-Dade County Public Works and Waste Management and RER Planning Division reviewed the subject transportation analysis report and concluded that the results of the analysis are similar to those of the traffic impact analyses performed by County staff for the PM peak period. However, PWWM staff provided the following comments: 1) trip generation rates for charter school facilities in Miami-Dade County are typically higher than the rates published by the Institute of Transportation Engineers (ITE)—the subject transportation analysis used the ITE rates for trip generation; 2) the intersection analysis of Fontainebleau Boulevard with Park Boulevard should include inbound U-turn movements from school trips originating west of the school site; 3) study should analyze the feasibility of providing a dedicated westbound left turn-only median opening for the school's ingress driveway; 4) an AM peak hour link analysis for Fontainebleau Boulevard should be provided; and 5) the applicant should consider a multiple phasing scheme to reach a maximum enrollment sustained by the supporting infrastructure. Staff will continue to work with the applicant and the transportation consultant to resolve these concerns. An Executive Summary of the applicant's transportation analysis is provided in Appendices Page 63 of this report.

On March 12, 2015 in response to staff's comments above, the applicant submitted an AM peak hour period analysis that evaluates the impacts of the proposed development on the adjacent roadways. The applicant's AM peak period analysis indicates that Fontainebleau Boulevard would operate within the adopted LOS E standard with the impacts from the 1,200-student school (see Appendix C Appendices Page 69). Staff is reviewing the applicant's AM peak hour period analysis and will continue to work with the applicant to address the differences between the applicant's and staff's analyses.

Transit

Existing Service

The subject Parcel A and surrounding areas are currently served by Metrobus Route 7. The service frequencies of this route is shown in the "Metrobus Route Service Summary" table below.

Metrobus Route Service Summary

Routes	Service Headways (in minutes)					Proximity to Bus Stop (miles)	Proximity to Bus Route (miles)	Type of Service
	Peak AM/PM	Off-Peak Midday	Evenings after 8 pm	Saturday	Sunday			
7	15/30	20/40	24/30	20/40	20/40	0	0	L

Source: 2014 Transit Development Plan, Miami-Dade Transit (November 2014 Line Up), January 2015.

Notes: L means Metrobus Local route service.

Future Conditions

The 2024 Recommended Service Plan within the 2014 Transit Development Plan does not identify any improvements to the existing Metrobus service or any new Metrobus routes in the immediate vicinity of Parcel A for the next ten years.

The 2025 and Beyond Recommended Service Plan within the 2014 Transit Development Plan lists the following project along the NW 7 Street Corridor - NW 7 Street Enhanced Bus Service.

This transit route would provide premium limited-stop transit service along NW 7 Street from the proposed park-and-ride/transit center station at Dolphin Station (HEFT and NW 12 Street) to Downtown Miami. Service headways will be 10 minutes during AM/PM peak-hour and 20 minutes during midday.

Application Impacts

A preliminary analysis was performed in the Traffic Analysis Zone (TAZ) 808 where Parcel A is located. If the application is approved, no significant transit impact is expected to be produced by this application.

Aviation

Miami-Dade County Aviation Department (MDAD) does not object to the proposed CDMP amendment provided that all uses comply with federal, state and local aviation regulations, including the Code of Miami-Dade County, Chapter 33, as it pertains to airport zoning

Consistency Review with CDMP Goals, Objectives, Policies, Concepts and Guidelines

The following CDMP goals, objectives, policies, concepts and guidelines would be enhanced if the proposed amendment is approved with acceptance of the proffered Declarations of Restrictions:

- LU-1. The location and configuration of Miami-Dade County's urban growth through the year 2025 shall emphasize concentration and intensification of development around centers of activity, development of well-designed communities containing a variety of uses, housing types and public services, renewal and rehabilitation of blighted areas, and contiguous urban expansion when warranted, rather than sprawl.
- LU-1C. Miami-Dade County shall give priority to infill development on vacant sites in currently urbanized areas, and redevelopment of substandard or underdeveloped environmentally suitable urban areas contiguous to existing urban development where all necessary urban services and facilities are projected to have capacity to accommodate additional demand.
- LU-2A. All development orders authorizing new, or significant expansion of existing, urban land uses shall be contingent upon the provision of services at or above the Level of Service (LOS) standards specified in the Capital Improvements Element (CIE).
- LU-4A. When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.
- LU-10A. Miami-Dade County shall facilitate contiguous urban development, infill, redevelopment of substandard or undeveloped areas, high intensity activity centers, mass transit supportive development, and mixed used projects to promote energy conservation.
- CON-9. Freshwater fish, wildlife and plants shall be conserved and used in an environmentally sound manner and undeveloped habitat critical to federal, state or County designated

endangered, threatened, or rare species or species of special concern shall be preserved.

- CON-9B. All nesting, roosting and feeding habitats used by federal or State designated endangered or threatened species, shall be protected and buffered from surrounding development or activities and further degradation or destruction of such habitat shall not be authorized.
- CON-9F. The County's planning for the future development of open space and wetland mitigation areas shall include the protection, conservation and/or restoration of wildlife habitats.
- ROS-1. Provide a comprehensive system of public and private sites for recreation, including but limited to public spaces, natural preserve and cultural areas, greenways, trails, playgrounds, parkways, beaches and public access to beaches, open space, waterways, and other recreational facilities and programs serving the entire County; and local parks and recreation programs adequately meeting the needs of Miami-Dade County's unincorporated population, through 2017.
- CIE-3. CDMP land use decisions will be made in the context of available fiscal resources such that scheduling and providing capital facilities for new development will not degrade adopted service levels.
- EDU-1. Work towards the reduction of the overcrowding which currently exists in the Miami-Dade County Public Schools, while striving to attain an optimum level of service pursuant to Objective EDU-2. Provide additional solutions to overcrowding so that enrollment in Miami-Dade County's public schools will meet state requirements for class size.

The following CDMP goals, objectives, policies, concepts and guidelines could be impeded if the proposed amendment is approved without the proffered Declarations of Restrictions:

- CON-9. Freshwater fish, wildlife and plants shall be conserved and used in an environmentally sound manner and undeveloped habitat critical to federal, state or County designated endangered, threatened, or rare species or species of special concern shall be preserved.
- CON-9B. All nesting, roosting and feeding habitats used by federal or State designated endangered or threatened species, shall be protected and buffered from surrounding development or activities and further degradation or destruction of such habitat shall not be authorized.
- CON-9F. The County's planning for the future development of open space and wetland mitigation areas shall include the protection, conservation and/or restoration of wildlife habitats.
- EDU-1. Work towards the reduction of the overcrowding which currently exists in the Miami-Dade County Public Schools, while striving to attain an optimum level of service pursuant to Objective EDU-2. Provide additional solutions to overcrowding so that

enrollment in Miami-Dade County's public schools will meet state requirements for class size.

- CIE-3. CDMP land use decisions will be made in the context of available fiscal resources such that scheduling and providing capital facilities for new development will not degrade adopted service levels.

APPENDICES

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APPENDIX A

Amendment Application

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**APPLICATION FOR AN AMENDMENT TO THE
LAND USE PLAN MAP
OF THE MIAMI-DADE COUNTY
COMPREHENSIVE DEVELOPMENT MASTER PLAN**

2014 NOV 26 A 9:35


PLANNING & ZONING
METROPOLITAN PLANNING SECT

1. APPLICANTS

Keep Bleau Green Committee, Inc.

2. APPLICANT'S REPRESENTATIVE

Felix M. Lasarte, Esq.
The Lasarte Law Firm, LLP
3250 NE 1st Avenue, 334
Miami, FL 33137
(305) 594-2877
(305) 594-2878 (fax)

By:  11/25/14
Felix M. Lasarte, Esq. Date

3. DESCRIPTION OF REQUESTED CHANGE

A. Change the Land Use Plan Map.

A change to the Land Use Element, Future Land Use Plan map is requested. The Applicant is requesting the redesignation of the subject property from "Park and Recreation" to "Medium Density Residential." The Applicant is also requesting to modify the underlying Declaration of Restrictions recorded in Official Records Book 23413, Page 1136 of the public records of Miami-Dade County, as modified by the First Modification to Comprehensive Plan Declaration of Restrictions recorded in Official Records Book 26955, Page 908 of the public records of Miami-Dade County.

B. Description of Subject Area.

Subject property consists of approximately 5.2 +/- gross acres (5.0 +/- net acres) of land located in Section 04, Township 54, Range 40 in unincorporated Miami-Dade County. This subject area is located East of theoretical NW 92nd Avenue, North of Fontainebleau Blvd, South of theoretical NW 7th Street, and West of NW 87th Avenue as depicted on the location map attached hereto as Exhibit "A".

C. Acreage.

1. Subject application area: 5.2 +/- gross acres (5.0 +/- net acres)
 - A. "Park and Recreation" to "Medium Density Residential": 5.2 +/- gross acres (5.0 +/- net acres)
2. Acreage owned by applicant: 5.2 +/- gross acres (5.0 +/- net acres)

D. Requested Changes.

1. It is requested that subject property be re-designated on the Future Land Use Plan map from "Parks and Recreation" to "Medium Density Residential."
2. Modification of "Restrictions Accepted by Board of County Commissioners in Association with Land Use Plan Amendments" by revising the underlying Declaration of Restrictions recorded in OR Book 23413 Page 1136 of the Public Records of Miami-Dade County, as modified by First Modification to Comprehensive Plan Declaration of Restrictions recorded in OR Book 26955, Page 908 of the public records of Miami-Dade County.

4. REASONS FOR AMENDMENT

a) Location of Application Area.

The Applicant is requesting a re-designation of the subject property from "Park and Recreation" to "Medium Density Residential." The subject property consists of approximately 5.2 +/- gross acres (5.0 +/- net acres), located in Section 04, Township 54, Range 40 in unincorporated Miami-Dade County (the "Property"). The Property is located East of theoretical NW 92nd Avenue, North of Fontainebleau Blvd, South of theoretical NW 7th Street, and West of NW 87th Avenue. The Property is in an area commonly known as "Fontainebleau". The Fontainebleau area is a highly dense residential community with a variety of housing types and residential densities.

The property which is the subject of this application is located in a portion of the former Fontainebleau Golf Course (the "Golf Course"). The Golf Course is divided into the East and West Course. The East and West Course are respectively divided into the Northeast (NE), Southeast (SE), Northwest (NW), and Southwest (SW) corners.

b) Prior Approval History – Fontainebleau Golf Course.

The Golf Course is the site of a mixed use infill project known as Fontainebleau Lakes which is currently being developed. This project was approved by Community Council 10 in 2006 for the development of 1,836 units. The approval originally permitted the development of 1,836 units on the former Fontainebleau Golf Course (the "Golf Course"). The approval also created a passive park for the residents of Fontainebleau with numerous lakes and pedestrian walkways.

In April 2004, the East Course was the subject of a Comprehensive Development Master Plan (CDMP) application that amended, inter alia, the land use designation on a portion of the East Course from

“Parks and Recreation” to “Medium Density Residential.” The West Course is currently designated for development as “Medium Density Residential.”

In 2008, the land use designation on approximately 31.9 acres of the SE Course was amended from “Medium Density Residential” and “Parks and Recreation” to “Business and Office” and approximately 4.26 acres were amended from “Medium Density Residential” to “Parks and Recreation.” The intent of the application was to develop a retail component to serve the Fontainebleau community in place of the prior approved condo units.

c) New Proposed Development Plan – NE Golf Course.

The Applicant now seeks to amend the prior approved development plan for the NE Course. This portion of the Golf Course already has a land use designation of “Medium Density Residential” on approx. 33.15 acres. This area was approved in 2004 by CC10 for the development of 770 condominium units. The remaining 45.39 acres on the NE Course has a land use designation of “Park and Recreation.” The intent of the Applicant is to re-designate an additional 5.2 +/- gross acres (5.0 +/- net acres) of land on the NE Course to proceed with the construction of an educational facility and community recreational center to serve the surrounding residential communities.

d) Compatibility with Surrounding Land Uses.

The subject property is surrounded by existing residential developments which consist of mostly mid-rise apartments and condominiums. These surrounding residential communities are designated for “Medium” and “Medium Density” residential development. As such, the proposed request to “Medium Density Residential” would be compatible with the abutting land uses and consistent with the surrounding residential densities in the area.

e) Need For Recreational and Educational Facilities.

This educational facility and community recreational center will respectively bring much needed services and amenities to the surrounding dense residential developments which comprise the Fontainebleau area. For instance, the community recreational center will provide additional recreational uses to the surrounding residents and will compliment the abutting passive park. Additionally, the educational facility will provide additional student stations and public school options for the families in the area. There are a limited number of charter schools in the area and there is a tremendous demand for alternative forms of public education by parents and students alike. Having strong and vital schools is important for every community and approval of the application will improve the quantity and quality of public educational facilities available in the area.

Based on the foregoing, the Applicant believes that there is a need to provide these type of uses to the surrounding existing residential community, as well as, to the future residents of the area. Additionally, approval of the requested Amendment would be compatible to the residential character of the Fontainebleau community and would further the implementation of the following CDMP goals, objectives and policies:

LAND USE OBJECTIVE 1: The Location and configuration of Miami- Dade County’s urban growth through the year 2015 shall emphasize concentration and intensification of development around centers of activity, *development of well designed communities containing a variety of uses, housing types and public services*, renewal and rehabilitation of blighted areas, and contiguous urban expansion when warranted, rather than sprawl.

LAND USE POLICY 1C: *Miami-Dade County shall give priority to infill development on vacant sites in currently urbanized areas*, and redevelopment of substandard or underdeveloped environmentally suitable urban areas contiguous to existing urban development where all necessary urban services and facilities are projected to have capacity to accommodate additional demand.

LAND USE POLICY 1D: In Conducting its planning, regulatory, capital improvements and intergovernmental coordination activities, Miami- Dade County *shall seek to facilitate the planning of residential areas and neighborhoods which include recreational, educational, and other public facilities*, houses of worship, and safe and convenient circulation of automotive, pedestrian and bicycle traffic.

LAND USE POLICY 1R: It is the policy of Miami-Dade County that the siting of both public and private schools throughout the County shall conform with the school siting policies adopted under CDMP Educational Element Objective 2.

LAND USE POLICY 2A: All development orders authorizing new, or significant expansion of existing urban land uses shall be contingent upon the provision of services at or above Level of Service (LOS) standards specified in the Capital Improvements Element (CIE).

LAND USE POLICY 4C: Residential neighborhoods shall be protected from intrusion by uses that would disrupt or degrade the health, safety, tranquility, character, and overall welfare of the neighborhood by creating such impacts as excessive density, noise, light, glare, odor, vibration, dust or traffic.

LAND USE POLICY 4D: Uses which are supportive but potentially incompatible shall be permitted on sites within functional neighborhoods, communities or districts only where proper design solutions can and will be used to integrate the compatible and complementary elements and buffer any potentially incompatible elements.

LAND USE POLICY 8A: Miami- Dade County shall strive to accommodate residential development in suitable location and densities which reflect such factors as recent trends in location and design of residential units; projected availability of service and infrastructure capacity; proximity and accessibility to employment, commercial and cultural centers; character of existing adjacent or surrounding neighborhoods; avoidance of natural resource degradation; maintenance of quality of life and creation of amenities. Density patters should reflect the Guidelines for Urban Form contained in this Element.

LAND USE POLICY 9D: Miami- Dade County shall continue to investigate, maintain and enhance methods, standards and regulatory approaches which facilitate sound, *compatible mixing of uses in projects and communities*.

EDUCATIONAL POLICY 1D: Cooperate with the Miami-Dade County Public Schools in their efforts to provide public school facilities to the students of Miami-Dade County, which operate at optimum capacity, in so far as funding available. Operational alternatives may be developed and implemented, where appropriate, which mitigate the impacts of overcrowding while maintaining the instructional integrity of the educational program.

EDUCATIONAL OBJECTIVE 3: Obtain suitable sites for the development and expansion of public educational facilities.

EDUCATIONAL POLICY 3A: It is the policy of Miami-Dade County that the Miami-Dade County Public Schools shall not purchase sites for schools nor build new schools outside of the Urban Development Boundary (UDB), and that new elementary schools constructed should be located at least 1/4 mile inside the UDB; new middle schools should be located at least 1/2 mile inside the UDB, and; new senior high schools should be located at least one mile inside the UDB.

EDUCATIONAL POLICY 3B: In the selection of sites for future educational facility development, the County encourages the Miami-Dade County Public Schools to consider *whether a school is in close proximity to residential areas and is in a location that would provide a logical focal point for community activities.*

EDUCATIONAL POLICY 3C: Where possible, the *Miami-Dade County Public Schools should seek sites which are adjacent to existing or planned public recreation areas, community centers, libraries, or other compatible civic uses* for the purpose of encouraging joint use facilities or the creation of logical focal points for community activity.

INSTITUTIONAL & PUBLIC FACILITY: Neighborhood or community serving institutional uses...including schools... may be approved where compatible in all urban land use categories.

RECREATIONAL & OPEN SPACE ELEMENT: 4C Miami-Dade County shall seek cooperative agreements such as the following with non-governmental organizations to provide additional resources...

- i. The Miami-Dade Parks, Recreation and Open Spaces Department shall seek cooperative agreements with homeowner associations and civic groups for the long-term provision and maintenance of local recreational facilities.

EDUCATIONAL ELEMENT: Work towards the reduction of the overcrowding which currently exists in the Miami-Dade County Public Schools. Strive to provide additional solutions to overcrowding in schools...

5. ADDITIONAL MATERIAL SUBMITTED

Additional information will be supplied at a later date under separate cover.

6. COMPLETED DISCLOSURE FORMS

Attached as Exhibit "B"

Attachments: Location Map for Application – Exhibit "A"

Disclosure of Interest – Exhibit "B"

Summary of Modification to the Underlying Covenants – Exhibit "C"

Quit Claim Deed – Exhibit "D"

EXHIBIT "A"

SCHOOL LOCATION MAP

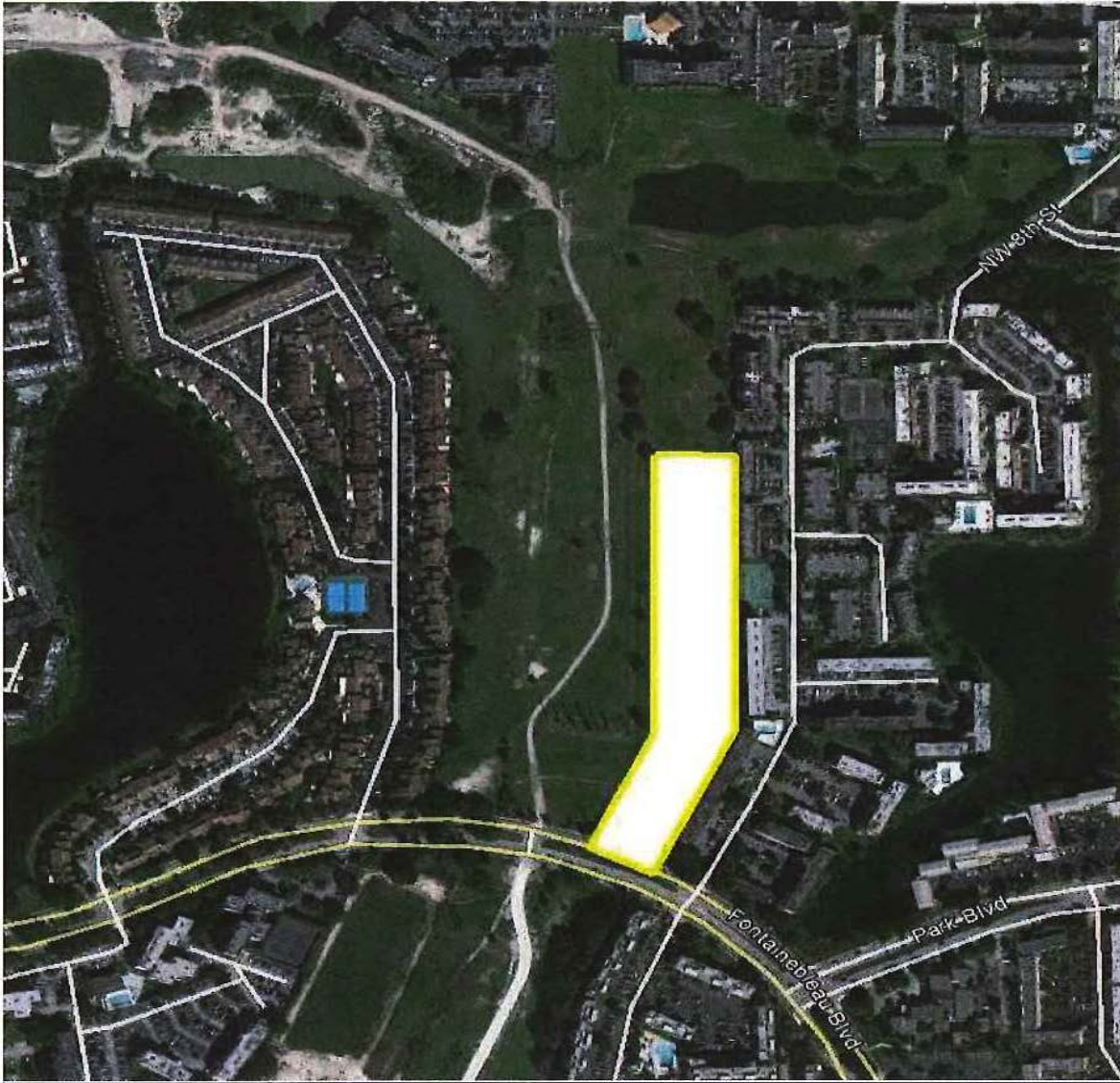


EXHIBIT "B"

DISCLOSURE OF INTEREST

This form or facsimile must be filed by all applicants having an ownership interest in any real property covered by an application to amend the Land Use Plan map. Submit this form with your application. Attach additional sheets where necessary.

1. APPLICANT(S) NAME AND ADDRESS:

APPLICANT A: Keep Bleau Green Committee, Inc.

APPLICANT B: _____

APPLICANT C: _____

APPLICANT D: _____

APPLICANT E: _____

APPLICANT F: _____

APPLICANT G: _____

2. **PROPERTY DESCRIPTION:** Provide the following information for all properties in the application area in which the applicant has an interest. Complete information must be provided for each parcel.

<u>APPLICANT</u>	<u>OWNER OF RECORD</u>	<u>FOLIO NUMBER</u>	<u>SIZE</u>
Keep Bleau Green Committee, Inc.	Same	(a portion of Folio No. 30-4004-084-0550)	5.2 +/- acres (a portion of Folio No. 30-4004-084-0550)

3. For each applicant, check the appropriate column to indicate the nature of the applicant's interest in the property identified in 2. above.

<u>APPLICANT</u>	<u>OWNER</u>	<u>LESSEE</u>	<u>CONTRACT FOR PURCHASE</u>	<u>OTHER</u>
<u>A</u>	<u>X</u>			

4. DISCLOSURE OF APPLICANT'S INTEREST: Complete all appropriate sections and indicate N/A for each section that is not applicable.

a. If the applicant is an individual (natural person) list the applicant and all other individual owners below and the percentage of interest held by each.

<u>INDIVIDUAL'S NAME AND ADDRESS</u>	<u>PERCENTAGE OF INTEREST</u>
<u>N/A</u>	

b. If the applicant is a **CORPORATION**, list the corporation's name, the name and address of the principal stockholders and the percentage of stock owned by each. [Note: Where principal officers or stockholders consist of other corporation(s), trust(s), partnership(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

CORPORATION NAME: Keep Bleau Green Committee, Inc.

<u>NAME AND ADDRESS FOR OFFICERS/DIRECTORS</u>	<u>Percentage of Stock</u>
<u>Jesus Carcasses 580 NW 9th Place Miami, Fl 33172, President</u>	<u>Non-Profit</u>
<u>Raul Gramatges 9897 SW 4th Street Miami Fl 33174, Vice-President</u>	<u>Non-Profit</u>
<u>Oscar Cueto 9670 Fontainebleau Blvd #15 Miami Fl 33172, Secretary</u>	<u>Non-Profit</u>
<u>Claude Fabre 10464 NW 5th Terrace Miami Fl 33172, Treasurer</u>	<u>Non-Profit</u>
<u>Isabel Villalba 10222 NW 5th Terrace Miami Fl 33172, Director</u>	<u>Non-Profit</u>
<u>Amada Dominguez 545 West Park Drive #7 Miami, Fl 33172, Director</u>	<u>Non-Profit</u>

c. If a **TRUST** or **ESTATE** owns or leases the subject property, list the trust beneficiaries and percent of interest held by each. [Note: Where beneficiaries are other than natural persons, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

TRUST/ESTATE NAME:

NAME AND ADDRESS	Percentage of Interest
N/A	

d. If a **PARTNERSHIP** owns or leases the subject property, list the principals including general and limited partners. [Note: Where partner(s) consist of other partnership(s), corporation(s), trust(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interests].

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: _____

NAME AND ADDRESS	Percentage of Ownership
N/A	

e. If the applicant is party to a **CONTRACT FOR PURCHASE**, where contingent on the application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries, or partners. [Note: where the principal officers, stockholders, beneficiaries, or partners consist of another corporation, trust, partnership, or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

INDIVIDUAL'S NAME AND ADDRESS

PERCENTAGE OF INTEREST

School Development HC LLC Ignacio Zulueta – 50%

6340 SUNSET DR. Fernando Zulueta – 50%

MIAMI, FL 33143

Date of Contract: 05/28/2014

If any contingency clause or contract terms involve additional parties, list all individuals or officers if a corporation partnership, or trust.

N/A

5. DISCLOSURE OF OWNER'S INTEREST: Complete only if an entity other than the applicant is the owner of record as shown on 2.a., above.

a. If the owner is an individual (natural person) list the applicant and all other individual owners below and the percentage of interest held by each.

<u>INDIVIDUAL'S NAME AND ADDRESS</u>	<u>PERCENTAGE OF INTEREST</u>
N/A	

b. If the owner is a **CORPORATION**, list the corporation's name, the name and address of the principal stockholders and the percentage of stock owned by each. [Note: Where principal officers or stockholders consist of other corporation(s), trust(s), partnership(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest in the aforementioned entity].

CORPORATION NAME: N/A

<u>NAME AND ADDRESS</u>	<u>Percentage of Stock</u>

CORPORATION NAME: N/A

<u>NAME AND ADDRESS</u>	<u>Percentage of Stock</u>

c. If the owner is a TRUSTEE, and list the trustee's name, the name and address of the beneficiaries of the trust and the percentage of interest held by each. [Note: Where the beneficiary/beneficiaries consist of corporation(s), another trust(s), partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.]

TRUST/ESTATE NAME: _____

<u>BENEFICIARY'S NAME AND ADDRESS</u>	<u>Percentage of Interest</u>
N/A	

d. If the owner is a **PARTNERSHIP** or **LIMITED PARTNERSHIP**, list the name of the partnership, the name and address of the principals of the partnership, including general and limited partners, and the percentage of interest held by each. [Note: Where the beneficiary/beneficiaries consist of corporation(s), another trust(s), partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.]

PARTNERSHIP NAME: _____

NAME AND ADDRESS OF PARTNERS	PERCENTAGE OF OWNERSHIP
N/A	

e. If the owner is party to a **CONTRACT FOR PURCHASE**, where contingent on the application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries, or partners. [Note: where the principal officers, stockholders, beneficiaries, or partners consist of another corporation, trust, partnership, or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

INDIVIDUAL'S NAME, ADDRESS, AND OFFICE (if applicable) PERCENTAGE OF INTEREST

N/A

Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers if a corporation partnership, or trust.

N/A

NOTICE: For changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest is required.

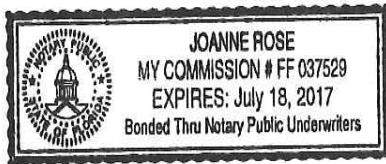
The above is a full disclosure of all parties of interest in this application to the best of my knowledge and belief.

Name of Applicant: Keep Bleau Green Committee, Inc.

Signature: 
Mr. Jesus Carcasses, President

The foregoing instrument was acknowledged before me this 23rd day of May, 2014, by Jesus Carcasses as President, on behalf of Keep Bleau Green Committee, Inc. They are personally known to me or produced FL Drivers License (type of identification) as identification.

NOTARY PUBLIC





(Print, Type or Stamp Commissioned Name of Notary Public)

My Commission Expires:

*Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or 2) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or 3) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership and where no one (1) person or entity holds more than a total of five per cent (5%) of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation or trust.

EXHIBIT "C"

SUMMARY OF MODIFICATION OF THE UNDERLYING DECLARATION OF RESTRICTIONS

The Applicant is filing a CDMP Application for the subject parcel legally described in Exhibit "1", attached hereto. As part of the application, the Applicant is seeking a Second Modification to the Comprehensive Plan Declaration of Restrictions Recorded at Official Records Book 23413, Page 1136 of the public records of Miami-Dade County (attached hereto as Exhibit "2"), as modified by the First Modification to Comprehensive Plan Declaration of Restrictions recorded in Official Records Book 26955, Page 908 (attached hereto as Exhibit "3"). The Applicant is seeking, among other things, to modify the Declaration to exclude the subject parcel from the Declaration and is seeking approval for modification of Paragraph 1 of the Declaration as follows:

FROM:

Conceptual Site Plan. The Property shall be developed in substantial conformity with the conceptual (bubble) site plan entitled "Fontainebleau East Shoma Development," prepared by Orestes Lopez-Recio, signed and sealed the 29th day of October, 2008 ("Conceptual Site Plan") (attached hereto as Exhibit "E"). The Conceptual Site Plan merely sets forth the total number and types of residential units proposed for the Property, and the location of certain designated green and buffered areas as further defined in this Declaration, but is not intended to show the exact location and orientation of buildings, or other design features of the units to be located on the Property.

TO:

1. Conceptual Site Plan. The Property shall be developed in substantial conformity with the conceptual (bubble) site plan entitled " _____ " prepared by _____, signed and sealed the _____ day of _____, 201_ ("Conceptual Site Plan") (attached hereto as Exhibit "_"). The Conceptual Site Plan merely sets forth the total number and types of residential units proposed for the Property, and the location of certain designated green and buffered areas as further defined in this Declaration, but is not intended to show the exact location and orientation of buildings, or other design features of the units to be located on the Property.

EXHIBIT "1"

Legal Description

A PORTION OF TRACT "C", "FONTAINEBLEAU EAST", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 168, PAGE 26, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT "C", BEING A POINT ON A CURVE FROM WHICH A RADIAL LINE BEARS SOUTH 28°42'20" WEST; THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, BEING ALONG THE SOUTH LINE OF SAID TRACT "C", ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF FONTAINEBLEAU BOULEVARD, HAVING A RADIUS OF 1200.92 FEET, A CENTRAL ANGLE OF 07°46'23", FOR AN ARC DISTANCE OF 162.92 FEET TO THE SOUTHWEST CORNER OF SAID TRACT "C"; THENCE NORTH 24°37'46" EAST ON A NON-RADIAL LINE, THIS AND THE FOLLOWING FIVE (5) COURSES BEING ALONG THE WEST LINE OF SAID TRACT "C", 269.61 FEET; THENCE NORTH 71°15'43" EAST 45.00 FEET; THENCE NORTH 11°35'53" EAST 20.00 FEET; THENCE NORTH 48°03'56" WEST 45.00 FEET; THENCE NORTH 01°26'00" WEST 490.74 FEET; THENCE NORTH 00°14'00" EAST 140.84 FEET; THENCE SOUTH 89°46'00" EAST 245.50 FEET TO A POINT ON THE EAST LINE OF SAID TRACT "C"; THENCE SOUTH 00°14'00" WEST, THIS AND THE FOLLOWING COURSE BEING ALONG SAID EAST LINE, 626.30 FEET; THENCE SOUTH 28°42'20" WEST 435.15 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN MIAMI-DADE COUNTY, FLORIDA AND CONTAINING 217,800 SQUARE FEET (5.0000 ACRES), MORE OR LESS.

EXHIBIT "1"



SKETCH AND LEGAL DESCRIPTION BY **PULICE LAND SURVEYORS, INC.**

5381 NOB HILL ROAD
SUNRISE, FLORIDA 33351

TELEPHONE: 954 572-1777 • FAX: 954 572-1778

E-MAIL: surveys@pulicelandsurveyors.com CERTIFICATE OF AUTHORIZATION LB#3870

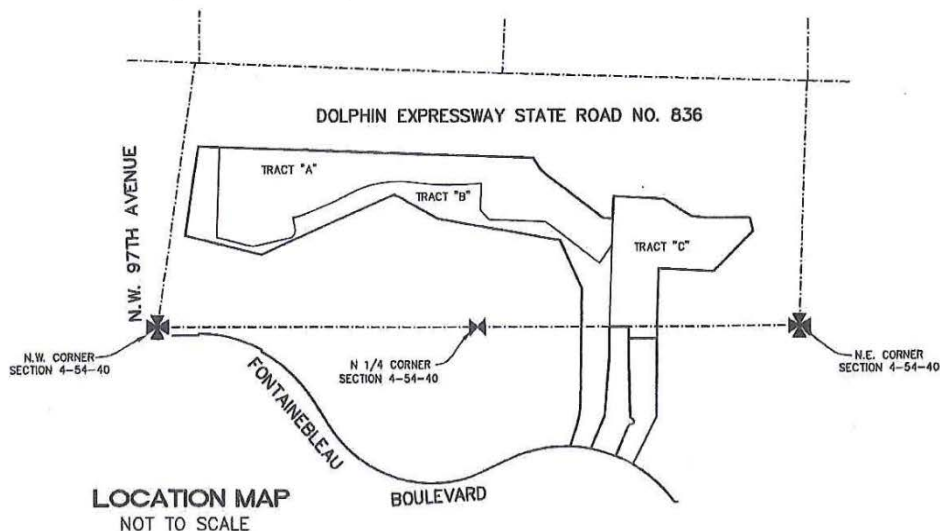


LEGAL DESCRIPTION:

A PORTION OF TRACT "C", "FONTAINEBLEAU EAST", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 168, PAGE 26, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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SAID LANDS SITUATE, LYING AND BEING IN MIAMI-DADE COUNTY, FLORIDA AND CONTAINING 217,800 SQUARE FEET (5.0000 ACRES), MORE OR LESS.



FILE: SHOMA GROUP

SCALE: N/A

DRAWN: L.S.

ORDER NO.: 57283

DATE: 1/31/14

5 ACRE PARCEL

MIAMI-DADE COUNTY, FLORIDA

FOR: FONTAINEBLEAU EAST

SHEET 1 OF 2

THIS DOCUMENT IS NEITHER FULL NOR COMPLETE WITHOUT SHEETS 1 AND 2

Beth Burns

☐ JOHN F. PULICE, PROFESSIONAL SURVEYOR AND MAPPER LS2691
☐ BETH BURNS, PROFESSIONAL SURVEYOR AND MAPPER LS6136



SKETCH AND LEGAL DESCRIPTION
BY
PULICE LAND SURVEYORS, INC.

5381 NOB HILL ROAD
SUNRISE, FLORIDA 33351

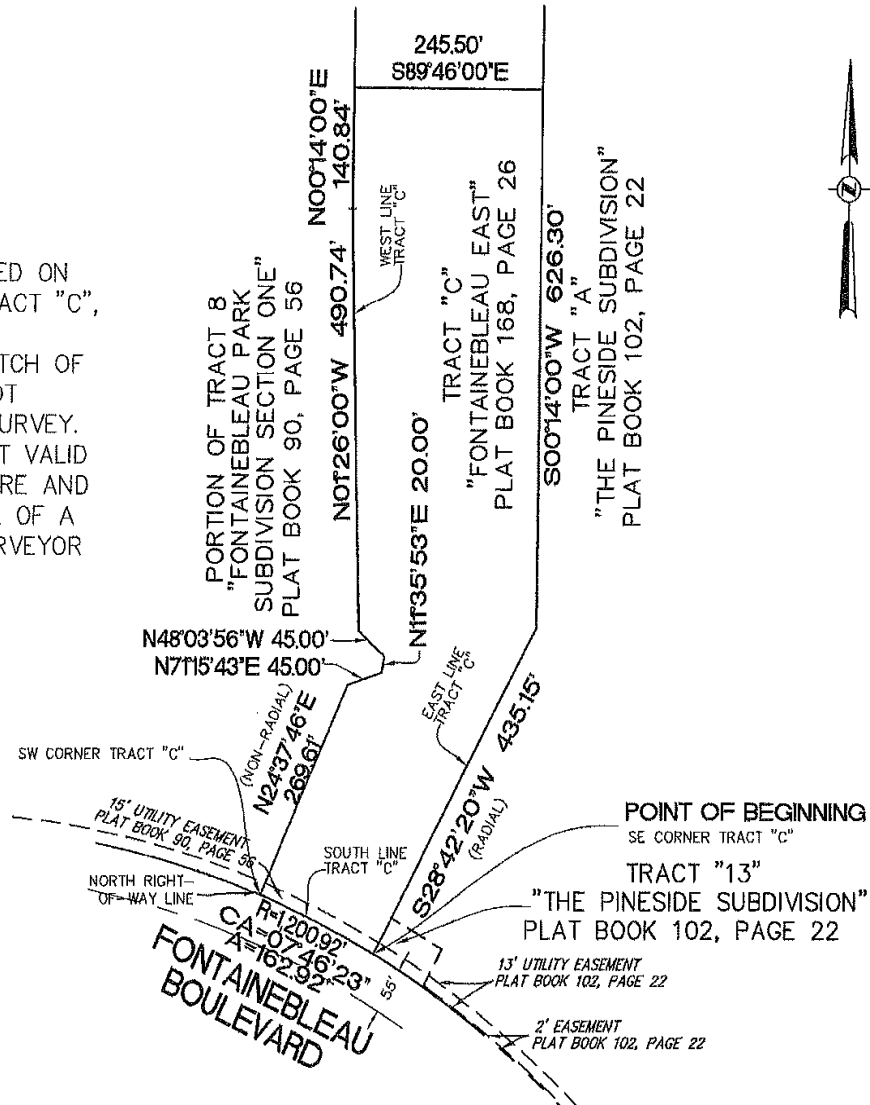
TELEPHONE: 954 572-1777 • FAX: 954 572-1778

E-MAIL: surveys@pulicelandsurveyors.com CERTIFICATE OF AUTHORIZATION LB#3870



NOTES:

- 1) BEARINGS ARE BASED ON THE EAST LINE OF TRACT "C", BEING S28°42'20"W.
- 2) THIS IS NOT A SKETCH OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.
- 3) THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



FILE: SHOMA GROUP

SCALE: 1"=20'

DRAWN: L.S.

ORDER NO: 57283

DATE: 1/31/14

5 ACRE PARCEL

MIAMI-DADE COUNTY, FLORIDA

FOR: FONTAINEBLEAU EAST

SHEET 2 OF 2

THIS DOCUMENT IS NEITHER FULL NOR
COMPLETE WITHOUT SHEETS 1 AND 2

LEGEND:

R RADIUS

CA CENTRAL ANGLE

A ARC LENGTH

EXHIBIT "D"

CFN: 20140772202 BOOK 29382 PAGE 777
DATE: 11/07/2014 10:11:51 AM
DEED DOC 0.60
SURTAX 0.45
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

Prepared by/Return to:

Richard L. Schauerma, Esq.
AKERMAN SENTERFITT
One Southeast Third Avenue- 25th Floor
Miami, Florida 33131

Parcel Identification Nos.:

(Reserved for Clerk of Court)

QUIT-CLAIM DEED

THIS QUIT-CLAIM DEED, is effective as of the 5th day of July, 2014, by Fontainebleau Lakes, LLC, a Florida limited liability company, whose post office address is 3470 NW 82nd Avenue, Suite 988, Doral, Florida 33122 (hereinafter "Grantor"), to Keep Bleau Green Committee, Inc., a Florida non-profit corporation, whose post office address is c/o Jesus Carcasses, 580 NW 99th Place, Miami, Florida 33172 (hereinafter "Grantee");

WITNESSETH, that the said Grantor does hereby remise, release and quit-claim unto the said Grantee forever, all the right, title, interest, claim and demand, that the said Grantor has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Miami-Dade, State of Florida, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

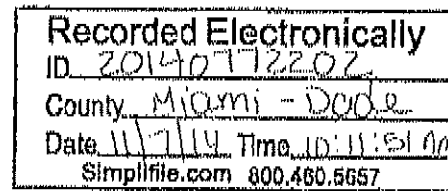
TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said Grantor, either in law or equity, to the only proper use, benefit and behoof of the said Grantee forever.

(Wherever used herein the terms "Grantor" and "Grantee" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

Prepared by/Return to:

Richard L. Schanerman, Esq.
AKERMAN SENTERFITT
One Southeast Third Avenue- 25th Floor
Miami, Florida 33131

Parcel Identification Nos.:



(Reserved for Clerk of Court)

QUIT-CLAIM DEED

THIS QUIT-CLAIM DEED, is effective as of the 5th day of July, 2014, by Fontainebleau Lakes, LLC, a Florida limited liability company, whose post office address is 3470 NW 82nd Avenue, Suite 988, Doral, Florida 33122 (hereinafter "Grantor"), to Keep Bleau Green Committee, Inc., a Florida non-profit corporation, whose post office address is c/o Jesus Carcasses, 580 NW 99th Place, Miami, Florida 33172 (hereinafter "Grantee");

WITNESSETH, that the said Grantor does hereby remise, release and quit-claim unto the said Grantee forever, all the right, title, interest, claim and demand, that the said Grantor has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Miami-Dade, State of Florida, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said Grantor, either in law or equity, to the only proper use, benefit and behoof of the said Grantee forever.

(Wherever used herein the terms "Grantor" and "Grantee" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

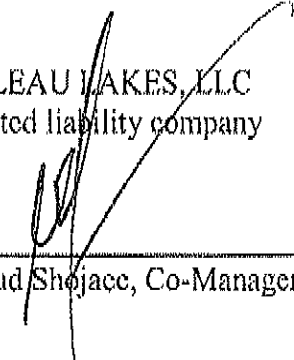
The real property ("Property") described herein is conveyed AS-IS, WHERE-IS, WITH ALL FAULTS, AND WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, IN FACT OR BY LAW, AS TO ITS CONDITION, ENVIRONMENTAL OR OTHERWISE, OR ITS SUITABILITY OR SUFFICIENCY FOR THE GRANTEE'S INTENDED USES AND PURPOSES. Grantee assumes responsibility for all environmental conditions of the Property, known or unknown, including but not limited to responsibility, if any, for investigation, removal or remediation actions relating to the presence, release or threatened release of any hazardous substance or environmental contamination relating to the Property.


IN WITNESS WHEREOF, the Grantor said has signed and sealed these presents the day and year first above written.

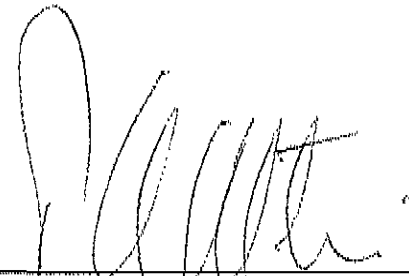
Signed, sealed and delivered
in the presence of:

FONTAINBLEAU LAKES, LLC
a Florida limited liability company

Maria Fernandez Perez
PRINT NAME OF WITNESS BELOW:

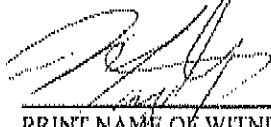
By: 
Masoud Shojace, Co-Manager


PRINT NAME OF WITNESS BELOW:
Frank Silva

By: 
Pedro A. Martin, Co-Manager

Amaros
PRINT NAME OF WITNESS BELOW:

Sandra Ramos
PRINT NAME OF WITNESS BELOW:


PRINT NAME OF WITNESS BELOW:
Maggie Zatra

STATE OF FLORIDA)
)SS:
COUNTY OF MIAMI-DADE)

The foregoing Quit Claim Deed was acknowledged before me this 24th day of June, 2014, by Masoud Shojace, as Co-Manager of Fontainebleau Lakes, LLC, a Florida limited liability company who is personally known to me or who produced personally known as identification.



Notary Public State of Florida
My Name, Commission No., & Expiration:
08/14/2016

STATE OF FLORIDA)
)SS:
COUNTY OF MIAMI-DADE)

The foregoing Quit Claim Deed was acknowledged before me this 3 day of July, 2014, by Pedro A. Martin, as Co-Manager of Fontainbleau Lakes, LLC, a Florida limited liability company who is personally known to me or who produced personally known as identification.

James
Notary Public-State of Florida
My Name, Commission No. & Expiration:



Exhibit "A"

[legal description]

LEGAL DESCRIPTION:

A PORTION OF TRACT "C", "FONTAINEBLEAU EAST", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 168, PAGE 26, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT "C", BEING A POINT ON A CURVE FROM WHICH A RADIAL LINE BEARS SOUTH 28°42'20" WEST; THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, BEING ALONG THE SOUTH LINE OF SAID TRACT "C", ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF FONTAINEBLEAU BOULEVARD, HAVING A RADIUS OF 1200.92 FEET, A CENTRAL ANGLE OF 07°46'23", FOR AN ARC DISTANCE OF 162.92 FEET TO THE SOUTHWEST CORNER OF SAID TRACT "C"; THENCE NORTH 24°37'46" EAST ON A NON-RADIAL LINE, THIS AND THE FOLLOWING FIVE (5) COURSES BEING ALONG THE WEST LINE OF SAID TRACT "C"; 269.61 FEET; THENCE NORTH 71°15'43" EAST 45.00 FEET; THENCE NORTH 11°35'53" EAST 20.00 FEET; THENCE NORTH 48°03'56" WEST 45.00 FEET; THENCE NORTH 01°26'00" WEST 490.74 FEET; THENCE NORTH 00°14'00" EAST 140.84 FEET; THENCE SOUTH 89°46'00" EAST 245.50 FEET TO A POINT ON THE EAST LINE OF SAID TRACT "C"; THENCE SOUTH 00°14'00" WEST, THIS AND THE FOLLOWING COURSE BEING ALONG SAID EAST LINE, 626.30 FEET; THENCE SOUTH 28°42'20" WEST 435.15 FEET TO THE POINT OF BEGINNING

SAID LANDS SITUATE, LYING AND BEING IN MIAMI-DADE COUNTY, FLORIDA AND CONTAINING 217,800 SQUARE FEET (5.0000 ACRES), MORE OR LESS.

EXHIBIT "2"

CFN 2005R0539838
OR Bk 23413 Pgs 1136 - 1142 (7pgs)
RECORDED 05/26/2005 10:03:13
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:
Stanley B. Price, Esq.
Bilzin Sumberg Baena Price & Axelrod LLP
200 South Biscayne Boulevard, Suite 2500
Miami, FL 33131

A/23

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned, Carolyn A. Sakolsky, as Trustee ("Owner") holds the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property"; and

WHEREAS, in April 2004, the Owner filed an application (the "Application"), as part the April 2004 Comprehensive Development Master Plan ("CDMP") Amendment Cycle, to amend the Property's designation on the CDMP Future Land Use Plan Map of Miami-Dade County from Parks and Recreation and Medium Density Residential to Medium Density Residential, and that Application has been designated as "Application 3" for that cycle of CDMP amendment applications.

NOW THEREFORE, in consideration of the premises, and subject to the approval of the Application, and in order to assure the Miami-Dade County ("County") Board of County Commissioners ("County Commission") that the representations made by the Owner concerning the type and manner of development and the number of units to be developed on the Property in the future will be adhered to notwithstanding the permitted uses and densities under said zoning district regulations and land use classification, and to assure the County Commission that this voluntary restriction will be followed by the Owner, and its successors and assigns, the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions ("Declaration") covering and running with the Property:

- (1) **Conceptual Site Plan.** Subject to approval through the zoning process, the Property will be developed in substantial conformity with the conceptual (bubble) site plan entitled "Fontainebleau East Shoma Development," prepared by Pascual Perez Kiliddjian & Associates, signed and sealed the 7th day of April, 2005 ("Conceptual Site Plan"). Owner has filed an application to rezone the Property to

MIAMI 817468.13 7331719528

4-54-40

7

Declaration of Restrictions
Page 2

(1.1) Addressing
Traffic Impacts
on N. W. 87th
Avenue.

Prior to rezoning
of the Property,
the Owner shall
forward the

proposed (2)
Site plan, any
traffic studies
and proposals to

address (3)
traffic impacts
of the ^{zoning} Application,
and, in particular,
the potential for
adverse
impacts on
N. W. 87th
Avenue.

[Signature]
(5)

allow for development of the Property ("Zoning Application"). The final site plan submitted in connection with the Zoning Application for the Property shall be in substantial conformity with the Conceptual Site Plan. The Conceptual Site Plan merely sets forth the total number and types of residential units proposed for the Property, and the location of certain designated green and buffered areas as further defined in this Declaration, but is not intended to show the exact location and orientation of buildings, or other design features of the units to be located on the Property. The Owner acknowledges that the future rezoning and development of the Property shall require one or more detailed site plan approvals by the County which will determine, among other things, the exact type of units, location, distribution, orientation and other requirements for compliance with all applicable zoning, fire and public works review standards.

Number of Units. Notwithstanding the density and number of residential units that may be permitted by the land use designation sought by the Applicant, development of the Property shall not exceed a total of one thousand one hundred seventy-six (1,176) residential dwelling units. Notwithstanding the depiction of the units on the Conceptual Site Plan, the units may be developed as single-family homes in accordance with the zoning approvals granted by the appropriate board.

Educational Facility. Owner recognizes that redevelopment of the Property may impact the educational facilities currently being served by the area surrounding the Property. Prior to final zoning approval, Owner, at its option, shall either 1) mitigate the impact on educational facilities of the proposed development by either securing the availability of an educational facility (charter or public school) located within three miles from the Property, or 2) have reached an agreement with the Miami-Dade County Public Schools addressing the impact on educational facilities in a manner acceptable to the Miami-Dade County Public Schools or 3) submit for review and approval to the Director of the Department of Planning and Zoning ("Director") a plan to mitigate the impacts on educational facilities in a manner acceptable to the Director. Nothing contained herein shall relieve the Owner of negotiating with the Miami-Dade County School District consistent with the Interlocal Agreement between Dade County and the School Board of Dade County, Florida relating to Educational Facilities Impact Fee Monies, as amended, and as amended in the future from time to time.

Effectiveness of Declaration. This Declaration shall become final and shall be recorded in the Public Records of Miami-Dade County after final approval by the County Commission of the application.

Covenant Running with the Land. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These

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Declaration of Restrictions
Page 3

restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. Owner, and their heirs, successors, and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

- (6) **Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded, after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the then owner(s) of the Property has been recorded agreeing to change the covenant in whole or in part, or, in accordance with paragraph 7 below, and provided that the Declaration has first been modified or released by Miami-Dade County as provided under the following paragraph.

- (7) **Modification, Amendment, Release.** This Declaration may be modified, amended, or released as to the Property, or any portion thereof, by a written instrument executed by the then owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the County Commission of Miami-Dade County or such other successor governmental body having jurisdiction over the Property.

Any such modification or release shall also be subject to the provisions governing amendments to comprehensive plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation which may, from time to time, govern amendments to comprehensive plans. Any such modification or release shall also be subject to Section 2-116.1 of the Code of Miami-Dade County, or successor regulation governing amendments to the Miami-Dade Comprehensive Plan. Notwithstanding the previous sentence, in the event that the Property is incorporated into a new municipality which amends, modifies, or declines to adopt the provisions of Section 2.116.1 of the Code of Miami-Dade County, then modifications or releases of this Declaration shall be subject to the provisions of such ordinance as may be adopted by such successor municipality for the adoption of amendments to its comprehensive plan or, in the event that the successor municipality does not adopt such ordinances, by the provisions for the adoption of zoning district boundary changes together with the provisions governing amendments to comprehensive plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation which may, from time to time, govern amendments to comprehensive plans. Should this Declaration of Restrictions be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive office for the successor of such Department, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument of effectuating and acknowledging such modification, amendment or release.

MIAMI 817468.13 7331719528

Declaration of Restrictions
Page 4

In the event that there is a recorded homeowners or condominium association covering any portion of the Property, said association may (in lieu of the signature or consent of the individual members or owners), on behalf of its members and in accordance with its articles of incorporation and bylaws, consent to any proposed modification, amendment, or release by a written instrument executed by the homeowners or condominium association. Any consent made pursuant to a vote of the homeowners or condominium association shall be evidenced by a written resolution of the homeowners or condominium association and a certification executed by the secretary of the homeowners or condominium association's board of directors affirming that the vote complied with the articles of incorporation and the bylaws of the association.

Any modification, amendment, or release of this Declaration will require the consent of all the then owner(s) of the Property which will be evidenced by either a written resolution of a homeowners and/or condominium association and/or a written instrument(s) executed by individual property owner(s). In the event that one or several of the owners of the Property are not members of a recorded association, their consent to any modification, amendment, or release, is required, along with the consent of the recorded association(s), and must be evidenced by an executed written instrument.

- (8) **Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any provision of this Declaration. This Declaration, and the acceptance hereof by Miami-Dade County, is not intended and should not be construed to confer any rights on any third parties. The prevailing party in action or suit, pertaining to or arising out of this Declaration, shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of its attorney, at trial and appeal, or any other levels. This enforcement provision shall be in addition to any other remedies available at law or in equity or both.
- (9) **Authorization for Miami-Dade County to Withhold Permits and Inspections.** In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this Declaration is complied with.
- (10) **Election of Remedies.** All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.
- (11) **Presumption of Compliance.** Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and

MIAMI 817468.13 7331719528

Declaration of Restrictions
Page 5

inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

- (12) **Severability.** Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion.
- (13) **Acceptance of Declaration.** Acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the County Commission and/or any appropriate Community Zoning Appeals Board retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance.
- (14) **Owner.** The term Owner shall include the Owner, and its heirs, successors and assigns.
- (15) **Recordation and Effective Date.** This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the Application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Planning and Zoning Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

[SIGNATURE PAGE FOLLOWS]

MIAMI 817468.13 7331719528

Declaration of Restrictions
Page 6

Signed, witnessed, executed and acknowledged this 6 day of May, 2005.

Witnesses:

Print Name PATRICIA HODGE


Carolyn A. Sakolsky, Trustee
5233 Fisher Island Drive
Miami, FL 33109

Print Name Mercedes Padron

Carolyn A. Sakolsky

STATE OF FLORIDA }
COUNTY OF MIAMI-DADE }
SS:

The foregoing instrument was acknowledged before me this 6 day of May, 2005 by Carolyn A. Sakolsky Trustee, who is personally known to me or produced a valid driver's license as identification


 Notary Public
 Sign Name: Mercedes Padron
 Print Name: _____
 MY COMMISSION EXPIRES: _____



MIAMI 817468.13 7331719528

EXHIBIT "A"

LEGAL DESCRIPTION

TRACTS 1, 2, 3, 4, & 7 OF FONTAINEBLEAU PARK SUBDIVISION SECTION ONE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90 PAGE 56 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

AND

A PORTION OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 4, TOWNSHIP 54 SOUTH, RANGE 40 EAST; THENCE RUN N89°58'50"E, ALONG THE NORTH LINE OF SAID SECTION 4 (ALSO BEING THE SOUTH LINE OF GOVERNMENT LOT 1) FOR A DISTANCE OF 95.08 FEET TO THE POINT OF BEGINNING OF PARCEL OF LAND HEREINAFTER TO BE DESCRIBED; THENCE CONTINUE N89°58'50"E ALONG LAST DESCRIBED COURSE FOR A DISTANCE OF 35.56 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF TRACT "F" BLUE FONTAINE TRACT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 140, AT PAGE 76, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN S08°57'20"E ALONG SAID WEST LINE OF TRACT F FOR A DISTANCE OF 7.93 FEET TO A POINT; THENCE RUN S02°06'50"E, ALONG SAID WEST LINE OF TRACT F FOR A DISTANCE OF 58.87 FEET TO THE SOUTHWEST CORNER OF SAID TRACT F (SAID POINT ALSO BEING A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF FONTAINEBLEAU BOULEVARD AS SHOWN ON PLAT OF "FONTAINEBLEAU BOULEVARD PARK AND PARK BOULEVARD", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90, AT PAGE 28, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN S89°42'20"W, ALONG LAST DESCRIBED COURSE FOR A DISTANCE OF 35.02 FEET TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE FOR CANAL AS SHOWN ON PLAT OF "BLUE FONTAINE REPLAT", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 140, AT PAGE 2, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN N02°08'60"W, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID CANAL FOR A DISTANCE OF 88.00 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID SECTION 4 (SAID POINT ALSO BEING THE POINT OF BEGINNING). SAID DESCRIBED PARCEL OF LAND LYING AND BEING SITUATED IN MIAMI-DADE COUNTY, FLORIDA.

AND

A PORTION OF GOVERNMENT LOT 4 BETWEEN TOWNSHIP 53 AND 54 SOUTH, RANGE 40 EAST, AS FOLLOWS: BEGIN 1485.20 FEET WEST OF THE SOUTHEAST CORNER OF GOVERNMENT LOT 4, THEN NORTH 1036.22 FEET; THENCE WEST 160.03 FEET; THENCE SOUTH 1049.95 FEET, THEN EAST 160.09 FEET TO THE POINT OF BEGINNING.

CONTAINING: 147.09 ACRES± (NET)
152.28 (GROSS)

EXHIBIT "3"

CFN 20090541645
OR Bk 26955 Pgs 0908 - 933; (26pgs)
RECORDED 07/27/2009 14:19:34
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by
or under the supervision of:

Name: Felix M. Lasarte, Esq.
Address: The Lasarte Law Firm
5835 Blue Lagoon Drive
Suite 100
Miami, Florida 33126

(Space reserved for Clerk of Court)

**FIRST MODIFICATION TO COMPREHENSIVE PLAN
DECLARATION OF RESTRICTIONS
RECORDED AT OFFICIAL RECORDS BOOK 23413, PAGE 1136**

THIS First Modification to Comprehensive Plan Declaration of Restrictions Recorded at
Official Records Book 23413, Page 1136 ("Modification") is made this 29th day of April,
2009, by Fontainebleau Lakes, LLC, a Florida limited liability company (the "Owner"), in favor
of Miami-Dade County, a political subdivision of the State of Florida (the "County").

WITNESSETH:

WHEREAS, the Owner holds the fee simple title to that certain property lying, being and
situated in Miami-Dade County, Florida, to-wit:

See attached Exhibit "A"

hereinafter referred to as the "Property";

WHEREAS, in April 2004, the then Owner of the Property filed an application (the
"Former Application") designated as "Application No. 3" of the April 2004 Miami-Dade County
Comprehensive Development Master Plan ("CDMP") Amendment Cycle, to amend the
Property's designation on the CDMP Future Land Use Plan Map of Miami-Dade County from
"Parks and Recreation" and "Medium Density Residential" to "Medium Density Residential";
and

WHEREAS, a Declaration of Restrictions (hereinafter referred to as the "Declaration") in favor of Miami-Dade County, was proffered and accepted by the Miami-Dade County Board of County Commissioners in connection with the Former Application and recorded in the Public Records of Miami-Dade County in Official Records Book 23413, at Page 1136, which placed certain restrictions and conditions on the use of the Property (attached hereto as Exhibit "B"); and

WHEREAS, the Owner subsequently filed a zoning application to rezone the Property from GU to RU-4M, which pursuant to Miami-Dade County Zoning Resolution No. CZAB10-21-06 a site plan was approved for the entire Property; and

WHEREAS, in April 2008, the Owner filed an application (the "New CDMP Application"), as part of the April 2008 CDMP Amendment Cycle, to amend the land use designation for Parcel "B" (described in Exhibit "C") from "Medium Density Residential" and "Parks and Recreation" to "Business and Office" and for Parcel "C" (described in Exhibit "D") from "Medium Density Residential" to "Parks and Recreation". The New CDMP Application has been designated as "Application No. 8" for the April 2008 CDMP cycle; and

WHEREAS, in connection with the New CDMP Application the Owner is proffering a covenant that will place certain restrictions and conditions on the use of Parcel "B" and Parcel "C"; and

WHEREAS, the Owner as part of the New CDMP Application is seeking, among other things, to modify the Declaration to exclude Parcel "B" and Parcel "C"; and

WHEREAS, the Declaration may only be modified pursuant to a CDMP Amendment process; and

WHEREAS, a public hearing was held before the Miami-Dade County Board of County Commissioners (the "BCC") on May 6, 2009, at which hearing the BCC adopted Ordinance No. 09-28 (the "Ordinance"); and

WHEREAS, the Ordinance approved the modification of Paragraphs 1 and 2 of the Declaration as follows:

FROM:

1. **Conceptual Site Plan.** Subject to approval through the zoning process, the Property will be developed in substantial conformity with the conceptual (bubble) site plan entitled "Fontainebleau East Shoma Development," prepared by Pascual Perez Kiliddjian & Associates, signed and sealed the 7th day of April, 2005 ("Conceptual Site Plan"). Owner has filed an application to rezone the Property to allow for development of the Property ("Zoning Application"). The final site plan submitted in connection with the Zoning Application for the Property shall be in substantial conformity with the Conceptual Site Plan. The Conceptual Site Plan merely sets forth the total number and types of residential units proposed for the Property, and the location of certain designated green and buffered areas as further defined in this Declaration, but is not intended to show the exact location and orientation of buildings, or other design features of the units to be located on the Property. The Owner acknowledges that the future rezoning and development of the Property shall require one or more detailed site plan approvals by the County which will determine, among other things, the exact type of units, location, distribution, orientation and other requirements for compliance with all applicable zoning, fire and public work review standards.

2. **Number of Units.** Notwithstanding the density and number of residential units that may be permitted by the land use designation sought by the Applicant, development of the

Property shall not exceed a total of one thousand one hundred seventy-six (1,176) residential dwelling units. Notwithstanding the depiction of the units on the Conceptual Site Plan, the units may be developed as single-family homes in accordance with the zoning approvals granted by the appropriate board.

TO:

1. **Conceptual Site Plan.** The Property shall be developed in substantial conformity with the conceptual (bubble) site plan entitled "Fontainebleau East Shoma Development," prepared by Orestes Lopez-Recio, signed and sealed the 29th day of October, 2008 ("Conceptual Site Plan") (attached hereto as Exhibit "E"). The Conceptual Site Plan merely sets forth the total number and types of residential units proposed for the Property, and the location of certain designated green and buffered areas as further defined in this Declaration, but is not intended to show the exact location and orientation of buildings, or other design features of the units to be located on the Property.

2. **Number of Units.** Notwithstanding the density and number of residential units that may be permitted by the land use designation sought by the Applicant, development of the Property shall not exceed a total of eight hundred twenty-four (824) residential dwelling units. Notwithstanding the depiction of the units on the Conceptual Site Plan, the units may be developed as single-family homes in accordance with the zoning approvals granted by the appropriate board.

NOW, THEREFORE, in consideration of the foregoing, and in order to assure Miami-Dade County, Florida (the "County") that the representations made by the Owner during Consideration of the New CDMP Application will be abided by the Owner, freely, voluntarily and without duress, Owners submits this Modification covering and running with the Property:

1. Paragraphs 1 and 2 of the Declaration shall now read as follows:

1. **Conceptual Site Plan.** The Property shall be developed in substantial conformity with the conceptual (bubble) site plan entitled "Fontainebleau East Shoma Development," prepared by Orestes Lopez-Recio, signed and sealed the 29th day of October, 2008 ("Conceptual Site Plan") (attached hereto as Exhibit "E"). The Conceptual Site Plan merely sets forth the total number and types of residential units proposed for the Property, and the location of certain designated green and buffered areas as further defined in this Declaration, but is not intended to show the exact location and orientation of buildings, or other design features of the units to be located on the Property.

2. **Number of Units.** Notwithstanding the density and number of residential units that may be permitted by the land use designation sought by the Applicant, development of the Property shall not exceed a total of eight hundred twenty-four (824) residential dwelling units. Notwithstanding the depiction of the units on the Conceptual Site Plan, the units may be developed as single-family homes in accordance with the zoning approvals granted by the appropriate board.

2. Except as hereby amended, all other restrictions in the Declaration shall remain in full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF, Fontainebleau Lakes, LLC, has caused these present to be signed in its name on this 29 day of April, 2009.

WITNESSES:

Chantel Melendi
Witness #1

Chantel Melendi
Printed Name

Artes Betancourt
Witness #2

ARTES BETANCOURT
Printed Name

Fontainebleau Lakes, LLC,
a Florida limited liability company

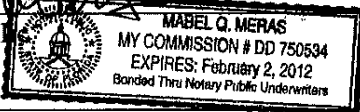
By: [Signature]
Name: Hasan Shojee
Title: President

CORPORATE SEAL

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE) SS:

The foregoing instrument was acknowledged before me this 29 day of April, 2009 by Hasan Shojee, as PRESIDENT, on behalf of Fontainebleau Lakes, LLC, a Florida limited liability company, who is personally known to me or has produced _____ as identification.

My Commission Expires:

[Signature]
Notary Public

Printed Name

**JOINDER BY MORTGAGEE
CORPORATION**

The undersigned Bank of America, N.A., a national banking association, under that certain mortgage from Fontainebleau Lakes, LLC., a Florida limited liability company, recorded in Official Records Book 23887, Page 4607, of the Public Records of Miami-Dade County, Florida, as modified by Amended and Restated Mortgage, Assignment of Rents, Security Agreement and Fixture Filing recorded in Official Records Book 25863, at Page 3204; as modified by Mortgage Modification Agreement recorded in Official Records Book 26579, at Page 4573; and UCC-1 Financing Statement recorded in Official Records Book 23887, at Page 4658 and rerecorded in Official Records Book 24246, at Page 4053 in the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing agreement, does hereby acknowledge that the terms of this agreement are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF these presents have been executed this 30 day of April, 2009.

Witnesses:

[Signature]
Signature

Fernando F. Griffin
Print Name

[Signature]
Signature

Suzie A Richards
Print Name

Bank of America, N.A., a national banking association

Name of Corporation

Address:

18099 W 3 Hwy 41 St 3rd Floor
Fort Myers, FL 33907

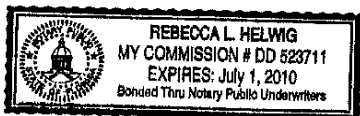
By: [Signature]

Print Name: Michael D Babian

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE**

The foregoing instrument was acknowledged before me by Michael D Babian the Sr. Vice President of Bank of America, N.A., on behalf of Bank of America. He/She personally known to me or has produced _____, as identification.

Witness my signature and official seal this 30 day of April, 2009, in the County and State aforesaid.



[Signature]
Notary Public-State of Florida

Rebecca L Helwig
Print Name

My Commission Expires: 7/1/10

EXHIBIT "A"

LEGAL DESCRIPTION

TRACTS 1, 2, 3, 4, & 7 OF FONTAINEBLEAU PARK SUBDIVISION SECTION ONE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90 PAGE 56 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

AND

A PORTION OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 4, TOWNSHIP 54 SOUTH, RANGE 40 EAST; THENCE RUN N89°58'50"E, ALONG THE NORTH LINE OF SAID SECTION 4 (ALSO BEING THE SOUTH LINE OF GOVERNMENT LOT 1) FOR A DISTANCE OF 95.08 FEET TO THE POINT OF BEGINNING OF PARCEL OF LAND HEREINAFTER TO BE DESCRIBED; THENCE CONTINUE N89°58'50"E ALONG LAST DESCRIBED COURSE FOR A DISTANCE OF 35.56 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF TRACT "F" BLUE FONTAINE TRACT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 140, AT PAGE 78, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN S08°57'20"E ALONG SAID WEST LINE OF TRACT F FOR A DISTANCE OF 7.83 FEET TO A POINT; THENCE RUN S02°06'50"E, ALONG SAID WEST LINE OF TRACT F FOR A DISTANCE OF 58.87 FEET TO THE SOUTHWEST CORNER OF SAID TRACT F (SAID POINT ALSO BEING A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF FONTAINEBLEAU BOULEVARD AS SHOWN ON PLAT OF "FONTAINEBLEAU BOULEVARD PARK AND PARK BOULEVARD", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90, AT PAGE 28, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN S89°42'20"W, ALONG LAST DESCRIBED COURSE FOR A DISTANCE OF 35.02 FEET TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE FOR CANAL AS SHOWN ON PLAT OF "BLUE FONTAINE REPLAT", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 140, AT PAGE 2, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN N02°06'60"W, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID CANAL FOR A DISTANCE OF 86.00 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID SECTION 4 (SAID POINT ALSO BEING THE POINT OF BEGINNING). SAID DESCRIBED PARCEL OF LAND LYING AND BEING SITUATED IN MIAMI-DADE COUNTY, FLORIDA.

AND

A PORTION OF GOVERNMENT LOT 4 BETWEEN TOWNSHIP 53 AND 54 SOUTH, RANGE 40 EAST, AS FOLLOWS: BEGIN 1485.20 FEET WEST OF THE SOUTHEAST CORNER OF GOVERNMENT LOT 4, THEN NORTH 1036.22 FEET; THENCE WEST 160.03 FEET; THENCE SOUTH 1049.95 FEET, THEN EAST 180.09 FEET TO THE POINT OF BEGINNING.

CONTAINING: 147.09 ACRES± (NET)
152.28 (GROSS)

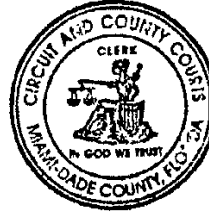
Said legal description having been replatted to:

All of FONTAINEBLEAU EAST, according to the Plat thereof, as recorded in Plat Book 168 Page 26 of the Public Records of Miami-Dade County, Florida.

EXHIBIT "B"

CFN 2005R0539838
DR Bk 23413 Pgs 1136 - 1142 (7pgs)
RECORDED 05/26/2005 10:03:13
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:
Stanley B. Price, Esq.
Bilzin Sumberg Baena Price & Axelrod LLP
200 South Biscayne Boulevard, Suite 2500
Miami, FL 33131



(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned, Carolyn A. Sakolsky, as Trustee ("Owner") holds the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property"; and

WHEREAS, in April 2004, the Owner filed an application (the "Application"), as part the April 2004 Comprehensive Development Master Plan ("CDMP") Amendment Cycle, to amend the Property's designation on the CDMP Future Land Use Plan Map of Miami-Dade County from Parks and Recreation and Medium Density Residential to Medium Density Residential, and that Application has been designated as "Application 3" for that cycle of CDMP amendment applications.

NOW THEREFORE, in consideration of the premises, and subject to the approval of the Application, and in order to assure the Miami-Dade County ("County") Board of County Commissioners ("County Commission") that the representations made by the Owner concerning the type and manner of development and the number of units to be developed on the Property in the future will be adhered to notwithstanding the permitted uses and densities under said zoning district regulations and land use classification, and to assure the County Commission that this voluntary restriction will be followed by the Owner, and its successors and assigns, the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions ("Declaration") covering and running with the Property:

- (1) Conceptual Site Plan. Subject to approval through the zoning process, the Property will be developed in substantial conformity with the conceptual (bubble) site plan entitled "Fontainebleau East Shoma Development," prepared by Pascual Perez Kiliddjian & Associates, signed and sealed the 7th day of April, 2005 ("Conceptual Site Plan"). Owner has filed an application to rezone the Property to

MIAMI 817468.13 7331719528

4-54-40

1.) Addressing
Traffic Impacts
on N.W. 87th
Avenue.

Prior to rezoning
of the Property,
the Owner shall
forward the

proposed (2)
site plan, any
traffic studies
and proposals to

address (3)
traffic impacts
of the application,
and, in particular,
the potential for
diverse
impacts on
N.W. 87th
Avenue.

Langston
C. Langston
as Owner (4)

allow for development of the Property ("Zoning Application"). The final site plan submitted in connection with the Zoning Application for the Property shall be in substantial conformity with the Conceptual Site Plan. The Conceptual Site Plan merely sets forth the total number and types of residential units proposed for the Property, and the location of certain designated green and buffered areas as further defined in this Declaration, but is not intended to show the exact location and orientation of buildings, or other design features of the units to be located on the Property. The Owner acknowledges that the future rezoning and development of the Property shall require one or more detailed site plan approvals by the County which will determine, among other things, the exact type of units, location, distribution, orientation and other requirements for compliance with all applicable zoning, fire and public works review standards.

Number of Units. Notwithstanding the density and number of residential units that may be permitted by the land use designation sought by the Applicant, development of the Property shall not exceed a total of one thousand one hundred seventy-six (1,176) residential dwelling units. Notwithstanding the depiction of the units on the Conceptual Site Plan, the units may be developed as single-family homes in accordance with the zoning approvals granted by the appropriate board.

Educational Facility. Owner recognizes that redevelopment of the Property may impact the educational facilities currently being served by the area surrounding the Property. Prior to final zoning approval, Owner, at its option, shall either 1) mitigate the impact on educational facilities of the proposed development by either securing the availability of an educational facility (charter or public school) located within three miles from the Property, or 2) have reached an agreement with the Miami-Dade County Public Schools addressing the impact on educational facilities in a manner acceptable to the Miami-Dade County Public Schools or 3) submit for review and approval to the Director of the Department of Planning and Zoning ("Director") a plan to mitigate the impacts on educational facilities in a manner acceptable to the Director. Nothing contained herein shall relieve the Owner of negotiating with the Miami-Dade County School District consistent with the Interlocal Agreement between Dade County and the School Board of Dade County, Florida relating to Educational Facilities Impact Fee Monies, as amended, and as amended in the future from time to time.

Effectiveness of Declaration. This Declaration shall become final and shall be recorded in the Public Records of Miami-Dade County after final approval by the County Commission of the application.

Covenant Running with the Land. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These

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restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. Owner, and their heirs, successors, and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

- (6) **Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded, after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the then owner(s) of the Property has been recorded agreeing to change the covenant in whole or in part, or, in accordance with paragraph 7 below, and provided that the Declaration has first been modified or released by Miami-Dade County as provided under the following paragraph.
- (7) **Modification, Amendment, Release.** This Declaration may be modified, amended, or released as to the Property, or any portion thereof, by a written instrument executed by the then owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the County Commission of Miami-Dade County or such other successor governmental body having jurisdiction over the Property.

Any such modification or release shall also be subject to the provisions governing amendments to comprehensive plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation which may, from time to time, govern amendments to comprehensive plans. Any such modification or release shall also be subject to Section 2-116.1 of the Code of Miami-Dade County, or successor regulation governing amendments to the Miami-Dade Comprehensive Plan. Notwithstanding the previous sentence, in the event that the Property is incorporated into a new municipality which amends, modifies, or declines to adopt the provisions of Section 2.116.1 of the Code of Miami-Dade County, then modifications or releases of this Declaration shall be subject to the provisions of such ordinance as may be adopted by such successor municipality for the adoption of amendments to its comprehensive plan or, in the event that the successor municipality does not adopt such ordinances, by the provisions for the adoption of zoning district boundary changes together with the provisions governing amendments to comprehensive plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation which may, from time to time, govern amendments to comprehensive plans. Should this Declaration of Restrictions be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive office for the successor of such Department, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument of effectuating and acknowledging such modification, amendment or release.

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Declaration of Restrictions

Pag 4

In the event that there is a recorded homeowners or condominium association covering any portion of the Property, said association may (in lieu of the signature or consent of the individual members or owners), on behalf of its members and in accordance with its articles of incorporation and bylaws, consent to any proposed modification, amendment, or release by a written instrument executed by the homeowners or condominium association. Any consent made pursuant to a vote of the homeowners or condominium association shall be evidenced by a written resolution of the homeowners or condominium association and a certification executed by the secretary of the homeowners or condominium association's board of directors affirming that the vote complied with the articles of incorporation and the bylaws of the association.

Any modification, amendment, or release of this Declaration will require the consent of all the then owner(s) of the Property which will be evidenced by either a written resolution of a homeowners and/or condominium association and/or a written instrument(s) executed by individual property owner(s). In the event that one or several of the owners of the Property are not members of a recorded association, their consent to any modification, amendment, or release, is required, along with the consent of the recorded association(s), and must be evidenced by an executed written instrument.

- (8) **Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any provision of this Declaration. This Declaration, and the acceptance hereof by Miami-Dade County, is not intended and should not be construed to confer any rights on any third parties. The prevailing party in action or suit, pertaining to or arising out of this Declaration, shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of its attorney, at trial and appeal, or any other levels. This enforcement provision shall be in addition to any other remedies available at law or in equity or both.
- (9) **Authorization for Miami-Dade County to Withhold Permits and Inspections.** In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this Declaration is complied with.
- (10) **Election of Remedies.** All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.
- (11) **Presumption of Compliance.** Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and

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inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

- (12) **Severability.** Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion.
- (13) **Acceptance of Declaration.** Acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the County Commission and/or any appropriate Community Zoning Appeals Board retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance.
- (14) **Owner.** The term Owner shall include the Owner, and its heirs, successors and assigns.
- (15) **Recordation and Effective Date.** This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the Application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Planning and Zoning Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

[SIGNATURE PAGE FOLLOWS]

MIAMI 817468.13 7331719528

Declaration of Restrictions
Page 6


Signed, witnessed, executed and acknowledged this 6 day of May, 2005.

Witnesses:

Witnesses: Patricia Hodge
Print Name PATRICIA HODGE

Carolyn A. Sakolsky, Trustee
5233 Fisher Island Drive
Miami, FL 33109

Mercedes Padron
Print Name Mercedes Padron


Carolyn A. Sakolsky

STATE OF FLORIDA }
COUNTY OF MIAMI-DADE }

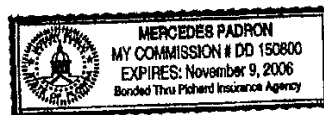
SS:

The foregoing instrument was acknowledged before me this 6 day of May, 2005 by Carolyn A. Sakolsky Trustee, who is personally known to me or produced a valid driver's license as identification

Mercedes Padron

 Notary Public
 Sign Name: *Mercedes Padron*

 Print Name: _____
 MY COMMISSION EXPIRES: _____



MIAMI 817468.13 7331719528

EXHIBIT "A"

LEGAL DESCRIPTION

TRACTS 1, 2, 3, 4, & 7 OF FONTAINEBLEAU PARK SUBDIVISION SECTION ONE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90 PAGE 56 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

AND

A PORTION OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 4, TOWNSHIP 54 SOUTH, RANGE 40 EAST; THENCE RUN N89°58'50"E, ALONG THE NORTH LINE OF SAID SECTION 4 (ALSO BEING THE SOUTH LINE OF GOVERNMENT LOT 1) FOR A DISTANCE OF 95.08 FEET TO THE POINT OF BEGINNING OF PARCEL OF LAND HEREINAFTER TO BE DESCRIBED; THENCE CONTINUE N89°58'50"E ALONG LAST DESCRIBED COURSE FOR A DISTANCE OF 35.56 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF TRACT "F" BLUE FONTAINE TRACT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 140, AT PAGE 76, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN S08°57'20"E ALONG SAID WEST LINE OF TRACT F FOR A DISTANCE OF 7.83 FEET TO A POINT; THENCE RUN S02°06'50"E, ALONG SAID WEST LINE OF TRACT F FOR A DISTANCE OF 58.87 FEET TO THE SOUTHWEST CORNER OF SAID TRACT F (SAID POINT ALSO BEING A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF FONTAINEBLEAU BOULEVARD AS SHOWN ON PLAT OF "FONTAINEBLEAU BOULEVARD PARK AND PARK BOULEVARD", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90, AT PAGE 28, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN S89°42'20"W, ALONG LAST DESCRIBED COURSE FOR A DISTANCE OF 35.02 FEET TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE FOR CANAL AS SHOWN ON PLAT OF "BLUE FONTAINE REPLAT", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 140, AT PAGE 2, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN N02°06'60"W, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID CANAL FOR A DISTANCE OF 66.00 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID SECTION 4 (SAID POINT ALSO BEING THE POINT OF BEGINNING). SAID DESCRIBED PARCEL OF LAND LYING AND BEING SITUATED IN MIAMI-DADE COUNTY, FLORIDA.

AND

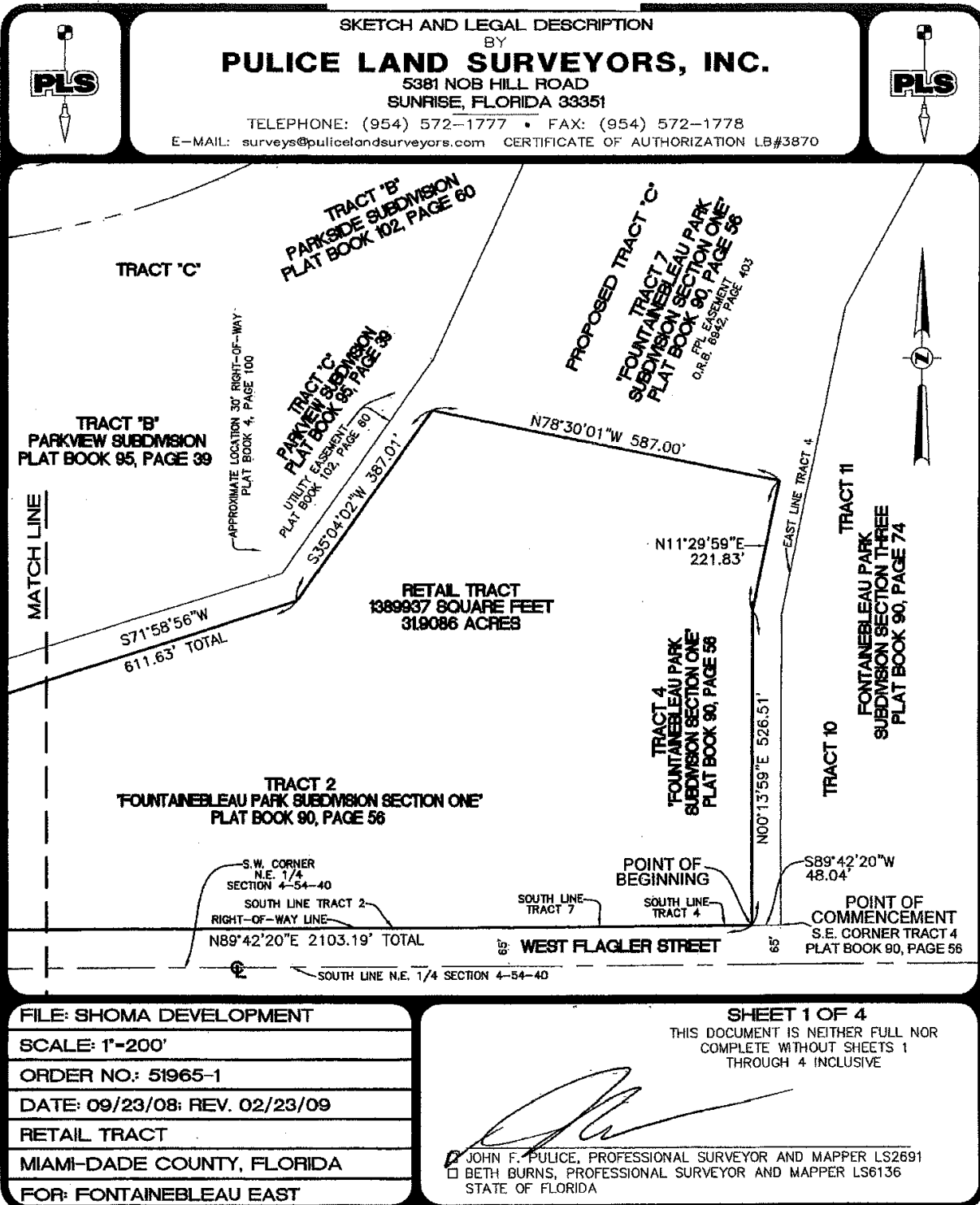
A PORTION OF GOVERNMENT LOT 4 BETWEEN TOWNSHIP 53 AND 54 SOUTH, RANGE 40 EAST, AS FOLLOWS: BEGIN 1485.20 FEET WEST OF THE SOUTHEAST CORNER OF GOVERNMENT LOT 4, THEN NORTH 1036.22 FEET; THENCE WEST 160.03 FEET; THENCE SOUTH 1049.95 FEET, THEN EAST 160.09 FEET TO THE POINT OF BEGINNING.

CONTAINING: 147.09 ACRES± (NET)
152.28 (GROSS)

STATE OF FLORIDA, COUNTY OF DADE
I HEREBY CERTIFY that this is a true copy of the
original filed in this office on 27 day of
May, A.D. 2005
WITNESS my hand and Official Seal,
HARVEY RUVIN, CLERK, of Circuit and County Courts
By [Signature] D.C.



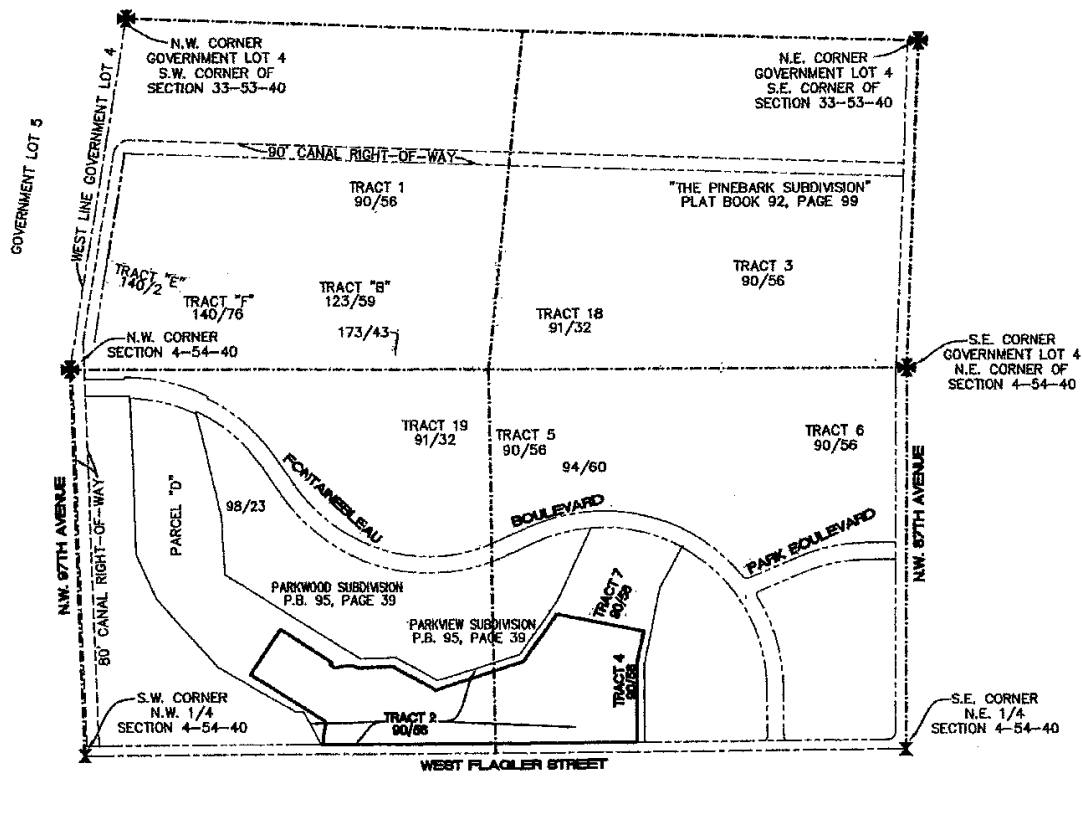
EXHIBIT "C"





SKETCH AND LEGAL DESCRIPTION
BY
PULICE LAND SURVEYORS, INC.
5381 NOB HILL ROAD
SUNRISE, FLORIDA 33351

TELEPHONE: (954) 572-1777 • FAX: (954) 572-1778
E-MAIL: surveys@pulicelandsurveyors.com CERTIFICATE OF AUTHORIZATION LB#3870



FILE: SHOMA DEVELOPMENT

SCALE: 1"=1,000' (LOCATION MAP)

ORDER NO.: 51965-1

DATE: 09/23/08; REV. 02/23/09

RETAIL TRACT

MIAMI-DADE COUNTY, FLORIDA

FOR: FONTAINEBLEAU EAST

SHEET 3 OF 4

THIS DOCUMENT IS NEITHER FULL NOR
COMPLETE WITHOUT SHEETS 1
THROUGH 4 INCLUSIVE



SKETCH AND LEGAL DESCRIPTION
BY
PULICE LAND SURVEYORS, INC.
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E-MAIL: surveys@pulicelandsurveyors.com CERTIFICATE OF AUTHORIZATION LB#3870



LEGAL DESCRIPTION: RETAIL TRACT

A PORTION OF TRACTS 2, 4 AND 7 OF FONTAINEBLEAU PARK SUBDIVISION SECTION ONE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90, PAGE 56 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID TRACT 4 ON THE NORTH RIGHT-OF-WAY LINE OF WEST FLAGLER STREET; THENCE SOUTH 89°42'20" WEST ON THE SOUTH LINE OF SAID TRACT 4 AND ON SAID NORTH RIGHT-OF-WAY LINE 48.04 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°13'59" EAST 526.51 FEET; THENCE NORTH 11°29'59" EAST 221.83 FEET; THENCE NORTH 78°30'01" WEST 587.00 FEET; THENCE SOUTH 35°04'02" WEST 387.01 FEET; THENCE SOUTH 71°58'56" WEST 611.63 FEET; THENCE NORTH 61°07'09" WEST 328.68 FEET; THENCE SOUTH 87°21'52" WEST 233.71 FEET; THENCE NORTH 68°17'16" WEST 45.37 FEET; THENCE SOUTH 84°40'50" WEST 46.95 FEET; THENCE SOUTH 79°59'58" WEST 66.95 FEET; THENCE NORTH 57°56'58" WEST 37.64 FEET; THENCE NORTH 32°20'42" EAST 17.47 FEET; THENCE NORTH 56°53'49" WEST 407.67 FEET; THENCE SOUTH 33°06'11" WEST 361.01 FEET; THENCE SOUTH 57°56'58" EAST 184.68 FEET; THENCE SOUTH 57°21'44" EAST 392.56 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHWESTERLY; THENCE SOUTHEASTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 77°17'28" AN ARC DISTANCE OF 33.72 FEET TO A POINT OF REVERSE CURVATURE OF A CIRCULAR CURVE, CONCAVE EASTERLY; THENCE SOUTHERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 230.00 FEET AND A CENTRAL ANGLE OF 20°13'25" AN ARC DISTANCE OF 81.18 FEET TO A POINT OF TANGENCY; THENCE SOUTH 00°17'41" EAST 27.03 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE NORTHWESTERLY; THENCE SOUTHWESTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 70°25'31" AN ARC DISTANCE OF 30.73 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 2, BEING ON THE NORTH RIGHT-OF-WAY LINE OF WEST FLAGLER STREET; THENCE NORTH 89°42'20" EAST ON THE SOUTH LINE OF TRACTS 2, 7 AND 4 AND ON SAID NORTH RIGHT-OF-WAY LINE 2,103.19 FEET TO THE POINT OF BEGINNING.
CONTAINING 1,389,937 SQUARE FEET, 31.9086 ACRES.

NOTES:

- 1) BEARINGS ARE BASED ON THE SOUTH LINE OF TRACT 2 BEING N89°42'20"E.
- 2) THIS IS NOT A SKETCH OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.
- 3) THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- 4) Δ DENOTES: CENTRAL ANGLE.
- 5) O.R.B. DENOTES: OFFICIAL RECORDS BOOK.

FILE: SHOMA DEVELOPMENT

SCALE: N/A

ORDER NO.: 51965-1

DATE: 09/23/08; REV. 02/23/09

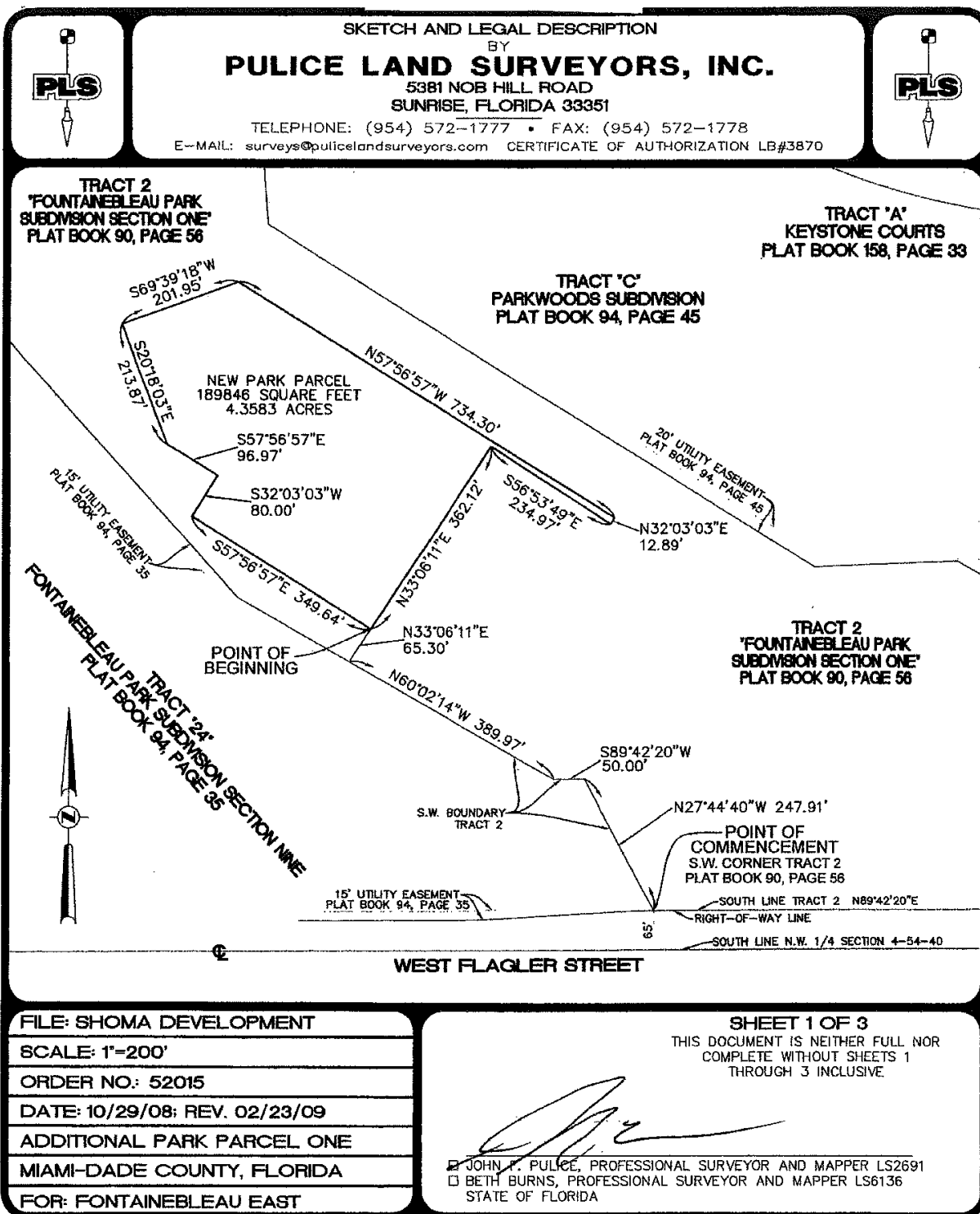
RETAIL TRACT

MIAMI-DADE COUNTY, FLORIDA

FOR: FONTAINEBLEAU EAST

SHEET 4 OF 4

THIS DOCUMENT IS NEITHER FULL NOR
COMPLETE WITHOUT SHEETS 1
THROUGH 4 INCLUSIVE

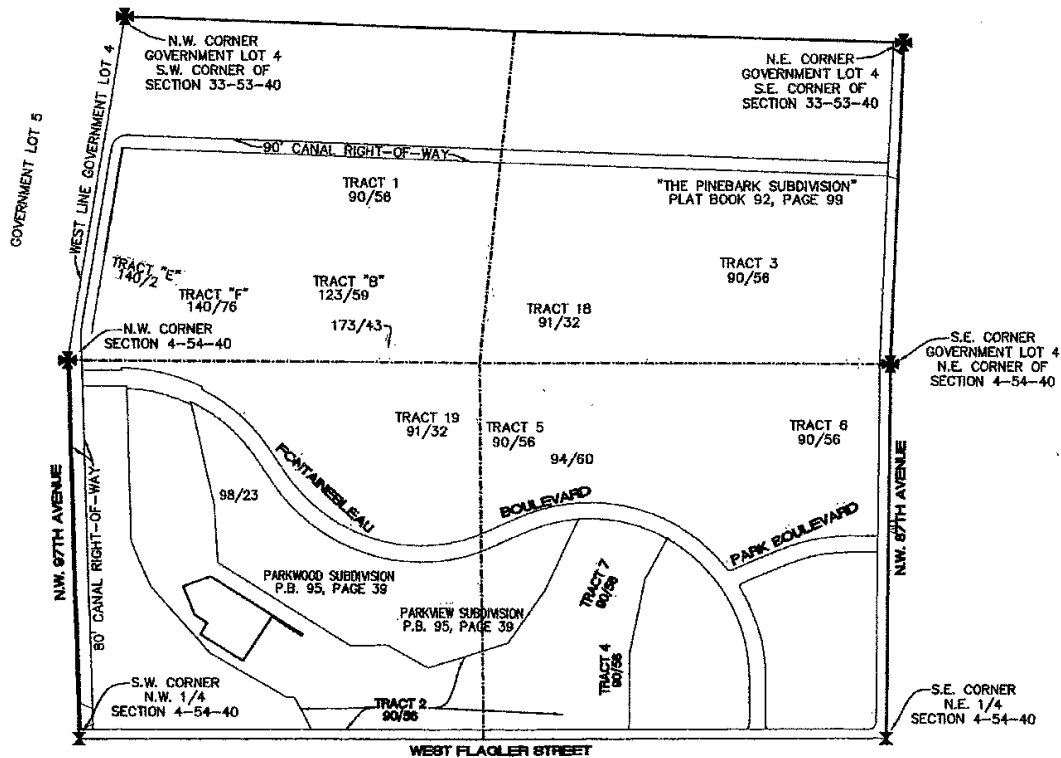




SKETCH AND LEGAL DESCRIPTION
BY
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SUNRISE, FLORIDA 33351

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E-MAIL: surveys@pulicelandsurveyors.com CERTIFICATE OF AUTHORIZATION LB#3870



FILE: SHOMA DEVELOPMENT

SCALE: 1"=1,000' (LOCATION MAP)

ORDER NO.: 52015

DATE: 10/29/08; REV. 02/23/09

ADDITIONAL PARK PARCEL ONE

MIAMI-DADE COUNTY, FLORIDA

FOR: FONTAINEBLEAU EAST

SHEET 2 OF 3

THIS DOCUMENT IS NEITHER FULL NOR
COMPLETE WITHOUT SHEETS 1
THROUGH 3 INCLUSIVE



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SUNRISE, FLORIDA 33351

TELEPHONE: (954) 572-1777 • FAX: (954) 572-1778
E-MAIL: surveys@pulicelandsurveyors.com CERTIFICATE OF AUTHORIZATION LB#3870



LEGAL DESCRIPTION: ADDITIONAL PARK PARCEL ONE

A PORTION OF TRACT 2 OF FONTAINEBLEAU PARK SUBDIVISION SECTION ONE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90, PAGE 56 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID TRACT 2 ON THE NORTH RIGHT-OF-WAY LINE OF WEST FLAGLER STREET; THENCE ON THE SOUTHWESTERLY BOUNDARY OF SAID TRACT 2 THE FOLLOWING 3 COURSES AND DISTANCES: 1) NORTH 27°44'40" WEST 247.91 FEET; 2) SOUTH 89°42'20" WEST 50.00 FEET; 3) NORTH 60°02'14" WEST 389.97 FEET; THENCE NORTH 33°06'11" EAST 65.30 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 33°06'11" EAST 362.12 FEET; THENCE SOUTH 56°53'49" EAST 234.97 FEET; THENCE NORTH 32°03'03" EAST 12.89 FEET; THENCE NORTH 57°56'57" WEST 734.30 FEET; THENCE SOUTH 69°39'18" WEST 201.95 FEET; THENCE SOUTH 20°18'03" EAST 213.87 FEET; THENCE SOUTH 57°56'57" EAST 96.97 FEET; THENCE SOUTH 32°03'03" WEST 80.00 FEET; THENCE SOUTH 57°56'57" EAST 349.64 FEET TO THE POINT OF BEGINNING.
CONTAINING 189,846 SQUARE FEET, 4.3583 ACRES.

NOTES:

- 1) BEARINGS ARE BASED ON THE SOUTH LINE OF TRACT 2 BEING N89°42'20"E.
- 2) THIS IS NOT A SKETCH OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.
- 3) THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- 4) Δ DENOTES: CENTRAL ANGLE.
- 5) O.R.B. DENOTES: OFFICIAL RECORDS BOOK.

FILE: SHOMA DEVELOPMENT

SCALE: N/A

ORDER NO.: 52015

DATE: 10/29/08; REV. 02/23/09

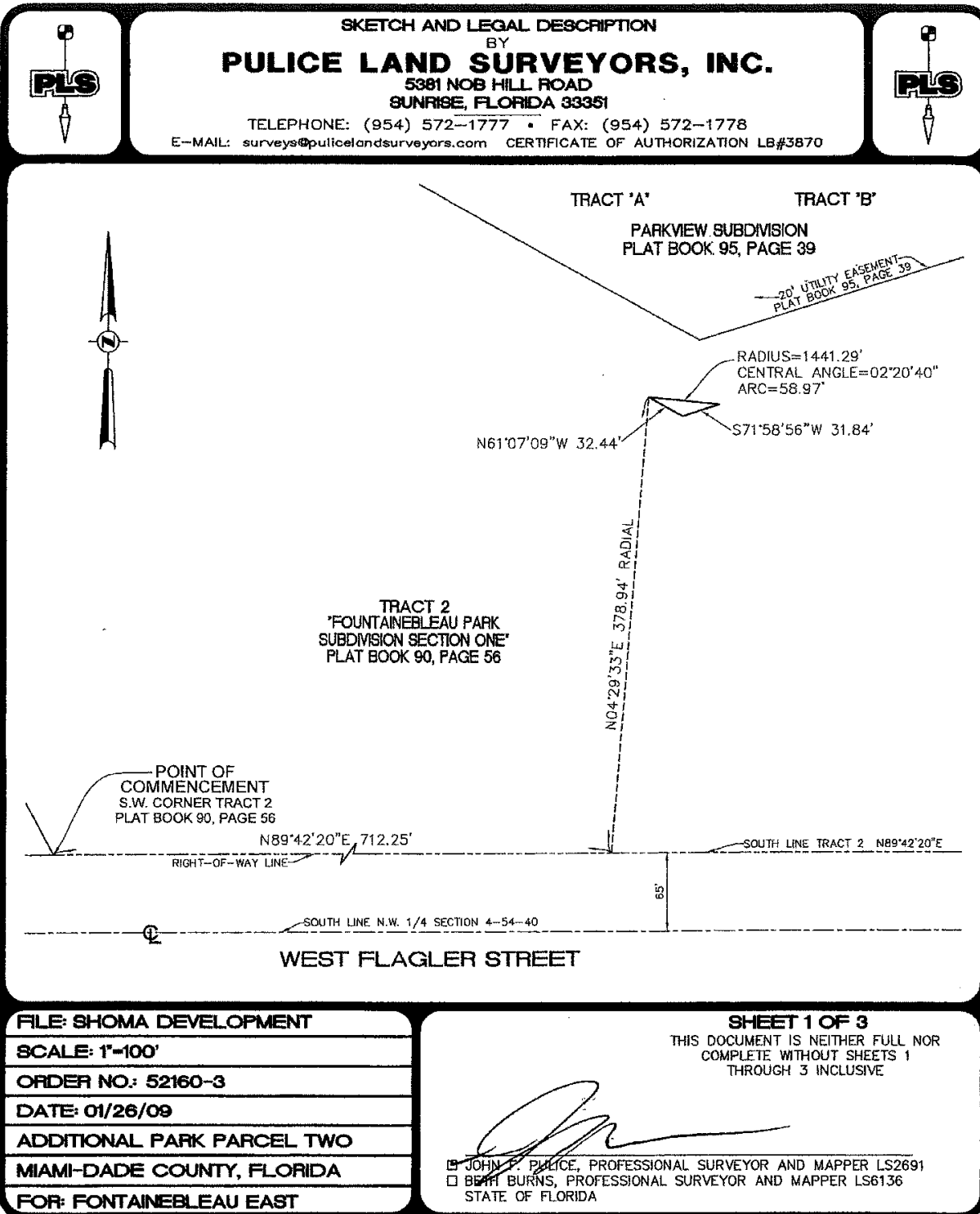
ADDITIONAL PARK PARCEL ONE

MIAMI-DADE COUNTY, FLORIDA

FOR: FONTAINEBLEAU EAST

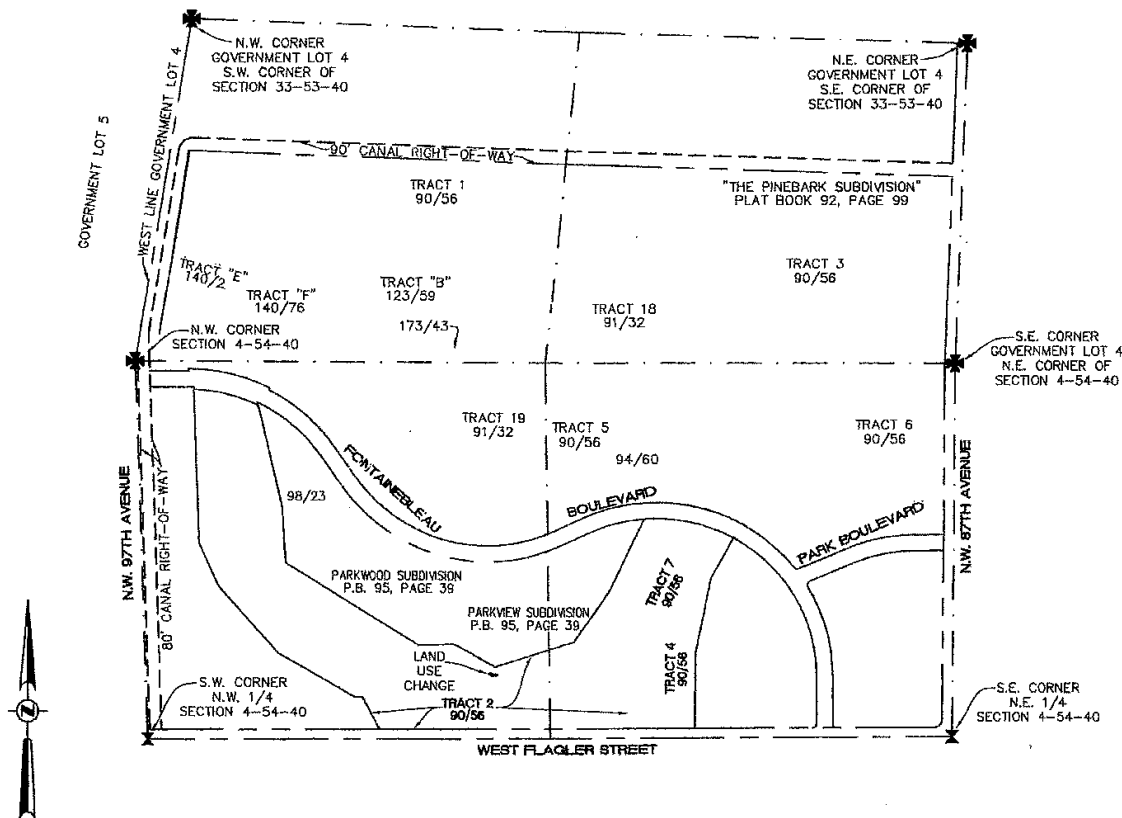
SHEET 3 OF 3

THIS DOCUMENT IS NEITHER FULL NOR
COMPLETE WITHOUT SHEETS 1
THROUGH 3 INCLUSIVE





SKETCH AND LEGAL DESCRIPTION
BY
PULICE LAND SURVEYORS, INC.
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E-MAIL: surveys@pulicelandsurveyors.com CERTIFICATE OF AUTHORIZATION LB#3870



FILE: SHOMA DEVELOPMENT

SCALE: 1"=1,000' (LOCATION MAP)

ORDER NO: 52160-3

DATE: 01/26/09

ADDITIONAL PARK PARCEL TWO

MIAMI-DADE COUNTY, FLORIDA

FOR: FONTAINEBLEAU EAST

SHEET 2 OF 3

THIS DOCUMENT IS NEITHER FULL NOR
COMPLETE WITHOUT SHEETS 1
THROUGH 3 INCLUSIVE



SKETCH AND LEGAL DESCRIPTION
BY
PULICE LAND SURVEYORS, INC.
5381 NOB HILL ROAD
SUNRISE, FLORIDA 33351

TELEPHONE: (954) 572-1777 • FAX: (954) 572-1778
E-MAIL: surveys@pulicelandsurveyors.com CERTIFICATE OF AUTHORIZATION LB#3870



LEGAL DESCRIPTION: ADDITIONAL PARK PARCEL TWO

A PORTION OF TRACT 2 OF FONTAINEBLEAU PARK SUBDIVISION SECTION ONE ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 90, PAGE 56 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID TRACT 2 ON THE NORTH RIGHT-OF-WAY LINE OF WEST FLAGLER STREET; THENCE NORTH 89°42'20" EAST ON THE SOUTH LINE OF SAID TRACT 2 AND ON SAID NORTH RIGHT-OF-WAY LINE 712.25 FEET; THENCE NORTH 04°29'33" EAST, ON A LINE RADIAL TO THE NEXT DESCRIBED CURVE, 378.94 FEET TO THE POINT OF BEGINNING, A POINT ON THE ARC OF A CIRCULAR CURVE CONCAVE SOUTHERLY; THENCE EASTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 1,441.29 FEET AND A CENTRAL ANGLE OF 02°20'40" AN ARC DISTANCE OF 58.97 FEET; THENCE SOUTH 71°58'56" WEST 31.84 FEET; THENCE NORTH 61°07'09" WEST 32.44 FEET TO THE POINT OF BEGINNING.
389 SQUARE FEET, 0.0089 ACRES.

NOTES:

- 1) BEARINGS ARE BASED ON THE SOUTH LINE OF TRACT 2 BEING N89°42'20"E.
- 2) THIS IS NOT A SKETCH OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.
- 3) THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- 4) O.R.B. DENOTES: OFFICIAL RECORDS BOOK.

FILE: SHOMA DEVELOPMENT

SCALE: N/A

ORDER NO.: 52160-3

DATE: 01/2 /09

ADDITIONAL PARK PARCEL TWO

MIAMI-DADE COUNTY, FLORIDA

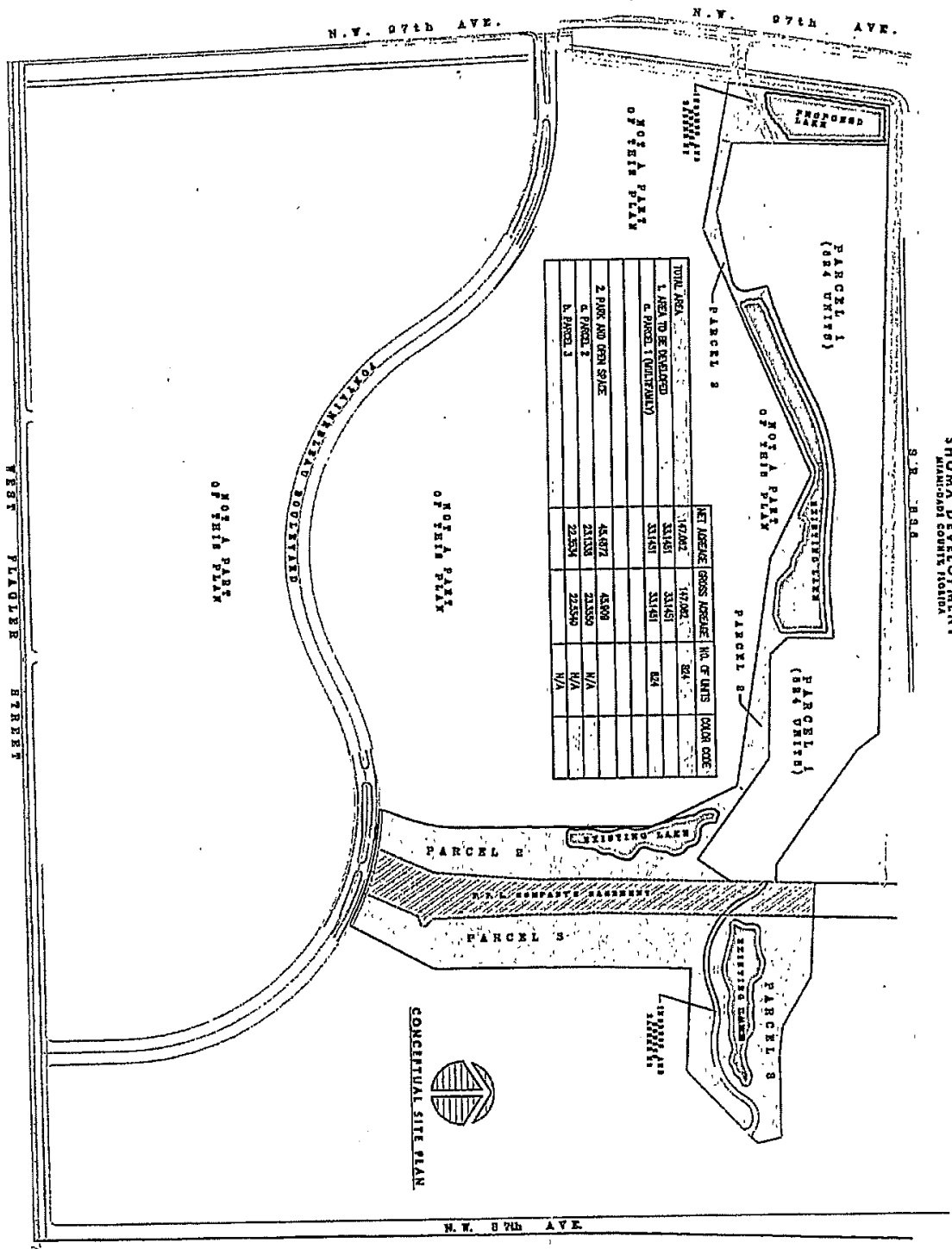
FOR: FONTAINEBLEAU EAST

SHEET 3 OF 3

THIS DOCUMENT IS NEITHER FULL NOR
COMPLETE WITHOUT SHEETS 1
THROUGH 3 INCLUSIVE

EXHIBIT "E"

FONTAINEBLEAU EAST
SHOWA DEVELOPMENT
MIAMI-GIS COUNTY, FLORIDA



OLR
ARCHITECT
ORANGE LOFT-REDO
APPROVALS
1700 S.W. 67 AVENUE
SUITE 222
MIAMI, FLORIDA 33135
PHONE: (305) 260-2300

APPENDIX B

Miami-Dade County Public Schools Analysis

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Miami-Dade County Public Schools

giving our students the world

Superintendent of Schools
Alberto M. Carvalho

Miami-Dade County School Board
Perla Tabares Hantman, Chair
Dr. Lawrence S. Feldman, Vice Chair
Dr. Dorothy Bendross-Mindingall
Susie V. Castillo
Dr. Wilbert "Tee" Holloway
Dr. Martin Karp
Lubby Navarro
Dr. Marta Pérez
Raquel A. Regalado

February 19, 2015

VIA ELECTRONIC MAIL

Mr. Felix Lasarte, Esquire
The Lasarte Law Firm
3250 NW 1 Street, Suite 334
Miami, FL 33137
felix@lasartelaw.com

**RE: PUBLIC SCHOOL CONCURRENCY PRELIMINARY ANALYSIS
APPLICATION #7 NOVEMBER 2014 CYCLE KEEP BLEAU GREEN COMMITTEE, INC.
LOCATED AT 8805 FONTAINEBLEAU BLVD
PH3015011600016 – FOLIO No. 3040040840550**

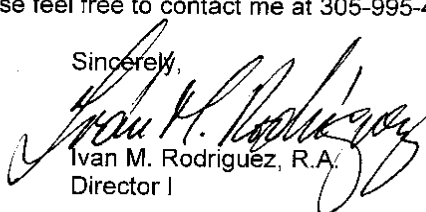
Dear Applicant:

Pursuant to State Statutes and the Interlocal Agreements for Public School Facility Planning in Miami-Dade County, the above-referenced application was reviewed for compliance with Public School Concurrency. Accordingly, enclosed please find the School District's Preliminary Concurrency Analysis (Schools Planning Level Review).

As noted in the Preliminary Concurrency Analysis (Schools Planning Level Review), the proposed development would yield a maximum residential density of 130 multifamily units, which generate 35 students; 16 elementary, 9 middle and 10 senior high students. **At this time, the middle and high school levels have sufficient capacity available to serve the application; while the elementary school level does not meet concurrency (there is a shortfall of 13 seats).** A final determination of Public School Concurrency and capacity reservation will only be made at the time of approval of final plat, site plan or functional equivalent. As such, this analysis does not constitute a Public School Concurrency approval.

Should you have any questions, please feel free to contact me at 305-995-4501.

Sincerely,


Ivan M. Rodríguez, R.A.
Director I

IMR:ir
L-390

Enclosure

cc: Ms. Ana Rijo-Conde, AICP
Mr. Michael A. Levine
Ms. Vivian G. Villaamil
Miami-Dade County
School Concurrency Master File

Planning, Design & Sustainability

Ms. Ana Rijo-Conde, Deputy Chief Facilities & Eco-Sustainability Officer • 1450 N.E. 2nd Ave. • Suite 525 • Miami, FL 33132
305-995-7285 • 305-995-4760 (FAX) • arijo@dadeschools.net



Concurrency Management System (CMS)

Miami Dade County Public Schools

Miami-Dade County Public Schools

Concurrency Management System Preliminary Concurrency Analysis

MDCPS Application Number: PH3015011600016 Local Government (LG): Miami-Dade
 Date Application Received: 1/16/2015 11:39:31 AM LG Application Number: Application 7 November 2014 Cycle
 Type of Application: Public Hearing Sub Type: Land Use
 Applicant's Name: Keep Bleau Green Committee, Inc.
 Address/Location: Felix Lasarte, Lasarte Law Firm, LLP, 3250 NE 1st Avenue, Miami FL 33137
 Master Folio Number: 3040040840550
 Additional Folio Number(s):

PROPOSED # OF UNITS 130
 SINGLE-FAMILY DETACHED UNITS: 0
 SINGLE-FAMILY ATTACHED UNITS: 0
 MULTIFAMILY UNITS: 130

CONCURRENCY SERVICE AREA SCHOOLS						
CSA Id	Facility Name	Net Available Capacity	Seats Required	Seats Taken	LOS Met	Source Type
2331	CHARLES R HADLEY ELEMENTARY	3	16	3	NO	Current CSA
2331	CHARLES R HADLEY ELEMENTARY	0	13	0	NO	Current CSA Five Year Plan
6121	RUBEN DARIO MIDDLE	-39	9	0	NO	Current CSA
6121	RUBEN DARIO MIDDLE	0	9	0	NO	Current CSA Five Year Plan
7271	MIAMI CORAL PARK SENIOR	536	10	10	YES	Current CSA
ADJACENT SERVICE AREA SCHOOLS						
4921	SEMINOLE ELEMENTARY	-27	13	0	NO	Adjacent CSA
5381	E W F STIRRUP ELEMENTARY	-59	13	0	NO	Adjacent CSA
5101	JOHN I SMITH K-8 (ELEM COMP)	-156	13	0	NO	Adjacent CSA
4921	SEMINOLE ELEMENTARY	0	13	0	NO	Adjacent CSA Five Year Plan
5381	E W F STIRRUP ELEMENTARY	0	13	0	NO	Adjacent CSA Five Year Plan
5101	JOHN I SMITH K-8 (ELEM COMP)	0	13	0	NO	Adjacent CSA Five Year Plan
6041	PAUL W BELL MIDDLE	531	9	9	YES	Adjacent CSA
*An Impact reduction of <u>22.36%</u> included for charter and magnet schools (Schools of Choice).						

MDCPS has conducted a preliminary public school concurrency review of this application; please see results above. A final determination of public school concurrency and capacity reservation will be made at the time of approval of plat, site plan or functional equivalent. **THIS ANALYSIS DOES NOT CONSTITUTE PUBLIC SCHOOL CONCURRENCY APPROVAL.**

1450 NE 2 Avenue, Room 525, Miami, Florida 33132 / 305-995-7634 / 305-995-4760 fax /
 concurrency@dadeschools.net

APPENDIX C

Applicant's Traffic Impact Report

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Executive Summary

This report was prepared to determine and evaluate the traffic impacts associated with the subject project. The subject property consists of approximately 5 acres of land located east of theoretical NW 92nd Avenue, north of Fontainebleau Boulevard, south of theoretical NW 7th Street and west of NW 87th Avenue in Unincorporated Miami-Dade County, Florida. The subject site currently has a park and is intended to be developed as a mixed-use project to include a **charter school** and a **recreational community center** with 3,500 square feet. The charter school will have 1,200 students in grades Kindergarten through Twelfth. The project build-out year is slated for 2017.

The trip generation analysis for the subject project was prepared using published data from ITE's Trip Generation Manual, 9th Edition as per the Miami-Dade County requirements. This analysis was performed for the AM and PM peak hour. Moreover, the trip generation calculations were performed using the existing and proposed land uses as well as the maximum allowed density under the requested land use redesignation. The following land uses, as identified by the Institute of Transportation Engineers (ITE), most closely resemble the subject project. Since ITE does not have data for charter schools, trip generation calculations were performed using ITE data for private school K-12 and public school (i.e. elementary, middle and high school). The resulting trips were compared and the most conservative trip generation result was utilized in subsequent analyses. The land uses (LU) are as follows:

Existing

- LU 412: County Park with 5.2 Acres

Proposed

- LU 495: Recreational Community Center with 3,500 Square Feet
- LU 536: Private School K-12 with 1,200 Students

OR

- LU 520: Elementary School with 400 Students
- LU 522: Middle School / Junior High School with 400 Students
- LU 530: High School with 400 Students

Maximum Allowed (under land use redesignation)

- LU 220: Apartment with 130 Dwelling Units

OR

- LU 230: Residential Townhouse with 130 Dwelling Units

The trip generation calculations for the AM peak hour yielded **979 vehicle trips (598 trips-in & 381 trips-out)** and the PM peak hour resulted in **213 vehicle trips (90 trips-in & 123 trips-out)**. These vehicle trips are likely to be reduced based on the rate and extent of internalization, transit and pedestrian usage, since neither of these reductions were utilized in the analysis as a conservative approach. Also, it is noteworthy to indicate that a trip is defined as a one-direction vehicle movement crossing a driveway. Therefore, one vehicle may generate two trips by entering and exiting the site.

The subject project is located within the Traffic Analysis Zone (TAZ) 808 as assigned by the Metropolitan Planning Organization's (MPO) on the Miami-Dade Transportation Plan (to the Year 2035) Directional Trips Distribution Report, October 2009. The traffic distribution percentages between the 2005 TAZ and 2035 TAZ data were utilized to determine the distribution percentages for the project build-out year in 2017. As such, the AM and PM peak hour trips were distributed consistent with the resulting distribution percentages.

Manual Turning Movement Counts (TMC's) were taken at the intersection of **Fontainebleau Boulevard and Park Boulevard**. These counts were performed on Thursday, December 18th, 2014 during the roadway's AM peak period of 7:00 AM to 9:00 AM and PM peak period of 4:00 PM to 6:00 PM. Subsequently, the AM and PM peak hour volumes were determined, adjusted for seasonal variations by using the applicable Florida Department of Transportation Seasonal Factor and utilized in the operational analysis for the **existing condition**. As a result, the intersection of **Fontainebleau Boulevard and Park Boulevard** is operating at LOS B during the AM and PM peak hour.

Moreover, the existing turning movement counts for the AM and PM peak hour were augmented with a compounded background growth rate and project traffic to develop the volumes for the proposed condition with project in 2017. The proposed intersection volumes were utilized to perform an operational analysis and to determine the future Level of Service at the most impacted intersection. As a result, the intersection of **Fontainebleau Boulevard and Park Boulevard** yielded LOS B for the AM and PM peak hour. In fact, the subject intersection will maintain the existing LOS B for the proposed future condition with project traffic in 2017. Lastly, the project's driveways were also evaluated and resulted in overall LOS A. The following table summarizes the intersection LOS results for the AM and PM peak hour.

Location		Intersection Control	Approach	Existing Condition				Proposed Condition with Project			
				AM Peak Hour		PM Peak Hour		AM Peak Hour		PM Peak Hour	
				LOS	Delay (s)	LOS	Delay (s)	LOS	Delay (s)	LOS	Delay (s)
Intersections	Fontainebleau Boulevard & Park Boulevard	Traffic Signal	EB	-	-	-	-	-	-	-	-
			WB	A	7.6	B	11.8	A	7.8	B	11.5
			NB	C	23.7	B	19.4	C	31.1	C	21.4
			SB	B	11.2	B	17.1	B	15.7	B	18.6
			Overall	B	13.9	B	15.5	B	18.1	B	16.5
Driveways	Fontainebleau Boulevard & Driveway 1 (DW1)	Two-Way Stop	EB	-	-	-	-	A	0.0	A	0.0
			WB	-	-	-	-	A	0.0	A	0.0
			NB	-	-	-	-	-	-	-	-
			SB	-	-	-	-	D	27.1 *	B	14.4 *
			Overall	-	-	-	-	A	3.2	A	0.7
	Fontainebleau Boulevard & Driveway 2 (DW2)	Two-Way Stop	EB	-	-	-	-	A	0.0	A	0.0
			WB	-	-	-	-	A	0.0	A	0.0
			NB	-	-	-	-	-	-	-	-
			SB	-	-	-	-	B	10.7 *	B	12.3 *
			Overall	-	-	-	-	A	0.0	A	0.0

* TWSC Critical Approach

In addition, a traffic concurrency evaluation was performed consistent with the Miami-Dade County requirements. As such, four (4) count stations were identified and evaluated to determine whether sufficient roadway capacity exists to support the project traffic. The information for each count station was obtained from the Miami-Dade County Concurrency Traffic Count lists.

Moreover, the concurrency tables contain traffic counts for the peak hour period (PHP) which is the average two-way roadway volume of the two highest consecutive hours during the day (i.e. roadway's PM peak). As such, the PM peak hour trips (i.e. 213 vehicle trips) for the subject project were assigned to the closest count stations. It is important to note that some of the project trips may not reach the concurrency count stations due to the trip length and large number of residential development nearby the subject project. Therefore, our evaluation has applied some trip attenuation to account for project trips that may not reach the studied count stations.

Based on our concurrency evaluation, the four (4) count stations will have available trips to support the subject project. Therefore, the subject project **meets traffic concurrency**.

Consistent with the Miami-Dade County requirements, the traffic impacts on the roadway network adjacent to and in the vicinity of the subject project were evaluated for Level of Service (LOS). The LOS analysis was performed for the existing condition, future condition in 2018 (i.e. short-term) and future condition in 2030 (i.e. long-term).

Fontainebleau Boulevard and Park Boulevard were identified as the roadways most impacted by the subject project. As such, these roadways were evaluated to determine the available capacity and Level of Service (LOS).

Automatic Traffic Recorder (ATR's) counts were collected for 48 consecutive hours from December 17th through December 18th, 2014 at Fontainebleau Boulevard, west of Park Boulevard and Park Boulevard, east of Fontainebleau Boulevard. The traffic data was utilized to identify the Peak-period (PHP) which means the average of the two highest consecutive hours of traffic volume during a weekday. Using the PHP traffic volumes, each roadway was analyzed utilizing the generalized Table 4 of the 2013 FDOT Quality / Level of Service Handbook. Based on our analysis, both **Fontainebleau Boulevard** and **Park Boulevard** operate at LOS D.

Additionally, a short-term traffic analysis was performed to evaluate the roadway Level of Service with and without project traffic in 2018. The future volumes were developed by augmenting the existing peak-period volumes with a compounded background traffic growth rate of 1.00 percent and project traffic. Our analysis revealed that both **Fontainebleau Boulevard** and **Park Boulevard** will have LOS D for the future condition with and without the project traffic in 2018.

Similarly, a long-term traffic analysis was performed to evaluate the roadway Level of Service with and without project traffic in 2030. Based on our analysis, both **Fontainebleau Boulevard** and **Park Boulevard** will operate at LOS D for the future condition with and without project traffic in 2030. The resulting LOS is considered acceptable and within the County's LOS standard.

In conclusion, the intersection most impacted by the subject project will operate at LOS B for the proposed future condition with project traffic in 2017. In fact, the intersection will maintain the existing LOS. Also, our concurrency evaluation revealed the subject project **meets traffic concurrency**. Therefore, the vehicle trips generated by this project will not adversely affect the traffic operations within the study area.

Lastly, our roadway analysis revealed that Fontainebleau Boulevard and Park Boulevard will have available roadway capacity in the year 2018 (i.e. short-term) and 2030 (i.e. long-term).

TECHNICAL MEMORANDUM

DATE: March 12, 2015

TO: Noel Stillings, Senior Planner
Planning Division, Metropolitan Planning Section
Miami-Dade County Department of Regulatory and Economic Resources
111 NW 1st Street, 12th floor, Miami, Florida 33128

FROM: Richard Garcia, P.E.
Richard Garcia & Associates, Inc.
8065 NW 98th Street
Hialeah Gardens, Florida 33016

SUBJECT: CDMP Amendment - Keep the Bleau Green Traffic Study - Charter School 1200 K-12
AM Peak Link Analysis

Based on a recent teleconference held on March 10th, 2015 with you and staff regarding the subject project, we have decided to provide the requested AM peak hour link analysis on Fontainebleau Boulevard as requested by staff. Please note that we disagree that such an analysis is required under the County's CDMP (Comprehensive Development Master Plan), which merely requires as follows:

TC-1B. The minimum acceptable peak period operating level of service...

Because we believe peak period means the average of the two highest consecutive hours of traffic volume during a weekday rather than the single highest hour, alone, we believe the AM peak hour link analysis is inappropriate. The above notwithstanding, we are hereby providing the following AM peak hour analysis.

AM Peak Hour Analysis

Based on Automatic Traffic Recorder (ATR) traffic counts provided in our Traffic Impact Study the existing AM Peak Hour two-way traffic volume was found to be 2,138 vph (vehicles per hour) which results in an LOS D. The future year (2018) without project AM Peak Hour two-way traffic volume was found to be 2,225 vph which results in an LOS D. Lastly, the future year (2018) with project AM Peak Hour two-way traffic volume was found to be 2,891 vph which results in an LOS D.

It is important to note that these future year (2018) analyses were based on a 1 percent annual traffic growth rate, whereas the historical growth trends analysis using the FDOT and Miami-Dade Count Station both yielded negative traffic growth as summarized below:

- **FDOT Count Station # 1142:** -1.18% Annual Growth (2004-2013 data)
- **Miami-Dade Count #9154:** -7.75% Annual Growth (2008-2013 data)
- **Miami-Dade Count #9156:** -4.04% Annual Growth (2008-2013 data)

AM-PHP Analysis

In order to provide an AM peak hour analysis that we believe is consistent with the CDMP, we have also performed an AM Peak Hour Period (AM-PHP) analysis. The following is a brief summary of the

findings while the Attachment includes the analysis sheets. Therefore, the AM PHP analysis yields the following:

- **Existing (2015) AM PHP:** 2,054 vph, LOS D
- **Short-term (2018) AM PHP:**
 - Without Project: 2,138 vph, LOS D
 - With Project: 2,537 vph, LOS D
- **Long Term (2030) AM PHP:**
 - Without Project: 2,409 vph, LOS D
 - With Project: 2,808 vph, LOS D

In conclusion, our previous analysis included in our Traffic Impact Study was performed consistent with the requirements of the CDMP (Comprehensive Development Master Plan) and found the project meets the Level of Service standards set forth by such. Additionally, the analysis requested herewith, an AM peak hour link analysis, goes beyond the CDMP criteria but also finds the project meets both the AM peak hour link LOS as well as the AM Peak Hour Period (AM-PHP) link LOS on Fontainebleau Boulevard.

APPENDIX D

Fiscal Impact Analysis

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Fiscal Impacts On Infrastructure and Services

On October 23, 2001, the Board of County Commissioners adopted Ordinance No. 01-163 requiring the review procedures for amendments to the Comprehensive Development Master Plan (CDMP) to include a written evaluation of fiscal impacts for any proposed land use change. The following is a fiscal evaluation of Application No. 7 of the November 2014 Cycle Applications to amend the CDMP from County departments and agencies responsible for supplying and maintaining infrastructure and services relevant to the CDMP. The evaluation estimates the incremental and cumulative costs of the required infrastructure and service, and the extent to which the costs will be borne by the property owner(s) or will require general taxpayer support and includes an estimate of that support.

The agencies use various methodologies for their calculations. The agencies rely on a variety of sources for revenue, such as, property taxes, impact fees, connection fees, user fees, gas taxes, taxing districts, general fund contribution, federal and state grants, federal funds, etc. Certain variables, such as property use, location, number of dwelling units, and type of units were considered by the service agencies in developing their cost estimates.

Solid Waste Services

Concurrency

Since the Public Works and Waste Management Department (PWWM) assesses solid waste disposal capacity on a system-wide basis, in part, on existing waste delivery commitments from both the private and public sectors, it is not possible or necessary to make determinations concerning the adequacy of solid waste disposal facilities relative to each individual application. Instead, the PWWM issues a periodic assessment of the County's status in terms of 'concurrency'; that is, the ability to maintain a minimum of five (5) years of waste disposal capacity system-wide. The County is committed to maintaining this level in compliance with Chapter 163, Part II F.S. and currently exceeds this standard as of FY 2014-2015.

Residential Collection and Disposal Service

Currently, the household waste collection fee is \$439 per residential unit, which also covers costs for waste disposal, bulky waste pick up, illegal dumping clean-up, trash and recycling center operations, curbside recycling, home chemical collection centers, and code enforcement.

Waste Disposal Capacity and Service

The cost of providing disposal capacity for Waste Collection Service Area (WCSA) customers, municipalities and private haulers is paid for by the system users. For FY 2014-2015, the PWWM charges at a contract disposal rate of \$66.34 per ton to PWWM Collections and to those private haulers and municipalities with long-term disposal agreements. The short-term disposal rate is \$87.47 per ton in FY 2014-2015. These rates adjust annually with the Consumer Price Index, South Region. In addition, the PWWM charges a Disposal Facility Fee to private haulers equal to 15 percent of their annual gross receipts, which is used to ensure availability of disposal capacity in the system. Landfill closure is funded by a portion of the Utility Service Fee charged to all retail customers of the County's Water and Sewer Department.

Water and Sewer

The Miami-Dade County Water and Sewer Department (WASD) provides for the majority of water and sewer service needs throughout the county. The cost estimates provided herein are preliminary and final project costs will vary from these estimates. The final costs for the project and resulting feasibility will depend on the actual labor and materials costs, competitive market conditions, final project scope implementation schedule, continuity of personnel and other variable factors. The water impact fee was calculated at a rate of \$1.39 per gallon per day (gpd), and the sewer impact fee was calculated at a rate of \$5.60 per gpd. The annual operations and maintenance cost was based on \$1.3252 per 1,000 gallons for water and \$1.6987 per 1,000 gallons for sewer.

The applicant requests a change to the CDMP Land Use Plan map to redesignate a ±5.2-acre parcel of the application area from Parks and Recreation to Medium Density Residential, which would allow a maximum of 130 multi-family residential units. If Parcel A is developed as requested with 130 residential units, the water connection charges/impact fees would be \$27,105 and water service line and meter connection fees would cost \$1,300. Sewer connection charges/impact fees for residential land use would be \$109,200 and the annual operating and maintenance costs would total \$21,523.

Flood Protection

The Miami-Dade County Division of Environmental and Resources Management (DERM) is responsible for the enforcement of current stormwater management and disposal regulations. These regulations require that all new development provide full on-site retention of the stormwater runoff generated by the development. The drainage systems serving new developments are not allowed to impact existing or proposed public stormwater disposal systems, or to impact adjacent properties. The County is not responsible for providing flood protection to private properties, although it is the County's responsibility to ensure and verify that said protection has been incorporated in the plans for each proposed development. The above noted determinations are predicated upon the provisions of Chapter 46, Section 4611.1 of the South Florida Building Code; Section 24-58.3(G) of the Code of Miami-Dade County, Florida; Chapter 40E-40 Florida Administrative Code, Basis of Review South Florida Water Management District (SFWMD); and Section D4 Part 2 of the Public Works Manual of Miami-Dade County. All these legal provisions emphasize the requirement for full on-site retention of stormwater as a post development condition for all proposed commercial, industrial, and residential subdivisions.

Additionally, DERM staff notes that new development, within the urbanized area of the County, is assessed a stormwater utility fee. This fee commensurate with the percentage of impervious area of each parcel of land, and is assessed pursuant to the requirements of Section 24-61, Article IV, of the Code of Miami-Dade County. Finally, according to the same Code Section, the proceedings may only be utilized for the maintenance and improvement of public storm drainage systems.

Based upon the above noted considerations, it is the opinion of DERM that Ordinance No. 01-163 will not change, reverse, or affect these factual requirements.

Public Schools

The proposed amendment could result in 35 additional students, if approved and developed with residences. The average cost for K-12 grade students amounts to \$9,337 per student. Of the 35 students, 16 will attend elementary schools, 9 will attend middle schools students and 10 will attend senior high schools. The total annual operating cost for additional students residing in this development, if approved, would total \$326,795. Since there is sufficient concurrency capacity to accommodate the additional students, there are no capital costs. If at the time of issuing a development order and reserving student stations for the development, pursuant to the school concurrency, there is not sufficient capacity, the capital costs will be addressed at that time.

Fire Rescue

The Miami-Dade County Fire and Rescue Department indicates that fire and rescue service in the vicinity of the subject application is adequate and that no stations are planned in the vicinity of the application area.

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APPENDIX E

Declarations of Restrictions

A: Modified Declaration of Restrictions (First Restated Comprehensive Plan Declaration of Restrictions).....	79
B: Proffered Declaration of Restrictions for Tract 1 (School site).....	85
C: Proffered Declaration of Restrictions for Tract 2 (Community Center Site).....	89

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This instrument was prepared by
or under the supervision of:

Name: Felix M. Lasarte, Esq.
Address: The Lasarte Law Firm
3250 First Avenue
Suite 334
Miami, Florida 33126

(Space reserved for Clerk of Court)

**FIRST RESTATED COMPREHENSIVE
PLAN DECLARATION OF
RESTRICTION**

THIS First Restated Comprehensive Plan Declaration of Restrictions is made this ____ day of ____, 2015, by Fontainebleau Lakes, LLC, a Florida limited liability company (the "Owner"), in favor of Miami-Dade County, a political subdivision of the State of Florida (the "County").

WITNESSETH:

WHEREAS, the Owner holds the fee simple title to that certain property lying, being and situated in Miami-Dade County, Florida, to-wit:

See attached
Exhibit "A"

hereinafter referred to as the "Property";

WHEREAS, in April 2004, the then Owner of the Property filed an application (the "First Application") designated as "Application No. 3" of the April 2004 Miami-Dade County Comprehensive Development Master Plan ("CDMP") Amendment Cycle, to amend the Property's designation on the CDMP Future Land Use Plan Map of Miami-Dade County from "Parks and Recreation" and "Medium Density Residential" to "Medium Density Residential"; and

WHEREAS, a Declaration of Restrictions (hereinafter referred to as the "Declaration") in favor of Miami-Dade County, was proffered and accepted by the Miami-Dade County Board of County Commissioners in connection with the First Application and recorded in the Public Records of Miami-Dade County in Official Records Book 23413, at Page 1136, which placed certain restrictions and conditions on the use of the

Property; and

WHEREAS, in April 2008, the Owner filed an application designated "Application No. 8" for the April 2008 CDMP cycle (the "Second Application"), as part of the April 2008 CDMP Amendment Cycle, to amend the land use designation for Parcel "B" from "Medium Density Residential" and "Parks and Recreation" to "Business and Office" and for Parcel "C" from "Medium Density Residential" to "Parks and Recreation;" and

WHEREAS, a modification of the Declaration to exclude Parcels "B" and "C" (the "First Declaration Modification") was proffered and accepted by the Miami-Dade County Board of County Commissioners in connection with the Second Application and recorded in the Public Records of Miami-Dade County in Official Records Book 26955, at Page 909; and

WHEREAS, in November 2014, the Owner filed an application designated "Application No. 7" of the November 2014 CDMP Amendment cycle (the "New CDMP Application") seeking to amend the land use designation of Parcel "3" of the NE Course (described in Exhibit "B") from "Parks and Recreation" to "Medium Density Residential"; and

WHEREAS, in connection with the New CDMP Application, the Owner is proffering a covenant that will place certain restrictions and conditions on the use of parcel "3;" and

WHEREAS, rather than modify the Declaration a second time for the purposes of excluding Parcel "3" from the First Declaration Modification, Owner, for the sake of clarity and economy, desires to release the First Declaration Modification and restate the same without including Parcel "3."

NOW, THEREFORE, in consideration of the foregoing, and in order to assure Miami-Dade County, Florida (the "County") made by the Owner during determination of the New CDMP Application and prior Applications will be abided by the Owner, freely, voluntarily and without duress, Owner submits this Restated Declaration covering and running with the Property:

1. **Conceptual Site Plan.** The Property shall be developed in substantial conformity with the conceptual (bubble) site plan entitled "Fontainebleau East Shoma Development," prepared by _____, signed and sealed the ____ day of _____, 2015 ("Conceptual Site Plan") (attached hereto as Exhibit "C"). The Conceptual Site Plan merely sets forth the total number and types of residential units proposed for the Property, and the location of certain designated green and buffered areas as further defined in this Declaration, but is not intended to show the exact location and orientation of buildings, or other design features of the units to be located on the Property.

2. **Number of Units.** Notwithstanding the density and number of residential

units that may be permitted by the land use designation sought by the Applicant, development of the Property shall not exceed a total of eight hundred twenty-four (824) residential dwelling units. Notwithstanding the depiction of the units on the Conceptual Site Plan, the units may be developed as single-family homes in accordance with the zoning approvals granted by the appropriate board.

3. **Educational Facility.** Owner recognizes that redevelopment of the Property may impact the educational facilities currently being served by the area surrounding the Property. Prior to final zoning approval, Owner, at its option, shall either 1) mitigate the impact on educational facilities of the proposed development by either securing the availability of an educational facility (charter or public school) located within three miles of the Property, or 2) have reached an agreement with the Miami-Dade County Public Schools addressing the impact on educational facilities in a manner acceptable to the Miami-Dade County Public Schools. Nothing contained herein shall relieve the Owner of negotiating with the Miami-Dade County School District consistent with the Interlocal Agreement between Dade County and the School Board of Dade County, Florida relating to Educational Facilities Impact Fee Monies, as amended, and as amended in the future from time to time.

4. **Effectiveness of Declaration.** This Declaration shall become final and shall be recorded in the Public Records of Miami-Dade County after final approval by the County Commission of the New CDMP Application.

5. **Covenant Running with the Land.** This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their existence shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. The Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation upon the County.

6. **Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded, after which time it shall be extended automatically for successive periods of ten (10) years each, unless and instrument signed by the then owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been so modified or released by the County.

7. **Modification, Amendment, Release.** This Declaration may be modified, amended or released as to the Property, or any portion thereof, by a written instrument executed by the then owner(s) of the fee simple title to all of the Property, including joinders of all mortgages, if any, provided that the same is also approved by the Board of County Commissioners of Miami-Dade County, Florida. Any such modification or release

shall be subject to the provisions governing amendments to Comprehensive Plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation that may from time to time govern the amendments to Comprehensive Plans (hereinafter "Ch. 163"). Such modification or release shall also be subject to the provisions governing amendments to the CDMP as set forth in Section 2-116.1 of the Code of Miami-Dade County, or successor regulations governing modifications to the CDMP. Notwithstanding the previous sentence, in the event that the Property is incorporated within a new municipality that amends, modifies or declines to adopt the provisions of Section 2-116.1 of the Code of Miami-Dade County, then modifications or releases of this Declaration shall be subject to Ch. 163 and the provisions of such ordinances as may be adopted by the successor municipality for the adoption of amendments to its comprehensive plan; or, in the event that the successor municipality does not adopt such ordinances, subject to Ch. 163 and the provisions of the municipality's ordinances that apply to the adoption of district boundary changes. It is provided, however, that in the event that such successor municipality approves a modification or deletion of this Declaration, such modification or deletion shall not be effective until approved by the Board of County Commissioners of Miami-Dade County in accordance with applicable procedures. Should this Declaration be so modified, amended or released, the Director of the Department of Regulatory and Economic Resources or the executive officer of the successor department, or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her office, shall execute a written instrument effectuating and acknowledging such modification, amendment or release.

In the event that there is a recorded homeowners or condominium association covering any portion of the Property, said association may (in lieu of the signature or consent of the individual members or owners), on behalf of its members and in accordance with its articles of incorporation and bylaws, consent to any proposed modification, amendment or release by a written instrument executed by the homeowners or condominium association. Any consent made pursuant to a vote of the homeowners or condominium association shall be evidenced by a written resolution of the homeowners or condominium association and a certification executed by the secretary the homeowners or condominium associations' board of directors affirming that the vote complied with the articles of incorporation and the bylaws of the association.

8. **Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. This Declaration, and the acceptance by the County, is not intended and should not be construed to confer any rights on any third parties. The prevailing party in any such action shall be entitled to recover, in addition to cost and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of their attorney, at trial and appeal, or any other levels. This enforcement shall be in addition to any other remedies available at law or in equity.

9. **Authorization for County to Withhold Permits and Inspections.** In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and

to refuse to make any inspection or grant any approvals, until such time as this Declaration is complied with.

10. **Election of Remedies.** All rights, remedies and privileges granted herein shall be deemed cumulative and the exercise of any one or more shall neither be deemed an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

11. **Presumption of Compliance.** Where construction has occurred on the Property or any portion thereof pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

12. **Severability.** Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion.

13. **Recordation and Effective Date.** This Declaration shall be filed of record in the public records of the County at the cost of the Owner following approval of the New CDMP Application. The Declaration shall become effective immediately upon recordation. Notwithstanding the foregoing sentence, if any appeal is filed and the disposition of such appeal results in the denial of the New CDMP Application in its entirety, then this Declaration shall be null and void and of no further effect, without the necessity for further action, and a certified copy thereof may be filed by affidavit of any Owner to evidence the same. Upon disposition of such appeal resulting in the denial of the New CDMP Application in its entirety, an Owner may, but shall not be required to for the effectiveness of this paragraph, request that the Director of the Department of Regulatory and Economic Resources or the executive officer of the successor department, or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her office, execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect and cause the same to be recorded at Owner's cost.

14. **Acceptance of Declaration.** The Owner acknowledges that acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, land use or otherwise, and the Board of County Commissioners for the County retains full power and authority to deny each such application in whole or in part and decline to accept any conveyance.

15. **Owner.** The term Owner shall include all heirs, assigns and successors in interest.

IN WITNESS WHEREOF, Fontainebleau Lakes, LLC has executed these presents for the purposes set forth, this _____ day of _____, 2015.

Witnesses:

Fontainebleau Lakes, LLC

, President

Print Name

Print Name

STATE OF FLORIDA

SS.

COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this day, before me, an officer duly qualified to take acknowledgments, personally appeared _____, the President of Fontainebleau Lakes, LLC, who is (___) personally known to me, or who produced identification in the form of _____, and who executed the foregoing resolution and acknowledged before me that _____ executed the same for the purposes herein expressed.

WITNESS my hand and official seal in the County and State last aforesaid, this _____ day of _____, 2015.

Notary Public, State of Florida
My commission expires _____

DECLARATION OF RESTRICTIONS

WHEREAS, Keep Bleu Green Committee, Inc. (the "Owner") holds the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property; and

WHEREAS, the Owner has applied for an amendment to the Miami-Dade County Comprehensive Development Master Plan (the "CDMP") identified as Application No. 7 in the November 2014 Amendment Cycle (the "Application"); and

WHEREAS, the Application seeks to change the current CDMP land use designation from Parks and Recreation to Medium-Density Residential for the purposes of developing a Charter School on future Tract 1 of the Property (hereinafter "Future Tract 1") and a Community Center on future Tract 2 of the Property (hereinafter "Future Tract 2"), which Tracts are depicted on the conceptual (bubble) site plan entitled "_____", prepared by _____, signed and sealed the _____ day of _____, 2015 ("Conceptual Site Plan"), and attached hereto as Exhibit "B."

WHEREAS, the legal description of Future Tract 1 is as follows:

IN ORDER TO ASSURE the Miami-Dade County (the "County") that the representations made by the Owner during consideration of the Application will be abided by the Owner freely, voluntarily and without duress, the Owner hereby makes the following Declaration of Restrictions covering and running with Future Tract 1:

- (1) Future Tract 1 of the Property shall only be used for the development and operation of a Charter School as authorized in Florida Statutes, Chapter 1002.
- (2) Owner has been made aware by the County that the United States Fish and Wildlife Service believes the potential exists for the Property to support bonneted bats, a federally declared endangered species. Prior to commencing development activities on Future Tract 1 of the Property, the Owner will coordinate with the United States Fish and Wildlife Service and any other necessary federal or state agencies to determine whether any bonneted bats are present, and if so, what protective guidelines and procedures to implement.

Covenant Running with the Land. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their existence shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. The Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation upon the County.

Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded, after which time it shall be extended automatically for successive periods of ten (10) years each, unless and instrument signed by the then owner(s) of the Property has been recorded agreeing to change

the covenant in whole, or in part, provided that the Declaration has first been so modified or released by the County.

Modification, Amendment, Release. This Declaration may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the Owner of the fee simple title to that portion of the Property comprising Future Tract 1, provided that the same is also approved by the Board of County Commissioners of Miami-Dade County, Florida. Any such modification or release shall be subject to the provisions governing amendments to Comprehensive Plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation that may from time to time govern the amendments to Comprehensive Plans (hereinafter "Ch. 163"). Such modification or release shall also be subject to the provisions governing amendments to the CDMP as set forth in Section 2-116.1 of the Code of Miami-Dade County, or successor regulations governing modifications to the CDMP. In the event that Future Tract 1 is incorporated within a new municipality that amends, modifies or declines to adopt the provisions of Section 2-116.1 of the Code of Miami-Dade County, then modifications or releases of this Declaration shall be subject to Ch. 163 and the provisions of such ordinances as may be adopted by the successor municipality for the adoption of amendments to its comprehensive plan; or, in the event that the successor municipality does not adopt such ordinances, subject to Ch. 163 and the provisions of the municipality's ordinances that apply to the adoption of district boundary changes. It is provided, however, that in the event that such successor municipality approves a modification or deletion of this Declaration, such modification or deletion shall not be effective until approved by the Board of County Commissioners of Miami-Dade County in accordance with applicable procedures. Should this Declaration be so modified, amended or released, the Director of the Department of Regulatory and Economic Resources or the executive officer of the successor department, or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her office, shall execute a written instrument effectuating and acknowledging such modification, amendment or release. Notwithstanding anything herein to the contrary, if the Property is ultimately subdivided into Future Tract 1 and Future Tract 2, and fee simple title in each of the Tracts is subsequently vested in two different owners, the consent of the one Tract owner shall not be necessary for the other Tract owner to obtain in order to seek a modification, amendment or release of the covenants of this Declaration restricting the use and development of his/her/its own Tracts.

Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any such action shall be entitled to recover, in addition to cost and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of their attorney. This enforcement shall be in addition to any other remedies available at law or in equity.

County Inspection. It is hereby understood and agreed that any official inspector of the County, or its agent duly authorized, may have the privilege at any time during normal business hours of entering and inspecting the use of the Property to determine whether or not the requirements of the conditions herein agreed to are being complied with.

Authorization for County to Withhold Permits and Inspections. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and to refuse to make any inspection or grant any approvals, until such time as this Declaration is complied with.

Election of Remedies. All rights, remedies and privileges granted herein shall be deemed cumulative and the exercise of any one or more shall neither be deemed an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a

presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

Severability. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion.

Recordation and Effective Date. This Declaration shall be filed of record in the public records of the County at the cost of the Owner following approval of the Application. The Declaration shall become effective immediately upon recordation. Notwithstanding the foregoing sentence, if any appeal is filed and the disposition of such appeal results in the denial of the Application in its entirety, then this Declaration shall be null and void and of no further effect, without the necessity for further action, and a certified copy thereof may be filed by affidavit of any Owner to evidence the same. Upon disposition of such appeal resulting in the denial of the Application in its entirety, an Owner may, but shall not be required to for the effectiveness of this paragraph, request that the Director of the Department of Regulatory and Economic Resources or the executive officer of the successor department, or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her office, execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect and cause the same to be recorded at Owner's cost.

Acceptance of Declaration. The Owner acknowledges that acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners for the County retains full power and authority to deny each such application in whole or in part and decline to accept any conveyance.

Owner. The term Owner shall include all heirs, assigns and successors in interest.

IN WITNESS WHEREOF, Keep Bleau Green Committee, Inc., a Florida Not For Profit corporation, has executed these presents for the purposes set forth, this ____ day of _____, 2015.

KEEP BLEAU GREEN COMMITTEE, INC.

Jesus Carcasses, President

Witnesses:

Print Name

Print Name

STATE OF FLORIDA

SS.

COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this day, before me, an officer duly qualified to take acknowledgments, personally appeared Jesus Carcasses, the President of Keep Bleau Green Committee, Inc., a Florida Not For Profit corporation, who is (____) personally known to me, or who produced identification in the form of _____, and who executed the

foregoing resolution and acknowledged before me that Jesus Carcasses executed the same for the purposes herein expressed.

WITNESS my hand and official seal in the County and State last aforesaid, this _____ day of _____, 2015.

Notary Public, State of Florida
My commission expires _____

DECLARATION OF RESTRICTIONS

WHEREAS, Keep Bleau Green Committee, Inc. (the "Owner") holds the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property; and

WHEREAS, the Owner has applied for an amendment to the Miami-Dade County Comprehensive Development Master Plan (the "CDMP") identified as Application No. 7 in the November 2014 Amendment Cycle (the "Application"); and

WHEREAS, the Application seeks to change the current CDMP land use designation from Parks and Recreation to Medium-Density Residential for the purposes of developing a Charter School on future Tract 1 of the Property (hereinafter "Future Tract 1") and a Community Center on future Tract 2 of the Property (hereinafter "Future Tract 2"), which Tracts are depicted on the conceptual (bubble) site plan entitled "_____, " prepared by _____, signed and sealed the ___ day of _____, 2015 ("Conceptual Site Plan"), and attached hereto as Exhibit "B."

WHEREAS, the legal description of Future Tract 2 is as follows:

IN ORDER TO ASSURE the Miami-Dade County (the "County") that the representations made by the Owner during consideration of the Application will be abided by the Owner freely, voluntarily and without duress, the Owner hereby makes the following Declaration of Restrictions covering and running with Future Tract 2:

- (1) Future Tract 2 of the Property shall only be used for the development and operation of a Community Center.
- (2) Owner has been made aware by the County that the United States Fish and Wildlife Service believes the potential exists for the Property to support bonneted bats, a federally declared endangered species. Prior to commencing development activities on Future Tract 2 of the Property, the Owner will coordinate with the United States Fish and Wildlife Service and any other necessary federal or state agencies to determine whether any bonneted bats are present, and if so, what protective guidelines and procedures to implement.

Covenant Running with the Land. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their existence shall be for the benefit of, and limitation upon, all present and future owners of the

real property and for the benefit of Miami-Dade County and the public welfare. The Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation upon the County.

Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded, after which time it shall be extended automatically for successive periods of ten (10) years each, unless and instrument signed by the then owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been so modified or released by the County.

Modification, Amendment, Release. This Declaration may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the Owner of the fee simple title to that portion of the Property comprising Future Tract 2, provided that the same is also approved by the Board of County Commissioners of Miami-Dade County, Florida. Any such modification or release shall be subject to the provisions governing amendments to Comprehensive Plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation that may from time to time govern the amendments to Comprehensive Plans (hereinafter "Ch. 163"). Such modification or release shall also be subject to the provisions governing amendments to the CDMP as set forth in Section 2-116.1 of the Code of Miami-Dade County, or successor regulations governing modifications to the CDMP. In the event that Future Tract 2 is incorporated within a new municipality that amends, modifies or declines to adopt the provisions of Section 2-116.1 of the Code of Miami-Dade County, then modifications or releases of this Declaration shall be subject to Ch. 163 and the provisions of such ordinances as may be adopted by the successor municipality for the adoption of amendments to its comprehensive plan; or, in the event that the successor municipality does not adopt such ordinances, subject to Ch. 163 and the provisions of the municipality's ordinances that apply to the adoption of district boundary changes. It is provided, however, that in the event that such successor municipality approves a modification or deletion of this Declaration, such modification or deletion shall not be effective until approved by the Board of County Commissioners of Miami-Dade County in accordance with applicable procedures. Should this Declaration be so modified, amended or released, the Director of the Department of Regulatory and Economic Resources or the executive officer of the successor department, or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her office, shall execute a written instrument effectuating and acknowledging such modification, amendment or release. Notwithstanding anything herein to the contrary, if the Property is ultimately subdivided into Future Tract 1 and Future Tract 2, and fee simple title in each of the Tracts is subsequently vested in two different owners, the consent of the one Tract owner shall not be necessary for the other Tract owner to obtain in order to seek a modification, amendment or release of the covenants of this Declaration restricting the use and development of his/her/its own Tracts.

Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any such action shall be entitled to recover, in addition to cost and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of their attorney. This enforcement shall be in addition to any other remedies available at law or in equity.

County Inspection. It is hereby understood and agreed that any official inspector of the County, or its agent duly authorized, may have the privilege at any time during normal business hours of entering and

inspecting the use of the Property to determine whether or not the requirements of the conditions herein agreed to are being complied with.

Authorization for County to Withhold Permits and Inspections. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and to refuse to make any inspection or grant any approvals, until such time as this Declaration is complied with.

Election of Remedies. All rights, remedies and privileges granted herein shall be deemed cumulative and the exercise of any one or more shall neither be deemed an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

Severability. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion.

Recordation and Effective Date. This Declaration shall be filed of record in the public records of the County at the cost of the Owner following approval of the Application. The Declaration shall become effective immediately upon recordation. Notwithstanding the foregoing sentence, if any appeal is filed and the disposition of such appeal results in the denial of the Application in its entirety, then this Declaration shall be null and void and of no further effect, without the necessity for further action, and a certified copy thereof may be filed by affidavit of any Owner to evidence the same. Upon disposition of such appeal resulting in the denial of the Application in its entirety, an Owner may, but shall not be required to for the effectiveness of this paragraph, request that the Director of the Department of Regulatory and Economic Resources or the executive officer of the successor department, or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her office, execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect and cause the same to be recorded at Owner's cost.

Acceptance of Declaration. The Owner acknowledges that acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners for the County retains full power and authority to deny each such application in whole or in part and decline to accept any conveyance.

Owner. The term Owner shall include all heirs, assigns and successors in interest.

IN WITNESS WHEREOF, Keep Bleau Green Committee, Inc., a Florida Not For Profit corporation, has executed these presents for the purposes set forth, this ____ day of _____, 2015.

Witnesses:

KEEP BLEAU GREEN COMMITTEE, INC.

Jesus Carcasses, President

Print Name

Print Name

STATE OF FLORIDA

SS.

COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this day, before me, an officer duly qualified to take acknowledgments, personally appeared Jesus Carcasses, the President of Keep Bleau Green Committee, Inc., a Florida Not For Profit corporation, who is () personally known to me, or who produced identification in the form of _____, and who executed the foregoing resolution and acknowledged before me that Jesus Carcasses executed the same for the purposes herein expressed.

WITNESS my hand and official seal in the County and State last aforesaid, this _____ day of _____, 2015.

Notary Public, State of Florida

My commission expires _____

APPENDIX F

Photos of Site and Surroundings

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Portion of the 5.2-acre Parcel A of the application area with paved pedestrian path in the background



Existing residential condominiums to the east of the application area



Covenant restricted open space to the south and southwest of the 5.2-acre Parcel A with power lines easement to the southwest of Parcel A of the application area and Walmart Stores parking in the background.



Existing multi-family condominiums further to the southwest of Parcel A of the application area