

DELEGATION REQUEST.....BROWARD COUNTY COMMISSION

To Person Wishing to Appear Before the Broward County Commission:

Please fill out this form and return to: Planning & Environmental Regulation Division; Governmental Center West, One University Drive, Suite 102-A, Plantation, FL 33324. You will be contacted promptly with an appearance date. If you have printed material you want the Commission to receive in regard to your appearance, please enclose it when you return this form. Do not wait until the day of your appearance to distribute it. Thank you for your cooperation.

Plat Name: Sabal Palm by Prestige

Plat Number: 012-MP-07

Plat Book & Page: Plat Book 178, Page 71

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| SPL Holdings, LLC & SPL South Holdings, LLC | January 16, 2014 |
| NAME OF DELEGATION OR GROUP | DATE OF REQUEST |

| | | |
|-----------------------------------|------------------------------------|--------------|
| Scott Backman, Esq. | 14 SE 4 St #36 Boca Raton FL 33432 | 561-405-3325 |
| NAME OF PERSON REPRESENTING GROUP | ADDRESS | PHONE NUMBER |

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| Amendment to paragraph 9 of the Declaration of Restrictive Covenants related to sound wall voluntary commitment. |
| SUBJECT YOU WISH TO DISCUSS |

Use this space for any explanatory comments you feel necessary.

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| Please see attached narrative. |
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| HAVE YOU EVER CONTACTED ANYONE IN COUNTY GOVERNMENT IN REGARD TO THIS SUBJECT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | IF SO, WHO? | Marty Berger, Henry Sniezek & Richard Tornese |
| | WHEN? | December 2, 2013 |
| | WHAT WAS THE RESULT? | Filing of this application to amend the Declaration of Restrictive Covenants. |

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|--------------------------------|---|---|
| 30 minutes | 3 | Yes |
| APPROXIMATE TIME YOU WILL NEED | HOW MANY PERSONS WILL APPEAR WITH YOUR GROUP? | ARE MATERIALS ATTACHED FOR THE COMMISSION'S REVIEW? |

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| TO BE COMPLETED BY THE ADMINISTRATOR'S OFFICE ONLY | | |
| | DATE DELEGATION SCHEDULED TO APPEAR | DELEGATION NOTIFIED |

SEE REVERSE SIDE FOR SUBMISSION REQUIREMENTS

**SABAL PALM JUSTIFICATION NARRATIVE REGARDING PROPOSED SECOND
AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS RELATED TO SOUND
WALL VOLUNTARY COMMITMENT**

In 2012, SPL Holdings, LLC and SPL South Holdings, LLC (collectively referred to herein as the "Applicants") submitted an amendment to the Declaration of Restrictive Covenants ("Declaration") recorded in Official Records Book 44460, Page 1653 associated with Land Use Plan Amendment Application PC 06-30. The Applicants' requested amendment was heard by the County Commission ("Commission") at their June 5, 2012 meeting (agenda item 39). County staff raised concerns regarding the height of the proposed sound wall along Florida's Turnpike ("Turnpike"). As a result, item 39 was approved by the Commission except for the portions of component/paragraph 9 of Declaration dealing solely with construction of the sound wall. Approval of component/paragraph 9 was deferred to a date in the future for the purpose of allowing the Applicants time to address County staff's sound wall concerns.

Since the June 5th Commission meeting, the Applicants have diligently worked with their traffic noise and sound wall expert, and with County staff in an effort to resolve any outstanding issues regarding the proposed sound wall. The Applicants have sufficiently addressed staff's concerns (as discussed in detail below); therefore, the Applicants are requesting to reactivate County Commission agenda item 39 for the sole purpose of obtaining Commission approval for the proposed Second Amendment to the Declaration related to the construction of the sound wall.

Pursuant to the Commission's approval of Land Use Plan Amendment Application PC 06-30 at its December 12, 2006 meeting, the Applicants' predecessor-in-interest to the property entered into the Declaration agreeing to certain voluntary commitments which restricted the utilization of the property and established certain affirmative obligations associated with the development of the property. Specifically, the predecessor-in-interest agreed to construct a sound wall at "the same height as those constructed by the Florida Department of Transportation immediately to the north and south of those constructed by Declarant." The sound walls immediately to the north and south are currently twenty (20) feet high. Unfortunately, this commitment was made by the predecessor-in-interest without conducting the necessary expert analysis to determine the feasibility of such commitment. As a result, the Applicants hired KB Environmental Sciences who tasked Chief Scientist Carrol Fowler with performing a Traffic Noise Barrier Study ("Study") for the planned Sabal Palm development to determine the appropriate and feasible sound wall. Ms. Fowler has over 32 years of experience and is considered an expert in traffic noise analysis, including the technical analysis of traffic noise effects created by proposed roadway projects. Ms. Fowler received her Highway Noise Analyst certification from the

Florida Department of Transportation ("FDOT") in 1994 and she is a long-standing member of the FDOT's Noise Task Team. Ms. Fowler has also been hired by FDOT and Florida's Turnpike Enterprise ("FTE") to work as a Traffic Noise Analyst on several of their own roadway projects. In fact, a vast majority of Ms. Fowler's experience includes working on FDOT and FTE projects.

Ms. Fowler's final Study, dated December 28, 2012, is enclosed in its entirety; however, in sum, the Study concludes that a twelve (12) foot berm/wall combination noise barrier constructed between the planned residences in Sabal Palm and the Turnpike would provide the same or more reduction in traffic noise within Sabal Palm than the twenty (20) foot wall currently located immediately to the north and south of the Sabal Palm property. As discussed in detail in the Study, this is because the profile of the Turnpike elevates from the south to the north end of the existing barrier. This fact reduces the "acoustically effective" height of the existing barrier to less than twenty (20) feet. As a result of the Study, the Applicants propose to construct a twelve (12) foot high noise barrier consisting of a nine (9) foot high wall on top of a three (3) foot high berm located along the Florida Turnpike abutting the east property line of the portion of the Sabal Palm property located north of Commercial Boulevard. The sound wall constructed pursuant to the Second Amendment to the Declaration shall be landscaped in accordance with the Conceptual Turnpike Buffer Plan attached thereto. To further reduce any noise impacts on the residences, the Applicants have agreed to include impact glass as a standard feature for all residences located within the Sabal Palm development and to disclose to all buyers of the lots adjacent to the Florida Turnpike that they are in close proximity to the Florida Turnpike and that a twelve (12) foot high barrier (nine (9) foot high wall located on top of a three (3) foot high berm) will be installed in the common area adjacent to the back of their lots.

Based on the forgoing, the Applicants respectfully request that deferred agenda item 39 be placed on the next available Commission agenda, along with the supporting Second Amendment to the Declaration, for approval of the amendment to component/paragraph 9 regarding the sound wall issue. In furtherance of this request, please find the following documentation enclosed:

ENCLOSURES:

1. Delegation Request Application and required fee
2. Second Amendment to the Declaration and supporting Conceptual Turnpike Buffer Plan
3. Strikethrough and underline of the proposed amendment to component/paragraph 9 of the Declaration regarding the sound wall
4. Copy of the recorded Declaration and a copy of the recorded amendment thereto
5. Letter of no objection from the City of Tamarac dated December 30, 2013
6. Traffic Noise Barrier Study dated December 28, 2012 and supporting summary dated February 11, 2013
7. Minutes from the June 5, 2012 County Commission meeting regarding agenda item 39

9. Declarant shall only conduct construction activities on the Property on weekdays from 8:00 a.m. to 6:00 p.m., and on Saturdays from 8:00 a.m. to 1:00 p.m. Absolutely no construction activities shall occur on the Property on Sundays. Declarant shall, at its sole expense, repair any roads which are damaged as a result of the construction traffic to the Property. Declarant further agrees that its plans for development of the Property shall include, and Declarant shall install and pay for a sound walls along the Florida Turnpike in any area(s) abutting the east Property line of the portion of the Property located north of Commercial Boulevard where sound walls are not constructed by the Florida Department of Transportation. Declarant agrees that the sound walls it constructs shall be ~~of the same height as those constructed by the Florida Department of Transportation immediately to the north and south of those constructed by Declarant~~ at a height of twelve (12) feet, consisting of a nine (9) foot wall on top of a three (3) foot berm. To further reduce any noise impacts on the residences, Declarant agrees to include impact glass as a standard feature for all residences located on the Property and to disclose to all buyers of the lots adjacent to the Florida Turnpike that they are in close proximity to the Florida Turnpike and that a twelve (12) foot high barrier (nine (9) foot high wall located on top of a three (3) foot high berm) will be installed in the common area adjacent to the back of their lots. The sound wall constructed pursuant to this Second Amendment shall be landscaped in accordance with the Conceptual Turnpike Buffer Plan attached hereto as Exhibit "B." Declarant also agrees that, with respect to the portion of the Property located south of Commercial Boulevard (adjacent to Mainlands Section 6), the development of the Property will be designed so that it will not be necessary for vehicular traffic between Commercial Boulevard or Rock Island Road and new residential units to be constructed on the Property to utilize those segments of existing residential streets where residential units are currently located adjacent to the street; provided that the portion of NW 50th Street located west of NW 51st Avenue may be utilized for common access to the new and existing residential units.