

Return to: (enclose self-addressed stamped envelope)

This Instrument Prepared by:

Leigh R. Kerr, President
Leigh Robinson Kerr & Associates, Inc.
808 East Las Olas Boulevard
Suite 104
Fort Lauderdale, FL 33301

INSTR # 112732667
Recorded 01/07/15 02:30:11 PM
Broward County Commission
Deputy Clerk 1012
#1, 16 Pages

Space above this line for processing data

Space above this line for processing data

FIRST AMENDMENT TO
DECLARATION OF RESTRICTIVE COVENANTS

(Land Use Plan Amendment Q1-CPA-14;
Previously Known As 02-CPA-05; Also Known As PC 06-4)

This First Amendment To Declaration of Restrictive Covenants ("Amended Declaration") related to Broward County Public Schools student impacts is executed this 24th day of December, 2014 by **THE COUNTRY CLUB OF CORAL SPRINGS, INC.**, a Florida nonprofit corporation, its successors and assigns, ("Owner"), having an address of 10800 West Sample Road, Coral Springs, Florida, shall be for the benefit of **BROWARD COUNTY**, a political subdivision of the State of Florida, with a post office address at 115 South Andrews Avenue, Fort Lauderdale, FL 33301, ("County") and **THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**, with a post office address of 600 Southeast 3rd Avenue, Fort Lauderdale, FL 33301 ("School Board").

WHEREAS, Owner is the fee simple owner of approximately 10.2 gross acres of land located in the vicinity of the southwest corner of Sample Road and Northwest 107 Avenue in the City of Coral Springs, Florida, in Broward County, and more particularly described in in the attached **Exhibit "A"** ("Property"); and

WHEREAS, in 2005, Owner filed, with Broward County, a Land Use Plan Amendment Application No. Q2-CPA-05, also known as PC 06-4, (the "Original Application") for the Property, to change the Property's land use designation from Commercial Recreation to Medium-High (25) Residential, to permit an additional 168 high rise residential dwelling units which was anticipated to generate 10 (7 elementary, 1 middle, and 2 high) additional students; and

WHEREAS, Owner executed a Declaration of Restrictive Covenants dated September 2, 2010 ("Declaration") recorded in Official Records Book 47393, Pages 1263-1281 of Broward County, Florida which restricted development of the Property to 168 high rise units and the mitigation for the student impacts of the 10 total students contributed by the development; and

(16)

WHEREAS, Owner, has submitted a revised Land Use Plan Amendment Application No.Q1-CPA-14 (previously known as Q2-CPA-05, also known as PC-06-4), (the "Revised Application") for the Property to change the Property's existing City land use designation from Medium-High (19) Residential to Medium-High (27.3) Residential (City), to revise the residential type and number for a maximum total of 255 mid-rise residential units and to restrict development of the Property to 250 mid-rise residential units; and

WHEREAS, School Board staff issued School Consistency Review Report, dated July 29, 2014, a copy of which is attached hereto as **Exhibit "B"**, which finds that 250 mid-rise units would generate a total 12 (7 elementary, 3 middle, and 2 high) students; and

WHEREAS, Broward County and the City of Coral Springs, in conjunction with the School Board, have adopted public school concurrency since approval of the Declaration which requires all new residential development proposals to comply with development review criteria for school concurrency in Broward County; and

WHEREAS, the previously approved 168 high rise residential dwelling units were vested from public school concurrency requirements as outlined in the Declaration; and

WHEREAS, the student impact from the additional 82 mid-rise residential units, as currently proposed for the development of the Property will be subject to public school concurrency determination either at the plat or site plan stage of development review; and

WHEREAS, Owner desires to amend the Declaration to modify the approved school mitigation to reflect the current proposed residential type and unit mix and its anticipated student impact on Broward County Public Schools; and

WHEREAS, the School Board has agreed with the voluntary student mitigation plan outlined herein, and has requested the execution and recordation of this Amended Declaration;

NOW, THEREFORE, the undersigned agree and covenant to the following:

1. The above recitals are true and correct and are incorporated herein.
2. Other than as amended herein, Owner hereby confirms, ratifies and reaffirms the covenants, restrictions and obligations contained in the Declaration.
3. Pursuant to the Declaration, Owner agreed to mitigate the student impacts resulting from the 168 residential high rise units by paying no less than \$158,317.00 (the specified minimum calculated based on the then effective 7 elementary and 1 middle school Student Station Cost Factors).

4. Prior to environmental review approval of construction plans as set forth within Chapter 27, Broward County Code of Ordinances, by the Development Management and Environmental Review Section for the first building permit for construction or erection of the first residential unit on the Property, Owner shall make one lump sum payment to the School Board of no less than \$158,317.00 (based upon the Student Station Cost Factors), or the actual school impact fee then due for 168 mid-rise units, whichever is greater. The actual amount due shall be determined at the time of payment. Once this mitigation payment has been made, the 168 mid-rise residential units shall be vested for Public School Concurrency.
5. The remaining 82 mid-rise units within the Property shall be subject to Public School Concurrency (PSC) review (either at the plat or site plan review) which shall require the Owner to pay school impact fees for these remaining units, if capacity is available at the impacted schools. In the event that the total number of residential units changes from what is represented in the Revised Application and there is an increase in the number of residential units or unit type(s), Owner shall submit an application to the Facility Planning and Real Estate Department for Public School Concurrency review and determination. In the event that changes in the overall mix of residential units results in a net reduction in the amount of units, no refund of any portion of the school impact and/or mitigation fees shall be due and owing to Owner by the County or the School Board.
6. Except as modified herein, all other terms and conditions of the Declaration shall remain in full force and effect.
7. This Amended Declaration shall be recorded in the Public Records of Broward County, Florida, and the provisions hereof shall constitute a covenant running with the land and shall remain in full force and effect and binding upon the undersigned, its heirs, legal representatives, estate successors, grantees and assigns until released as provided herein.
8. Collectively, the Declaration, and this Amended Declaration constitute the entire agreement, with regard to the subject matter contained herein, and may only be amended, modified or released with the consent of the parties. In the event of a conflict between the terms, covenants, restrictions and conditions of the Declaration or the Amended Declaration, this Amended Declaration shall control and prevail.
9. The undersigned hereto expressly covenants and represents that he/she has the authority to enter into this Amended Agreement and so bind all general partners and affiliated partnerships, if any.

IN WITNESS WHEREOF, the undersigned has executed this Amended

Declaration to be executed this 24 day of Dec, 2014.

WITNESSES:

The Country Club of Coral Springs, Inc.,
a Florida nonprofit corporation

By: [Signature]
Print Name: CAROL RITO

By: [Signature]
Print Name: Bernard Moyle
Title: Pres

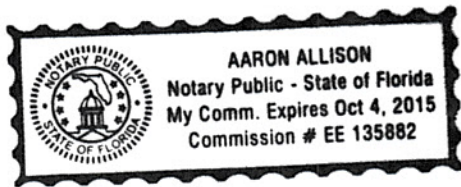
By: [Signature]
Print Name: BESSIE PETROUTSAS

Address: 10800 W Sample Road
Coral Springs, FL 33065

STATE OF FLORIDA)

COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 24th day of December, 2014, by Bernard Moyle as President of **THE COUNTRY CLUB OF CORAL SPRINGS, INC.**, a Florida nonprofit Corporation, freely and voluntarily on behalf of said corporation. He/She is personally known to me or has produced _____ as identification or is known to me personally.



[Signature]

Notary Public

Aaron Allison

Typed, printed or stamped name of Notary Public

My Commission Expires:

10/4/15

**MORTGAGEE
JOINDER AND CONSENT**

VAPAC, Inc., a Florida corporation, having an address of 3300 N. University Dr., Suite 500, Coral Springs, Florida 33065, being the owner and holder of an Assignment of Replacement Note, Third Mortgage, Guaranties and Related Loan Documents given by IBERIABANK having an address of 1601 Bryan Street, Suite 1700, Dallas, Texas 75201 as recorded on March 23, 2013 in Official Records Book 49821, Page 796 of the Public Records of Broward County, Florida, and does hereby join and consent to this Amended Declaration of Restrictive Covenants (the Amended Declaration”).

IN WITNESS WHEREOF, the undersigned has executed these presents to be executed in its name this 24th day of December, 2014.

WITNESSES:

By: [Signature]
Print Name: BARRY PITO

By: [Signature]
Print Name: BESSIE PETROUTSAS

STATE OF FLORIDA)

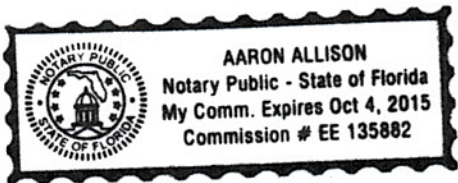
COUNTY OF BROWARD)

VAPAC, Inc.
a Florida corporation

By: [Signature]
Print name: Bernard T. Moyle
Title: COO/Director

Address: 3300 N University Dr
Coral Springs FL 33065

The foregoing instrument was acknowledged before me this 24th day of December, 2014, by Bernie Moyle as COO/Director of **VAPAC, Inc.** He/She is personally known to me or has produced _____ as identification or is known to me personally.



[Signature]
Notary Public
Aaron Allison

Typed, printed or stamped name
of Notary Public

My Commission Expires:

10/4/15

EXHIBIT "A"
PROPERTY LEGAL DESCRIPTION
(TOGETHER WITH A PROPERTY SKETCH)

EXHIBIT A

SKETCH AND DESCRIPTION

LEGAL DESCRIPTION:

A portion of Parcel "D" and a Canal, Dike and Maintenance Area, "Coral Springs Country Club Subdivision" according to the plat thereof as recorded in Plat Book 60 page 43 of the Public Records of Broward County, Florida being more particularly described as follows:

Beginning at the Northeast corner of Lot 59 Block 5, of said "Coral Springs Country Club Subdivision", said point also being on a North line of said Parcel "D"; thence South 89°39'15" East, along a North line of said Parcel "D" a distance of 474.31 feet; to the point of curvature of a circular curve concave to the Southwest; thence Southeastery along said circular curve having a radius of 25.00 feet, a central angle of 88°32'17" and an arc length of 38.83 feet to a point on an East line of said Parcel "D"; thence South 01°06'58" East, a distance of 376.10 feet; to the point of curvature of a circular curve concave to the East; thence Southerly along said circular curve having a radius of 729.81 feet, a central angle of 08°49'03" and an arc length of 86.85 feet to the Northeast corner of the aforesaid Canal, Dike and Maintenance Area, the last two (2) calls being coincident with an East line of the aforesaid Parcel "D"; thence continue along said circular curve having a radius of 729.81 feet a central angle of 5°40'38" and an arc length of 72.40 feet, along the East line of said Canal, Dike and Maintenance Area to the Southeast corner of said Canal, Dike and Maintenance Area; thence South 64°31'27" West, a distance of 152.70 feet along the south line of said Canal, Dike and Maintenance Area, to the Southwest corner of said Canal, Dike and Maintenance Area said point also being a point on the arc of a circular curve concave to the East and to said point a radial line bears South 74°20'22" West; thence Northerly along said circular curve having a radius of 878.91 feet, a central angle of 00°17'25" and an arc length of 4.46 feet along the West line of said Canal, Dike and Maintenance Area; thence departing said West line South 89°39'15" West, a distance of 414.77 feet; thence South 00°20'45" East, a distance of 106.19 feet; thence South 89°39'15" West, a distance of 255.47 feet to a point on the arc of a circular curve concave to the West and to said point a radial line bears South 81°00'30" East, said point also being on a West line of the aforesaid Parcel "D"; thence Northerly along said circular curve having a radius of 500.00 feet, a central angle of 09°20'15" and an arc length of 81.49 feet; thence North 00°20'45" West, a distance of 210.27 feet, to a point on the arc of a circular curve concave to the Northwest and to said point a radial line bears South 21°40'43" East; thence Northeastery along said circular curve having a radius of 440.00 feet, a central angle of 59°28'35" and an arc length of 533.28 feet; thence North 01°07'18" West, a distance of 23.73 feet to the POINT OF BEGINNING, the last four (4) calls being coincident with a West line of the aforesaid Parcel "D".

Said lands situate lying and being in the City of Coral Springs, Broward County, Florida. Containing 420,262 square feet or 9.648 acres, more or less.

THIS IS NOT A SKETCH OF SURVEY

SHEET 1 OF 2

REVISIONS	DATE	BY	CHK	FB/PG

A PORTION OF PARCEL "D" AND CANAL, DIKE AND MAINTENANCE AREA CORAL SPRINGS COUNTRY CLUB SUBDIVISION (P.B. 60, PG. 43, B.C.R.)

SCALE: N/A	JOB NO: 00-2881ECLM
FB/PG: N/A	CAD. FILE: C:\MG\TOWNSHIP-208
DRAWN BY: TD	DATE: 8/30/03
CHK BY: SH	PROJ. FILE: 00-208

DAVID & GERCHAR, INC
SURVEYORS AND MAPPERS
10750 Wilco Road
Coral Springs, Florida 33076
(954) 340-4023 Fax: (954) 255-0731

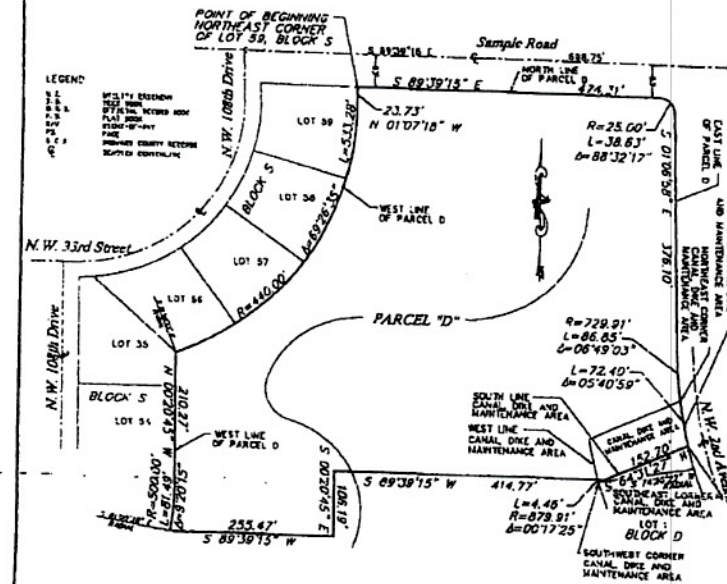
THOMAS J. DAVID FOR THE FIRM
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA REGISTRATION NO. 8871
DAVID & GERCHAR, INC. 1878935

EXHIBIT A

SKETCH AND DESCRIPTION

NOTES

- 1) Bearings shown herein are based on the North line of Parcel D, CORAL SPRINGS COUNTRY CLUB SUBDIVISION.
- 2) This Sketch and Description is not valid without the signature and original raised seal of a Florida Licensed Surveyor and Mapper.
- 3) The undersigned and David & Gerchar, Inc., make no representations or guarantees as to the information reflected herein pertaining to easements, rights-of-way, setback lines, agreements and other matters, and further, this instrument is not intended to reflect or through appropriate title verification, lands shown herein were not obstructed for rights-of-way and/or easements as of record.
- 4) This Sketch and Description consists of two sheets and is not complete without both sheets.



THIS IS NOT A SKETCH OF SURVEY

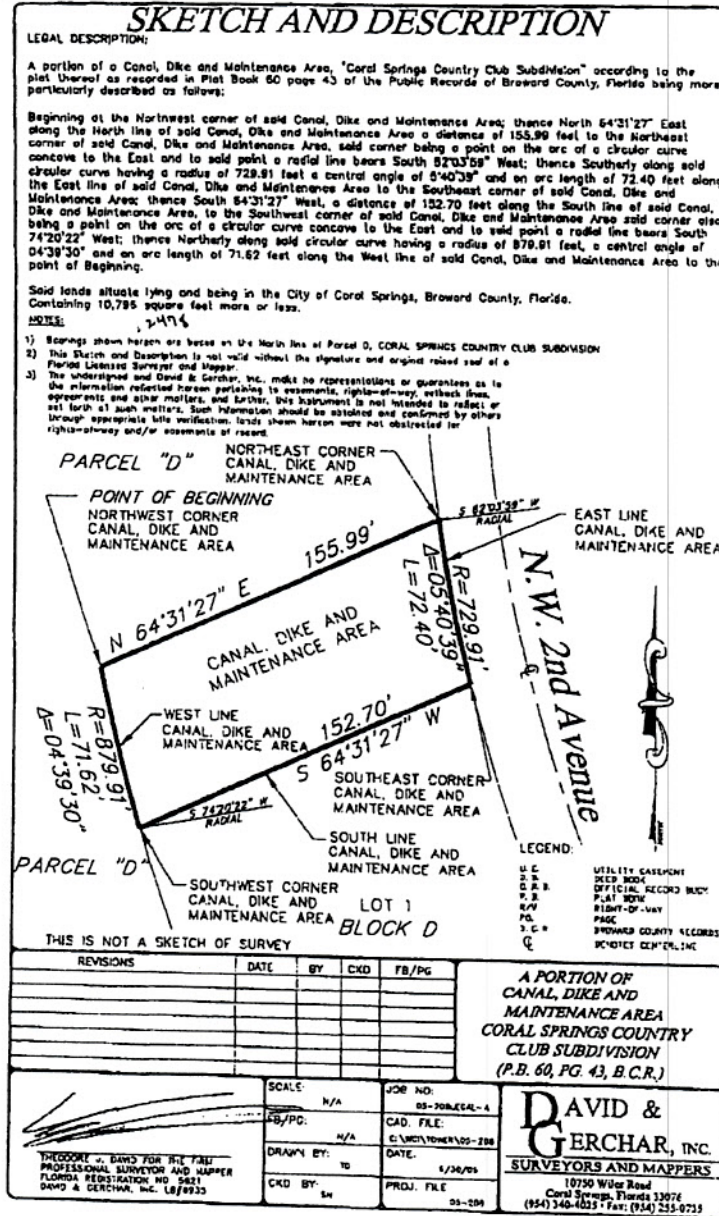
SHEET 2 OF 2

REVISIONS			
NO.	DATE	BY	CHKD

A PORTION OF PARCEL "D" AND CANAL, DIKE AND MAINTENANCE AREA CORAL SPRINGS COUNTRY CLUB SUBDIVISION (P.B. 60, PG. 43, B.C.R.)	SCALE:	JOB NO:	DAVID & GERCHAR, INC. SURVEYORS AND MAPPERS 10750 Wilda Road Coral Springs, Florida 33066 (954) 340-8223 • Fax: (954) 233-0733
	F3/PG:	CAD. FILE:	
	DRAWN BY:	DATE:	
	CHKD. BY:	PROJ. FILE:	

p.8

A



p.9

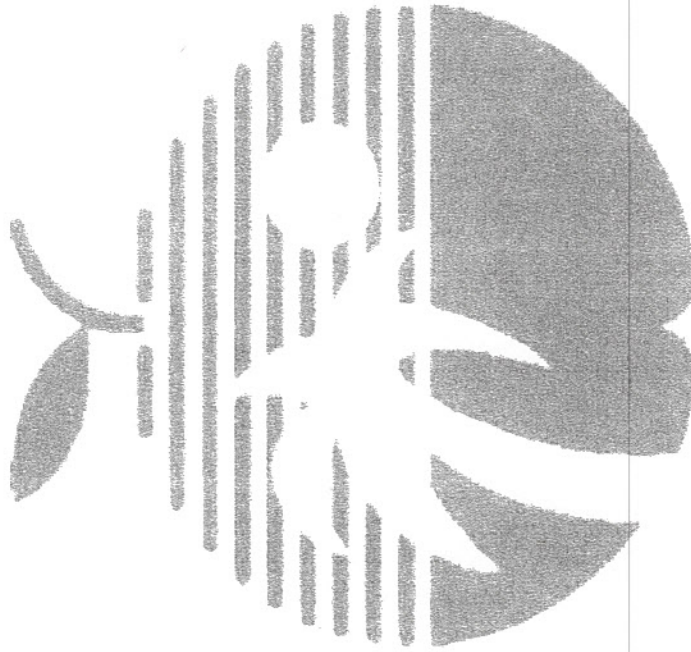
EXHIBIT "B"

**SCHOOL CONSISTENCY REVIEW REPORT
DATED JULY 29, 2014**

The School Board of Broward County, Florida
SCHOOL CONSISTENCY REVIEW REPORT

LAND USE
SBBC-885-2010
County No: TBD
Coral Springs Country Club

July 29, 2014



Growth Management
Facility Planning and Real Estate Department
600 SE 3rd Avenue, 8th Floor
Fort Lauderdale, Florida 33301
Tel: (754) 321-2177 Fax: (754) 321-2179
www.browardschools.com

SCHOOL CONSISTENCY REVIEW REPORT - LAND USE

PROJECT INFORMATION		IMPACT OF PROPOSED CHANGE			PROPERTY INFORMATION	
Date: July 29, 2014		Units Permitted	168	Units Proposed	250	Existing Land Use: Residential High 20.01 -
Name: Coral Springs Country Club		NET CHANGE (UNITS):			82	Proposed Land Use: Residential High 20.01 -
SBBC Project Number: SBBC-885-2010		Students	Permitted	Proposed	NET CHANGE	Current Zoning
County Project Number: TBD		Elem	0	7	7	RM-30
Municipality Project Number:		Mid	0	3	3	Proposed Zoning: RM-30
Owner/Developer: Country Club of Coral Springs, Inc.		High	0	2	2	Section: 20
Jurisdiction: Coral Springs		Total	0	12	12	Township: 48
						Range: 41

SHORT RANGE - 5-YEAR IMPACT

Currently Assigned Schools	Gross Capacity	LOS Capacity	Benchmark* Enrollment	Over/Under LOS	Classroom Equivalent Needed to Meet LOS	% of Gross Capacity
Parkside Elementary	1,016	1,016	740	-276	-15	72.8%
Sawgrass Springs Middle	1,473	1,473	1,172	-301	-13	79.6%
Coral Glades High	2,637	2,637	2,418	-219	-8	91.7%

Currently Assigned Schools	Adjusted Benchmark	Over/Under LOS-Adj. Benchmark Enrollment	% Gross Capacity Adjusted Benchmark	Projected Enrollment				
				14/15	15/16	16/17	17/18	18/19
Parkside Elementary	740	-276	72.8%	723	698	683	660	645
Sawgrass Springs Middle	1,172	-301	79.6%	1,141	1,119	1,081	1,061	1,036
Coral Glades High	2,418	-219	91.7%	2,442	2,444	2,384	2,380	2,404

Students generated are based on the student generation rates contained in the currently adopted Broward County Land Development Code. A traditional cohort survival methodology is used to project school-by-school District traditional school enrollment out over the next five years, and a proportional share of charter school enrollment is used to project future charter school enrollment by school level Districtwide. For more information: <http://www.broward.k12.fl.us/dsa/EnrollmentProj.shtml>. The annual benchmark enrollment is used to apply individual charter school enrollment impacts against school facility review processes.

*The first Monday following Labor Day

LONG RANGE - TEN-YEAR IMPACT

Impacted Planning Area	School District's Planning Area Data					Aggregate Projected Enrollment							
	Aggregate School Capacity	Aggregate Enrollment	Aggregate Over/(Under) Enrollment	17/18	18/19	19/20	20/21	21/22	17/18	18/19	19/20	20/21	21/22
Area A - Elementary	15,716	12,833	-2,883	14,832	15,128	15,424	15,720	16,017	14,832	15,128	15,424	15,720	16,017
Area A - Middle	8,663	6,469	-2,194	7,193	7,155	7,116	7,078	7,040	7,193	7,155	7,116	7,078	7,040
Area A - High	13,237	11,087	-2,150	10,681	10,670	10,660	10,649	10,638	10,681	10,670	10,660	10,649	10,638

CHARTER SCHOOL INFORMATION

Charter Schools within 2-mile radius	2013-14 Contract Permanent Capacity	2013-14 Benchmark* Enrollment	Over/(Under)	Projected Enrollment		
				14/15	15/16	16/17
Broward Comm. Charter West	500	289	-211	289	289	289
Coral Springs	1,600	1,653	53	1,653	1,653	1,653
Discovery Middle Charter	600	156	-444	156	156	156

Students generated are based on the student generation rates contained in the currently adopted Broward County Land Development Code. A traditional cohort survival methodology is used to project school-by-school District traditional school enrollment out over the next five years, and a proportional share of charter school enrollment is used to project future charter school enrollment by school level Districtwide. For more information: <http://www.broward.k12.fl.us/dsa/EnrollmentProj.shtml>. The annual benchmark school enrollment is used to apply individual charter school enrollment impacts against school facility review processes.

*The first Monday following Labor Day

**PLANNED AND FUNDED IMPROVEMENTS IN THE ADOPTED DISTRICT EDUCATIONAL FACILITIES PLAN
(Years 1 - 5)**

School(s)	Description of Improvements
Parkside Elementary	None
Sawgrass Springs Middle	None
Coral Glades High	None

**PLANNED IMPROVEMENTS IN THE ADOPTED DISTRICT EDUCATIONAL FACILITIES PLAN
(Years 6 - 10)**

Improvements for Planning Area A	
School Level	Comments
Elementary	None
Middle	None
High	None

Comments

Information contained in the application indicates that the approximately 10.2 gross acres (9.35-acre net) site is generally located south of Sample Road and west of Coral Springs Drive in the City of Coral Springs. The current land use designation for the site is High Residential (19 du/ac), which allows 168 high rise residential units. The applicant proposes to change the land use designation to High Residential (27.3 du/ac) to allow 250 mid rise residential units which are anticipated to generate 12 additional students (7 elementary, 3 middle, and 2 high school) into Broward County Public Schools.

The site (LUPA PC 06-4) is subject to a Declaration of Restrictive Covenants (OR BK 47393 Pages 1263-1281), which restricts the development to 168 high rise units and requires mitigation for the student impact for the anticipated 7 elementary and 1 middle school students generated utilizing the then effective student generation rates.

This application was reviewed based on its location in the School District's Long Range Seven Planning Areas, and Ten-Year Long Range Plan contained in the Adopted District Educational Facilities Plan (DEFP). However, the statistical data regarding the Level of Service (LOS) standard status of the actual schools impacted by this land use application in the initial five years of the ten-year period is depicted herein for informational purposes only.

Schools serving the amendment site in the 2013-14 school year are Parkside Elementary, Sawgrass Springs Middle, and Coral Glades High. Based on the District's Public School Concurrency Planning Document, all of the schools are operating below the adopted LOS of 100% of their capacities in the 2013-14 school year. Incorporating the cumulative students anticipated from approved and vested developments anticipated to be built within the next three years (2013-14 – 2015-16), all the schools are expected to operate below the adopted LOS of 100% through the 2015-16 school year. It should be noted that the school capacity or Florida Inventory of School Houses (FISH) for the impacted schools reflects compliance with the class size constitutional amendment and the permanent capacity additions that are planned for the schools within the first three years of the Five-Year Adopted DEFP FY 2013-14 – 2017-18. Also, to ensure maximum utilization of the impacted Concurrency Service Areas, the Board may utilize other options such as school boundary changes to accommodate students generated from developments in the County. Charter schools located within a two-mile radius of the site in the 2013-14 school year are depicted herein.

Capital Improvements scheduled in the long range section (2018-19 to 2022-23) of the currently Adopted DEFP Fiscal Years 2013-14 – 2017-18 regarding pertinent impacted schools are depicted above. Based on the School District's Seven Long Range Planning Areas, the amendment site is located within School District Planning Area "A" and the elementary, middle, and high schools currently serving Planning Area "A" and their cumulative student enrollments, cumulative capacities, and pertinent student enrollment projections are depicted herein. Therefore, Planning Area "A" is anticipated to have sufficient excess capacity to support the students generated by the residential units proposed in the Planning Area.

Please note that as a condition of approval of this application, the applicant should be required to revise the Declaration of Restrictive Covenants cited above to address the committed mitigation and to reflect the revised unit mix.

Please be advised that if approved, the units from this project will be subject to a public school concurrency review at the plat, site plan (or functional equivalent) phase of development review, whichever comes first.

The School Board of Broward County, Florida
SCHOOL CONSISTENCY REVIEW REPORT

PROJECT NUMBER: SBBC-885-2010

JULY 29, 2014

Date

Reviewed By:



Signature

Mohammed Rasheduzzaman, AICP

Name

Planner

Title