

Facilities Planning and Construction
Paul J. Phillips, Chief Facilities Officer

SUBJECT: AUTHORIZATION TO AMEND THE DECLARATION OF RESTRICTIONS AND TERMINATE THE PRIMARY LEARNING CENTER AND DEVELOPMENT AGREEMENT FOR APPLICATION NO. 93-408, OCEAN BANK

At its June 21, 1995 meeting, the Board authorized the Superintendent to negotiate a Declaration of Restrictions (Declaration) for Application No. 93-408, Ocean Bank, for the applicant's construction of a Primary Learning Center (PLC) on an approximate two acre parcel within a proposed 548-unit development, to mitigate the impact of the development. The proposed development is located at S.W. 47 Street and S.W. 163 Court (see attached location map). In addition, the Board authorized the Chair and Secretary to negotiate and execute additional agreements, as necessary, to ensure the compliance with the terms and conditions of the Declaration, as negotiated.

The terms and conditions of the executed Primary Learning Center and Development Agreement (Agreement) and Declaration provided that the developer construct a PLC as a contribution in-lieu-of impact fees. Because the anticipated impact fees for this development were significantly less than the PLC value established by the Board for the Educational Facilities Impact Fee Ordinance based on the District's actual construction costs (\$1.8 million plus the fair market value of the PLC site), the Agreement provided for a reimbursement to the developer for the difference between the actual impact fees owed upon completion of the development and the established PLC value. As a result, while the developer was obligated to construct the PLC and provide the site as part of the development, the District was obligated to pay for the full value of the PLC and site through a combination of impact fee credits and reimbursements.

The development was subsequently acquired by Century Five, Inc., and was thereafter purchased by Eden Lakes, Inc. (Eden Lakes), in March, 1999. Eden Lakes has requested a modification to the Declaration and Agreement to release the obligation for construction of a PLC. In exchange for this modification, Eden Lakes has proffered to donate the approximate two acre PLC site in a fully buildable condition, as a voluntary contribution over and above impact fees.

Pursuant to established negotiating procedures, a Management Team meeting was held on April 23, 1999, to negotiate with Eden Lakes. Based on these negotiations, it is recommended that the existing Agreement be terminated and the Declaration be amended under the following terms and conditions:

- Eden Lakes will donate an approximate two gross acre PLC site as a contribution over and above impact fees.

- The PLC site will be donated in a fully buildable condition with appropriate roads, utilities and filled to grade.
- Eden Lakes will be responsible for the payment of any required environmental mitigation fees and will handle storm water retention on the balance of the development.
- Eden Lakes will construct a permanent chain link fence to separate the PLC site from the development.
- The fully buildable PLC site will be transferred to the District, at Eden Lake's sole cost, by April 30, 2001. A recent District-commissioned appraisal for the undeveloped site indicates a fair market value of \$80,000 per acre. The addition of fill, infrastructure, storm water retention and environmental mitigation will raise the fair market value by more than \$70,000 per acre.

An amendment to the existing Declaration will also require approval of Community Council 11. Therefore, it is recommended that the termination of the Agreement be conditioned upon approval of the amended Declaration by the appropriate local government body and made subject to the tolling of any appeals period.

The amended Declaration will be reviewed by the School Board Attorney's Office.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize:

1. an amendment to the existing Declaration of Restrictions for Application No. 93-408, Ocean Bank, to provide for the donation of a fully buildable two acre site under the terms and conditions outlined above; and
2. termination of the existing Primary Learning Center and Development Agreement, upon approval of the amended Declaration by Community Council 11 or other appropriate local government body, subject to the tolling of any appeals period.

KW:md

LOCATION MAP

