

Business, Operations, Finance and Construction
Ofelia San Pedro, Deputy Superintendent

SUBJECT: AUTHORIZATION TO NEGOTIATE A DECLARATION OF RESTRICTIONS IN CONNECTION WITH LUCKY START AT BLUE WATERS, LLC, PROVIDING FOR A PREPAYMENT OF \$1,000,000 IN EDUCATIONAL FACILITIES IMPACT FEES FOR THE CONSTRUCTION OF A 12-UNIT MODULAR CLASSROOM FACILITY AT PINE VILLA ELEMENTARY SCHOOL

COMMITTEE: FACILITIES MANAGEMENT

Introduction

Pursuant to the terms of the Educational Facilities Impact Fee Ordinance (Ordinance) and the Interlocal Agreement (Agreement), the School Board (Board) may accept contributions in-lieu-of educational facilities impact fees from developers if the Board determines that such contributions are appropriate and desirable. The original applicant, Diaz Landscaping & Nursery, Inc. (Diaz), offered to build a 280-student station Primary Learning Center (PLC) at Pine Villa Elementary School to mitigate the construction of 476 single family and townhouse units on 83.54-acres located at the southeast corner SW 240 Street and SW 112 Avenue (see location map). The estimated student population generated by this application is 254 students. Schools impacted are Pine Villa Elementary School (137 students – operating at 91% utilization), Centennial Middle School (61 students – operating at 125% utilization), and Homestead Senior High School (56 students – operating at 136% utilization).

Background

On December 11, 2002, the Board authorized the negotiation of a Declaration of Restrictions (Covenant) to provide for the proposed construction of a PLC as a combination of a contribution in-lieu-of educational facilities impact fees (estimated at the time at \$1,100,000), and a reimbursement of funds by the District for the difference between the educational facilities impact fee amount, and the \$1,800,000 Board adopted value for a PLC (see Attachment I). The Board also authorized additional reimbursements for District-approved differences or changes that would have increased the cost of the PLC beyond the established norm. This total reimbursement amount would not have been known until such time as the construction plans were completed, but would have been in excess of \$700,000.

Under terms of the proposed December 2002 agreement, Diaz was to provide a Covenant prior to final plat approval for the subject property. However, certain issues still remain unacceptable to both parties. To date, the property has not received final plat approval and the agreement has not been entered into.

The subject property has recently been sold to Lucky Start at Blue Waters, LLC (Lucky Start). In an attempt to resolve this long-standing issue, District staff, including the Assistant Superintendent for ACCESS Center 6, met with representatives of Lucky Start to discuss possible solutions. After reviewing current and projected student station needs in the community, it was proposed that rather than construct a PLC, as was originally proffered by Diaz, Lucky Start would instead prepay its full educational facilities impact fee amount to the District, in one lump sum, towards the construction by the District of a future 12-unit modular classroom facility (Modular) at Pine Villa Elementary School. The educational facilities impact fee amount, originally estimated in 2002 at \$1,100,000, is now estimated at \$1,000,000 due to minor changes in the developer's proposed mix of single family and townhouse units. Under this new proposal, the District would fund the remaining portion of the Modular construction, estimated at \$900,000. Construction of the Modular by the District will provide an additional 242 student stations. Although Pine Villa Elementary School is currently operating at 91% utilization, projections for 2010 are at 147%, inclusive of the mitigating effect of the new Modular. However, the construction of the Palm Glade K-8 facility (1,604 student stations), will bring additional relief to this school in 2007.

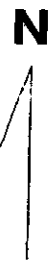
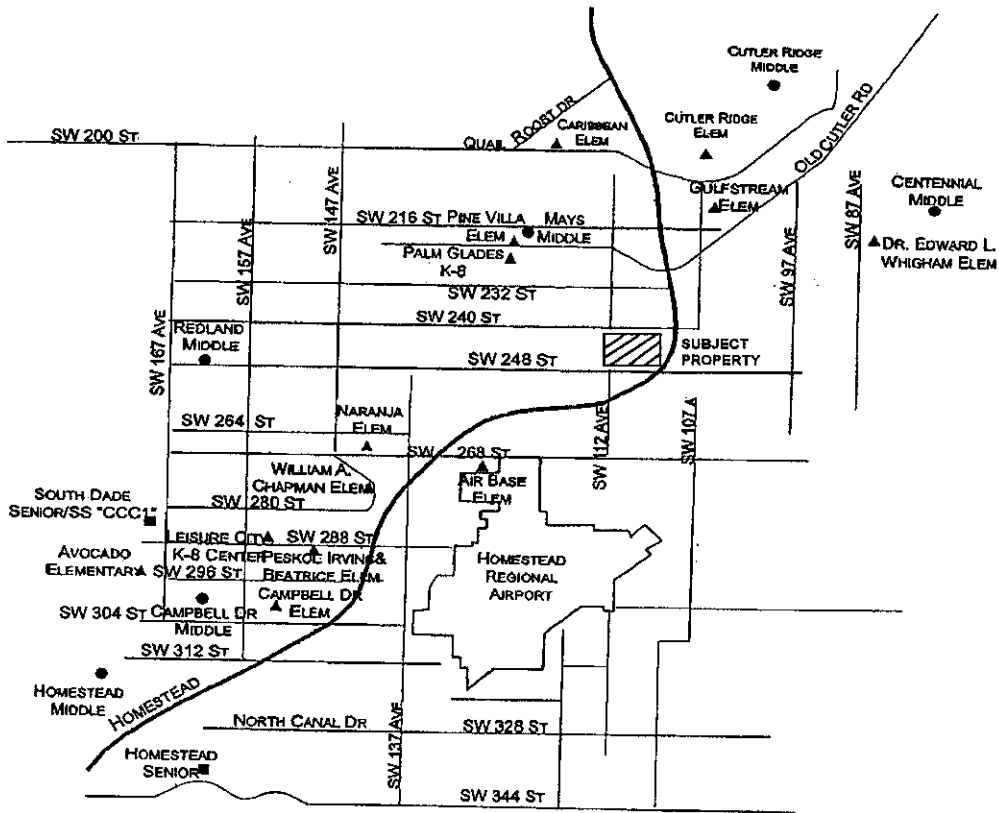
It is staff's recommendation that the Board and Lucky Start enter into a Covenant, which will require the prepayment by Lucky Start of impact fees in the amount of \$1,000,000, prior to the issuance of the first residential building permit. The impact fees will be earmarked by the District for the construction of a Modular at Pine Villa Elementary School. In the event Lucky Start ultimately owes impact fees in excess of \$1,000,000, Lucky Start would pay the applicable impact fees as established by the Impact Fee Ordinance. Additionally, Lucky Start has agreed not to seek reimbursement from the District should the actual impact fees owed be less than the prepayment amount of \$1,000,000.

The proposed Covenant will be reviewed by the School Board Attorney's Office prior to execution.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to negotiate a Declaration of Restrictions in connection with Lucky Start at Blue Waters LLC, providing for a prepayment of \$1,000,000 in educational facilities impact fees, for the construction of a 12-unit modular classroom facility at Pine Villa Elementary School.

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LOCATION MAP



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December 9, 2002

Business Operations
Larry W. Stanart, Chief Business Officer

SUBJECT: AUTHORIZATION TO NEGOTIATE A DECLARATION OF RESTRICTIONS IN CONNECTION WITH APPLICATION NO. 02-192 DIAZ LANDSCAPING AND NURSERY, INC PROVIDING FOR A DEVELOPER BUILT 280-STUDENT STATION PLC AT PINE VILLA ELEMENTARY SCHOOL LOCATED AT 21799 S.W. 117TH COURT, AS A COMBINATION OF A CONTRIBUTION IN-LIEU-OF EDUCATIONAL FACILITIES IMPACT FEES AND A REIMBURSEMENT

REVISE

COMMITTEE: FACILITIES PLANNING AND CONSTRUCTION

Introduction

Pursuant to the terms of the Educational Facilities Impact Fee Ordinance (Ordinance) and the Interlocal Agreement (Agreement) the School Board (Board) may accept contributions in-lieu-of impact fees from developers if the Board determines that such contributions are appropriate and desirable. Diaz Landscaping & Nursery, Inc. (applicant), proposes such contribution in connection with a zoning change scheduled before the Miami-Dade Community Zoning Appeals Board on December 11, 2002.

The applicant is requesting a zoning change from AU (Agriculture) to RU-3M (Townhouse) and RU-1M(a) (Modified Single-Family), on 83.54 acres located at the southeast corner S.W. 240 Street and S.W. 112 Avenue (see attached location map). The proposed townhouse and single-family development of 476 units has been deemed by the County to be consistent with the Miami-Dade County Comprehensive Development Master Plan (CDMP) and is within the current Urban Development Boundary.

The estimated student population generated by this application is 254 students. Schools impacted are Pine Villa Elementary School (137 students - permanent utilization of 127%), Centennial Middle School (61 students - permanent utilization of 132%), and Homestead Senior High School (56 students - permanent utilization of 129%, see attached analysis).

Additional Information

In order to mitigate the impact of this proposed 476-unit development, the applicant is willing to negotiate and voluntarily proffer a Declaration of Restrictions (Declaration) to benefit the Board. In an effort to provide elementary school relief in the impacted area, the applicant is proffering to build a 280-student station Primary Learning Center (PLC) at Pine Villa Elementary School, as a contribution in-lieu-of educational facilities impact fees. Region VI has given the proposal a favorable recommendation.

REVISE

Recommended terms and conditions of the proposed agreement are substantially as follows:

- Prior to tentative plat approval the applicant will provide to the School District. an executed Agreement outlining the terms and conditions.
- The PLC will be constructed in conformance with Developer-provided and District-approved architectural plans and specifications. District staff will provide assistance, at the applicant's request, in reviewing plans and ensuring to ensure compliance with all regulations.
- The Construction of the PLC will commence prior to the issuance of a building permit representing fifty percent (51%) of the building permits for the proposed project.
- The PLC must be completed and receive approval from the District for its occupancy prior to the applicant obtaining the 400th Certificate of Occupancy or within eighteen (18) months of commencement, which ever occurs earlier.
- Prior to obtaining the first building permit (excluding model homes), the applicant will post a bond in an amount sufficient to construct the PLC, including associated site work. If for any reason the applicant is unable to complete construction within the designated time period, the building, necessary easements, and other improvements designated for the PLC will be immediately dedicated and conveyed to the District at the Applicant's expense and the District shall have the right to use the bond for PLC construction.
- On February 5, 1997 the Board had re-established the value of a PLC as \$1.8 million plus the fair market value of the land. In this particular case, the site is Board owned. The proposed residential project is estimated to generate \$1,100,000 in impact fees. As such, the applicant is requesting to be reimbursed the difference between the impact fees owed by the development and the cost of constructing the PLC. In addition, the Ordinance permits reimbursement to the applicant for District-approved differences or changes that increase the cost of a facility to be built by a developer. Once all reimbursable items are identified, a full informational item will be presented to the Board at a future meeting for final review and action. The Ordinance is silent as to when these reimbursements are to be made. The applicant is requesting that 50% of the reimbursable amount be released at the time the District certifies 50% of the PLC is complete; with the balance being reimbursed upon District approval of PLC occupancy. Prior to release of any reimbursement funds, the applicant will provide a letter of credit to the District, which shall provide the financial guarantees for payment of any warranty/facility compliance issues, which the applicant fails to resolve.
- Failure to complete construction within the designated time period, including receipt of District approval for its occupancy, shall result in the applicant paying the

applicable impact fees based on the terms of the Ordinance, plus interest. Interest shall begin accruing from the date of obtaining the building permit for the first unit. Any funds used from the posted bonds will be a credit against fees owed.

- Upon completion of the PLC, the District shall have the right to inspect and approve as to its ability to occupy. Should the building be acceptable to District for use as a PLC, the Applicant will convey the building and improvements to the Board. All transactions necessary to complete the conveyance to the Board are at the Applicant's sole expense.
- The Declaration will run with the land and be binding on any future owners.

Based on current student population and available student stations, as well as county generated student projections for 2005, 2010 and 2015 there appears to be a continuing need for additional student stations at all levels; as such, it seems reasonable to pursue the proposed developer built PLC in lieu of impact fees. Region VI has given a favorable recommendation on the project.

Last, should this proposal be accepted by the Board as a contribution in-lieu of impact fees, the Five-Year Work Program will need to be revisited in the next cycle to incorporate the construction of the subject PLC facility.

The Declaration and/or Agreements will be reviewed by the School Board Attorney's Office prior to execution.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to negotiate a Declaration of Restrictions in connection with Miami-Dade County Application No. 02-192, Diaz Landscaping & Nursery, Inc., providing for a developer built 280-student station PLC at Pine Villa Elementary School located at 21799 S.W. 117 Court, as a contribution in-lieu-of educational facilities impact fees, and allowed reimbursements to the developer, pursuant to previously established Board Policy and the governing Ordinance. Prior to any such reimbursements, an agenda item will be presented to the Board for its review and action.

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SCHOOL IMPACT REVIEW ANALYSIS

APPLICATION: No. 02-192, Diaz Landscaping Nursery, Inc. (CC15)

REQUEST: Zone change from AU to RU-3M and RU-1M(a)

ACRES: 83.54 acres

LOCATION: Southeast corner of SW 112 Avenue and SW 240 Street

UNITS: 476 units (230 townhouse units and 246 single-family units)

ESTIMATED STUDENT POPULATION: 254 students

ELEMENTARY: 137

MIDDLE: 61

SENIOR: 56

SCHOOLS SERVING AREA OF APPLICATION:

ELEMENTARY: Pine Villa Elementary - 21799 SW 117 Ct.

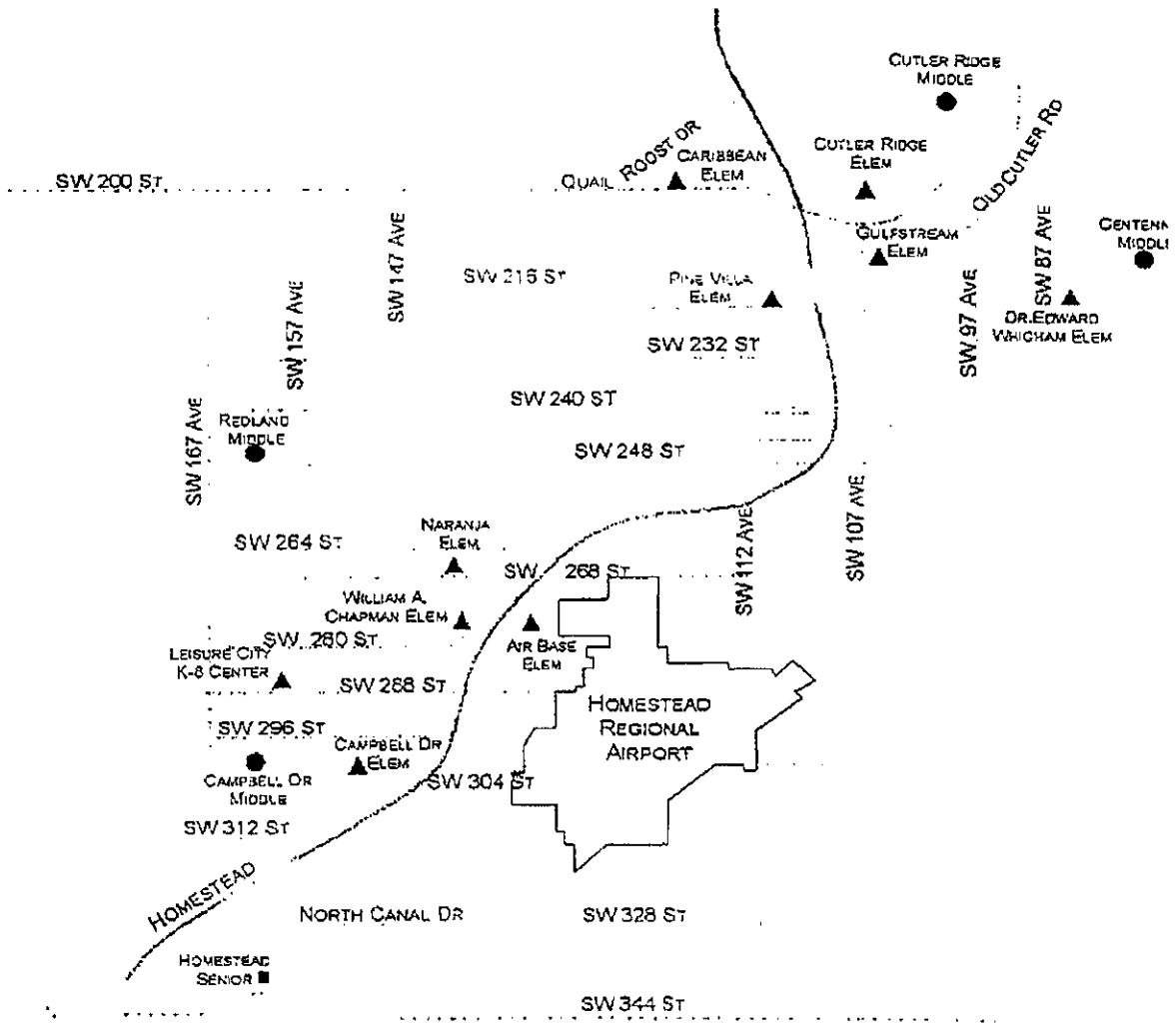
MIDDLE: Centennial Middle - 8601 SW 212 St.

SENIOR HIGH: Homestead Senior - 2351 SW 12 Ave.

The following population and facility capacity data are as reported by the Office of Information Technology, as of October, 2002:

	STUDENT POPULATION	FISH DESIGN CAPACITY PERMANENT	% UTILIZATION FISH DESIGN CAPACITY PERMANENT	NUMBER OF PORTABLE STUDENT STATIONS
Pine Villa Elem.	711	561	127%	210
Centennial Middle	1203	913	132%	116
Homestead Sr.	3315	2569	129%	0

LOCATION MAP



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LEGEND

- SUBJECT PROPERTY