

INSTRUMENT PREPARED BY:
RECORD AND RETURN TO:
Michelle DeRosa Mulay, Esquire
HOLLAND & KNIGHT LLP
One East Broward Blvd., 13th Floor
Ft. Lauderdale, Florida 33301

**FIRST AMENDMENT TO DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS FOR ATLANTIC GROVE**

This First Amendment to Declaration of Covenants, Restrictions and Easements for Atlantic Grove ("First Amendment") is made this 20th day of January, 2004 by Atlantic Grove Partners L.L.C., a Florida limited liability company ("Declarant"), whose address is 398 N.E. 6th Avenue, Delray Beach, Florida 33483 and is joined in by Atlantic Grove Townhome Association, Inc., a Florida corporation not for profit (the "Association"), whose address is 398 N.E. 6th Avenue, Delray Beach, Florida 33483.

RECITALS:

WHEREAS, Declarant recorded a Declaration of Covenants, Restrictions and Easements for Atlantic Grove (the "Declaration") in Official Records Book 15321, Page 925 of the Public Records of Palm Beach County, Florida;

WHEREAS, Section 15.6 of the Declaration permits the Declarant to unilaterally amend or modify the Declaration until such time as Class B membership terminates pursuant to Section 4.1 of the Declaration.

WHEREAS, Class B membership has not terminated and Declarant desires to amend the Declaration as more specifically set forth herein under the authority granted in Section 15.6 of the Declaration.

NOW, THEREFORE, Declarant hereby amends the Declaration in the manner stated below:

1. The above recitals are true and correct and are incorporated herein by this reference.
2. The following shall be added to the Declaration as Article 18 thereto:

ARTICLE 18

ADJACENT PARCEL

18.1 Adjacent Parcel. Declarant is currently under contract to purchase that certain real property described on Exhibit "E" attached hereto and made a part hereof (the "Adjacent Parcel") and intends to construct thereon approximately 14 residential townhome dwelling units. The Declarant and the Association hereby reserve and grant unto the Declarant, and all subsequent owners of the Adjacent Parcel, the following perpetual easements and rights (which easements and rights shall only become effective and be deemed to take effect in the event the Declarant becomes the fee simple owner of the Adjacent Parcel):

A. Ingress, Egress and Access. Declarant and the Association hereby reserve and grant unto Declarant, as owner of the Adjacent Parcel, and its successor and/or assigns, for the benefit and use of the Declarant and any subsequent owners of residential townhome dwelling units constructed upon the Adjacent Parcel (the "Adjacent Unit Owner(s)"), including their respective tenants, guests, invitees, a perpetual non-exclusive ingress, egress and access easement over and across; (i) all private streets, roadways, sidewalks, access ways, alleyways and parking areas constructed on the Property from time to time, and (ii) those portions of the Common Properties lying adjacent to and between the boundary line(s) of the Lot(s) and the private streets, roadways, sidewalks, access ways, alleyways and/or parking areas, as the case may be, which portions of the Common Properties are either designated as or necessary for ingress and egress to and from the Community Facilities and all publicly dedicated road right-of-ways located adjacent to the Property, it being the specific intent of the Declarant and the Association to hereby grant perpetual, uninterrupted and contiguous ingress, egress and access to and from the Adjacent Parcel to and from the Community Facilities and all publicly dedicated road right-of-ways which are located adjacent to the Property. Included in the foregoing easements and rights is the right for Declarant, the Adjacent Unit Owners and their respective tenants, guests, invitees and licensees to park upon the parking spaces which are located within the Common Properties from time to time and not reserves for the exclusive use of an Owner. Any rights granted or reserved under this Section however, shall be subject to any rights granted or permitted to be granted by Declarant and/or the Association to third parties, as provided elsewhere in the Declaration.

B. Declarant Easements. Declarant and the Association hereby reserve and grant unto the Declarant, and its successors, assigns, agents, guests, contractors and subcontractors, for the benefit of the Adjacent Parcel, a non-exclusive ingress, egress, access and construction easement and right-of-way for vehicular and pedestrian traffic, in, on, over, under, across and through all Common Properties, including but not limited to all private streets, roadways, sidewalks, access ways, alleyways and parking areas constructed on the Property from time to time, as are necessary (in Declarant's reasonable

discretion) in order for Declarant to exercise its rights under the Declaration and otherwise construct, develop and market the Adjacent Parcel.

C. Utility Easements. The Declarant and the Association hereby reserve and grant unto the Declarant, and its successors, assigns, agents, guests, contractors and subcontractors, for the benefit of the Adjacent Parcel, a non-exclusive easement in, on, over, under, across and through the Property, for the construction, installation and maintenance of utilities, including, but not limited to drainage, water, sewer, telephone, electric and cable television, as may be reasonably required to properly and adequately service the Adjacent Parcel, provided that no such easements shall exist so as to unreasonably interfere with the use of the Property subject to same or so as to cause any encroachments of such easements upon any buildings or Improvements, wherever said building or other Improvements may be located from time to time. In addition to the foregoing, Declarant, for the benefit of the Adjacent Parcel, shall have the right, at its cost and expense, to tie into any and all utility services which are provided to the Property (which includes but is not limited to electric, telephone, cable, sewer, water, drainage, irrigation, and fire suppression) whether public or private, so as to provide such services to the Adjacent Parcel. In connection with Declarant's attempt to obtain a modification to the existing surface water management and drainage permit for the Property and/or tie into the Surface Water Management System, if required by the South Florida Water Management District, the Association shall be responsible for maintaining all portions of the surface water management system located within the Adjacent Parcel, and the Adjacent Unit Owners shall be responsible for reimbursing to the Association (in a manner similar to the Common Facilities Assessments as set forth below) for the cost incurred by the Association in maintaining that portion of the system located within the Adjacent Parcel.

D. Use of Common Facilities. The Declarant, all Adjacent Unit Owners, and their tenants, guests, licensees and invitees (collectively the "Permittees"), shall have the non-exclusive right and easement to use all Common Facilities which are located within the Common Properties from time to time, subject to the terms and conditions set forth in the Declaration and any rules and regulations promulgated by the Association relating to the use of the Common Facilities by all Owners and any permitted users of the Common Facilities. The Association shall not be permitted to promulgate rules and regulations which limit or diminish the Permittee's use of the Common Facilities unless such rules and regulations equally affect the use of the Common Facilities by the Owners, the Rec. Users and other parties entitled to use same.

18.2 Adjacent Parcel's Share of Community Facilities Assessments. In the event the Declarant becomes the fee simple owner of the Adjacent Parcel and

the easement rights set forth in Section 18.1 above are granted, each Adjacent Unit Owner shall be required to pay to the Association a proportionate share of the Common Facilities Assessments as set forth below. The obligation for payment of the Common Facilities Assessment shall not be due from the Declarant and shall not be deemed to commence until the date on which title to such dwelling unit or lot is conveyed by Declarant to the first purchaser thereof. At least forty-five (45) days prior to the beginning of each fiscal year the Board of Directors shall prepare, adopt and distribute to the Declarant, as owner of the Adjacent Parcel, or to any property owner's association created by Declarant for purposes of administering the Adjacent Parcel (the "Adjacent Parcel Association") for distribution to each Adjacent Unit Owner (but not as a member of the Association), a written, itemized, estimated budget of the Common Facilities expenses to be incurred by the Association during the coming year in performing its functions under this Declaration with respect to the Common Facilities. The Adjacent Parcel Association shall be responsible for collecting from each Adjacent Unit Owner its proportionate share of the Common Facilities Assessment, which shall be payable to the Association on the first day of each calendar month for which a Community Facilities Assessment is due and shall be payable in equal monthly installments unless determined by the Board, from time to time, to be payable less frequently. Each Adjacent Unit Owner's proportionate share of the Common Facilities Assessment shall equal the amount of the estimated operating budget for the Common Facilities, as adopted pursuant to the Bylaws (less any surplus or plus any deficit from the prior years), multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the total of all Assessment Units (as defined in Section 6.4 of the Declaration) plus the total number of all Adjacent Unit Owners currently required to pay a proportion of the Common Facilities as of the date of the estimate operating budget. For example, if Declarant has conveyed 5 dwelling units as of the date of the estimated operating budget to Adjacent Unit Owners, and the total number of Assessment Units equals 75 (as anticipated under the Declaration), the numerator shall be equal to 1 and the denominator shall be equal to 80. If the total amount set forth in the estimated operating budget is \$10,000, each Adjacent Unit Owner's annual proportionate share shall be \$125.00. Notwithstanding anything contained herein to the contrary, in no event shall an Adjacent Unit Owner be required to pay an amount which exceeds the amount due by an Assessment Unit for any given year.

The easements and rights set forth in Section 18.1 A, B and D above and the obligations set forth in Section 18.2 above shall be deemed to terminate in the event the Association annexes the Adjacent Parcel to the Declaration pursuant to Section 18.3 below.

18.3 Annexation of Adjacent Property by Association. Subsequent to the date upon which Declarant takes title to and becomes the fee simple owner of the Adjacent Parcel, but prior to the conveyance of any portion thereof by Declarant to any Adjacent Unit Owner, the Association may elect to annex the Adjacent Parcel to the terms, conditions and restrictions of the Declaration by Supplemental Declaration, pursuant to the provisions set forth in Section 13.2 hereof. The Supplemental Declaration shall be joined in by the Declarant, as owner of the Adjacent Parcel. Upon the recording of the Supplemental Declaration, the Adjacent Parcel shall be deemed to be part of the Property (as defined in the Declaration). In addition, the Declarant, and each subsequent Adjacent Unit Owner shall be subject to the terms, conditions and restrictions set forth in the Declaration, shall be deemed Members and shall be entitled to membership as provided in Article 3 of the Declaration. In the event the Association elects to annex the Adjacent Parcel, the Association shall amend the Declaration as may be required to reflect such annexation, which shall include but shall not be limited to an amendment to the terms "Property" and "Townhome Lot" as set forth in the Declaration. Upon annexation, in addition to the easements and rights contained in Section 18.1C. hereof, Declarant shall be deemed to have all easements and rights originally granted to Declarant under the Declaration.

18.4 Merger or Consolidation. In the event the Association does not annex the Adjacent Parcel to the terms of the Declaration as set forth in Section 18.3 above, Declarant intends to subject the Adjacent Parcel to the terms and conditions of a declaration of covenants, conditions and restrictions and to create a property owners association (the "Adjacent Parcel Association") responsible for administering and enforcing the provisions of such declaration. In such event, the Association shall have the right (upon the written approval of the Declarant, for so long as Declarant owns any portion of the Adjacent Parcel) to merge or consolidate with the Adjacent Parcel Association. Upon a merger or consolidation of the Association with the Adjacent Parcel Association its properties, rights and obligations may, by operation of law, be transferred to the Adjacent Parcel Association or, alternatively, the properties, rights and obligations of the Adjacent Parcel Association may, by operation of law, be added to the properties, rights and obligations of the Association. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration together with the covenants and restrictions established upon the Adjacent Parcel as one scheme.

3. Section 2.2 B. of the Declaration is hereby deleted in its entirety and replaced with the following:

B. The Community Facilities will be used in common with the residential condominium loft owners of the Atlantic Grove Condominium. It is anticipated that the Common Facilities will be initially used by a maximum of

55 Owners of the Lots and 20 residential condominium loft owners, and their approved tenants, guests and invitees. If however, Declarant becomes the fee simple owner of the Adjacent Parcel or the Adjacent Parcel is annexed to the Declaration as more fully set forth in Article 18 hereof, it is anticipated that these facilities, in addition to being used by the 55 Owners and the 20 residential condominium loft owners, will be used by a maximum of 14 owners of the residential townhome dwelling units to be constructed by Declarant upon the Adjacent Parcel, and their approved tenants, guests and invitees. These Common Facilities will be located on property which will be ultimately owned by the Association.

4. The first sentence of Section 10.12 of the Declaration is hereby amended to read as follows:

Except as provided in Section 18.1D hereof, the use of the Community Facilities shall be restricted to Association Members, Atlantic Grove Condominium Association Residential Unit Owners and their respective Family, tenants, guests and invitees (collectively hereinafter referred to as "Rec. Users").

5. Section 11.2 of the Declaration is hereby amended to include the following:

For purposes of this Article 11, the term Rec. Users shall not be deemed to include the owners of any portion of the Adjacent Parcel (as defined in Article 18 hereof).

6. Except as amended by this First Amendment, the Declaration shall remain in full force and effect.

7. Each term defined in the Declaration and used herein, shall have the meaning ascribed to it in the Declaration, unless otherwise defined herein.

8. The Association hereby joins in and is executing this First Amendment to acknowledge its approval, consent and agreement to this First Amendment.

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[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Declarant and the Association have caused this First Amendment to be executed as of the date first written above.

Signed in the presence of:

DECLARANT:

ATLANTIC GROVE PARTNERS, L.L.C., a Florida limited liability company

By: New Urban Atlantic Grove, L.L.C., a Florida limited liability company, its Managing Member

By: New Urban Communities Corporation, a Florida corporation, its Managing Member

By: [Signature]
Kevin E. Rickard
President

[Signature]
Witness

DAVID L. CRANE
Print Name

[Signature]
Witness

Heather Workman
Print Name

STATE OF FLORIDA)
COUNTY OF Palm Beach)

The foregoing instrument was acknowledged before me this 20 day of January, 2004, by Kevin E. Rickard, as President of New Urban Communities Corporation, a Florida corporation, the Managing Member of New Urban Atlantic Grove, L.L.C., a Florida limited liability company, the Managing Member of Atlantic Grove Partners, L.L.C, a Florida limited liability company on behalf of the corporation and the companies. He/She is personally known to me [or has produced _____ as identification].

[Signature]
(SIGNATURE OF PERSON TAKING ACKNOWLEDGEMENT)

Heather Workman
(Name of acknowledger, typed, printed or stamped)

(Title or rank (serial number, if any))



ASSOCIATION:

ATLANTIC GROVE TOWNHOME
ASSOCIATION, INC., a Florida not for profit
corporation

Michelle Walker
Print Name: MICHELLE WALKER

Heather Workman
Print Name: Heather Workman

By: Kevin E. Rickard
Print Name: Kevin E. Rickard
Title: President

STATE OF FLORIDA)
COUNTY OF Palm Beach)

The foregoing instrument was acknowledged before me this 20 day of
January, 2004 by Kevin E. Rickard, as President of Atlantic Grove Townhome
Association, Inc., a Florida not for profit corporation, on behalf of the corporation.
He/She is personally known to me [or has produced _____ as
identification].

Heather J. Workman
(SIGNATURE OF PERSON TAKING
ACKNOWLEDGEMENT)
Heather J. Workman
(Name of acknowledger, typed, printed or
stamped)

(Title or rank (serial number, if any))



INSTRUMENT PREPARED BY:
RECORD AND RETURN TO:
Michelle DeRosa Mulay, Esquire
HOLLAND & KNIGHT LLP
One East Broward Blvd., 13th Floor
Ft. Lauderdale, Florida 33301

**SECOND AMENDMENT TO DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS FOR ATLANTIC GROVE**

This Second Amendment to Declaration of Covenants, Restrictions and Easements for Atlantic Grove ("Second Amendment") is made this ~~20th~~ day of January, 2004 by Atlantic Grove Partners L.L.C., a Florida limited liability company ("Declarant"), whose address is 398 N.E. 6th Avenue, Delray Beach, Florida 33483 and is joined in by Atlantic Grove Townhome Association, Inc., a Florida corporation not for profit (the "Association"), whose address is 398 N.E. 6th Avenue, Delray Beach, Florida 33483.

RECITALS:

WHEREAS, Declarant recorded a Declaration of Covenants, Restrictions and Easements for Atlantic Grove, and a first amendment thereto (collectively the "Declaration") in Official Records Book 15321, Page 925 of the Public Records of Palm Beach County, Florida;

WHEREAS, Section 15.6 of the Declaration permits the Declarant to unilaterally amend or modify the Declaration until such time as Class B membership terminates pursuant to Section 4.1 of the Declaration.

WHEREAS, Class B membership has not terminated and Declarant desires to amend the Declaration as more specifically set forth herein under the authority granted in Section 15.6 of the Declaration.

NOW, THEREFORE, Declarant hereby amends the Declaration in the manner stated below:

1. The above recitals are true and correct and are incorporated herein by this reference.
2. The following shall be added to the Declaration as Article 1, Section 1.40 thereto:

EXHIBIT "E"
THE ADJACENT PARCEL

LOTS 16 THROUGH 21, INCLUSIVE, BLOCK 36 OF REVISED PLAT OF
BLOCK 36, TOWN OF DELRAY, ACCORDING TO THE MAP OR PLAT
THEREOF AS RECORDED IN PLAT BOOK 5, PAGE 38, PUBLIC RECORDS
OF PALM BEACH COUNTY, FLORIDA

TOGETHER WITH:

A PARCEL OF LAND SITUATE IN SECTION 17, TOWNSHIP 46 SOUTH,
RANGE 43 EAST, CITY OF DELRAY BEACH, FLORIDA, PALM BEACH
COUNTY FLORIDA, BEING MORE SPECIFICALLY DESCRIBED AS
FOLLOWS:

THE SOUTH 66.72 FEET OF LOT 2 OF THE PLAT OF MT. OLIVE
BAPTIST CHURCH PROPERTY, ACCORDING TO THE MAP OR PLAT
THEREOF AS RECORDED IN PLAT BOOK 69, PAGE 20, PUBLIC
RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

THAT PORTION OF THE NORTH HALF OF THE 16 FOOT ALLEY RIGHT
OF WAY, BLOCK 28, MAP OF LINTON (NOW DELRAY BEACH),
ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN PLAT
BOOK 1, PAGE 3, PUBLIC RECORDS OF PALM BEACH COUNTY,
FLORIDA, SAID STRIP LYING NORTH OF AND ADJACENT TO THE
NORTH LINE OF TRACT "C-2" OF ATLANTIC GROVE, ACCORDING TO
THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 96, PAGE
55, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

THAT PORTION OF THE EAST HALF OF THE 16 FOOT ALLEY RIGHT OF
WAY, BLOCK 28, MAP OF LINTON (NOW DELRAY BEACH), ACCORDING
TO THE MAP OR PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE
3, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND LYING
SOUTH OF A LINE 66.72 FEET NORTH OF THE SOUTH LINE OF LOT 2
OF THE PLAT OF MT. OLIVE BAPTIST CHURCH PROPERTY,
ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT
BOOK 69, PAGE 20, PUBLIC RECORDS OF PALM BEACH COUNTY,
FLORIDA.

1518823_v2



PALM BEACH COUNTY, STATE OF FLORIDA

I hereby certify that the foregoing is a
true copy of the record in my office.

This Day of February 2010

DOROTHY H. WILKEN
Clerk Circuit Court

9 BY [Signature] D.C.

Section 25. "Surface Water Management Permit" shall mean and refer to that certain permit issued by the South Florida Water Management District for the construction and operation of the Surface Water Management System under Permit number 50-02892-S-02, and any modification thereof, a copy of which is attached hereto as Exhibit "F" and made a part hereof.

3. The following shall be added to the Declaration as Article 5, Section 5.2.N. thereto:

I. Compliance with all the terms, restrictions, requirements, conditions, and reservations set forth in the Surface Water Management Permit including but not limited to wetland mitigation and/or monitoring, if required. The Association shall satisfy all permit conditions associated with wetland mitigation, maintenance and monitoring, if any.

4. The following is hereby added to Article 5, Section 5.4 B of the Declaration:

The SFWMD shall have the right to take enforcement action, including a civil action for an injunction and penalties against the Association to compel the Association to correct any outstanding problems with the Surface Water Management System or in mitigation or conservations areas under the responsibility or control of the Association.

5. Except as amended by this Second Amendment, the Declaration shall remain in full force and effect.

6. Each term defined in the Declaration and used herein, shall have the meaning ascribed to it in the Declaration, unless otherwise defined herein.

7. The Association hereby joins in and is executing this Second Amendment to acknowledge its approval, consent and agreement to this Second Amendment.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Declarant and the Association have caused this Second Amendment to be executed as of the date first written above.

Signed in the presence of:

DECLARANT:

ATLANTIC GROVE PARTNERS, L.L.C., a Florida limited liability company

By: New Urban Atlantic Grove, L.L.C., a Florida limited liability company, its Managing Member

By: New Urban Communities Corporation, a Florida corporation, its Managing Member

Jasuelle Orner
Witness

Jasuelle Orner
Print Name

Heather J. Workman
Witness

Heather J. Workman
Print Name

By: Kevin E. Rickard
Kevin E. Rickard
President

STATE OF FLORIDA)
COUNTY OF Palm Beach)

The foregoing instrument was acknowledged before me this 20 day of January, 2004, by Kevin E. Rickard, as President of New Urban Communities Corporation, a Florida corporation, the Managing Member of New Urban Atlantic Grove, L.L.C., a Florida limited liability company, the Managing Member of Atlantic Grove Partners, L.L.C, a Florida limited liability company on behalf of the corporation and the companies. He/She is personally known to me [or has produced _____ as identification].

Heather J. Workman
(SIGNATURE OF PERSON TAKING ACKNOWLEDGEMENT)

Heather J. Workman
(Name of acknowledger, typed, printed or stamped)

(Title or rank (serial number, if any))



ASSOCIATION:

ATLANTIC GROVE TOWNHOME
ASSOCIATION, INC., a Florida not for profit
corporation

Gabriele Orsner
Print Name: Gabriele ORSNER

Heather J. Workman
Print Name: Heather Workman

By: [Signature]
Print Name: Kevin E. Rickard
Title: President

STATE OF FLORIDA)
COUNTY OF Lain Beach

The foregoing instrument was acknowledged before me this 20 day of
January, 2004 by Kevin E. Rickard, as President of Atlantic Grove Townhome
Association, Inc., a Florida not for profit corporation, on behalf of the corporation.
He/She is personally known to me [or has produced _____ as
identification].

[Signature]
(SIGNATURE OF PERSON TAKING
ACKNOWLEDGEMENT)
Heather J. Workman
(Name of acknowledger, typed, printed or
stamped)

(Title or rank (serial number, if any))





Form #0941
08/95

SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE
STANDARD GENERAL PERMIT NO. 50-02892-S-02

DATE ISSUED: March 20, 2002

PERMITTEE: ATLANTIC GROVE PARTNERS LLC
398 NE 6TH AVE
DELRAY BEACH, FL 33483

PROJECT DESCRIPTION: Modification for construction and operation of a surface water management system to serve a 4.78-acre project known as Atlantic Grove Mixed Use Project, located within the City of Delray Beach.

PROJECT LOCATION: PALM BEACH COUNTY, SEC 17 TWP 46S RGE 43E

PERMIT DURATION: See Special Condition No.1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 020111-3, dated January 11, 2002. This action is taken pursuant to Rule 40E-1.603 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

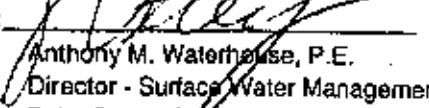
Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages : 2 - 4 of 5),
3. the attached 9 Special Conditions (See Pages : 5 - 5 of 5) and
4. the attached 8 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 20th day of March, 2002, in accordance with Section 120.60(3), Florida Statutes.

BY: 
Anthony M. Waterhouse, P.E.
Director - Surface Water Management
Palm Beach Service Center

Certified mail number 7000 1530 0000 2745 8923

Exhibit E

dec 20 2004

GENERAL CONDITIONS

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the supplied Environmental Resource Permit Construction Completion/Certification Form Number 0881. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings is discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "As-built" or "Record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the

GENERAL CONDITIONS

- approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.
8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
 9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
 10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
 11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
 12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
 13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(4), F.A.C., also known as the "No Notice" Rule.
 14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
 15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
 16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and

GENERAL CONDITIONS

- 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
 18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
 19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on March 20, 2007.
2. Operation of the surface water management system shall be the responsibility of PROPERTY OWNERS ASSOCIATION. The permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association concurrent with the engineering certification of construction completion.
3. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
4. Measures shall be taken during construction to insure that sedimentation and/or turbidity problems are not created in the receiving water.
5. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
6. All special conditions and exhibits previously stipulated by permit number 50-02892-S remain in effect unless otherwise revised and shall apply to this modification.
7. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
8. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
9. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.

40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C. is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment.
2. the effective date of the local government development order.
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to chapter 40-E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit,

or

2. staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

NOTICE OF RIGHTS

Section 120.569(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

Petition for Administrative Proceedings

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMD Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent objects to a SFWMD Administrative Complaint and Order, pursuant to Section 373.119, Fla. Stat. (1997), the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a or b above.

d. State Lands Environmental Resource Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a or b. above.

e. Emergency Authorization and Order: A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.611, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

CIRCUIT COURT

5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15th Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.

7. Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

DISTRICT COURT OF APPEAL

8. Pursuant to Section 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

PRIVATE PROPERTY RIGHTS PROTECTION ACT

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Fla. Stat.

MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or

publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

- (1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;
- (2) a statement of the preliminary agency action;
- (3) an explanation of how the person's substantial interests will be affected by the agency determination; and
- (4) a statement of relief sought.

As provided in Section 120.573, Fla. Stat. (1997), the timely agreement of all the parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat., and SFWMD Rule 28-106.201(2), Fla. Admin. Code. If mediation terminates without settlement of the dispute, the SFWMD shall notify all parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

VARIANCES AND WAIVERS

13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of fairness (as those terms are defined in Subsection 120.542(2), Fla. Stat.) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD's action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition must include the following information:

- (a) the caption shall read:
Petition for (Variance from) or (Waiver of) Rule (Citation)
- (b) The name, address, telephone number and any facsimile number of the petitioner;

- (c) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);

- (d) the applicable rule or portion of the rule;

- (e) the citation to the statute the rule is implementing;

- (f) the type of action requested;

- (g) the specific facts that demonstrate a substantial hardship or violation of principals of fairness that would justify a waiver or variance for the petitioner;

- (h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

- (i) a statement of whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Fla. Stat. pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

- a) the specific facts that make the situation an emergency; and

- b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

28-106.201 INITIATION OF PROCEEDINGS (INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

- (2) All petitions filed under these rules shall contain:
 - (a) The name and address of each agency affected and each agency's file or identification number, if known;
 - (b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
 - (c) A statement of when and how the petitioner received notice of the agency decision;
 - (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
 - (e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
 - (f) A demand for relief.

**28-106.301 INITIATION OF PROCEEDINGS
(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)**

- (2) All petitions filed under these rules shall contain:
- (a) The name and address of each agency affected and each agency's file or identification number, if known;
 - (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
 - (c) A statement of when and how the petitioner received notice of the agency decision;
 - (d) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
 - (e) A demand for relief.

**28-107.004 SUSPENSION, REVOCATION, ANNULMENT,
OR WITHDRAWAL**

- (3) Requests for hearing filed in accordance with this rule shall include:
- (a) The name and address of the party making the request, for purposes of service;
 - (b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and
 - (c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

**42-2.013 REQUEST FOR REVIEW PURSUANT TO
SECTION 373.114 OR 373.217**

(1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.

(2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:

- (a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S., or rules duly adopted thereunder;

(b) How the rule or order sought to be reviewed affects the interests of the party seeking review;

(c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;

(d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and

(e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

28-107.005 EMERGENCY ACTION

(1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.

(2) The 14-day notice requirement of Section 120.569(2)(b), F.S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.

(3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57, and 120.60, F.S.

40E-1.611 EMERGENCY ACTION

(1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

(2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

Included with this letter/permit is a brochure from the Florida Department of Environmental Protection (DEP) on Florida's National Pollutant Discharge Elimination System (NPDES) program for construction activities. As the brochure indicates, the U.S. Environmental Protection Agency authorized the DEP in October 2000 to implement the NPDES stormwater permitting program in Florida. The District is assisting DEP by distributing this information to entities which may be subject to regulation under the NPDES program. No response to the District is required.

A "Generic Permit for Stormwater Discharge from Construction Activities that Disturb Five or More Acres of Land" is required for a construction activity which contributes stormwater discharges to surface waters of the State or into a municipal separate storm sewer system and disturbs five or more acres of land. A permit is required for less than five acres if the activity is part of a larger common plan of development or sale that will meet or exceed the five acre threshold.

The permit required under DEP's NPDES stormwater permitting program is separate from the Environmental Resource Permit required by the District. Receiving a permit from the District does not exempt you from meeting the NPDES program requirements.

If you have any questions on the NPDES program, there are DEP phone numbers, mailing addresses and internet web page addresses in the brochure. The DEP web site, at www.dep.state.fl.us/water/stormwater/npdes/, provides information associated with the NPDES program including all regulations and forms cited in the brochure.

Last Date For Agency Action: April 12, 2002

GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Atlantic Grove
Permit No.: 50-02892-S-02
Application No.: 020111-3
Application Type: Environmental Resource (General Permit Modification)
Location: Palm Beach County, S17/T46S/R43E
Permittee : Atlantic Grove Partners Llc
Operating Entity : Property Owners Association
Project Area: 4.78 acres
Project Land Use: Residential
Commercial
Drainage Basin: INTRACOASTAL WATERWAY
Receiving Body: City of Delray Beach system
Special Drainage District: Lake Worth Drainage District
Conservation Easement To District : No
Sovereign Submerged Lands: No

PROJECT PURPOSE:

This application is a request for modification of Permit Number 50-02892-S to authorize the construction and operation of a surface water management system to serve a 4.78 acre residential and commercial development known as Atlantic Grove Mixed Use Project. Staff recommends approval with conditions.

PROJECT EVALUATION:

PROJECT SITE DESCRIPTION:

The proposed site is a 4.78-acre mixed-use development in the City of Delray Beach in Palm Beach County. The site is located on the north side of West Atlantic Avenue between NW 3rd Avenue and NW 5th Avenue.

No wetlands or preserve areas have been identified within the project area. No adverse wetland impacts are anticipated from this development. Therefore, no wetland mitigation requirements have been included in this permit

PROJECT BACKGROUND:

The proposed site was previously developed with residential and commercial buildings. The site is within the limits of the City of Delray Beach's Northwest Area Drainage Improvements Project which received a conceptual approval with construction and operation for the Northwest Area, from the District on June 11, 1992 (Permit Number 50-02892-S). In addition, several permit modification have been issued.

PROPOSED PROJECT:

Proposed is the modification of Permit No. 50-02892-S to allow for the construction and operation of a surface water management system to serve a 4.78-acre residential and commercial development.

The proposed surface water management system will consist of inlets, culverts and exfiltration trenches that will provide water quality treatment prior to overflow into the master system of the City of Delray Beach. The applicant's engineer has provided additional exfiltration trench to compensate for the additional amount of impervious above the previously approved impervious percentage. This project has received approval from the City of Delray Beach.

LAND USE:

Construction:

Project:

	This Phase	Total Project	
Building Coverage	1.44	1.44	acres
Pavement	2.34	2.34	acres
Pervious	1.00	1.00	acres
Total:	4.78	4.78	

WATER QUANTITY :

Discharge Rate :

The proposed project has been reviewed by the City of Delray Beach and is consistent with the land use and site grading assumptions from the design of the master surface water management system. Therefore, the surface water management system for this project has not been designed to limit discharge for the design event to a specified rate.

Control Elevation :

Basin	Area (Acres)	Ctrl Elev (ft, NGVD)	WSWT Ctrl Elev (ft, NGVD)	Method Of Determination
SITE	4.78	9.5	9.50	Master System

WATER QUALITY

The water quality treatment for this site will be provided within 568 LF of exfiltration trench.

OPERATING ENTITY

Operation and maintenance of the surface water management system shall be the responsibility of the Property Owners Association.

CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

RELATED CONCERNS:

Water Use Permit Status:

A Water Use permit is not required for this project at this time. A Water Use Permit must be obtained prior to irrigation withdrawals, unless the work qualifies for a general permit issued pursuant to Section 40E-20 FAC.

Historical/Archeological Resources:

No information has been received that indicates the presence of archaeological or historical resources or that the proposed activities could cause adverse impacts to archaeological or historical resources.

DCA/CZM Consistency Review:

The District has not received a finding of inconsistency from the Florida Department of Community Affairs or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

Enforcement:

There has been no enforcement activity associated with this application.

STAFF RECOMMENDATION:

The Staff recommends that the following be issued :

Modification for construction and operation of a surface water management system to serve a 4.78-acre project known as Atlantic Grove Mixed Use Project, located within the City of Delray Beach.

Based on the information provided, District rules have been adhered to.

Staff recommendation is for approval subject to the attached General and Special Conditions.

STAFF REVIEW:

DIVISION APPROVAL:

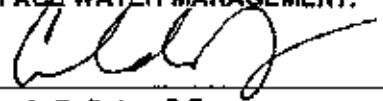
NATURAL RESOURCE MANAGEMENT:



Anita R. Bain

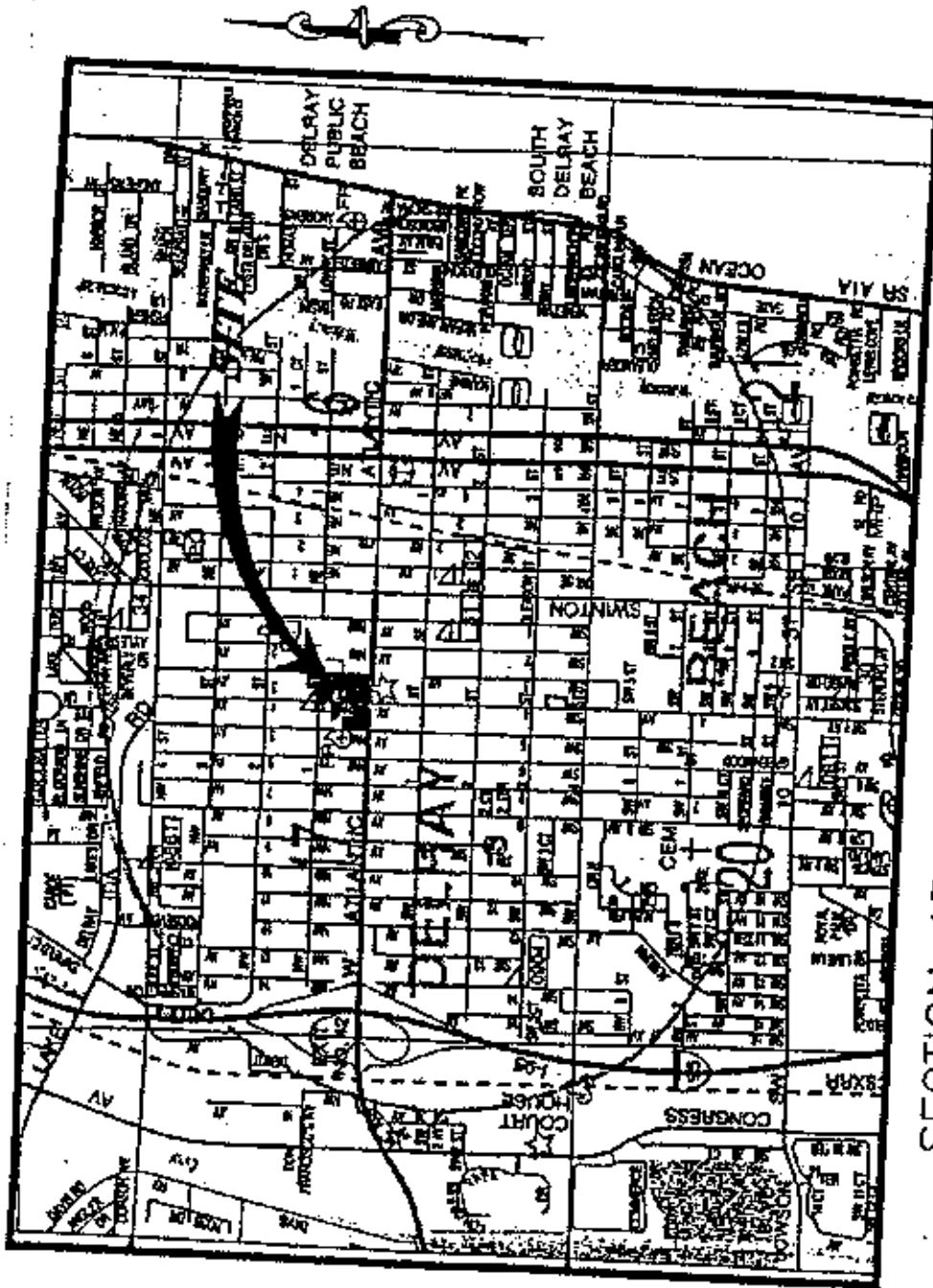
DATE: 3/12/02

SURFACE WATER MANAGEMENT:



Carlos A. DeRojas, P.E.

DATE: 3/12/02



SECTION 17, TOWNSHIP 46S, RANGE 43E

Location Map

Exhibit 1

ATLANTIC GROVE

CITY OF DELRAY BEACH

PALM BEACH COUNTY, FLORIDA

FOR

NEW URBAN COMMUNITIES

398 N.E. 6TH AVENUE
 DELRAY BEACH, FLORIDA 33483

INDEX

SHEET NO.	DRAWING	DESCRIPTION
CI	F	COVER SHEET
12 & 13	SP	GEOMETRIC SITE PLAN
14 & 15	PG	PAVING, GRADING & DRAINAGE PLAN
16	DG	PAVING, GRADING & DRAINAGE DETAILS & NOTES
17	DM	SIGNING & PAVEMENT MARKING DETAILS & NOTES
18	TS	TYPICAL SECTIONS
19 & 20	FW	WATER & SANITARY SERVICE PLAN
21	PRO	SANITARY SERVICE PROFILES
22 & 23	DW	WATER & SANITARY SERVICE DETAILS & NOTES



SECTION 17, TOWNSHIP 45S, RANGE 43E

LOCATION MAP
 N.T.S.

MILLEG
 ASSOCIATES, INC.
 Engineers • Planners • Surveyors
 Landscape Architects
 Environmental Professionals

1300 Corporate Center Way
 Suite 201
 Wellington,
 Florida 33414-8583

Phone: (561)795-8981
 Fax: (561)795-9408

JRM/MS/AM/STW
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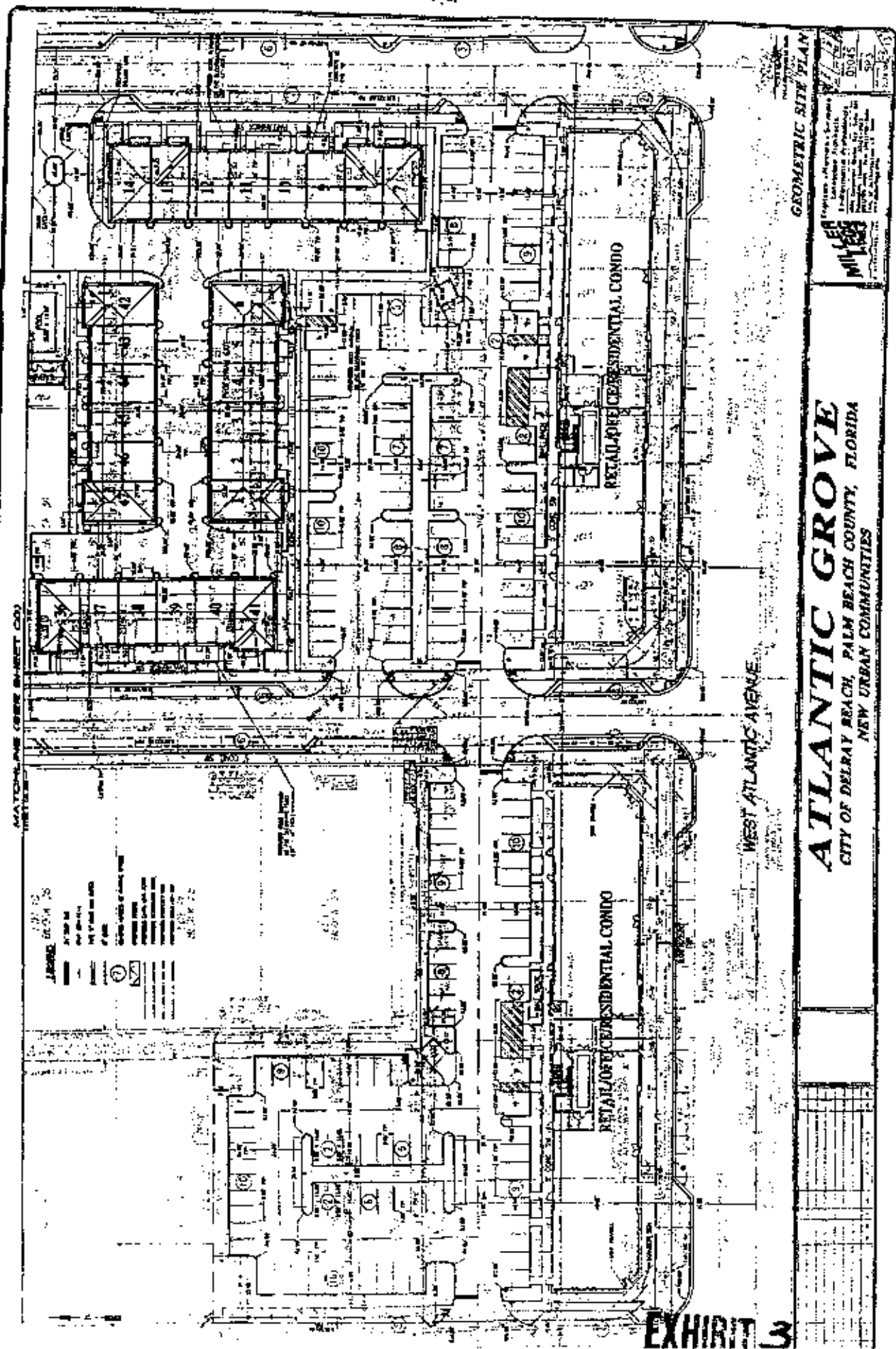
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ATLANTIC GROVE

CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA

NEW URBAN COMMUNITIES

EXHIBIT 2

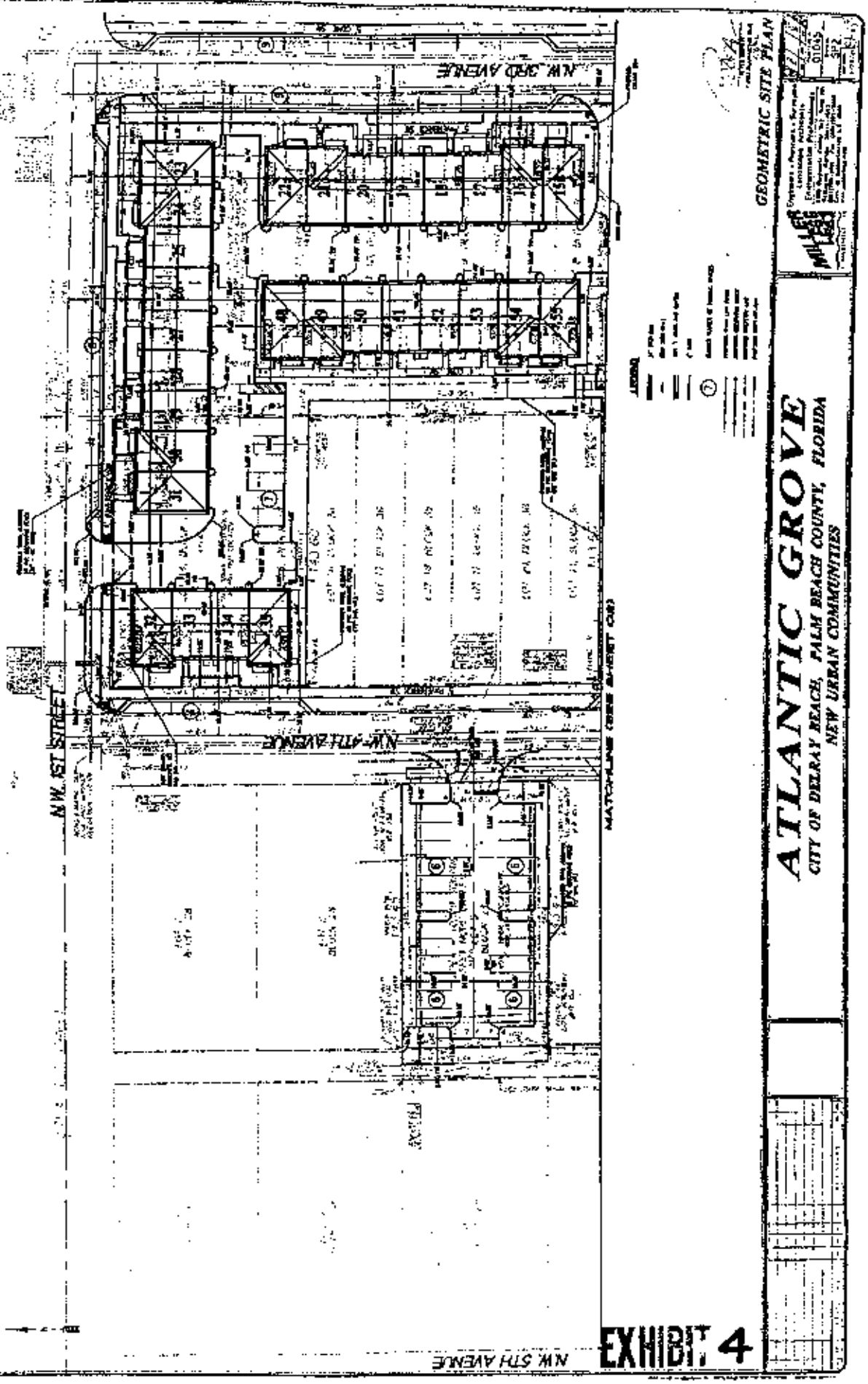


GEOMETRIC SITE PLAN

ATLANTIC GROVE
 CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA
 NEW URBAN COMMUNITIES

Project: Atlantic Grove
 Location: Delray Beach, Florida
 Date: 02/15/15
 Scale: 1/8" = 1'-0"
 Drawing No.: 02-15-15-01
 Designer: M. J. ...
 Checker: ...
 Approver: ...

EXHIBIT 3



GEOMETRIC SITE PLAN
 Prepared & Proposed By:
 Lennihan Architects
 Inc. 10000 NW 12th Ave.
 Suite 300, Miami, Florida 33157
 Phone: (305) 555-1234
 Date: 12/15/2023

LEGEND

—	Building Footprint
- - -	Parking
○	Lot
◉	Match Line (See Sheet 008)

ATLANTIC GROVE
 CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA
 NEW URBAN COMMUNITIES

EXHIBIT 4

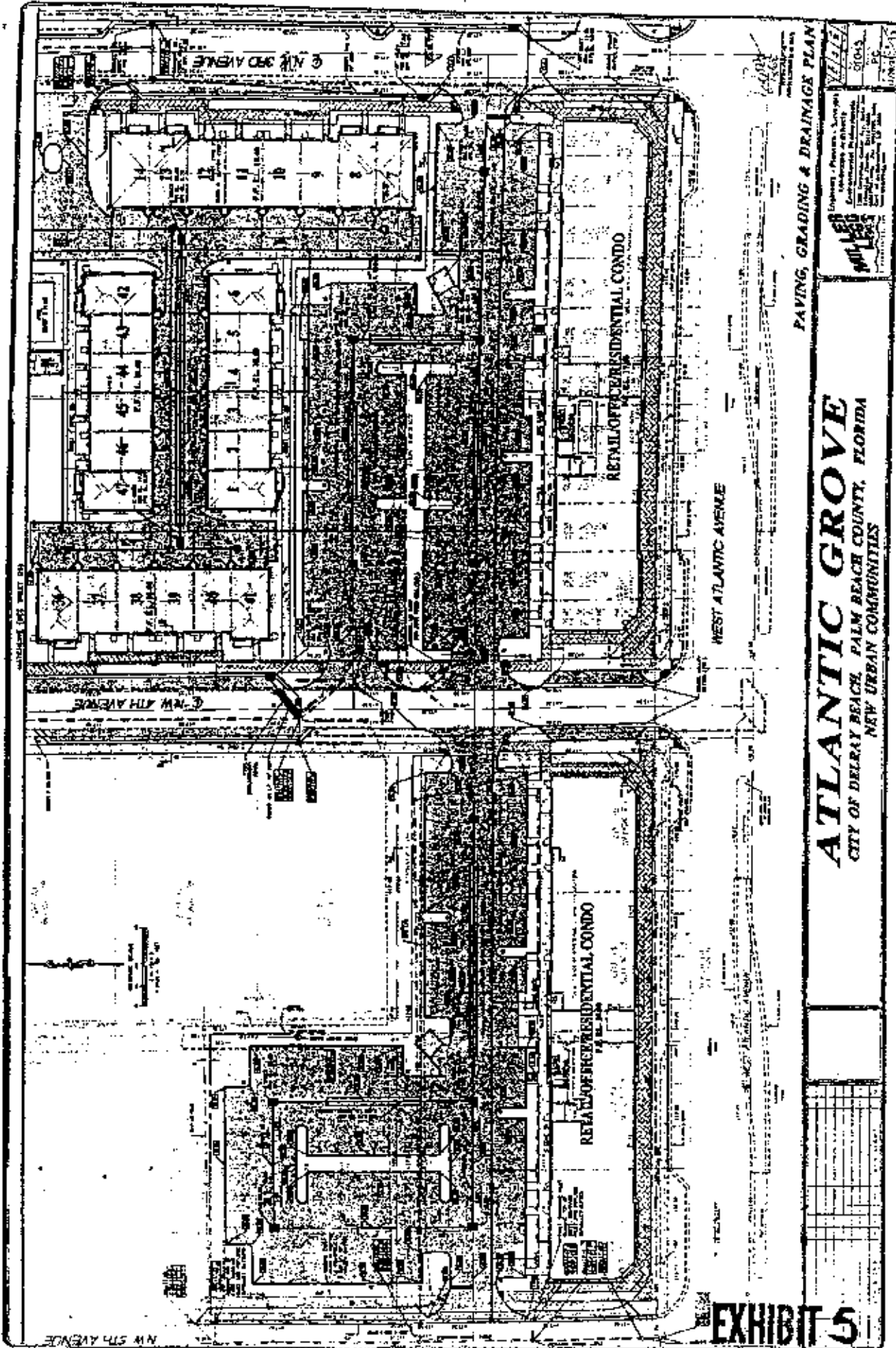
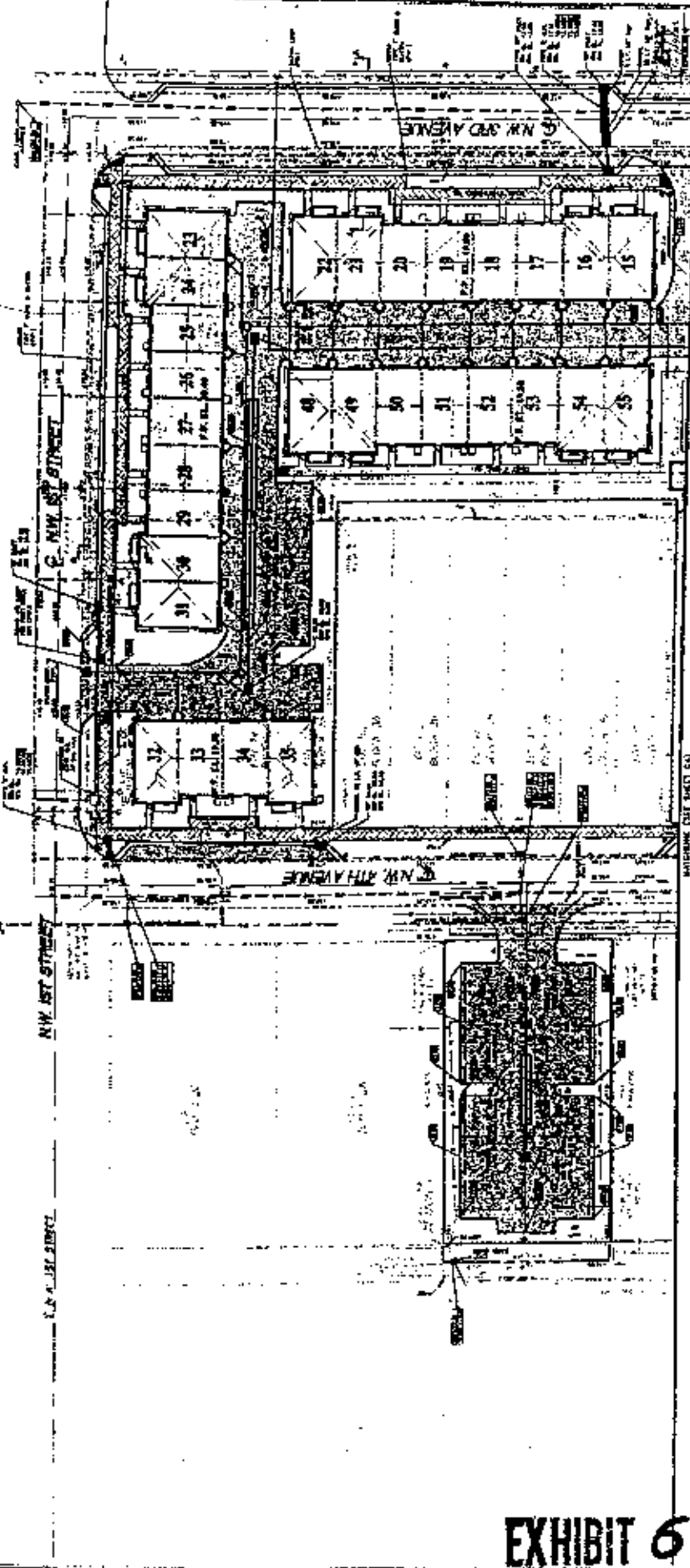


EXHIBIT 5

LEGEND

- 1. Proposed Pavement
- 2. Proposed Grading
- 3. Proposed Drainage
- 4. Proposed Storm Sewer
- 5. Proposed Sanitary Sewer
- 6. Proposed Water Main
- 7. Proposed Gas Main
- 8. Proposed Electric Main
- 9. Proposed Telephone Main
- 10. Proposed Cable Main
- 11. Proposed Fire Hydrant
- 12. Proposed Fire Alarm
- 13. Proposed Fire Station
- 14. Proposed Fire Lane
- 15. Proposed Fire Escape
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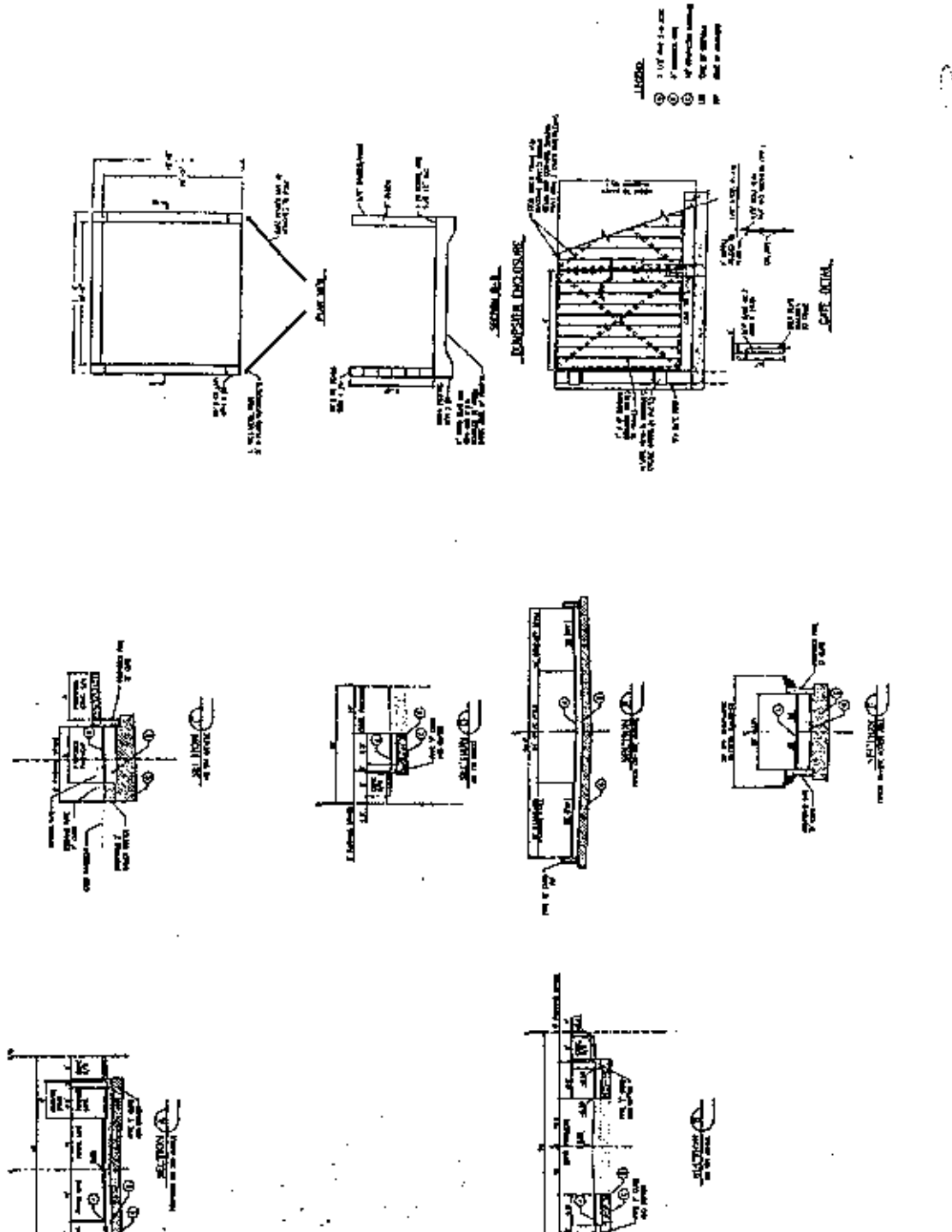


PAVING, GRADING & DRAINAGE PLAN

ATLANTIC GROVE
 CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA
 NEW URBAN COMMUNITIES

Project No. 100-100-100
 Date: 10/15/10
 Scale: AS SHOWN
 Drawing No. 100-100-100-100
 City of Delray Beach, Palm Beach County, Florida
 New Urban Communities

EXHIBIT 6



PALM BEACH COUNTY, STATE OF FLORIDA
 I hereby certify that the foregoing is a
 true copy of the record in my office.
 This Day of July, 2002
 DOROTHY H. WILKEN
 Clerk Circuit Court

BY: *[Signature]*

D.C.

EXHIBIT 8

01/22/2004 14:23:35 20040235720
DR BK 16464 PG 0100
Palm Beach County, Florida
Dorothy H Wilken, Clerk of Court

INSTRUMENT PREPARED BY:
RECORD AND RETURN TO:
Michelle DeRosa Mulay, Esquire
HOLLAND & KNIGHT LLP
One East Broward Blvd., 13th Floor
Ft. Lauderdale, Florida 33301

FIRST AMENDMENT TO DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS FOR ATLANTIC GROVE

This First Amendment to Declaration of Covenants, Restrictions and Easements for Atlantic Grove ("First Amendment") is made this 20th day of January, 2004 by Atlantic Grove Partners L.L.C., a Florida limited liability company ("Declarant"), whose address is 398 N.E. 6th Avenue, Delray Beach, Florida 33483 and is joined in by Atlantic Grove Townhome Association, Inc., a Florida corporation not for profit (the "Association"), whose address is 398 N.E. 6th Avenue, Delray Beach, Florida 33483.

RECITALS:

WHEREAS, Declarant recorded a Declaration of Covenants, Restrictions and Easements for Atlantic Grove (the "Declaration") in Official Records Book 15321, Page 925 of the Public Records of Palm Beach County, Florida;

WHEREAS, Section 15.6 of the Declaration permits the Declarant to unilaterally amend or modify the Declaration until such time as Class B membership terminates pursuant to Section 4.1 of the Declaration.

WHEREAS, Class B membership has not terminated and Declarant desires to amend the Declaration as more specifically set forth herein under the authority granted in Section 15.6 of the Declaration.

NOW, THEREFORE, Declarant hereby amends the Declaration in the manner stated below:

1. The above recitals are true and correct and are incorporated herein by this reference.
2. The following shall be added to the Declaration as Article 18 thereto:

ARTICLE 18

ADJACENT PARCEL

18.1 Adjacent Parcel. Declarant is currently under contract to purchase that certain real property described on Exhibit "E" attached hereto and made a part hereof (the "Adjacent Parcel") and intends to construct thereon approximately 14 residential townhome dwelling units. The Declarant and the Association hereby reserve and grant unto the Declarant, and all subsequent owners of the Adjacent Parcel, the following perpetual easements and rights (which easements and rights shall only become effective and be deemed to take effect in the event the Declarant becomes the fee simple owner of the Adjacent Parcel):

A. Ingress, Egress and Access. Declarant and the Association hereby reserve and grant unto Declarant, as owner of the Adjacent Parcel, and its successor and/or assigns, for the benefit and use of the Declarant and any subsequent owners of residential townhome dwelling units constructed upon the Adjacent Parcel (the "Adjacent Unit Owner(s)"), including their respective tenants, guests, invitees, a perpetual non-exclusive ingress, egress and access easement over and across; (i) all private streets, roadways, sidewalks, access ways, alleyways and parking areas constructed on the Property from time to time, and (ii) those portions of the Common Properties lying adjacent to and between the boundary line(s) of the Lot(s) and the private streets, roadways, sidewalks, access ways, alleyways and/or parking areas, as the case may be, which portions of the Common Properties are either designated as or necessary for ingress and egress to and from the Community Facilities and all publicly dedicated road right-of-ways located adjacent to the Property, it being the specific intent of the Declarant and the Association to hereby grant perpetual, uninterrupted and contiguous ingress, egress and access to and from the Adjacent Parcel to and from the Community Facilities and all publicly dedicated road right-of-ways which are located adjacent to the Property. Included in the foregoing easements and rights is the right for Declarant, the Adjacent Unit Owners and their respective tenants, guests, invitees and licensees to park upon the parking spaces which are located within the Common Properties from time to time and not reserves for the exclusive use of an Owner. Any rights granted or reserved under this Section however, shall be subject to any rights granted or permitted to be granted by Declarant and/or the Association to third parties, as provided elsewhere in the Declaration.

B. Declarant Easements. Declarant and the Association hereby reserve and grant unto the Declarant, and its successors, assigns, agents, guests, contractors and subcontractors, for the benefit of the Adjacent Parcel, a non-exclusive ingress, egress, access and construction easement and right-of-way for vehicular and pedestrian traffic, in, on, over, under, across and through all Common Properties, including but not limited to all private streets, roadways, sidewalks, access ways, alleyways and parking areas constructed on the Property from time to time, as are necessary (in Declarant's reasonable

discretion) in order for Declarant to exercise its rights under the Declaration and otherwise construct, develop and market the Adjacent Parcel.

C. Utility Easements. The Declarant and the Association hereby reserve and grant unto the Declarant, and its successors, assigns, agents, guests, contractors and subcontractors, for the benefit of the Adjacent Parcel, a non-exclusive easement in, on, over, under, across and through the Property, for the construction, installation and maintenance of utilities, including, but not limited to drainage, water, sewer, telephone, electric and cable television, as may be reasonably required to properly and adequately service the Adjacent Parcel, provided that no such easements shall exist so as to unreasonably interfere with the use of the Property subject to same or so as to cause any encroachments of such easements upon any buildings or Improvements, wherever said building or other Improvements may be located from time to time. In addition to the foregoing, Declarant, for the benefit of the Adjacent Parcel, shall have the right, at its cost and expense, to tie into any and all utility services which are provided to the Property (which includes but is not limited to electric, telephone, cable, sewer, water, drainage, irrigation, and fire suppression) whether public or private, so as to provide such services to the Adjacent Parcel. In connection with Declarant's attempt to obtain a modification to the existing surface water management and drainage permit for the Property and/or tie into the Surface Water Management System, if required by the South Florida Water Management District, the Association shall be responsible for maintaining all portions of the surface water management system located within the Adjacent Parcel, and the Adjacent Unit Owners shall be responsible for reimbursing to the Association (in a manner similar to the Common Facilities Assessments as set forth below) for the cost incurred by the Association in maintaining that portion of the system located within the Adjacent Parcel.

D. Use of Common Facilities. The Declarant, all Adjacent Unit Owners, and their tenants, guests, licensees and invitees (collectively the "Permittees"), shall have the non-exclusive right and easement to use all Common Facilities which are located within the Common Properties from time to time, subject to the terms and conditions set forth in the Declaration and any rules and regulations promulgated by the Association relating to the use of the Common Facilities by all Owners and any permitted users of the Common Facilities. The Association shall not be permitted to promulgate rules and regulations which limit or diminish the Permittee's use of the Common Facilities unless such rules and regulations equally affect the use of the Common Facilities by the Owners, the Rec. Users and other parties entitled to use same.

18.2 Adjacent Parcel's Share of Community Facilities Assessments. In the event the Declarant becomes the fee simple owner of the Adjacent Parcel and

the easement rights set forth in Section 18.1 above are granted, each Adjacent Unit Owner shall be required to pay to the Association a proportionate share of the Common Facilities Assessments as set forth below. The obligation for payment of the Common Facilities Assessment shall not be due from the Declarant and shall not be deemed to commence until the date on which title to such dwelling unit or lot is conveyed by Declarant to the first purchaser thereof. At least forty-five (45) days prior to the beginning of each fiscal year the Board of Directors shall prepare, adopt and distribute to the Declarant, as owner of the Adjacent Parcel, or to any property owner's association created by Declarant for purposes of administering the Adjacent Parcel (the "Adjacent Parcel Association") for distribution to each Adjacent Unit Owner (but not as a member of the Association), a written, itemized, estimated budget of the Common Facilities expenses to be incurred by the Association during the coming year in performing its functions under this Declaration with respect to the Common Facilities. The Adjacent Parcel Association shall be responsible for collecting from each Adjacent Unit Owner its proportionate share of the Common Facilities Assessment, which shall be payable to the Association on the first day of each calendar month for which a Community Facilities Assessment is due and shall be payable in equal monthly installments unless determined by the Board, from time to time, to be payable less frequently. Each Adjacent Unit Owner's proportionate share of the Common Facilities Assessment shall equal the amount of the estimated operating budget for the Common Facilities, as adopted pursuant to the Bylaws (less any surplus or plus any deficit from the prior years), multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the total of all Assessment Units (as defined in Section 6.4 of the Declaration) plus the total number of all Adjacent Unit Owners currently required to pay a proportion of the Common Facilities as of the date of the estimate operating budget. For example, if Declarant has conveyed 5 dwelling units as of the date of the estimated operating budget to Adjacent Unit Owners, and the total number of Assessment Units equals 75 (as anticipated under the Declaration), the numerator shall be equal to 1 and the denominator shall be equal to 80. If the total amount set forth in the estimated operating budget is \$10,000, each Adjacent Unit Owner's annual proportionate share shall be \$125.00. Notwithstanding anything contained herein to the contrary, in no event shall an Adjacent Unit Owner be required to pay an amount which exceeds the amount due by an Assessment Unit for any given year.

The easements and rights set forth in Section 18.1 A, B and D above and the obligations set forth in Section 18.2 above shall be deemed to terminate in the event the Association annexes the Adjacent Parcel to the Declaration pursuant to Section 18.3 below.

18.3 Annexation of Adjacent Property by Association. Subsequent to the date upon which Declarant takes title to and becomes the fee simple owner of the Adjacent Parcel, but prior to the conveyance of any portion thereof by Declarant to any Adjacent Unit Owner, the Association may elect to annex the Adjacent Parcel to the terms, conditions and restrictions of the Declaration by Supplemental Declaration, pursuant to the provisions set forth in Section 18.2 hereof. The Supplemental Declaration shall be joined in by the Declarant, as owner of the Adjacent Parcel. Upon the recording of the Supplemental Declaration, the Adjacent Parcel shall be deemed to be part of the Property (as defined in the Declaration). In addition, the Declarant, and each subsequent Adjacent Unit Owner shall be subject to the terms, conditions and restrictions set forth in the Declaration, shall be deemed Members and shall be entitled to membership as provided in Article 3 of the Declaration. In the event the Association elects to annex the Adjacent Parcel, the Association shall amend the Declaration as may be required to reflect such annexation, which shall include but shall not be limited to an amendment to the terms "Property" and "Townhome Lot" as set forth in the Declaration. Upon annexation, in addition to the easements and rights contained in Section 18.1C. hereof, Declarant shall be deemed to have all easements and rights originally granted to Declarant under the Declaration.

18.4 Merger or Consolidation. In the event the Association does not annex the Adjacent Parcel to the terms of the Declaration as set forth in Section 18.3 above, Declarant intends to subject the Adjacent Parcel to the terms and conditions of a declaration of covenants, conditions and restrictions and to create a property owners association (the "Adjacent Parcel Association") responsible for administering and enforcing the provisions of such declaration. In such event, the Association shall have the right (upon the written approval of the Declarant, for so long as Declarant owns any portion of the Adjacent Parcel) to merge or consolidate with the Adjacent Parcel Association. Upon a merger or consolidation of the Association with the Adjacent Parcel Association its properties, rights and obligations may, by operation of law, be transferred to the Adjacent Parcel Association or, alternatively, the properties, rights and obligations of the Adjacent Parcel Association may, by operation of law, be added to the properties, rights and obligations of the Association. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration together with the covenants and restrictions established upon the Adjacent Parcel as one scheme.

3. Section 2.2 B. of the Declaration is hereby deleted in its entirety and replaced with the following:

B. The Community Facilities will be used in common with the residential condominium loft owners of the Atlantic Grove Condominium. It is anticipated that the Common Facilities will be initially used by a maximum of

55 Owners of the Lots and 20 residential condominium loft owners, and their approved tenants, guests and invitees. If however, Declarant becomes the fee simple owner of the Adjacent Parcel or the Adjacent Parcel is annexed to the Declaration as more fully set forth in Article 18 hereof, it is anticipated that these facilities, in addition to being used by the 55 Owners and the 20 residential condominium loft owners, will be used by a maximum of 14 owners of the residential townhome dwelling units to be constructed by Declarant upon the Adjacent Parcel, and their approved tenants, guests and invitees. These Common Facilities will be located on property which will be ultimately owned by the Association.

4. The first sentence of Section 10.12 of the Declaration is hereby amended to read as follows:

Except as provided in Section 18.1D hereof, the use of the Community Facilities shall be restricted to Association Members, Atlantic Grove Condominium Association Residential Unit Owners and their respective Family, tenants, guests and invitees (collectively hereinafter referred to as "Rec. Users").

5. Section 11.2 of the Declaration is hereby amended to include the following:

For purposes of this Article 11, the term Rec. Users shall not be deemed to include the owners of any portion of the Adjacent Parcel (as defined in Article 18 hereof).

6. Except as amended by this First Amendment, the Declaration shall remain in full force and effect.

7. Each term defined in the Declaration and used herein, shall have the meaning ascribed to it in the Declaration, unless otherwise defined herein.

8. The Association hereby joins in and is executing this First Amendment to acknowledge its approval, consent and agreement to this First Amendment.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Declarant and the Association have caused this First Amendment to be executed as of the date first written above.

Signed in the presence of:

DECLARANT:

ATLANTIC GROVE PARTNERS, L.L.C., a Florida limited liability company

By: New Urban Atlantic Grove, L.L.C., a Florida limited liability company, its Managing Member

By: New Urban Communities Corporation, a Florida corporation, its Managing Member

By: [Signature]
Kevin E. Rickard
President

[Signature]
Witness

GABRIELLE CARTNER
Print Name

[Signature]
Witness

Heather Workman
Print Name

STATE OF FLORIDA)
COUNTY OF Palm Beach)

The foregoing instrument was acknowledged before me this 20 day of January, 2004, by Kevin E. Rickard, as President of New Urban Communities Corporation, a Florida corporation, the Managing Member of New Urban Atlantic Grove, L.L.C., a Florida limited liability company, the Managing Member of Atlantic Grove Partners, L.L.C, a Florida limited liability company on behalf of the corporation and the companies. He/She is personally known to me [or has produced as identification].

[Signature]
(SIGNATURE OF PERSON TAKING ACKNOWLEDGEMENT)

Heather Workman
(Name of acknowledger, typed, printed or stamped)

(Title or rank (serial number, if any))



ASSOCIATION:

ATLANTIC GROVE TOWNHOME ASSOCIATION, INC., a Florida not for profit corporation

[Signature]
Print Name: Kevin E. Rickard

[Signature]
Print Name: Heather Workman

By: [Signature]
Print Name: Kevin E. Rickard
Title: President

STATE OF FLORIDA)
COUNTY OF Palm Beach)

The foregoing instrument was acknowledged before me this 20 day of January, 2004 by Kevin E. Rickard, as President of Atlantic Grove Townhome Association, Inc., a Florida not for profit corporation, on behalf of the corporation. He/She is personally known to me [or has produced _____ as identification].

[Signature]
(SIGNATURE OF PERSON TAKING ACKNOWLEDGEMENT)

Heather J. Workman
(Name of acknowledger, typed, printed or stamped)

(Title or rank (serial number, if any))



EXHIBIT "E"
THE ADJACENT PARCEL

LOTS 16 THROUGH 21, INCLUSIVE, BLOCK 36 OF REVISED PLAT OF
BLOCK 36, TOWN OF DELRAY, ACCORDING TO THE MAP OR PLAT
THEREOF AS RECORDED IN PLAT BOOK 5, PAGE 38, PUBLIC RECORDS
OF PALM BEACH COUNTY, FLORIDA

TOGETHER WITH:

A PARCEL OF LAND SITUATE IN SECTION 17, TOWNSHIP 46 SOUTH,
RANGE 48 EAST, CITY OF DELRAY BEACH, FLORIDA, PALM BEACH
COUNTY FLORIDA, BEING MORE SPECIFICALLY DESCRIBED AS
FOLLOWS:

THE SOUTH 66.72 FEET OF LOT 2 OF THE PLAT OF MT. OLIVE
BAPTIST CHURCH PROPERTY, ACCORDING TO THE MAP OR PLAT
THEREOF AS RECORDED IN PLAT BOOK 69, PAGE 20, PUBLIC
RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

THAT PORTION OF THE NORTH HALF OF THE 16 FOOT ALLEY RIGHT
OF WAY, BLOCK 28, MAP OF LINTON (NOW DELRAY BEACH),
ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN PLAT
BOOK 1, PAGE 3, PUBLIC RECORDS OF PALM BEACH COUNTY,
FLORIDA, SAID STRIP LYING NORTH OF AND ADJACENT TO THE
NORTH LINE OF TRACT "C-2" OF ATLANTIC GROVE, ACCORDING TO
THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 96, PAGE
55, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

THAT PORTION OF THE EAST HALF OF THE 16 FOOT ALLEY RIGHT OF
WAY, BLOCK 28, MAP OF LINTON (NOW DELRAY BEACH), ACCORDING
TO THE MAP OR PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE
3, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND LYING
SOUTH OF A LINE 66.72 FEET NORTH OF THE SOUTH LINE OF LOT 2
OF THE PLAT OF MT. OLIVE BAPTIST CHURCH PROPERTY,
ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT
BOOK 69, PAGE 20, PUBLIC RECORDS OF PALM BEACH COUNTY,
FLORIDA.

1518823.v2



PALM BEACH COUNTY, STATE OF FLORIDA

I hereby certify that the foregoing is a
true copy of the record in my office.

This 22nd Day of June, 2011

DOROTHY H. WILKEN
Clerk Circuit Court

9 BY [Signature]

D.C.