

E h. h. t c

Return to: (enclose self-addressed stamped envelope)

Name: **Bonnie L. Miskel, Esq.**

Address:

Siegel, Lipman, Dunay,  
Shepard, & Miskel, LLP  
5355 Town Center Road  
Suite 801  
Boca Raton, Florida 33486

This Instrument Prepared by and return to:

**Bonnie L. Miskel, Esq.**  
Siegel, Lipman, Dunay,  
Shepard, & Miskel, LLP  
5355 Town Center Road  
Suite 801  
Boca Raton, Florida 33486

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**DECLARATION OF RESTRICTIONS**

This Declaration of Restrictions ("Declaration"), made this 13<sup>th</sup> day of April, 2010, by POMPANO BEACH LIVING, LLC, a Florida Limited Liability Company, having an address of 7275 NW 62 Terrace, Parkland, FL 33067 ("Owner"), shall be for the benefit of the City of Pompano Beach, a Florida Municipal Corporation with a post office address of 100 West Atlantic Avenue, Pompano Beach, FL 33060 ("City").

**WITNESSETH:**

WHEREAS, Owner is the fee simple owner of approximately 10.75 gross acres of land generally bounded by NW 3<sup>rd</sup> Avenue on the east, NW 8<sup>th</sup> Street on the south, NW 4<sup>th</sup> Avenue on the west and NW 10<sup>th</sup> Street on the north, and more particularly described in Exhibit "A" attached hereto ("Property"); and

WHEREAS, the Property is currently zoned RS-4, Single-Family Residential, with land use designations of Low Medium Residential (LM) and Medium (M); and

WHEREAS, Owner has made an application to the City to rezone the Property from RS-4, Single-Family Residential, to RPUD, Residential Planned Unit Development (the "Application"); and

WHEREAS, Owner has voluntarily offered to enter into this Declaration to restrict the utilization of the Property; and

WHEREAS, Owner agrees to grant this Declaration to the City, and the City agrees to accept this Declaration in order to place certain restrictions on the development and use of the Property upon final approval of the Application.

NOW, THEREFORE, in consideration of the promises and Declarations herein contained, Owner hereby declares that the Property specifically referenced herein shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the restrictions hereinafter set forth:

1. Recitations. The recitations set forth above are true and correct and are incorporated into this Declaration by this reference.

2. Use Restrictions. Any unit acquired from Owner shall not be rented or leased by such purchaser for a period of a year following the acquisition of such unit and shall in no event be leased for a term of less than one year per tenancy.

3. Rules and Regulations. The Owner may adopt additional reasonable rules and regulations relating to the use and maintenance of the Property, and rules and regulations relating to the recreational facilities within the Property may be posted at such recreational facilities. Copies of such rules and regulations and amendments shall be furnished by the Owner to any buyer upon request.

4. Severability. If any court of competent jurisdiction shall declare any section, paragraph, or part thereof invalid or unenforceable, then such judgment or decree shall have no effect on the enforcement or validity of any other section, paragraph or part hereof, and the same shall remain in full force and effect.

5. Captions, Headings and Titles. Articles and paragraph captions, headings and titles inserted throughout this Declaration are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder of the terms and provisions of this Declaration.

6. Recordation and Effective Date. This Declaration shall be effective upon execution and shall be recorded in the Public Records of Broward County, Florida. The Declaration shall run with the land and be binding on all successors in title and any assignee of the Property. The Declaration shall continue in perpetuity unless otherwise amended, released or terminated by the Owner in accordance with Paragraph 7 below.

7. Amendments. This Declaration shall not be further modified, amended or released as to any portion of the Property except by written instrument, executed by the then owner or owners of the portion of the Property affected by such modification, amendment, or release and approved in writing by the City. The appropriate governmental authority of the City shall execute a written instrument effectuating and acknowledging such modification, amendment or release. Any amendment, modification or release of the Declaration shall be recorded in the Public Records of Broward County, Florida.

8. Context. Whenever the context requires or admits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

IN WITNESS WHEREOF, Owner has executed this Declaration on the day first above written:

**WITNESSES:**

**OWNER**

POMPANO BEACH LIVING, LLC, a Florida limited liability company

By: Murray Zweig,  
its managing member

Margaret Kline  
(Signature)  
Print name: MARGARET KLINE

Bonnie Miskel  
(Signature)  
Print name: Bonnie Miskel

Murray Zweig

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STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of April,  
2010, by Murray Zweig, as Managing Member of Pompano Beach Living, LLC, a Florida  
Limited Liability Company, freely and voluntarily on behalf of said limited liability company.  
He/She is personally known to me or has produced \_\_\_\_\_ as  
identification or is known to me personally.

Margaret Kline  
NOTARY PUBLIC

MARGARET KLINE  
Typed, printed or stamped name of Notary Public



**EXHIBIT "A"**

**[Legal Description of the Property]**

Lots 4 through 10, Block 2, Monticello Park Addition, according to the plat thereof, as recorded in Plat Book 11, Page 12 of the Public Records of Broward County, Florida

Together with:

Lots 1 through 7, Block 3, Monticello Park Addition, according to the plat thereof, as recorded in Plat Book 11, Page 12 of the Public Records of Broward County, Florida

Together with:

The Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 35, Township 48 South, Range 42 East, less the West 30 feet thereof and less the South 30 feet thereof.

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22

ORDINANCE NO. 2010-25

CFN # 109382798  
OR BK 47144 Pages 625 - 634  
RECORDED 06/15/10 07:32:47  
BROWARD COUNTY COMMISSION  
DEPUTY CLERK 1016  
#1, 10 Pages

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

AN ORDINANCE AMENDING SECTION 155.005 OF CHAPTER 155, "ZONING CODE", OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY REZONING PROPERTY LYING NORTH OF NW 8<sup>TH</sup> STREET, SOUTH OF NW 10<sup>TH</sup> STREET, WEST OF NW 3<sup>RD</sup> AVENUE AND EAST OF NW 4<sup>TH</sup> AVENUE WITH A PORTION NORTH OF NW 10TH STREET FROM RS-4 (SINGLE FAMILY RESIDENTIAL) TO RPUD (RESIDENTIAL PLANNED UNIT DEVELOPMENT) TO RPUD (RESIDENTIAL PLANNED UNIT DEVELOPMENT); PROVIDING FOR CONFORMANCE TO AN APPROVED MASTER PLAN; PROVIDING FOR AN ALLOWABLE NUMBER OF UNITS; PROVIDING FOR AN EFFECTIVE PERIOD OF APPROVAL; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

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WHEREAS, pursuant to law, fourteen (14) days' notice has been given by

publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach, Florida; and

WHEREAS, a public hearing before the City Commission was held pursuant to the aforesaid notice, at which hearing the parties in interest and all other citizens so desiring, had an opportunity to be, and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1. - FINDINGS:** Based upon the application materials, proposed documents to be recorded in the public records, and information provided at the public hearing, and all other information available, the City Commission finds as follows: that the rezoning of the property described herein is consistent with the Comprehensive Plan; that

the rezoning complies with all requirements of the Zoning Code; and that the rezoning is reasonably related to the public, health, safety and welfare.

(A) The property subject to this ordinance is generally north of NW 8<sup>th</sup> Street, south of NW 10<sup>th</sup> Street, west of NW 3<sup>rd</sup> Avenue and east of NW 4<sup>th</sup> Avenue with a portion north of NW 10<sup>th</sup> Street, and is more particularly described in composite Exhibit "A" attached hereto and made a part hereof ("Property");

(B) The subject Property does meet the minimal tract size as required by Section 155.170(D)(1) of Chapter 155 of the Code of Ordinances of the City of Pompano Beach.

(C) The Property is under unified control, consisting of approximately 10.75 net acres in area, and is well suited to the flexibility and diversity envisioned by Section 155.170, RPUD Residential Planned Unit Development District, of the Code of Ordinances of the City of Pompano Beach, Florida; and

(D) The Property is now under the unified control of Pompano Beach Living, LLC.

**SECTION 2. - REZONING AND APPROVAL OF MASTER SITE PLAN:** Section 155.005 of Chapter 155 of the Code of Ordinances of the City of Pompano Beach, Florida, is amended to include therein the rezoning of the Property more particularly described in composite Exhibit "A," which is hereby rezoned from a present zoning classification of RS-4 (Single Family Residential) to the zoning classification of a Residential Planned Unit Development District with all the conditions and limitations as provided in Section 155.170 of the Code of Ordinances of the City of Pompano Beach, Florida.

Pursuant to the requirements of Section 155.170 of the Code of Ordinances of the City of Pompano Beach, Florida, the Master Site Plan submitted for the Property, attached hereto and made a part hereof as Exhibit "B," is hereby adopted. All development of the Property shall proceed in accordance with the Master Site Plan, as approved.

**SECTION 3. - DEVELOPMENT STANDARDS AND REQUIREMENTS:** Pursuant to the provisions of Section 155.170 of the Code of Ordinances of the City of Pompano Beach, Florida, development of the property shall proceed in accordance with:

- (i) The requirements of such section;
- (ii) The Master Site Plan;
- (iii) The Unified Control Agreement as declared by Pompano Beach Living, LLC, and as approved by the City Attorney and attached hereto as Exhibit "C", said agreement to be binding and enforceable upon the subject property, executed by the record title owner and recorded in the Public Records of Broward County, Florida to the extent that the agreement does not conflict with the Master Site Plan above, or the Code of Ordinances of the City of Pompano Beach, Florida.
- (iv) A Declaration of Covenants and Restrictions which shall require that the Homeowners' Association will own and administer the common open space as established in accordance with the laws of the State of Florida. All such documents shall be consistent with the approved Master Site Plan and the Code of Ordinances of the City of Pompano Beach, Florida, and shall be submitted to the City following approval by the State of Florida.

**SECTION 4. - ALLOWABLE UNITS AND ALLOCATION OF RESERVE UNITS:**

That the maximum allowable number of units for the Property under this rezoning shall be 138.

**SECTION 5. - EFFECTIVE PERIOD OF APPROVAL:** Approval of this rezoning shall be effective for a period of eighteen (18) months, and unless construction of some phase of the approved project is commenced on or before the last day of the 18<sup>th</sup> month following the date of approval, then said approval shall expire. Approval shall remain effective during

development as further provided by Section 155.170(H) of the Code of Ordinances of the City of Pompano Beach, Florida.

**SECTION 6. - SEVERABILITY:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 7. - EFFECTIVE DATE:** This Ordinance shall become effective upon passage.

PASSED FIRST READING this 23<sup>rd</sup> day of March, 2010.  
PASSED SECOND READING this 13<sup>th</sup> day of April, 2010.

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LAMAR FISHER, MAYOR

ATTEST:

Mary L. Chambers  
MARY L. CHAMBERS, CITY CLERK

GBL/jrm  
2/1/10  
l:ord/ch155/2008-210

Exhibit A

Legal Description

*PARCEL 1*

*LOTS 4 THROUGH 10, BLOCK 2, MONTICELLO PARK ADDITION, ACCORDING TO THE PLAT THEREOF, AS  
RECORDED IN PLAT BOOK 11, PAGE 12, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA*

*PARCEL 2*

*LOTS 1 THROUGH 7, BLOCK 3, MONTICELLO PARK ADDITION, ACCORDING TO THE PLAT THEREOF, AS  
RECORDED IN PLAT BOOK 11, PAGE 12, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA*

*PARCEL 3*

*SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 42  
EAST, LESS THE WEST 30 FEET THEREOF AND LESS THE SOUTH 30 FEET THEREOF, SAID LANDS SITuate,  
LYING AND BEING IN BROWARD COUNTY, FLORIDA*

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EXHIBIT B

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