

CFN 2015R0336483
 DR BK 29631 Pgs 838-845 (8Pgs)
 RECORDED 05/27/2015 12:11:57
 HARVEY RUVIN, CLERK OF COURT
 MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:
Name: Alan S. Krischer, Esq.
Address: Holland & Knight, LLP
 701 Brickell Avenue, Suite 3300
 Miami, FL 33131

A/4

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned owners, **HELEN MICHAEL and PREFERRED ENTERPRISES, INC.**, a Florida corporation (the "Owners"), hold the fee simple title to that certain 20.00 ± acre parcel of land in Miami-Dade County, Florida (the "County"), located on the north side of SW 278th Street between SW 159th Avenue and SW 162nd Avenue (the "Property"), which is legally described in Exhibit "A" to this Declaration;

WHEREAS, the Owners have submitted to the County Public Hearing No. Z2014000003 (the "Application") seeking a district boundary change from GU to EU-M.

IN ORDER TO ASSURE the County that the representations made by the Owners during consideration of the Application will be abided by, the Owners freely, voluntarily and without duress make the following Declaration of Restrictions (the "Declaration") covering and running with the Property:

1. Density Restriction. Notwithstanding the approval of the Application, and the applicable Code requirements, the residential density of the Property shall be restricted to a maximum of thirty-six (36) dwelling units.
2. Size Restriction. Notwithstanding the approval of the Application, and the applicable Code requirements, the minimum gross lot size for dwelling units shall be twenty-five thousand (25,000) square feet.



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County Inspection. As further part of this Declaration, it is hereby understood and agreed that any official inspector of Miami-Dade County, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the Property to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

Covenant Running with the Land. This Declaration on the part of the Owners shall constitute a covenant running with the land and shall be recorded, at Owners' expense, in the public records of the County and shall remain in full force and effect and be binding upon the undersigned Owners, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the Property, and for the benefit of Miami-Dade County and the public welfare. Owners, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded, after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the then-owner(s) of the Property has been recorded agreeing to change this Declaration in whole, or in part, provided that the Declaration has first been modified or released by the County.

Modification, Amendment, Release. This Declaration may be modified, amended or released as to the Property, or any portion thereof, by a written instrument executed by the then-owner(s) of all of the property, including joinders of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida, whichever by law has jurisdiction over such matters, after public hearing, or the Director as provided by the Miami-Dade County Code of Ordinances. It is provided, however, in the event that the Property is annexed to an existing municipality or the Property is incorporated into a new municipality, any modification, amendment, or release shall



not become effective until it is approved by such municipality and is thereafter approved by the Board of County Commissioners, in accordance with the applicable procedures.

Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants set forth in this Declaration. The prevailing party in any action or suit pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his/her/its attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

Authorization for Miami-Dade County to Withhold Permits and Inspections. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold, in connection with the Property, any further permits, and refuse to make any inspections or grant any approvals with respect to the Property, until such time as this Declaration is complied with.

Election of Remedies. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

Severability. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion.



Recording. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida, at the cost of the Owners following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Department of Regulatory and Economic Resources or the executive officer of the successor of said department, or in the absence of such director or executive officer by her/his assistant in charge of the office in her/his absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

Acceptance of Declaration. Acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owners to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners and/or any appropriate Community Zoning Appeals Board retains its full power and authority to, with respect to the Property, deny each such application in whole or in part and to decline to accept any conveyance with respect to the Property.

Owners. The term "Owners" shall include the Owners, and their heirs, successors and assigns.

[SIGNATURE PAGE(S) FOLLOW]



MP

Signed, sealed and acknowledged on this 17th day of April, ~~2014~~ 2015

WITNESSES

HELEN MICHAEL

Jaclyn Suveg
Signature
Jaclyn Suveg
Printed Name

Helen Michael

Courtney Peters
Signature
Courtney Peters
Printed Name

ACKNOWLEDGED BEFORE ME, this 17th day of April, ~~2014~~ 2015, by Helen Michael who is personally known to me or who has produced _____ as identification.

MP

Melissa Scruggs
NOTARY PUBLIC
Melissa Scruggs
Printed Name

My Commission Expires: 6/28/15

MELISSA SCRUGGS
Notary Public- State of Florida
Commission # EE107792
My Commission Expires June 28, 2015



Signed, sealed and acknowledged on this 17th day of April, ~~2014~~ 2015 MS

WITNESSES

[Signature]
Signature
Jaclyn Suvieg
Printed Name

[Signature]
Signature
Courtney Peters
Printed Name

Preferred Enterprises, Inc.
a Florida Corporation
[Signature]
Paul Michael, President

ACKNOWLEDGED BEFORE ME, this 17th day of April, ~~2014~~ 2015 MS, by Paul Michael, President of Preferred Enterprises, Inc., a Florida Corporation who is personally known to me or who has produced _____ as identification.

[Signature]
NOTARY PUBLIC
Melissa Scruggs
Printed Name

My Commission Expires: 6/28/15

MELISSA SCRUGGS
Notary Public- State of Florida
Commission # EE107792
My Commission Expires June 28, 2015



EXHIBIT "A"

LEGAL DESCRIPTION:

THAT PORTION OF THE NORTH $\frac{1}{2}$ OF THE SOUTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 32, TOWNSHIP 56 SOUTH, RANGE 39 EAST, SAID LAND LYING AND BEING IN MIAMI-DADE COUNTY, THAT LIES WITHIN THE PLAT "M.A. BURDEN'S SUBDIVISION" RECORDED IN PLAT BOOK 1 AT PAGE 135, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.



Section-Township-Range: 32-56-39

Folio Numbers: 30-6932-000-0353, 30-6932-000-0352, 30-6932-000-0351, 30-6932-000-0350

JOINDER BY MORTGAGEE

The undersigned, Donald L. Bernecker or Paul W. Michael, as Trustees of the Robert G. Bernecker Irrevocable 2001 Trust and Mortgagees under that certain Mortgage from Helen Michael and Preferred Enterprises, Inc., a Florida corporation and recorded in Official Records Book 24008, Page 1275, in the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing Declaration of Restrictions, do hereby consent to the execution of this Declaration of Restrictions by Helen Michael and Preferred Enterprises, Inc., a Florida corporation and agree that in the event Mortgagees or any other party shall obtain title to the property through foreclosure or deed-in-lieu of foreclosure, this Declaration of Restrictions shall be binding upon the entity obtaining title as the then owner of such property.

IN WITNESS WHEREOF, these presents have been executed this 21 day of April, 2015.

WITNESSES:

Heather Cash
Heather Cash
Print or Type Name

Charlie Wang
Charlie Wang
Print or Type Name

Robert G. Bernecker Irrevocable 2001 Trust

By: [Signature]
Print Name: Paul W. Michael, as Trustee
Address: 1849 Woodmill Rd
Mantzello FL 32344

(Corporate Seal)

STATE OF FLORIDA)

) SS

COUNTY OF Leon)

The foregoing instrument was acknowledged before me this 21 day of April, 2015 by Paul W. Michael, as Trustee, who is personally known to me or has produced a _____, as identification and did/did not take an oath.

Susan Eisenman
Notary Public - State of Florida
Print Name Susan Eisenman
My Commission Expires: March 12, 2018



STATE OF FLORIDA, COUNTY OF DADE
HEREBY CERTIFY that this is a true copy of the
original filed in this office on MAY 27 2015 day of _____, A.D. 20____
WITNESS my hand and Official Seal.
ARVEY RUVIN, CLERK, of Circuit and County Courts
by [Signature] 156690.C.

MIAMI-DADE COUNTY

OPINION OF TITLE

TO: MIAMI-DADE COUNTY, a political subdivision of the State of Florida

With the understanding that this Opinion of Title is furnished to MIAMI-DADE COUNTY, FLORIDA, as an inducement for acceptance of a Declaration of Restrictions, it is hereby certified that I have examined a title commitment issued by Attorneys' Title Fund Title Insurance Company Commitment No. 01-2013-022567 (the "Commitment"), which Commitment covers the period from the BEGINNING through January 6, 2014, at 11:00 p.m.; and an Attorney's Title Insurance Fund computer title update, which covers the period of time from the Commitment through April 8, 2015 at 11:00 p.m., inclusive, of the following described real property located and situated in Miami-Dade County, Florida:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

I am of the opinion that on the last mentioned date, the fee simple title to the above-described property was vested in:

Preferred Enterprises, Inc., a Florida corporation and Helen Michael

Subject to the following encumbrances, liens and other exceptions:

1. RECORDED MORTGAGES:

Mortgage from Preferred Enterprises, Inc., a Florida corporation and Helen Michael to Donald L. Bernecker and Paul W. Michael as Trustee of the Robert G. Bernecker Irrevocable 2001 Trust, dated 10/4/2005 and recorded in Official Records Book 24008, Page 1275, of the Public Records of Miami-Dade County, Florida.

2. RECORDED CONSTRUCTION LIENS, CONTRACT LIENS AND JUDGMENTS:

NONE

3. GENERAL EXCEPTIONS:

- (a) All taxes for the present and subsequent years.
- (b) Rights of persons other than the above owners who are in possession.
- (c) Facts that would be disclosed upon accurate survey.
- (d) Any unrecorded labor, mechanics' or materialmen's liens.
- (e) Zoning and other restrictions imposed by governmental authority.

4. SPECIAL EXCEPTIONS:

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- (a) Right of Way as referenced in that certain Warranty Deed recorded in Deed Book 3930, Page 37, of the Public Records of Miami-Dade County, Florida.
- (b) Right of Way of Farm Life School Road as shown by that certain survey dated September 23, 2005, prepared by Fortin, Leavey and Skiles, Inc.
- (c) Encroachment of Guard Rail on the Southeast corner as shown by that certain survey dated September 23, 2005, prepared by Fortin, Leavey and Skiles, Inc.
- (d) Mortgage from Preferred Enterprises, Inc., a Florida corporation and Helen Michael to Donald L. Bernecker and Paul W. Michael as Trustee of the Robert G. Bernecker Irrevocable 2001 Trust, dated 10/4/2005 and recorded in Official Records Book 24008, Page 1275, of the Public Records of Miami-Dade County, Florida.

ALL RECORDING INFORMATION REFERS TO THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

It is my opinion that the following party(ies) must join in the agreement in order to make the agreement a valid and binding covenant on the lands described herein.

<u>Name</u>	<u>Interest</u>	<u>Special Exception Number</u>
Preferred Enterprises, Inc., a Florida corporation	Owner	
Helen Michael	Owner	
Either Donald L. Bernecker or Paul W. Michael as Trustee of the Robert G. Bernecker Irrevocable 2001 Trust, dated 10/4/2005	Mortgagee	

Paul Michael, as President of Preferred Enterprises, Inc., is authorized to sign on behalf of the corporation.

I HEREBY CERTIFY that the legal description contained in this Opinion of Title coincides with, and is the same as, the legal description in the proffered, recordable agreement.

I HEREBY CERTIFY that I have reviewed all the aforementioned encumbrances and exceptions and that none of them hinder or affect the recording or enforcement of the Declaration of Restrictions.

I, the undersigned, further certify that I am an attorney-at-law duly admitted to practice in the State of Florida and a member in good standing of The Florida Bar.

Respectfully submitted this 20th day of April, 2015.

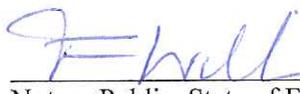
Respectfully submitted,

HOLLAND & KNIGHT LLP
701 Brickell Avenue, Suite 3300
Miami, Florida 33131
305-789-7758

By: 
Alan S. Krischer, Esq.
Florida Bar No.: 040983

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 20th day April, 2015, by Alan S. Krischer, who is personally known to me.


Notary Public, State of Florida
My Name, Commission No. &

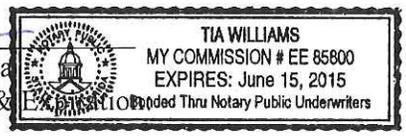


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