



Interoffice Memorandum

REAL ESTATE MANAGEMENT ITEM 5

DATE: July 2, 2021

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

THROUGH: Mindy T. Cummings, Manager
Real Estate Management Division *MTC*

FROM: Kim Heim, Senior Title Examiner
Real Estate Management Division *KH/MTC*

CONTACT PERSON: Mindy T. Cummings, Manager

DIVISION: Real Estate Management
Phone: (407) 836-7090

ACTION REQUESTED: Approval and execution of Boat Dock Restriction Agreement between Sanctuary Low, LLC and Orange County and authorization to record instrument

PROJECT: Sanctuary Low LLC Semi-Private Boat Permit No. BD-20-05-074
District 1

PURPOSE: To meet Condition 4 of Sanctuary Low LLC Semi-Private Boat Permit No. BD-20-05-074.

ITEM: Boat Dock Restriction Agreement

APPROVALS: Real Estate Management Division
Environmental Protection Division

REMARKS:

To meet Condition 4 of Sanctuary Low LLC Semi-Private Boat Permit No. BD-20-05-074, which states, pursuant to Chapter 15, Article IX, Section 15-344(d), this permit requires the execution of a conservation easement (CE) or other restriction, on a form approved by the Board to prohibit the construction of additional docks on that parcel owned by Sanctuary Low LLC. A CE or boat dock restriction agreement (BDRA) shall be recorded in the Official Records of Orange County at the sole cost and expense of the permittee. A copy of the recorded CE or BDRA shall be provided to Environmental Protection Division prior to final approval of the commercial building permit.

Sanctuary Low, LLC to pay recording fees.

JUL 27 2021

Project: Sanctuary Low LLC Semi-Private Boat Dock Const. Permit No. 20-05-074

BOAT DOCK RESTRICTION AGREEMENT

This BOAT DOCK RESTRICTION AGREEMENT (this "Agreement") is given by SANCTUARY LOW, LLC, a Delaware limited liability company ("Owner") which has a mailing address at 4600 Wells Fargo Center, 90 South 7th St., Minneapolis, MN 55402, in favor of Orange County, a charter county and political subdivision of the State of Florida (which has a mailing address at Post Office Box 1393, Orlando, Florida 32802-1393) (the "County"), (collectively, the "Parties").

Recitals

1. The Owner is the fee simple owner of certain real property located in Orange County, Florida, viz:

Tract C-1 and Tract OS-5, SANCTUARY AT LAKES OF WINDERMERE, according to the plat thereof, as recorded in Plat Book 103, Pages 94 through 102, of the Public Records of Orange County, Florida

Property Appraiser's Parcel Identification Numbers: 23-23-27-7802-03-001 & 23-23-27-7802-15-005

(the "Property").

2. Owner desires to construct a semi-private boat dock on a portion of the Property in accordance with Orange County Boat Dock Facility Permit, Application BD-20-05-074 (the "Permit").

3. Orange County Code Section 15-344 requires the Owner, for semi-private boat docks for use in subdivisions or planned developments, to restrict the construction of additional boat docks along the affected riparian shoreline, to prohibit the construction of additional docks that would exceed the maximum allowed for private docks under Article IX, Chapter 15 of the Orange County Code.

4. In order to comply with Orange County Code Section 15-344, this Agreement is given in favor of the County and, at the request of the County, will be recorded in the Public Records of Orange County, Florida.

5. The effective date of this Agreement (the "Effective Date") shall be the date when the last one of the Parties has properly executed this Agreement as determined by the date set forth immediately below the respective signatures of the Owner and the County.

Agreement

NOW, THEREFORE, in consideration of the above recitals, agreements, mutual covenants, terms, conditions and restriction contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, the Parties agree as follows.

1. No boat dock other than the semi-private boat dock associated with the Permit shall be constructed, approved, or allowed on the Property.

2. The covenants, terms, conditions, and restrictions set forth in this Agreement shall be binding upon and inure to the benefit of the Parties and their respective personal representatives, heirs, successors and assigns, and shall continue as a servitude running in perpetuity with the Property.

3. This Agreement may be amended only in writing, formally executed in the same manner as this Agreement.

4. ***Limitations of Remedies.*** County and Owner expressly agree that the consideration, in part, for each of them entering into this Agreement is the willingness of the other to limit the remedies for all actions arising out of or in connection with this Agreement.

(a) ***Limitations on County's remedies.*** Upon any failure by Owner to perform its obligations under this Agreement, County shall be limited strictly to only the following remedies:

- (i) action for specific performance or injunction; or
- (ii) the withholding of development permits and other approvals or permits in connection with the Property; or
- (iii) any combination of the foregoing.

(b) ***Limitations of Owner's remedies.*** Upon any failure by County to perform its obligations under this Agreement, Owner shall be limited strictly to only the following remedies:

- (i) action for specific performance or injunction; or
- (ii) action for declaratory judgment regarding the rights and obligations of Owner; or
- (iii) any combination of the foregoing.

Both parties expressly waive their respective rights to sue for damages of any type for breach of, or default under, this Agreement by the other. Both parties expressly agree that each party shall bear the cost of its own attorney fees for any action arising out of or in connection with this Agreement. Venue for any actions initiated under or in connection with this Agreement shall be in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida.

5. This Agreement and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida without regard to the principles of conflict of laws.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

Signed, sealed, and delivered in the presence of:

SANCTUARY LOW, LLC
a Delaware limited liability company

Mark Ellingson
Witness
Printed Name: Mark Ellingson

BY: CIO Investments USA, LLC
a Delaware limited liability company
as a Member

Robyn Ellingson
Witness
Printed Name: Robyn Ellingson

BY: Rudy Newell
Title: VP

Signature of TWO witnesses required by Florida law)

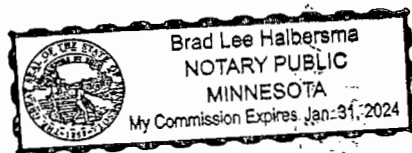
STATE OF Minnesota
COUNTY OF Heanepin

Print Name: Rudy Newell

The foregoing instrument was acknowledged before me by means of physical presence or online notarization on this 9 day of June, 2021, by Rudy Newell, as VP CIO Investments USA, LLC, as a Member of SANCTUARY LOW, LLC, a Delaware limited liability company, on behalf of the company. He/She is personally known to me or has produced _____ as identification.

Witness my hand and official seal this 9 day of June, 2021.

(Notary Seal)



Brad Halbersma
Notary Signature

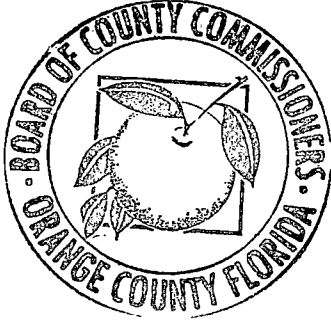
Brad Halbersma
Printed Notary Name

Notary Public in and for the County and State aforesaid

My commission expires: Jan. 31, 2024

"COUNTY"

Orange County, Florida
By: Board of County Commissioners



By: *Jerry L. Demings*
for Jerry L. Demings,
Orange County Mayor

Date: 27 July 2021

Attest: Phil Diamond, CPA, Orange County Comptroller
As Clerk of the Board of County Commissioners

By: *Noelia Perez*
for Deputy Clerk

Printed Name: Noelia Perez

Date: JUL 28 2021

This instrument prepared by
Kim Heim, a staff employee
the County and State aforesaid
Real Estate Management Division
of Orange County, Florida