

Return to: (enclose self-addressed stamped envelope)

Name: Michael A. Rodriguez, Esq.  
Address:

Ruden, McClosky, Smith,  
Schuster & Russell, P.A.  
200 East Broward Boulevard  
Suite 1500  
Fort Lauderdale, Florida 33301

**This Instrument Prepared by:**

Michael A. Rodríguez, Esq.  
Ruden, McClosky, Smith,  
Schuster & Russell, P.A.  
200 East Broward Boulevard  
Suite 1500  
Fort Lauderdale, Florida 33301

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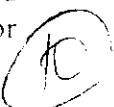
DEVELOPMENT AGREEMENT  
for  
HARBOUR COVE ASSOCIATES, LTD.

This agreement is entered into this 15<sup>th</sup> day of June, 2003, between Harbour Cove Associates, Ltd. ("HCA") and the City of Hallandale Beach, a municipal corporation organized and existing under the laws of the State of Florida ("City").

FINDINGS OF FACT

This agreement is predicated upon the following facts:

- A. City of Hallandale Beach Zoning and Land Development Code, Article III, Section 32-174.1 allows the City to enter into binding Development Agreements for the development of real property with persons having legal or equitable interests in such real property;
- B. Pursuant to The Zoning and Land Development Code, Section 32-174 "PDD" Planned Development District and the Design Guidelines Manual, the City has adopted rules and regulations establishing procedures and requirements for Development Agreements;
- C. HCA has requested the City of Hallandale Beach to consider entering into a Development Agreement and proceedings have been taken into accordance with the aforementioned City of Hallandale Beach rules and regulations as recited above;
- D. The City of Hallandale Beach City Commission has found that this Development Agreement is consistent with the Comprehensive Plan, the Major Development Plan, the Land Development Regulations and all other applicable requirements except as otherwise provided for

  
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in this agreement;

NOW THEREFORE, THE PARTIES AGREE:

1. Definitions. For the purpose of this agreement, unless the context otherwise requires:

a. "Project" shall mean the Major Development Plan approved by the City of Hallandale Beach for construction of a four story multi-family apartment development located at One Hundred Northwest Ninth Terrace, just north of Hallandale Beach Boulevard and on the south side of the Chaves Lake, including parking and landscape improvements, as more specifically set forth in the plans for these projects which have previously been submitted to the City.

b. "Owner" shall mean HCA, by and through its general partner, Cornerstone Harbour Cove, L.L.C. and includes the property owner's successors, assignees, tenants, agents, contractors, subcontractors and parties in interest.

c. "Lot" shall mean any size site or parcel, commercial or residential, up to 7,500 square feet in total area.

2. Description of Real Property. The legal description of the property that is the subject of this agreement is described and contained in Exhibit "A" attached hereto and made a part hereof.

a. The name of the project is Harbour Cove ("Project").

b. The name of the applicant is HCA.

3. Specific Restrictions on Development of Real Property. The project shall be undertaken and carried out in accordance with all City Codes and Ordinances in effect on the effective date of this agreement, except for those exceptions and variations as set forth in this agreement or any exhibit attached hereto. The City and the Owner agree that the development of the project will be governed in conformance with the following agreement, limitations, and modifications:

a. Permitted Uses. The project may include all those uses permitted by the RM-HD-2 Zoning District with the application of the PDD overlay and all uses permitted under this agreement and in accordance with the Hallandale Beach Comprehensive Plan.

b. Permitted Development. Two Hundred Twelve (212) residential units as shown on the Site Plan and development plans on file in the Development Services Department.

c. Parking. A minimum of Four Hundred Five (405) parking spaces shall be provided per Exhibit "B" which exceeds the required parking.

d. Setback maximum height, open space and landscaping and all other applicable development standards of the project shall be as shown on the Site Plan and development plans on file received on March 28, 2003 in the Development Services Department.

e. All plans shall provide detailed design data subject to final approval by the City Manager during the building permit process.

f. Completion of Project. Owner agrees to diligently prosecute to completion the construction of the Project.

4. Special Conditions.

a. See attached Exhibit "C" for a list of conditions.

b. The Owner may notify the City asserting the completion of any of the conditions of this Agreement and, as necessary, furnish evidence of same. The City shall then consider such notice, inspect the work or proof of completion and, within twenty one (21) days, notify the Developer that such conditions have either been found to be completely satisfied, or found to be not completed, with a list of deficiencies. In the event the City fails to notify Developer within the twenty-one (21) day timeframe contained herein, the conditions shall be deemed satisfied.

5. Internal Sidewalks. HCA agrees to construct internal sidewalks in accordance with the attached Exhibit "B".

6. Exhibits and Controlling Documents. The following documents are made a part hereof by this reference:

a. The Code of Laws and Ordinances of the City of Hallandale Beach.

b. The Development Plans and Specifications attached as Exhibit "B" filed with the City in the Development Services Department.

c. In the event that the Major Development Plan and/or any of its contents are found to be in conflict with this Development Agreement, the applicable provision of this Development Agreement shall prevail.

d. There shall be strict adherence to this Development Agreement and the Major Development Plan except for minor or technical changes that may be approved by the City Manager or her designee. Any substantive change or amendment to the aforementioned Exhibits shall be addressed in conformance with Zoning and Land Development Code, Article III, Section 32-174(j)(1)-(8).

7. Amendments. Any amendment to this agreement or to the development plans shall not be approved unless all parties agree to the amendment in writing and such amendment is incorporated into the Agreement. All

amendments not requiring City Commission approval shall be subject to the final approval by the City Manager on behalf of the City.

8. Building Permits and Certificates of Occupancy. The City agrees to issue to the Owner, upon application and approval, all required building permits, approvals or other required permits and Certificates of Occupancy for the construction, use and occupancy of the project, subject to compliance with the permit conditions, this agreement and the most current Florida Building Code, as amended from time to time. It is further understood and agreed that failure to substantially fulfill any provision of this Agreement, the major development plan, or the conditions of approval, which are conditions that a specific building permit may result in non-issuance of certificates of occupancy, certificates of completion, or other regulatory approvals until such time as all conditions of this specific building permit or this Agreement are complied with, and that the City shall not be liable for any direct, indirect and/or consequential damages claimed for such non-issuance.

9. Contributions. HCA shall pay all fees as required by City Code. Approvals are also based upon payment of the City's usual and customary fees and charges for such applications, permits or services, in effect at the time of issuance of the permit or approval, and any financial contribution identified as part of this agreement.

a. Abandonment. The parties acknowledge that HCA has filed an application to vacate a portion of Northwest First Court. In consideration of such abandonment and reconveyance, HCA hereby agrees to pay City Fifty Thousand (\$50,000.00) Dollars upon the later to occur of (1) approval by the City Commission of the abandonment application or (2) the issuance of a building permit for development within the Property ("Abandonment Fee").

b. Community Impact. In addition to the Abandonment Fee described above, HCA agrees to pay a community impact fee in accordance with the following: (a) \$10,000 contribution towards the construction of athletic upgrades to the Hallandale Sports Complex Foundation prior to the issuance of a certificate of occupancy for development of the Property; and (b) either, based on agreements customary in the industry, perform certain improvements at the Hepburn Center with a fair market value of \$40,000; or pay \$40,000 to the Hepburn Center in lieu of such construction, and/or installation, whichever Developer elects at its sole option; however, in either case, the City or the Hepburn Center will be required to provide Developer with written notice to make improvements by June 30, 2003 or the obligation contained in paragraph (b) shall be deemed satisfied.

c. Neighborhood Impact Fee. Developer further agrees to pay City a neighborhood impact fee in the amount of One Hundred and Fifty Thousand (\$150,000.00) Dollars. Said fee shall constitute a contribution toward the City's continued effort to provide affordable housing to local residents through the acquisition and subsequent development of certain properties within the City of Hallandale. Such fee shall be paid prior to or simultaneously with the issuance of building permits for the Property.

10. Completion of Project. It is further understood and agreed that failure to fulfill any provision of this Agreement, the Major Development Plan, or the conditions of approval,

including any conditions of a specific building permit, may result in non-issuance of certificates of Occupancy, certificates of completion, or other regulatory approvals until such time as all conditions of the specific building permit and this Agreement are complied with, and that the City shall not be liable for any direct, indirect and/or consequential damages claimed for such non-issuance.

11. Broward County Land Use Map Amendment. HCA has filed on behalf of the City and agrees to diligently pursue with Broward County ("County") an application to amend the County's Land Use Map to permit development of the Property with 212 units.

12. Binding Effect of Agreement. This agreement shall be binding upon the Owner and the City and upon any successive owners, their respective assignees, successors, including any mortgagees who acquire title by deed or foreclosure, legal representatives, heirs and beneficiaries (as applicable) upon acquiring any interest in the property and shall run with the land. This Agreement may be recorded in the public records of Broward County, Florida.

13. Breach of Agreement. In the event that the Owner has materially breached the Development Agreement, prior to issuance of the Certificate of Occupancy the Owner shall commence to cure the breach within thirty (30) days of notice by the City. If the Owner is unable or unwilling to cure the breach and abide by the Agreement, the City shall exercise its right to take appropriate legal action for the purpose of curing the breach and enforcing this agreement.

14. Hold Harmless. Owner agrees to and shall hold the City, its officers, agents, employees, and representatives harmless from liability for damage or claims for damage for personal injury including death and claims for property damage which may arise from the direct or indirect operations of the Owner or those of the property owner's contractor, subcontractor, agent, employee, or other person acting on his behalf which relate to the project. Property owner agrees to and shall defend the City and its officers, agents, employees, and representatives from actions for damages caused or alleged to have been caused by reason of property owner's activities in connection with the Project.

15. Monitoring Official. The City Manager or his designee shall ensure that all requirements of this agreement are met.

16. Surety. Bonding shall be as provided in the Code and applicable ordinances and regulations. This agreement shall not affect such requirements except to provide for joint and severable liability and to make clear that all requirements shall be binding on any mortgagees, successors or assigns. Irrevocable letters of credit in such form and issued by such institution as may be acceptable by the City shall serve as appropriate surety against failure to perform.

However, nothing herein shall prevent the City, in its discretion, from accepting bonds or letters of credit in lieu of any specific improvement, on site or off site, being completed within a specified time period. However, the parties hereto acknowledge that the City will not require a bond or any other guarantee for the site preparation or wiring required herein.

CITY CLERK  
CITY OF HALLANDALE  
400 S. FEDERAL HIGHWAY  
ALLANDALE, FLORIDA 33009

17. Notices. Any notice, demand or other communication required or permitted under the terms of this Agreement shall be in writing, made by overnight delivery services or certified mail, return receipt requested, and shall be deemed to be received by the addressee one (1) business day after sending by overnight delivery service, and three (3) business days after mailing, if sent by certified mail. Notices shall be addressed as provided below:

(1) If to the City:

City of Hallandale Beach  
Attention: City Manager  
400 South Federal Highway  
Hallandale, FL 33009  
(954) 457-1300 - phone  
(954) 457-1342 - fax

(2) If to the Owner:

Leon J. Wolfe, Vice President  
Harbour Cove Associates, Ltd.  
2121 Ponce de Leon Boulevard  
Penthouse II  
Coral Gables, FL 33134  
(305) 443-8288

18. Effective Date of the Agreement. This agreement shall become effective upon the Hallandale City Commission approval and execution by the Owner and City Manager of the City.

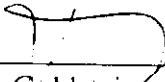
19. Recording. This Agreement or a memorandum shall be recorded in the public records and shall run with the land.

20. Severability. In the event that any portion or section of this agreement is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this agreement, which shall remain in full force and effect.

**CITY CLERK**  
**CITY OF HALLANDALE**  
**400 S. FEDERAL HIGHWAY**  
**HALLANDALE, FLORIDA 33009**

IN WITNESS WHEREOF THIS Agreement has been executed by the parties on the day and year first above written.

Approved as to form:

  
\_\_\_\_\_  
Mark Goldstein  
City Attorney

CITY OF HALLANDALE BEACH

  
\_\_\_\_\_  
By: D. Mike Good  
City Manager

Attest: \_\_\_\_\_  
Ann Harper, City Clerk





**Exhibit "C"**

1. The dumpster enclosure for the development shall be of masonry construction and landscaped in a manner to obscure same and enhance the development to the satisfaction of the City.
2. Submission of hydraulic analysis of water system and sewer system showing adequate provision of fire and domestic use demand or upgrading the existing systems to the satisfaction of the City Engineer.
3. Drainage calculations will be required at time of permitting. Must comply with DPEP regulations, other applicable agencies, and City criteria to retain 5 year 1 hour storm on-site. Discharge to Chaves Lake must be approved by FDOT prior to approval by the City.
4. The developer must provide for off-site drainage. In particular the drainage of the alleyway and NW 9 Terrace must be designed to accommodate a 5 year 1 day on storm event.
5. The maximum number of units in the development shall not exceed 212 units.
6. No required tree shall be less than 12 feet in overall height.
7. The entire property shall be enclosed with a decorative masonry wall/picket fence as detailed in the proposal. The fencing along the north, south, and east property lines shall be masonry/picket fencing or vinyl covered chain link.
8. Signage shall be limited to two signs on the entrance feature walls as depicted on the development plans.
9. An emergency entrance at the south end of the property off the alley. A Knox box switch at the entrance gate shall be provided as requested by the Fire Marshall.
10. A 15 foot utility easement shall be provided around the perimeter of the property.
11. The project will be deed restricted to affordable housing for a period of at least 15 years as required by Article 8 of the Broward County Land Use Plan Administrative Rules Document.
12. Execution of Developer's Agreement pursuant to Section 32-174(d)(2) stipulating agreed conditions of the negotiated process satisfactory to the City.

13. Contributions:

a. A \$10,000 contribution towards the construction of athletic upgrades to the Hallandale Sports Complex Foundation prior to the issuance of a Certificate of Occupancy.

b. Perform certain improvements at the Hepburn Center with a fair market value of \$40,000 or pay the City, at \$40,000.00 in lieu of construction. Work or payment as referenced herein shall be completed prior to the issuance of a Certificate of Occupancy. Requested improvements include are two gazebos, plantings and installation of simulated brick on the building's exterior walls at 42 inches in height for approximately 200 linear feet).

c. A \$50,000 contribution for right-of-way vacation and reconveyance of land abutting the subject property. Prior to the issuance of a building permit.

d. Neighborhood Impact Fee. Developer further agrees to pay City a neighborhood impact fee in the amount of One Hundred and Fifty Thousand (\$150,000.00) Dollars. Said fee shall constitute a contribution toward the City's continued effort to provide affordable housing to local residents through the acquisition and subsequent development of certain properties within the City of Hallandale. Prior to or simultaneously with the issuance of a building permit for Project.