

COPY

**BEFORE THE STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

TOWN PARK CROSSING, L.P.,

Petitioner,

vs.

FHFC No. 2009-004UC  
Application No. 2009-255C

FLORIDA HOUSING FINANCE  
CORPORATION,

Respondent.

\_\_\_\_\_ /

**PETITION FOR REVIEW**

Pursuant to Section 120.569 and .57, Florida Statutes (F.S.) and Rule 67-48.005, Florida Administrative Code (F.A.C.), Petitioner, TOWN PARK CROSSING, L.P. ("TPC") requests an administrative hearing to challenge FLORIDA HOUSING FINANCE CORPORATION's ("Florida Housing") scoring actions concerning Universal Cycle Application No. 2009-255C. In support of this Petition, TPC provides as follows:

1. TPC is a Florida limited partnership with its address at 8380 Resource Drive, West Palm Beach, Florida 33404. TPC is in the business of providing affordable rental housing units.
2. Florida Housing is the state agency delegated the authority and responsibility for administering and awarding funds pursuant to Chapter 420, F.S., and Rules 67-21 and 67-48, F.A.C.

### **Nature of the Controversy**

3. On August 20, 2009, TPC applied to Florida Housing for funding pursuant to the Low Income Housing Tax Credit Program (LIHTC). The purpose of the requested funds was to finance the construction of a 100 unit affordable housing apartment complex in Davie, Florida, named Town Park Crossing.

4. Pursuant to section 420.5099, Florida Statutes, Florida Housing is the designated "housing credit agency" for the State of Florida and administers Florida's low-income housing tax credit program. Through this program, Florida Housing allocates Florida's annual fixed pool of federal tax credits to developers of affordable housing.

5. The tax credits allocated annually to each state are awarded by state "housing credit agencies" to single-purpose applicant entities created by real estate developers to develop specific multi-family housing projects. An applicant entity will then sell this ten-year stream of tax credits, typically to a "syndicator," with the sale proceeds generating much of the funding necessary for development and construction of the project. The equity produced by this sale of tax credits in turn reduces the amount of long-term debt required for the project, making it possible to operate the project at rents that are affordable to low-income and very-low-income tenants.

6. The United States Congress has created a program, governed by Section 42 of the Internal Revenue Code ("IRC"), by which federal income tax credits are allotted annually to each state on a per capita basis to encourage private developers to build and operate affordable low-income housing for families. These tax credits entitle the holder to a

dollar-for-dollar reduction in the holder's federal tax liability, which can be taken for up to ten years if the project continues to satisfy all IRC requirements.

7. Because Florida Housing's available pool of federal tax credits each year is limited, qualified projects must compete for this funding. To assess the relative merits of proposed projects, Florida Housing has established a competitive application process pursuant to Chapter 67-48, F.A.C. Specifically, Florida Housing's application process for 2009, as set forth in Rules 67-48.002-.005, F.A.C., involves the following:

- (a) The publication and adaption by rule of an application package;
- (b) The completion and submission of applications by developers;
- (c) Florida Housing's preliminary scoring of applications;
- (d) An initial round of administrative challenges in which an applicant may take issue with Florida Housing's scoring of another application by filing a Notice of Possible Scoring Error ("NOPSE")
- (e) Florida Housing's consideration of the NOPSEs submitted, with notice to applicants of any resulting change in their preliminary scores;
- (f) An opportunity for the applicant to submit additional materials to Florida Housing to "cure" any items for which the applicant received less than the maximum score;
- (g) A second round of administrative challenges whereby an applicant may raise scoring issues arising from another applicant's cure materials by filing a Notice of Alleged Deficiency ("NOAD");
- (h) Florida Housing's consideration of the NOADs submitted, with notice to applicants of any resulting change in their scores;

- (i) An opportunity for applicants to challenge, via informal or formal administrative proceedings, Florida Housing's evaluation of any item for which the applicant received less than the maximum score; and
- (j) Final scores, ranking, and allocation of tax credit funding to applicants through the adoption of final orders.

8. At the completion of this process a Final Score is assigned to each Application. Based on these Final Scores, and a series of Tie Breakers, Applications are then ranked. Funds are awarded to applicants starting with applicable preferences and set asides and the highest scoring applicants, until the available funds are exhausted. Applicants compete for funds, in large part, against other applicants in the same county size group, and against other applicants seeking to provide housing to the same demographic group. TPC is an applicant for Development in the Large County Geographic Set-Aside.

9. Based on a review of Florida Housing's Final Scoring Summary dated December 2, 2009, TPC received a final score of 47 out of a possible 70 points for its application. TPC received no Ability-To-Proceed or Proximity Tie-Breaker points, and was deemed to have failed threshold. This score would displace TPC from funding range in the Large County Geographic Set-Aside, and in fact results in it being ineligible to receive an award for its funding request. Florida Housing's scoring action concerns whether the TPC proposed development site is a "scattered site" as that term is defined by Rule 67-48.002(106), F.A.C.

10. As will be explained more fully below, Florida Housing's scoring action in the instant case is erroneous.

### **Substantial Interests Affected**

11. As an applicant for funds allocated by Florida Housing, TPC's substantial interests are adversely affected by the scoring decisions here. The final scoring actions of Florida Housing resulted in TPC's application being rejected from the funding range for Large County Developments. Since the purpose of the tax credit program in general is to provide funding to developers of apartment projects for low income residents, then TPC's interests are adversely and substantially affected by the loss of funding. Indeed, without the requested funding, TPC's ability to provide much needed affordable housing units will be severely jeopardized.

### **Scoring of TPC's Application**

12. The Universal Application at Part III asks an applicant to provide information concerning the proposed development. Specifically, at Part III, Section A.2.b., the Application requires the Applicant to disclose whether the proposed project site is a "scattered site." If a site is a scattered site, then documentation, including availability of infrastructure, environmental assessments, etc., for each designated site is required.

13. In its original application, TPC indicated that its project site was not a "scattered site" and submitted documentation accordingly. Florida Housing scored the TPC site as a single site in the preliminary scoring round. In a cure to address another

scoring issue, however, TPC provided a revised legal description for its project site (see Attachment A). As allowed by the Universal Cycle process, a NOAD was filed by a competing applicant after the “cure” period, claiming on the basis of the amended legal description that the TPC site was a “scattered site,” based on a utility easement which allegedly divided the property into multiple parcels (see Attachment B).

14. After conducting its final review of the Application, cures and all applicable NOADS, Florida Housing changed its prior position that the TPC site was a single site and found as follows:

As a cure to Item 11, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.).

(See Attachment C.) The scattered site determination led to multiple scoring issues as reflected in the Scoring Summary.

15. As Florida Housing reached this interpretation in its final scoring decision, TPC did not have a cure opportunity prior to this appeal to explain why the rule definition is inapplicable to the TPC site. This is made worse by the fact that the NOAD did not tell Florida Housing the whole story.

16. In its final scoring summary, Florida Housing found that TPC had addressed all other scoring issues raised in preliminary scoring and by NOPSEs, so that but for Florida Housing’s scattered site rule interpretation, the TPC would have achieved a maximum score, passed threshold and achieved maximum points on all tiebreakers.

17. Florida Housing's scoring decision is erroneous for several reasons. Initially, as a policy matter, the "scattered site" concept now defined at Rule 67-48.002(106), F.A.C., was initially created to allow developers to join separate sites together in an effort to develop a unified project. These scattered sites were divided by roads and alleys and other rights of way easements that physically divided the parcels. The rule insured that the necessary information was provided for each of the scattered sites.

18. A secondary reason for the scattered sites definition and requirements was to address the purchase of non-contiguous pieces of property near a primary development site solely for purposes of improving the proximity of the development to facilities to maximize tie breaker measurement points. Similarly here, the sites were divided by actual roads, alleys, etc.

19. While the current rule includes the word "easement," the implementation of the rule historically has only applied to easements that actually physically divide the property, rendering it non-contiguous. The rule upon knowledge and belief has not been interpreted to apply to easements such as the one used in the instant case.

20. The Easement in the instant case, as a matter of law, does not divide the Development site or fall within the definition of Rule 67-48.002(106), F.A.C., which defines "'Scattered Sites" for a single Development

Means a development consisting of real property in the same county (i) any part of which is not contiguous ("non-contiguous parts") or (ii) any part of which is divided by a street or easement ("divided

parts”) and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title or other information available to the Corporation (Florida Housing) that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development.”

21. Part III Section A.2.b. of the Florida Housing Application Instructions for the 2009 Universal Cycle (the “Instructions”), which are incorporated into Rule 67-48.002(106), F.A.C. by reference, states

If the Development will consist of Scattered Sites, for each of the non-contiguous parts or divided parts (“sites”), provide behind a Tab labeled **“Exhibit 20”**, the Address, total number of units, and latitude and longitude coordinates, determined in degrees, minutes and seconds truncated after one decimal place, located anywhere on the site. If requesting Competitive HC, for the site where the tie breaker Measurement Point is located, only the Address and total number of units is required. This information should be provided behind a tab labeled **“Exhibit 20”**. If the Applicant indicates that the proposed Development will consist of Scattered Sites, but fails to provide the required information for each of the sites, the Application will fail threshold.

MMRB & HC Applications – To be eligible to apply as a Development with Scattered Sites, a part of the boundary of each site must be located within ½ mile of the site with the most units.

22. The Easement in question is on the southern border of the Development site, and runs next to the right of way for the Davie Road Extension, an active road which runs the length of the site and provides access to it. The Town of Davie, in which the TPC site is located, allows development sites to include up to half of the adjacent road right of way in its legal description for purposes of establishing acreage for zoning density purposes (see Attachment D). To satisfy this requirement, TPC amended its legal



description in its cure to accurately reflect the correct acreage for purposes of obtaining the needed density.

23. The inclusion of a portion of the right of way in the site, bordered by an easement, does not divide the site; the Development will be constructed on the part of the property that is not a road. The portion of the site that is the alleged second site and highlighted in the challenging NOAD has never been part of the Development planned for the property. In fact, if the NOAD is correct, the second site would be the road which, of course, is not possible.

24. The Rule defining "Scattered Sites" requires that part of the site be divided by an easement **and** it is readily apparent that .... the divided parts of the real property are part of a common scheme of development. No development was ever planned for the portion of the site legal description which included the right of way, because it consists of an active roadway.

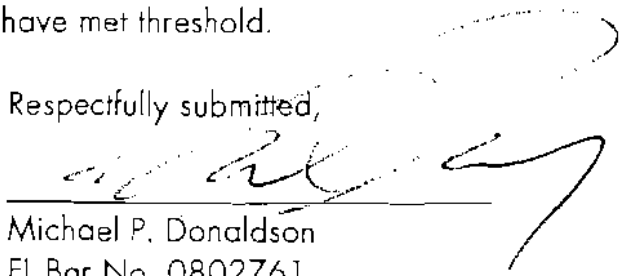
25. The Instructions, which are incorporated into the Rule, requires that, in the case of a Scattered Site application, that the Applicant provide for each site, at a minimum, the Address and total number of units. By inference, each of the scattered sites would have an address and a planned number of units. In the instant case, it is clear that there can be no address for the alleged second site, because it is a road. Similarly, no units are or could be planned for the alleged second site, because it would be a road. In fact, it would be impossible to comply with Florida Housing's requirements for a Scattered

Site application for the supposed second site, as it doesn't possess any of the requirements for a component site, and it would be physically impossible to develop.

26. Even if one assumes Florida Housing's interpretation that an easement divides the site, its application in the instant case flies in the face of logic and precedent. To our knowledge, Florida Housing has never required an adjacent road and right-of-way to a Development site to be included as a second development site in a Scattered Site application in which Development is proposed for a single site next to the road. The inclusion of a portion of the right of way in the site legal description for zoning density purposes doesn't change that analysis, as it is unrelated to the Development Plan.

WHEREFORE, TPC requests that it be granted an administrative proceeding to contest Florida Housing's erroneous scoring decisions. To the extent there are disputed issues of fact, this matter should be forwarded to the Division of Administrative Hearings. Ultimately, TPC requests the entry of a Recommended and Final Order which finds that: the Scattered Site designation should be lifted with regard to its Application, it should receive all applicable scoring points, be restored maximum Ready-To-Proceed and Proximity Tie-Breaker points, and determined to have met threshold.

Respectfully submitted,



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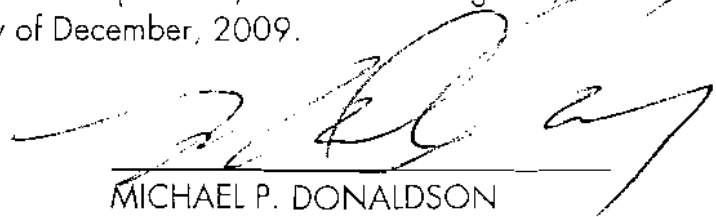
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Tallahassee, FL 32302

Telephone: (850) 224-1585  
Facsimile: (850) 222-0398

Counsel for Applicant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original of the foregoing has been filed by Hand Delivery with the Agency Clerk, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301; and a copy furnished to Wellington H. Meffert, II, Esq., Florida Housing Finance Corporation, 227 N. Bronough St., Suite 5000, Tallahassee, FL 32301, this 24th day of December, 2009.



MICHAEL P. DONALDSON



SKETCH AND LEGAL DESCRIPTION  
BY  
**PULICE LAND SURVEYORS, INC.**

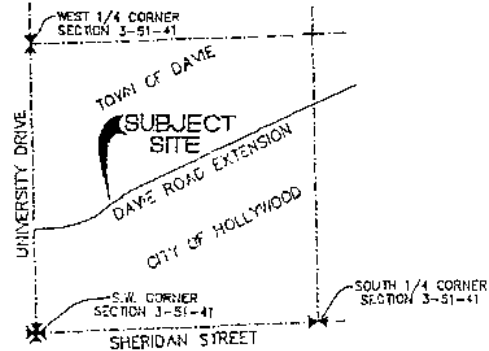
5381 NOB HILL ROAD  
SUNRISE, FLORIDA 33351

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E-MAIL: surveys@pulicelandssurveyors.com CERTIFICATE OF AUTHORIZATION LB#3870



LOCATION MAP  
SOUTHWEST 1/4 OF SECTION 3-51-41  
NOT TO SCALE



LEGAL DESCRIPTION:

A PORTION OF PARCELS 'A' AND 'B' OF "PRIMA PROFESSIONAL CAMPUS", AND A PORTION OF THE NORTHWESTERLY RIGHT-OF-WAY OF DAVIE ROAD EXTENTION (RE-ALIGNMENT) LYING ADJACENT TO SAID TRACTS 'A' AND 'B', ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 147, PAGE 31, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SAID PARCEL 'A'; THENCE SOUTH 01°27'44" EAST ON THE EAST LINE OF SAID PARCEL 'A' AND ITS SOUTHERLY EXTENSION 374.60 FEET TO THE INTERSECTION WITH THE CENTERLINE OF SAID DAVIE ROAD EXTENSION (RE-ALIGNMENT) SAID POINT BEING ON THE ARC OF A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, THE RADIUS POINT OF WHICH BEARS SOUTH 26°15'43" EAST; THENCE SOUTHWESTERLY ON THE CENTERLINE OF SAID DAVIE ROAD EXTENSION (RE-ALIGNMENT) AND ON THE ARC OF SAID CURVE, HAVING A RADIUS OF 1910.08 FEET, A CENTRAL ANGLE OF 15°31'29" AND AN ARC DISTANCE OF 517.55 FEET; THENCE NORTH 41°48'03" WEST ON A NON-RADIAL LINE 199.04 FEET; THENCE NORTH 01°02'15" WEST 155.32 FEET; THENCE NORTH 87°38'01" EAST 128.19 FEET; THENCE NORTH 02°12'38" WEST 280.01 FEET; THENCE SOUTH 88°08'25" WEST 344.16 FEET; THENCE SOUTH 01°28'33" EAST 109.75 FEET; THENCE SOUTH 87°45'16" WEST 39.96 FEET TO THE INTERSECTION WITH THE WEST LINE OF SAID PARCEL 'A'; THENCE NORTH D1°28'33" WEST ON SAID WEST LINE 164.74 FEET TO THE MOST NORTHERLY LINE OF SAID PARCEL 'A'; THENCE NORTH 87°45'25" EAST ON SAID LINE 822.24 FEET TO THE POINT OF BEGINNING.

SAID LAND SITUATE, LYING AND BEING IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA, CONTAINING 272,250 SQUARE FEET (6.2500 ACRES).

NOTES:

- 1) BEARINGS ARE BASED ON THE EAST LINE OF PARCEL "A", "PRIMA PROFESSIONAL CAMPUS", PLAT BOOK 147, PAGE 31 BEING SOUTH 01°27'44"E.
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FILE: EASTWIND DEVELOPMENT, LLC

SCALE: 1" = 150'

ORDER NO.: 52297

DATE: 04/10/09

REZONE PARCEL, TOWN PARK CROSSINGS

TOWN OF DAVIE, BROWARD COUNTY, FLORIDA

FOR: EASTWIND DEVELOPMENT, LLC

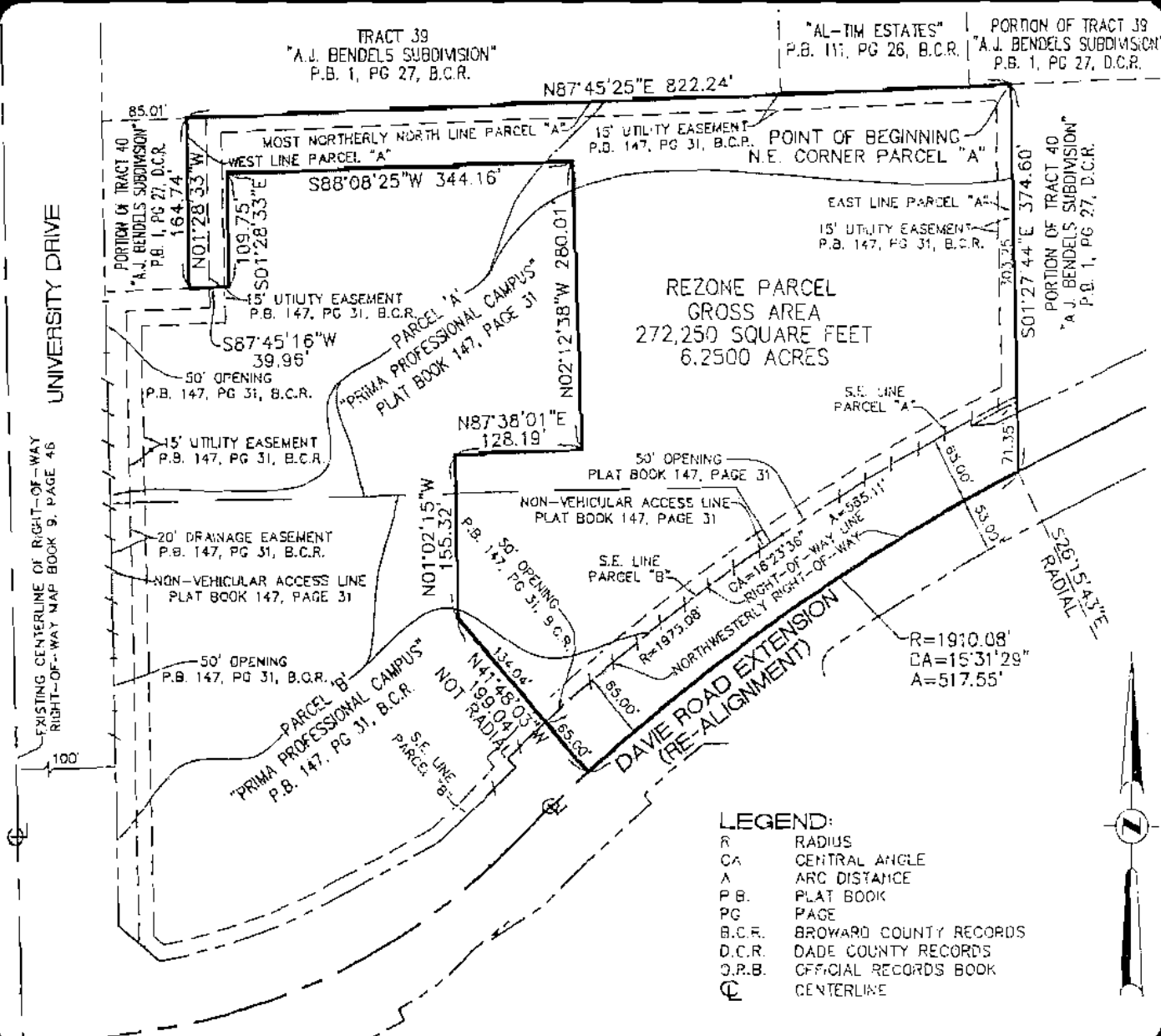
SHEET 1 OF 2

THIS DOCUMENT IS NEITHER FULL NOR COMPLETE WITHOUT SHEETS 1 AND 2

JOHN F. PULICE, PROFESSIONAL SURVEYOR AND MAPPER LS2691  
 BETH BURNS, PROFESSIONAL SURVEYOR AND MAPPER LS6136  
STATE OF FLORIDA



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- LEGEND:**
- R RADIUS
  - CA CENTRAL ANGLE
  - A ARC DISTANCE
  - P.B. PLAT BOOK
  - PG PAGE
  - B.C.R. BROWARD COUNTY RECORDS
  - D.C.R. DADE COUNTY RECORDS
  - O.R.B. OFFICIAL RECORDS BOOK
  - ⊕ CENTERLINE



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Brief Statement of Explanation regarding  
Application No. 2009- 255C

Provide a separate brief statement for each NOAD

In Florida Housing's preliminary scoring of the Application, the Corporation determined that the Applicant's Site Control documents in Exhibit 27 failed to meet threshold for the following reason.

"The May 20, 2009 Second Amendment to the Agreement of Purchase and Sale is incomplete. It refers to an amended legal description which was not attached to the Agreement as Exhibit A."

- 1) The Sketch provided in the Applicant's cure, which was signed and sealed by a Florida licensed surveyor, clearly shows a 15' utility easement crossing the Applicant's site from one boundary line to another.
- 2) The Applicant's cure MAY create an inconsistency in their Application; this is dependent on Florida Housing's interpretation of its scattered site rule. In NOPSEs of Applications 2009-146C and 2009-144C, certain Applicants claim that a utility easement should be considered to "divide" a site. We strongly disagree with this claim for multiple reasons, as outlined in the cures to the aforementioned applications. However, if Florida Housing determines that utility easements divide sites, then the Corporation must apply this interpretation consistently.
- 3) If Florida Housing interprets their rule to mean that a utility easement means that a site is divided, then this Application must as a result be deemed a "scattered site" comprised of two sites, and this cure creates an inconsistency with many sections of the Application.

Below is a description of the implications of that interpretation of the scattered site rule to this particular Applicant.

- 4) In the body of its tax credit application and on Exhibits 26, 28, 29, 30, 31, 32, and on exhibit 36 -- which the Applicant submitted as a cure -- the Applicant has referenced the address of the development site as "Approximately 400 feet East of the NE Corner of Davie Road Extension and North University Drive, Davie." For the reasons set forth below, the above-referenced address, utilized as the "Development Location" for each of the above-reference forms, was incorrect. As such, Applicant should be found to have failed the threshold requirement addressed by each of the above-referenced forms.

The Applicant's development site consists of "scattered sites" as defined by Rule 67-48.002(106). This is notwithstanding the fact that Applicant answered "no" to the question of whether the development consisted of scattered sites. Attached is the sketch and legal provided by the applicant at the time of cure confirming the existence of an easement that bisects the development site. As such, the development site is divided by an easement and, as such, is comprised of "scattered sites "

With respect to a development which consists of "scattered sites", evidence of site plan approval, availability of each type of infrastructure and appropriate zoning must be demonstrated for all sites if the proposed development consists of scattered sites. See pages 30, 32 and 33 of the Application Instructions. As provided in Question 31 of the 2009 Universal Application Q & A, the above-referenced verification forms must, with

respect to a development which is comprised of scattered sites, demonstrate that such form applies to all of the site addresses comprising the scattered sites.

The address provided by the Applicant ("Approximately 400 feet East of the NE Corner of Davie Road Extension and North University Drive, Davie.") does not apply to each of the scattered sites comprising the development but rather only to one of those sites. Applicant has failed to provide a qualifying "address" with respect to the remaining scattered sites comprising the development.

As such, IF Florida Housing determines that utility easements divide sites, then Florida Housing should recognize that the utility easement presented in the Applicant's cure divides the Applicant's site and therefore the application should be found to have failed the threshold requirements of site plan approval, infrastructure availability and zoning as required by Exhibits 26, 28, 29, 30, 31 and 32, along with the Special Needs form in Exhibit 36. Also, zero points should be awarded for the "ability to proceed" tiebreaker points.

Again, we strongly disagree with the claim that a utility easement "divides" a site, but if Florida Housing believes that a utility easement can divide a site, then it must apply this interpretation consistently.





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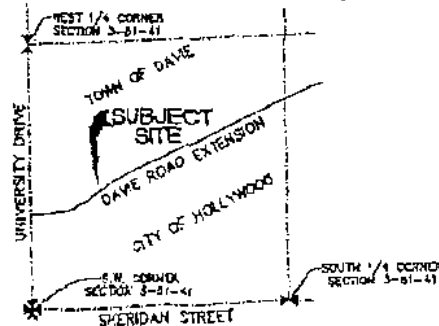
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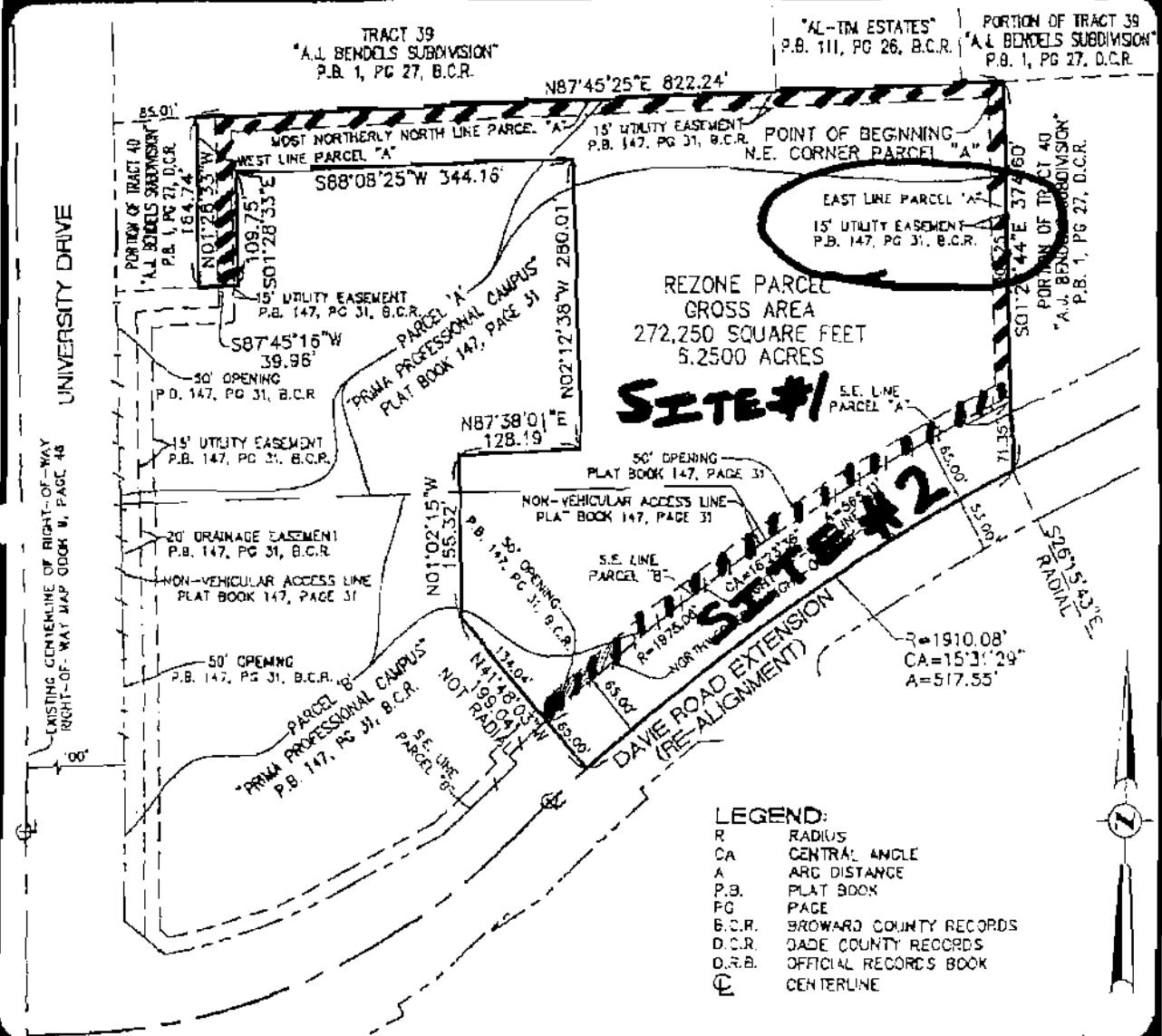
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## 2009 CURE FORM

(Submit a SEPARATE form for EACH reason relative to  
EACH Application Part, Section, Subsection, and Exhibit)

This Cure Form is being submitted with regard to Application No. 2009-255C and pertains to:

Part III Section C Subsection 2 Exhibit No. 27 (if applicable)

The attached information is submitted in response to the 2009 Universal Scoring Summary Report because:

1. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2009 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. ____S	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Ability to Proceed Score Not Maxed	Item No. ____A	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Failed Threshold	Item No. 3T	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed	Item No. ____P	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Additional Comment	Item No. ____C	<input type="checkbox"/>	<input type="checkbox"/>

2. Other changes are necessary to keep the Application consistent:

This revision or additional documentation is submitted to address an issue resulting from a cure to Part \_\_\_\_ Section \_\_\_\_ Subsection \_\_\_\_ Exhibit \_\_\_\_ (if applicable).

## Scoring Summary Report

File #: 2009-255C Development Name: Town Park Crossing

As Of:	Total Points	Met Threshold?	Ability to Proceed Tie-Breaker Points	Proximity Tie-Breaker Points
12/03/2009	47.00	N	0.00	0.00
Preliminary	66.00	N	6.00	7.50
NOPSE	66.00	N	6.00	7.50
Final	47.00	N	0.00	0.00
Final-Ranking				

**Scores:**

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Construction Features & Amenities									
1S	III	B	2.a	New Construction	9.00	9.00	9.00	9.00	
1S	III	B	2.b	Rehabilitation/Substantial Rehabilitation	9.00	0.00	0.00	0.00	
2S	III	B	2.c	All Developments Except SRO	12.00	12.00	12.00	2.00	
2S	III	B	2.d	SRO Developments	12.00	0.00	0.00	0.00	
3S	III	B	2.e	Energy Conservation Features	9.00	9.00	9.00	9.00	
4S	III	B	3	Green Building	5.00	5.00	5.00	5.00	
Set-Aside Commitment									
5S	III	E	1.b.(2)	Special Needs Households	4.00	0.00	0.00	0.00	
6S	III	E	1.b.(3)	Total Set-Aside Commitment	3.00	3.00	3.00	3.00	
7S	III	E	3	Affordability Period	5.00	5.00	5.00	5.00	
Resident Programs									
8S	III	F	1	Programs for Non-Elderly & Non-Homeless	6.00	6.00	6.00	6.00	
8S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6.00	0.00	0.00	0.00	
8S	III	F	3	Programs for Elderly	6.00	0.00	0.00	0.00	
9S	III	F	4	Programs for All Applicants	8.00	8.00	8.00	8.00	
Local Government Contributions									
10S	IV	A		Contributions	5.00	5.00	5.00	0.00	
Local Government Incentives									
11S	IV	B		Incentives	4.00	4.00	4.00	0.00	

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded As Result
2S	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to commit to locate each selected feature and amenity that is not unit-specific on each of the Scattered Sites, or no more than 1/16 mile from the site with the most units, or a combination of both. As a result, points were awarded only for those selected features and amenities that are unit-specific.	Final	
5S	All of the participating Special Needs Household Referral Agencies for the county are not listed on the Applicant Notification to Special Needs Household Referral Agency form. Because the form is incomplete, the Applicant is not eligible for Special Needs points.	Preliminary	Final
5S	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Development Location on the Applicant Notification to Special Needs Household Referral Agency form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development is not eligible for Special Needs points.	Final	
10S	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Development Location on the Local Government Verification of Contribution - Loan form (Exhibits 45) should reflect all of the Scattered Sites. Because the form is incomplete, the Applicant was not eligible for points for this contribution. No other Local Government Verification of Contribution forms were provided and the Application is not eligible for automatic points.	Final	
11S	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Development Location on the Local Government Verification of Affordable Housing Incentives forms (Exhibits 47, 48, 49 and 50) should reflect all of the Scattered Sites. Because the forms are incomplete, the proposed Development is not eligible for any points for Local Government Incentives.	Final	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
1T	III	C	2	Site Control	The May 20, 2009 Second Amendment to the Agreement of Purchase and Sale is incomplete. It refers to an amended legal description which was not attached to the Agreement as Exhibit A.	Preliminary	Final
2T	II	B	3	General Contractor	The General Contractor or Qualifying Agent Certification form lists the General Contractor as Summit Contractors Group, Inc. and the qualifying agent of the General Contractor as Robert L. Fleckenstein. The signature line on the form appears to contain the signature of Bernie Cornelius, not Robert L. Fleckenstein, the qualifying agent.	Preliminary	Final
3T	III	C	2	Site Control	The Assignment of Assumption of Agreement of Purchase and Sale was executed prior to the execution of the Second Amendment to Agreement of Purchase and Sale. Therefore, the Second Amendment to Agreement of Purchase and Sale should be between the Seller and Assignee and not the original Purchaser and Seller.	Preliminary	Final
4T	V	D	2	HC Equity	Per page 74 of the 2009 Universal Application Instructions, the percentage of credits being purchased must be equal to or less than the percentage of ownership interest held by the limited partner or member. The Applicant stated at Exhibit 9 of the Application that the limited partner's interest in the Applicant entity is 99%. However, the syndication agreement at Exhibit 56 states that 99.99% of the HC allocation is being purchased. Because of this inconsistency, the HC equity cannot be considered a source of financing.	Preliminary	Final
5T	V	B		Construction/Rehab. Analysis	The Applicant has a construction financing shortfall of \$7,109,059.	Preliminary	Final
6T	V	B		Permanent Analysis	The Applicant has a permanent financing shortfall of \$9,489,059.	Preliminary	Final
7T	III	A	2.b	Scattered Sites	As a cure to Item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to correctly answer the question at Part III.A.2.b. of the Application.	Final	

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
8T	III	A	2.b	Scattered Sites	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Applicant failed to provide the required information for each of the Scattered Sites at Exhibit 20, as required by the 2009 Universal Application Instructions.	Final	
9T	III	C	1	Site Plan Approval / Plat Approval	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate site plan approval for all sites as required by the 2009 Universal Application Instructions.	Final	
10T	III	C	3.a	Availability of Electricity	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate availability of electricity for all sites as required by the 2009 Universal Application Instructions.	Final	
11T	III	C	3.b	Availability of Water	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The 2009 Universal Application Instructions require that availability of water be demonstrated for all sites if the proposed Development consists of Scattered Sites. Therefore, the Applicant failed to demonstrate availability of water for all sites as required by the 2009 Universal Application Instructions.	Final	

Item #	Part	Section	Subsection	Description	Reason(s)	Created as Result of	Rescinded as Result of
12T	III	C	3.c	Availability of Sewer	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate availability of sewer for all sites as required by the 2009 Universal Application Instructions.	Final	
13T	III	C	3.d	Availability of Roads	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate availability of roads for all sites as required by the 2009 Universal Application Instructions.	Final	
14T	III	C	4	Zoning	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate appropriate zoning for all sites as required by the 2009 Universal Application Instructions.	Final	
15T	III	C	5	Environmental Site Assessment	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Applicant failed to demonstrate that a Phase I ESA has been performed for all sites as required by the 2009 Universal Application Instructions.	Final	



**Ability To Proceed Tie-Breaker Points:**

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1A	III	C	1	Site Plan/Plat Approval	1.00	1.00	1.00	0.00	
2A	III	C	3.a	Availability of Electricity	1.00	1.00	1.00	0.00	
3A	III	C	3.b	Availability of Water	1.00	1.00	1.00	0.00	
4A	III	C	3.c	Availability of Sewer	1.00	1.00	1.00	0.00	
5A	III	C	3.d	Availability of Roads	1.00	1.00	1.00	0.00	
6A	III	C	4	Appropriately Zoned	1.00	1.00	1.00	0.00	

**Reason(s) for Failure to Achieve Selected Ability To Proceed Tie-Breaker Points:**

Item #	Reason(s)	Created As Result	Rescinded As Result
1A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for site plan approval. See Item 9T above.	Final	
2A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of electricity. See Item 10T above.	Final	
3A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of water. See Item 11T above.	Final	
4A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of sewer. See Item 12T above.	Final	
5A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for availability of roads. See Item 13T above.	Final	
6A	The Application is not eligible for 1 Ability to Proceed Tie-Breaker Point for appropriate zoning and land use. See Item 14T above.	Final	

**Proximity Tie-Breaker Points:**

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.b.(2) (a)	Grocery Store	1.25	1.25	1.25	0.00	
2P	III	A	10.b.(2) (b)	Public School	1.25	1.25	1.25	0.00	
3P	III	A	10.b.(2) (c)	Medical Facility	1.25	0.00	0.00	0.00	
4P	III	A	10.b.(2) (d)	Pharmacy	1.25	0.00	0.00	0.00	
5P	III	A	10.b.(2) (e)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	1.25	0.00	
6P	III	A	10.c	Proximity to Development on FHFC Development Proximity List	3.75	3.75	3.75	0.00	
7P	III	A	10.a	Involvement of a PHA	7.50	0.00	0.00	0.00	

**Reason(s) for Failure to Achieve Selected Proximity Tie-Breaker Points:**

Item #	Reason(s)	Created As Result	Rescinded As Result
1P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it impossible to measure the distance between it and the other services.	Final	
1P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final	
2P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final	
2P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it impossible to measure the distance between it and the other services.	Final	
5P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it impossible to measure the distance between it and the other services.	Final	

Item #	Reason(s)	Created As Result	Rescinded As Result
5P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final	
6P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). The Yes/No box was not checked within the Surveyor Certification form certifying that part of boundary of each parcel of the Scattered Sites is within 1/2 mile of the Tie-Breaker Measurement Point. Therefore, the form could not be scored.	Final	
6P	Because the Application does not qualify as an Urban In-Fill Development, (see item 3C), the Applicant is not eligible for automatic 3.75 proximity points.	Final	
6P	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Per subsection 67-48.002(115), F.A.C., if a Development consists of Scattered Sites, the Tie-Breaker Measurement Point must be located in the parcel with the most units. Because the Applicant did not provide information for each of its scattered sites at Exhibit 20, FHFC is unable to verify that the Tie-Breaker Measurement Point is on the site with the most units and therefore it impossible to measure the distance between it and the existing Developments on the Proximity List.	Final	

**Additional Application Comments:**

Item #	Part	Section	Subsection	Description	Comment(s)	Created as Result of	Rescinded as Result of
1C	III	A	10	Proximity	The Applicant qualified for 3.75 automatic proximity points at 6P.	Preliminary	Final
2C	V	B		Developer Fee	The Applicant provided a Commitment to Defer Developer Fee form from both Co-Developers, with each Developer committing to defer \$2,148,328 during construction and permanent financing. The total maximum combined amount of deferred Developer fee allowed is \$2,148,328, which is the amount utilized by Florida Housing as a source for construction and permanent financing.	Preliminary	
3C	V	B		Development Cost Pro Forma	The Applicant listed Rent up reserves, operating/debt reserves, and R.R. totaling \$703,323. However, No. 5 on the Development Cost Pro forma Notes states "For purposes of the Development cost calculation in this Application, the only reserves allowed are contingency reserves for rehabilitation and construction ..." Therefore, the Development Cost was reduced by \$703,323.	Preliminary	
4C	III	A	2.c	Urban In-Fill	As a cure to item 1T, the Applicant provided an amended legal description and sketch of the property. Based on information provided by a NOAD, it appears that the Development site is divided by one or more easements and thus meets the definition of Scattered Sites (see subsection 67-48.002(106), F.A.C.). Therefore, the Development Location on the Local Government Verification of Qualification as Urban In-Fill Development form should reflect all of the Scattered Sites. Because the form is incomplete, the proposed Development does not qualify as an Urban In-Fill Development.	Final	
5C	IV	A		Local Government Contributions	Because the Local Government Contributions – Loan form does not qualify as a Local Government contribution for purposes of this Application, (see item 10S), the Local Government Verification of Contribution Loan - form could not be considered as a source of financing. However, this did not create any shortfall in funding for the Development.	Final	

ARTICLE XIV. DEFINITIONS\*

\*Cross references: Definitions and rules of construction, § 1-2.

Sec. 12-500. Purpose.

The purpose of this article is to define words, terms and phrases contained within this chapter.  
(Ord. No. 90-4, § 7, 2-21-90)

Sec. 12-501. Word usage.

In the interpretation of this chapter, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:

- (1) Words used or defined in one tense or form shall include other tenses and derivative forms.
  - (2) Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
  - (3) The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
  - (4) The word "shall" is mandatory.
  - (5) The word "may" is permissive.
  - (6) The word "person" includes individuals, firms, corporations, associations, trusts, and any other similar entities.
  - (7) The word "town" shall mean Town of Davie, Florida.
  - (8) The phrase "planning and zoning board" shall mean the Town of Davie Planning and Zoning Board of the Town of Davie Town Council.
  - (9) The word "councilmember" shall mean the members of the Town of Davie Town Council.
  - (10) The words "planning council" shall mean the Broward County Planning Council.
  - (11) The words "office of the circuit court" shall mean the Office of the Circuit Court of Broward County.
  - (12) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or table, the text shall control.
  - (13) The word "county" shall refer to Broward County, Florida.
  - (14) Words used in the present tense also include the future tense.
- (Ord. No. 90-4, § 7, 2-21-90)

Sec. 12-502. Abbreviations.

The following abbreviations are used in this chapter and are intended to have the following meanings:  
TABLE INSET:

ac	acre
BC	building coverage
den	density
du	dwelling unit
FAR	floor area ratio
ft.	feet
ISR	impervious surface ratio
GD	gross density

**ATTACHMENT D**

noncommercial copy shall be deemed to constitute an on-site or on-premise sign.

*Sign, painted wall.* Any sign that is applied with paint or similar substance on the face of a building wall.

*Sign, portable.* A permanent sign mounted on a frame and/or chassis, which is designed for easy and repeated relocation.

*Sign, real estate.* A temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale.

*Sign, roof.* Any sign erected upon, against or above the lowest roofline of any building or structure for purposes of these regulations, a mansard shall not be considered part of a roof.

*Sign, sandwich.* A sign that is movable and not secured or attached directly or indirectly to the ground, structure or building.

*Sign, snipe.* A temporary sign or poster affixed to a pole, tree, structure, building, fence, etc.

*Sign, structure.* Any device or material that supports, has supported, or is capable of supporting a sign in a stationary position, including decorative covers or sign roofs.

*Sign, subdivision entrance or identification.* Any sign whose purpose is exclusively limited to the identification of a platted subdivision or residential area, and which names such subdivision or area without further elaboration, display or advertisement.

*Sign, temporary.* A sign or advertising display constructed of cloth, canvas, fabric, paper, plywood or other light material and intended to be displayed for a short period of time (thirty (30) or less consecutive days). Included in this category are retailers' signs temporarily displayed for the purpose of informing the public of a sale or "special" offer.

*Sign, trespassing.* A sign intended to warn off trespassers upon the property on which the sign is located.

*Sign, under-canopy.* A sign suspended beneath a canopy or awning, or overhangs which are designed to provide sheltered pedestrian walkways along business storefronts.

*Sign, use.* The sign(s) permitted for each land use.

*Sign, wall.* A sign mounted parallel to a building facade or other vertical building surface. Wall signs shall also include those signs that are placed below the outside edge of a building overhang and those that are placed below the lowest roofline. Parallel signs shall not extend beyond the edge of any wall or other surface to which they are mounted nor shall they project more than eighteen (18) inches from the wall surface.

*Sign, window.* A sign painted or installed on a window surface for purposes of viewing from outside the premises.

*Site area, gross.* Land occupied or intended to be occupied by a building or use and accessory uses together with all yards, open spaces, easements, setbacks or similar areas, inclusive of dedicated roadways.

*Site area, net.* Land occupied or intended to be occupied by a building or use and accessory uses together with all yards, open spaces, easements, setbacks or similar areas exclusive of dedicated rights-of-way.

*Site plan.* A graphic depiction of features on a site such as existing and proposed structures, paved areas, ingress/egress points, and landscaped areas along with certain information as required in Article XII

*Soundproof.* To make impervious to sound. Incapable of hearing sound.

*Specified anatomical areas.*

- (a) Means the human genitals in a discernibly turgid state, even if completely and opaquely covered; or
- (b) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

*Specified sexual activities.* Any of the following:

- (a) Human genitals in a state of sexual stimulation or arousal.
- (b) The fondling of other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

electrical musical instruments or devices.

*Commercial establishment.* An establishment for the sale of goods or services individually or in small quantities directly to the consumer.

*Commercial recreation.* Recreational related businesses, uses, and facilities operated for profit. This may include but not be limited to amusement centers providing mechanical and/or electronic coin or token operated amusement devices or video games, archery range, bowling alley, country club or golf course, golf driving range, health spas, horse shoes and quoits, miniature golf course, tennis, racquetball, shuffleboard, squash and handball courts, swimming pools, running tracks.

*Commercial vehicle.* Any motor vehicle used for business or institutional purposes or having painted thereon or affixed thereto a sign identifying a business or institution or a principal product or service of a business or institution. Agricultural equipment used as part of a permitted agricultural principal use shall not be considered as a commercial vehicle.

*Common property.* A parcel or parcels of land or an area of water, or a combination of land and water, together with the improvements thereon, and designed and intended for the ownership, use and enjoyment shared by the residents and owners of a development. Common property may contain such accessory structures and improvements as are necessary and appropriate to the benefit of the residents and owners.

*Community facility.* A facility that is publicly or privately owned, serving cultural, recreational, religious and/or social interests in the community.

*Comprehensive Plan.* The Town of Davie Comprehensive Plan and its elements, including all text and all accompanying maps, charts and explanatory material, adopted by the town council pursuant to "Local Government Planning Act of 1975" of the Florida State Statutes, meeting the requirement of Sections 163.3177 and 163.3178 of the Florida Statutes, and certified by the Broward County Land Use Plan pursuant to the Broward County Charter.

*Concurrence.* Public facilities and services needed to support development at adopted levels of service shall be available at the same time or concurrent with the impacts of such development.

*Construction, actual.* The placing of construction materials in a permanent position and fastened in a permanent manner. Substantial demolition, excavation or removal of existing materials or structures preparatory to new construction shall also be deemed as actual construction.

*Construction, start of.* The excavation of or installation of foundation footings or grading other than for the installation of materials for road construction.

*Contiguous.* In close proximity, touching or adjacent.

*Copy.* The wording on a sign surface in either permanent or removable letter form.

*Copy, changeable.* A sign message such as a manual, electronic or electric-controlled time and temperature message, message center or reader board, whether electronic, electric or manual, where copy changes.

*Corner curved radius.* The curved street edging at intersections, measured at the edge of the traffic lanes. Radii shall not exceed the maximum prescribed.

*Curb cut.* See the definition of "Access."

*Cutoff.* The point at which all light rays emitted by a lamp, light source or luminaire are completely eliminated (cut off) at a specific angle above the ground. (See Article VIII, Division 2.)

*Cutoff angle.* The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted. (See Article VIII, Division 2.)

*Cutoff fixture.* A luminaire that allows a minimum amount of light directed at a horizontal plane (ninety (90) degrees). Light above the horizontal plane is limited to less than 2.5% of the total lamp lumens.

*Dedication.* The transfer of property interests from private to public ownership for a public purpose. The transfer may be of fee simple interest or of a less than fee simple interest, including an easement.

*Density.* The number of dwelling units per acre expressed in terms of "gross" and "net" density. Unless otherwise specified, permitted densities enumerated herein are expressed as gross densities.

*Density, gross (GD).* The quotient of the total number of dwelling units divided by the gross site area of

the site.

*Density, net (ND).* The quotient of the total number of dwelling units divided by the net site area of the site.

*Developer.* The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including optionee or contract purchaser.

*Development:*

(1) The division of a parcel of land into two (2) or more parcels;

(2) The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any buildings;

(3) Any use or change in use of any buildings or land;

(4) Any extension of any use or land; or

(5) Any clearing, grading or other movement of land for which permission may be required pursuant to this chapter.

(6) It is expressly recognized that the term "development" as defined herein and throughout this Code, shall not include nor be interpreted to include any farm, or "agricultural uses" as that term is defined pursuant to section 12-32(A).

*Development order.* Any order granting, denying or granting with conditions an application for a development permit.

*Development pad.* The portion of a lot subject to site disruption from construction and/or clearing activities including construction of principal and accessory buildings, drives, walkways, loading areas, storage yards, septic or alternative waste disposal areas, and woodland clearing activities.

*Development permit.* Any building permit, zoning permit, subdivision or plat approval, site plan approval, rezoning, special exception, variance or other official action of a unit of local government having the effect of permitting the development of land, but does not include any variance or other official action necessary solely for the purpose of issuing a permit, other than a building permit, pursuant to the South Florida Building Code, 1984, Broward Edition, as amended.

*Distance between buildings.* The shortest straight line distance between the building line of adjacent buildings upon the same lot. This term shall not apply to the party wall of attached or semidetached buildings or dwellings.

*Distinguished or characterized by an emphasis upon* means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or description of Specified Sexual Activities or Specified Anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description "specified anatomical areas" or "specified sexual activities."

*Distribution facilities.* A facility to which materials or goods are shipped by truck, sorted or stored, and then from which such materials or goods are loaded onto trucks for the purpose of shipping them to their final destination. Such facilities function solely to receive and ship materials or goods, and are characterized by a continuous volume of truck traffic during both on-peak and off-peak hours. Also referred to as motor freight terminals.

*District.* A portion of the territory of the Town of Davie, Florida, within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter.

*Drainage.* The removal of surface water or groundwater from land by drains, grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation or prevention or alleviation of flooding.

*Driveway.* An area that connects the parking aisles of a parking lot to the public right-of-way, to a private street or to another driveway.

*Driveway entrance.* The real portion of a driveway which immediately abuts the public right-of-way or a private street.

*Drug abuse treatment and education residential facility.* A facility approved and licensed by the Florida Department of Health and Rehabilitative Services to serve the need of persons who have been (or have



11. Special Residential Facilities; subject to: meeting one of the Category definitions as contained in the Special Residential Facilities Permitted Uses subsection of the Plan Implementation Requirements section of the Davie Future Land Use Plan; meeting density provisions by Category type stated below; and the limitations as expressed by the Davie Future Land Use Plan map; and, if applicable, the provisions regarding the use and allocation of reserve units, flexibility units or bonus sleeping rooms as contained in the "Administrative Rules Document" of the Broward County Planning Council.

Density Provisions:

- a. Special Residential Facility Category (1) development shall count as one (1) dwelling unit each.
- b. Special Residential Facility Category (2) development shall count as two (2) dwelling units each.
- c. Special Residential Facility Category (3) development shall count as one (1) dwelling unit per every two (2) sleeping rooms regardless of the number of kitchens or baths.

Residential Density

- a. Density Standards. Residential areas are shown on the Davie Future Land Use Plan map according to six ranges of density:
  - Residential (1) permits up to one (1) dwelling unit per gross acre.
  - Residential (3) permits up to three (3) dwelling units per gross acre.
  - Residential (5) permits up to five (5) dwelling units per gross acre.
  - Residential (10) permits up to ten (10) dwelling units per gross acre.
  - Residential (16) permits up to sixteen (16) dwelling units per gross acre.
  - Residential (22) permits up to twenty-two (22) dwelling units per gross acre.
  - Special Classification permits the maximum density per gross acre as depicted on the Future Land Use Plan Map for the particular parcel.

Other land use categories and land uses are subject to density standards as follows:

- Residential development within the Agriculture land use category is subject to the density standards and provisions contained within the Agriculture land use category of the Permitted Uses subsection.

- Special Residential Facilities are subject to the density standards contained within applicable land use categories in the Permitted Uses subsection.
- Recreational vehicle sites are subject to the density standards contained within applicable land use categories in the Permitted Uses subsection.
- Hotels, motels and similar lodging are subject to the density standards contained within applicable land use categories in the Permitted Uses subsection.

\* b. Density Calculation. All references to density within the Davie Future Land Use Plan means gross density. Gross density means the number of dwelling units constructed or proposed within an area, divided by the gross acreage of the area. Gross acreage means the total number of acres in an area, including acreage used or proposed for streets, lakes, waterways, and other proposed land uses permitted in residential areas by the Davie Future Land Use Plan.

Calculations of acreage covered by different land use categories on the Davie Future Land Use Plan map will necessarily be approximate, due to the scale of the map. Where edges of land use categories are close to property lines, streets, transmission lines or other existing boundaries, edges should be construed to follow those boundaries. A lake or canal should be construed as having been assigned the same land use category as that assigned to adjacent unsubmerged land. The New River and the rivers and canals of the primary drainage system as identified within this plan shall not, however, be construed as having credit towards residential density.

- c. Arrangement of Dwelling Units. The arrangement or distribution of dwelling units on a particular parcel of land is subject to the Town's Zoning and other Land Development Regulations.
- d. Dashed-Line Areas. Selected parcels are identified on the Davie Future Land Use Plan map by dashed lines circumscribing their edges. For each of these areas, the maximum overall density in dwelling units per acre is the number which appears within the dashed line. That number can be multiplied by the number of acres inside the dashed line, including areas not designated for residential use, to ascertain the maximum number of dwelling units allowable within the dashed line area. The dwelling units that are permitted within areas circumscribed by a dashed line may only be applied within the boundaries of the circumscribed area and may not be transferred.
- e. Flexibility Units. "Flexibility units" mean the difference between the number of dwelling units permitted within a flexibility zone by the Future Broward County Land Use Plan Map (Series) and the number of dwelling units permitted within the flexibility zone by the Davie Future Land Use Plan map, as certified.

Since the certified Davie Future Land Use Plan map may be more restrictive than the Future Broward County Land Use Plan Map (Series), available flexibility units may be utilized by the Town to rearrange residential densities. This