

**STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION**

In re: Kathleen Pointe Partners, LLLP

Case No. 2008-010VW

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**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-48.004(14)(e),  
FLORIDA ADMINISTRATIVE CODE (2007)**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on May 2, 2008, pursuant to a "Petition for Waiver from Florida Administrative Code Rule 67-48.004(14)(e)" filed by Kathleen Pointe Partners, LLLP ("Petitioner") on March 26, 2008. Notice of the Petition was published in Volume 34, Number 14, of the Florida Administrative Weekly. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.
2. During the 2007 Universal Cycle, Kathleen Pointe Partners, LLLP, ("Petitioner") applied for and was awarded competitive low-income housing tax credits ("Housing Credits") to finance the construction of Kathleen Pointe, an 80-unit development located in Polk County, Florida (the "Development").

FILED WITH THE CLERK OF THE FLORIDA  
HOUSING FINANCE CORPORATION

*Sherry Shear* DATE: 5-2-08

3. Rule 67-48.004(14)(e), Florida Administrative Code (2007), provides in pertinent part:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

...(e) Site for the Development

4. Section 120.542(2), Florida Statutes provides in pertinent part:

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

5. In Petitioner's original Application, the site for the Development was identified as "the North side of Mall Hill Road, east of the intersection of Mall Hill Road and Kathleen Road in Lakeland, Florida 33810." In the contract for purchase of the development site, the legal description provides in pertinent part: "A portion of Lot 7 and Tracts A and B of the Mall Hill Center Plat." Subsequently, Petitioner was required to convey a portion of Tract A to Polk County for a road-widening and turn lane project.

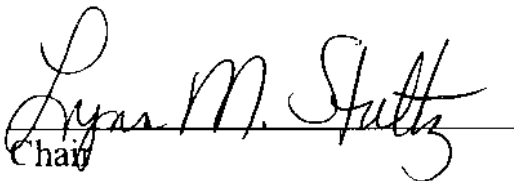
6. Petitioner has demonstrated that these changes in the legal description and conveyances in favor of Polk County have not adversely affected the Development or impacted the Tie Breaker Measurement Point. Thus, Petitioner's request would have no impact on the applications scoring and would give Petitioner no advantage over other applicants.
7. The Board finds that strict application of the above Rules under these circumstances, where minor changes to the legal description of the site resulted from circumstances beyond its control, would cause substantial hardship to Petitioner and violate the principles of fairness, in that unless the petition is granted, Petitioner will not be able to complete construction of the Development. Permitting this change in Development would also serve the underlying purpose of the statute.

**IT IS THEREFORE ORDERED:**

The Petition for a waiver of Rule 67-48.004(14)(e) Florida Administrative Code (2007) is hereby **GRANTED**, to allow Petitioner to change the legal description of the Site for the Development from that submitted in its Application and carryover documents to the legal description reflected on the survey and legal description attached hereto as Exhibit A.

DONE and ORDERED this 2nd day of May, 2008.

Florida Housing Finance Corporation

By:   
Chair

**Copies furnished to:**

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Joint Administrative Procedures Committee  
Attention: Ms. Yvonne Wood  
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Tallahassee, Florida 32399-1300

## **NOTICE OF RIGHTS**

**A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED PURSUANT TO CHAPTER 67-52, FLORIDA ADMINISTRATIVE CODE, BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.**

A PORTION OF LOT 7, MALL HILL CENTER, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 114, PAGES 35 THROUGH 38, PUBLIC RECORDS OF POLK COUNTY, FLORIDA, BEING FURTHER DESCRIBED AS FOLLOWS:

A PARCEL IN SECTION 2, TOWNSHIP 28 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA, BEING FURTHER DESCRIBED AS FOLLOWS:

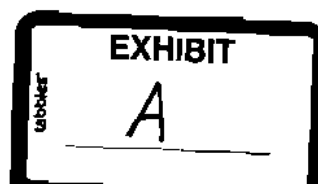
COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SECTION 2, TOWNSHIP 28 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA; THENCE RUN NORTH  $89^{\circ}57'11''$  EAST ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 2, A DISTANCE OF 607.25 FEET (607.26 FEET PLAT) TO THE NORTHWESTERLY CORNER OF SAID LOT 7 AND A POINT OF BEGINNING; THENCE CONTINUE NORTH  $89^{\circ}57'11''$  EAST ALONG AFORESAID NORTH LINE OF THE SOUTHWEST 1/4 AND NORTHERLY LINE OF SAID LOT 7, A DISTANCE OF 729.00 FEET; THENCE DEPARTING AFORESAID NORTH LINE OF THE SOUTHWEST 1/4, AND CONTINUING ALONG SAID NORTHERLY LINE OF LOT 7, RUN NORTH  $54^{\circ}28'51''$  EAST, A DISTANCE OF 75.85 FEET; THENCE DEPARTING SAID NORTHERLY LINE OF LOT 7, RUN SOUTH  $35^{\circ}24'28''$  EAST, A DISTANCE OF 205.10 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF MALL HILL DRIVE (70 FOOT RIGHT-OF-WAY); THENCE RUN SOUTH  $54^{\circ}28'51''$  WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 214.57 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 765.00 FEET AND A CHORD BEARING OF SOUTH  $85^{\circ}37'51''$  WEST; THENCE RUN SOUTHWESTERLY, THEN NORTHWESTERLY ALONG THE ARC OF SAID CURVE, ALSO BEING THE NORTHERLY RIGHT OF WAY LINE OF MALL HILL DRIVE (70 FOOT RIGHT-OF-WAY) THROUGH A CENTRAL ANGLE OF  $62^{\circ}18'00''$ , A DISTANCE OF 831.82 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 7; THENCE DEPARTING SAID CURVE AND NORTHERLY RIGHT OF WAY LINE, RUN NORTH  $26^{\circ}46'52''$  EAST ALONG THE WESTERLY LINE OF SAID LOT 7, A DISTANCE OF 120.66 FEET; THENCE RUN NORTH  $00^{\circ}02'49''$  WEST, CONTINUING ALONG SAID WESTERLY LINE, A DISTANCE OF 199.73 FEET (199.72 FEET PLAT) TO THE POINT OF BEGINNING.

TOGETHER WITH THOSE CERTAIN PROPOSED STORMWATER MANAGEMENT TRACTS "A" AND "D", BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

STORMWATER MANAGEMENT "TRACT A":

A PARCEL IN THE SOUTHWEST 1/4 OF SECTION 2, AND THE SOUTHEAST 1/4 OF SECTION 3, ALL IN TOWNSHIP 28 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID



SECTION 2; THENCE RUN SOUTH 00°12'00" EAST, A DISTANCE OF 108.98 FEET TO A POINT ON A CURVE CONCAVE SOUTHERLY WITH A RADIUS OF 440.00 FEET AND A CHORD BEARING OF SOUTH 87°03'44" EAST, ALSO BEING THE PROPOSED SOUTHERLY RIGHT OF WAY LINE OF MALL HILL DRIVE (70 FOOT WIDE RIGHT-OF-WAY), FOR A POINT OF BEGINNING; THENCE RUN EASTERLY ALONG SAID PROPOSED SOUTHERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 03°58'00", A DISTANCE OF 30.46 FEET; THENCE DEPARTING SAID CURVE AND SAID PROPOSED SOUTHERLY RIGHT-OF-WAY LINE, RUN SOUTH 04°55'13" WEST, A DISTANCE OF 52.54 FEET; THENCE RUN SOUTH 48°04'24" WEST, A DISTANCE OF 394.74 FEET; THENCE RUN NORTH 54°39'07" WEST, A DISTANCE OF 111.46 FEET TO THE PROPOSED EASTERLY RIGHT-OF-WAY LINE OF MALL HILL DRIVE; THENCE RUN NORTH 08°28'07" WEST ALONG SAID PROPOSED EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 65.59 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY WITH A RADIUS OF 440.00 FEET AND A CHORD BEARING OF NORTH 62°55'58" EAST; THENCE CONTINUE NORTHEASTERLY AND EASTERLY ALONG SAID PROPOSED EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 56°02'34", A DISTANCE OF 430.38 FEET TO THE POINT OF BEGINNING.

SAID STORMWATER MANAGEMENT "TRACT A" BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "A", MALL HILL CENTER, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 114, PAGES 35 THROUGH 38, PUBLIC RECORDS OF POLK COUNTY, FLORIDA:

STORMWATER MANAGEMENT TRACT "D":

A PARCEL IN SECTION 2, TOWNSHIP 28 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 2; THENCE NORTH 89°57'11" EAST ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4 OF SECTION 2, A DISTANCE OF 1,327.65 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 2, FOR A POINT OF BEGINNING; THENCE CONTINUE NORTH 89°57'11" EAST ALONG SAID NORTH LINE, A DISTANCE OF 8.62 FEET; THENCE DEPARTING SAID NORTH LINE, RUN NORTH 54°28'5" (51" PLAT) EAST, A DISTANCE OF 663.37 FEET; THENCE RUN NORTH 00°13'04" WEST, A DISTANCE OF 548.82 FEET; THENCE RUN SOUTH 89°40'06" WEST, A DISTANCE OF 73.02 FEET; THENCE RUN SOUTH 57°12'47" WEST, A DISTANCE OF 235.12 FEET; THENCE RUN SOUTH 75°55'50" WEST, A DISTANCE OF 159.58 FEET; THENCE RUN NORTH 66°12'20" WEST, A DISTANCE OF 135.62 FEET TO THE WEST LINE OF THE SOUTHEAST 1/4 OF

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THE NORTHWEST 1/4 OF SECTION 2; THENCE RUN SOUTH 00°12'58" EAST, A DISTANCE OF 822.41 FEET TO THE POINT OF BEGINNING.

SAID STORMWATER MANAGEMENT "TRACT D" BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT "D", MALL HILL CENTER, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 114, PAGES 35 THROUGH 38, PUBLIC RECORDS OF POLK COUNTY, FLORIDA

LESS AND EXCEPT THAT PROPERTY (ORDER OF TAKING) AS DESCRIBED IN OFFICIAL RECORDS BOOK 5069, PAGE 364:

THAT PORTION OF TRACT "A", MALL HILL CENTER IN SECTION 3, TOWNSHIP 28 SOUTH, RANGE 23 EAST AS PER PLAT THEREOF RECORDED IN PLAT BOOK 114, PAGE 35, PUBLIC RECORDS OF POLK COUNTY, FLORIDA.

BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEASTERLY CORNER OF SAID TRACT "A"; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID TRACT "A", NORTH 54°37'03" WEST 33.973 METERS (111.46 FEET) TO THE SOUTHWESTERLY CORNER OF SAID TRACT "A"; THENCE ALONG THE WESTERLY LINE OF SAID TRACT "A", NORTH 10°54'48" WEST, 4.576 METERS (15.01 FEET); THENCE SOUTH 55°25'00" EAST, 38.096 METERS (124.99 FEET) TO THE SOUTHEASTERLY LINE OF SAID TRACT "A"; THENCE ALONG SAID SOUTHEASTERLY LINE, SOUTH 47°46'50" WEST, 3.781 METERS (12.40 FEET) TO THE POINT OF BEGINNING.

ALSO LESS AND EXCEPT THAT PROPERTY AS DESCRIBED IN SPECIAL WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK \_\_\_\_\_, PAGE \_\_\_\_\_ PUBLIC RECORDS OF POLK COUNTY, FLORIDA:

THAT PORTION OF TRACT "A", MALL HILL CENTER IN SECTION 3, TOWNSHIP 28 SOUTH, RANGE 23 EAST AS PER PLAT THEREOF RECORDED IN PLAT BOOK 114, PAGE 35, PUBLIC RECORDS OF POLK COUNTY, FLORIDA.

BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID TRACT "A" THENCE ALONG THE EASTERLY BOUNDARY OF SAID TRACT "A" THE FOLLOWING TWO (2) COURSES: 1) SOUTH 04°55'13" WEST, A DISTANCE OF 52.54 FEET; 2) SOUTH 48°04'24" WEST, A DISTANCE OF 373.14 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 48°04'24" WEST, ALONG SAID EASTERLY BOUNDARY, A DISTANCE OF 8.93 FEET TO THE ORTHEASTERLY CORNER OF ORDER OF TAKING DESCRIBED IN OFFICIAL RECORDS BOOK 5069, PAGE 364, PUBLIC RECORDS OF POLK COUNTY, FLORIDA;



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THENCE DEPARTING SAID EASTERLY BOUNDARY OF TRACT "A", NORTH 55°14'01" WEST, ALONG THE NORTHERLY LINE OF SAID ORDER OF TAKING, A DISTANCE OF 124.59 FEET TO THE NORTHWESTERLY CORNER OF SAID ORDER OF TAKING AND THE WESTERLY BOUNDARY OF SAID TRACT "A"; THENCE DEPARTING SAID NORTHERLY LINE OF ORDER OF TAKING, NORTH 08°28'07" WEST, ALONG SAID WESTERLY BOUNDARY OF TRACT "A", A DISTANCE OF 11.18 FEET; THENCE DEPARTING SAID WESTERLY BOUNDARY, SOUTH 55°28'01" EAST, A DISTANCE OF 134.30 FEET TO THE POINT OF BEGINNING.