

BEFORE THE FLORIDA HOUSING FINANCE CORPORATION

KATHLEEN POINTE PARTNERS, L.L.L.P.,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORP.,

Respondent

APPLICATION NO. 2007-133C

FHFC CASE NO.: 2008-010VW

**PETITION FOR WAIVER FROM FLORIDA
ADMINISTRATIVE CODE RULE 67-48.004**

KATHLEEN POINTE PARTNERS, L.L.L.P. ("Petitioner"), by and through its undersigned attorney, hereby petitions the Florida Housing Finance Corporation ("Florida Housing") for a waiver from Rule 67-48.004, Florida Administrative Code ("FAC"). This Petition is filed pursuant to Section 120.542, Florida Statutes and Chapter 28-104, Florida Administrative Code.

THE PETITIONER

1. The address, telephone and facsimile number of Petitioner is:

Kathleen Pointe Partners, L.L.L.P.
e/o Atlantic Housing Partners
329 North Park Avenue, Suite 300
Winter Park, Florida 32789
407-741-8500 (telephone)
(407) 643-2551 (facsimile)

2. The address, telephone and facsimile number of Petitioner's attorney is:

Kerey Carpenter
AHG Group, LLC
1551 Sandspur Road
Maitland, Florida 32751
407-741-8534 (direct line)
407-551-2353 (facsimile)

3. Petitioner successfully applied for an allocation of Low Income Housing Tax Credits (“Housing Credits”) in the 2007 Universal Application Cycle that Florida Housing administers pursuant to Chapter 67-48, Florida Administrative Code. Petitioner’s Application Number is 2007-133C (the “Application”). Petitioner applied for Housing Credits to finance a portion of the costs to develop an 80-unit multifamily rental apartment community in Polk County, Florida, to be known as Kathleen Pointe (the “Development”).

THE RULES FROM WHICH A WAIVER IS SOUGHT

4. Petitioner requests a waiver from Rule 67-48.004(14), as in effect for the 2007 Universal Application Cycle. Rule 67-48.004(14) provides in relevant part as follows:

(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 attempt to make changes to these items will not be accepted. Those items are as follows:

* * *

(e) Site for the Development;

STATUTES IMPLEMENTED BY THE RULE

5. The Rule implements, among other sections of the Florida Housing Finance Corporation Act¹, the statute that created the Housing Credits Program. Section 420.5093, Florida Statutes. The Act designates Florida Housing as the State of Florida’s housing credit agency within the meaning of Section 42(h)(7)(A) of the Internal Revenue Code of 1986. As the designated agency, Florida Housing is responsible for and is authorized to establish procedures for the allocation and distribution of low-income housing tax credits (“Allocation Procedures”).

¹ The Florida Housing Finance Corporation Act is set forth in Section 420.501 through 420.526, Florida Statutes.

Section 420.5099(1) and (2), Florida Statutes. Accordingly, the Rule implements, among other sections of the Act, the statutory authorization for Florida Housing's establishment of Allocation Procedures for the Housing Credit Program.

6. Florida Housing has authority pursuant to Section 120.542(1), Florida Statutes and Chapter 28-104, F.A.C. to grant waivers to its rule requirements when strict application of such rules would lead to unreasonable, unfair and unintended consequences in particular instances. Waivers shall be granted when the person subject to the rule demonstrates that the application of the rule would (1) create a substantial hardship or violate principals of fairness, and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. Section 120.542(2), Florida Statutes.

FACTS DEMONSTRATING ENTITLEMENT TO WAIVER

7. The provisions of the foregoing Rule prohibit a change in the "Site for the Development". Petitioner is uncertain whether, under the scenario described below, the "Site for the Development" has in fact changed since it remains in the same location as described in the 2007 Housing Credit Application. However, in order to dispel any ambiguity with respect to this issue, Petitioner is submitting this Petition for Waiver. For the reasons set forth below, compliance with the provisions of the aforementioned Rule would give rise to substantial hardship to Petitioner and would violate principles of fairness.

8. In the 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." Exhibit A to the contract for the purchase of the site submitted with the Application identified the site as follows:

“Lot 7 and Tracts A and B of the Mall Hill Center Plat recorded in Polk County, Florida in Plat Book 114 at Page 366. The parties acknowledge and agree that the exact legal description of the Property is to be determined by the Survey. Upon receipt and approval of the Survey by the Purchaser, the Survey shall be automatically substituted for this ‘Exhibit A’ without the necessity of amending this Agreement.”

(Exhibit 1)

9. The legal description submitted to Florida Housing with Petitioner’s carryover documentation provides in relevant part: “a portion of Lot 7 together with Tracts A and B” (Exhibit 2). Throughout the Application and allocation process for the Development, Tract A has been identified as a storm water management area and, although owned by Petitioner, Tract A has been dedicated as a common area of the Mall Hill Center Plat.

10. After submission of the Application, Petitioner was required to convey two narrow strips from Tract A to Polk County for a road-widening and turn lane project. (Exhibit 3). These conveyances had no adverse affect on the Development. The Tie-Breaker Measurement Pointe was not located on the narrow strips of land conveyed to Polk County. The change in the legal description of the Development site would have had no impact on the application’s scoring, thus providing Petitioner with no advantage over its competitors. A new survey depicting the narrow tracts taken by the county together with an updated legal description is attached as Exhibit 4.

11. In light of the considerable time that it takes to develop and construct multifamily rental housing, Florida Housing’s statutes and rules are designed to allow the flexibility necessary to respond to changed circumstances, particularly those that arise through no fault of the Petitioner, which might necessitate a modification in a proposed project. Florida Housing routinely approves such changes when they would not have otherwise affected the scoring of the application, because the Applicant thus derives no unfair advantage over its competitors in an

application cycle. Indeed, the specific purpose of Rule 67-48.004(14) is to prevent an applicant from changing certain key elements in its application after reviewing the applications of its competitors, thereby allowing the applicant to gain a possible advantage.

12. As explained above, the project changes requested by Petitioner result from actions by Polk County and the Mall Hill Center, through no fault of Petitioner. Further, the proposed changes to Kathleen Pointe would have had no impact on scoring of the Application, thus providing Petitioner with no advantage over its competitors.

WAIVER WILL SERVE THE UNDERLYING PURPOSE OF THE STATUTE

13. Florida Housing's approval of the requested waiver would serve the purpose of the underlying Florida Statute, Section 420.5093, as well as the Housing Credit Program. The purpose of both the Statute and the program is to facilitate and stimulate the development of multifamily rental housing that is affordable to families of limited means. If the requested waiver is granted, the Housing Credit allocation in question will be used to fund an affordable multifamily rental housing community for which there is a desperate need in the Lakeland, Florida.

14. The violation of principles of fairness and imposition of a substantial hardship which would result from strict compliance with the provisions of FAC Rule 67-48.004(14), would be as follows. Unless the waiver is granted, Petitioner would not be able to utilize the Housing Credits for the development of Kathleen Pointe, a much needed affordable housing community. The substantial hardship which would result from strict compliance with the foregoing Rule is obvious.

15. By granting a waiver and permitting Petitioner to revise the Site for the Development, Respondent would recognize the economic realities of developing and constructing affordable rental housing. This recognition would promote participation by owners and developers such as Petitioner in meeting Respondent's purpose by providing affordable housing, through new construction, in an economical and efficient manner.

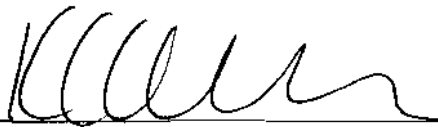
TYPE OF WAIVER

16. The waiver being sought is permanent in nature.

ACTION REQUESTED

17. Petitioner requests a waiver from Rule 67-48.004(14) to permit a change in the Site for the Development from the descriptions that were submitted in the Application and with carryover documentation to the Development site reflected on the survey and legal description attached as Exhibit 4.

Respectfully submitted this 25th day of March, 2008.


Kerey Carpenter
AHG Group, LLC
1551 Sandspur Road
Maitland, Florida 32751
407-741-8534 (direct)
407-551-2353 (faesimile)
kcarpenter@ahg-group.com
Florida Bar No. 963781
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that an original and one copy of the foregoing Petition for Waiver have been filed with Corporation Clerk of the Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida, 32301; and that a true and correct copy of the foregoing has been furnished to the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida 32399-1300.



Kerey Carpenter

Original application

EXHIBIT "A"

Lot 7 and Tracts A and B of the Mall Hill Center Plat recorded in Polk County, Florida in Plat Book 114 at Page 366. The parties acknowledge and agree that the exact legal description of the Property is to be determined by the Survey. Upon receipt and approval of the Survey by the Purchaser, the Survey shall be automatically substituted for this "Exhibit A" without the necessity of amending this Agreement.



Carryover application

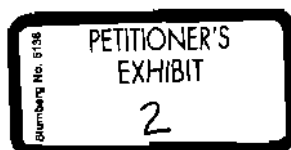
LEGAL DESCRIPTION

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 $\frac{1}{4}$ 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 $\frac{1}{4}$ of said Section 2, a distance of 607.25 feet for a POINT OF BEGINNING; thence continue North $89^{\circ}57'11''$ East along aforesaid line, a distance of 729.00 feet; thence departing aforesaid line, run North $54^{\circ}28'51''$ East, a distance of 75.85 feet; thence run South $35^{\circ}24'28''$ East, a distance of 205.10 feet to the proposed Northerly right of way line of Mall Hill Drive (70 foot right of way); thence run South $54^{\circ}28'51''$ West along said proposed 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 proposed 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; thence departing said curve and proposed Northerly right of way line, run North $26^{\circ}46'52''$ East, a distance of 120.66 feet; thence run North $00^{\circ}02'49''$ West, a distance of 199.73 feet to the POINT OF BEGINNING.

Together with Tracts A and B, MALL HILL CENTER, according to the plat thereof as recorded in Plat Book 114, pages 35 through 38, Public Records of Polk County, Florida.



Prepared by and return to:
George P. Graham, Esq.
Akerman Senterfitt
420 South Orange Avenue, Suite 1200
Orlando, Florida 32801-4904

-----[SPACE ABOVE THIS LINE FOR RECORDING DATA]-----

QUIT-CLAIM DEED

THIS QUIT-CLAIM DEED is made as of this 12nd day of February, 2008, by **KATHLEEN POINTE PARTNERS; L.L.L.P.**, a Florida limited liability partnership (hereinafter referred to as "Grantor"), whose post office address is 329 North Park Avenue, Suite 300, Winter Park, Florida 32789, to Polk County, a political subdivision of the State of Florida (hereinafter referred to as "Grantee"), whose post office address is P.O. Box 988, Bartow, Florida 33831.

WITNESSETH:

THAT, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid by Grantee to Grantor, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Grantor, Grantor hereby grants, bargains, sells, alienates, remises, releases, conveys and confirms unto Grantee, its successors and/or assigns, all of the right, title, interest, claims and demands that Grantor has in and to the following described real property located in Polk County, Florida, to-wit (hereafter, the "Property"):

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

TOGETHER WITH all the tenements, hereditaments, easements and appurtenances thereto belonging or in any way appertaining, for use of the Property as a public road/public right-of-way, including the construction, maintenance, and replacement thereof.

AND Grantor hereby covenants with Grantee only, that Grantor is lawfully seized of the Property in fee simple, and Grantor has good right and lawful authority to sell and convey the Property.

[SIGNATURE AND ACKNOWLEDGEMENT ON NEXT PAGE]



IN WITNESS WHEREOF, Grantor has caused this Quit-Claim Deed to be executed as of the day and year first above written.

WITNESSES:

KATHLEEN POINTE PARTNERS,
L.L.L.P., a Florida limited liability partnership

[Signature]
Print Name: Jay P. Brock

By: Kathleen Pointe Managers, L.L.C., a
Florida limited liability company
Its: General Partner

[Signature]
Print Name: SARAH SCHWEMIN

By: [Signature]
Its: Manager

STATE OF FLORIDA)
) ss:
COUNTY OF Orange)

The foregoing Quit-Claim Deed was acknowledged before me this 22nd day of February, 2008, by Jay P. Brock, the duly authorized Manager of Kathleen Pointe Managers, L.L.C., a Florida limited liability company, in its capacity as the general partner of Kathleen Pointe Partners, L.L.L.P., a Florida limited liability partnership. He is personally known to me or has produced _____ as identification.

[Affix Notary Seal or Stamp]

[Signature]

Signature of Notary Public
Printed Name: Marsha L. Williams
My Commission Number DD 0601607
My Commission Expires 10/30/2010
My Commission Expires: _____

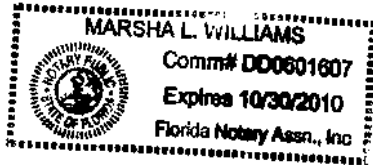


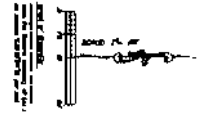
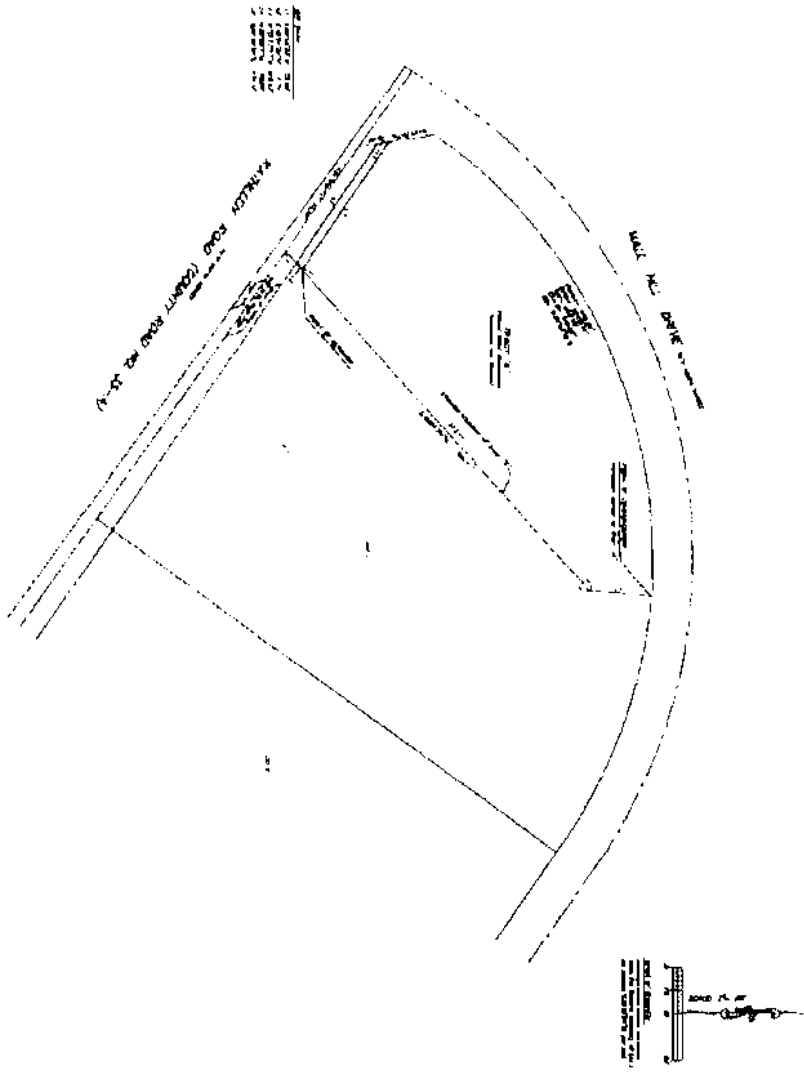
Exhibit "A"

LEGAL DESCRIPTION

A parcel of land being a portion of Tract "A" of MALL HILL CENTER, according to the map or plat thereof as recorded in Plat Book 114, Pages 35 through 38 of the Public Records of Polk County, Florida, being more particularly 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) S.04°55'13"W., a distance of 52.89 feet; 2) S.48°04'24"W., a distance of 373.14 feet to the POINT OF BEGINNING; the continue S.48°04'24"W., along said Easterly boundary, a distance of 7.74 feet to the Northerly boundary of Order of Taking described in Official Records Book 5074, Page 2125, Public Records of Polk County, Florida; thence N.55°23'27"W., along said Northerly boundary, a distance of 125.45 feet; thence leaving said Northerly boundary, N.08°28'07"W., a distance of 10.06 feet; thence S.55°28'01"E., a distance of 134.11 feet to the POINT OF BEGINNING.

DESCRIPTION SKETCH
 SECTION 3, TOWNSHIP 28 SOUTH, RANGE 23 EAST
 POLK COUNTY, FLORIDA



The description of the above described land is as shown on the attached plat of the same, and is subject to the provisions of the laws of the State of Florida relating to the same.

Witness my hand and seal of office this 1st day of May, 1968.

Notary Public for the State of Florida
 My commission expires on May 1, 1970.

PLAT NO.	2000
DATE	5-1-68
PREPARED BY	W. H. HARRIS
APPROVED BY	
RECORDED	
INDEXED	
FILED	
COUNTY	POLK
TOWNSHIP	28 SOUTH
RANGE	23 EAST
SECTION	3
PREPARED FOR	BETHLEHEM DEVELOPMENT CO., INC.
BY	W. H. HARRIS
DESCRIPTION SKETCH	
DATE	5-1-68
FILED	

ORIGINAL

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL
CIRCUIT IN AND FOR POLK COUNTY, FLORIDA

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION,

Petitioner,

vs.

CIVIL ACTION NO.: 02CA-1564
SECTION: 08
PARCEL NO. : 159

CED CAPITAL HOLDINGS XVI,
LTD. ET AL.,

Defendants.

ORDER OF TAKING FOR PARCEL 159

THIS CAUSE coming on to be heard by the Court, it appearing that proper notice was first given to all the Defendants, and to all persons having or claiming any equity, lien, title, or other interest in or to the real property described in the Petition, that the Petitioner would apply to this Court for an Order of Taking of Parcel 159 and the Court being fully advised in the premises, upon consideration, it is, therefore,

ORDERED AND ADJUDGED:

1. That the Court has jurisdiction of the subject matter of and the parties to this cause.
2. That the pleadings in this cause are sufficient.
3. That the Petitioner is properly exercising its delegated authority.
4. That the property is being acquired for a public purpose.
5. That the taking of this property is reasonably necessary to serve the public purpose for which the property is being acquired.

6. That the Estimate of Value filed in this cause by the Petitioner was made in good faith and based upon a good faith appraisal.

7. That upon the payment of the deposit hereinafter specified into the Registry of this Court, the right, title or interest specified in the Petition as described herein shall vest in the Petitioner, to-wit:

FP NO. 2012171

SECTION 16320-2445 STATE ROAD 400 (I-4) POLK COUNTY DESCRIPTION

PARCEL 159

ESTATE OR INTEREST TO BE OBTAINED: FEE SIMPLE

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.

Containing 123.8 square meters (1,333 square feet).

GOOD FAITH ESTIMATE OF VALUE \$ 2,500.00
REQUIRED TO DEPOSIT \$ 2,500.00


8. That the deposit of money will secure the persons lawfully entitled to the compensation which will be ultimately determined by final judgment of this Court.

9. That the sum of money to be deposited in the registry of this Court within twenty (20) days of the entry of this Order shall be in the amount of **TWO THOUSAND FIVE HUNDRED AND NO/100THS (\$2,500.00) DOLLARS**, for Parcel 159.

10. That on deposit as set forth above and without further notice or Order of this Court the Petitioner shall be entitled to possession of the property described in the Petition.

11. That upon proper notice and hearing, pursuant to Section 74.071, *Florida Statutes*, the deposit may be distributed to the Defendants in accordance with the Court's order.

DONE AND ORDERED in Chambers this 24th day of July, 2002, A.D., in the State of Florida, County of Polk.



Randall G. McDonald
Circuit Judge

Copies to:
Roger A. Mallory, Esquire
Scott J. Johnson, Esquire
All Parties on attached Service List

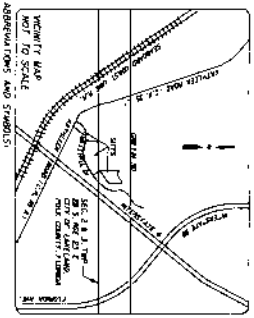
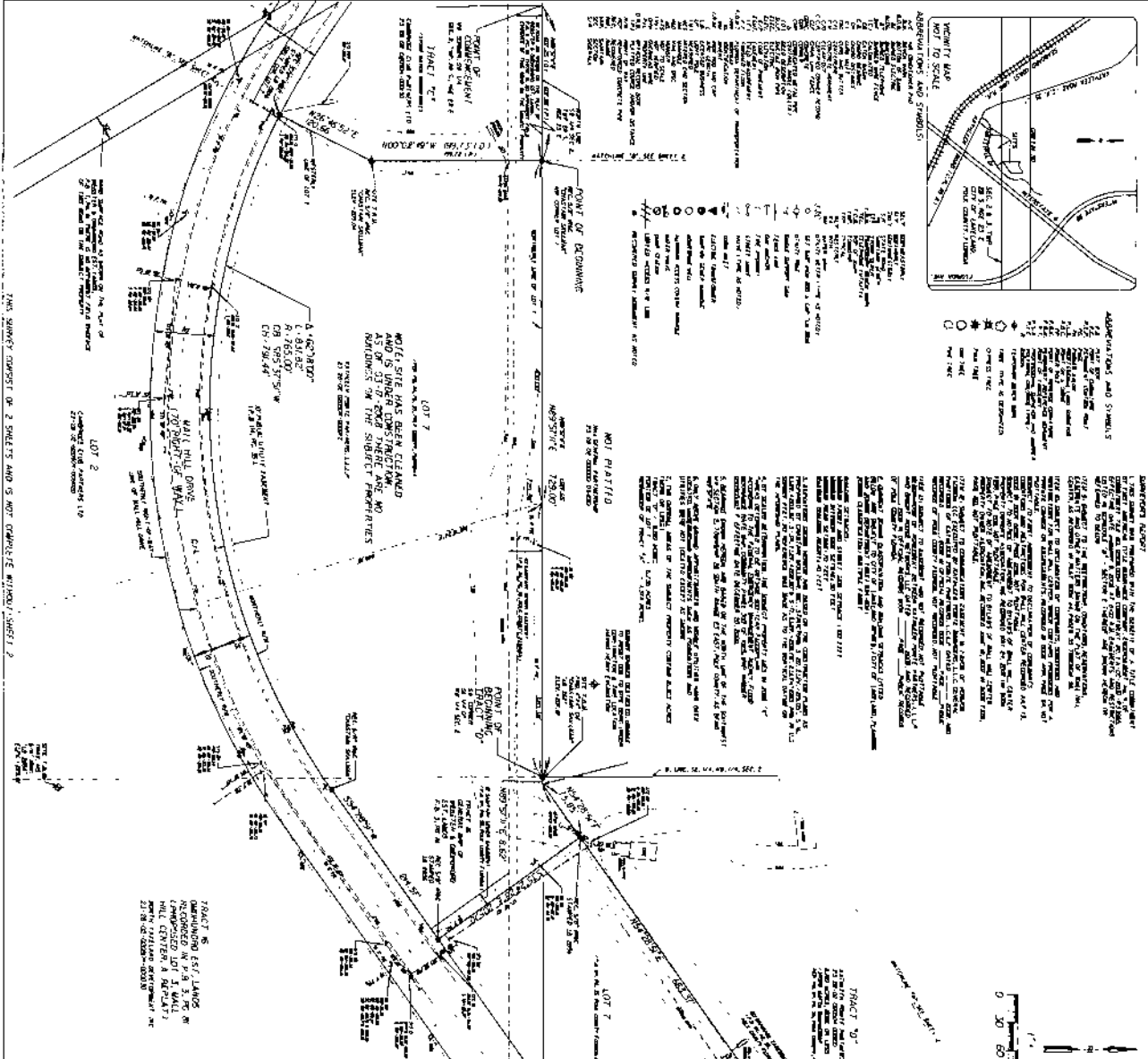
ADDRESS LIST

CED Capital Holdings XVI, Ltd.,
A Florida limited partnership
C/O Scott J. Johnson, Esquire
Holland and Knight, LLP
200 South Orange Avenue, Suite 2600
Orlando, Florida 32802
Parcel 159

North Lakeland Development, Inc.,
A Florida corporation
C/O J. Victor Barrios, Esquire
2846-A Remington Green Circle
Tallahassee, FL 32308
Parcel 159

Polk County Property Appraiser
C/O Marsha Faux or her designee
255 N. Wilson Avenue
Bartow, FL 33830
As to interest in and to any parcel included herein

Polk County Tax Collector
C/O Joe Tedder or his designee
430 E. Main Street
Bartow, FL 33830
As to interest in and to any parcel included herein



ADDITIONAL NOTES AND SYMBOLS

1. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.

2. ALL BEARINGS ARE TRUE BEARINGS.

3. ALL CORNERS ARE TO BE MARKED WITH IRON PIPES OR IRON BOLTS.

4. ALL DISTANCES ARE TO BE MEASURED ALONG THE CENTERLINE OF THE ROAD.

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10. ALL DISTANCES ARE TO BE MEASURED ALONG THE CENTERLINE OF THE ROAD.

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

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 NORTHEASTERLY CORNER OF ORDER OF TAKING DESCRIBED IN OFFICIAL RECORDS BOOK 5069, PAGE 364, PUBLIC RECORDS OF POLK COUNTY, FLORIDA;

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.