

BEFORE THE STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

PINNACLE PLAZA, LTD.,

Petitioner,

vs.

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

Agency Case No. 2006-047C

FHFC Case No. 2006-0204C

RECEIVED
2006 MAY 25 AM 9:43
FLORIDA HOUSING FINANCE CORPORATION

**PETITION REQUESTING INFORMAL HEARING
AND GRANT OF THE RELIEF REQUESTED**

Pursuant to Sections 120.569 and 120.57, Florida Statutes ("F.S."), Rule 67-48.005(2), Florida Administrative Code ("FAC") and Rule 28-106.301, FAC, Petitioner, PINNACLE PLAZA, LTD. ("Petitioner") requests an informal hearing concerning the scoring by Florida Housing Finance Corporation ("FHFC") of Petitioner's Application No. 2006-047C, and to then grant the relief requested. In support of this Petition, Petitioner states as follows:

AGENCY AFFECTED

1. The name and address of the agency affected is Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The Agency's file or identification number with respect to this matter is 2006-047C.

PETITIONER

2. The Petitioner is Pinnacle Plaza, Ltd., a Florida limited partnership. The address of the Petitioner is c/o Pinnacle Housing Group, LLC, 9400 S. Dadeland Boulevard, Suite 100, Miami, Florida 33156, telephone number (305) 854-7100. Petitioner's representative is Gary J.

Cohen, Esq., whose address is c/o Shutts & Bowen LLP, 201 S. Biscayne Boulevard, Suite 1500, Miami, Florida 33131, telephone number (305) 347-7308.

PETITIONER'S SUBSTANTIAL INTERESTS

3. Petitioner's substantial interests will be affected by the determination of FHFC as follows:

(a) Petitioner has applied for an allocation of competitive 9% low-income housing tax credits under the FHFC Housing Credit ("HC") program. The HC Program is set forth in Section 42 of the Internal Revenue Code of 1986, as amended, and it awards developers and investors a dollar for dollar reduction in income tax liability through the allocation of tax credits in exchange for construction of affordable rental housing units. FHFC is the agency designated by the United States Treasury to administer the allocation of tax credits in the State of Florida.

(b) An HC application is comprised of numerous forms which request information of each applicant. FHFC adopted the forms by reference in Rule 67-48, FAC.

(c) On or about February 1, 2006, Petitioner submitted to FHFC a HC application in the Large County set-aside for the 2006 funding cycle. The application was submitted in an attempt to assist in the financing of the construction of a 132 unit apartment complex in Miami, Florida.

(d) The application was scored by FHFC in accordance with the provisions of Rule 67-48, FAC. By letter dated on or about March 2, 2006, FHFC advised Petitioner that its preliminary score was 66 points, with 6.25 proximity tie-breaker points (a 1.25 point proximity tie-breaker point reduction was assessed due to Petitioner's failure to provide the required information as to a grocery store), and that all threshold requirements were met. As a result of Notices of Potential Scoring Errors ("NOPSE's") filed against Petitioner, FHFC notified

Petitioner on or about March 28, 2006 that its score remained at 66 points, that its total proximity tie-breaker points remained at 6.25, and that Petitioner had failed the threshold zoning requirement due to submission of a deficient zoning form.

(e) On or about April 10, 2006, Petitioner submitted “cure” documentation to FHFC contending that Petitioner (i) should receive an additional 1.25 proximity tie-breaker points for proximity to a grocery store, and (ii) should be found to have satisfactorily met the threshold zoning requirement.

(f) On or about May 4, 2006, FHFC advised Petitioner that its total points remained at 66, that Petitioner had satisfactorily cured the threshold zoning requirement, and that Petitioner continued to receive no points for its grocery store because such grocery store had less than 4,500 square feet of air conditioned space available to the public.

(g) FHFC’s scoring of Petitioner’s proximity tie-breaker points pertaining to proximity to a grocery store is the subject matter of this Petition.

(h) Under the HC program, the HC applications are scored by FHFC. A finite amount of tax credits are allocated to applicants in certain geographic areas (large county, medium county and small county areas as defined by FHFC) and pursuant to certain set-aside classifications. Only those applications receiving the highest scores are awarded tax credits. Petitioner’s ability to finance its proposed project will be jeopardized if tax credits are not obtained; accordingly, Petitioner’s substantial interests are affected by this proceeding.

NOTICE OF AGENCY DECISION

4. Petitioner received notice of FHFC’s scoring of its “cure” documentation by Federal Express delivery on or about May 5, 2006. Attached as Exhibit “A” is a copy of the Scoring Summary setting forth the scoring, which scoring gives rise to this Petition.

ULTIMATE FACTS ALLEGED

5. In Petitioner's cure documentation submitted on or about April 10, 2006 to remedy certain deficiencies in its initial HC application, Petitioner indicated (in Exhibit 25 to its cure to the application) that, for purposes of proximity tie-breaker points, it was utilizing the "Mas Unidos Market" located at 832 S.E. 8th Street. The portion of such "cure" documentation pertaining to the award of proximity tie-breaker points for proximity to a grocery store is attached as Exhibit "B".

6. In the "cure" documentation, Petitioner submitted (i) an affidavit and survey sketch from Mr. Alfonso Tello, demonstrating that the total air conditioned space at Mas Unidos Market was approximately 4,547 square feet, and (ii) an affidavit from Mr. Ruben Calderon, who is the owner and operator of Mas Unidos Market, verifying the correctness of Mr. Tello's survey.

7. Mr. Calderon also swore and certified in his affidavit (included in Exhibit "B") that (i) the square footage under air conditioned space occupied and operated as Mas Unidos Market was approximately 4,547 square feet, (ii) included in the computation of square footage under air conditioning occupied and operated as Mas Unidos Market was approximately 656 square feet of store space opened during calendar year 2005 (the "Additional Space"), (iii) such Additional Space is (together with the larger space indicated on Mr. Tello's survey) operated as a single grocery store business known as Mas Unidos Market, and (iv) Mr. Calderon controls (as tenant) the entire building within which Mas Unidos Market is located and operated.

8. In the final scoring summary (attached as Exhibit "A"), FHFC determined that Petitioner should not receive any proximity tie-breaker points with respect to Mas Unidos Market. In making this determination, FHFC found that "... Mas Unidos Market has less than the required 4,500 square feet of air conditioned spaced available to the public. The sketch provided in the cure shows that there are 656 square feet of space that is not part of the market

and is separated by a storage area. Further evidence provided in a NOAD shows that this area is also blocked by a locked gate.”

**FACTS WHICH WARRANT REVERSAL
OF AGENCY'S PROPOSED ACTION**

The specific facts which warrant reversal of FHFC’s proposed action are as follows:

9. FHFC has incorrectly determined that “Mas Unidos Market” is not a qualifying “grocery store” for purposes of receiving 1.25 proximity tie-breaker points. FHFC concludes the market contains less than 4,500 square feet of air conditioned space available to the public because: (i) “A sketch provided in the cure shows that there are 656 square feet of space (the “Additional Space”) that is not part of the market and is separated by a storage area”, and (ii) “further evidence provided in a NOAD shows that this area is also blocked by a locked gate” (see Item 1P in the final Scoring Summary attached as Exhibit “A”).¹

10. FHFC has erred for the following reasons. FHFC has not disagreed with Petitioner’s assertion that the total air conditioned square footage is 4,547 square feet. Instead, FHFC has determined that since the Additional Space is not contiguous and because it is separated by a storage area, it should not be counted towards the 4,500 square foot requirement. This is incorrect for two reasons. First, there is no requirement in the Application Instructions or the Rule that such space be contiguous, and no such legal requirement exists, nor were applicants given notice of such requirement. Second, the space at issue in this case is in fact contiguous. Finally, the area which FHFC states is blocked by a locked gate (the office space in the back of the market) is available to the public and must be counted towards satisfying the 4,500 square foot requirement.

¹ Reference to “this area” must refer to the office space in the grocery store, not the Additional Space. See ¶14.

11. FHFC has not controverted or otherwise disagreed with the assertions contained in the affidavit of the store owner supplied by Petitioner (attached as Exhibit “B”) that the Additional Space and the remainder of the grocery store constitutes a single grocery store business; therefore, the Additional Space and the remainder of the grocery store space must all be counted towards meeting the 4,500 square foot requirement. In addition, the Additional Space, the remainder of the grocery store space and the storage space located in between the aforementioned two spaces are all contiguous to each other; there is no legal or factual basis for FHFC to conclude that the existence of storage area space (which is adjacent and contiguous to both parts of the grocery store space) results in the Additional Space not being “counted” towards meeting the 4,500 square foot requirement. Petitioner’s uncontroverted affidavit establishes that the Additional Space is part of the market and should be counted towards satisfying the 4,500 square foot requirement.

12. The space allegedly “blocked by a locked gate” (the office space) is available to any customer or vendor as needed. Such space is in fact “available to the public”; the locked gate is simply a security measure.

GROCERY STORE

13. The grounds asserted by FHFC in determining that Mas Unidos Market did not qualify were twofold: (i) that the 656 square feet of additional space (the “Additional Space”) indicated in the surveyor sketch supplied as part of Petitioner’s cure documentation did not constitute part of the Mas Unidos Market, by virtue of the fact that such Additional Space “... is not part of the market and is separated by a storage area”, and (ii) separate and apart from its finding in (i) above, FHFC determined that Mas Unidos Market (including the Additional Space) did not contain the required 4,500 square feet of air conditioned space available to the public due

to the fact that the “office portion” of the market is not “available to the public” by virtue of being blocked by a locked gate.

14. It is clear that FHFC’s finding as to the portion of the market “blocked by a locked gate” pertained to the office space, since all of the NOAD’s filed against Petitioner took the position that the area blocked by the “locked gate” was the office space and not the Additional Space and there is no evidence in the record to support a determination that the Additional Space was blocked by a locked gate. There was no allegation made in any of the NOAD’s that the Additional Space was blocked by a locked gate.

Additional Space; Part of Mas Unidos Market

15. FHFC is incorrect in stating that the Additional Space is “not part of the market”. This is not a disputed issue of fact. Mr. Calderon’s undisputed affidavit (contained as part of Petitioner’s cure documentation) makes clear that he controls the entire shopping center in which the market is operated and operates the Additional Space together with the other grocery store space as a single grocery store known as “Mas Unidos Market”. No allegation to the contrary has been made, and no evidence in the record has been or could be advanced to the contrary. FHFC’s assertion that the Additional Space is “not part of the market” is a misreading of the facts, and is directly controverted by Mr. Calderon’s affidavit.

16. Whether or not the Additional Space is separated from the remainder of Mas Unidos Market by a storage area is irrelevant. The definition of grocery store contained in the Application Instructions does not require that all space be proximate or contiguous, but rather only requires that the entire market contain at least 4,500 square feet of air conditioned space available to the public. Clearly Mas Unidos Market, when combining the Additional Space with the remainder of the market, satisfies this requirement. The fact that a business occupies several

bays in a strip shopping center (particularly when such business controls the entire shopping center as primary tenant, as is the case here) does not mean that each bay constitutes a separate business establishment; a single business can be operated out of several bays within a strip shopping center, even where such bays are separated by storage space (as is the case here). Nothing in the Application Instructions prohibits Mas Unidos Market from occupying more than one bay in its strip shopping center.

17. Even if a requirement of “contiguity” existed (which it does not), the subject market would satisfy such requirement. As is shown on the survey contained in Petitioner’s cure documentation (see attached Exhibit “B”), the larger portion of the market (containing 3,891 square feet), the storage area and the Additional Space are in fact all contiguous to each other. The storage area is currently being utilized by the grocery store operator for storage for the market (see paragraph 5 of Calderon affidavit included as Exhibit “B”); the only reason it was excluded by Petitioner from satisfying the 4,500 square foot requirement is that such storage space is not available to the public. However, due to its utilization as storage space for the market, and the fact that it is proximate and contiguous to the market on either side, all three bays in the shopping center referenced in the attached survey are contiguous and together comprise the entire market. There is no support for FHFC’s position that the Additional Space is “not part of the market and is separated by storage area”; all three spaces combined comprise the market and no such separation in fact exists.

18. It is telling that, with respect to the Application Instructions currently posted by FHFC on its website with respect to the pending 2006 Rental Recovery Loan Program (excerpt attached as Exhibit “C”), FHFC has proposed altering the grocery store definition to require 4,500 square feet or more of contiguous (emphasis added) air conditioned space available to the

public. This is evidence that FHFC has determined that its prior definition of grocery store (applicable to this case and attached as Exhibit “D”) did not require that grocery space be “contiguous” in order to qualify, and/or did not adequately communicate such requirement, and has determined (on a prospective basis) to amend the definition to add such requirement of contiguity in the future. The requirement of “contiguity” did not exist (and its existence was not noticed to the public) in the 2006 Cycle with respect to which Petitioner applied; otherwise, there would have been no need for FHFC to make the aforementioned change.

19. For all the reasons set forth above, FHFC’s assertion that the Additional Space was separated by a storage area and therefore not part of the market is not supported by the governing Application Instructions, and therefore cannot be considered.

Locked Gate

20. With respect to the second issue identified above (i.e., whether the office space consisting of 107.69 square feet should constitute part of the square footage “available to the public”), resolution of such issue is clear. Space within a grocery store that does not actually contain groceries (for example, bathrooms and offices) counts towards the requisite 4,500 square feet as long as it is “available to the public.” FHFC does not define (in its Universal Application Instructions, Page 14 of which is attached hereto as Exhibit “D”) the phrase “available to the public”. However, it is clear from the definition on Page 14 of the Application Instructions that not all 4,500 square feet of air conditioned space needs to be occupied by groceries. The definition requires that the retail establishment (i) consist of 4,500 square feet or more of air conditioned space available to the public, and (ii) have as its major retail function the sale of groceries. For example, if a grocery store contained 4,600 square feet of air conditioned space, 4,400 square feet of which contained groceries and 200 square feet of which contained bathroom

facilities generally available to the public, such a facility would clearly constitute a “qualifying grocery store” under FHFC’s definition.

21. As noted above, FHFC has not disagreed with Petitioner’s assertion that the total air conditioned square footage is 4,547 square feet. In addition, FHFC has not argued (and cannot argue) that office space is not eligible to constitute part of the requisite 4,500 square feet. Rather, FHFC has just determined that the office space does not count towards meeting the 4,500 square foot requirement because it is “blocked by a locked gate” and, because the locked gate presumably makes the office space “unavailable”, such space is not “available to the public”. Whether or not the office space is “blocked by a locked gate” is not relevant to the determination of whether such space is “available to the public”. A direct analogy can be drawn to bathroom space in a grocery store which is only available to the public by virtue of a key to be obtained from the front register. The fact that such bathroom space cannot be freely accessed by the public does not mean that it is not “available to the public”. In this case, the owner of the store has determined (prudently, as explained below) that he would prefer that customers not have free and unlimited access to his office. As such, he has placed a locked gate in front of his office. Customers and vendors desiring to visit this office space may do so, by requesting to see the manager. The office space is “available to the public” as needed.

22. The subject grocery store has been the subject of several robbery attempts, one of which gained notoriety in the local media when the owner/operator was forced to shoot an intruding robber. The fact that the owner/operator has made a prudent security decision in placing a locked gate in front of his office does not mean that his office is not “available to the public”; rather, it merely means that some restriction has been placed on the public’s access to his office (similar to the bathroom analogy drawn above).

Summary

23. FHFC does not dispute that the total air conditioned space at issue contains 4,547 square feet. The fact that a certain portion of the grocery store is separated from another portion of the grocery store by storage area is irrelevant. The fact that the store operator has placed a locked gate in front of the manager's office is also irrelevant. The Additional Space is part of the market, due to (i) the store owner's uncontroverted affidavit to that effect, (ii) the fact that there is no requirement that the Additional Space and the remainder of the grocery store be contiguous, (iii) the fact that there is no evidence in the record which disputes the store owner's affidavit that the Additional Space and the remainder of the market operates as a single grocery store, and (iv) the fact that the Additional Space and the remainder of the market are in fact contiguous, since all of such space (together with the storage area for the market) is contiguous to each other. The office space is available to the public upon request; there is no requirement that a customer or a vendor be able to walk freely and unannounced into the office space in order for it to be determined "available to the public".

24. The facts are not in dispute, and no substantial factual issue remains to be resolved. The only issue for determination is whether the "office space" and the "Additional Space" constitute (as a matter of law) part of the required 4,500 square feet of space. For the reasons set forth herein, FHFC has erred in determining that such space does not constitute part of the requisite 4,500 square feet.

RELEVANT RULES AND STATUTES

25. Rule 67-48, FAC, specifically incorporates the HC application, and the forms referenced therein. The instructions to Part III.A. Subsection 10.a. provide, in relevant part, that 1.25 proximity tie-breaker points will be awarded for a qualifying grocery store located less than one mile from a proposed development's tie-breaker measurement point. Petitioner has

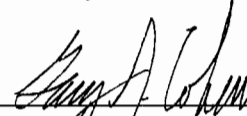
complied with the instructions for Part III.A. Subsection 10 and provided evidence that 1.25 additional proximity tie-breaker points should be awarded for proximity to a grocery store.

RELIEF SOUGHT

26. The specific action which Petitioner wishes FHFC to take is to reverse its previous decision and add 1.25 proximity tie-breaker points to Petitioner's score for proximity to a grocery store.

WHEREFORE, Petitioner respectfully requests FHFC to add 1.25 proximity tie-breaker points to Petitioner's score, resulting in 7.5 total proximity tie-breaker points.

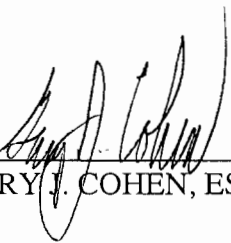
Respectfully submitted,

By:  _____

GARY J. COHEN, ESQ.
Florida Bar No. 353302
Shutts & Bowen LLP
201 South Biscayne Boulevard
1500 Miami Center
Miami, Florida 33131
(305) 347-7308 telephone
(305) 347-7808 facsimile

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original and one copy of the foregoing have been filed with Vicki Robinson, Deputy Development Officer, Attn: Corporation Clerk of the Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, Florida 32301, on this 25th day of May, 2006.



GARY J. COHEN, ESQ.

EXHIBIT A

2006 MMRB, SAIL & HC Scoring Summary

As of: 05/03/2006

Development Name: Pinnacle Plaza

File # 2006-047C

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit	SAIL Request Amount as Percentage of Development Cost	Is SAIL Request Amount Equal to or Greater than 10% of Total Development Cost?
05 - 03 - 2006	66	Y	6.25	\$67,044.96	%	N
Preliminary	66	Y	6.25	\$67,044.96	%	N
NOPSE	66	N	6.25	\$67,044.96	%	N
Final	66	Y	6.25	\$67,044.96	%	N
Final-Ranking	0	Y	0		0	

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Optional Features & Amenities									
1S	III	B	2 a.	New Construction	9	9	9	9	0
1S	III	B	2 b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2 c.	All Developments Except SRO	12	12	12	12	0
2S	III	B	2 d.	SRO Developments	12	0	0	0	0
3S	III	B	2 e.	Energy Conservation Features	9	9	9	9	0
Set-Aside Commitments									
4S	III	E	1 b.(2)(a)	ELI Set-Aside Commitment	5	5	5	5	0
5S	III	E	1 b.(2)(b)	Total Set-Aside Commitment	3	3	3	3	0
6S	III	E	3	Affordability Period	5	5	5	5	0
Resident Programs									
7S	III	F	1	Programs for Non-Elderly & Non-Homeless	6	6	6	6	0
7S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3	Programs for Elderly	6	0	0	0	0
8S	III	F	4	Programs for All Applicants	8	8	8	8	0
Local Government Support									
9S	IV		a.	Contributions	5	5	5	5	0
10S	IV		b.	Incentives	4	4	4	4	0

2006 MMRB, SAIL & HC Scoring Summary

As of: 05/03/2006

Development Name: Pinnacle Plaza

File # 2006-047C

Threshold(s) Failed:

Item #	Part Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	III	C	Zoning	The Applicant must demonstrate that, on or before the date that signifies the end of the cure period outlined in Rule 67-48.005, F.A.C., the proposed Development site is appropriately zoned. In its Application, the Applicant provided a Local Government Verification That Development is Consistent With Zoning And Land Use Regulations form that does not include the "on or before" date.	NOPSE	Final

Proximity Tie-Breaker Points:

Item #	Part Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.a.(2)(a) Grocery Store	1.25	0	0	0	0
2P	III	A	10.a.(2)(b) Public School	1.25	1.25	1.25	1.25	0
3P	III	A	10.a.(2)(c) Medical Facility	1.25	0	0	0	0
4P	III	A	10.a.(2)(d) Pharmacy	1.25	0	0	0	0
5P	III	A	10.a.(2)(e) Public Bus Stop or Metro-Rail Stop	1.25	1.25	1.25	1.25	0
6P	III	A	10.b. Proximity to Developments on FHFC Development Proximity List	3.75	3.75	3.75	3.75	0

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

Item #	Reason(s)	Created As Result of	Rescinded as Result of
1P	The Applicant did not provide the required sketch.	Preliminary	Final
1P	The Applicant chose the Grocery Store service in section III.A.10.b of the Application. However, it failed to provide the required latitude/longitude coordinates on the Surveyor Certification Form.	Preliminary	Final
1P	As a cure for Item 1P, the Applicant provided a revised Surveyor Certification Form and sketch. However, Mas Unidos Market has less than the required 4,500 square feet of air conditioned space available to the public. A sketch provided in the cure shows that there are 656 square feet of space that is not part of the market and is separated by a storage area. Further evidence provided in a NOAD shows that this area is also blocked by a locked gate.	Final	

Additional Application Comments:

Item #	Part Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1C	III	A	2.(b) QCT	The Applicant does not qualify for QCT because it did not provide the copy of a letter from the local planning office or census bureau verifying that the proposed Development is located in the referenced QCT.	Preliminary	Final

EXHIBIT B

2006 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. 2006-047C** and pertains to:

Part III Section A Subsection 10 Exhibit No. 25 (if applicable)

The attached information is submitted in response to the 2006 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:

	2006 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 Failed Threshold	Item No. _____T	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Proximity Points Not Maxed	Item No. <u>L</u> P	<input checked="" 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).

**Brief Statement of Explanation regarding Cure for
Application No. 2006 – 047C**

Provide a separate brief statement for each Cure

In Scoring Item 1P, Applicant received 0 of a possible 1.25 proximity tie-breaker points for proximity to a grocery store due to failure to provide the required sketch and latitude/longitude coordinates on the Surveyor Certification form for a grocery store. Attached please find revised Exhibit 25 and the required sketch, along with supporting documentation, verifying that a qualifying grocery store was located within 1 mile of the tie-breaker measurement point. As such, Applicant is entitled to receive 1.25 proximity tie-breaker points for proximity to a grocery store.

SURVEYOR CERTIFICATION

Name of Development Pinnacle Plaza

3650 NW 36 ST, Miami FL 33142

Development Location * (At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, corner, design and intersection and city.)

* If the Development consists of Scattered Sites, the Development Location stated above must reflect the site where the Tie-Breaker Measurement Point is located.

The undersigned Florida licensed surveyor certifies that the method used to determine the following latitude and longitude coordinates conform to Rule 61G17-4, F.A.C.:

State the Tie-Breaker Measurement Point Tie-Breaker Measurement Point means a single point selected by the Applicant on the proposed Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development. For a Development which consists of Scattered Sites, this means a single point on one of the Scattered Sites which complies with the Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development. In addition, the Tie-Breaker Measurement Point must be located on the site with the most units if any of the Scattered Sites has more than 4 units.	Latitude			Longitude		
	Degrees	Minutes	Seconds (rounded after 1 decimal place)	Degrees	Minutes	Seconds (rounded after 1 decimal place)
	25	48	30.6	80	15	22.6

If the Development consists of Scattered Sites, is a part of the boundary of each parcel located within 1/2 mile of the Tie-Breaker Measurement Point? Yes No (check one)
Scattered Sites for a single Development means a Development consisting of more than one parcel in the same county where two or more of the parcels (1) are not contiguous to one another or are divided by a street or unimproved road (2) do not appear from the proximity of the street, chain of title, or other information available to the Corporation, that the parcels are part of a common or related scheme of development.

Location of closest Public Bus Stop or Metro-Rail Stop	Degrees	Minutes	Seconds (rounded after 1 decimal place)	Degrees	Minutes	Seconds (rounded after 1 decimal place)
	25	48	30.4	80	15	17.0

State the name, Address and latitude and longitude coordinates of the closest service(s) on the chart below. The latitude and longitude coordinates for each service must represent a point that is on the doorway threshold of an exterior entrance that provides direct public access to the building where the services located. If there is no exterior public entrance to the service, then a point should be used that is a exterior entrance driveway that leads to the closest public entrance to the doorway threshold of the utility public entrance to the service.

Grocery Store	Latitude			Longitude		
	Degrees	Minutes	Seconds (rounded after 1 decimal place)	Degrees	Minutes	Seconds (rounded after 1 decimal place)
Name: <u>Maj Unidoe Market</u> Address: <u>817 SE 8 Street</u> <u>Hialeah, Florida 33010</u>	25	48	55.2	80	15	51.0
Public School						
Name: <u>Melrose Elementary</u> Address: <u>1070 NW 35 Street</u> <u>Miami, Florida 33142</u>	25	48	27.6	80	14	42.7
Medical Facility						
Name: _____ Address: _____	Degrees	Minutes	Seconds (rounded after 1 decimal place)	Degrees	Minutes	Seconds (rounded after 1 decimal place)
Pharmacy						
Name: _____ Address: _____	Degrees	Minutes	Seconds (rounded after 1 decimal place)	Degrees	Minutes	Seconds (rounded after 1 decimal place)

If the Corporation discovers that there are any false statements made in this certification, the Corporation will forward a copy to the State of Florida Department of Business and Professional Regulation for investigation.

CERTIFICATION: I, the undersigned, certify that the foregoing statement is true and correct.

Mark Steven Johnson Date (mm/dd/yyyy) 04/04/06 Name of Surveyor Schwelke-Shelton & Associates, Inc

Signature Title Name of Signatory Mark Steven Johnson Address 3741 Corporate Way

City/State/Zip Miami, FL 33225

Florida License Number 4775 Telephone Number (including area code) (305) 652-7010

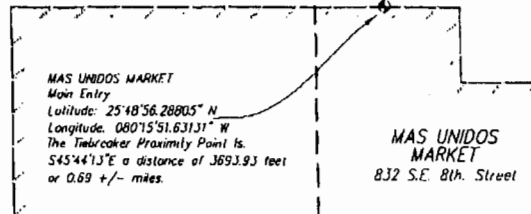
This certification may not be signed by the Applicant, by any related parties of the Applicant, or by any Principal or Financial Beneficiary of the Applicant. If this certification is improperly signed, the Application will not receive priority tie-breaker points. If this certification contains corrections or "white-outs", or if it is scanned, imaged, altered, or retyped, the Application will not receive priority tie-breaker points and will fall to meet threshold and will be rejected. The certification may be photocopied.

SPECIFIC PURPOSE SKETCH
GROCERY STORE
Pinnacle Plaza



LeJeune Road / S.E. 8th. Avenue (Hialeah)

S.E. 8th. Street (Hialeah)



NOTE:

Positions are referenced to NAD83(90) as referenced by GPS Survey to Florida Department of Transportation Station No. 8791009.

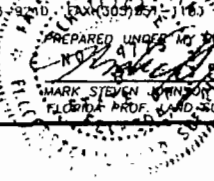
File: x:\Proj\PINNACLF HOUSING-TAX CREDIT APPLICATION\dwg\Pinnacle Plaza

Schwabke-Shiskin & Associates, Inc. (LB-87)
LAND SURVEYORS • ENGINEERS • LAND PLANNERS • SOILS

3240 CORPORATE WAY, MIRAMAR, FLORIDA 33025 • DADE (305)652-7010 BROWARD (954)935-7010 FAX (305)652-8284
11841 S.W. 14th. STREET MIAMI, FLORIDA 33186 • TEL: (305) 233-9210 FAX (305) 652-1163

THIS IS NOT A "LAND SURVEY".
ORDER NO.: 444048
DATE: 01/14/2006
SHEET 1 OF 1 SHEET(S)
F.B.: SD-499H, Pg.72-73

PREPARED UNDER MY SUPERVISION:
[Signature]
MARK STEVEN WINN
FLORIDA PROFESSIONAL LAND SURVEYOR NO. 4775
VICE PRES.

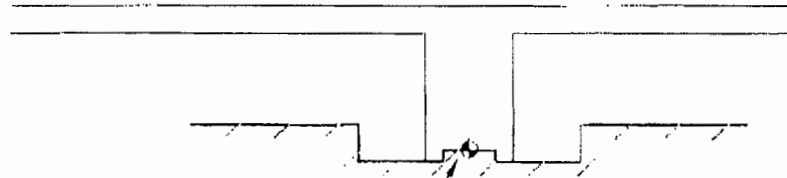


SPECIFIC PURPOSE SKETCH
SCHOOL, ELEMENTARY

Pinacle Plaza



N.W. 35th. Street



MELROSE
ELEMENTARY
3050 N.W. 35th. Street

MELROSE ELEMENTARY
Main Entry
Latitude: 25°48'27.85844" N
Longitude: 080°14'42.79554" W
The Tiebreaker Proximity Point Is:
N85°59'34"W a distance of 3670.17 feet
or 0.69 +/- miles.

NOTE:

Positions are referenced to NAD83(90) as referenced by GPS Survey to Florida Department of Transportation Station No. 8791009

File x:\Proj\PINNACLE HOUSING-TAX CREDIT APPLICATION\dwg\Pinnacle Plaza



Schwelbke-Shiskin & Associates, Inc. (LB-87)

LAND SURVEYORS • ENGINEERS • LAND PLANNERS • SOILS

3240 CORPORATE WAY, MIRAMAR, FLORIDA 33025 • OADE (305) 652-7010 BROWARD (954) 435-7010 FAX: (305) 652-8284
11941 S.W. 144th. STREET MIAMI, FLORIDA 33186 • TEL: (305) 233-9210 FAX: (305) 751-1183

THIS IS NOT A "LAND SURVEY".

ORDER NO.: 444046

PREPARED UNDER MY SUPERVISION

DATE: 01/14/2006

MARK STEVEN JOHNSON VICE PRES
FLORIDA PROJ. LAND SURVEYOR NO. 4775

SHEET 1 OF 1 SHEET(S)

Fig: 5D-495B, Pg 72 13

AFFIDAVIT

Before me, the undersigned authority, personally appeared Ruben Calderon, who being duly sworn, states that he personally knows the following facts and that the same are true and accurate:

1. My name is Ruben Calderon. I am the owner and operator of "Mas Unidos Market", located at assigned street address 832 S.E. 8th Street, Hialeah, Florida 33010.

2. The attached surveyor sketch (prepared by Schwebke-Shiskin & Associates, Inc.) correctly portrays the amount of square footage under air conditioning occupied and operated as Mas Unidos Market as approximately 4,547 square feet.

3. During calendar year 2005 I expanded the space occupied by Mas Unidos Market to include the cross-hatched space in the attached survey indicated as containing approximately 656 square feet, and I operate all of the cross-hatched space as a single grocery store business (Mas Unidos Market).

4. I control (as tenant) the entire building within which Mas Unidos Market is located and operated, and sublease the easternmost portion of the building to a beauty salon, which salon was not included in the survey.

5. Within the entire building which I control is located a vacant space I currently use as storage space and which I ultimately intend to operate as a cafeteria. That space is not included in the cross-hatched portion of the survey, and is not indicated in the attached survey as part of the space occupied by Mas Unidos Market.

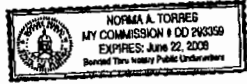
Under penalties of perjury, I declare that these statements are true and correct.

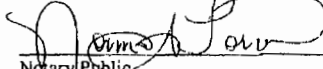
Dated: 4/7/06

Ruben D. Calderon
RUBEN CALDERON

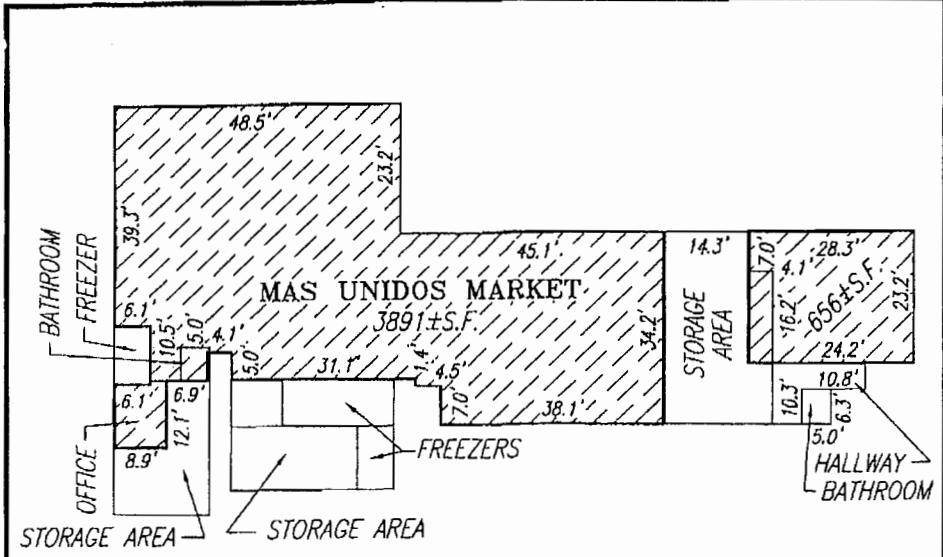
STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

Sworn to and subscribed before me this 7th day of April, 2006 by Ruben Calderon, who is personally known to me or has produced _____ as identification. WITNESS MY HAD AND OFFICIAL SEAL this 7th day of April, 2006.





Notary Public
State of Florida
My Commission Expires: 6/22/2008



SCALE: 1"=20'

SKETCH SHOWING INTERIOR DIMENSIONS

AT "MAS UNIDOS MARKET", 832 S.E. 8th STREET, HIALEAH, FLORIDA 33010
TOTAL AREA UNDER AIR CONDITIONING=4547±SQUARE FEET

Sheet 1 of 1

File name: K:\205341\MAS UNIDOS MARKET.DWG

Schwebke-Shiskin & Associates, Inc.

LAND PLANNERS • ENGINEERS • LAND SURVEYORS (LB#87)

3240 CORPORATE WAY MIRAMAR, FLORIDA 33025 TEL. NO. (954) 436-7010 FAX NO. (954) 438-3288



ORDER NO. 192559

DATE: APRIL 7, 2006

THIS IS NOT A "BOUNDARY SURVEY"

PREPARED UNDER MY SUPERVISION

ALFONSO C. TELLO, P.L.S. #2978 (STATE OF FLORIDA) SECY-TREAS.

AFFIDAVIT

Before me, the undersigned authority, personally appeared Alfonso C. Tello, who being duly sworn, states that he personally knows the following facts and that the same are true and accurate.

1. My name is Alfonso C. Tello. I am licensed by the State of Florida as a professional surveyor. My license number is PLS 2978. I am the Secretary/Treasurer of Schwebke-Shiskin & Associates, Inc. I am submitting this Affidavit on behalf of Pinnacle Plaza, Ltd. (the "Applicant") and I am not related to the Applicant or any principals or financial beneficiaries of the Applicant.

2. On April 7, 2006, representatives of Schwebke-Shiskin & Associates, Inc. went to Mas Unidos Market, located at 832 S. E. 8th Street, Hialeah, Florida 33010 to determine the air conditioned square footage of the Mas Unidos Super Market. The total air conditioned square footage of Mas Unidos Market as measured by representatives of Schwebke-Shiskin & Associates, Inc. is ±4547 square feet.

3. Schwebke-Shiskin & Associates, Inc. conducted and supervised the field work and research regarding the measurements of the grocery store pursuant to this firm's operating procedures regarding accuracy and site conditions. Based on that work, I prepared the attached sketch, Order No. 192559, dated April 7, 2006 which details the measurements. All other sketches and affidavits prepared by this firm prior to this date are hereby null and void.

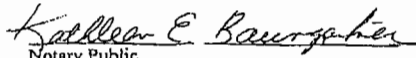
Under penalties of perjury, I declare that these statements are true and correct.


ALFONSO C. TELLO, P.L.S. No. 2978

Dated: April 7, 2006

STATE OF FLORIDA)
) SS
COUNTY OF MIAMI-DADE)

Sworn to and subscribed before me this 7 day of April, 2006, by Alfonso C. Tello, who is personally known to me or has produced _____ as identification. WITNESS MY HAND AND OFFICIAL SEAL this 7 day of April, 2006.


Kathleen E. Baumgartner
Notary Public
State of Florida
My Commission Expires: _____

KATHLEEN E. BAUMGARTNER
Notary Public, State of Florida
My comm. exp. Mar. 11, 2008
Comm. No. DD 297056

EXHIBIT C

the seconds are not stated to one decimal place, the Applicant will not be eligible to receive any proximity tie-breaker points.

- (2) Proximity to services (Maximum 3.75 proximity tie-breaker points):

Applications will be awarded proximity tie-breaker points based on:

- the Demographic Commitment selected and qualified for by the Applicant at Part III.D. of the Application, and
- the size of the County (Large, Medium or Small) where the proposed Development will be located, and
- the proximity of the proposed Development's Tie-Breaker Measurement Point to eligible services.

The eligible services are:

- (a) Grocery Store - For purposes of proximity tie-breaker points, a Grocery Store means a retail establishment, open to the public, regardless of a requirement of a membership fee, consisting of 4,500 square feet or more of contiguous air conditioned space available to the public, which as its major retail function sells groceries, including foodstuffs, fresh and packaged meats, produce and dairy products, which are intended for consumption off-premises, and household supplies, such as Publix Super Markets, Winn Dixie Stores, Super Wal-Mart Stores, etc. "Grocery Store" does not include any retail establishment which sells groceries in addition to its major retail function, such as the sale of gasoline, drugs, or sundries, where the sale of groceries is not a major retail function, based on allocated space or on gross sales, such as Eckerd Drug Stores, Walgreen Drug Stores, Dollar General Stores, Family Dollar Stores, etc.
- (b) Public School - For purposes of proximity tie-breaker points, a Public School means a public elementary, middle, junior and/or high school, where the principle admission criterion is the geographic proximity to the school, including a charter school, except for a charter school that is not generally available to appropriately aged children in the radius area. This service may not be selected if the Applicant selected and qualified for the Elderly Demographic Commitment in this Application.

EXHIBIT D

degrees, minutes and seconds truncated after one decimal place. If the seconds are not stated to one decimal place, the Applicant will not be eligible to receive any proximity tie-breaker points.

(2) Proximity to services (Maximum 3.75 proximity tie-breaker points):

Applications will be awarded proximity tie-breaker points based on:

- the Demographic Commitment selected and qualified for by the Applicant at Part III.D. of the Application, and
- the size of the County (Large, Medium or Small) where the proposed Development will be located, and
- the proximity of the proposed Development's Tie-Breaker Measurement Point to eligible services.

The eligible services are:

- (a) Grocery Store - For purposes of proximity tie-breaker points, a Grocery Store means a retail establishment, open to the public, regardless of a requirement of a membership fee, consisting of 4,500 square feet or more of air conditioned space available to the public, which as its major retail function sells groceries, including foodstuffs, fresh and packaged meats, produce and dairy products, which are intended for consumption off-premises, and household supplies, such as Publix Super Markets, Winn Dixie Stores, Super Wal-Mart Stores, etc. "Grocery Store" does not include any retail establishment which sells groceries in addition to its major retail function, such as the sale of gasoline, drugs, or sundries, where the sale of groceries is not a major retail function, based on allocated space or on gross sales, such as Eckerd Drug Stores, Walgreen Drug Stores, Dollar General Stores, Family Dollar Stores, etc.
- (b) Public School - For purposes of proximity tie-breaker points, a Public School means a public elementary, middle, junior and/or high school, where the principle admission criterion is the geographic proximity to the school, including a charter school, except for a charter school that is not generally available to appropriately aged children in the radius area. This service may not be selected if the Applicant selected and qualified for the Elderly Demographic Commitment in this Application.