STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

STERLING TERRACE, LTD., AND STERLING TERRACE DEVELOPER, LLC

Petitioners,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.
_____/

FHFC Case No.: 2018-040BP
APPLICATION NO: 2018-176C
REQUEST FOR APPLICATIONS: 2017-111

FORMAL WRITTEN PROTEST OF AWARD AND PETITION FOR ADMINISTRATIVE HEARING

Pursuant to Sections 120.569 and 120.57(3), Florida Statutes, and Chapter 28-110 and Rule 28-106.201, Florida Administrative Code ("Fla. Admin. Code"), Petitioners, Sterling Terrace, Ltd., and Sterling Terrace Developer, LLC, (collectively, "Petitioners"), file this Formal Written Protest of Award and Petition for Administrative Hearing and state:

Affected Agency

1. The agency affected is the Florida Housing Finance Corporation ("Florida Housing"), 227 N. Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The telephone number is 850-488-4197.

Petitioners

2. Sterling Terrace, Ltd ("Sterling Terrace") is the Applicant entity for a proposed affordable housing development to be located in Hernando County, Application #2018-176C. Sterling Terrace, Developer, LLC ("Sterling Terrace, Developer") is the "Developer" entity as defined by Florida Housing in Rule 67-48.002(28), Fla. Admin. Code.

3. Petitioners' address is 1105 Kensington Park Drive, Ste. 200, Altamonte Springs, Florida 32714. Petitioners' telephone number is 407-333-1440. For purposes of this proceeding, Petitioners' address is that of its undersigned counsel.

4. Petitioners are challenging the eligibility of the applicants named in this petition for their failure to meet Eligibility or Proximity Funding Preference Point requirements for an award of Housing Credits ("HC") for funding under Request for Applications 2017-111, Housing Credit Financing for Affordable Housing Developments Located in Medium and Small Counties (the "RFA" or "RFA-2017-111") through an administrative hearing before the Department of Administrative Hearing ("DOAH").

Petitioners' Counsel

5. Counsel for Petitioners and Petitioners' address for this proceeding are:

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BACKGROUND

6. Florida Housing administers various affordable housing programs including the Housing Credit (HC) Program pursuant to Section 42 of the Internal Revenue Code (the "IRC" or "the Code") and Section 420.5099, Florida Statutes ("Fla. Stat."), under which Florida Housing is designated as the Housing Credit agency for the State of Florida within the meaning of Section 42(h)(7)(A) of the IRC, and Chapters 67-48 and 67-60, Fla. Admin. Code.

7. Florida Housing administers a competitive solicitation process to implement the provisions of the housing credit program under which developers apply for funding. Chapter 67-60, Fla. Admin. Code.

8. Rule 67-60.006, Fla. Admin. Code, provides that "[t]he failure of an Applicant to supply required information in connection with any competitive solicitation pursuant to this rule chapter shall be grounds for a determination of non-responsiveness with respect to its Application."

9. By applying, each Applicant certifies that:

> Proposed Developments funded under this RFA will be subject to the requirements of the RFA, inclusive of all Exhibits, the Application requirements outlined in Rule Chapter 67-60, F.A.C., the requirements outlined in Rule Chapter 67-48, F.A.C. and the Compliance requirements of Rule Chapter 67-53, F.A.C.

(RFA at p. 6).

10. Qualified affordable housing developments must compete for this funding because the demand for HC funding exceeds the available funding under the HC Program. Florida Housing has established by rule a competitive solicitation process known as the Request for Applications to assess the relative merits of proposed developments, pursuant Chapters 67-48 and 67-60, Fla. Admin. Code.

11. Specifically, Florida Housing's solicitation process for RFA 2017-111, as set forth in Rules 67-60.001-.009, Fla. Admin. Code, involves the following:

a) Florida Housing publishes its competitive solicitation (RFA) in the Florida Administrative Register;

b) applicants prepare and submit their response to the competitive solicitation;

c) Florida Housing appoints a scoring committee ("Review Committee") to evaluate the applications;

d) the scoring committee makes recommendations to Florida Housing's Board, which are then voted on by the Board; and

e) applicants not selected for funding may protest the results of the competitive solicitation process.

12. Florida Housing issued RFA 2017-111 on or about October 6, 2017, and subsequently modified the RFA on October 27, and November 29, 2017. The application deadline for the RFA as modified to be December 20, 2017 ("Application Deadline").

13. The RFA sets forth the information required to be provided by an Applicant, which includes a general description of the type of projects that will be considered eligible for funding and delineates the submission requirements. (RFA at pp. 2-62). The RFA sets forth on Pages 63 and 66, a list of mandatory Eligibility and Point Items that must be included in a response. The RFA expressly provides that "[o]nly Applications that meet all of the Eligibility Items will be eligible for funding and considered for funding selection." (RFA at p. 63).

14. The highest scoring Applications are determined by first sorting together all eligible Applications from highest to lowest score, with any scores that are tied further separated as per the following progression: (1) Applications eligible for Proximity Funding Preference will be ranked higher than those Applications that do not qualify for the preference; (2) Applications eligible for Per Unit Construction Funding Preference will be ranked higher than those Applications that do not qualify for the preference; (3) Applications eligible for Development Category Funding Preference will be ranked higher than those Applications that do not qualify for the preference; (4) Applications having a leveraging Classification of A will be ranked higher than those Applications having a levering Classification of B, with the leveraging Classification using a series of multipliers to group applications based on the amount of funding per unit; (5) Applications eligible for Florida Job Creation Funding Preference will be ranked

higher than those Applications that do not qualify for the preference; and (6) Applications with the lowest lottery number will receive preference. (RFA at p. 63).

15. On or about April 17, 2018, the Review Committee, consisting of Florida Housing staff, met and considered the applications responding to the RFA. At the meeting the Review Committee listed and input the scores for each application and ultimately made recommendations to the Florida Housing Board of Directors ("Board") for its consideration. The Review Committee determined that Sterling Terrace was eligible, but not selected for funding.

16. On May 4, 2018, Florida Housing's Board of Directors adopted the Review Committee's recommendations and tentatively authorized the selection for funding of those applications identified in RFA 2017-111 Board Approved Preliminary Awards report, which reflected the preliminary funded applicants.

NOTICE OF AGENCY ACTION

17. Petitioners received notice dated May 4, 2018 on or about May 4, 2018 of Florida Housing's Final Agency Action entitled "RFA 2017-111 Board Approved Preliminary Awards" ("Corporation's Notice").

NOTICE OF PROTEST

18. On May 9, 2018, Petitioners timely filed their Notice of Protest challenging the selection of the applications in the Corporation's Notice. (See attached Exhibit A, which includes the Corporation's Notice reflecting the preliminarily funded applicants).

SUBSTANTIAL INTERESTS

19. Petitioners timely submitted an application in response to the RFA, Application #2018–176C ("Application"). In their Application, Petitioners sought an allocation of

$1,510,000 in annual federal tax credits[1] to help finance the development of their project, an 84-unit Garden Apartments complex in Hernando County. As reflected in RFA 2017-111, All Applications Report, Petitioners were assigned lottery number 17. Petitioners were scored as having satisfied eligibility requirements for funding, satisfied Proximity Funding Preference requirements and scored 10 out of 10 Total Points. (See RFA 2017-111 All Applications Report).

20. HTG Sunset, LLC ("Sunset Lake") submitted an application in response to the RFA, Application #2018-207C. Sunset Lake sought an allocation of $1,505,520 in annual federal tax credits to help finance the development of its project, a 96-unit Garden Apartments complex in Polk County. As reflected in RFA 2017-111 All Applications Report, Sunset Lake was assigned lottery number 3.

21. Arbours at Hester Lake, LLC ("Arbours at Hester Lake") submitted an application in response to the RFA, Application #2018-197C. Arbours at Hester Lake sought an allocation of $1,447,900 in annual federal tax credits to help finance the development of its project, an 80-

[1] The United States Congress has created a program, governed by Section 42 of the IRC, by which federal income tax credits are allotted annually to each state on a per capita basis to help facilitate private development of 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 IRC requirements.**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 construct and operate specific multi-family housing projects.**The applicant entity then sells 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 below-market-rate rents that are affordable to low-income and very-low-income tenants.**Pursuant to section 420.5099, Fla. Stat., Florida Housing is the designated "housing credit agency" for the State of Florida and administers Florida's tax credit program under its Housing Credit Program ("HC Program").**Through the HC Program, Florida Housing allocates Florida's annual fixed pool of federal tax credits to developers of affordable housing.

unit Garden Apartments complex in Pasco County. As reflected in RFA 2017-111 All Applications Report, Arbours at Hester Lake was assigned lottery number 4.

22. Blue Sunbelt, LLC ("Palmetto Hideaway") submitted an application in response to the RFA, Application #2018-211C. Palmetto Hideaway sought an allocation of $1,510,000 in annual federal tax credits to help finance the development of its project, a 90-unit Mid-Rise, 4-stories complex in Pasco County. As reflected in RFA 2017-111 All Applications Report, Palmetto Hideaway was assigned lottery number 8.

23. Colonnade Park, Ltd. ("Colonnade Park") submitted an application in response to the RFA, Application #2018-260C. Colonnade Park sought an allocation of $1,510,000 in annual federal tax credits to help finance the development of its project, a 106-unit Garden Apartments complex in Citrus County. As reflected in RFA 2017-111 All Applications Report, Colonnade Park was assigned lottery number 7.

24. HTG Creekside, LLC ("Oaks at Creekside") submitted an application in response to the RFA, Application #2018-256C. Oaks at Creekside sought an allocation of $1,505,520 in annual federal tax credits to help finance the development of its project, a 96-unit Garden Apartments complex in Manatee County. As reflected in RFA 2017-111 All Applications Report, Oaks at Creekside was assigned lottery number 9.

25. Harper's Pointe, LP ("Harper's Pointe") submitted an application in response to the RFA, Application #2018-105C. Harper's Pointe sought an allocation of $1,015,000 in annual federal tax credits to help finance the development of its project, a 66-unit Garden Apartments complex in Alachua County. As reflected in RFA 2017-111 All Applications Report, Harper's Pointe was assigned lottery number 13.

26. All of the challenged applicants were scored as having satisfied eligibility requirements for funding, satisfied Proximity Funding Preference requirements, and scored 10 out of 10 Total Points. (See RFA 2017-111 All Applications Report).

27. Each challenged applicant failed to meet or satisfy RFA eligibility, Proximity Funding Preference, or other requirements, and is not entitled to the eligibility determination, scoring, and preliminary ranking of their applications. As a result of the preliminarily scoring process all challenged applicants were incorrectly included in the preliminary awards rankings and should have been scored lower than Petitioners' Application. As discussed below, Florida Housing improperly determined that these applicants satisfied RFA mandatory, eligibility requirements or the Proximity Funding Preference Points requirements.

28. Through this proceeding Petitioners are challenging and seeking a determination that Florida Housing erred in its preliminary eligibility, scoring or Proximity Funding Preference decision, and the decision to preliminary award Housing Credits to Sunset Lake, Arbours at Hester Lake, Colonnade Park, Oaks at Creekside and Harper's Pointe.

29. Palmetto Hideaway is not identified on Florida Housing's Approved Preliminary Awards list. However, under the RFA scoring matrix, Palmetto Hideaway may be entitled to funding if Arbours at Hester Lake is displaced. Accordingly, Palmetto Hideaway's preliminary scoring and eligibility are also being challenged in this petition.

30. But for the errors described in this Petition, Petitioners would have been ranked in the funded range and would have been entitled to an allocation of housing credits from RFA 2017-111.[2]

[2] Although this petition challenges a number of competing applicants, Petitioners are not required to displace all of the challenged applicants in order to be funded.

PROXIMITY POINTS

31. Applications may earn proximity points, based upon the distance between the Development's Location Point and Transit Service and Community Services. Proximity points are not applied to the Total Points score but are only used to determine whether an Applicant meets the required minimum proximity eligibility requirements and the Proximity Funding Preference. (RFA at p. 19). To satisfy RFA eligibility requirements, an Applicant with a proposed development in a medium county is required to achieve a minimum score of 7 proximity points. To qualify for the Proximity Funding Preference, an Applicant with a proposed development in a medium county is required to achieve a minimum score of 9 proximity points. (RFA at p. 20).

32. Whether to award Transit and Community Service points and if so, and the number of points will vary depending upon whether the Applicant qualifies for the points and the type of service provided. In order to calculate the value of the points, an Applicant is required to include latitude and longitude coordinates attesting to the Development Location Point, the type of service claimed, and the distance (proximity) between the claimed service and the Development's location. Qualifying Community Services include a grocery store, medical facility, pharmacy, and public school. The maximum point-value for the various transit services include 2 points for a Public Bus Stop and 6 points for a Public Bus Transfer Stop. (RFA at p. 91). The maximum point value for the various Community Services is 4 points for each qualifying service. (RFA at p. 92).

ABILITY TO PROCEED

33. An Applicant must demonstrate "Ability to Proceed elements as of the Application Deadline, for the entire proposed Development site." (RFA at p. 34). Development "means any work or improvement located or to be located in the state, including real property,

buildings, and any other real and personal property, designed and intended for the primary purpose of providing decent, safe, and sanitary residential housing for persons or families." Section 420.503(33), F.S; Rule 67-48.002(29) Fla. Admin. Code. The entire proposed Development can be readily ascertained by reviewing an Applicant's Site Control documents, such as a contract or lease, found at Attachment 8 in the application. (RFA at pp. 18-19).

34. In order to demonstrate a Development's ability to proceed, an Applicant is required to provide executed verification forms showing the availability of infrastructure to the proposed Development site, such as utilities and roads. In addition, Applicants are further required to provide executed verification forms demonstrating the status of site plan approval and that the proposed Development is consistent with zoning and land use regulations. (RFA at pp. 34-36). Importantly, when providing the information from third parties, the RFA requires the Applicant to certify that:

> In eliciting information from third parties required by and/or included in this Application, the Applicant has provided such parties information that accurately describes the Development as proposed in this Application. The Applicant has reviewed the third-party information included in this Application [. . .] and the information provided by any such third-party is based upon, and accurate with respect to, the Development as proposed in this Application.

(See Applicant Certification and Acknowledgement Form, RFA at p. 126).

Site Plan Approval

35. Status of site plan approval is a mandatory Eligibility Item in the RFA. (RFA at p. 60). If an Applicant does not demonstrate the status of site plan approval as required by the RFA, then the Application must be deemed nonresponsive and ineligible for consideration of funding. Rule 67-60.006(1), Fla. Admin. Code.

36. Status of site plan approval is one of the Ability to Proceed elements that must be demonstrated as of the Application Deadline. With respect to status of site plan approval, the RFA states:

> Status of Site Plan/Plat Approval. The Applicant must demonstrate the status of site plan or plat approval ***as of the Application Deadline***, for ***the entire proposed Development site*** by providing, as Attachment 9 to Exhibit A, the applicable properly completed and executed verification form:
>
> (a) The Florida Housing Finance Corporation Local Government Verification of Status of Site Plan Approval for Multifamily Developments form (Form Rev. 08-16); or
>
> (b) The Florida Housing Finance Corporation Local Government Verification of Status of Plat Approval for Residential Rental Developments form (Form Rev. 08-16).

(RFA at p. 34) (Emphasis added).

37. The Florida Housing Finance Corporation Local Government Verification of Status of Site Plan Approval for Multifamily Developments form (Form Rev. 08-16) ("Site Plan Form"), which is specifically incorporated into the RFA, requires the local government to certify one of the following with respect to site plan disclosure:

1) the proposed Development has obtained final site plan approval;

2) the proposed Development requires additional site plan approval, and

(i) the applicable jurisdiction provides preliminary site plan approval which has been issued, or

(ii) site plan approval is required; however, the applicable jurisdiction does not provide preliminary site plan approval prior to issuing the final site plan; or

3) the proposed Development does not require additional site plan approval.

Zoning

38. Demonstration of appropriate zoning is also a mandatory Eligibility Item in the RFA. (RFA at p. 60). If an Applicant does not demonstrate appropriate zoning as required by the RFA, then the Application must be deemed nonresponsive and ineligible for consideration of funding. Rule 67-60.006(1), Fla. Admin. Code.

39. Appropriate zoning is one of the "Ability to Proceed" elements that must be demonstrated as of the Application Deadline. With respect to appropriate zoning, the RFA states:

> Appropriate Zoning. The Applicant must demonstrate that ***as of the Application Deadline***, ***the entire proposed Development site*** is appropriately zoned and consistent with local land use regulations regarding density and intended use or that the proposed Development site is legally non-conforming by providing, as Attachment 10 to Exhibit A, the applicable properly completed and executed verification form:
>
> (a) The Florida Housing Finance Corporation Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form (Form Rev. 08-16); or
>
> (b) The Florida Housing Finance Corporation Local Government Verification that Permits are not Required for this Development form (Form Rev. 08-16).

(RFA at p. 35) (Emphasis added).

40. The Florida Housing Finance Corporation Local Government Verification that Development is Consistent with Zoning and Land Use Regulations Form (Form Rev. 08-16) ("Zoning Form"), is specifically incorporated into the RFA and requires two things with respect to zoning. First, the zoning designation for the proposed Development location must be identified "on or before the submission deadline". Second, certification must demonstrate the following:

The proposed number of units and intended use are consistent with ***current*** land use regulations and the referenced zoning designation or, if the Development consists of rehabilitation, the intended use is allowed as a legally non-conforming use. To the best of my knowledge, ***there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein.*** Assuming compliance with the applicable land use regulations, there are no known conditions which would preclude construction or rehabilitation (as the case may be) of the referenced Development on the proposed site.

(Emphasis Added).

SITE CONTROL

41. Site control is also a mandatory Eligibility Item in the RFA. (RFA at p. 60). If an Applicant does not provide evidence of site control as required by the RFA, then the Application must be deemed nonresponsive and ineligible for consideration for funding. Rule 67-60.006(1), Fla. Admin. Code.

42. With respect to site control and an Eligible Contract, Section Four, Part A. of the RFA provides, in pertinent part:

> 7. Readiness to Proceed
>
> a. Site Control:
>
> The Applicant must demonstrate site control by providing, as Attachment 8 to Exhibit A, the documentation required in Items (1), (2), and/or (3), as indicated below. If the proposed Development consists of Scattered Sites, site control must be demonstrated for all of the Scattered Sites.
>
> (1) Eligible Contract - For purposes of this RFA, an eligible contract is one that has a term that does not expire before June 30, 2018 or that contains extension options exercisable by the purchaser and conditioned solely upon payment of additional monies which, if exercised, would extend the term to a date that is not earlier than June 30, 2018; specifically states that the buyer's remedy for default on the part of the seller includes or is specific performance; and the buyer MUST be the Applicant unless an assignment of the eligible contract which assigns all of the buyer's rights, title and interests in the eligible contract to the Applicant, is provided. Any assignment must be signed

> by the assignor and the assignee. If the owner of the subject property is not a party to the eligible contract, all documents evidencing intermediate contracts, agreements, assignments, options, or conveyances of any kind between or among the owner, the Applicant, or other parties, must be provided, and, if a contract, must contain the following elements of an eligible contract: (a) have a term that does not expire before June 30, 2018 or contain extension options exercisable by the purchaser and conditioned solely upon payment of additional monies which, if exercised, would extend the term to a date that is not earlier than June 30, 2018, and (b) specifically state that the buyer's remedy for default on the part of the seller includes or is specific performance.

(RFA at p. 33).

43. Florida Housing requires that an Applicant submit site control documents to demonstrate that it can move forward with the proposed Development. Included in that demonstration is a showing that the Applicant is able to purchase the property.

SCATTERED SITES

44. Disclosure of whether the Development consists of Scattered Sites is also a mandatory Eligibility Item in the RFA. (RFA at pp. 19, 60). If an Applicant does not disclose that a Development is on a Scattered Site as required by the RFA, then the Application must be deemed nonresponsive and ineligible for consideration of funding. Rule 67-60.006(1), Fla. Admin. Code.

45. For the purposes of the RFA, a Scattered Site is defined in Rule 67-48.002(105), Fla. Admin. Code as:

> "Scattered Sites," as applied to a single Development, means a Development site that, when taken as a whole, is comprised of real property that is not contiguous (each such non-contiguous site within a Scattered Site Development, is considered to be a "Scattered Site"). For purposes of this definition "contiguous" means touching at a point or along a boundary. Real property is contiguous if the only intervening real property interest is an

> easement, provided the easement is not a roadway or street. All of the Scattered Sites must be located in the same county.

CHALLENGED APPLICATIONS

46. The defects in each challenged application are presented below, delineated first by applicant name and then each issue applicable to that particular Applicant.

SUNSET LAKE

Proximity Points

47. In an attempt to maximize proximity points in its Application, Sunset Lake identified a Public Bus Transfer Stop as its Transit Service, and a grocery store, medical facility, and public school as its Community Services. If accurate, the point value for these combined services would be 11 proximity points. Sunset Lake identified Jewett School of the Arts as its qualifying Public School. (Sunset Lake application at p. 6). Sunset Lake's Application suggests that the claimed Community Service is .40 miles from the Development Location Point. Had that information been correct, Sunset Lake would have been entitled to 4.0 proximity points for this claimed Community Service. (RFA at p. 92). However, the claimed Public School does not qualify for any proximity points.

48. The RFA defines a Public School as:

> A public elementary, middle, junior and/or high school, where the principal admission criterion is the geographic proximity to the school. This may include a charter school, if the charter school is open to appropriately aged children in the radius area who apply, without additional requirements for admissions such as passing an entrance exam or audition, payment of fees or tuition, or demographic diversity considerations.

(RFA at p. 82).

49. Polk County has designated the Jewett School of the Arts ("Jewett School") as a magnet school. Contrary to RFA requirements, the principal admission criterion to the Jewett

School is not geographic proximity to the school. Once the proximity requirement is satisfied the RFA condition for the school to qualify for eligibility is that it must be "open to appropriately aged children in the radius area who apply, *without additional requirements for admissions.*" According to the Polk County School Board, admission criterion for the Jewett School includes a demographic review process and a "[a] computer-generated lottery will be conducted to select a student from the appropriate applicant pool."

50. In light of the foregoing, Jewett School of the Arts does not qualify as a Public School and Sunset Lake is not entitled to the 4 proximity points claimed in its application for a Public School. As a result of this reduction, Sunset Lake has only 7 proximity points and does not qualify for the Proximity Funding Preference.

COLONNADE PARK

Proximity Points

51. Colonnade Park identified a grocery store, medical facility, and public school as its Community Services in an attempt to maximize proximity points in its application. If accurate, the point value for these combined services is 9 proximity points. Colonnade Park identified Quick Care Med as its qualifying Medical Facility. (Colonnade Park Application at p. 6). Colonnade Park's Application suggests that the claimed Community Service is 0.24 miles from the Development Location Point. Colonnade Park would have been entitled to 4.0 proximity points for this claimed Community Service had met the RFA definition of what is required to meet the definition of a "Medical Facility." (RFA at p. 92). However, the claimed Medical Facility does not qualify for any proximity points.

52. The RFA defines a Medical Facility as:

> A medically licensed facility that (i) employs or has under contractual obligation at least one physician licensed under Chapter 458 or 459, F.S. available to treat patients by walk-in or

> by appointment; and (ii) provides general medical treatment to any physically sick or injured person. Facilities that specialize in treating specific classes of medical conditions or specific classes of patients, including emergency rooms affiliated with specialty or Class II hospitals and clinics affiliated with specialty or Class II hospitals, will not be accepted.

(RFA at p. 80).

53. As of the Application Deadline, the Quick Care Med facility did not employ at least one physician who was available to treat patients by walk-in or by appointment contrary to RFA requirements.

54. Therefore, Quick Care Med does not qualify as a Medical Facility and Colonnade Park is not entitled to the 4.0 Proximity Points claimed in its application for a Medical Facility. As a result of this reduction, Colonnade Park has only 5 proximity points and does not meet RFA mandated minimum eligibility requirements and further, does not qualify for the Proximity Funding Preference.

Zoning

55. In an attempt to demonstrate zoning for the Development site, Colonnade Park included at attachment 10 to its application Florida Housing's Zoning Form. (See attached Exhibit B). The Zoning Form provides that "[t]he zoning designation for the above referenced Development location is R-4."

56. Colonnade Park's proposed Development site consists of two parcels. (See Colonnade Park application at pp. 21-48). A local government official confirmed that the two parcels have different zoning designations. The first parcel is zoned R-4 and the second parcel is zoned R-2. (See attached Exhibit C). The R-2 zoning designation for the second parcel is not disclosed on the Zoning Form submitted by the applicant.

57. The RFA requires an applicant to demonstrate appropriate zoning "for the **entire** proposed Development site" as of Application Deadline. (RFA at p. 34). Contrary to RFA requirements, Colonnade Park's application fails to disclose the zoning designations for the entire proposed Development site. Rather, the disclosed zoning is improperly limited to one parcel. The provided information is inaccurate and incomplete. Accordingly, Colonnade Park's application fails to satisfy eligibility requirements and its application should have been scored as ineligible for funding.

58. Additionally, the Zoning Form attached to Colonnade Park's application is incorrect because there are additional land use regulation hearings or approvals required to obtain the density required to develop the Colonnade Park Development. The Colonnade Park Development site is 8.91 acres (the total acreage for both parcels). The Colonnade Park Development is connected to municipal sewer or municipal water. Under 2.6.M of the City of Inverness Land Development Code, the maximum number of units allowed for multi-family developments connected to either municipal sewer or municipal water is ten (10) units per acre. Thus, the maximum number of units allowed under applicable zoning regulations is 89.3. However, the Colonnade Park Application proposes to build 106 garden style apartments. (Colonnade Park Application at p. 7)). Therefore, additional land use regulation hearings or approvals are required to obtain the density required for the Colonnade Park Development.

59. Additionally, the Colonnade Park Development cannot achieve the permitted density for the Development because a portion of the Development site cannot be used in the calculation of available land since a portion of the parcel is on wetlands.

ARBOURS AT HESTER LAKE

Zoning

60. Arbours at Hester Lake's proposed Development site consists of three parcels. (Arbours at Hester Lake Application at pp. 19-42). The first parcel is .29 acre and is zoned CG; the second parcel is .93 acre and is zoned RIO; and the third parcel is 7 acres and is zoned PD-H2.

61. Arbours at Hester Lake included at attachment 10 to its application Florida Housing's Zoning Form as an attempt to demonstrate zoning for the Development site. (See attached Exhibit D). The Zoning Form provides that "[t]he zoning designation for the above referenced Development location is RIO." The Zoning Form is incomplete, because only the .93-acre parcel is RIO and represents approximately 12% of the entire Development. The zoning designations for the other two parcels are (a.) different than RIO and (b.) not disclosed on the Zoning Form.

62. The RFA requires an Applicant to demonstrate appropriate zoning as of Application Deadline "for the **entire** proposed Development site." (RFA p. 34). Contrary to RFA requirements, Arbours at Hester Lake's Application fails to disclose the zoning designations for the entire proposed Development site. Rather, the disclosed zoning is improperly limited to one parcel.

63. Dade City confirms in a letter dated May 14, 2018, that the Zoning Form is incorrect and incomplete in that it fails to disclose the zoning designations for two parcels. (See attached Exhibit E). Dade City confirmed again that the Zoning Form was incomplete in a letter dated May 17, 2018. (See attached Exhibit F).

64. The Zoning Form is also incomplete and incorrect, because an 80-unit Garden Apartments complex cannot be constructed on the .93-acre parcel which is zoned RIO, the only parcel which discloses a zoning designation.

65. The two parcels that were not disclosed in the Zoning Form comprise approximately 88% of the Development, but do not support a finding that the parcels would meet the eligibility requirements. The .29 acre is zoned CG which is too small to construct an 80-unit Garden Apartments complex and the largest parcel is not zoned properly for the type of development requested by the applicant.

66. The City's zoning designation PD-H2 does not allow for Garden Apartments development on the largest parcel zoned PD-H2. Dade City confirms in a letter dated May 14, 2018, that the largest parcel is zoned PD-H2. (See attached Exhibit E). Dade City further states that the "PD-H2 zoning designation allows for Single-Family, Townhouse Units and Professional Offices." *Id.* However, Arbours at Hester Lake selected Garden Apartments as the Development Type in its application, rather than Townhouses.

67. The Zoning Form further requires that "there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein." The parcel zoned PD-H2 must be re-zoned for Garden Apartments, which would require additional land use regulation hearings and approvals. Dade City's letter dated May 17, 2018, states that PD-H2 allows "multifamily development." The only type of multifamily development allowed by PD-H2 is townhouses and not garden apartments. The Dade City Land Development Code defines "Townhouses" as a type of multi-family dwelling with "dwelling units arranged on a side-by-side rather than stacked configuration" and each "individual townhouse dwelling unit has its own front and rear access to the outside." The garden apartments proposed by Arbours at Hester Lake are stacked and many do not have front and rear access to the outside. Therefore,

the garden apartments cannot fit within the definition of townhouses and must receive additional re-zoning hearings and approvals.

68. For the foregoing reasons, Arbours at Hester Lake's application fails to satisfy eligibility requirements and its application should have been scored as ineligible for funding.

PALMETTO HIDEAWAY

Zoning

69. In its attempt to demonstrate zoning for the Development site, Palmetto Hideaway included at attachment 10 to its application Florida Housing's Zoning Form. (See attached Exhibit G). The Zoning Form provides that "[t]he zoning designation for the above referenced Development location is MF-14 District." As stated earlier, the Zoning Form states, "there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein." The form indicating that the Development qualified within the existing zoning was in error when it was executed by a local official from the City of New Port Richey.

70. In its application, Palmetto Hideaway selected Mid-Rise, 4-stories as its Development Type. Section 7.05.02, 3.b.(1) of the City of New Port Richey's Land Development Code states that "no building shall be erected in an MF-14 zoning district which is greater than three (3) stories in height." Although a variance may be obtained, any variance requires approval from the City Council.

71. On April 24, 2018, the City of New Port Richey indicated that the certificate was executed in error and withdrew its certification of the Zoning Form. (See attached Exhibit H). In light of the foregoing, Palmetto Hideaway's Application fails to satisfy eligibility requirements and its application should have been scored as ineligible for funding.

OAKS AT CREEKSIDE

Site Plan Approval

72. In an attempt to satisfy Site Plan requirements, Oaks at Creekside included at attachment 9 to its application Florida Housing's Site Plan Form (See attached Exhibit I), which certified the following information:

> The above-referenced Development is (a) new construction, or (b) rehabilitation with new construction, or (c) rehabilitation, without new construction, that requires additional site plan approval or similar process, and (i) this jurisdiction provides either preliminary site plan approval or conceptual site plan approval which has been issued, or (ii) site plan approval is required for the new construction work and/or the rehabilitation work; however, this jurisdiction provides neither preliminary site plan approval nor conceptual site plan approval, nor is any other similar process provided prior to issuing final site plan approval. Although there is no preliminary or conceptual site plan approval process and the final site plan approval has not yet been issued, the site plan, in the applicable zoning designation, has been reviewed.
>
> The necessary approval and/or review was performed on or before the submission deadline for the above referenced FHFC Request for Proposal/Application by the appropriate City/County legally authorized body; e.g. council, commission, board, department, division, etc., responsible for such process.

73. A preliminary site plan had been issued earlier for the proposed Development. However, the site plan approval had expired on September 6, 2010, well before the Application Deadline. To construct its proposed Development, Oaks at Creekside would have to submit a general development plan or preliminary site plan and obtain approval from the Manatee County Board of County Commissioners for a specific use. (See attached Exhibit J). As such, the necessary approval or review was not performed on or before the submission deadline as required by the RFA.

74. In light of the foregoing defect in the Site Plan Form, Oaks at Creekside's Application fails to satisfy eligibility requirements in that the Zoning Form is invalid, and its application should have been scored as ineligible for funding.

Zoning

75. The Zoning Form includes the following certification: "To the best of my knowledge, there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein." As previously alleged, the site plan approval for the proposed Development expired prior to the Application Deadline. In order to construct its Development, Oaks at Creekside will need to reapply and obtain approval of the preliminary site plan from the Manatee County Board of County Commissioners.

76. Manatee County, in a letter dated May 15, 2018, from the Building and Development Services, Permitting Section of Manatee County, stated that "[n]o development is allowed on this property without a valid site plan." (See Exhibit J, at p. 1, ¶4). Further, the letter goes on to state that:

> To develop on this parcel for a specific use, an application for a General Development Plan (GDP) or Preliminary Site Plan (PSP) is required to be submitted and approved by the Board of County Commissioner (BOCC) for a specified use. After a PSP or GDP is approved by the BOCC, a final site plan, construction plans, building permits, etc. would also be required.

(See Exhibit J, at p. 2, ¶5).

77. As such, the certification in the Zoning Form is inaccurate and the application fails to meet minimum zoning requirements and further approvals are required.

78. In light of the foregoing defect in the Zoning Form, Oaks at Creekside's Application fails to satisfy eligibility requirements and its application should have been scored as ineligible for funding.

HARPER'S POINTE

Proximity Points

79. In an attempt to maximize proximity points in its application, Harper's Pointe identified a grocery store, medical facility, and pharmacy as its Community Services. If accurate, the point value for these combined services is 9 proximity points. Harper's Pointe identified Florida Department of Health as its qualifying Medical Facility. (Harper's Pointe Application at p. 6). The application suggests that the claimed Medical Facility is .24 miles from the Development's Location Point. Harper's Pointe would have been entitled to 4 proximity points for this claimed Community Service had the identified Medical Facility met the definition to qualify for awarding the proximity points. (RFA at p. 92). However, the claimed Medical Facility does not meet the definition and therefore the application does not qualify for any proximity points.

80. The RFA defines a Medical Facility as:

> A medically licensed facility that (i) employs or has under contractual obligation at least one physician licensed under Chapter 458 or 459, F.S. available to treat patients by walk-in or by appointment; and (ii) provides general medical treatment to any physically sick or injured person. Facilities that specialize in treating specific classes of medical conditions or specific classes of patients, including emergency rooms affiliated with specialty or Class II hospitals and clinics affiliated with specialty or Class II hospitals, will not be accepted.

(RFA at p. 80). Contrary to RFA requirements, the claimed Medical Facility does not accept any new patients as of the Application Deadline.

81. In light of the foregoing, the claimed Florida Department of Health does not qualify as a Medical Facility and Harper's Pointe is not entitled to the 4 Proximity Points claimed in its application for a Medical Facility. As a result of this proximity point reduction,

Harper's Pointe does not meet RFA mandated minimum eligibility requirements and further, does not qualify for the Proximity Funding Preference.

Site Control

82. In an attempt to demonstrate Site Control, Harper's Pointe included at Attachment 8 a Purchase and Sale Agreement ("Agreement") entered into by and between Mister Paper Inc. ("Seller") and Peach Way Holdings, LLC, ("Buyer"), that was later assigned to Harper's Pointe. (Harper's Point Application at pp. 17-32). The proposed Development site is reflected in Exhibit A to the Agreement, which is a metes and bounds legal description.

83. Title records reveal that the seller does not have marketable title to and site control over all of the property described in the metes and bounds description in Exhibit A to the Agreement. Rather, a number of adjoining lot owners have ownership interests in a portion of the real property described in Exhibit A to the Agreement. None of those adjoining owners are parties to the Agreement. As such, Harper's Pointe did not have Site Control for its proposed Development as of the Application Deadline, and its application should have been scored as ineligible for funding.

Scattered Site

84. Harper's Pointe's Development site is comprised of lots within a platted subdivision. The legal description of the Development site includes not only the subdivision lots, but also a platted street.

85. Parties not related to Harper's Pointe have legal rights in the platted street. The legal rights of the non-related parties derive from their status as owners of lots within a recorded plat, as well as a series of deeds in the chain of title of adjacent land which grant the following rights over lands within the Harper's Pointe Development site: "the right of ingress and egress

over the streets as shown on the plat recorded in Official Records Book 134, page 378, of the Public Records of Alachua County, Florida."

86. In addition, there are lots within the Harper's Pointe's proposed Development site which are not contiguous and, pursuant to the recorded plat, are bisected by a street.

87. A Scattered Sites Development is defined in the RFA as:

> [a] Development site that, when taken as a whole, is comprised of real property that is not contiguous (each such non-contiguous site within a Scattered Site Development, is considered to be a "Scattered Site"). For purposes of this definition "contiguous" means touching at a point or along a boundary. Real property is contiguous if the only intervening real property interest is an easement, provided the easement is not a roadway or street. All of the Scattered Sites must be located in the same county.

Rule 67-48,002(105) Fla. Admin. Code

88. Given that some of the lots within the Harper's Pointe Development are not contiguous and bisected by a platted street, the Development is a Scattered Sites Development. The RFA specifically requires applicants to disclose whether a Development site consists of Scattered Sites, and such disclosure is a mandatory Eligibility Item. (RFA at pp. 19, 60). Harper's Pointe failed to disclose this required information and its application should have been scored as ineligible for funding.

ISSUES OF MATERIAL FACT AND LAW

89. Disputed issues of material fact and law include those matters pled in this petition, and include but are not limited to the following:

a) Whether the requirements for eligibility found in the provisions of the RFA have been followed with respect to the proposed allocation of tax credits to Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside and Harper's Pointe under the RFA or correct eligibility determinations have been made based on the provisions of the RFA;

b) Whether Florida Housing's proposed allocation of the tax credits to Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway,

Oaks at Creekside and Harper's Pointe are consistent with the RFA, the requirements of a competitive procurement process and Florida Housing's rules and governing statutes;

c) Whether the criteria for determining eligibility, ranking and evaluation of proposals in the RFA were properly followed;

d) Whether the preliminarily rankings properly determine the eligibility of potential applicants for funding in accordance with the standards and provisions of the RFA;

e) Whether the rankings and proposed awards are consistent with the RFA and the disclosed basis or grounds upon which tax credits are to be allocated;

f) Whether the rankings and proposed awards are based on a correct determination of the eligibility of the applicants or correct scoring and ranking criteria in the RFA;

g) Whether the rankings and proposed awards are consistent with fair and open competition for the allocation of tax credits;

h) Whether the rankings and proposed awards are based upon clearly erroneous or capricious eligibility determinations, scoring or rankings;

i) Whether the proposed awards improperly incorporate new policies and interpretations that impermissibly deviate from the RFA specifications, existing rules or prior Florida Housing interpretations and precedents;

j) Whether Sunset Lake's Application should be deemed ineligible for funding under the RFA because of its failure to satisfy RFA requirements with respect to Proximity Points and Proximity Funding Preference;

k) Whether Colonnade Park's Application should be deemed ineligible for funding under the RFA because of its failure to satisfy RFA requirements with respect to Proximity Points, Proximity Funding Preference and Zoning.

l) Whether Arbours at Hester Lake's Application should be deemed ineligible for funding under the RFA because of its failure to satisfy RFA requirements with respect to Zoning.

m) Whether Palmetto Hideaway's Application should be deemed ineligible for funding under the RFA because of its failure to satisfy RFA requirements with respect to Zoning.

n) Whether Oaks at Creekside's Application should be deemed ineligible for funding under the RFA because of its failure to satisfy RFA requirements with respect to Site Plan Approval and Zoning.

o) Whether Harper's Pointe's Application should be deemed ineligible for funding under the RFA because of its failure to satisfy RFA requirements with respect to Proximity Points, Proximity Funding Preference, Site Control and Zoning.

p) Whether the criteria and procedures for the scoring, ranking and eligibility determination of Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside and Harper's Pointe Applications are arbitrary, capricious, contrary to competition, contrary to the RFA requirements, or are contrary to prior Florida Housing interpretations of the applicable statutes and administrative rules;

q) Whether the RFA's criteria were properly followed in determining eligibility, ranking and evaluation of the Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside and Harper's Pointe Applications;

r) Whether Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside and Harper's Pointe eligibility determination and ranking is consistent with fair and open competition for the allocation of tax credits;

s) Whether Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside and Harper's Pointe eligibility determination and ranking are based on clearly erroneous or capricious eligibility determination, scoring or ranking;

t) Whether Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside and Harper's Pointe eligibility determination and ranking improperly incorporate new policies and interpretations that impermissibly deviate from the RFA specifications, existing rules or prior Florida Housing interpretations and precedents; and,

u) Such other issues as may be revealed during the protest process.

90. Petitioners reserve the right to seek leave to amend this petition to include additional disputed issues of material fact and law that may become known through discovery.

STATEMENT OF ULTIMATE FACTS AND LAW

91. As a matter of ultimate fact and law, Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside and Harper's Pointe failed to complete their applications in accordance with the competitive solicitation; their applications were not responsive to and failed to comply with relevant portions of the RFA 2017-111; and, therefore,

their applications should not have been considered for funding or scored as being an eligible application.

92. As a matter of ultimate fact and law Florida Housing improperly determined that Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside and Harper's Pointe applications were completed in accordance with the competitive solicitation; were responsive to all applicable provisions of the RFA 2017-111 and, and as a result were eligible for funding under RFA 2017-111.

93. As a matter of ultimate fact and law Florida Housing improperly scored Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside and Harper's Pointe Applications as having satisfied all mandatory eligibility requirements as of the Application Deadline.

94. As a matter of ultimate fact and law Florida Housing improperly scored Sunset Lake, Colonnade Park and Harper's Pointe Applications as having satisfied all Proximity Funding Preference Point requirements as of the Application Deadline.

95. As a matter of ultimate fact and law, Florida Housing improperly determined that Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside and Harper's Pointe were eligible for funding.

96. As a matter of ultimate fact and law, Florida Housing improperly determined that Sunset Lake was entitled to be awarded 4 Proximity Points for its claimed Public School and was not qualify for Proximity Funding Preference.

97. As a matter of ultimate fact and law, Florida Housing improperly determined that Colonnade Park was entitled to be awarded 4 Proximity Points for its claimed Medical Facility and was not eligible for funding.

98. As a matter of ultimate fact and law, Florida Housing improperly determined that Harper's Pointe was entitled to be awarded 4 Proximity Points for its claimed Medical Facility and was not eligible for funding.

99. As a matter of ultimate fact and law, but for these errors in Sunset Lake, Colonnade Park, Arbours at Hester Lake, Palmetto Hideaway, Oaks at Creekside and Harper's Pointe Applications, Petitioners would have been entitled to an allocation of its requested tax credit funding.[3]

STATUTES AND RULES

Statutes and rules governing this proceeding are Sections 120.569 and 120.57(3), and Chapter 420, Fla. Stat., and Chapters 28-106, 67-48 and 67-40, Fla. Admin. Code.

WHEREFORE, Petitioners request that:

A. Florida Housing refers this Petition to the Division of Administrative Hearings for a formal administrative hearing and the assignment of an Administrative Law Judge pursuant to Section 120.57(3), Fla. Stat.;

B. The Administrative Law Judge enter a Recommended Order determining that:

1) HTG Sunset, LLC; Arbours at Hester Lake, LLC; Blue Sunbelt, LLC; Colonnade Park, Ltd.; HTG Creekside, LLC; and Harper's Pointe, LP failed to complete their applications in accordance with the competitive solicitation; that their applications were non-responsive to and failed to comply with RFA 2017-111; and that their applications should not have been scored as having satisfied mandatory eligibility, Proximity Funding Preference or Total Point requirements as prescribed by RFA 2017-111;

2) Florida Housing improperly determined that the applications submitted by HTG Sunset, LLC; Arbours at Hester Lake, LLC; Blue Sunbelt, LLC; Colonnade Park, Ltd.; HTG Creekside, LLC;

[3] As previously indicated, Petitioners do not need to displace all of the challenged applicants in order to be funded.

and Harper's Pointe, LP were completed in accordance with the competitive solicitation;

3) Florida Housing improperly determined that the applications submitted by HTG Sunset, LLC; Arbours at Hester Lake, LLC; Blue Sunbelt, LLC; Colonnade Park, Ltd.; HTG Creekside, LLC; and Harper's Pointe, LP were responsive to RFA 2017-111.

4) Florida Housing improperly determined that HTG Sunset, LLC; Arbours at Hester Lake, LLC; Blue Sunbelt, LLC; Colonnade Park, Ltd.; HTG Creekside, LLC; and Harper's Pointe, LP applications were eligible for funding under RFA 2017-111 or satisfied Proximity Funding Preference requirements;

C. The Administrative Law Judge enter a Recommended Order recommending Florida Housing award Petitioners their requested tax credit funding;

D. Florida Housing enter a Final Order awarding Petitioners their requested tax credit funding; and,

E. Petitioners be granted such other relief as may be deemed appropriate.

Respectfully submitted this 21st day of May, 2018.

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May 9, 2018

Via Hand Delivery
Via Electronic Mail: CorporationClerk@floridahousing.org

Ana McGlamory
Corporation Clerk
Florida Housing Finance Corporation
227 N. Bronough St., Ste. 5000
Tallahassee, FL 32301

RE: RFA 2017-111 Housing Credit Financing for Affordable Housing Developments Located in Medium and Small Counties ("the RFA") - Notice of Protest

Dear Ms. McGlamory:

On behalf of Applicant Sterling Terrace, Ltd., Application No. 2018-176C ("Sterling Terrace") and Developer, Sterling Terrace Developer, LLC, ("Sterling Terrace Developer"), this letter constitutes a Notice of Protest ("Notice") filed pursuant to sections 120.569 and 120.57(3), Florida Statutes, Rules 28-110 and 67-60.009, Florida Administrative Code and the RFA. Sterling Terrace and Sterling Terrace Developer protest Florida Housing Finance Corporation's ("Corporation") intended decision with respect to the scoring, ranking and selection of applications in the RFA, including but not limited to those applications selected for funding as identified in the notice of intended decision. (See Board Approved Preliminary Awards attached as Exhibit "A.")

This Notice is being filed within 72 hours (not including weekends) of the posting of the notice of intended decision on the Corporation's website on Friday, May 4, 2018 at 10:20 a.m. Sterling Terrace and Sterling Terrace Developer reserve the right to file a formal written protest within (10) days of the filing of this Notice pursuant to section 120.57(3), Florida Statutes. This Notice is being filed to, among other matters, preserve Sterling Terrace's and Sterling Terrace Developer's ability to initiate or intervene in proceedings that may impact that scoring, ranking and funding determination.

Please acknowledge receipt of this filing by stamping the date and time on the enclosed copy of this letter.

Sincerely,

Michael G. Maida
Michael G. Maida

MGM/sem
Attachment

Exhibit A

RFA 2017-111 - Board Approved Preliminary Awards

Total HC Available for RFA	10,978,942.00
Total HC Allocated	10,737,916.00
Total HC Remaining	241,026.00

Application Number	Name of Development	County	County Size	Name of Authorized Principal Representative	Name of Developers	Total Set Aside Units	Competitive HC Request Amount	Qualifies for the Geographic Area of Opportunity / HUD-designated SADDA Funding Goal?	Total Points	Proximity Funding Preference	Per Unit Construction Funding Preference	Development Category Funding Preference	Leveraging Classification	Florida Job Creation Preference	Lottery Number
Small County Applications															
2018-219C	Southern Villas of Madison	Madison	S	Martin H. Petersen	Hallmark Development Partners, LLC	36	384,000.00	N	10	Y	Y	N	A	Y	53
Medium County Geographic Area of Opportunity / HUD-designated SADDA Funding Goal															
2018-151C	Lofts on Lemon	Sarasota	M	Joseph J Chambers	Gardner Capital Development Florida, LLC; SHA Affordable Development, LLC; DB Development Florida, LLC	76	1,510,000.00	Y	10	Y	Y	Y	A	Y	2
Other Medium County Applications selected															
2018-207C	Sunset Lake	Polk	M	Matthew A Rieger	HTG Sunset Developer, LLC	96	1,505,520.00	N	10	Y	Y	Y	A	Y	3
2018-197C	Arbours at Hester Lake	Pasco	M	Sam T Johnston	Arbour Valley Development, LLC	80	1,447,900.00	N	10	Y	Y	Y	A	Y	4
2018-260C	Colonnade Park	Citrus	M	Oscar A Sol	Colonnade Park Dev, LLC	106	1,510,000.00	Y	10	Y	Y	Y	A	Y	7
2018-256C	Oaks at Creekside	Manatee	M	Matthew A Rieger	HTG Creekside Developer, LLC	96	1,505,520.00	Y	10	Y	Y	Y	A	Y	9
2018-150C	Lucas Creek	Escambia	M	James R. Hoover	TVC Development, Inc.	92	1,510,000.00	N	10	Y	Y	Y	A	Y	11
2018-105C	Harper's Pointe	Alachua	M	Jeffrey W Smith	JES Dev Co, Inc.	66	1,015,000.00	N	10	Y	Y	Y	A	Y	13
2018-126C	Orangemont Village Phase 1	Polk	M	Martin H Petersen	Hallmark Development Partners, LLC	34	349,976.00	N	10	Y	Y	N	A	Y	117

On May 4, 2018, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion and staff recommendation to select the above Applications for funding and invite the Applicants to enter credit underwriting.

Any unsuccessful Applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., Rule Chapter 28-110, F.A.C., and Rule 67-60.009, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

Exhibit A

Exhibit A

FLORIDA HOUSING FINANCE CORPORATION
LOCAL GOVERNMENT VERIFICATION THAT DEVELOPMENT IS CONSISTENT WITH ZONING AND LAND USE REGULATIONS

FHFC Application Reference: RFA 2017-111
Indicate the name of the application process under which the proposed Development is applying/has applied for funding from the Corporation such as the Request for Proposal/Application number and/or the name of the Request for Proposal/Application.

Name of Development: Colonnade Park

Development Location: On Colonade Street, 750 ft. west of the intersection of Colonade Street and Forest Drive, Inverness, FL
(At a minimum, provide the address number, street name and city, and/or provide the street name, closest designated intersection and either the city (if located within a city) or county (if located in the unincorporated area of the county).

The undersigned service provider confirms that on or before the submission deadline for the above referenced FHFC Request for Proposal/Application:

1. The zoning designation for the above referenced Development location is R-4; and

2. The proposed number of units and intended use are consistent with current land use regulations and the referenced zoning designation or, if the Development consists of rehabilitation, the intended use is allowed as a legally non-conforming use. To the best of my knowledge, there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein. Assuming compliance with the applicable land use regulations, there are no known conditions which would preclude construction or rehabilitation (as the case may be) of the referenced Development on the proposed site.

CERTIFICATION

I certify that the City/County of Inverness (Name of City/County) has vested in me the authority to verify consistency with local land use regulations and the zoning designation specified above or, if the Development consists of rehabilitation, the intended use is allowed as a "legally non-conforming use" and I further certify that the foregoing information is true and correct. In addition, if the proposed Development site is in the Florida Keys Area as defined in Rule Chapter 67-48, F.A.C., I further certify that the Applicant has obtained the necessary Rate of Growth Ordinance (ROGO) allocations from the Local Government.

Signature

Bruce Day
Print or Type Name

Community Development Director
Print or Type Title

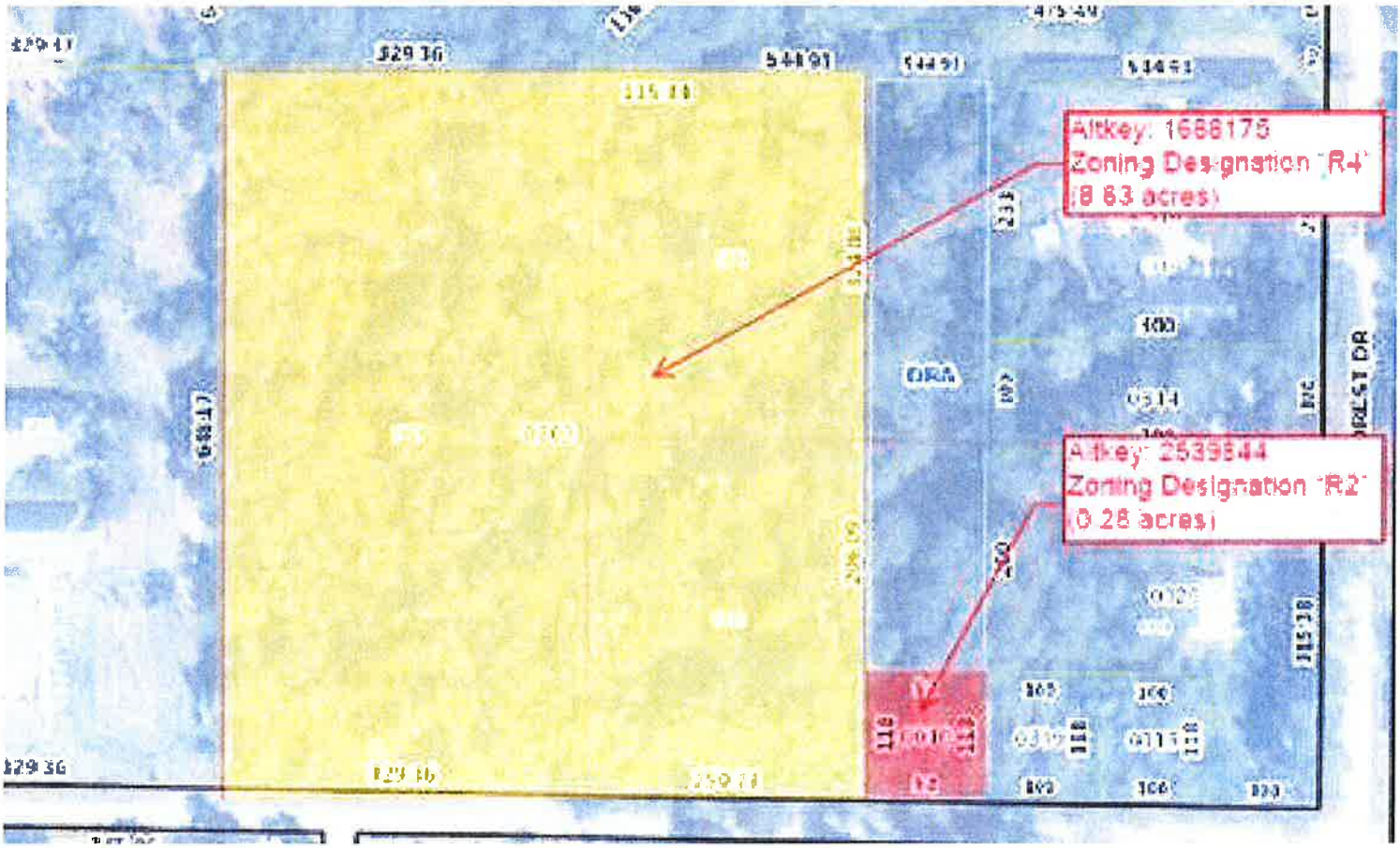
This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to comprehensive planning and zoning, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If the certification is applicable to this Development and it is inappropriately signed, the certification will not be accepted.

(Form Rev. 08-16)

Exhibit B

On Tue, Apr 24, 2018 at 2:44 PM, Bruce Day <bday@inverness-fl.gov> wrote:

Stacy - Yes , I confirm these are the correct zoning districts.



If you need more info, I am available. - Bruce

Bruce Day

Community Development Director

City of Inverness, Florida

bday@inverness-fl.gov

(352) 726-3401 Ext. 1404

Exhibit C

FLORIDA HOUSING FINANCE CORPORATION
LOCAL GOVERNMENT VERIFICATION THAT DEVELOPMENT IS CONSISTENT WITH ZONING AND LAND USE REGULATIONS

FHFC Application Reference: RFA 2017 - 111
Indicate the name of the application process under which the proposed Development is applying/has applied for funding from the Corporation such as the Request for Proposal/Application number and/or the name of the Request for Proposal/Application.

Name of Development: Arbours at Hester Lake

Development Location: South of the western intersection of Willingham Loop and Willingham Avenue, Dade City, FL 33525
(At a minimum, provide the address number, street name and city, and/or provide the street name, closest designated intersection and either the city (if located within a city) or county (if located in the unincorporated area of the county).

The undersigned service provider confirms that on or before the submission deadline for the above referenced FHFC Request for Proposal/Application:

1. The zoning designation for the above referenced Development location is RIO; and

2. The proposed number of units and intended use are consistent with current land use regulations and the referenced zoning designation or, if the Development consists of rehabilitation, the intended use is allowed as a legally non-conforming use. To the best of my knowledge, there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein. Assuming compliance with the applicable land use regulations, there are no known conditions which would preclude construction or rehabilitation (as the case may be) of the referenced Development on the proposed site.

CERTIFICATION

I certify that the City/County of Dade City (Name of City/County) has vested in me the authority to verify consistency with local land use regulations and the zoning designation specified above or, if the Development consists of rehabilitation, the intended use is allowed as a "legally non-conforming use" and I further certify that the foregoing information is true and correct. In addition, if the proposed Development site is in the Florida Keys Area as defined in Rule Chapter 67-48, F.A.C., I further certify that the Applicant has obtained the necessary Rate of Growth Ordinance (ROGO) allocations from the Local Government.

Signature

Michael Sherman, AICP
Print or Type Name

Director, Community Development Department
Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to comprehensive planning and zoning, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If the certification is applicable to this Development and it is inappropriately signed, the certification will not be accepted.

(Form Rev. 08-16)

Exhibit D

CITY OF DADE CITY

"Proud Heritage, Promising Future"

14 May 2018

Ms. Marisa Button, Multifamily Allocations
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, FL 32301

Re: RFA 2017-111/Arbours at Hester Lake – Local Government Verification that Development is Consistent with Zoning and Land Use Regulations

Dear Ms. Button,

After reviewing specific property information and City codes in regards to the Dade City ("City") zoning certification form for the Arbours at Hester lake's proposed development ("Arbours"), the City re-examined Florida Housing Finance Corporation's "Local Government Verification that Development is Consistent with Zoning and Land Use Regulations" form (the "Certification"). Based upon this re-examination, the City has determined that the Certification was both incomplete and incorrect.

The Certification was incomplete and incorrect, because it did not include the Zoning Designations for all of the parcels of property in the proposed development. The Certification that was signed for the Arbours only listed one (1) Zoning Designation "RIO". Upon further review, the proposed Arbours' development site consists of three (3) parcels of land with three (3) different Zoning Designations. Accordingly, the Certification should have listed the three (3) Zoning Designations as follows:

1. Zoning Designation **"RIO"** for Parcel ID: 34-24-21-0280-00000-0190 (0.93 acres)
2. Zoning Designation **"CG"** for Parcel ID: 34-24-21-0280-00000-0192 (0.29 acres)
3. Zoning Designation **"PD-H2"** for Parcel ID: 34-24-21-0000-15900-0000 (12.24 acres)

While parcels 34-24-21-0280-00000-0190 and 34-24-21-0280-00000-0192 would be appropriate to provide access to the proposed development and also allow for multi-family development, the largest parcel of the proposed Arbours' development site is designated PD-H2. This PD-H2 zoning designation allows for Single-Family, Townhouse Units and Professional Offices. Townhouses are defined by the Dade City Land Development Regulations as a type of multi-family dwelling, in which five (5) or more individual dwelling units are attached by one (1) or more vertical party walls, with the habitable spaces of different dwelling units arranged on a side-by-side rather than a stacked configuration, and each individual unit being two (2) stories, or more. Each individual townhouse dwelling unit has its own front and rear access to the outside. Within the PD-H2 designation is an underlying zoning of RIO, Residential Institutional Office.

If you have any questions or need additional information, please contact me directly. Thank you.

Sincerely,

Michael Sherman, AICP, Director

c: FILE

CITY OF DADE CITY

"Proud Heritage, Promising Future"

17 May 2018

Ms. Marisa Button, Multifamily Allocations
Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, FL 32301

Re: RFA 2017-111/Arbours at Hester Lake – Local Government Verification that Development is Consistent with Zoning and Land Use Regulations

Dear Ms. Button,

It has come to my attention that the "Local Government Verification that Development is Consistent with Zoning and Land Use Regulations" form that I signed pertaining to the Arbours at Hester Lake application could be clarified.

On the form, I certified that the zoning classification for the development site is "RIO" (Residential/Institutional/Office). In fact, one portion of the site is zoned RIO, but the other two portions of the site are zoned "CG" and "PD-H2" (with underlying RIO). Please note that both CG zoning, and PD-H2 zoning with underlying RIO, allow multifamily development. Because RIO is the zoning standard under which the majority of the site can be developed, that is the designation I chose to indicate on the form. While technically accurate in terms of what can be developed on the site, I could have been more complete by also indicating "CG" and "PD-H2".

In short, the entire development site for the Arbours at Hester Lake has zoning that allows multifamily development. No further zoning hearings or approvals are required.

Dade City is a small community and we are in great need of affordable housing. We would welcome the Arbours at Hester Lake.

If you have any questions or need additional information, please contact me directly. Thank you.

Sincerely,

Michael Sherman

Michael Sherman, AICP, Director

c: Mr. William C. Poe, Jr., City Manager
Ms. Nancy Stuparich, City Attorney
Mr. Clark Hobby, Esq.
Ms. Shelly Johnson, Esq.
Mr. Tim Schulte, Esq.
FILE

FLORIDA HOUSING FINANCE CORPORATION
LOCAL GOVERNMENT VERIFICATION THAT DEVELOPMENT IS CONSISTENT WITH ZONING AND LAND USE REGULATIONS

FHFC Application Reference: RFA 2017-111
Indicate the name of the application process under which the proposed Development is applying/has applied for funding from the Corporation such as the Request for Proposal/Application number and/or the name of the Request for Proposal/Application.

Name of Development: Palmetto Hideaway

Development Location: On the east side of Oelsner Street, approximately 150 feet north of Beau Lane New Port Richey
(At a minimum, provide the address number, street name and city, and/or provide the street name, closest designated intersection and either the city (if located within a city) or county (if located in the unincorporated area of the county).

The undersigned service provider confirms that on or before the submission deadline for the above referenced FHFC Request for Proposal/Application:

1. The zoning designation for the above referenced Development location is MF-14 District ; and

2. The proposed number of units and intended use are consistent with current land use regulations and the referenced zoning designation or, if the Development consists of rehabilitation, the intended use is allowed as a legally non-conforming use. To the best of my knowledge, there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein. Assuming compliance with the applicable land use regulations, there are no known conditions which would preclude construction or rehabilitation (as the case may be) of the referenced Development on the proposed site.

CERTIFICATION

I certify that the City/County of City of New Port Richey (Name of City/County) has vested in me the authority to verify consistency with local land use regulations and the zoning designation specified above or, if the Development consists of rehabilitation, the intended use is allowed as a "legally non-conforming use" and I further certify that the foregoing information is true and correct. In addition, if the proposed Development site is in the Florida Keys Area as defined in Rule Chapter 67-48, F.A.C., I further certify that the Applicant has obtained the necessary Rate of Growth Ordinance (ROGO) allocations from the Local Government.

Signature

Lisa Fierce
Print or Type Name

Development Director
Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to comprehensive planning and zoning, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If the certification is applicable to this Development and it is inappropriately signed, the certification will not be accepted.

(Form Rev. 08-16)

Exhibit G

NEW PORT RICHEY
5919 MAIN STREET • NEW PORT RICHEY, FL 34652 • 727.853.1016

April 24, 2018

Florida Housing Finance Corporation
227 N. Bronough Street, Suite 5000
Tallahassee, FL 32301

Re: RFA 2017-111/Palmetto Hideaway – Local Government Verification that Development is Consistent with Zoning and Land Use Regulations

Dear Sirs/Madam:

After reviewing specific property information and City codes in regards to the New Port Richey ("City") zoning certification form for the Palmetto Hideaway proposed development ("Palmetto Development"), the City re-examined the Florida Housing Finance Corporation's "Local Government Verification that Development is Consistent with Zoning and Land Use Regulations" form (the "Certification"). Based upon this re-examination, the City has determined that the Certification was incorrectly signed.

The Palmetto Development is currently zoned MF-14. Section 7.05.02, 3.b. (1) of the City's Land Development Code states that "***no building shall be erected in an MF-14 zoning district which is greater than three (3) stories in height***." (emphasis added). While variances of the height restriction may be obtained, Section 7.05.02 requires action by the City Council to grant variances up to five stories in height.

The City has reviewed the application that the Palmetto Development submitted to FHFC. The City has compared the parcel ID identified in Exhibit "A" of the land contract in the Palmetto Development's application to Florida Housing Finance Corporation ("FHFC") to the site plan reviewed in the City's original review and deemed the parcels to be the same (Parcel ID #05-26-16-0180-00200-0030). The "Development Type" for the Palmetto Development in the FHFC application is listed as "Mid-Rise, 4-stories." Per Section 7.05.02, as stated above, a 4-story development on property zoned MF-14 will require a variance to proceed.

In order for the Palmetto Development to receive approval for a variance, the Development will need to go before the City Council for a land use approval. Therefore, the portion of the Certification that reads "there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein" is incorrect for the Palmetto Development. This requirement was overlooked when the Certification was originally signed.

EXHIBIT "H"

In conclusion, the Certification that was signed for the Palmetto Development is incorrect because the proposed development will require additional land use regulation hearings or approvals to obtain the zoning classification or density described therein.

Therefore, FHFC should not rely on the signed Certification and the City is formally withdrawing the original Certification for the Palmetto Development based upon the erroneous information it contains.

Best Regards,

Debbie L. Manns
City Manager

DLM/jm

cc: Erica Lindquist, Planner (via electronically)
Stacy Banach, Parametric Design & Development (via electronically)

EXHIBIT "H"

FLORIDA HOUSING FINANCE CORPORATION
LOCAL GOVERNMENT VERIFICATION OF STATUS
OF SITE PLAN APPROVAL FOR MULTIFAMILY DEVELOPMENTS

FHFC Application Reference: 2017-111
Indicate the name of the application process under which the proposed Development is applying/has applied for funding from the Corporation such as the Request for Proposal/Application number and/or the name of the Request for Proposal/Application.

Name of Development: Oaks at Creekside

Development Location: 3505 53rd Ave E, Bradenton, Florida (Manatee County)
At a minimum, provide the address number, street name and city and/or provide the street name, closest designated intersection and either the city (if located within a city) or county (if located in the unincorporated area of the county).

Mark the applicable statement:

1. ○ The above-referenced Development is (a) new construction, or (b) rehabilitation with new construction, or (c) rehabilitation, without new construction, that requires additional site plan approval or similar process. The final site plan, in the applicable zoning designation, was approved on or before the submission deadline for the above referenced FHFC Request for Proposal/Application by action of the appropriate City/County legally authorized body; e.g. council, commission, board, department, division, etc., responsible for such approval process.

2. ◉ The above-referenced Development is (a) new construction, or (b) rehabilitation with new construction, or (c) rehabilitation, without new construction, that requires additional site plan approval or similar process, and (i) this jurisdiction provides either preliminary site plan approval or conceptual site plan approval which has been issued, or (ii) site plan approval is required for the new construction work and/or the rehabilitation work; however, this jurisdiction provides neither preliminary site plan approval nor conceptual site plan approval, nor is any other similar process provided prior to issuing final site plan approval. Although there is no preliminary or conceptual site plan approval process and the final site plan approval has not yet been issued, the site plan, in the applicable zoning designation, has been reviewed.

   The necessary approval and/or review was performed on or before the submission deadline for the above referenced FHFC Request for Proposal/Application by the appropriate City/County legally authorized body; e.g. council, commission, board, department, division, etc., responsible for such approval process.

3. ○ The above-referenced Development, in the applicable zoning designation, is rehabilitation without any new construction and does not require additional site plan approval or similar process.

CERTIFICATION

I certify that the City/County of Manatee (Name of City or County) has vested in me the authority to verify status of site plan Approval as specified above and I further certify that the information stated above is true and correct.

Signature

Nicole M. Krupp
Print or Type Name

Planning Section Manager
Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to site plan approval, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If this certification is applicable to this Development and it is inappropriately signed, the certification will not be accepted.

(Form Rev. 08-16)

Exhibit I

Exhibit "J"

Building & Development Services
Permitting Section
1112 Manatee Avenue West
4th Floor
Bradenton, FL 34205
Phone: (941) 748-4501 ext 3800
www.mymanatee.org

May 15, 2018

Stacy Banach
American Residential Communities
558 W New England Ave, Suite 250
Winter Park, Florida 32789

Project #: ZV-18-54 - Banach
Address: 3505 53rd Ave E Bradenton
Parcel: 16965.0005/5
Record #: PLN1805-0036
Sections: 8 Township: 35 Range: 18
Owner: SR 70 Land Bradenton LLC

Dear Mr. Banach:

In response to your request for a Zoning Verification, we answer the following:

1. Question: What is the existing zoning?

   Response: The current zoning is PDR (Planned Development Residential).

2. Question: We have been told the PD zoning is expired, please confirm the status of the PD.

   Response: A rezone to PDR and approval of a Preliminary Site Plan PDR-06-69(Z)(P) for the subject property was granted by the Manatee County Board of County Commissioners on September 6, 2007 to allow 96 multi-family units in 12 buildings with at least 10% of the units designated as Workforce Housing. This plan expired on September 6, 2010. I have attached a copy of the zoning ordinance for your reference.

3. Question: If the PD is expired, does the zoning revert back to original zoning?

   Response: Zoning does not revert to the original zoning, it remains PDR.

4. Question: What is the allowable density on the property without going back to BOCC?

   Response: No development is allowed on this property without a valid site plan.

Exhibit "J"

5. Question: Not including building permits, what would an applicant need to do to move forward to build 96 apartment units on the subject property? i.e. - Rezoning application, BOCC approval, PSP approval, etc.

Response: To develop on this parcel for a specific use, an application for a General Development Plan (GDP) or Preliminary Site Plan (PSP) is required to be submitted and approved by the Board of County Commissioners (BOCC) for a specific use. After a PSP or GDP is approved by the BOCC, a final site plan, construction plans, building permits, etc. would also be required.

For more information on application types, fees, submittal requirements, etc, please contact the reviewer on call at (941) 748-4501 extension x3070.

According to the Code Enforcement Division of the Manatee County Building and Development Services Department, there are currently no unresolved code violations.

The information contained herein represents a reasonable attempt to answer the questions raised. It is not intended to be an exhaustive review of all regulations applicable to the property. Other issues may concern your case.

If you have any questions or comments regarding the above, please contact me at (941)748-4501, extension 3934 or by email at susan.angersoll@mymanatee.org.

Sincerely,

Susan Angersoll
Planning and Zoning Technician I
Building and Development Services

Encl: Receipt
Copy of Original Request
GIS Maps – FLUC and Zoning
PDR-06-69(Z)(P) – Zoning Ordinance