

**BEFORE THE FLORIDA HOUSING FINANCE CORPORATION**

In re: SP TERRACE LLC  
(Mango Terrace)

FHFC Case No. 2020-60VW

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**PETITION FOR WAIVER OF RULE 67-48.004(3)(g)**  
**TO CHANGE DEVELOPMENT TYPE**

Petitioner, SP TERRACE LLC, by and through undersigned counsel and pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, Florida Administrative Code, hereby petitions the Florida Housing Finance Corporation (“Florida Housing”) for a waiver of the requirement in Rule 67-48.004(3)(g), Florida Administrative Code (effective July 8, 2018), to allow Petitioner to change the Development Type from Townhouses to Garden Apartments. In support thereof, Petitioner states:

**The Petitioner**

1. The name of the Petitioner is SP TERRACE LLC. For purposes of this proceeding, the address, email address, telephone number, and fax number are that of Petitioner’s undersigned counsel.

**The Development**

2. Requested background information:

Development name:	Mango Terrace
Developer/Principal:	Southport Development, Inc. a WA corporation doing business in FL as Southport Development Services, Inc./ J. David Page
Number of units:	93 (Petitioner has requested an increase to 104)
County of development:	Hillsborough
Type:	Townhouses (this petition seeks to change to Garden Apartments)
Set Asides:	
Demographic:	5% at 22% AMI, 10% at 35% AMI, 85% at 60% AMI

Funding:                      Family  
                                     SAIL/ELI \$5,600,000  
                                     NHTF - \$1,113,000  
                                     4% LIHTC: \$620,000 annual credit request

3.        Petitioner timely submitted its Application No. 2019-149S in response to RFA 2018-116, SAIL Financing of Affordable Multifamily Housing Developments to be used in Conjunction with Tax-exempt bond financing and Non-competitive Housing Credits (the “RFA”). The Application proposed the new construction of a development located in Seffner (Hillsborough County), Florida, called Mango Terrace (the “Development”). The Application was selected for funding, Florida Housing issued its invitation to credit underwriting, The Development is currently going through credit underwriting.

4.        The proposed Development initially was to include the construction of 93 units in 15 townhome residential buildings in accordance with the then-approved planned unit development (PUD). During the design development phase, Hillsborough County provided an affordable housing density bonus to allow additional units, and the County agreed to revise the PUD to allow Garden Apartments, which are far more economical and feasible to construct than Townhouses. The change in development type, from Townhouse to Garden Apartments, also allowed Petitioner to construct additional units on the site. Because there is a substantial demand for affordable housing in Hillsborough County, Petitioner now seeks to construct 104 units (an increase of 11 units) in seven Garden style residential buildings. Petitioner has requested that Florida Housing staff approve the proposed increase in the number of units (from 93 to 104). By this Petition, Petitioner now seeks Board approval to change the Development Type to accommodate the additional units.

**The Rule For Which The Waiver Is Sought**

5. Petitioner requests a waiver of Rule 67-48.004(3)(g), Florida Administrative Code (effective July 8, 2018) (the Rule). The Rule provides as follows:

(3) For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:

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(g) Development Type; ....

6. Petitioner requests a waiver of the requirement in Rule 67-48.004(3)(g) to allow Petitioner to change the Development Type for Mango Terrace from “Townhouse” to “Garden Apartments,” in order to accommodate the additional units.

**Statutes Implemented By The Rule**

7. The Rule implements Sections 420.5087 (State Incentive Loan Program), 420.5089 (HOME Investment Partnership Program) and 420.5099 (Allocation of the low-income housing tax credit), all of which are part of the Florida Housing Finance Corporation Act. One of the purposes of the Act is to encourage the construction and reconstruction of new and rehabilitated housing to meet the shortage of decent, safe and sanitary housing for person and families of low, moderate and middle income.

**Justification For The Requested Waiver**

8. Florida Housing has the authority to grant waivers of its rule requirements when strict application would lead to unreasonable, unfair, and unintended consequences in particular instances. Section 120.541(1), F.S. A waiver shall be granted when the person who is subject to the rule demonstrates that application of the rule would: (1) create a substantial hardship or violate

principles of fairness; and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. Section 120.542(2), F.S.

9. Petitioner requests a waiver of the requirement in the Rule to allow Petitioner to change the Development Type for Mango Terrace from “Townhouses” to “Garden Apartments.”

10. The scoring and funding of the Application would not have been affected had the Applicant selected the “Garden Apartment” Development Type when it submitted its Application. In particular, this change in the Development Type does not affect the Total Development Cost (TDC) per unit base limitation and therefore will not cause the TDC limitation to be exceeded.

11. On the other hand, denying the request would impose a significant economic hardship on Petitioner, as it is much more economically feasible to construct the increased number of units (104, instead of 93) as Garden Style Apartments rather than as Townhouses. In fact, it is not possible to construct the increased number of units on the site as Townhouses.

12. Here, Petitioner has satisfied the requirements justifying waiver of the Rule. Granting the waiver will not have any impact on other participants in funding programs administered by Florida Housing, nor will it have a detrimental impact on Florida Housing or the Development. Granting the requested waiver also will ensure that additional affordable family housing units will be built for the target population in Seffner, in Hillsborough County. Denial of Petitioner’s request (a) would result in substantial economic hardship to Petitioner, and (b) would deprive Hillsborough County of essential affordable housing. Further, granting the waiver or variance will serve the purposes of the statute and the Florida Housing Finance Corporation Act because one of the purposes of the Act is to encourage the construction and reconstruction of new and rehabilitated housing to meet the shortage of decent, safe and sanitary housing for persons and families of low, moderate and middle income.

**Petitioner Requests A Permanent Waiver**

13. Petitioner requests a permanent waiver of the requirement in Rule 67-48.004(3)(g).

**Action Requested**

WHEREFORE, Petitioner respectfully requests that Florida Housing:

A. Grant this Petition and all of the relief requested herein;

B. Grant the requested waiver of the requirement in Rule 67-48.004(3)(g) to allow Petitioner to change the Development Type for Mango Terrace from “Townhouse” to “Garden Apartments.”

C. Grant such further relief as it may deem appropriate.

Respectfully submitted on September 21, 2020.

/s/ Lawrence E. Sellers, Jr.

Lawrence E. Sellers, Jr.

Florida Bar No. 300241

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*Attorneys for Petitioner*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that this Petition for Waiver of Rule 67-48.004(3)(g) to Change Development Type was filed by email with Ana McGlamory, Agency Clerk, [ana.mcglamory@floridahousing.org](mailto:ana.mcglamory@floridahousing.org), that a true and correct copy was provided by email to Hugh Brown, General Counsel, [hugh.brown@floridahousing.org](mailto:hugh.brown@floridahousing.org), and that a true and correct copy was provided by email to the Joint Administrative Procedures Committee, [joint.admin.procedures@leg.state.fl.us](mailto:joint.admin.procedures@leg.state.fl.us), all on September 21, 2020.

*/s/ Lawrence E. Sellers, Jr.*

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Lawrence E. Sellers, Jr.