

STATE OF FLORIDA  
FLORIDA HOUSING FINANCE CORPORATION

FHFC CASE NO. \_\_\_\_\_  
Application No. 2006-065C

MORRIS COURT II, LTD.,

Petitioner,

vs.

FLORIDA HOUSING FINANCE CORPORATION,

Respondent.

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**PETITION FOR WAIVER OF RULE 67-48.004(14)(e) TO MODIFY  
THE SITE OF THE MORRIS COURT II DEVELOPMENT**

Petitioner Morris Court II, Ltd., a Florida limited partnership (“Morris Court”), petitions Respondent Florida Housing Finance Corporation (“Florida Housing”) for a waiver of restrictions on changing a development’s site. *See* Rule 67-48.004(14)(e), F.A.C. (2006) (the “Rule”).

1. Pursuant to Section 120.542, Fla. Stat. (2006), and Rules 28-104.001 through 28-104.006, F.A.C. (2006), Morris Court requests a waiver of the Rule to allow a modification of its development’s site.

**A. THE PETITIONER**

2. The name, address, and telephone and facsimile numbers for Morris Court and its qualified representative are:

Morris Court II, Ltd.  
c/o Liz Wong  
2937 S.W. 27<sup>th</sup> Avenue, Suite 200  
Miami, Florida 33133  
Telephone: 305-476-8118  
Facsimile: 305-476-1557

3. The name, address, telephone and facsimile numbers, and e-mail addresses of Morris Court's attorneys, for purposes of this Petition, are:

Brian J. McDonough, Esquire  
STEARNS WEAVER MILLER  
WEISSLER ALHADEFF & SITTERSON, P.A.  
150 West Flagler Street, Suite 2200  
Miami, Florida 33130  
Telephone: 305-789-3200  
Facsimile: 305-789-3395  
E-mail: [bmcdonough@swwwas.com](mailto:bmcdonough@swwwas.com)

Mimi L. Sall, Esquire  
STEARNS WEAVER MILLER  
WEISSLER ALHADEFF &  
SITTERSON, P.A.  
200 East Las Olas Blvd., Suite 2100  
Fort Lauderdale, Florida 33301  
Telephone: 954-462-9575  
Facsimile: 954-462-9524  
E-mail: [msall@swwwas.com](mailto:msall@swwwas.com)

4. Pursuant to the 2006 Universal Cycle, Morris Court submitted its 2006 Universal Application ("Universal Application") for Housing Credits under the Low Income Housing Tax Credit program.<sup>1</sup> See Application No. 2006-065C.

5. Florida Housing has issued its Preliminary Allocation of Housing Credits reserved in the amount of \$1.1 million, and it is anticipated that there will be a Final Housing Credit Allocation granted to Morris Court in accordance with Florida Housing's final allocation procedures.

6. Equity raised from Housing Credits will be used for the development of Morris Court II, a new 74-unit apartment development (the "Development") intended to serve very-low and low-income individuals and families in Pensacola, Escambia County, Florida.

7. The requested Rule waiver will not adversely affect the Development. However, a denial of this Petition (a) would result in substantial economic hardship to Morris Court; (b) could deprive Escambia County of essential, affordable housing units in a timely manner; and (c) would violate principles of fairness. § 120.542(2), Fla. Stat. (2006).

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<sup>1</sup>The Universal Application Package has been adopted and incorporated into Chapter 67-48 by Rule 67-48.004(1)(a), F.A.C. (2006).

8. The waiver being sought is permanent in nature.

**B. Rule from Which Relief is Requested and Statute Implemented by the Rule**

9. Morris Court requests a waiver of Rule 67-48.004(14) which identifies non-curable matters in a Universal Application as follows:

Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline ... Those items are as follows: . . .

(e) Site for the Development;

10. The applicable Rule for which the waiver is requested is implementing Florida Housing Finance Corporation Act's statute that created the Housing Credits Program. § 420.5099, Fla. Stat. (2006).<sup>2</sup> The Act designates Florida Housing as the State of Florida's housing credit agency within the meaning of Section 42(h)(7)(A) of the Internal Revenue Code of 1986. As the designated agency, Florida Housing is responsible for and is authorized to establish procedures for the allocation and distribution of low-income housing tax credits. §§ 420.5099(1) and (2), Fla. Stat. (2006). Accordingly, the Rule that is the subject of Morris Court's waiver request is implementing, among other sections of the Act, the statutory authorization for Florida Housing's establishment of Allocation Procedures for the HC Program. §§ 420.5099(1) and (2), Fla. Stat. (2006).

**C. Justification for Morris Court's Request to Modify Its Development's Site**

11. When Morris Court submitted its Universal Application, the Development was intended to be developed within a 14-acre parcel(s) located at 1351 North K Street, Pensacola,

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<sup>2</sup>The Florida Housing Finance Corporation Act (the "Act") is set forth in Sections 420.501 through 420.516 of the Florida Statutes. *See also* Rule 67-40.020(1), F.A.C.

Florida. *See* Universal Application at Part III.A.2., and the legal description appended to the Universal Application as Exhibit 27A, A-1, and A-2.

12. Based on subsequent negotiations and circumstances, Morris Court has determined that the Development can be constructed on approximately 7.9 acres within the original 14-acre parcel(s), and thereby save construction costs and expense, including those associated with additional site and infrastructure preparation.

13. The location of the Development will not be changed, and its Tie-Breaker Measurement Point (“TBMP”), identified in Exhibit 25 to Morris Court’s Universal Application, remains within the Development’s legal description, as modified. *See* Affidavit and Certification of Kenneth C. Jackson attached hereto as Exhibit A, and the revised legal description attached hereto as Exhibit B.

14. Additionally, because the Development’s TBMP remains the same, the 7.5 Proximity Tie-Breaker Points awarded to Morris Court would not have changed.

15. The requested modification of the Development site would not have impacted the scoring of Morris Court’s Universal Application, and would not have provided Morris Court with an unfair advantage over other applicants. Morris Court is simply using a portion of the original site with the TBMPA remaining within the Development’s modified legal description.

16. The requested waiver will not prejudice the Development or the affordable housing market to be served by the Development, and may result in a savings of construction and development costs.

**D. Conclusion**

17. The requested waiver will not adversely impact the Development or Florida Housing, and will ensure that 74 affordable housing units will be available in Escambia County, Florida.

18. Controlling statutes and Florida Housing's Rules are designed to allow the flexibility necessary to provide relief for changed circumstances that arise through no fault of an applicant. Florida Housing generally approves such waivers when it would not affect the scoring of an application or otherwise allow an applicant to obtain a possible unfair competitive advantage.

19. The requested waiver serves the purposes of Section 420.5099, Florida Statutes (2006), and the Act, as a whole, because one of their primary goals is to facilitate the availability of decent, safe and sanitary housing in the State of Florida to low-income persons and households by ensuring:

the maximum use of available tax credits in order to encourage development of low-income housing in the state, taking into consideration the timeliness of the application, the location of the proposed housing project, the relative need in the area for low-income housing and the availability of such housing, the economic feasibility of the project, and the ability of the applicant to proceed to completion of the project in the calendar year for which the credit is sought.

§ 420.5099(2), Fla. Stat. (2006).

20. Finally, by granting the requested waiver, Florida Housing would recognize the economic realities and principles of fundamental fairness in the development of affordable rental housing. This recognition would promote participation by experienced developer entities in meeting the purpose of the Act through new construction in an economical and efficient manner.

21. Should Florida Housing require additional information, Morris Court is available to answer questions and to provide all information necessary for consideration of its Petition for Waiver of Rule 67-48.004(14)(e) to Modify the Site of the Morris Court II Development.

WHEREFORE, Petitioner Morris Court II, Ltd., respectfully requests that the Florida Housing Finance Corporation grant the Petition and provide the following relief:

- A. Waive the prohibition on changing a development's site location after submission of the Universal Application;
- B. Allow the Morris Court II Development to be developed on the site identified in Exhibit A to this Petition; and
- C. Award such further relief as may be deemed appropriate.

Respectfully submitted,

STEARNS WEAVER MILLER WEISSLER  
ALHADEFF & SITTERSON, P.A.  
Counsel for Morris Court II, Ltd.  
200 East Las Olas Boulevard, Suite 2100  
Fort Lauderdale, Florida 33301  
Tel: (954) 462-9575  
Fax: (954) 462-9567  
E-mail: [msall@swmwas.com](mailto:msall@swmwas.com)

By:   
MIMI L. SALL

**CERTIFICATE OF SERVICE**

The original Petition is being served by overnight delivery, with a copy served by electronic transmission for filing with the Corporation Clerk for the Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida 32301, with copies served by

overnight delivery on the Joint Administrative Procedures Committee, Room 120, The Holland Building, Tallahassee, Florida 32399-1300, this 24<sup>th</sup> day of August, 2007.

By: Mimi L. Sall  
Mimi L. Sall

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**Affidavit and Certification of [Surveyor's Name]**

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

My name is Kenneth C. Jackson. I am licensed by the State of Florida as a Professional Surveyor. My license number is 4549. I am the vice president of Sea Diversified Inc.. I am submitting this Affidavit and Certification on behalf of Morris Court II, Ltd. (the "Applicant"), and I am not related to the Applicant or any Principals or Financial Beneficiaries of the Applicant.

I prepared the Surveyor Certification and Sketch of Point Qualifiers "Tie-Breaker" Measurement Point attached as Exhibit 25 to the Applicant's Universal Application No. 2006-063C, for the development known as Morris Court II (the "Development").

I have reviewed a site sketch prepared by Pittman, Glaze and Associates and accompanying legal description prepared by Pittman, Glaze and Associates ("Revised Site Sketch"). A copy of the Revised Site Sketch, with accompanying legal description, is attached hereto as Exhibit 1. My review of the Revised Site Sketch confirms that the Tie-Breaker Measurement Point identified in Exhibit 25 remains within the legal description of the Revised Site Sketch.

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

*[Signature]* Kenneth C. Jackson, P.S.M. *Aug 21, 2007* Dated

STATE OF FLORIDA  
COUNTY OF *Calum Beach*

Sworn to and subscribed before me this *21* day of *August*, 2007, by *Kenneth Jackson* who is personally known to me or has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal, this *21* day of *August*, 2007.

*[Signature]*  
Notary Public *Teresa Martinez*  
State of \_\_\_\_\_ Commission # *FD376724*  
My Commission Expires *DEC 05, 2008*  
Bonded thru Atlantic Bonding Co., Inc.

*Exhibit A*



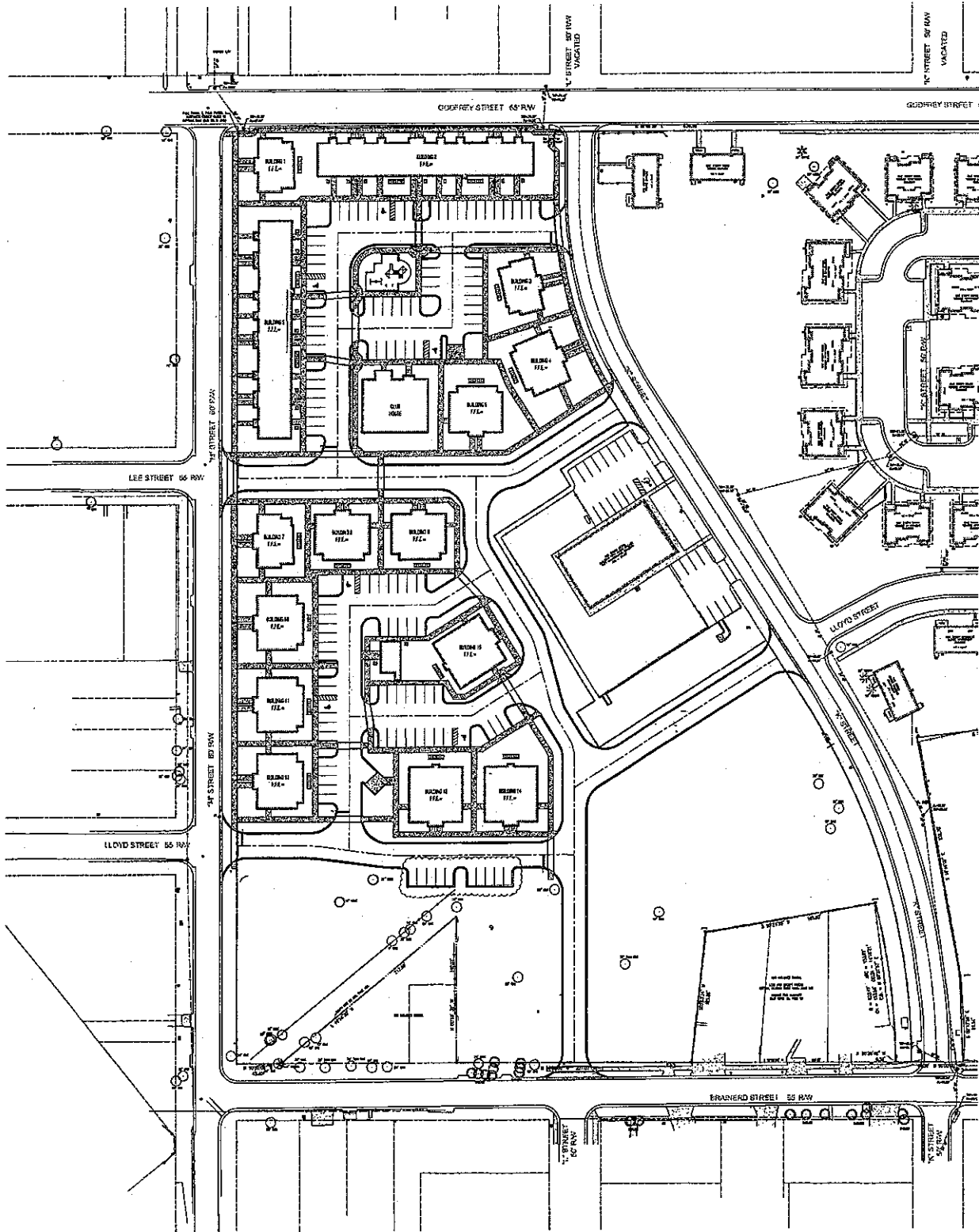


Exhibit 1

LEGEND:  
 P.O.C. Point of commencement  
 P.O.B. Point of beginning  
 R/W Right of way  
 P.C. Point of curvature  
 P.T. Point of tangency

SURVEYOR'S NOTES:  
 1. Subject to setbacks, easements and restrictions of record.  
 2. This sketch is subject to any facts that may be disclosed by a full and accurate title search. No title work performed by this firm.  
 3. This sketch does not reflect or determine ownership.  
 4. This drawing only reflects setback lines, which appear on the recorded plat. The property may also be subject to setback lines mandated by zoning ordinances and/or restrictive covenants of record.  
 5. NO BOUNDARY MARK PERFORMED. Improvements shown for orientation purposes only. For boundary survey and location of improvements see Pitman, Glaze and Associates drawings D-761 thru D-764, dated July 31, 2006.

LEGAL DESCRIPTION: Morris Court Phase II, Block 12, Kipling Park Subdivision of Section 30, Township 2 South, Range 30 West, Escambia County, Florida according to the plat recorded in Deed Book 82 at page 245; said point begin on the south right of way line of Godfrey Street (55' R/W) and the east right of way of "H" Street (60' R/W); thence North 01 degree 40'51" East along said south right of way line for a distance of 504.53 feet; thence South 00 degree 11'01" East for a distance of 54.26 feet to the point of curvature of a circular curve concave to the northeast having a radius of 666.56 feet and delta angle of 32 degree 04'14"; thence Southeast along said curve for an arc distance of 206.80 feet (chord distance of 208.94 feet and chord bearing of South 16 degree 30'40" East) to the point of tangency; thence South 32 degree 50'20" East for a distance of 26.11 feet; thence South 57 degree 07'56" West for a distance of 71.71 feet; thence South 52 degree 56'04" East for a distance of 16.72 feet; thence South 57 degree 13'58" West for a distance of 20.71 feet; thence South 52 degree 01'07" East for a distance of 101.21 feet; thence South 57 degree 22'25" West for a distance of 30.41 feet; thence South 52 degree 57'20" East for a distance of 34.63 feet; thence North 57 degree 22'25" East for a distance of 104.35 feet; thence South 32 degree 50'20" East for a distance of 20.31 feet to the point of curvature of a circular curve concave to the southwest, having a radius of 620.04 feet and delta angle of 32 degree 50'14"; thence Southeast along said curve for an arc distance of 358.40 feet (chord distance of 350.56 feet and chord bearing of South 16 degree 29'10" East) to the point of tangency; said point being on the north right of way line of Broadwood Street (55' R/W); thence North 40 degree 00'00" West along said north right of way line for a distance of 154.4 feet to the east line of the plat of Habitat for Humanity, as recorded in Plat Book 15 at page 40 of the public records of said County; thence North 00 degree 23'46" West (the corner and the next three courses along said plat of Habitat for Humanity) for a distance of 0.55 feet to the point of curvature of a circular curve concave to the southwest, having a radius of 622.47 feet and delta angle of 14 degree 10'11"; thence Northwest along arc of said curve for an arc distance of 159.41 feet (chord distance of 153.36 feet and chord bearing of North 07 degree 38'27" West); thence South 50 degree 24'22" West for a distance of 163.50 feet; thence South 05 degree 19'24" West for a distance of 123.86 feet to said north right of way line; thence North 40 degree 00'00" West along said north right of way line for a distance of 271.02 feet to a point 40.00 feet west of the southwest corner of Block III; West King Tract; thence North 00 degree 16'32" West parallel to the east line of said Block III for a distance of 140.03 feet to the southeast of the Official Record Book 825 at page 400; thence South 44 degree 56'30" West along said southeast line for a distance of 271.04 feet to said north right of way line of Broadwood Street; thence North 40 degree 00'00" West for a distance of 42.40 feet to said east right of way of "H" Street; thence North 00 degree 25'03" West along said east right of way line for a distance of 640.76 feet to the point of beginning.  
 All being and being in Sections 24 and 30, Township 2 South, Range 30 West, Escambia County, Florida, containing 1.34 acres, more or less.

Measurements made in accordance with United States Standards.  
 Bearing Reference NORTH BASED ON THE NORTH RIGHT OF WAY OF  
 BROADWOOD STREET AS SHOWN ON PLAT BOOK 15 AT PAGE 40  
 ORDERED BY: MRS. GAYL B. STONE  
 DATED: FEBRUARY 14, 2007  
 PREPARED BY: JAMES W. PITMAN, SURVEYOR  
 DATE OF PLOT: 4-4-07

**PITMAN, WOOD & GLAZE**  
**LAND SURVEYORS**  
 1000 NORTH WASHINGTON STREET  
 PENSACOLA, FLORIDA 32504  
 (904) 433-1111  
 FAX: (904) 433-1112  
 www.pitmanwoodglaze.com

Public Records Surveyed by the State of Florida by Thomas C. Hanson (RCS) City Atlas Sheet #14, Flat of Kipling Park (S. 30, R. 30, T. 2S) 1/27/07  
 This sketch is subject to any facts that may be disclosed by a full and accurate title search. No title work performed by this firm.  
 This drawing only reflects setback lines, which appear on the recorded plat. The property may also be subject to setback lines mandated by zoning ordinances and/or restrictive covenants of record.  
 NO BOUNDARY MARK PERFORMED. Improvements shown for orientation purposes only. For boundary survey and location of improvements see Pitman, Glaze and Associates drawings D-761 thru D-764, dated July 31, 2006.

SCALE	1" = 40'
FILE NO.	2006-01
JOB NO.	2006-01
FB	PC
FB	PC
Drawn by	PKJ

1 OF 1  
 SHEET 1  
 UNLESS NOTED OTHERWISE, ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.  
 DATE: FEBRUARY 14, 2007  
 SURVEYOR: JAMES W. PITMAN, SURVEYOR  
 ORDERED BY: MRS. GAYL B. STONE  
 DATE OF PLOT: 4-4-07

LEGEND:  
 P.O.C. Point of commencement  
 P.O.B. Point of beginning  
 R/W Right of way  
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SURVEYOR'S NOTES:  
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 3. This sketch does not reflect or determine ownership.  
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 5. NO BOUNDARY WORK PERFORMED. Improvements shown for orientation purposes only. For boundary survey and location of improvements see Plimon, Glaze and Associates drawings D-781 thru D-784, dated July 31, 2006.

LEGAL DESCRIPTION: Morris Court Phase II Block 12, Kipling Park Subdivision of Section 30, Township 2 South, Range 30 West, Escambia County, Florida according to the plat recorded in Deed Book 62 at page 245, said point begin on the south right of way line of Godfrey Street (55' R/W) and the east right of way of "H" Street (60' R/W) thence North 04 degrees 48'54" East along said south right of way line for a distance of 304.33 feet; thence South 00 degrees 11'01" East for a distance of 34.86 feet to the point of curvature of a circular curve concave to the northeast, having a radius of 366.56 feet and delta angle of 32 degrees 24'14"; thence Southwesterly along said curve for an arc distance of 208.80 feet (chord distance of 208.44 feet and chord bearing of South 16 degrees 30'40" East) to the point of tangency thence South 32 degrees 50'20" East for a distance of 20.11 feet; thence South 51 degree 02'54" West for a distance of 171.71 feet; thence South 82 degrees 36'04" East for a distance of 10.72 feet thence South 51 degree 18'38" West for a distance of 30.37 feet; thence South 32 degrees 01'07" East for a distance of 107.21 feet; thence South 57 degrees 22'25" West for a distance of 30.41 feet; thence South 32 degrees 57'03" East for a distance of 54.65 feet; thence North 51 degree 22'25" East for a distance of 104.35 feet; thence South 32 degrees 50'20" East for a distance of 20.51 feet to the point of curvature of a circular curve concave to the southwest, having a radius of 620.04 feet and delta angle of 32 degrees 30'14"; thence Southwesterly along said curve for an arc distance of 352.40 feet (chord distance of 350.56 feet and chord bearing of South 16 degrees 25'10" East) to the point of tangency, said point being on the north right of way line of Broad Street (55' R/W); thence North 40 degrees 00'00" West along said north right of way line for a distance of 15.44 feet to the east line of the plat of Habitat for Humanity, as recorded in Plat Book 15 at page 40 of the public records of said County; thence North 00 degrees 25'46" West (this course and the next three courses along said plat of Habitat for Humanity) for a distance of 0.56 feet to the point of curvature of a circular curve concave to the southwest, having a radius of 422.41 feet and delta angle of 14 degrees 10'21"; thence Northwesterly along arc of said curve for an arc distance of 159.41 feet (chord distance of 159.50 feet and chord bearing of North 01 degree 20'37" West); thence South 80 degrees 24'22" West for a distance of 165.50 feet; thence South 05 degrees 30'24" West for a distance of 125.26 feet to said north right of way line; thence North 40 degrees 00'00" West along said north right of way line for a distance of 271.22 feet to a point 40.00 feet west of the southeast corner of Block II; West King Track; thence North 00 degrees 10'32" West parallel to the east line of said Block III for a distance of 140.00 feet to the southeast line of Official Record Book 525 at page 400; thence South 44 degrees 36'30" West along said southeast line for a distance of 217.04 feet to said north right of way line of Broad Street; thence North 40 degrees 00'00" West for a distance of 42.40 feet to said east right of way of "H" Street; thence North 00 degrees 25'02" West along said east right of way line for a distance of 240.76 feet to the point of beginning.  
 All being and being in Sections 24 and 30, Township 2 South, Range 30 West, Escambia County, Florida, Containing 7.34 acres, more or less.

Measurements made in accordance with United States Standards.  
 Bearing Reference NORTH BASED ON THE NORTH MERIDIAN OF 1882.  
 BEARING STREET AS IN 1030333-1  
 Ordered By: JAMES OSCAR SOKO, Planning Reference  
 Encompassment Date of Plat: 4-4-07

**PULLMAN, WILMANN, WEAVER & ASSOCIATES, INC.**  
 LAND SURVEYORS  
 1000 W. UNIVERSITY AVENUE, SUITE 200  
 TAMPA, FLORIDA 33606  
 (813) 288-4444  
 FAX: (813) 288-4444

PUBLIC RECORDS SURVEYED BY THIS FIRM FOR THE CITY OF PENSACOLA BY THOMAS C. HANCOCK (MSLS) CITY ATLAS SHEET 414; PLAT OF KIPPLING PARK (DB. 62, PAGE 245).  
 I hereby certify that this plat meets the Minimum Technical Standards as set forth by the Florida Board of Professional Land Surveyors in Chapter 46C, Part 1, Florida Statutes.  
 Thomas C. Hancock  
 State of Florida  
 License No. 172-407

SHEET	1
OF	1
DATE	4-4-07
SCALE	1" = 40'
TITLE NO.	C-5785
JOB NO.	5008-01
BY	PLM
DATE	
BY	
DATE	
BY	
DATE	

Exhibit B