

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
FLORIDA COMMUNITIES TRUST**

**IN RE:**

**SEMINOLE COUNTY, FLORIDA,  
a political subdivision of the State of Florida,**

**OGC Case No. 16-1342**

**PETITION FOR WAIVER  
FROM RULE 62-818.016(1)(a), F.A.C., AND  
RULE 62-818.016(2)(d) and (e), F.A.C.**

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**ORDER GRANTING PETITION FOR WAIVER**

On October 13, 2016, Seminole County, Florida (Petitioner) filed a petition for a waiver with the Department of Environmental Protection, Florida Communities Trust under section 120.542, Florida Statutes (F.S.). See Exhibit 1. The petition requests a permanent waiver of Rule 62-818.016(1)(a), Florida Administrative Code (F.A.C.) to remove the contiguity requirement for a proposed land exchange property, and a temporary waiver of Rule 62-818.016(2)(d) and (e), F.A.C. to temporarily delay production of a survey and title policy for the proposed exchange parcel. The Petitioner seeks a waiver in order to facilitate accomplishment of a proposed land exchange. Florida Communities Trust received no written comments in response to the notice of receipt of Petitioner's petition for waiver, which was published in the Florida Administrative Weekly on October 18, 2016.

**FINDINGS OF FACT**

1. Petitioner is a recipient of a Florida Communities Trust (FCT) grant award in the amount of \$1,741,668.00, as memorialized in the Grant Award Agreement dated October 21, 2004, for the acquisition of property for development of a regional park, known as Jetta Point Park (Jetta Point).

2. Pursuant to the Grant Award Agreement, the County is required to include the following: two or more resource based outdoor recreational facilities including a picnic pavilion and nature trails; a permanent recognition sign; interpretive signage; bicycle parking stands; and as part of the Cross Seminole Trail and the Florida National Scenic Trail, improvements to include trailhead facilities and a trail system to connect the project site with other parks.

3. In approximately 2010, Seminole County Board of County Commissioners placed the Jetta Point project in abeyance.

4. To date, the Jetta Point site has not been developed.

5. Petitioner is seeking to exchange the FCT approved Jetta Point site for an alternative proposed project site which is several miles away and not contiguous to Jetta Point. This alternative proposed project site is a former golf course known as Rolling Hills and is comprised of several parcels (Rolling Hills site).

6. The Jetta Point site is surrounded by major roadways, residential neighborhoods and commercial developments.

7. The Petitioner has represented that its purchase of the Rolling Hills site is contingent upon FCT approving the land exchange request.

8. Rule 62-818.016(1)(a), F.A.C., requires that any proposed parcel(s) in a land exchange request must be contiguous to a Trust Project Site.

9. Rules 62-818.016(2)(d) and (e), F.A.C. requires that the Recipient requesting the land exchange must provide a survey and legal description of the parcel(s) to be acquired and of the parcel(s) to be provided by the Recipient, and a title policy of the parcel(s) to be acquired, after all elements of Rule 62-818.016(1), F.A.C. are met.



10. FCT considered the Petitioner's request at its regular Board meeting on November 17, 2016 in Tallahassee, Florida.

CONCLUSIONS OF LAW

UNDERLYING PURPOSE OF THE STATUTES

11. Section 120.542(2), F.S., provides that variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

12. The statutes implemented by Rules 62-818.016(1)(a), 62-818.016(2)(d) and (e), F.A.C. are sections 259.105, and 380.510, F.S. Section 259.105, F.S. sets forth the purpose and intent of the Florida Forever Act and provides, generally, the Legislature's intent of promoting the acquisition, preservation and protection of, and access to, open space for public recreation and conservation. Section 380.510(3)(b), F.S. provides that the transfer of land acquired with a trust grant or loan shall be subject to the approval of the trust, and the trust shall enter into a new agreement with the transferee, containing such covenants, reverter clauses, or other restrictions as are sufficient to protect the interest of the people of Florida.

13. Petitioner has demonstrated that such a waiver of Rule 62-818.016(1)(a), F.A.C. would be consistent with the purpose of the underlying statutes, and that said purpose will be achieved because it is promoting the acquisition, preservation and protection of, and access to,

open space for public recreation and conservation by facilitating the purchase of the Rolling Hills site.

14. Petitioner has also demonstrated that a temporary waiver of Rule 62-818.016(2)(d) and (e), F.A.C. would be consistent with the purpose of the underlying statutes, and that said purpose will be achieved because it is promoting the acquisition, preservation and protection of, and access to, open space for public recreation and conservation by facilitating the purchase of the Rolling Hills site. Additionally, the purpose of the statutes being implemented will be otherwise met because ultimate approval of the land exchange request will be contingent upon the title policy and survey work being received and sufficient, thereby protecting the interests of the people of Florida.

#### SUBSTANTIAL HARDSHIP TO THE PETITIONER

15. Section 120.542(2), F.S. defines “substantial hardship” as a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. Additionally, for purposes of this section, principles of fairness” are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

16. Petitioner requests a permanent waiver of the strict application of Rule 62-818.016(1)(a), F.A.C. because applying the contiguity requirement to its approved FCT project site, Jetta Point, would be a substantial hardship, as it is a practical impossibility to meet this requirement. The Rolling Hills site is not contiguous to the Jetta Point site, and it appears there are no viable parcels contiguous to the Jetta Point site which would be suitable for a land exchange, as it is surrounded by roadways, residential neighborhoods and commercial development. Given the particular geographical circumstances of the Petitioner’s Project Site, it appears that the



Petitioner has demonstrated substantial other hardship in meeting the contiguous requirement as it is an impossibility for a contiguous site to be proposed as an exchange parcel for the approved Jetta Point site. It is currently impossible for the County to meet this rule requirement.

17. Petitioner also requests a temporary waiver of the strict application of Rules 62-818.016(2)(d) and (e), F.A.C. because requiring the Petitioner to provide a title policy and survey when it is undetermined whether the land exchange may proceed past Rule 62-818.016(1), F.A.C. and whether the acquisition will move forward places an economic hardship on the Petitioner. While Rule 62-818.016(2), F.A.C. does not require the Petitioner to obtain the title policy and survey work until after all criteria in Rule 62-818.016(1) are met and approved by FCT staff, the Petitioner requested to submit all supporting documentation for Rules 62-818.016(1) and (2), F.A.C. at one time for FCT staff to consider, in an attempt to expedite the land exchange process, and has done such. The Petitioner has represented that its purchase of the Rolling Hills site is contingent upon FCT approving the land exchange request. Obtaining a survey and title policy prior to knowing whether the land exchange may proceed past Rule 62-818.016(1), F.A.C. and whether the acquisition will move forward places an economic hardship on the Petitioner, as a possibly unwarranted expenditure. It is essentially a timing issue that would result in an economic hardship to the Petitioner if required to provide said documents at this time, despite Petitioner's request to have both Rules 62-818.016(1) and (2), F.A.C. evaluated at the same time.

**THEREFORE, IT IS ORDERED:**

18. Based on the foregoing reasons, Petitioner has demonstrated that the granting of this permanent waiver will otherwise achieve the underlying purpose of the statute, and that strict adherence to the requirements of Rule 62-818.016(1), F.A.C., would create a substantial hardship for the Petitioner. Petitioner shall be granted a permanent wavier from the requirements in Rule

62-818.016(1)(a), F.A.C. as it pertains to Petitioner's present land exchange request for the Jetta Point site.

19. Additionally, based on the foregoing reasons, Petitioner has demonstrated that the granting of this temporary waiver will otherwise achieve the underlying purpose of the statute, and that strict adherence to the requirements of Rules 62-818.016(2)(d) and (e), F.A.C., would create a substantial hardship for the Petitioner. Petitioner shall be granted a temporary waiver from the requirements in Rules 62-818.016(2)(d) and (e), F.A.C., as they pertain to Petitioner's present land exchange request for the Jetta Point site. Ultimate approval of the Petitioner's current land exchange request for the Jetta Point site is contingent upon satisfactory approval of all criteria set forth in Rule 62-818.016, F.A.C., including receipt and approval of sufficient title policy and survey as required in Rules 62-818.016(2)(d) and (e), F.A.C.

20. This Order granting Petitioner's requested waivers does not constitute authorization for the Petitioner to proceed with its proposed project at the Rolling Hills site, nor does it constitute FCT approval of the proposed land exchange.

21. Further, this Order memorializes the FCT Governing Board's decision with regard to Seminole County's Petition made during the regular FCT Board meeting held on November 17, 2016, after the FCT Board was fully apprised of the contents of the Petition.

#### **NOTICE OF RIGHTS**

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative proceeding is timely filed pursuant to sections 120.569 and 120.57, F.S. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the FCT. Because the administrative hearing process is designed to formulate final



agency action, the hearing process may result in a modification of the agency action or even denial of the request for a variance or waiver.

#### Petition for Administrative Hearing

A person whose substantial interests are affected by the FCT's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rule 28-106.201, F.A.C., the petition must contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number if known;

(b) The name, address, telephone number and any e-mail address of each petitioner and/or petitioner's representative (if any) which shall be the address for service purposes during the course of the proceeding; the Department case identification number and the county in which the subject matter or activity is located;

(c) A statement of how and when each petitioner received notice of the FCT action;

(d) A statement of how each petitioner's substantial interests are affected by the FCT action;

(e) A statement of the material facts disputed by the petitioner, if any. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the FCT action;

(f) A statement of specific rules or statutes the petitioner contends require reversal or modification of the FCT action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the FCT to take with respect to the FCT's proposed action.

The petition must be filed (received by the Department Clerk) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition:

In accordance with Rule 62-110.106(3), F.A.C. a person whose substantial interests are affected by the FCT's action may also request an extension of time to file a petition for an administrative hearing. The FCT may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation:

Mediation under section 120.573, F.S. is not available in this proceeding.

Judicial Review:

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this action is filed with the Clerk of the Department.



DONE and ORDERED this 14<sup>th</sup> day of December 2016 in  
Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,  
FLORIDA COMMUNITIES TRUST



Gary Clark  
Chairman, Florida Communities Trust

Copies furnished to:  
Petitioner  
Joint Administrative Procedures Committee

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this Order, including all copies, were mailed before  
the close of business on 12/15/16, to the above listed persons.



Megan Seward  
Counsel for FCT

**FILING AND ACKNOWLEDGEMENT**

FILED on this date, under section 120.52(7), F.S., with the designated Department Clerk,  
receipt of which is hereby acknowledged.

Syndie Kinsg  
Deputy CLERK

12-14-16  
DATE



Exhibit 1

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
FLORIDA COMMUNITIES TRUST

SEMINOLE COUNTY, FLORIDA,  
a political subdivision of the State of Florida,

Petitioner,

vs.

CASE NO. \_\_\_\_\_

FLORIDA COMMUNITIES TRUST,

Respondent.  
\_\_\_\_\_ /

**PETITION FOR WAIVER OF  
RULE 62-818.016(1)(a), AND TEMPORARY WAIVER OF RULE 62-  
818.016(2)(d) AND (e), FLORIDA ADMINISTRATIVE CODE**

SEMINOLE COUNTY, FLORIDA, a political subdivision of the State of Florida, hereby petitions the FLORIDA COMMUNITIES TRUST (FCT) for a waiver of Rule 62-818.016(1)(a) of the Florida Administrative Code, which requires a proposed exchange parcel be contiguous to a Trust Project Site and a temporary waiver of Rule 16-818.016(2)(d) and (e) requiring, respectively, a survey and title policy of the parcel to be acquired. In support, Petitioner states the following:

**1. The name, address, e-mail address, telephone number, and facsimile number of the Petitioner is:**

Seminole County  
c/o Nicole Guillet, County Manager  
1101 East First Street  
Sanford, FL 32771  
nguillet@seminolecountyfl.gov  
Telephone: 407-665-7211  
Fax: 407-665-7958

**2. The name, address, e-mail address, telephone number and facsimile number of the Petitioner's qualified representative is:**

Mr. Joseph R. Abel, CPRP  
Director, Leisure Services Department  
Seminole County Government  
100 E. First Street, 4<sup>th</sup> Floor  
Sanford, FL 32771  
Email: jabel@seminolecountyfl.gov  
Telephone: 407-665-2001  
Fax: 407-665-2179

**3. Rule from which the waiver is sought:**

Petitioner requests a waiver of Rule 62-818.016(1)(a) of the Florida Administrative Code, which provides that:



*The proposed exchange parcel(s) must be contiguous to a Trust Project Site, which could include being connected through a land bridge, easement or blueway;*

**4. Citation to the statute Rule 62-818.016(1)(a), Fla. Admin. Code is implementing:**

Rule 62-818.016(1)(a) implements Sections 259.105 and 380.510, Florida Statutes (2016). Section 259.105 provides the mechanism and criteria for acquisition and management of conservation and recreational lands through the Florida Forever Program. Section 380.510 governs the conditions applicable to grants and loans awarded through the Florida Communities Trust.

**5. Type of action requested:**

The Petitioner respectfully requests a waiver of Rule 62-818.016(1)(a) to remove the contiguity requirement for proposed exchange properties. This contiguity requirement was the sole reason by the FDEP for its denial of a proposed land exchange under Rule 62-818.016, Florida Administrative Code (see attached Exhibit "A," correspondence from Linda Reeves, OMC Manager).

**6. Specific facts that demonstrate a substantial hardship or a violation of principles of fairness that would justify the waiver of Rule 62-818.016(1)(a):**

**a) Forced compliance with the original FCT site, would be contrary to community interests and values:** In 2004, Seminole County was awarded an FCT grant in the amount of \$1,741,668 to partially fund acquisition of property for development of a regional park (FCT Project Number 03-055-FF3). This project was known as "Jetta Point." In the years following the award of the grant, Seminole County diligently pursued development of the Jetta Point project, investing over \$6 million in the effort. Despite its best efforts, the County encountered multiple challenges which hindered project completion. The most significant of these challenges were budgetary constraints resulting from the Great Recession and wetland protection concerns raised by the St. Johns River Water Management District. As resolutions to these impediments were sought, and progress was made toward final design, the project was met with an increasing number of unanticipated community objections. In 2010, despite its significant investment, the Board of County Commissioners (BCC) placed the Jetta Point project in abeyance due to intense neighborhood opposition to the project. In contrast, the residents proximate to the Rolling Hills Golf Club, the proposed land exchange site, have embraced the proposal to transfer the Jetta Point commitments to their community. These residents have actively advocated this transfer for almost two years. Strict adherence to Rule 62-818.016(1)(a) would result in a substantial hardship to two Seminole County communities by (1) imposing a park where it is not wanted, and (2) precluding the development of a regional park where it is alternatively desired.

**b) There are no suitable contiguous properties to which the Jetta Point project site commitments could be transferred:** The Jetta Point site is bounded to the north by SR 434, and to the east by SR 417, both major arterial roadways. The contiguous properties to the south are fully developed as single family residential neighborhoods and as a retention pond for SR 417. To the east of the site, all but 3.5 acres is developed for single family residential and commercial purposes (see attached Exhibit "B," Area Map). Because of these circumstances, compliance with Rule 62-818.016(1)(a) not only presents a substantial hardship, but also a practical impossibility.



**c) Rule 62-818.016(1)(a) does not contemplate a factual scenario as reflected in Seminole County's request, and as such, application of the Rule would result in an arbitrary preclusion of an otherwise beneficial transfer of project commitments:** Rule 62-818.016 establishes the criteria for evaluating "requests from adjacent property owners for land exchanges to expand the adjacent development in return for other lands adjacent to the park." The implicit goal of the contiguity requirement specified in Rule 62-818.016 (1)(a) is to maintain the mass and integrity of the Trust Project site. While it would make sense to impose a requirement for contiguity in a situation wherein proposed development activity would partially encroach into an established Trust Project site, in this particular circumstance, this requirement is not necessary to attain the intended benefit. Seminole County's proposal involves a complete transfer of grant commitments to a more suitable site, akin to the "conversion process" associated with the Land and Water Conservation Fund program. The outcome of Seminole County's proposal would be development of an alternative regional park more than twice the size of the original Jetta Point site, with the enhanced community benefits including preservation of historic recreational green space and the opportunity to minimize impervious development within the Wekiva Springshed. Furthermore, it is clear in this case that the requested "exchange" is not a result of pressure to develop a portion of the original Trust Project site, but rather an effort to actualize a community-driven desire to protect an historic open space asset "from imminent development or alteration, thereby ensuring present and future generations' access to...recreation and conservation lands." §259.105(2)(a)1., Fla. Stat. (2016). Application of the contiguity requirement prescribed by Rule 62-818.016(1) in this case would serve no beneficial purpose, and would act as an impediment to the furtherance of the stated intent of Section 259.105, Florida Statutes.

**d) Imposition of Rule 62-818.016(1)(a) would eliminate the opportunity for Seminole County to address the Compliance Warning issued by the FDEP on March 27, 2014.** On March 27, 2014, the FDEP issued a "Compliance Warning" letter to Seminole County expressing concern relative to the status of the Grant Award requirements for FCT Project Number 03-055-FF3, and requesting "a plan for corrective actions to resolve the issue of development and opening the park to the public" (see attached Exhibit "C," correspondence from A. Diane Langston, OMC Manager). This letter also required the County to provide FDEP a "satisfactory response by April 28, 2014" to avoid issuance of an official Notice of Violation. For the reasons outlined in the above paragraphs, construction of the park as originally contemplated would be contrary to community desires, and transfer of the commitments to an adjacent parcel is not feasible. As such, on April 25, 2014, Seminole County responded to the Compliance Warning letter with a commitment to resolve the compliance issue, specifically indicating that the intended approach was to "...explor(e) opportunities for acquisition of alternative properties..." (see attached Exhibit "D," correspondence from Joseph Abel, Director of Leisure Services). Since the date of Mr. Abel's correspondence, the County has been engaged in a concerted effort to identify an alternative site to accommodate the Jetta Point commitments, regularly consulting with FDEP staff in respect to these efforts. Pursuit of the Rolling Hills Golf Club site as an alternative to the Jetta Point site and resolution to the March 27, 2014 "Compliance Warning" letter has been underway since early 2015. To date, an official Notice of Violation has not been issued by FDEP, indicating to the County that FDEP finds the "Rolling Hills alternative" to be a "satisfactory response" to the Compliance Warning letter. Application of Rule 62-818.016(1)(a) would violate the principles of fairness in that it would preclude the



County's ability to satisfactorily resolve the outstanding compliance issue and would inhibit attainment of the FDEP's mandate that the County accomplish the "development and opening (of) the park to the public."

7. **The reason why the variance or the waiver requested would serve the purposes of the underlying statute:**

As noted above in Section 6., the Seminole County BCC placed the Jetta Point project in abeyance in 2010, in reaction to the intense neighborhood opposition to the project. This decision followed years of planning and unforeseen obstacles, not to mention expenditures exceeding \$6.3 million. Subsequent to the BCC's decision to halt the Jetta Point project, the County spent the next several years seeking a suitable alternative to the original project proposal.

In early 2015, the County began to explore the possibility of transferring the Jetta Point project commitments to the Rolling Hills Golf Club property. This golf course, which was established in 1926, was purchased by a new owner in 2014, and abruptly closed immediately thereafter. The new owner purchased the property with the intent of ultimately developing the site into a residential subdivision. Needless to say, this initiated a different type of neighborhood outcry. As the County struggled to respond to on-going concerns from the surrounding homeowners, it recognized an opportunity to address two community challenges through one initiative: 1. the on-going obligations of the Jetta Point project, and 2. the threatened loss of historic green space at the Rolling Hills Golf Club.

This property encompasses approximately 100 acres (as compared to Jetta Point's 47 acres), and offers opportunities for active and passive outdoor recreation; waterfront access; and restoration of degraded uplands. The property is located within the Wekiva springshed, and preservation as a park, presents the opportunity to retain valuable recharge opportunities in this sensitive area. The property also hosts a mid-century clubhouse which could be renovated to offer recreational programming to the community. As a proposed public park, this former golf course would continue to be a community recreational asset by providing trails, active and passive recreation amenities such as foot golf, picnic areas, fishing, canoeing and kayaking, as well as opportunities for nature study and community events.

If the contiguity requirement of Rule 62-818.016 (1)(a) is waived, the resulting transfer of the Jetta Point Grant Award commitment to the Rolling Hills Golf Club site would advance the numerous purposes within Section 259.105, Florida Statutes, including:

- Preservation of the State's essential ecological functions and invaluable quality of life through the acquisition of historic green space under threat of development. §259.105(2)(a)3., Fla. Stat. (2016).
- Protection of uplands and springsheds that provide vital recharge to aquifer systems and are critical to the protection of water quality and water quantity of the aquifers and springs. §259.105(2)(a)5., Fla. Stat. (2016).
- Restoration and preservation of open space, ecological greenways, and recreation properties within an urban/suburban environment. §259.105(2)(a)6., Fla. Stat. (2016).
- Provisions of high-quality outdoor recreational opportunities, greenways, trails, and open space within an urban/suburban community. §259.105(2)(a)6., Fla. Stat. (2016).
- Enhancement of quality of life and appreciation for the State's natural assets through increased access to public lands. §259.105(2)(a)8., Fla. Stat. (2016).



- Management of a Trust Project site for multiple-use purposes, including outdoor recreational activities, natural communities restoration, and maintenance of Springshed recharge opportunities. §259.105(5)(a), Fla. Stat. (2016).
- Development of a project for which matching funds are available; that can be acquired at 80 percent or less of appraised value; and that will contribute to improving the water quality and flow of springs. §259.105(10)(a), (b), and (e), Fla. Stat. (2016).

**8. Statement of waiver timeframe:**

The Petitioner requests that the waiver is permanent in regard to this applicable FCT project.

**9. Rule from which the temporary waiver is sought:**

Petitioner requests a waiver of Rule 62-818.016(2)(d) and (e) of the Florida Administrative Code, which provides that:

(2) If the above tests are met, the Trust staff will then request the below additional information to further evaluate the request.

(d) A survey and legal description of the parcel to be acquired and of the parcel to be provided by the Recipient/Trust (paid by the entity proposing the exchange and commissioned by the Recipient);

(e) A title policy of the parcel to be acquired;

**10. Citation to the statute Rule 62-818.016(2)(d) and (e), Fla. Admin. Code is implementing:**

Rule 62-818.016(2)(d) and (e) implements Sections 259.105 and 380.510, Florida Statutes (2016). Section 259.105 provides the mechanism and criteria for acquisition and management of conservation and recreational lands through the Florida Forever Program. Section 380.510 governs the conditions applicable to grants and loans awarded through the Florida Communities Trust.

**11. Type of action requested:**

The Petitioner respectfully requests a temporary waiver of Rule 62-818.016(2)(d) and (e) to temporarily delay providing a survey and title policy of the property to be acquired until after the review by the FCT of the exchange request and contingent upon FCT approval that the exchange may proceed.

**12. Specific facts that demonstrate a substantial hardship or a violation of principles of fairness that would justify the waiver Rule 62-818.016(2)(d) and (e).**

A proposed sale and purchase of the exchange parcel has been negotiated and it is anticipated that a contract will be executed in the near future. The County's purchase of the exchange parcel is contingent upon the County receiving approval to apply FCT funds and impose FCT funding obligations on the exchange parcel. It is an undue hardship, unfair and fiscally unsound to require a major expenditure for the survey and title policy prior to closing on the exchange parcel, since such closing will not occur if FCT does not approve the exchange.



**13. The reason why the temporary waiver would serve the purposes of the underlying statute:**

This is merely a timing issue as to when a survey and title policy can be provided. Without FCT approval of the exchange, there will be no acquisition of the exchange parcel and, therefore, no need to obtain the survey or title policy.

**14. Statement of temporary waiver timeframe:**

The Petitioner requests that the temporary waiver in regard to this applicable FCT project be granted until such time as the survey and title policy are available after closing on the exchange parcel. At such time, the survey and title policy will be supplied to FCT staff.





## Florida Department of Environmental Protection

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

Rick Scott  
Governor

Carlos Lopez-Cantera  
Lt. Governor

Jonathan P. Steverson  
Secretary

### EXHIBIT A

June 23, 2016

Seminole County Community Resources  
ATTN: Shorty Robbins  
1101 E. First St.  
Sanford, Florida 32771

Subject: Violation Warning Notice  
Jetta Point Park  
FCT Project Number 03-055-FF3

Dear Ms. Robbins:

The Florida Communities Trust (FCT) is in receipt of the information and documents from Seminole County requesting a conversion of the Jetta Point project site and offers response below.

This request for conversion was based on the procedure for conversion of a property under the Land and Water Conservation Fund program. FCT projects are not governed by the Land and Water Conservation Fund state and federal rules and guidelines. Rules 62-818 and 62-819 (FCT Rules) of the Florida Administrative Code (F.A.C.) govern the FCT program. The FCT Rules do not provide for conversion of a FCT project site, therefore, FCT does not have the authority to consider a request for conversion. Rule 62-818.016, F.A.C. (Land Exchange Rule) does provide a procedure and criteria for Land Exchanges. The County's request for conversion was reviewed under the Land Exchange Rule and it has been determined that the County's proposal does not meet the requirements of the Land Exchange Rule since the proposed property to be exchanged is not contiguous to the project site.

Based on the foregoing, if you would like to discuss additional options, please contact me at your earliest convenience at (850) 245-2702 or email at [linda.reeves@dep.state.fl.us](mailto:linda.reeves@dep.state.fl.us)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Reeves".

Linda Reeves  
OMC Manager  
Florida Communities Trust

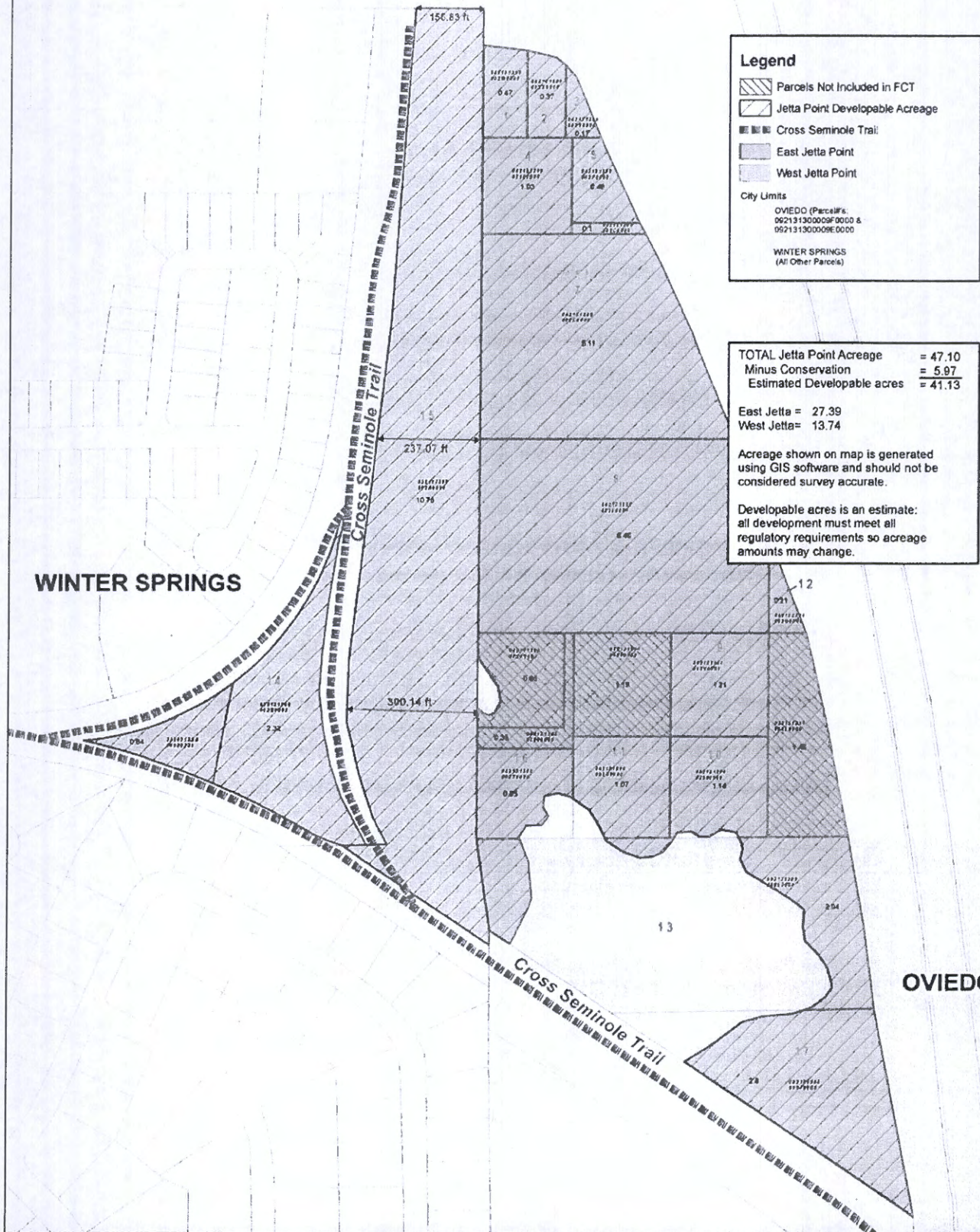


Jetta Point

EXHIBIT B



WSR 434







FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

MARJORY STONEMAN DOUGLAS BUILDING  
3900 COMMONWEALTH BOULEVARD  
TALLAHASSEE, FLORIDA 32399-3000

RICK SCOTT  
GOVERNOR

CARLOS LOPEZ-CANTERA  
LT. GOVERNOR

HERSCHEL I. VINYARD JR.  
SECRETARY

March 27, 2014

EXHIBIT C

Steve Waring, CPRP  
Parks and Recreation Manager  
Seminole County Department of Leisure Services  
845 Lake Markham Rd  
Sanford, FL 32771

Subject: Compliance Warning  
Jetta Point Park  
FCT Project Number 03-055-FF3

Dear Mr. Waring:

While FCT greatly appreciates your continued commitment to provide parks for your community, according to the Stewardship Report submitted February 18, 2014, there has been no progress in developing the site since the acquisition of the site in November 2004. With almost ten years of County ownership and management of the site, we expect greater progress in the development of the site.

FCT requests, at a minimum, that the special conditions of the Grant Award Agreement be implemented. Those requirements are constructing a picnic pavilion, nature trail, a permanent FCT recognition sign, a comprehensive landscaping plan, installing interpretive signs and bicycle facilities.

Pursuant to Section II. "Project Site Requirements Imposed by Chapter 259, Chapter 375, and Chapter 380, Part III, Florida Statutes of the Grant Award Agreement" which states:

1. If any essential term or condition of this grant agreement is violated by the Recipient or by some third party with the knowledge of the Recipient and the Recipient does not correct the violation within 30 days of notice of the violation, fee simple title to all interest in the Project Site shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund. The FCT shall treat such property in accordance with Section 380.508(4)(e), Florida Statutes.

This is a warning notice that the County is in violation of the Grant Award Agreement and the approved management plan. Within 30 days, please provide FCT a plan for corrective actions to resolve the issue of development and opening the park to the public. If we do not receive satisfactory response by April 28, 2014, an official notice of violation will be issued.

If you have any questions, please contact Jerry Taber at (850) 245-2683 or email at [jerry.taber@dep.state.fl.us](mailto:jerry.taber@dep.state.fl.us).

Sincerely,

A Diane Langston  
OMC Manager  
Florida Department of Environmental Protection  
Office of Operations  
Land and Recreation Grants



LEISURE SERVICES DEPARTMENT

ADMINISTRATIVE OFFICES



EXHIBIT D

April 25, 2014

A. Diane Langston, OMC Manager  
Florida Department of Environmental Protection  
Office of Operations, Land and Recreation Grants  
3900 Commonwealth Blvd.  
Tallahassee, FL 32399-3000

Re: Jetta Point Park; FCT Project No. 03-055-FF3

Dear Ms. Langston:

Thank you for your letter of March 27, 2014, to Mr. Steve Waring, Parks and Recreation Manager for Seminole County. Let me begin by saying that the County shares your concern and frustration over the situation concerning Jetta Point Park. The critical reasons for the long delay and ultimate decision to not continue with the Jetta Point project are summarized below. Please be assured that the County is actively pursuing plans for development of a comparable park project for active as well as passive recreational activities that achieves many of the original objectives and presents a reasonable mitigation strategy for consideration by the Florida Communities Trust Governing Board.

By way of history...shortly after execution of the Grant Award Agreement, the initial funding source for development of this project was re-assigned to the general fund during a time of financial challenges for this community, like many others across the state. Alternative funding sources were identified making it necessary for plan adjustments to meet the requirements of the funding. Following this, community meetings were held during which public opposition arose to the planned project. Further, the Saint Johns Water Management District's insistence on wetland protection further delayed any progress with the County's plans. No one could have foreseen the intense neighborhood opposition to the active recreational activities that were planned for the northerly portion of Jetta Point or the total prohibition as to the passive recreational uses on the southerly, wetland portion that was imposed by the St. Johns Water Management District. Together, those two insurmountable challenges, served to undermine the intended outcome of the Jetta Point project.

The County recognizes its obligations under the Grant Award Agreement, and is currently working to develop an alternative plan in recognition of the changes that have occurred since the Agreement was executed. Our efforts include exploring opportunities for acquisition of alternative properties for development of a multi-use park as originally envisioned for Jetta Point.



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It is my belief that a positive resolution to the outstanding issues related to the Jetta Point Project can be reached if the Department of Environmental Protection and the County can continue to work jointly towards that end. I would also request an opportunity to meet to further discuss this matter and allow more time to come to mutually acceptable compliance.

In closing, I should mention that the County expended substantial amounts of its own funds beyond the FCT grant money in acquisition and planning costs for Jetta Point; thus, the County also has a strong incentive towards achieving our shared objectives.

Thank you very much for taking the time to entertain this request. I look forward to your reply in and meeting with you in the near future to advance a practical and mutually satisfactory solution.

Respectfully,

A handwritten signature in black ink, appearing to read "Joseph Abel".

Joseph Abel, CPRP  
Director of Leisure Services

Cc: Mr. Herschel T. Vinyard, Secretary, Dept. of Environmental Protection  
Nicole Guillet, Acting County Manager  
Joe Forte, Deputy County Manager  
Steve Waring, Parks and Recreation Manager