June 1, 2022 Board of Adjustment Hearing

WEDNESDAY, JUNE 1, 2022
5:30 PM

1. **CALL TO ORDER**
2. **ROLL CALL/PLEDGE OF ALLEGIANCE**
3. **AGENDA APPROVAL** - (Matters not specifically listed on the agenda may be added and acted upon with a super-majority vote of the Council members present and eligible to vote on the matter)
4. **APPROVAL OF MINUTES**
   A. **May 4, 2022**
5. **SPECIAL PRESENTATIONS**
6. **PUBLIC COMMENTS**
7. **NEW BUSINESS**
   A. **22-29-VR - 40 Mattie M Kelly Blvd; Variance Request**
   B. **22-17-VR - 437 Main Street Variance Request**
8. **OLD BUSINESS**
9. **NEXT MEETING DATE: July 6, 2022**
10. **PUBLIC COMMENTS** (Comments from the public on any matters considered at the meeting, or on any matters not on the agenda)

If a person decides to appeal any decision made by the City Council, committee, board, panel, or agency with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she will may need to ensure that a record of the verbatim record of the proceedings is made, which record includes the testimony and evidence upon the appeal is to be based. "Persons with disabilities who require assistance to participate in this meeting are requested to notify the City Clerk's Office 850.837.4242 at least 48 hours in advance".

DRAFT

BOARD OF ADJUSTMENT
DESTIN CITY HALL BOARDROOM
WEDNESDAY, MAY 4, 2022
5:30 P.M.

1. CALL TO ORDER:

Vice Chairman Emerson called the Board of Adjustment Meeting to order at 5:30 p.m., on Wednesday, May 4, 2022, at Destin City Hall Boardroom.

2. ROLL CALL & PLEDGE OF ALLIGENCE:

Present:	**Absent**	**Staff Present:**
David Emerson	Kimberley Mergler	Kim Montgomery Deputy City Clerk
Daniella Piper	James Moomaw	Steven O'Connor Principal Planner
Cyron Marler	Tom Weidenhamer	Daniel Butler Senior Planner
Robert Pinard		Saee More, Planner
		Kimberly Kopp Land Use Attorney

3. APPROVAL OF MINUTES:

- **April 6, 2022**

Motion to approve the minutes of the April 6, 2022 meeting was made by Board member Marler, with Vice Chair Emerson providing the second. The motion passed 4-0.

4. NEW BUSINESS:

A. 22-15-VR Variance Request 120 Sandprint Circle

According to staff member Saee More, the applicant, Robert Yanchis, Intellichoice Builders LLC, on behalf of Wharton James, Wharton Properties, III LLC, is requesting a Variance from Land Development Code, Article 7.12.00 – Zoning Regulatory Controls, Setback Requirements. The proposed project request intends to add a stairway into the front setback for a front door to access the second floor balcony/entrance of the preexisting building at 120 Sandprint Circle as seen in the application narrative. Additionally, 120 Sandprint Circle is within the Gulf Resort Mixed Use (GRMU) zoning district which requires to maintain a minimum front setback of 20' and 7.5' side setback. The proposed plans for the staircase indicate 11.7' front setback and 6.5' side setback. If approved, the application will not meet the setback requirement for Gulf Resort Mixed Use (GRMU) set forth in the Land Development Code (LDC), Article 7.12.00 – Zoning regulatory controls, Article 7.12.06. Zoning districts, Table 7-3, Table of Dimensional Regulations. It is staff's findings that in order to authorize the appeal for the requested variance from the terms of any zoning ordinance, would be contrary to the public interest when owing to special conditions, a literal enforcement of the provisions of such ordinance would result in unnecessary and undue hardship. Additionally, to authorize any variance from the terms of the conditions, the Board of Adjustment must find that the request meets all six requirements set forth in the code. After performing a review of the proposed variance request, it is staff's recommendation is to deny the request as all the required findings have not been met. Approval of the variance will afford privileges to the applicant not afforded to other properties within the same zoning district and would conflict with the Schedule of Dimensional Ordinance No 21-03-LC and Comprehensive Plan Policy 3-1.5.9, Policy 2-1.3.5. Therefore, staff does not recommend the Variance Request.

The LUA explained that staff is recommending denial and the applicant has the burden of proving that the criteria are met and if he can do that, they can approve the variance.

Mr. Yanchis explained to the Board members that the way the home was built, in order to access the house, people have to go to the back side of the property. Explaining further that they designed the staircase to have the minimums impact as possible, but the issue is that there is no way to construct a staircase without encroaching into the setbacks. He further stated that there is a provision in the code that provides for an additional encroachment into the setback however, they just could not get the design made to accomplish that.

Board member Pinard asked if the code requirements for the setbacks were in place prior to the homeowner purchasing the property. With the affirmative answer from the LUA, Board member Pinard then asked if there is any other reason beside deliveries being an issue as to why he would want the stairs built. Mr. Yanchis added that the homeowner bought the home as a secondary home and are looking to it being more of a vacation home and ultimately a retirement home in the future. Currently there are renovations being done for water intrusion and at the same time, they were looking into make some modifications to further enhance the functionality of the house.

There was a discussion regarding the owner wanting to put the home on short term rental program because of the modifications being made. The LUA explained that although the Variance request has nothing to do with short term rental, she asked Mr. Butler to provide the information.

Mr. Butler explained that in order for the owner can currently rent the home for short term rentals. However, to add additional bedrooms to the dwelling as they are intending to do, they would have to bring the parking into code since there are currently only two spaces. And if the Variance was approved they would not be able to add the additional required parking.

Board member Piper questioned if there were any safety concerns with the property. According to staff there are not any that they is aware of.

Board member Marler spoke of how setbacks are put in place for a reason and he does not agree with changing them.

Motion by Board member Marler to deny the proposed Variance request 22-15-VR with Board member Piper providing the second. The motion passed 4-0.

For the record, the LUA admitted Staff's exhibits, agenda item and all staff's documentations into the record as Staff's Exhibit A. Vice Chairman Emerson accepted the documents into the record.

5. ADJOURNMENT:

There being no further business the meeting was adjourned at 6:00 p.m.

Adopted and approved this ________ day of ________________________ 2022.

______________________________	______________________________
David Emerson, Vice Chairman	Kim Montgomery, Deputy City Clerk

ITEM # 2022-5342

CITY OF DESTIN – COMMUNITY DEVELOPMENT

AGENDA ITEM

MEETING DATE: June 1, 2022
BOARD/COMMITTEE: Board of Adjustment
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 7.A.

TO: Board of Adjustment

THRU: Lance Johnson, City Manager
Steve O'Connor, Principal Planner
KIMBERLY KOPP, Land Use Attorney
Noell Bell, Chief Building Official

FROM: Saee More, Planner

DATE: May 17, 2022

SUBJECT: 22-29-VR - 40 Mattie M Kelly Blvd; Variance Request

I. BACKGROUND: The Applicant, Felix Beukenkamp, BBG Design – Build, LLC, on behalf of Richard Miles, Legacy Properties of Northwest Florida, is requesting a variation from ***Land Development Code Section 16.04.00.A.3, Sign Setback***. The Applicant proposes to locate two entry signs 3' from the front property line.

BACKGROUND:

Applicant: Felix Beukenkamp, BBG Design – Build, LLC

Location: 400 Mattie M Kelly Blvd, Destin, FL 32541

Size of Property: 3.69 acres

Current Zoning: Residential, Office, Institutional - Village (ROI-VR)

Future Land Use Map Classification: Residential, Office, Institutional - Village (ROI-VR)

Comprehensive Plan Compliance:

Policy 3-1.5.9: Ensure Compatibility of New Development. Destin shall continue to ensure compatibility of proposed development with adjacent and surrounding residential uses. The

City shall not permit any development that is inconsistent, in terms of residential unit type, lot sizes, housing size, tenure status (i.e., short-term rentals) and **setbacks**, with that allowed by the Comprehensive Plan or Land Development Code (LDC).

Legal Notice: The legal notice for the proposed variance request was submitted for publication in the Northwest Florida Daily News with publication dates of May 22, 2022 and May 27, 2022.

Request: The applicant is requesting a variation from ***Land Development Code Section 16.04.00.A.3, Sign Setback***. The Applicant proposes to locate the signs 3'x3'x8' from the front property line, which is 40 ft. from the edge of the Mattie M. Kelly Blvd. pavement. Therefore, the applicant is requesting a variance from:

Article 6.04.00.A.3 – Sign setback. This section requires a ten-foot (10') setback from all property lines. The applicant requests a three feet (3') setback from the property line.

II. DISCUSSION: The applicant wishes to propose two new entry signs located three feet (3') from the front property line, which is 40 ft. from the edge of the Mattie M. Kelly Blvd pavement at Tuscan Village, 400 Mattie M Kelly Blvd as seen in the application narrative (Attachment 1). 400 Mattie M Kelly Blvd falls under **Residential, Office, Institutional - Village (ROI-VR)** zoning district which requires to maintain minimum front sign setback of 10'. The proposed plans of the sign indicate 3' front setback.

The application does not meet the sign setback requirement set forth in the ***Land Development Code (LDC), Article 6.04.00.A.3 – Sign setback***.

FINDINGS:

According to the ***LDC Section 2.25.03(C)***, to authorize upon appeal such variance from the terms of any zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of such ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of the conditions, the Board of Adjustment must find:

A. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

> **Applicant response**: The distance from the property line to the subdivision roadway system is less than 10 feet. Therefore, we cannot satisfy the required 10-foot City set back requirement to accommodate the two signs we propose for Tuscan Village entrance. This condition applies to almost the entire Tuscan Village front property line along Mattie M. Kelly Blvd.
>
> **Staff Findings:**
> For the **ROI-VR** zoning district, the sign setback requirement is ten- feet (10'). The site was platted as existing without any sign approval as signs are permitted through the Sign Permit application process. Also, the internal roadway system is part of the project design. Therefore, there are no existing special conditions or

circumstances peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. The Applicant does not meet this criteria.

B. That special conditions and circumstances do not result from the actions of the Applicant.

Applicant response: Tuscan Village site plan was originally approved by the City around 2017. The current owner submitted a redesigned site plan and plat, which was approved by the City Planning Department.

Staff Findings:
The site was platted and the Development Order was approved by the City. However, the sign was not part of the Development Order or the redesigned site plan and plat approval. The Development Order states that all the signs must comply with the applicable section of the LDC in the effect at the time a sign permit application is submitted. Also, there are no special conditions and circumstances as established in Criteria A. The Applicant does not meet this criteria.

C. That granting the requested variance will not confer on the Applicant any special privileges denied by any zoning ordinance to other lands, buildings or structures in the same zoning district.

Applicant Response: Granting this variance will not confer any special privilege on the applicant. The entrance to Tuscan Village is located within 200 ft. of the end of Mattie M. Kelly Blvd. The residential development across the street has a site sign located close to the Right of Way.

Staff Findings:
Granting the variance would confere special privileges denied to other properties with in the same district. Existing nonconformities or approved variances on properties elsewhere in the district do not set a precedent to allow or approve variances for dimension limitations on any other lot. Tuscan Village falls under Residential, Office, Institutional - Village (ROI-VR) zoning district which requires to maintain minimum front sign setback of 10’. The Applicant does not meet this criteria.

D. That literal interpretation of the provisions of any zoning ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of any zoning ordinance, and would it result in unnecessary and undue hardship on the Applicant.

Applicant Response: Tuscan Village is comprised of 12 buildings, 86 single family dwellings; a site sign will allow for unquestioned site identification for emergency management, service, and delivery vehicles, as well as pedestrian and bicycle traffic.

Staff Findings:

The literal interpretation of the Code does not prevent the applicant from building the entry sign to Tuscan Village. It only prevents the proposed sign to be in the front setback. Signs shall be set back ten feet from all property lines, per ***LDC Article 6.04.00.A.3 – Sign setback***. There is no common enjoyed right of signs being within 10' of the ROW in this district. Therefore, the interpretation of the LDC is not depriving the applicant of any rights or causing an unnecessary or undue hardship. The Applicant does not meet this criteria.

E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Applicant Response: We have changed the size of the two entry signs to be 3' wide and 8' tall, in order to minimize the visual impact on the right of way. We are requesting to locate the signs 3' from the front property line. This is our only option for installing signs at the entrance of the community.

Staff Findings:
The submitted plans with the application show the location of the proposed sign for the Board's review. Based on the submitted plan, the sign could be placed as far back against the parking curb, rather than the three feet (3') from property line. Therefore, the Applicant does not meet this criteria.

F. That the granting of the variance will be in harmony with the general intent and purpose of any zoning ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response: The current area from the sidewalk to the Tuscan Village roadway is landscaped and sodded. The landscaped area in front of Tuscan Village, facing Mattie M. Kelly Blvd., is consistent with the neighboring properties on this street and similar in esthetics to the other subdivisions on Mattie M. Kelly Blvd. The location we are requesting, which requires a variance, is the only location for the installation of a site sign at the entrance of the community. The proposed two locations for the signs have been staked for your inspection.

Staff Findings:
As established by Staff, granting the variance would confer a special privilege to the Applicant for sign setbacks per ***LDC Article 6.04.00.A.3***. Therefore, the location of the proposed sign is not in harmony with the general intent and purpose of the **ROI-VR** zoning district. However, the location of the signs are likely not injurious or detrimental to the public welfare as they are outside the sight obstruction triangle. The Applicant does not meet this criteria.

A. **Link to Strategic Goals / Objectives:** n/a
B. **Effect on Budget (EOB):** n/a
C. **Level of Service (LOS):** n/a
D. **Legislative Sponsor:**

III. CONCLUSION: Per Land Development Code (LDC), Section 2.25.03(C), to authorize a variance request, the Board of Adjustment must find that **all six (6)** of the aforementioned criteria must be satisfied. After performing a review of the proposed variance request, Staff's recommendation is to deny the request as all the required findings have not been met. Approval of the variance will afford privileges to the applicant not afforded to other properties within the same zoning district, and would be in conflict with the **Land Development Code (LDC), Article 6.04.00.A.3 – Sign setback, and 7.12.06.N. – Residential, Office, Institutional, - Village Residential zoning district and Comprehensive Plan Policy 3-1.5.9.**

IV. RECOMMENDED MOTION: I recommend that the Board of Adjustment deny the proposed Variance Request 22-29-VR.

ALTERNATIVE MOTION:
I recommend that the Board of Adjustments approve/approve with conditions, the proposed Variance Request 22-29-VR.

Attachments:

1. 2020-03-27 Warrantee deed for Tuscan Village_v1
2. Variance Request Letter, Agent Authorization, Proposed Site Plan

Prepared by and return to:
Julie R. Barbeau, an employee of
McNeese Title, LLC,
36468 Emerald Coast Parkway, Suite 1201
Destin, Florida 32541

File Number: 17-0924JB

Warranty Deed

This Indenture, made **December 29, 2017** A.D.
Between **Bunn & Smith Land Company, LLC, a Florida limited liability company,** whose post office address is: P.O. Box 2663, Tuscaloosa, Alabama 35403 a Limited Liability Company existing under the laws of the State of Florida, Grantor and **Legacy Properties of Northwest Florida, LLC, a Florida limited liability company** whose post office address is: 2001 Fairway Vista Drive, Louisville, Kentucky 40245, Grantee,

Witnesseth, that the said Grantor, for and in consideration of the sum of Ten and No/100 Dollars ($10.00), to it in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee forever, the following described land, situate, lying and being in the County of **Okaloosa**, State of Florida, to wit:

ALL OF OLD BAY VILLAGE PHASE II - A, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 26, PAGE 29, AND BEING A REPLAT OF OLD BAY VILLAGE PHASE II, AS RECORDED IN PLAT BOOK 24, PAGES 75 AND 76, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA.

AND

ALL OF OLD BAY VILLAGE PHASE II, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 24, PAGE 75, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA.

Being and intended to be the same premises conveyed to the Grantor herein by deed recorded **April 8, 2008** in Book **2836**, Page **1103** Public Records of **Okaloosa** County, **Florida**.

Parcel Identification Number: **00-2S-22-1124-0000-0690**

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except for all covenants, conditions, restrictions, reservations, limitations and easements of record, and to all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any and taxes accruing subsequent to December 31, 2017.

In Witness Whereof, the said Grantor has caused this instrument to be executed in its name by its duly authorized officer and caused its corporate seal to be affixed the day and year first above written.

Bunn & Smith Land Company, LLC

Signed and Sealed in Our Presence:

Witness Signature: ____________________

Witness Print Name: Rick D Nichols

Witness Signature: ____________________

Witness Print Name: Josh W. Taylor

By: ____________________
Billie J. Smith
Its: Member

By: ____________________
Terry J. Bunn
Its: Member

By: ____________________
S.T. Bunn, Jr.
Its: Member

State of Alabama
County of Tuscaloosa

The foregoing instrument was acknowledged before me this 29th day of December, 2017, by Billie J. Smith, Terry J. Bunn, and S.T. Bunn, Jr., the Members of Bunn & Smith Land Company, LLC, a Limited Liability Company existing under the laws of the State of Florida, on behalf of the company. He/She are personally known to me or have produced current driver's license(s) as identification.

____________________ (Seal)
Notary Public

Notary Printed Name: Michael H Echols

My Commission Expires:: 9/11/20

[Seal]

MICHAEL H ECHOLS NOTARY PUBLIC ALABAMA STATE AT LARGE

To- City of Destin

From- Richard Miles

Subject- Tuscan Village entry signs

Date- 12-8-21

I had submitted a sign permit application back in April 2021, for my Tuscan Village project at 400 Mattie Kelly Blvd. The sign was not approved due to the sign being proposed in the ROW. Our frontage has a large ROW, along Mattie Kelly Blvd, then a 10ft wide city sidewalk, and then a strip of land between the sidewalk and the back of the curb. The only logical place for our entrance sign now would be between the city sidewalk and the curb. The issue now is that the sign could not meet the required 10ft of space away from the city sidewalk. The sidewalk is 10ft wide, instead of a typical 4 or 5 ft wide width. We changed the size of the two entry pillars to be 3 ft wide and 8ft tall, to have less impact on the sidewalk. We are proposing the signs to be 3ft behind the city sidewalk. With the signs only being 3ft wide, it only impacts a very small area of the 10ft wide sidewalk. This would be our only option for installing entry monuments at the entrance of the community. We have now landscaped and sodded our frontage along Mattie Kelly Blvd, and we think this will help finish the front of the community. Feel free to reach out to me with any questions or concerns. I would be glad to meet on site as well.

Thanks.

RC Miles

Richard Miles

502-550-6008

Ramiles123@aol.com

Community Development Department
Planning Division
4200 Indian Bayou Trail, Destin, FL 32541
Phone: (850) 654-1119 Fax: (850) 460-2171

SIGN

Building/Construction Permit Application Supplement

JOB SITE ADDRESS: 400 Mattie M Kelly Blvd

PARCEL ID(S): ______________________

DESCRIPTION OF WORK (Related to Permit Type):
Two sign pillars to be installed, one on each side of the entrance
Each pillar will set 3 ft behind the 10 ft wide Sidewalk

BUILDING (SIGN SQ. FT. / FACADE SQ. FT.) #1: ____/____ #2: ____/____ #3: ____/____
(Note: Lesser of 15% or 150 Sq. Ft.)

GROUND (SIGN SQ. FT. / GRADE TO TOP) #1: 24 sq ft #2: 24 sq ft #3: ____/____
(Note: Minimum 50 Sq. Ft. and for premises with more than 50 feet of frontage, one ground sign per such street frontage not exceeding one square foot of sign face area for each foot of frontage to a maximum of 160 square feet. Maximum Height is 26 Feet

DOES BUILDING SIGN HEIGHT EXCEED 35 FEET AND IS THE STRUCTURE TWO STORIES OR LESS? (Y/N) N
(If YES, not allowed per City of Destin LDC Section 16.04.00.B.3)

....***FOR OFFICIAL USE ONLY***..

PROPERTY FRONTAGE ALONG ROW: ________FEET; ________FEET; ________FEET
(If applicable) (If applicable)

REQUIRED GROUND SIGN SETBACKS: **FRONT:** _____ **SIDE:** _____ **REAR:** _____

Note: Per City of Destin LDC Section 16.04.00.A.3, required to be setback 10 feet from all property lines except on Hwy. 98 between East Pass and Gulf Shore Drive where the sign face only (not structure) may extend 4 feet into the setback.

SOUTH OF COASTAL CONSTRUCTION LINE Y☐ N☐ **WHITE SAND ZONE:** ZONE I ☐ / ZONE II ☐ / NONE ☐
(If YES, provide a copy of the FDEP permit)

Received by Planning: ______________ **Received by Storm water:** ______________

Planning Review: ______________________ Date: ________

Storm water Review: ______________________ Date: ________

Flood Provision Review: ______________________ Date: ________

Right of Way Review ______________________ Date; ________

CITY OF DESTIN - BUILDING DIVISION

PERMIT APPLICATION

NOTICE TO OWNER / CONTRACTOR

JOB SITE ADDRESS: 400 Mattie M Kelly Blvd NAME OF PROJECT: Tuscan Village

PARCEL ID: __________ LOT:____ BLOCK: ____ SUBDIVISION: Tuscan Village

Application is hereby made to obtain a permit to do the work and installation as indicated. ***I certify that no work or installation has been commenced prior to issuance of a permit*** and that all work will be performed to meet all codes, standards and laws governing construction in this jurisdiction. I also certify that all required insurances for me and any trades are in accordance with state laws. I understand that a separate permit must be secured for **BUILDING, ELECTRICAL WORK, PLUMBING, MECHANICAL, ROOFING, SIGNS, POOLS** and **Right of Way (ROW) CONSTRUCTION**, etc.

OWNER / CONTRACTOR AFFIDAVIT: I certify that all the foregoing information is accurate and that all work will be done in compliance with all applicable laws regulating construction and zoning per State and City of Destin.

If the direct contract is greater than $2500, the applicant/owner must file a NOTICE OF COMMENCEMENT.

"WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF COMMENCEMENT."

FINAL INSPECTION IS REQUIRED ON ALL PERMITS-Failure to obtain a final inspection may result in legal action.

Must be signed in presence of a Notary

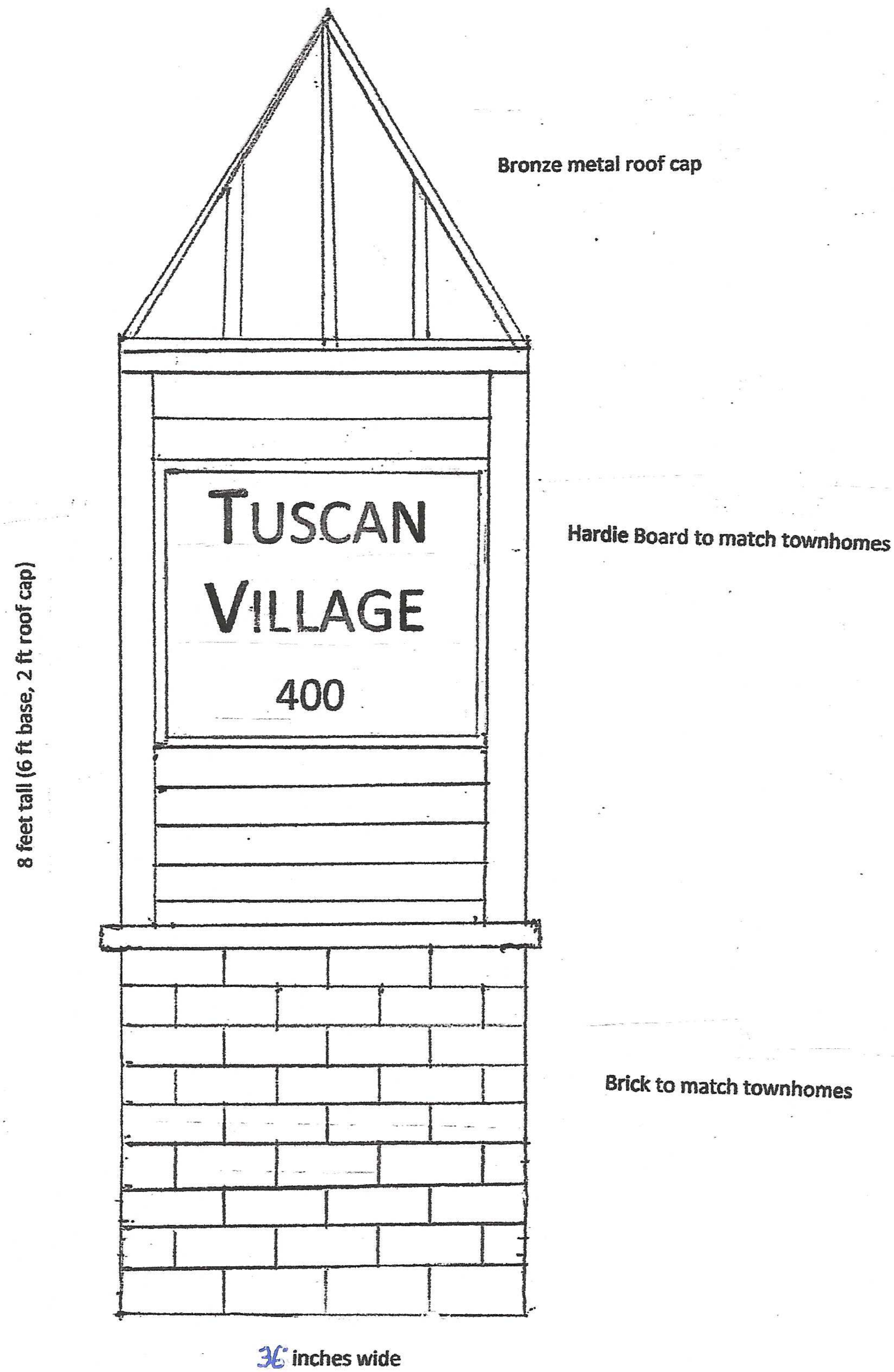
____
Signature
Owner or Agent (including contractor)

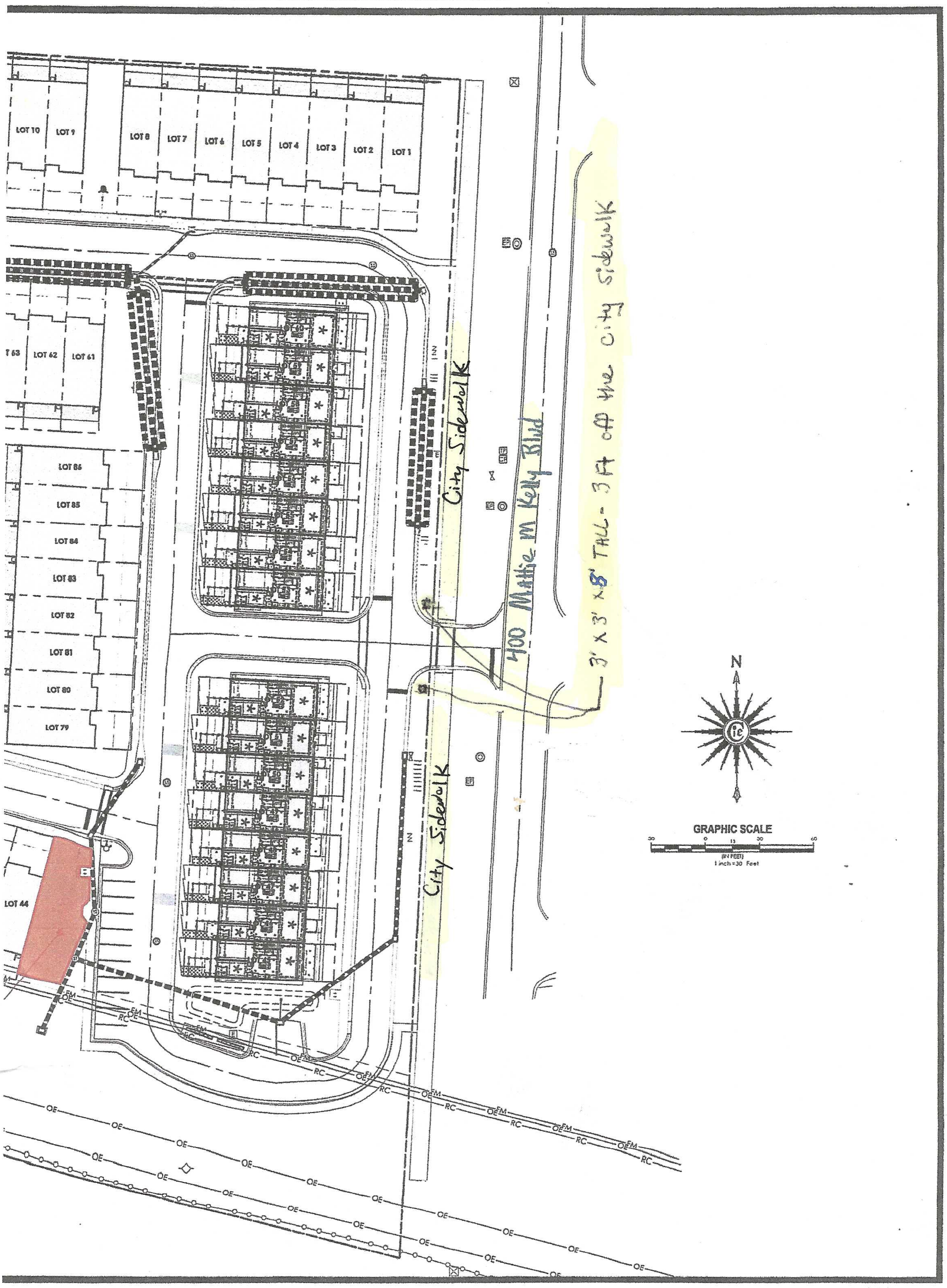
STATE OF ____________
COUNTY OF ____________

The foregoing instrument was acknowledged before me by means of physical presence __ or online notarization __, this _____ day of ________, 20____, by____________________.

Personally known ____ OR Produced Identification ____________________

______________________________ **Seal:**
Notary Signature


Bronze metal roof cap
TUSCAN
VILLAGE
400
Hardie Board to match townhomes
8 feet tall (6 ft base, 2 ft roof cap)
Brick to match townhomes
36 inches wide


LOT 10
LOT 9
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LOT 7
LOT 6
LOT 5
LOT 4
LOT 3
LOT 2
LOT 1
LOT 62
LOT 61
LOT 86
LOT 85
LOT 84
LOT 83
LOT 82
LOT 81
LOT 80
LOT 79
LOT 44
City Sidewalk
City Sidewalk
400 Mattie M Kelly Blvd
3' x 3' x 8' TALL - 3 Ft off the city sidewalk
N
GRAPHIC SCALE
(IN FEET)
1 inch = 30 Feet

ITEM # 2022-5344

CITY OF DESTIN – COMMUNITY DEVELOPMENT

AGENDA ITEM

MEETING DATE: June 1, 2022
BOARD/COMMITTEE: Board of Adjustment
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 7.B.

TO: Board of Adjustment

THRU: Lance Johnson, City Manager
KIMBERLY KOPP, Land Use Attorney
Noell Bell, Chief Building Official

FROM: Steve O'Connor, Principal Planner
Daniel Butler, Senior Planner

DATE: May 25, 2022

SUBJECT: 22-17-VR - 437 Main Street Variance Request

I. BACKGROUND:

REQUEST:

The applicant, Matthew McGee of Livin' Right Real Estate, on behalf of Kelly Homes Trust, is requesting a variance from the minimum lot width outlined in ***Land Development Code (LDC) Section 7.12.08, Dimensional Requirements***. The proposed project would split the existing 130' wide lot into two lots, measuring 65' wide.

Applicant: Matthew McGee, Livin' Right Real Estate

Location: 437 Main Street, Destin, FL 32541

Size of Property: 0.42 acres

Current Zoning: Low Density Residential – Village (LDR-V)

Future Land Use Map Classification: Low Density Residential

Comprehensive Plan Compliance:

Policy 3-1.5.9: Ensure Compatibility of New Development. Destin shall continue to ensure compatibility of proposed development with adjacent and surrounding residential uses. The City shall not permit any development that is inconsistent, in terms of residential unit type, lot sizes, housing size, tenure status (i.e., short-term rentals) and setbacks, with that allowed by the Comprehensive Plan or LDC.

Legal Notice: The legal notice for the proposed variance request was submitted for publication in the Northwest Florida Daily News with publication dates of May 22, 2022 and May 27, 2022.

Request: The applicant is requesting variance from **LDC Section 7.12.08, Dimensional Requirements –** minimum lot width requirement for Low Density Residential – Village (LDR-V) zoning district. The proposed project would split the existing 130' wide lot into two lots, measuring 65' wide. Therefore, the applicant is requesting a variance from:

Article 7.12.08, Dimensional Requirements -
Low Density Residential – Village (LDR-V)

Per ***LDC Table 7-3, Schedule of Dimensional Requirements***, the minimum lot sizes allowed are 70 feet wide and 100 feet deep, with a minimum lot area of 7,500 SF.

II. DISCUSSION:

The applicant wishes to split the existing 130' wide lot into two lots, measuring 65' wide. The subject property consists of Kelly Homes Subdivision Block I, Lots 16 & 17, along with the northernly 30 feet of Lot 15. The lots, as originally platted, measure 50' x 100'.

As proposed, the two newly created lots would measure 65' wide by 100' deep. Each lot would be five (5) feet short of the minimum lot width requirement listed in ***LDC Table 7-3, Schedule of Dimensional Requirements.***

FINDINGS:

According to the ***LDC Section 2.25.03(C)***, to authorize upon appeal such variance from the terms of any zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of such ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of the conditions, the Board of Adjustment must find:

A. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

Applicant response: The Kelly Trust has two and a half lots under one county parcel ID on Main Street in Destin. The one half extra lot does not have a reasonable use, so we are asking the City to allow us to move these lot lines to absorb the half lot and instead have only two lots under separate parcel IDs.

Staff Findings: The applicant owns property that contains two platted lots, and over half of another previously platted lot. Instead of reverting to the two previously platted lot configurations and essentially abandoning that northernly 30', the applicant is attempting to increase the buildable area of the two lots by 15' each. AS the lots were platted in 1961 to the standards of the district at that time. The applicant satisfies this criteria.

B. That special conditions and circumstances do not result from the actions of the applicant.

Applicant response: The platted lots are two and a half lots. We are asking the lots be increased in size and lot lines moved to make two lots and reasonable use of the 1/2 lot.

Staff Findings: The Kelly Homes Subdivision was platted in February 1961. All of the homes in the subject block (Block I) have legal descriptions that contain portions of the originally platted lots. For example, the property to the south of 437 Main Street consists of the northernly 10’ of Lot 13, all of Lot 14, and the southernly 20’ of Lot 15, Block I. Therefore, the lots have been bought and sold over the years with various portions of multiple lots. The applicant satifies this criteria.

C. That granting the requested variance will not confer on the Applicant any special privileges denied by any zoning ordinance to other lands, buildings or structures in the same zoning district.

Applicant Response: No response provided by the applicant.

Staff Findings: As originally platted, the subject individual lots do not comply with the minimum lot dimensions within the Land Development Code; however, granting this variance request would allow the applicant to utilize the 30’ remnant from Lot 15, allowing a slightly larger buildable area. Also, bringing the proposed lots closer to conformity, rather than reverting to the original lot configuration of 50’ wide. Any property owner of the lots would be allowed to develop the lot in their current configuration. Therefore, allowing the combination of the three lots into two will not confer any special privileges. The applicant satisfies this criteria.

D. That literal interpretation of the provisions of any zoning ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of any zoning ordinance, and would it result in unnecessary and undue hardship on the Applicant.

Applicant Response: No. It is zoned for single-family residential.

Staff Findings: Due to the previously platted subdivision, there are unique characteristics of the site that are not common throughout the city limits. Any application of the LDC should be reviewed with the unique existing conditions in mind. Therefore, applying the regulation within the LDC, creates an undue hardship. The applicant satifies this criteria.

E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Applicant Response: Our variance request is to enlarge the two platted lots by adding in the unusable 1/2 lot and making two, single family lots.

Staff Findings: The requested variance would be the minimum needed to meet the request as it would allow the property owner to increase the buildable area of the previously platted lots by incorporating the northernly 30' of Lot 15. The applicant satisfies this criteria.

F. That the granting of the variance will be in harmony with the general intent and purpose of any zoning ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response: Zoning is single-family residential. No change.

Staff Findings: Per ***Comprehensive Plan Policy 1-2.2.2*,** the Low Density Residential – Village (LDR-V) zoning district is intended to be developed, redeveloped and/or maintained and conserved as single-family (SF) long-term residential uses. Granting this variance would not be injurious to the area involved, as single-family residences would most likely be developed on these proposed lots. This use is consistent with the surrounding areas zoned LDR-V. The applicant satisfies this criteria.

A. Link to Strategic Goals / Objectives: Economic Development and Revitalization

B. Effect on Budget (EOB): N/A

C. Level of Service (LOS): N/A

D. Legislative Sponsor:

III. CONCLUSION: Per ***Land Development Code (LDC), Section 2.25.03(C)***, to authorize a variance request, the Board of Adjustment must find that all six (6) of the aforementioned criteria must be satisfied. After performing a review of the proposed variance request, Staff's recommendation is to approve the request. Approval of the variance will not afford privileges to the applicant not afforded to other properties within the same zoning district or within the MMTD due to the unique nature and existing conditions of the previously platted lots/subdivision.

IV. RECOMMENDED MOTION:

I recommend that the Board of Adjustment approve the proposed Variance Request 22-17-VR.

ALTERNATIVE MOTION:

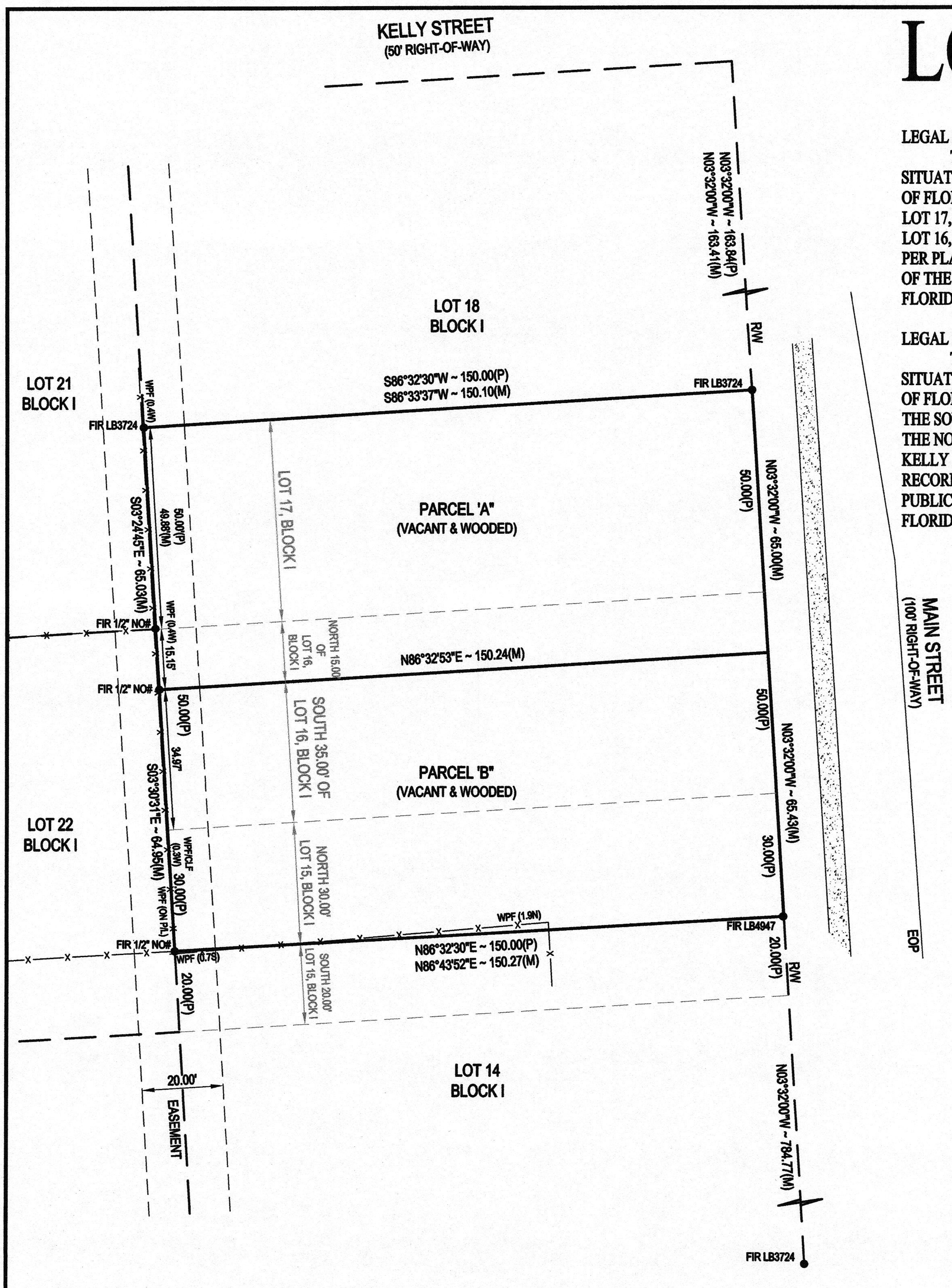
I recommend that the Board of Adjustments deny the proposed Variance Request 22-17-VR.

Attachments:

1. Survey - Proposed
2. Commitment for full parcel

3. Kelly Homes
4. Letter to City of Destin 3 9 22
5. Schedule A

LOT SPLIT



LEGAL DESCRIPTION :PARCEL A

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF OKALOOSA ,STATE OF FLORIDA , AND DESCRIBED AS FOLLOWS:
LOT 17, BLOCK I , AND THE NORTH 15.00 FEET OF LOT 16, BLOCK I , KELLY HOMES SUBDIVISION AS PER PLAT RECORDED IN PLAT BOOK 3 , PAGE 32 , OF THE PUBLIC RECORDS OF OKALOOSA COUNTY , FLORIDA.

LEGAL DESCRIPTION :PARCEL B

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF OKALOOSA ,STATE OF FLORIDA , AND DESCRIBED AS FOLLOWS:
THE SOUTH 35.00 FEET OF LOT 16, BLOCK I , AND THE NORTH 30.00 FEET OF LOT 15, BLOCK I , KELLY HOMES SUBDIVISION AS PER PLAT RECORDED IN PLAT BOOK 3, PAGE 32, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY , FLORIDA.

This is to certify that I have consulted National Flood Insurance Rate Map, effective March 9, 2021, for Okaloosa County, Florida, Map No. 12091C0488 J, and found the property described hereon to be located in Zone "X", area determined to be outside 500-year flood plain.

LEGEND

FND = FOUND
FMN = FOUND MAZE NAIL
FIR = FOUND IRON ROD
FIP = FOUND IRON PIPE
F N&D = FOUND NAIL & DISC
TYP = TYPICAL
ELEV = ELEVATION
CL = CENTERLINE

R/W = RIGHT OF WAY
CLF = CHAIN LINK FENCE
WPF = WOOD PRIVACY FENCE
D/U = DRAINAGE & UTILITY
PB = PLAT BOOK
ESMT = EASEMENT
EOP = EDGE OF PAVING
BC = BACK OF CURB
PP = POWER POLE
OHL = OVERHEAD LINES
FFE = FINISHED FLOOR ELEVATION

LS = LAND SURVEYOR NUMBER
LB = LAND SURVEY BUSINESS NUMBER
COE = CORPS OF ENGINEERS
MHW = MEAN HIGH WATER LINE
POC = POINT OF COMMENCEMENT
POB = POINT OF BEGINNING
POL = POINT ON LINE
PC = POINT OF CURVATURE
PT = POINT OF TANGENCY
PRC = POINT OF REVERSE CURVE
BSL = BUILDING SETBACK LINE
RC = RESTRICTIVE COVENANTS

PI = POINT OF INTERSECTION
(P) OR (PLAT) = PLATTED
(D) OR (DESC) = DESCRIPTION
(M) OR (MEAS) = MEASURED
OR BOOK = OFFICIAL RECORDS BOOK
PCP = PERMANENT CONTROL POINT
PRM = PERMANENT REFERENCE MONUMENT
NAVD = NORTH AMERICAN VERTICAL DATUM
NGVD = NATIONAL GEODETIC VERTICAL DATUM
DOT = DEPARTMENT OF TRANSPORTATION
DEP = DEPARTMENT OF ENVIRONMENTAL PROTECTION

UNLESS OTHERWISE NOTED ALL IRON RODS ARE 1/2" DIAMETER

SOURCE OF DESCRIPTION: FATIC FILE NO. 1054-5843741 PREPARED BY UNDERSIGNED
BASIS OF BEARINGS: RIGHT-OF-WAY LINE OF MAIN STREET AS BEING N03°32'00"W

DESCRIPTION: PER ABOVE

OKALOOSA COUNTY, FLORIDA

SECTION – TOWNSHIP 2-S RANGE 22-W RECORDED PLAT BOOK 3 PAGE 32

OBVIOUS ENCROACHMENTS: NONE (FENCE OWNERSHIP NOT DETERMINED)

UNDERGROUND ENCROACHMENTS (NOT LOCATED)

SCALE 1"=30' SURVEY DATE 04.12.2022

ORDERED BY: FLEET, SMITH & FREEMAN

F.B. 22-1 PG 98-99 W.O. 2022-0308

TYPE OF SURVEY: BOUNDARY

PURPOSE: LOT SPLIT

SURVEYORS CERTIFICATE
I HEREBY CERTIFY THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND MEETS THE STANDARDS OF PRACTICE OF THE FLORIDA BOARD OF SURVEYORS AND MAPPERS. (5J-17 .050 - .052 F.A.C.)

Edward E Rice

EDWARD E. RICE LS3420

RECERTIFIED DATE________ W.O. ________

ORDERED BY ________

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.

CAD - K -
KELLY HOMES SUBDIVISION -
2022-0308 LOTS 15, 16, 17 BLK I

PANHANDLE ASSOCIATES INC.
701-A EDGE STREET, FORT WALTON BEACH, FLORIDA 32547 (850) 864-1968 LAND SURVEYING BUSINESS LICENSE NO. 2355

First American **Commitment**	ALTA Commitment for Title Insurance ISSUED BY **First American Title Insurance Company** File No: 1054-5843741

AMERICAN LAND TITLE ASSOCIATION COMMITMENT FOR TITLE INSURANCE

Issued By
First American Title Insurance Company

NOTICE

IMPORTANT-READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and the Commitment Conditions, ***First American Title Insurance Company***, a Nebraska Corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I-Requirements have not been met within 6 months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

Issued through:
Fleet & Smith Law, PA dba Fleet, Smith &, Freeman

First American Title Insurance Company

Dennis J. Gilmore, President

Greg L. Smith, Secretary

If this jacket was created electronically, it constitutes an original document.

COMMITMENT CONDITIONS

1. **DEFINITIONS**
   (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
   (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
   (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
   (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
   (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
   (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
   (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
   (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I—Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:
   (a) the Notice;
   (b) the Commitment to Issue Policy;
   (c) the Commitment Conditions;
   (d) Schedule A;
   (e) Schedule B, Part I—Requirements;
   (f) Schedule B, Part II—Exceptions; and
   (g) a counter-signature by the Company or its issuing agent that may be in electronic form.

4. **COMPANY'S RIGHT TO AMEND**
   The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. **LIMITATIONS OF LIABILITY**
   (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
      (i) comply with the Schedule B, Part I—Requirements;
      (ii) eliminate, with the Company's written consent, any Schedule B, Part II—Exceptions; or
      (iii) acquire the Title or create the Mortgage covered by this Commitment.
   (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
   (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
   (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
   (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
   (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I—Requirements have been met to the satisfaction of the Company.
   (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

6. **LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT**
   (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
   (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
   (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
   (d) The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
   (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
   (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. **IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT**
   The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. **PRO-FORMA POLICY**
   The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

First American

Schedule A

ALTA Commitment for Title Insurance

ISSUED BY

First American Title Insurance Company

File No: 1054-5843741

Transaction Identification Data for reference only:

Issuing Agent: Fleet & Smith Law, PA dba Fleet, Smith &, Freeman
ALTA Universal ID:
Commitment Number:
Property Address: 437 MAIN ST, DESTIN, FL 32541

Issuing Office:

Loan ID Number:
Issuing Office File Number: S1188.01
Revision Number:

SCHEDULE A

1. Commitment Date: January 19, 2022 @ 8:00 AM
2. Policy to be issued:
   (a) ☐ 2006 ALTA® Owner's Policy
   Proposed Insured: Jean F. McGee
   Proposed Policy Amount: $150,000.00
   (b) ☐ 2006 ALTA® Loan Policy
   Proposed Insured:
   Proposed Policy Amount: $
   (c) ☐ 2006 ALTA® Loan Policy
   Proposed Insured:
   Proposed Policy Amount: $
3. The estate or interest in the Land described or referred to in this Commitment is Fee Simple.
4. The Title is, at the Commitment Date, vested in:
   The current named Successor Trustee(s) of the Coleman L. Kelly Testamentary Trust
5. The Land is described as follows:

   See Exhibit "A" attached hereto and made a part hereof

Fleet & Smith Law, PA dba Fleet, Smith &, Freeman

By: ______________________
Authorized Signatory

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; and Schedule B, Part II-Exceptions.

First American **Schedule BI**	ALTA Commitment for Title Insurance ISSUED BY **First American Title Insurance Company** File No: 1054-5843741

Issuing Office File Number: S1188.01

SCHEDULE B-I

Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.

2. Pay the agreed amount for the estate or interest to be insured.

3. Pay the premiums, fees, and charges for the Policy to the Company.

4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

   a. Warranty Deed executed by the current Trustee(s), as identified in the required certification of trust, individually and as Trustee(s) of the Coleman L. Kelly Testamentary Trust, conveying the Land to Jean F. McGee. Joinder of spouse is required as to each grantor unless the grantor is a single person and the deed states that fact or the property is not their homestead and the deed states substantially the following: The land described herein is not the homestead of grantor(s) and neither they nor their spouse or anyone for whose support they are responsible reside on or adjacent to the land.

5. Record Certification of Trust pursuant to Section 736.1017, F.S., executed by the current Trustee(s) of the Coleman L. Kelly Testamentary Trust (Company's FATCO Form CT-1, CT-2, or similar format). If by Successor Trustee(s), the following items must be included as an Exhibit or retained in the closing file: (i) Pertinent pages of the Trust and any amendments setting forth the name and date of the Trust, name of the Settlor(s), name of the original Trustee(s), and provisions relating to the appointment of the Successor Trustee(s); and (ii) the death certificate of the prior Trustee(s) or other documentation establishing the resignation or incapacity of the prior Trustee(s).

6. Satisfactory verification from appropriate governmental authorities that any and all unrecorded Special Taxing District Liens, City and County Special Assessment Liens, MSBU Assessment Liens, Impact Fees, and Water, Sewer and Trash Removal Charges, have been paid.

7. Proof of payment of taxes and assessments for the year 2021, and prior years, plus any penalties and interest.

Note: The following is for informational purposes only and is given without assurance or guarantee: 2021 taxes show **PAID**. The gross amount is $1,098.16 for Tax Identification No. 002S2213500000I0000.

✓ NOTE: Because the land appears of record to be unencumbered, the Company requires that the affirmative declarations of the title affidavit, which includes a representation that there are no mortgages or other liens against the land whether recorded or not recorded, be properly emphasized before execution. Just as in all transactions, every seller/borrower must be encouraged to disclose any off record encumbrance, lien, or other matter that may affect title before the Company is willing to rely upon the representations contained within the title affidavit.

NOTE: The following conveyance(s) have been recorded within the last 24 months:

None

Issuing Office File Number: S1188.01

SCHEDULE B-II

Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

2. Any rights, interests, or claims of parties in possession of the land not shown by the public records.

3. Any encroachment, encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the land.

4. Any lien, for services, labor, or materials in connection with improvements, repairs or renovations provided before, on, or after Date of Policy, not shown by the public records.

5. Any dispute as to the boundaries caused by a change in the location of any water body within or adjacent to the land prior to Date of Policy, and any adverse claim to all or part of the land that is, at Date of Policy, or was previously under water.

6. Taxes or special assessments not shown as liens in the public records or in the records of the local tax collecting authority, at Date of Policy.

7. Any minerals or mineral rights leased, granted or retained by current or prior owners.

8. Taxes and assessments for the year 2022 and subsequent years, which are not yet due and payable.

NOTES FOR STANDARD EXCEPTIONS: Standard Exceptions for parties in possession, for mechanics liens, and for taxes or special assessments not shown as liens in the public records shall be deleted upon receipt of an acceptable Non-Lien and Possession Affidavit establishing who is in possession of the lands, that there are no liens or encumbrances upon the lands other than as set forth in the Commitment, that no improvements to the lands have been made within the past 90 days or are contemplated to be made before closing that will not be paid in full, and that there are no unrecorded taxes or assessments that are not shown as existing liens in the public records. Any Policies issued hereunder may be subject to a Special Exception for matters disclosed by said affidavit.

Standard Exception(s) for questions of survey may be deleted upon receipt and review of a properly certified Survey meeting the Florida Minimum Technical Standards for all land surveys dated no more than 90 days prior to closing or such other proof as may be acceptable to the Company. Any Policies issued hereunder may be subject to a Special Exception for matters disclosed by said survey or proof.

The Standard Exception for any minerals or mineral rights leased, granted or retained by current or prior owners is hereby deleted.

9. Restrictions, dedications, conditions, reservations, easements and other matters shown on the plat of KELLY HOMES SUBDIVISION, as recorded in Plat Book 3, Page(s) 32, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).

10. Road Right of Way recorded in Book 591, Page 854.

11. Easement recorded in Book 591, Page 847.

12. Oil, gas and mineral reservations contained in instrument recorded in Book 824, Page 622 and Book 1608, Page 888.

Note: All of the recording information contained herein refers to the Public Records of OKALOOSA County, Florida, unless otherwise indicated. Any reference herein to a Book and Page or Instrument Number is a reference to the Official Record Books of said county, unless indicated to the contrary.

First American

Notices – Where Sent

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company, Attention: Claims Department, 1 First American Way, Santa Ana, CA 92707 (claims.nic@firstam.com).

DEDICATION

STATE OF FIORIDA
COUNTY OF OKAIOOSA

Know all men by these presents, that kelly Homes Inc., a corporation organized and existing in the State of Florida, the owners of the land shown on this plat, does hereby subdivide this property as shown and dedicated to public use of all streets and roads shown hereon, reserving to itself or assigns all rights of reversion should it be vacated in accordance with Law

In witness whereof, kelly Homes Inc., has caused this plat to be signed by its president, attested by its secretary and affixed its corporate seal this 9 day of Feb., 1961

Witnesses
Louise F. Anderson
M B Anderson

KELLY HOMES INC.
L. Bernarr Kelly president
Mattie M. Kelly secretary

ACKNOWLEDGEMENT

STATE OF FIORIDA
COUNTY OF OKAIOOSA

Before me personally appeared L. Bernarr Kelly and Mattie M. Kelly known to me to be president and secretary respectively of Kelly Homes Inc. and acknowledgment that they did execute the foregong dedication for the uses and purposes set forth therein

Given under my hand and Seal this 9 day of Feb, 1961

M B Anderson
Notary Public
State of Florida at Large

My commission expires Feb 18, 1963

APPROVAL OF COUNTY COMMISSIONERS

This certifies that this plat was presented to the Board of County Commissioners of Okaloosa County, Florida and was approved by them for records this 21 day of Feb., 1961

G.W. Nowling Chairman
E.R. Cook Member
R.J. Reinde Member
H. Holmes Member
W.S. Jones Member

FILING CERTIFICATE

I, Cecil L. Anchors, Clerk of Circuit Court Okaloosa County, Florida do hearby certify that this plat conforms to the requirements of Chapter 10275, Acts of 1925, Laws of Florida, and is hereby filed in the official county records on this day the 21 day of Feb., 1961 in plat Book No. 3 on Page 32.

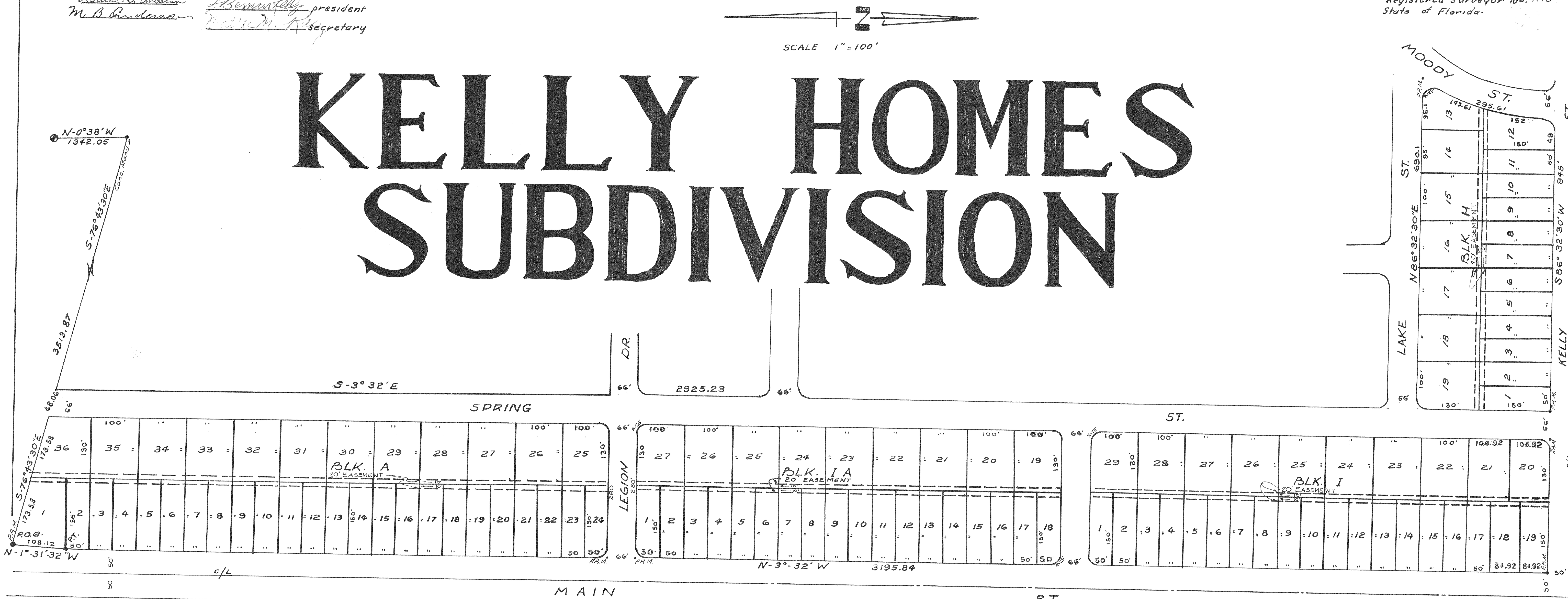
C L Anchors
Clerk Circuit Court

SURVEYOR'S CERTIFICATE

I, JOHN W. GRICE do hereby certify that I supervised the survey of the lands shown hereon, and that permanent reference marks, shown P.R.M., were placed as required by Chapter 10275, Acts of 1925, Laws of Florida.

John W. Grice
Registered Surveyor No. 1179
State of Florida.

KELLY HOMES SUBDIVISION



DESCRIPTION

Commencing at the intersection of North R/W line of Highway U.S. 98 and the East Line of Calhoun Subdivision, run N-0°38'W 1342.05 ft. to concrete monument; thence S-76°43'30"E along North Line of Henderson property 3513.87 ft. to point of beginning; thence N-1°31'30"W 108.12 ft. to P.T. of curve; thence N-3°32'W 3195.84 ft.; thence S-86°32'30"W 945 ft.; thence Southeasterly along curve with a radius of 421.69 ft. concave to the right a distance of 295.61 ft.; thence N-86°32'30"E 690.1 ft. to West side of Spring Street; thence S-3°32'E 2925.23 ft.; thence S-76°43'30"E 347.06 ft. to point of beginning, all in T-2-S, R-22-W, Okaloosa County, Florida.

FS&F
FLEET, SMITH & FREEMAN
ATTORNEYS AND COUNSELORS AT LAW

March 8, 2022

Via Email to dbutler@cityofdestin.com
City of Destin
c/o Daniel Butler
4200 Indian Bayou Trail
Destin, FL 32541

Re: Lot split for Parcel ID: 00-2S-22-1350-000I-0000 (437 Main Street)

Dear Mr. Butler,

I am writing to request the City of Destin grant a lot split and variance for Parcel ID: 00-2S-22-1350-000I-0000, which is currently owned by the Coleman L. Kelly Testamentary Trust. The lot split request is that the parcel be divided into a north and south parcel, each of equal circumference. The variance request is to allow each lot to be two and one half (2.5) feet smaller than the current code allows. This parcel has been owed by the Coleman Kelly Trust for decades and we are currently in the process of winding down the Trust. The Trust has submitted the fee for both the lot split and variance.

I have attached a recorded copy of my Affidavit of Successor Trustee Acceptance for the Coleman L. Kelly Testamentary Trust. Also, Whitney L. Smith, the Trust's attorney and Matt McGee, the Trust's realtor, have full authority to act on the Trust's behalf as it relates to this lot split and variance request.

Please let me know if you have any additional questions.

Very truly yours,

H. Bart Fleet,
Trustee of the Coleman L. Kelly
Testamentary Trust

Enclosures as stated

1283 N. Eglin Parkway, Suite A · Shalimar, FL 32579

(850) 651-4006 · (850) 651-5006 fax

This instrument prepared by and please return to:

WHITNEY L. SMITH, ESQ.
1283 N. Eglin Parkway, Suite A
Shalimar, Fl 32579

********************[space above this line for recording information] *****************

AFFIDAVIT OF SUCCESSOR TRUSTEE ACCEPTANCE

STATE OF FLORIDA

COUNTY OF OKALOOSA

The undersigned H. BART FLEET, hereby accepts the appointment as Successor Co-Trustee of the C. L. Kelly Testamentary Trust also known as Coleman Lee Kelly Testamentary Trust and agrees to be bound by the terms and conditions as set forth in the Last Will and Testament of C. L. Kelly also known as Coleman Lee Kelly, attached hereto as Exhibit "A".

Witnesses:

Sheryl McCowen

Lynnette Jones

H. BART FLEET

The foregoing instrument was sworn to (or affirmed), subscribed, and acknowledged before me by means of [✓] physical presence or [ ] online notarization, this 18 day of October, 2021, by H. BART FLEET, who is personally known to me or produced ________________ as identification.

Sheryl F. McCowen
Notary

SHERYL F. MCCOWEN
MY COMMISSION # GG 952429
EXPIRES: March 25, 2024
Bonded Thru Notary Public Underwriters

5/.00

1... / ...

** OFFICIAL RECORDS **
BK 1972 PG 1552

005 467

I, C. L. KELLY, also known as Coleman Lee Kelly, of Okaloosa County, Florida, being of sound and disposing mind and memory, do make, ordain, publish and declare this to be my last will and testament, hereby revoking any and all other wills by me made:

ITEM ONE

I direct that all of my just debts and funeral expenses shall be paid as promptly as practicable.

ITEM TWO

I give and bequeath to my wife, Mattie M. Kelly, or, if she should predecease me, then to my children surviving me for distribution among them in shares of approximately equal value, all of my clothing, jewelry and personal effects and any automobiles, boats and sports equipment owned by and personally used by me at the time of my death, but expressly excluding any automobiles, boats and sports equipment belonging to or primarily used in any business in which I may be interested at the time of my death. I declare that I own no household furniture and furnishings and such as are in our home belong absolutely to my said wife.

ITEM THREE

If my said wife survives me, I give, devise and bequeath to my trustees hereinafter named a part of my estate selected by my executors, having a value determined as follows: (1) determine the value of my entire estate passing under this will, (2) add thereto the value of any and all insurance and other property passing outside of this will but includable in my estate for federal estate tax purposes, (3) deduct therefrom all debts and expenses of

EXHIBIT

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A

** OFFICIAL RECORDS **
BK 1972 PG 1553

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administration allowed for federal estate tax purposes but not any estate or inheritance tax, (4) ascertain one-half of the remainder, (5) deduct from such one-half the value of any and all insurance and other property passing to my said wife either outside this will or under any other item of this will in such manner as to qualify as a part of the marital deduction under the federal estate tax law, and (6) the remainder of such one-half shall be the value of the part of my estate bequeathed in this item.

The determination of this bequest and the division of my estate shall be on the basis of values existing on the date of division in the case of property then divided, or on the date of distribution in the case of any property previously distributed, or on such estate tax value as finally determined in the case of any property passing outside of this will, and this bequest shall carry with it its proportionate part of the income of my estate from the date of my death.

My executors shall not use to satisfy the bequest in this item or any part thereof any asset in respect of which no marital deduction would be allowed if such asset passed to my said wife. If my wife and I should die under such circumstances that it cannot be determined which died first, it shall be presumed that she survived me and this bequest shall be effective. Said trustees shall hold, manage and distribute the trust property as hereinafter provided:

(1) My wife shall have the right at any time, and from time to time, to make withdrawals from the principal of this trust by written requests delivered to my trustees; provided, however, that the aggregate of all such withdrawals made by her in her lifetime shall not exceed one-third of the value at the time or times of distribution to the trustees of the part of my estate bequeathed in trust in this item, and a majority of my trustees other than my wife may limit her withdrawals in any calendar year

to a maximum of 10% of said original distribution values if in their judgment a greater withdrawal would result in sacrificial sales, loss in value or damage to any assets or business in which such trust has an interest, or otherwise in any way prejudice the trust estate, or if in the judgment of said trustees a greater withdrawal by my wife would be improvident on her part or not in her best interest. Any net income realized by the trustees from this one-third part prior to the complete withdrawal of the principal of this one-third part by my wife shall be paid over to her along with the net income from the remainder of this trust.

(2) My trustees shall pay over to my said wife all income from all property held hereunder from the time of my death until her death, in semi-annual or more frequent installments and preferably in approximately equal monthly installments.

(3) My trustees are authorized to encroach on the principal of this trust (including any portion of the one-third part subject to withdrawal by my wife but still held by the trustees) at any time and from time to time in such amounts as the trustees may deem necessary or desirable, taking into consideration any other means of support my said wife may have to the knowledge of the trustees, to provide for her proper support and comfort.

(4) On the death of my said wife the property remaining in this trust shall be distributed by the trustees, free of the trust, to such persons and in such manner as my said wife may by her last will and testament direct or appoint, including the right in my said wife to appoint said property to her estate. Should my said wife fail so to direct or appoint, then said property in this trust shall go over to and become a part of the residue of my estate and be held and distributed in all respects as if it had originally been a part of said residue.

(5) On the death of my said wife the trustees are authorized to withhold distribution of an amount of property sufficient, in their judgment, to cover any liability that may

be imposed on said trustees for estate taxes or other taxes until such liability is finally satisfied.

ITEM FOUR

I give, devise and bequeath all of the rest, residue and remainder of my estate, whatsoever and wherever situated, including any lapsed legacies or devises, to my trustees hereinafter named in separate trusts of equal value, one to be held for the benefit of each of my children surviving me and one for the benefit of the descendants surviving me of each of my children that may predecease me. I presently have five children, viz: Carnera Lee Kelly, Lila Bernarr Kelly, Imogene Kelly Amos, Carol Kelly and Cecelia Kelly, and I have no deceased children with surviving descendants. Each share or trust shall be held upon the following uses, trusts and purposes:

(1) As an equal charge on all of said trusts, each trust to contribute its aliquot part, I direct my trustees out of income or principal to pay or expend for the benefit of my brother G. H. Kelly as they deem best $25.00 per week and $10.00 per week to or for the benefit of my brother D. T. Kelly, from the time of my death as long as each brother shall survive, and such additional amounts, if any, from time to time to or for the benefit of either of said brothers as may be necessary in the judgment of my trustees to provide for his necessary support and welfare after taking into account any other means or sources of support available to such brother to the knowledge of the trustees. Additionally, my trustees may in their discretion, if other means are not conveniently available therefor to their knowledge, pay the funeral expenses and provide a burial plot for either of said brothers or any other brother or sister of mine.

(2) To use and apply as much of the remaining income and principal of the respective trusts as my trustees may deem necessary or desirable to provide for the reasonable support, education and welfare of my child for whose primary benefit such

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BK 1972 PG 1556

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trust is held, and for his or her descendants, and for the descendants of a deceased child, all at such times, in such amounts and in such manner as my trustees may deem appropriate; provided, however, my trustees are authorized to take into account any other means of support available to any of said persons to the knowledge of the trustees in determining what amounts, if any, of income or principal should be expended for any of them.

(3) To pay over to each child of mine who is over the age of twenty-five (25) years out of the principal of the trust held for his or her primary benefit such amounts as he or she may request, except that no such payments shall be made which would cause the aggregate of the payments at his or her request from principal during any calendar year to exceed the greater of $5,000.00 or 5% of the then aggregate value of the trust estate.

(4) Each child for whose primary benefit a trust is held may, by his or her last will and testament executed after my death and specifically referring to and exercising this power of appointment, direct and appoint that all or any part of such trust estate remaining at his or her death be paid over and distributed to or for the benefit of such persons or organizations in such shares and in such manner, whether outright or in lesser estates, in trust or otherwise, as he or she may see fit; except that no part thereof may be appointed to such child's estate or to his or her creditors or to creditors of his or her estate. To the extent that the trust estate is not so appointed by my child, and as to any trust estate initially established for the descendants of a deceased child of mine, said trust shall continue until the youngest living child of my deceased child has reached the age of twenty-one (21) years at which time whatever remains in said trust estate shall be distributed in equal shares per stirpes among the then living descendants of my deceased child

and during such continuance the trustees may use income and principal for the support, education and welfare of such descendants as hereinabove authorized. If there are no surviving descendants of such deceased child, or if none of his or her descendants survive to receive the trust on final distribution, then in either event the share or trust estate then remaining shall be paid over and added to the trusts for my other children and their descendants or, if any such other trust has been distributed, to the persons who would be entitled to share in such other trust if it were then to be distributed.

(5) Whenever my trustees are directed to distribute any property in fee simple to a person who is then a minor, my trustees are authorized to continue to hold the share of such minor in trust for such minor until he or she becomes twenty-one (21) years of age and in the meantime may use such part or all of the income and corpus thereof as the trustees shall deem necessary or desirable to provide for the proper support and education of such minor.

(6) Whenever my trustees are directed or authorized to pay or use any money or property to or for the benefit of a person who is under legal disability or is in the opinion of my trustees incapable of managing his or her affairs, my trustees may pay or use such money or property for the benefit of such person in such manner as the trustees shall see fit.

(7) The income and/or support provided herein for the beneficiaries of this trust shall not be transferred, assigned or conveyed, and shall not be subject to the claims of any creditors of any beneficiary or to claims for alimony or support of an estranged or divorced spouse of any beneficiary. My trustees are authorized to continue to pay or use such income and/or support directly to or for the support of any such beneficiary notwithstanding any transfer, assignment or conveyance, and notwithstanding any action by creditors or a divorced or estranged spouse.

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ITEM FIVE

I direct that all estate, inheritance, transfer and succession taxes or death duties, or similar charges, levied upon my estate or occasioned by my death, be paid out of my residuary estate. I expressly include as a part of my estate under this will for the payment of any such taxes as well as expenses in the administration of my estate all life insurance proceeds payable to my estate or to my executors or administrators, any surplus proceeds to pass as a part of my estate under this my last will and testament.

ITEM SIX

I nominate, constitute and appoint as executors of and trustees under this my last will and testament to serve without bond the following named persons:

My wife Mattie M. Kelly
My son C. L. Kelly
My son L. B. Kelly
My daughter Imogene K. Amos
My business associate, H. W. Lucas of Mims, Florida
My friend and accountant, John K. Edwards of Pensacola.

It is my will and intention that at all times there be not less than three nor more than six (6) executors and trustees, except that if and when a corporate executor or trustee has assumed office then it shall no longer be necessary to fill any individual vacancy and such corporate trustee may, if no individuals continue to act, serve as my sole executor or trustee, or both, as the case may be. My remaining executors or trustees may at any time fill any vacancy arising from death, resignation, disability or other cause by instrument signed by a majority of the remaining executors or trustees and filed with the court where my will has been probated but it shall not be necessary to fill any vacancy so long as the minimum number of executors or trustees prescribed above is serving. Any bank having trust powers located anywhere within the state of Florida may be appointed as co-executor or co-trustee, or both, by the remaining executors or trustees.

In any matters relating to my estate or to any trust the decision of a majority of the executors or trustees then acting shall control. Any writing signed by the persons whose decision

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** OFFICIAL RECORDS **
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shall control shall be as valid and effective for all purposes as if signed by all such executors or trustees.

Any executor or trustee may give to any co-executor or co-trustee power of attorney to act for or to sign the name of such executor or trustee to any paper and any action taken pursuant to such power of attorney shall be valid for all purposes as if done or signed in person by the executor or trustee giving such power of attorney. Any such power of attorney may be general or may be limited to certain acts or instruments, or may contain conditions and restrictions, and may be changed or revoked at any time by the executor or trustee who gave such power giving notice of its change or revocation to his co-executors or co-trustees.

In the management, care and distribution of my estate and of each trust estate hereunder, I confer upon my executors and trustees, and the survivors and successors in office, the power to do all things and execute such instruments as they may deem necessary or proper, including the following powers and duties, all of which may be exercised without order of or report to any cour

(1) To assign, transfer, lease for the term of my estate or trust or beyond, rent, exchange, partition, subdivide, improve, release or dedicate, mortgage, repair, rebuild, pledge, sell or otherwise dispose of and convey the property, real and personal, or any part thereof, of my estate or any trust estate upon such terms and considerations and in such manner as my executors or trustees shall see fit.

(2) To retain any property or undivided interests in property received from my executors or from any other source, including stock in closely held corporations and business interests o every kind, regardless of any lack of diversification, risk, or non-productivity.

(3) To continue and carry on any business I may own or in which I may be interested at the time of my death; to become or remain a partner in any such business; to incorporate any such

business and hold the stock as an investment; and to employ agents to manage and operate any such business, without liability for the acts of any such agents or for any loss, liability or indebtedness of any such business if the management is selected or retained with reasonable care.

(4) To invest the monies and property of my estate, or any trust estate, in such stocks, bonds, securities, mortgages, notes, real estate, improvements thereon, and other property and investment media of every kind as my executors or trustees may deem best, without regard to any law now or hereafter in force limiting investments for executors, trustees or other fiduciaries.

(5) To compromise, settle and/or adjust any claim or demand by or against my estate or any trust estate and to agree to any rescission or modification of any contract or agreement affecting such estate or trust estate.

(6) To renew any indebtedness, as well as borrow money, and to secure the same by mortgaging, pledging, and/or conveying any property of my estate or any trust estate.

(7) To vote in person or by proxy any corporate stock or other security and to agree to or take any other action in regard to any reorganization, merger, consolidation, liquidation, bankruptcy or other procedure or proceeding affecting any stock, bond, note or other security.

(8) To register any stock, bond or other security in the name of a nominee, without the addition of words indicating that such security is held in a fiduciary capacity; but accurate records shall be maintained showing that such security is a trust asset and the executors or trustees shall be responsible for the acts of such nominee.

(9) In the distribution of my estate or any trust estate my executors and trustees are authorized to make the division in money or in kind, or partly in money and partly

in kind, and the division made by my executors or trustees, and the values established by them for such division, shall be binding and conclusive on all persons taking hereunder.

(10) Anything in this will to the contrary notwithstanding, if at any time my trustees are authorized to determine the amount of income or principal to be received by any individual who is then acting as co-trustee, or any lawful dependent of such co-trustee, such individual co-trustee shall take no part in the determination of the amount to be received by him or her, or his or her lawful dependents, but such determination shall be made exclusively by the other trustees. The purpose of this provision is to prevent any such individual from being taxed because of such power.

(11) Whenever my trustees are authorized or directed to make payments to a beneficiary my executors may, during the period of administration, make such payments directly to the beneficiary.

(12) I expressly waive compliance by the trustees under this my last will and testament with the provisions of Chapter 737, Florida Statutes, as such chapter now exists or may hereafter be amended, and also waive compliance by said trustees with any law requiring qualification, administration or accounting by such trustees to any court. However, my trustees shall render an annual statement to each beneficiary for whose primary benefit a trust is held hereunder.

(13) No compensation shall be paid to my wife or to any child of mine, or to any person having a present or a future contingent interest in my estate or any trust estate hereunder for serving as an executor or trustee, but each such person shall be entitled to reimbursement for reasonable and proper expenses incurred in the performance of any duties hereunder. The compensation of any other person serving as an

** OFFICIAL RECORDS **
BK 1972 PG 1562

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executor or trustee shall be fixed by agreement between such person and my remaining executors or trustees, and such person shall also be entitled to reimbursement for reasonable and proper expenses incurred in the performance of any duties hereunder. The fees and compensation of any corporate executor or trustee shall not exceed its normal and customary charges for similar services.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this 4 day of December, 1964.

C. L. Kelly (SEAL)

The foregoing instrument was on this the ____ day of ______________, 1964, signed, sealed, published and declared by the said C. L. KELLY in our presence as and for his last will and testament, and we and each of us in his presence and at his special request, and in the presence of each other, hereunto subscribe our names as witnesses to the same.

____________________ of Pensacola, Florida

____________________ of Pensacola, Florida

Howard F. McGee of Pensacola, Florida

CERTIFIED A TRUE AND CORRECT COPY
CLERK CIRCUIT COURT
NEWMAN C. BRACKIN
BY Brenda Bailey
DEPUTY CLERK
DATE 12/29/95

CERTIFIED A TRUE AND CORRECT COPY
CLERK CIRCUIT COURT
NEWMAN C. BRACKIN
BY Sharon Anders
DEPUTY CLERK

CLERK CIRCUIT COURT OKALOOSA COUNTY FLORIDA

FILE # 1457256 RCD: Jan 09 1996 @ 12:37PM
Newman C. Brackin, Clerk, Okaloosa Cnty Fl

This instrument prepared by
and please return to: H. BART FLEET
1283 N Eglin Pkwy.
Shalimar, FL 32579

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AFFIDAVIT OF SUCCESSOR TRUSTEE ACCEPTANCE

STATE OF FLORIDA
COUNTY OF OKALOOSA

BEFORE ME, the undersigned authority, personally appeared Larry Reeder, who being first duly sworn deposes and says:

1. That composite Exhibit "A" attached hereto is a true and correct copy of the Joint Stipulated Order dated January 11, 2011, setting forth and naming him as successor trustee.

2. That Joe A. Erhart, Jarrett G. Melvin and Kent E. Amos, hereby resign as trustees, a copy of Joint Motion for Stipulated Order being attached hereto as Exhibit "B".

3. That he hereby accepts appointment as successor trustee and agrees to be bound by the terms and conditions as set forth in the Joint Stipulated dated January 11, 2011.

Witnesses:

LARRY REEDER

The foregoing Affidavit of Successor Trustee Acceptance was sworn to and subscribed before me this 11th day of January, 2011 by ________, who produced ________ as identification ~~or is personally known to me.~~

Notary Public
My Commission Expires:

T:\Client Files\R\Kelly Coleman Trust\Affidavit of Trustee.wpd

First American Title™

Commitment for Title Insurance

ISSUED BY

First American Title Insurance Company

Schedule A

File No.: 108855

1. Effective Date: March 30, 2017 at 8:00 a.m.
2. Policy or Policies to be issued: Proposed Amount of Insurance:

   a. Owner's Policy (Identify form used)

   ALTA Owner's Policy of Title Insurance (6-17-06) (with Florida modifications) $1,000.00

   Proposed Insured: To Be Determined

   b. Loan Policy (Identify form used) $1,000.00

   ALTA Loan Policy of Title Insurance (6-17-06) (with Florida modifications)

   Proposed Insured: To Be Determined, its successors and/or assigns as their interests may appear as defined in the Conditions of this policy.

   c. ALTA Loan Policy of Title Insurance (6-17-06) (with Florida modifications) (Identify form used) $

   Proposed Insured: Premium: $Total Premium

3. The estate or interest in the land described or referred to in this Commitment is Fee Simple.
4. Title to the Fee Simple estate or interest in the land is at the Effective Date vested in: The current named Successor Trustee(s) of the Coleman L. Kelly Testamentary Trust
5. The land referred to in this Commitment is described as follows: See Schedule A (continued)

Fleet & Smith Law, P.A.

By: ______________________________

Authorized Countersignature

(This Schedule A valid only when Schedule BI & BII are attached)

Schedule A (Continued)

File No.: 108855

The land referred to herein below is situated in the County of Okaloosa, State of Florida, and is described as follows:

THE NORTH 30 FEET OF LOT 15 AND ALL OF LOT 16 AND 17, BLOCK I, KELLY HOMES SUBDIVISION, OKALOOSA COUNTY FLORIDA, AS PER PLAT RECORDED IN PLAT BOOK 3, PAGE 32 OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA.

Schedule BI

File No.: 108855

REQUIREMENTS

The following requirements must be met:

1. Pay and/or disburse the agreed amounts for the interest in the land and/or the mortgage to be insured.

2. Pay us the premiums, fees and charges for the policy.

3. Pay all taxes and/or assessments, levied and assessed against the land which are due and payable.

4. The following documents, satisfactory to us, creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded:

   a. Warranty Deed executed by the current named Successor Trustee(s) of the Coleman L. Kelly Testamentary Trust, conveying the property described in Schedule A to To Be Determined.

   b. Mortgage from To Be Determined, as a single person or persons, joined by spouse (or their respective spouses), if married, to To Be Determined, encumbering the property described in Schedule "A" in the principal sum of $1,000.00. In the event that the property being encumbered is not the homestead of the mortgagor(s), the following statement should be set forth on said mortgage in lieu of a spouse's signature:

      The land described herein is not the homestead of the mortgagor(s), and neither the mortgagor(s) nor the mortgagor(s) spouse, nor anyone for whose support the mortgagor(s) is responsible, resides on or adjacent to said land.

5. Record Certification of Trust pursuant to Section 736.1017, F.S., executed by the Trustee or, if more than one Trustee, each Co-Trustee of the Coleman L. Kelly Testamentary Trust. (Company's FATCO Form CT-1 or, if more than one Trustee, FATCO Form CT-2, or similar format.)

6. Partial Release of judgment in favor of Hancock Bank against Larry E. Reeder, as successor interim trustee under the Coleman L. Kelly Testamentary Trust, dated December 18, 1997; Regatta Bay Commons Association, Inc.; Regatta Bay Owner's Association, Inc., Harbor View Properties of Destin, Inc. f/k/a Legendary Development Corporation; Legendary Realty, Inc, Transaction One,

LLC; Charles Schwab & Co. Inc.; TEKLINKS, Inc.; Robert G. Patrick, CPA, P.A.; and Cisco Systems, Inc., filed 09/20/2011, recorded in Book 3001, Page 4739.

7. Partial Release of judgment in favor of Hancock Bank against Larry E. Reeder, as successor interim trustee under the Coleman L. Kelly Testamentary Trust; Regatta Bay Manor, LTD.; EMCO I Limited Partnership; and SW Emerald Corner, LTD, filed 12/14/2011, recorded in Book 3013, Page 3005.

8. Partial Release of judgment in favor of Hancock Bank against Larry E. Reeder, as successor interim trustee under the Coleman L. Kelly Testamentary Trust; Regatta Bay Company; and Regatta Bay Owners Association, Inc., filed 01/19/2012, recorded in Book 3017, Page 4538.

9. NOTE: Because the land appears of record to be unencumbered, the Company requires that the affirmative declarations of the title affidavit, which includes a representation that there are no mortgages or other liens against the land whether recorded or not recorded, be properly emphasized before execution. Just as in all transactions, every seller/borrower must be encouraged to disclose any off record encumbrance, lien, or other matter that may affect title before the Company is willing to rely upon the representations contained within the title affidavit.

10. Note: The following is for informational purposes only and is given without assurance or guarantee: 2016 taxes show PAID. The gross amount is $864.78 for Tax Identification No. 00-2S-22-1350-000I-0000.

11. Satisfactory verification from appropriate governmental authorities that any and all unrecorded Special Taxing District Liens, City and County Special Assessment Liens, MSBU Assessment Liens, Impact Fees, and Water, Sewer and Trash Removal Charges, have been paid.

12. The name or names of the proposed insured(s) and/or the amount of requested insurance under the Owner's/Loan Policy to be issued must be furnished and this Commitment is subject to such further exceptions and/or requirements as may then be deemed necessary.

13. If the amount of insurance to be issued exceeds the authority of the agent under the existing Agency Agreement with the Company, the Company requires that the agent obtain specific underwriting approval from First American.

14. The following note is incorporated herein for information purposes only and is not part of the exceptions from coverage (Schedule B-II of the commitment and Schedule B-I of the policy):

    The following instrument affecting said land is the last conveyancing instrument filed for record within 24 months of the effective date of this commitment:
    None

Schedule BII

File No.: 108855

EXCEPTIONS

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records or attaching subsequent to the Effective Date but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

2. Any rights, interests or claims of parties in possession of the land not shown by the public records.

3. Any encroachment, encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the land.

4. Any lien, for services, labor or materials in connection with improvements, repairs or renovations provided before, on, or after Date of Policy, not shown by the public records.

5. Any dispute as to the boundaries caused by a change in the location of any water body within or adjacent to the land prior to Date of Policy, and any adverse claim to all or part of the land that is, at Date of Policy, or was previously under water.

6. Taxes or special assessments not shown as liens in the public records or in the records of the local tax collecting authority, at Date of Policy.

7. Any minerals or mineral rights leased, granted or retained by current or prior owners.

8. Taxes and assessments for the year 2017 and subsequent years, which are not yet due and payable.

9. NOTES FOR STANDARD EXCEPTIONS: Standard Exceptions for parties in possession, for mechanics liens, and for taxes or special assessments not shown as liens in the public records shall be deleted upon receipt of an acceptable Non-Lien and Possession Affidavit establishing who is in possession of the lands, that there are no liens or encumbrances upon the lands other than as set forth in the Commitment, that no improvements to the lands have been made within the past 90 days or are contemplated to be made before closing that will not be paid in

full, and that there are no unrecorded taxes or assessments that are not shown as existing liens in the public records. Any Policies issued hereunder may be subject to a Special Exception for matters disclosed by said affidavit.

Standard Exception(s) for questions of survey may be deleted upon receipt and review of a properly certified Survey meeting the Florida Minimum Technical Standards for all land surveys dated no more than 90 days prior to closing or such other proof as may be acceptable to the Company. Any Policies issued hereunder may be subject to a Special Exception for matters disclosed by said survey or proof.

10. Restrictions, dedications, conditions, reservations, easements and other matters shown on the plat of KELLY HOMES SUBDIVISION, as recorded in Plat Book 3, Page(s) 32, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).

11. Road Right of Way recorded in Book 591, Page 854.

12. Easement recorded in Book 591, Page 847.

13. Oil, gas and mineral reservations contained in instrument recorded in Book 824, Page 622 and Book 1608, Page 888.

Notices – Where Sent

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company, Attention: Claims Department, 1 First American Way, Santa Ana, CA 92707.

Service, Quality and Availability

First American Title Insurance Company cares about its customers and their ability to obtain information and service on a convenient, timely and accurate basis. A qualified staff of service representatives is dedicated to serving you. A toll-free number is available for your convenience in obtaining information about coverage and to provide assistance in resolving complaints at 1-800-854-3643. Office hours are from 8:30 a.m. through 5:30 p.m. PST Monday through Friday.

First American Title™

REISSUE CREDIT
NOTICE

Issued by

First American Title Insurance Company

YOU MAY BE ENTITLED TO A REDUCED PREMIUM FOR TITLE INSURANCE IF THIS OFFICE IS PROVIDED WITH A PRIOR OWNER'S POLICY INSURING THE SELLER OR MORTGAGOR IN THE CURRENT TRANSACTION.

The purpose of this letter is to provide you with important information regarding the title insurance premium that has been or will be charged in connection with this transaction.

Eligibility for a discounted title insurance premium will depend on:

REFINANCE TRANSACTIONS:
To qualify for a reduced premium for title insurance you must provide our office with a copy of your prior owner's policy of title insurance insuring your title to the above-referenced property.

SALES TRANSACTIONS:
To qualify for a reduced premium for title insurance you must provide our office with a copy of your (or your seller's) prior owner's policy of title insurance insuring your title to the above referenced property. The effective date of the prior owner's policy must be less than three years old or the property insured by the policy must be unimproved (except roads, bridges, drainage facilities and utilities are not considered improvements for this purpose).

To qualify for the reduced rate, you or your representative may hand deliver, mail or fax a copy of the prior owner's policy of title insurance to your First American issuing agent conducting your settlement prior to closing, although we will accept the prior policy up to 5 working days after the closing date of your transaction.

Privacy Information

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Information Obtained Through Our Web Site

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet.
In general, you can visit First American or its affiliates' Web sites on the World Wide Web without telling us who you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site.
There are times, however, when we may need information from you, such as your name and email address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

Business Relationships

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

Cookies

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive.
FirstAm.com uses stored cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

Fair Information Values

Fairness We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.
Public Record We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our economy.
Use We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.
Accuracy We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.
Education We endeavor to educate the users of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.
Security We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.