



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 8/18/09

SUBJECT: PROPOSED LICENSE AGREEMENT – LOT 53, SLEEPY HOLLOW SUBDIVISION UNIT I (701 PRISCILLA COURT; TAX PARCEL NO. 09-16-33-04-01-0530)

DEPARTMENT: COMMUNITY DEVELOPMENT

RECOMMENDED MOTION

To approve and to authorize the Mayor and City Manager to act on behalf of the City to execute a License Agreement for Lot 53 of the Sleepy Hollow Subdivision Unit I.

SUMMARY

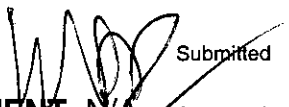
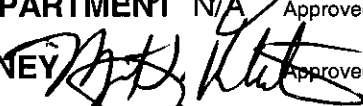

Alfredo Rodriguez, the owner of the subject property, has applied for a Right-of-Way License Agreement from the Department of Community Development. The application was made in connection with a proposal to place decorative pavement over the driveway apron and street sidewalk between the limits of the apron.

The License Agreement Application has been reviewed for completeness and accuracy. The area has been inspected with respect to City Codes and possible effects to adjacent properties resulting in no outstanding concerns. The proposal has been determined to be acceptable to the Department of Community Development.

The property owner has been advised of applicable requirements and advised of the License Agreement and permit review process. This agreement has the effect of requiring the property owner to maintain and, if necessary, replace these improvements with the accepted standard construction requirements of the City. Further, should the property owner fail to abide by this requirement, it provides the City with the ability to take necessary corrective actions at the expense of the property owner.

ATTACHMENTS: Ordinance Resolution Budget Resolution

Other Support Documents/Contracts Available for Review in Community Development

DEPARTMENT HEAD		Submitted	Date 8/11/09
FINANCE DEPARTMENT	N/A	Approved as to Budget Requirements	Date
CITY ATTORNEY		Approved as to Form and Legality	Date 8/11/09
CITY MANAGER		Approved Agenda Item For:	8/18/09

COUNCIL ACTION: Approved as Recommended Disapproved

Tabled Indefinitely Continued to Date Certain Approved with Modification

Return Recorded Document to:
Attention: Records Clerk
1000 City Center Circle
Port Orange FL 32129

This Document Prepared by:
Margaret Roberts
City Attorney
1000 City Center Circle
Port Orange, FL 32129

This Space Reserved for Recording Data

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made and entered into this ____ day of _____, 2009, by and between the City of Port Orange, Florida, a chartered municipal corporation ("City"), 1000 City Center Circle, Port Orange, FL 32129-4144, "Licensor;" and Alfredo Rodriguez and Beatriz C. Rodriguez, husband and wife, mailing address: 701 Priscilla Court, Port Orange, FL 32127, ("Licensees").

PREMISES

WHEREAS, the City Council of the City of Port Orange has adopted Resolution No. 95-64, which establishes City policy regarding improvements within City rights-of-way by private citizens, homeowners associations, and developers; and

WHEREAS, the City and the Licensees have agreed on an improvement plan, as described on **Exhibit "A,"** attached hereto and incorporated herein by reference; and

WHEREAS, the Licensees hereby warrant to the City that the Licensees have full power and authority to enter into this Agreement, and that the Licensees' agreement to be bound by the terms and conditions hereof is in compliance with and shall remain in compliance with any declaration of covenants and restrictions, as may exist and as may be amended from time to time; and

WHEREAS, the improvement plan encompasses part or all of a City right-of-way known as Priscilla Court, a fifty-foot wide City right-of-way, as depicted in **Exhibit "B,"** attached hereto and incorporated herein by reference; and

WHEREAS, the Licensees are the owners of real property located in the City of Port Orange subdivision, recorded in Map Book 34, Page 130, Public Records of Volusia County, Florida, hereinafter the "Subject Property", described on **Exhibit "C"**.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties agree as follows:

1. The City hereby grants to the Licensees a license to enter upon and to utilize the right-of-way known as Priscilla Court located and situated in Port Orange, Volusia County, Florida, adjacent to the Subject Property, as depicted on **Exhibit "B"** for the purpose of placing decorative pavement over the driveway apron and street sidewalk between the limits of the apron of the subject property (hereinafter "improvements") approved by the City as depicted on **Exhibit "A."**

2. All improvements, uses and activities shall comply with the policies established in Resolution No. 95-64 and with the terms and conditions of this License Agreement and exhibits hereto.

3. The Licensees jointly and severally assume all responsibility for the maintenance and, if necessary, replacement of all improvements depicted on **Exhibit "A."**

4. The Licensees agree, upon thirty (30) days written notice from the City, to maintain, repair or replace all improvements which require maintenance, repair or replacement. If no remedy is made within the specified time, the City reserves the right to remove all improvements without further notice to the Licensees and at the sole cost and expense of the Licensees.

5. The City reserves the right to request removal of the improvements depicted on **Exhibit "A"** in the event that the City needs to utilize the property for City purposes, such as road, bike path, public utility installation or maintenance, drainage improvement or other public uses. The City shall endeavor to give at least thirty (30) days prior notice to the Licensee. If the improvements are not removed within the time specified by the City, or in cases where emergency work by the City becomes necessary the City may remove or cause to be removed the improvements without any liability to the City or obligation to replace same upon completion of the City project.

6. The Licensees agree that no improvements shall be made except as depicted on **Exhibit "A"** or subsequently approved amendments thereto. However, improvements may be maintained, repaired, replaced and removed.

7. The license granted by this License Agreement shall be effective during the period from the date of execution by both parties until terminated in accordance with the provisions specified herein.

8. Any party may terminate this License Agreement upon giving thirty (30) days prior written notice to the other party, after which time this License Agreement shall be of no force and effect. Upon termination by any party, the City shall have the option of requiring all improvements to be removed or abandoned in place by the Licensees or maintained in their present state by the City and without further right or obligation by the Licensees. If the Licensees terminate this Agreement or otherwise fails to remain in good standing and in

compliance with this Agreement, the City may maintain and repair the improvements and the City shall not be obligated to either maintain or repair the improvements and the City shall not be liable for either undertaking or failing to maintain or repair the improvements. All costs and expenses of the City resulting from maintenance or repair of the improvements, including administrative expenses, attorney's fees and costs, and expenses incurred in establishing and operating a special district, shall be chargeable to and assessed by the City jointly and severally against all lots located within the development, subdivision or project located within the property described in **Exhibit "C"**. The City shall have the right to enforce collection of assessments for such costs and expenses by a lien jointly and severally against the lots, which lien shall include interest at the then highest lawful rate of interest and attorneys' fees and costs for collection thereof. The City shall have the right to establish a special district and to utilize any methods or procedures provided by law or ordinance for imposition and collection of the assessments described herein.

9. This license is given to the Licensees as an accommodation to the Licensees without any consideration. The Licensees acknowledge the legal title of the City to the right-of-way property described herein and agree never to deny such title or to claim title in the Licensee's name.

10. The license is personal to the Licensees and shall not inure to the successors or assigns of the Licensees. The rights, privileges and permission granted herein shall not be assignable by the Licensee in whole or in part. Upon the sale or transfer by the Licensee of title to the real property adjoining the right-of-way upon which the improvements are located, the City shall have the immediate right to remove the improvements for which this license is granted; subject, however, to application made by the successor property owner for and due diligence in obtaining approval by the City of a new license agreement for the existing improvements to remain in the right-of-way.

11. The Licensees shall exercise the rights, privileges and permission granted herein at the Licensee's own risk. The Licensee shall not claim any damages from the City for any injuries or damages in connection with or on account of the exercise of such rights, privileges or permission, the condition of the City's property, or the use of the property. Further, the Licensees shall indemnify and hold harmless the City, its officers, employees and agents, from and against all claims, damages, losses and expenses, including reasonable attorneys' fees and costs, arising out of, resulting from, or in any way connected with the condition of the City's property, the use of the property, the exercise of the license granted by this License Agreement, the failure on the part of the Licensees to comply with any of the provisions specified herein, or the City's removal of any improvements depicted in **Exhibit "A"** or otherwise permitted by this License Agreement. The City shall not be liable to the Licensees if for any reason the Licensees' use of the property is hindered or disturbed.

12. All notices required to be given by any party shall be in writing, addressed to all other parties, and delivered by certified mail, telegram or in person to: City Manager, City of Port Orange, 1000 City Center Circle, Port Orange, Florida 32129, for the City; and to Alfredo and Beatriz C. Rodriguez, 701 Priscilla Court, Port Orange, FL 32127, for the Licensees, or as otherwise designated in writing to all respective parties.

13. This Agreement shall be recorded in the Public Records of Volusia County, Florida. Upon execution of this Agreement, the Licensees agree to pay the City an amount equal to the applicable cost of recording this Agreement in the Public Records of Volusia County, Florida.

14. This License Agreement constitutes the entire agreement between the parties. There are no further or other agreements or understandings, written or oral, in effect between the parties, relating to the subject matter hereof. This License Agreement may be amended or modified only by an instrument of equal formality signed by the respective parties.

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement on the respective dates below.

WITNESSES AS TO BOTH SIGNATURES:

Printed Name: _____

Printed Name: _____

LICENSOR

CITY OF PORT ORANGE, FLORIDA
a chartered municipal corporation

By: _____
Allen Green, Mayor

Attest: _____
Kenneth W. Parker, City Manager

WITNESSES AS TO BOTH SIGNATURES:

Printed Name: _____

Printed Name: _____

LICENSEES:

Alfredo Rodriguez

Beatriz C. Rodriguez

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by Allen Green and Kenneth W. Parker, the Mayor and City Manager, respectively, duly authorized to execute the foregoing LICENSE AGREEMENT on behalf of the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation, and who are personally known to me, or have produced _____ as identification.

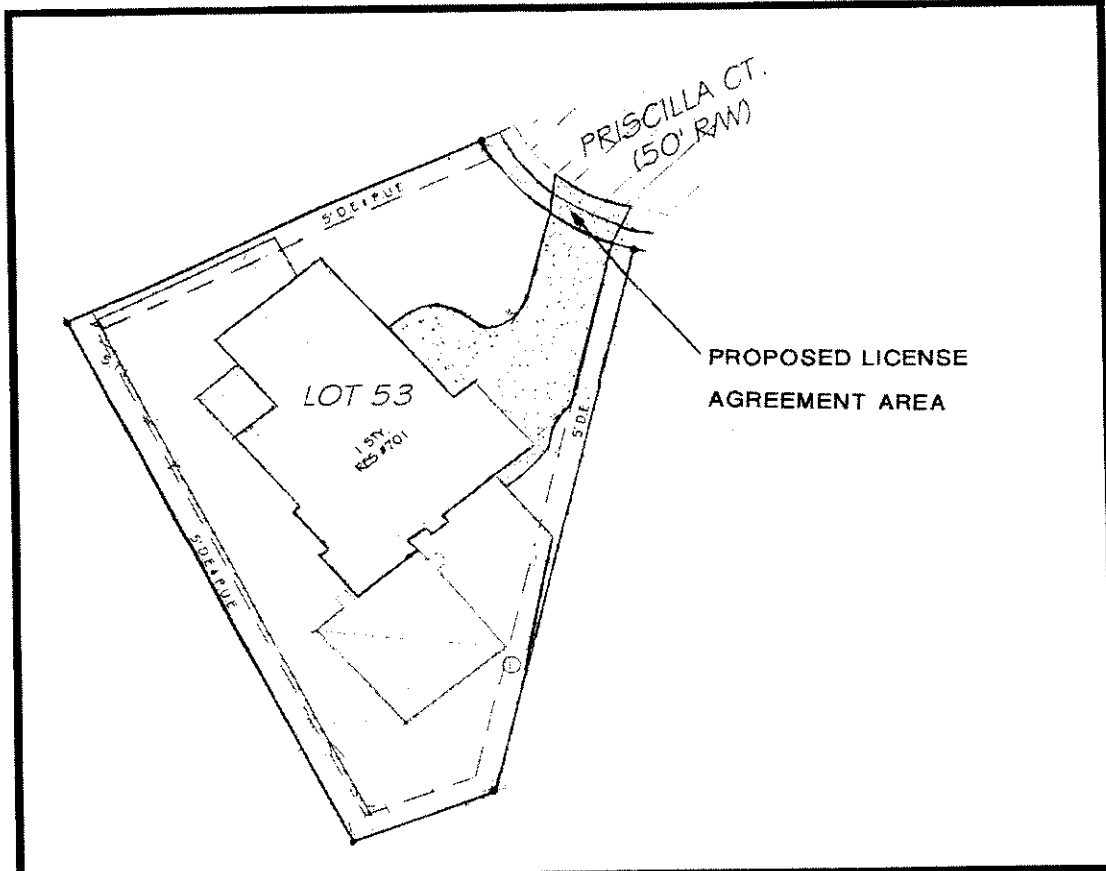
Notary Public, State of Florida at Large
Printed name, commission and expiration:

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by Alfredo Rodriguez and Beatriz C. Rodriguez, husband and wife,, duly authorized to execute the foregoing LICENSE AGREEMENT on behalf of the company, and who is/are personally known to me, or has/have produced the following as identification

Notary Public, State of Florida at Large
Printed name, commission and expiration:

EXHIBIT "A"



Application No.: 09-1928	Requested Action: To approve and authorize the execution of a right-of-way license agreement for decorative pavement to be placed over the driveway apron and street sidewalk between the limits of the apron of the subject lot.
Applicant: Alfredo Rodriguez, property owner	
Location: Lot 53, Sleepy Hollow Subdivision Unit I (701 Priscilla Court; Tax Parcel No. 09-16-33-04-01-0530)	


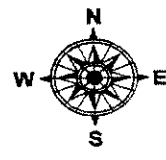
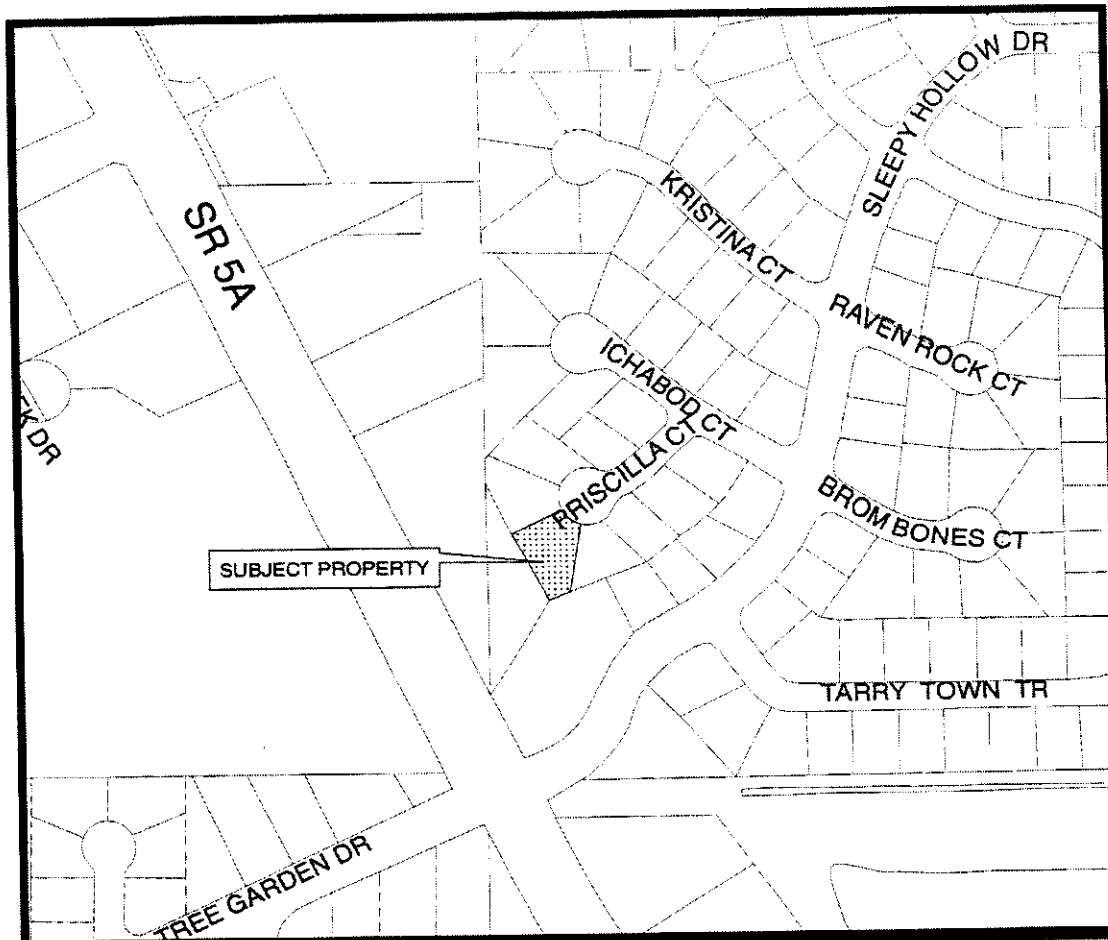
	<p>Location Map</p> <p>CITY OF PORT ORANGE</p> <p>DEPARTMENT OF COMMUNITY DEVELOPMENT</p>	
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EXHIBIT "B"



Application No.: 09-1928	Requested Action: To approve and authorize the execution of a right-of-way license agreement for decorative pavement to be placed over the driveway apron and street sidewalk between the limits of the apron of the subject lot.
Applicant: Alfredo Rodriguez, property owner	
Location: Lot 53, Sleepy Hollow Subdivision Unit I (701 Priscilla Court; Tax Parcel No. 09-16-33-04-01-0530)	

	<p>Location Map</p> <h1>CITY OF PORT ORANGE</h1> <p>DEPARTMENT OF COMMUNITY DEVELOPMENT</p>	
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EXHIBIT "C"

Lot 53, SLEEPY HOLLOW SUBDIVISION UNIT I, according to the Plat thereof as recorded in Map Book 34, page 130, Public Records of Volusia County, Florida.

06/17/2009 12:56 PM
Doc stamps 1257.90
(Transfer Amt \$ 179700)
Instrument# 2009-109401 # 1
Book: 6365
Page: 1083
Diane M. Natousek
Volusia County, Clerk of Court

179700

QUIT CLAIM DEED

THIS QUIT CLAIM DEED is executed this 27th day of May, 2009 by 86 United States of America
FEDERAL HOME LOAN MORTGAGE CORPORATION, a corporation existing under the laws of the State of
whose post office address is 6200 Jones Branch Drive, Falls Church, VA 22043-6666
first party to **5000 Plano Parkway**
FIFTH THIRD MORTGAGE COMPANY, a corporation existing under the laws of the state of Ohio **Carrollton, TX 75010**
and whose post office address is 5050 Kingsley Drive, Mailstop 1MOB10, Cincinnati, OH
second party:

(Whenever used herein the terms "first party" and "second party" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

WITNESSETH, THAT the said first party, for and in consideration of the sum of Ten Dollars (\$10.00), in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and Quit-claim unto the said second party forever, all the right, title, interest, claim and demand which said first party has in and to the following described lot, piece or parcel of land, situated, lying and being in the County of VOLUSIA, State of FL to wit:

Lot 53 of SLEEPY HOLLOW SUBDIVISION UNIT 1, according to the Plat thereof as recorded in Map Book 34, Page(s) 130, of the Public Records of Volusia County, Florida.

PARCEL ID# 09-16-33-04-01-0530

This is a Deed of Convenience, consideration less than \$100.00.

TO HAVE AND TO HOLD, the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.

IN WITNESS WHEREOF, The said first party has signed and sealed these presents the day and year first above written.

Signed, Sealed and delivered
in the presence of:

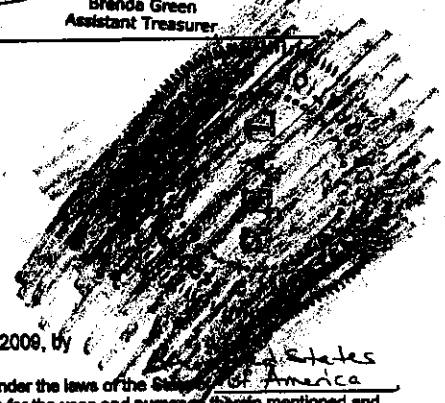
Catherine Stephens
Witness Catherine Stephens

FEDERAL HOME LOAN MORTGAGE CORPORATION

BY: Brenda Green
Brenda Green
Assistant Treasurer
AS: _____

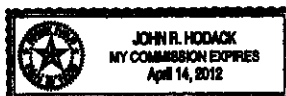
Magda Correa
Witness Magda Correa

State of Texas
County of Denton



The foregoing instrument was executed before me this 27th day of May, 2009, by 86 United States of America
FEDERAL HOME LOAN MORTGAGE CORPORATION,
BY Brenda Green AS Assistant Treasurer a corporation under the laws of the State of America
to me personally known and who signed the foregoing instrument as such officers for the uses and purposes therein mentioned and that they affixed thereto the official seal of said corporation, and that the said instrument is the act and deed of said Corporation.

John R. Hodack
NOTARY PUBLIC (signature)
Print Name: John R. Hodack
My Commission Expires: 4-14-12
Stamp/Seal:



Prepared by: Laurie Shores
Sunbelt Title Agency
28760 U.S. Hwy 19 North Suite 400
Clearwater, FL 33764
File Number: _____

QUITCLAIM.dot
REV. 03/2006
PL

RETURN TO:
Sunbelt Title Agency
809 South Orlando Avenue
Suite K-0
Winter Park, Florida 32789

Record and Return To:
Sunbelt Title Agency
809 S. Orlando Avenue,
Ste K-O
Winter Park, FL 32789

FILE NUMBER: [REDACTED]
LOAN NUMBER: [REDACTED]

* 145,000

SPECIAL WARRANTY DEED

Made this 3rd day of June, 2009, by FIFTH THIRD MORTGAGE COMPANY a Corporation existing under the laws of the State of OHIO whose address is: 5050 KINGSLEY DR., MAILSTOP 1MOB10, CINCINNATI, OH 45263 hereinafter called Grantor, and to: ALFREDO RODRIGUEZ AND BEATRIZ C. RODRIGUEZ, HUSBAND AND WIFE and whose mailing address is: 701 PRISCILLA COURT, PORT ORANGE, FL 32127, hereinafter called the Grantee.

Grantor, in consideration of TEN DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION paid by Grantee, grants and conveys to Grantee that property located in the County of VOLUSIA, State of Florida, described more particularly as follows:

Lot 53 of SLEEPY HOLLOW SUBDIVISION UNIT I, according to the Plat thereof as recorded in Map Book 34, Page(s) 130, of the Public Records of Volusia County, Florida.

PARCEL ID #: 09-16-33-04-01-0530

Subject to easements and restrictions of record.
Subject to the lien of the General Taxes for the year 2009 and thereafter.

Grantor covenants as follows:

1. That the premises are free from all encumbrances made by Grantor; and
2. That Grantor will warrant and defend the property hereby conveyed against the lawful claims and demands of all persons claiming by, through, or under him, but against none other.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be signed in its name by its proper officers, and its corporate seal to be affixed, attested by its secretary, the day and year above written.

Signed, Sealed and Delivered
In the Presence of:

[Signature]
S. J. Kadach-Blick
Printed Name:

[Signature]
Anta Montgomery
Printed Name:

FIFTH THIRD MORTGAGE COMPANY
[Signature]
PRINT NAME Cindy Routh, Default Manager
TITLE _____

STATE OF: OHIO
COUNTY OF: HAMILTON

I HEREBY CERTIFY that on this date this 3rd day of June, 2009 before me personally appeared Cindy Routh (Printed Name), Default Manager (Title) for FIFTH THIRD MORTGAGE COMPANY, a corporation under the laws of the State of OHIO, to me personally known or who has produced _____ as identification and who signed the foregoing instrument as such officers for the uses and purposes therein mentioned and that they affixed thereto the official seal of said corporation, and that the said instrument is the act and deed of said Corporation.

WITNESS my signature and official seal on this 3rd day of June, 2009 in the County of HAMILTON and the State of OHIO.

[Signature]
NOTARY PUBLIC (signature)
Print Name: Paul Behling
My Commission Expires: 11/12/13
Stamp/Seal:

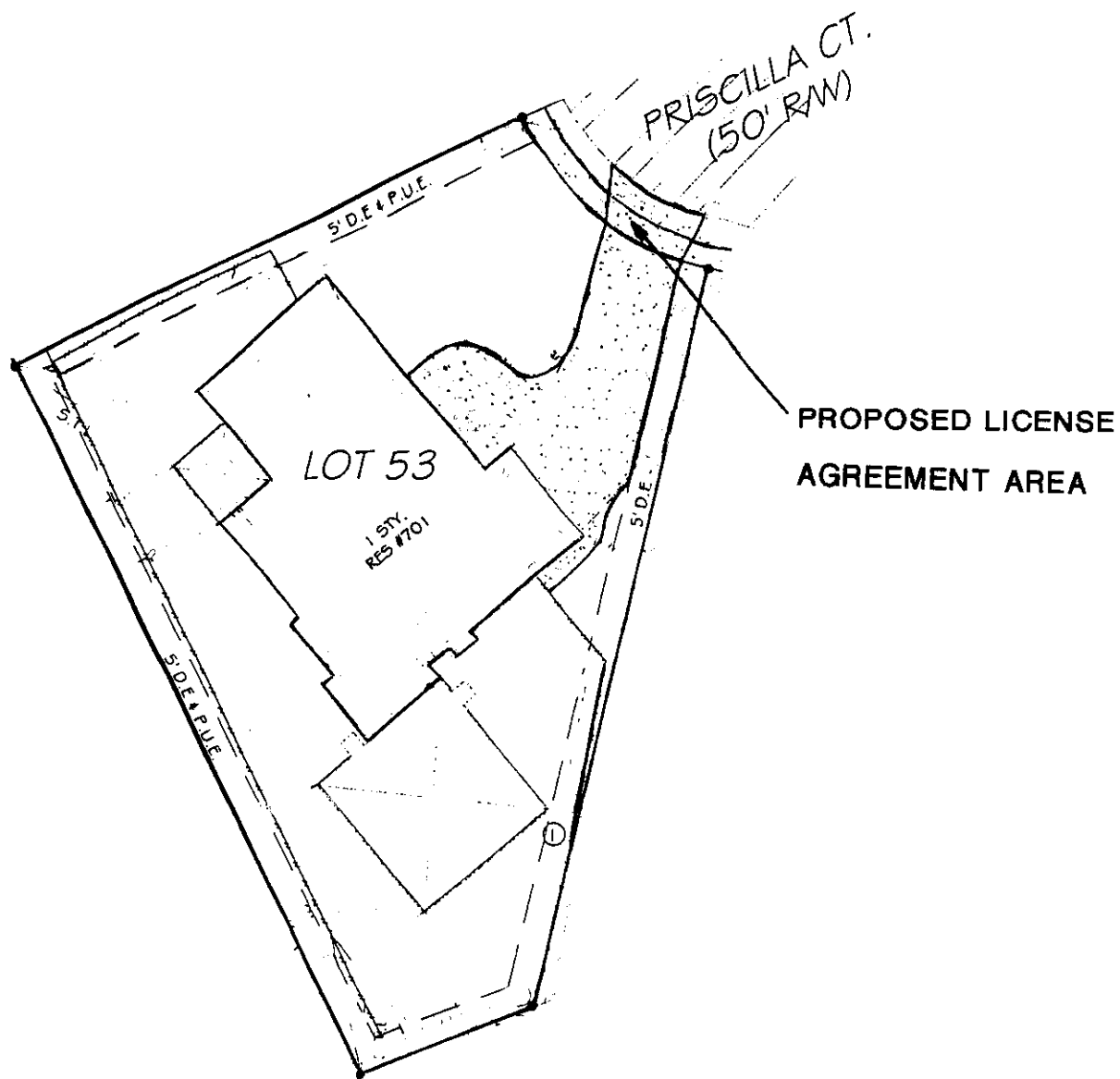


PAUL BEHLING
Notary Public, State of Ohio
My Commission Expires
November 12, 2013

Prepared by: Debra Faucher
Sunbelt Title Agency
26750 U.S. Hwy 19 North Suite 400
Clearwater, FL 33761

FILE NUMBER: _____

AK/A 701 PRISCILLA COURT, PORT ORANGE, FL 32127



Application No.: 09-1928

Applicant: Alfredo Rodriguez, property owner

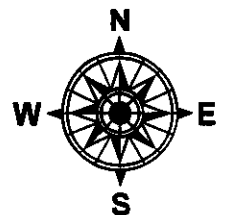
Location: Lot 53, Sleepy Hollow Subdivision
Unit 1 (701 Priscilla Court; Tax Parcel
No. 09-16-33-04-01-0530)

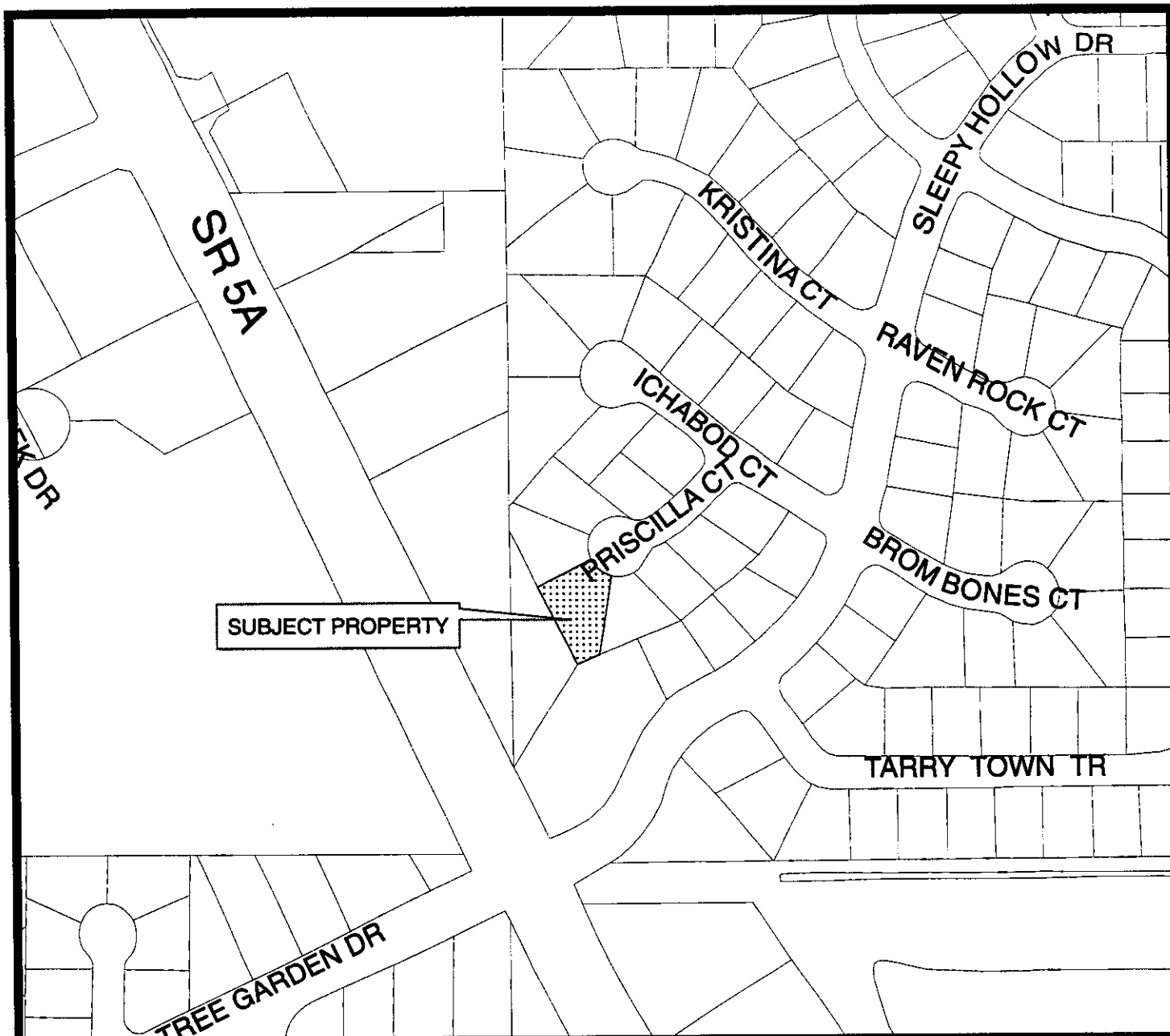
Requested Action: To approve and authorize the execution of a right-of-way license agreement for decorative pavement to be placed over the driveway apron and street sidewalk between the limits of the apron of the subject lot.



Location Map
CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT





Application No.: 09-1928

Applicant: Alfredo Rodriguez, property owner

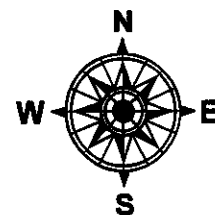
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No. 09-16-33-04-01-0530)

Requested Action: To approve and authorize the execution of a right-of-way license agreement for decorative pavement to be placed over the driveway apron and street sidewalk between the limits of the apron of the subject lot.



Location Map
CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT





CITY OF PORT ORANGE

Department of Community Development
Engineering Division

DATE APPLICATION RECEIVED

7/30/09
09-1925

1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129 (386) 506-5600 FAX: 386-506-5699
(www.port-orange.org)

APPLICATION FOR IMPROVEMENTS IN THE RIGHT-OF-WAY

Applicant/Owner's Name: ALFREDO RODRIGUEZ

Address: 1103 WILLOW WOOD DR. 32129 Phone: 386-322-8276

Moving in 8/5/09
Property Address/Location: 701 PRISCILLA CT PORT ORANGE, FL. 32127

Subdivision Name (If applicable): SLEEPY HOLLOW

Description of Request: STAMP CEMENT ON SIDEWALK & APRON

Speed Limit for Subject Road: _____ Type of Curbing: MIAMI

List Type and Size of any Proposed Shrubs: _____

List Type and Size of any Proposed Trees: _____

List Type and Size of Other Improvements (Decorative paving, irrigation, lighting, etc...): _____

DECORATIVE PAVING ON SIDE WALK AND APRON

REQUIRED ATTACHMENTS

- Deed
- A detailed dimensioned; sketch of the right-of-way with the appropriate landscaping and other improvement information clearly depicted
- Photos (optional)
- Letter of approval from the Homeowners Association (HOA) for residents who live in subdivisions with an HOA. *HOA not able to issue letter per Applicant*
- Notarized and completed License Agreement
- Other documentation (as requested by the City)
- Processing fee (\$75)

PLEASE NOTE: All Utilities Must Be Located Prior To Planting. Trees Can Not Be Planted Under Overhead Lines. The City Reserves The Right To Remove Or Cause To Remove The Above Listed Improvements Without Obligation To Replace The Listed Improvements.

REVISED 08/08

