6.3
PUBLIC HEARING

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director

PREPARED BY: Daniel J. Stallone, Esq., Code Compliance Official

SUBJECT: Application for Existing Nonconforming Vehicular Accessway

AFFECTED DISTRICT: 3

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA PERTAINING TO THE SUBJECT OF WHETHER TO ALLOW THE CONTINUATION OF AN EXISTING NONCONFORMING VEHICULAR ACCESSWAY IN ACCORDANCE WITH THE PROCEDURES AND REQUIREMENTS CONTAINED IN SECTION 12-292(D), TOWN OF DAVIE CODE OF ORDINANCES; DESCRIBING THE LAND AFFECTED AS ALL OF TRACTS 55 AND 56, IN SECTION 11, TOWNSHIP 50 SOUTH, RANGE 40 EAST, ACCORDING TO THE FLORIDA FRUITLANDS COMPANY SUBDIVISION NO. 1, RECORDED IN PLAT BOOK 2, PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID LANDS LYING AND SITUATED IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA; THE EXISTING NONCONFORMING VEHICULAR ACCESSWAY BEING GENERALLY DESCRIBED AS THE 12400 THROUGH 12700 BLOCK OF SW 13TH STREET IN DAVIE, BROWARD COUNTY, FLORIDA; CONSIDERING THE APPROVAL IN CONNECTION THEREWITH OF A NON-EXCLUSIVE EASEMENT TO THE TOWN OF DAVIE FOR GOVERNMENTAL SERVICES AND A NON-EXCLUSIVE INGRESS/EGRESS LICENSE AND COVENANT TO CONVEY TO TOWN OF DAVIE; MAKING OTHER APPROPRIATE CONDITIONS IN CONNECTION WITH CONSIDERATION OF THIS MATTER; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

REPORT IN BRIEF: The Town of Davie Code of Ordinances was recently revised to include Ordinance No. 2007-28 whereby a procedure was defined for use by citizens who desire to obtain town approval for existing nonconforming vehicular accessways. The Development Services Department staff is in receipt of an application package submitted on behalf of the applicant, Rodriguez Family Land Holdings, Inc., by Mr. Donald J. Lunny, Esq. In respect thereof, the "Application for Approval of an Existing Nonconforming Vehicular Accessway" contains the applicable documents as required

under Town code section 12-292 (D) for the purpose of review in obtaining such an approval.

CRITERIA FOR REVIEW: The attached town staff reports were completed as part of the pre-approval safety inspections required under the applicable code. The predominant concerns exhibited by the staff as related to their safety considerations include the following:
1. Provision of a turnout (i.e. T-turn, three point turn) with dimensions as found under 12-292 which requires that a ten (10) feet by thirty (30) feet portion of pavement be provided; additionally, the appropriate Fire Department standard dimensions for the three-point turn / turnout may be applicable;
2. Lack of existing fire hydrants in the vicinity of this existing nonconforming vehicular accessway;
3. Lack of suitable right-of-way to safely pull aside a vehicle from approaching traffic vehicles due to narrowness of existing nonconforming vehicular accessway.

DRAFT ORDINANCE

As per code section 12-292(D)(7), all applicable staff recommendations, conditions and requirements may be included in a final approved Town Council ordinance.

TOWN STAFF (DRC) REPORTS

Engineering Division Report (Copy Attached);
Fire Department Comments (Copy Attached);
Public Works Department Comments; PW Director has concerns related to the nonconforming nature of "road" and wants conditions incorporated into approval that "road" conformity with Town codes be achieved prior to Town's ownership or acceptance of the property;

PREVIOUS ACTIONS: The petitioner requested item to be tabled to the November 27, 2007 Council meeting. Item tabled to the December 5, 2007 Town Council meeting.

CONCURRENCES:

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): The Application is substantially complete and suitable for transmittal to the Town Council subject to the following considerations:

- Review and disposition of Safety criteria, including but not limited to provision of turnout, fire hydrant(s), and stabilized right-of-way for passing vehicles;

- Town attorney approval of the legal sufficiency of the following documents, including but not limited to the non-exclusive easement, non-exclusive ingress / egress license, deed for land parcel identified as No. 10011-01-05000, and attorney's title insurance fund document.

Attachment(s):
Ordinance; Rodriguez Family Holdings Inc., composite of documents and relevant information;
Engineering, Fire and Public Works (D.R.C.) comment sheets.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA PERTAINING TO THE SUBJECT OF WHETHER TO ALLOW THE CONTINUATION OF AN EXISTING NONCONFORMING VEHICULAR ACCESSWAY IN ACCORDANCE WITH THE PROCEDURES AND REQUIREMENTS CONTAINED IN SECTION 12-292(D), TOWN OF DAVIE CODE OF ORDINANCES; DESCRIBING THE LAND AFFECTED AS ALL OF TRACTS 55 AND 56, IN SECTION 11, TOWNSHIP 50 SOUTH, RANGE 40 EAST, ACCORDING TO THE FLORIDA FRUITLANDS COMPANY SUBDIVISION NO. 1, RECORDED IN PLAT BOOK 2, PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID LANDS LYING AND SITUATED IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA; THE EXISTING NONCONFORMING VEHICULAR ACCESSWAY BEING GENERALLY DESCRIBED AS THE 12400 THROUGH 12700 BLOCK OF SW 13TH STREET IN DAVIE, BROWARD COUNTY, FLORIDA; CONSIDERING THE APPROVAL IN CONNECTION THEREWITH OF A NON-EXCLUSIVE EASEMENT TO THE TOWN OF DAVIE FOR GOVERNMENTAL SERVICES AND A NON-EXCLUSIVE INGRESS/EGRESS LICENSE AND COVENANT TO CONVEY TO TOWN OF DAVIE; MAKING OTHER APPROPRIATE CONDITIONS IN CONNECTION WITH CONSIDERATION OF THIS MATTER; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

WHEREAS, the Town Council of the Town of Davie deems it appropriate to provide a procedure whereby existing nonconforming vehicular accessways may be used for such public or private purposes necessary until compliance with applicable Town standards shall be achieved and to apply certain restrictions upon such existing nonconforming vehicular accessways; and

WHEREAS, the Town Council has expressed its intent through the enactment of Ordinance No. 2007-28 whereby measures have been taken to preserve and maintain the unique lifestyle enjoyed by the residents of Davie.

WHEREAS, the applicant, Rodriguez Family Holdings Inc., has petitioned to the Town Council for the approval necessary to permit the continuing use of an “existing nonconforming vehicular accessway” according to conditions and requirements included hereinafter.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are incorporated herein by this reference.

SECTION 2. Chapter 12 entitled “Land Development Code” of the Code of Ordinances of the Town of Davie, Section, 12-292 (D); created the procedure for an “existing nonconforming vehicular accessway.”

As Section, 12-292 (D) provides an applicant with the procedures to gain Town Council approval for an “existing nonconforming vehicular accessway” by meeting the applicable prerequisites and conditions imposed thereby.

The applicant, Rodriguez Family Land Holdings, Inc. has submitted the requisite information and documents in order for the Town Council to evaluate the effects of the relief found within this code section upon the health, safety and welfare of all residents affected thereby.

In respect thereof, the applicant shall comply with all conditions incorporated into the Town Council approval as so noted herein:

CONDITIONS OF APPROVAL: To be included herein

SECTION 3. All Ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 5. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____DAY OF _____, 2007.

PASSED ON SECOND READING THIS _____DAY OF_____. 2007.

_____

MAYOR/COUNCILMEMBER

Attest:

_____

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2007.

D.R.C. COMMENTS

Please find the following town staff (DRC) reports:

1. Engineering Division
2. Fire Department
3. Public Works

1. ENGINEERING DIVISION

Town Engineer Le Nguyen:

Pre-approval Engineering Report

For SW 13th Street between 12400 Block and 12700 Block in Davie, Florida

In compliance with the town's land development code, section 12-292 (D) the following Engineering Analysis shall be performed by the Town Engineering Division.

1. A pre-approval engineering inspection shall be required to be performed by the Town Engineer or its designee.
2. An alternative route analysis may be conducted by the Town Engineer

Land Description:

A 20 ft strip of land is owned by Rodriguez Family Holdings along SW 13th Street from existing culvert crossing to their eastern property line. A small portion of that strip, approximately 250 ft from the Flamingo Road's west right-of-way line is only 10 ft in width.

1. Pre-approval engineering inspection

The Town Engineering Staff have performed a site inspection on Tuesday October 23, 2007.

1.1. Existing Site Conditions.

a) Currently the only available access to Rodriguez's residence is SW 13th Street which connects to Flamingo Rd. There are 11 residential homes and two vacant lots that have been served by this access-way to their properties through a 13 ft wide culvert crossing at the Flamingo Road and SW 13th Street intersection. Recently, approximately three inches loosely compacted asphalt aggregates have

been laid on top of the existing access-way. The width of the asphalt access-way varies from 10 feet to 12 feet.

b) The new asphalt aggregates may support localized traffic. The composition of the sub- base of the access-way is unknown. The current roadway conditions limit two vehicles from safely traversing along the same paved surface. One vehicle is required to pull off the access way while the other vehicle passes. In some of the areas there is no safe area to pull aside. The culvert to access SW 13th Street only allows one vehicle to enter/exit site at any give time. This causes a circulation issue along Flamingo Road, if entering vehicle must stop to allow existing vehicle to exit through the shared culvert crossing.
The current access-way does not have a storm sewer system in place. The adjacent properties along the access way do not have a defined swale system. The storm water runoff sheet flows from access-way onto adjacent properties. The existing access-way does not meet the town roadway engineering standards.

c) Referenced Code of Ordinances:

Town of Davie Land Development Code, Section 12-292 specifies the standard design of a roadway.

1.2. Emergency Response Assessment.

There is not a turn around area for fire trucks. Two speed bumps have been also installed with new asphalt aggregate course on the existing access-way. There is no fire hydrant located within development.

2. FIRE DEPARTMENT

Fire Chief Joe Montopoli:

"This street presents a problem from [a] fire and rescue perspective. Even if private it needs to be wider and have a three point turn somewhere as well as a water source…we need to start correcting these problems" (E-mail message received 10-26-07).

Chief Fire Marshall Tony Precanico:

As I turned west off Flamingo Rd. there are two street signs, one indicating SW 13th Street and another indicating Dead End. I then crossed a bridge onto a non paved road. The width of the road is enough for one vehicle. The road then expands to possibly accommodate two vehicles, but does not meet the 20 ft. width requirement. As you continue west on 13th street, when you get to 12500 address, the width of the road goes back to one vehicle. The road then dead ends at the 12600 address. There is no vehicle turn-around consistent with the Code. There is also a connecting road from SW 13th Street to SW 14th Street; which also dead ends. Again no turn-around consistent with the Code. There are no hydrants or wells on either street. There are a total of 9 single family

homes located in this area. I talked to two residents, one on SW 13th Street and one on SW 14th Street. They tell me that the owner of the property located at the 12600 address owns SW 13th Street and there is someone else (that does not live on either street) that owns SW 14th Street. The home owners said they have been maintaining the roads for the last 30 years (E-mail message to Fire Chief Montopoli dated 10-25-07, forwarded to Code Compliance on 10-26-07).

3. PUBLIC WORKS DEPARTMENT

Public Works Director Manny Diez:

Director has concerns related to the nonconforming nature of “road” and wants condition(s) incorporated into any approval that the “road’s” conformity with Town codes should be achieved prior to Town’s ownership or acceptance of the property (E-mail message dated 10-25-07).

LETTER TO DON LUNNY, ESQ. TRANSMITTING TOWN STAFF (D.R.C.) REPORTS

November 14, 2007

Donald J. Lunny, Jr., Esq.
Brinkley, Morgan, Solomon, Tatum,
Stanley, Lunny, Crosby, LLP
200 East Las Olas Boulevard, 19th Floor VIA FAX
Fort Lauderdale, FL 33301
Telephone: (954) 522-2200
Facsimile: (954) 522-9123

Dear Don:

As you are aware, the recently approved existing nonconforming vehicular accessway ordinance contains provisions for inspections to be performed by several town agencies including the Engineering Division, Fire Department, Public Works and others.

In order to permit you and your client, Rodriguez Family Holdings Inc., to address the concerns generated by the respective agencies, I am accompanying this communication with the input that I have received from them. Of special note and concern, please be advised that both the Engineering Division and Fire Department have identified the requirements for a turnout as proscribed under Town code section 12-292(C)(4). The subject code is provided herein for your review: *"All driveways in excess of five hundred (500) feet shall provide a ten (10) feet by thirty (30) feet turnout. The exact location of the turnout shall be determined by the town with the review of the fire department."*

It is recommended that you review the applicable pre-approval inspection reports and initiate contact with the appropriate agency representatives prior to the Town council meeting on November 27.

If I may be of any assistance to you, please advise me at your earliest opportunity.

Very Truly Yours,

Daniel J. Stallone
Code Compliance Official

Danny - F.
RECEIVED MON
NOV 26 2007

MEMORANDUM

DAVIE FIRE RESCUE
OFFICE OF THE FIRE CHIEF

TO: Gary Shimun, Town Administrator

FROM: Joseph Montopoli, Fire Chief

SUBJECT: Flamingo Road & S.W. 13th Street, Private Residences

DATE: November 26, 2007

Attached are my concerns about the private homes that exist on a private driveway at Flamingo Road and S.W. 13th Street. The fire code is very specific about what constitutes a fire department access to a road, as it relates to the proper right of entry for the fire department at the time of emergency situations.

cc: Macie Nolan
Attachment

TOWN OF DAVIE
INTEROFFICE MEMORANDUM
FIRE RESCUE DEPARTMENT

DATE: 11-21-2007 **REF#:**

TO: JOSEPH MONTOPOLI , FIRE CHIEF

FROM: TONY PRECANICO, FIRE MARSHAL

THROUGH: MICHAEL MALVASIO, DEPUTY CHIEF

SUBJECT: Flamingo Road and SW 13th Street

Attachment: YES X NO

Here are the Fire Departments concerns and the Life Safety Codes that refer to them.
(1) **Width of Bridge**. Florida Fire Prevention Code, NFPA 1, Chapter 18. 18.2.2.5.5.1 When a bridge is required to be used as part of a fire department access road, it shall be constructed and maintained in accordance with nationally recognized standards. 18.2.2.5.5.2 The bridge shall be designed for a live load sufficient to carry the imposed loads of fire apparatus with a minimum weight of 32 tons. 18.2.2.5.5.3 Vehicle load limits shall be posted at both entrances to bridges, ramps and elevated roadways where required by the AHJ.
(2) **Width of Road**. Florida Fire Prevention Code, NFPA 1, Chapter 18. 18.2.2.5.1.1 Fire Department access roads shall have an unobstructed width of not less than 20 feet (6.1 m) and an unobstructed vertical clearance of not less than 13 ft. 6 in. (4.1m).
(3) **Road Surface**. Florida Fire Prevention Code, NFPA 1, Chapter 18. 18.2.2.5.2 Surface. Fire department access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface suitable for all weather driving capabilities.
(4) **Turning Radius**. Florida Fire Prevention Code, NFPA 1, Chapter 18. 18.2.2.5.3 Turning Radius. The turning radius of a fire department access road shall be approved by the AHJ. 18.2.2.5.4 Dead Ends. Dead-end fire department access roads in excess of 150 ft. (46m) in length shall be provided with approved provisions for the turning around of fire apparatus.
(5) **Water Supply**. Florida Fire Prevention Code, NFPA 1, Chapter 18. 18.3.1 an approved water supply capable of supplying the required flow for fire protection shall be provided to all premises upon which facilities, buildings, or portion of buildings are hereafter constructed or moved into the jurisdiction.

BRINKLEY, MORGAN, SOLOMON, TATUM,
STANLEY, LUNNY & CROSBY, LLP
ATTORNEYS AT LAW
19TH FLOOR
SUN-SENTINEL BUILDING
200 EAST LAS OLAS BOULEVARD
FORT LAUDERDALE, FLORIDA 33301-2248

MAILING ADDRESS:
POST OFFICE BOX 522
FORT LAUDERDALE, FLORIDA 33302-0522

TELEPHONE (954) 522-2200
FACSIMILE (954) 522-9123
e-mail: lawfirm@brinkleymorgan.com
WEBSITE: www.brinkleymorgan.com

October 5, 20007

RECEIVED
OCT 10 2007
TOWN OF DAVIE
DEVELOPMENT SERVICES DIV

Mr. Mark Kutney
Development Services Director
Town of Davie
6591 Orange Avenue
Davie, FL 33314-3399

Re: 12000 block of SW 13th Street in Davie, Florida

Dear Mark:

This Firm represents Rodriguez Family Holdings Inc, the owner of the above referenced segment of SW 13th Street. We also represent MPC Management, Corp, the owner of the Rodriguez lands referenced herein, and finally, we represent the Rodriguez family.

We are writing to you for the purpose of petitioning the Town Council of the Town of Davie to enact an ordinance pursuant to recently amended Section 12-292(D) of the Town's Land Development Regulations so as to have the continued use of an existing non-conforming vehicle access way, commonly known as the 12000 block of SW13th Street.

With respect to this Petition, please recall that some of the Ordinance' numbered items must be addressed by Staff. We have addressed the items we can below. We understand that when the Staff completes the proposed Staff report, we will meet and pick the dates of the Town Council Meeting for purposes of the notice requirement for the hearing. The Form of the Petition and the Notice requirement I think the Town Staff may want us to use in the mailing is attached as Exhibit "A". We need to know whether you want us to use a different form.

We address the Ordinance requirements, as follows:

1. Number of Affected residential lots or units currently serviced:

The Property that is serviced by the existing non-conforming vehicular access way is legally described as follows (in that these are adjacent to the existing non-conforming vehicular access way or at its end):

(a). Legal Description of Rodriguez Lands:

Parcel 1: Folio Number 5040 11 01 0502

The South ½ of the West 264 feet of Tract 55 in Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company's Subdivision Map No. 1, recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

Parcel 2: Folio Number 5040 11 01 0508

The North ½ of the West 264 feet of Tract 55 in Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company's Subdivision Map No. 1, recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

Parcel 3: Folio Number 5040 11 01 0511

The West 264 feet of Tract 56 in Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company's Subdivision Map No. 1, recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

(b). Other Property adjacent to the existing non-conforming vehicular access way:

Parcel 1. Property ID. 5040 11 01 0501

The East 264 Feet of the North ½ of Tract 55 of Section 11, Township 50 South, Range 40 East, less the South 10 Feet and the East 15 Feet, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 2. Property ID. 5040 11 01 0507

The East 264 Feet of the West 1056 Feet of the North ½ of Tract 55, less the South 10 feet thereof, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 3. Property ID. 5040 11 01 0499

The East 264 Feet of the West 792 Feet of the North ½ of Tract 55, less the South 10 feet thereof, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 4. Property ID. 5040 11 01 0509

The East 264 Feet of the West 528 Feet of the North ½ of Tract 55, less the South 10 feet thereof, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 5. Property ID. 5040 11 01 0506

The East 264 Feet of the South ½ of Tract 55, less the North 10 Feet and the East 15 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 6. Property ID. 5040 11 01 0503

The East 220 Feet of the West 1034 Feet of the South ½ of Tract 55 , less the North 10 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 7. Property ID. 5040 11 01 0505

The East 264 Feet of the West 792 Feet of the South ½ of Tract 55, less the North 10 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 8. Property ID. 5040 11 01 0504

The East 264 Feet of the West 528 Feet of the South ½ of Tract 55, less the North 10 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

2. Number of potential residential lots or units that may be serviced:

The Property that may be serviced by the existing non-conforming vehicular access way is legally described as follows (in that these are not adjacent to the existing non-conforming vehicular access way, but will need to use it for access purposes):

Parcel 1. Property ID. 5040 11 01 0570

The North Half of the West 431 Feet of the East 466 Feet of Tract 56 of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 2. Property ID. 5040 11 01 0510

The East 598 feet, less the West 132 Feet, of Tract 56, of Section 11, Township 50 South, Range 40 East, less the North 10 Feet, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Less the Following Described Property:

The North Half of the West 431 Feet of the East 466 Feet of Tract 56, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 3. Property ID. 5040 11 01 0514

The West 132 of the East 598 Feet of Tract 56, less the North 22 Feet of the West 92 Feet of said East 598 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 4. Property ID. 5040 11 01 0515

Tract 56, less the East 598 Feet and less the West 528 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida, Less the North 22 Feet and West 22 Feet thereof.

Parcel 5. Property ID. 5040 11 01 0512

3. Dimensions of exiting nonconforming vehicular access way:

The dimensions are disclosed by reference to the legal description for the driveway as well as by the attached copy of the survey. The survey is attached as Exhibit "1". The legal description is as follows:

Folio Number: 5040 11 01 0500

The South 10 feet of the North Half (N1/2) of Tract 55, in Section 11, Township 50 South, Range 40 East, Less the East 15 feet thereof, and Less the West 264 feet thereof, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida.

The North 10 feet of the South Half (S1/2) of Tract 55 in Section 11, Township 50 South, Range 40 East, Less the East 15 feet thereof, and Less the West 264 feet thereof, and Less the East 22 feet of the West 1056 feet thereof, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida.

The East 22 feet of the West 814 feet of the South Half (S1/2) of Tract 55 in Section 11, Township 50 South, Range 40 East, Less the North 10 feet thereof, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County, said lands situate, lying and being in Broward County, Florida.

4. Device(s) to be executed in approved dedication of affected parcels (rights of way, easements, etc.):

There are two documents to be executed:

(a). A Non-Exclusive Easement To The Town Of Davie For Governmental Services is attached hereto as Exhibit "2"; and,

(b) A Non-Exclusive Ingress/Egress License And Covenant To Convey To Town Of Davie is attached as Exhibit "3".

5. Title Search shall be performed and submitted to the town (said record shall provide all documentation and records comprising a diligent and reliable search for prior ownership and previously executed documents related to the existing nonconforming vehicular access way).

Enclosed are the following items with respect to the title evidence for the non conforming vehicle access way:

(a). Copy of Original recorded deed as Exhibit "4".

(b). Copy of Attorneys' Title Insurance Fund, Inc. Owner's Title Insurance Policy No. OPM-2631660 insuring title to the non-conforming driveway as Exhibit "5".

6. Property identification numbers, folio numbers, and tax identification numbers shall be provided for all affected real property parcels.

Already provided. See above.

Mark, I will be out of the Country next week. I will return on October 15, 2007. Let's get together then, finalize everything, and finish this item. Dan Stallone, you should know, has been very helpful in assisting with this process, and we appreciate your help too. As indicated in our meeting, I've also enclosed a proposed Ordinance for you to consider using in connection with this application.

Very Truly Yours,

Donald J. Lunny, Jr.
For the Firm

Cc: w/encl. Mr. Rodriguez

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Petition To The Davie Town Council

We who have signed below use a dirt road known as the 12000 block of SW 13th Street to access our homes. We are informed that Davie's regulations will not allow us to use SW 13th Street as a driveway or roadway because it is not built to the Town's standards. We wish to continue to be able to use SW 13th Street to access our homes, without being in violation of Davie's regulations, just as we have done in the past and are doing today. We understand that the Town Council will consider this topic at its Meeting of _____, __, 2007.

1). _____ (Name) _____ (Davie Address)

2). _____ (Name) _____ (Davie Address)

3). _____ (Name) _____ (Davie Address)

4). _____ (Name) _____ (Davie Address)

5). _____ (Name) _____ (Davie Address)

6). _____ (Name) _____ (Davie Address)

7). _____ (Name) _____ (Davie Address)

8). _____ (Name) _____ (Davie Address)

9). _____ (Name) _____ (Davie Address)

10). _____ (Name) _____ (Davie Address)

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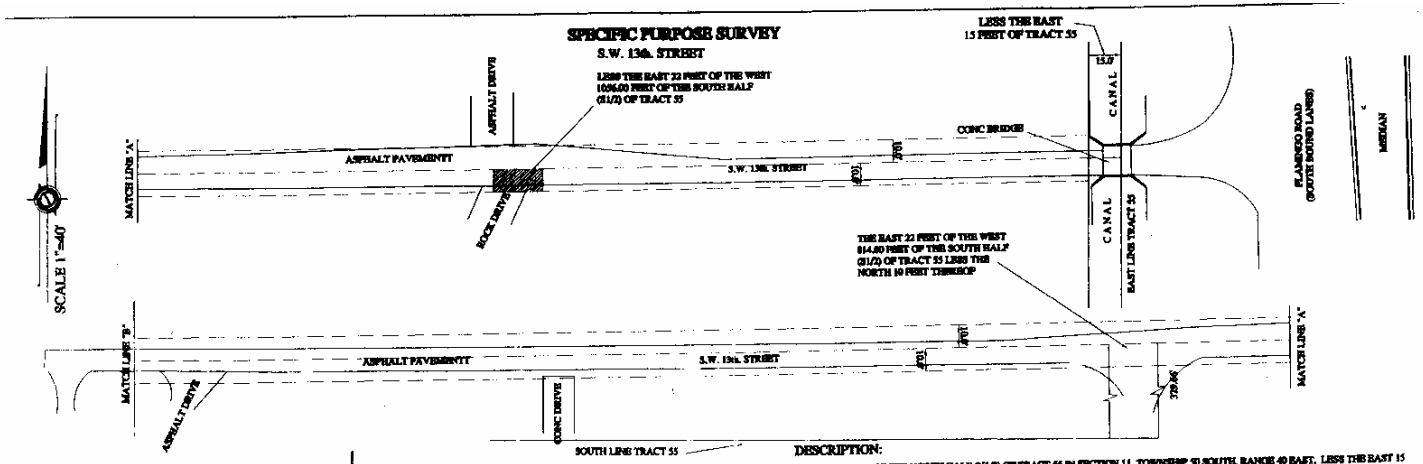
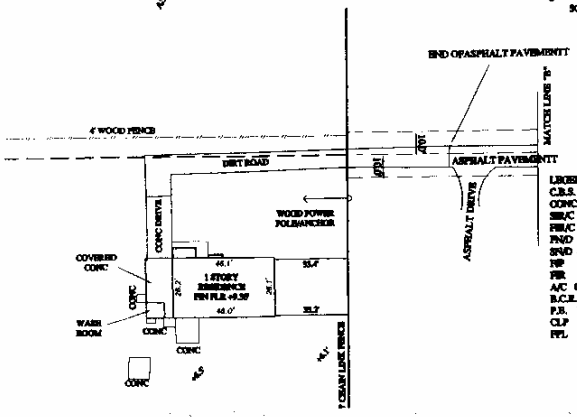
EXHIBIT

A

SPECIFIC PURPOSE SURVEY

S.W. 136th STREET





LEGEND:

C.B.S.	CONCRETE BLOCK STRUCTURE
CONC	CONCRETE
SR/C	SET IRON ROD & CAP (1/2") LB 7109
FR/C	FOUND IRON ROD & CAP
FN/D	FOUND NAIL & DISK
SN/D	SET NAIL & DISK LB 7109
FIP	FOUND IRON PIPE
FIR	FOUND IRON ROD
A/C	CONCRETE AIR CONDITION SLAB
B.C.E.	BROWARD COUNTY RECORDS
P.B.	PLAT BOOK
CLP	CONC LIGHT POLE
FPL	FLORIDA POWER & LIGHT

DESCRIPTION:

THE SOUTH 10 FEET OF THE NORTH HALF (N1/2) OF TRACT 55 IN SECTION 11, TOWNSHIP 50 SOUTH, RANGE 40 EAST, LESS THE EAST 15 FEET THEREOF, AND LESS THE WEST 264.00 FEET THEREOF, ACCORDING TO THE FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION MAP No. 1, RECORDED IN PLAT BOOK 2, PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA: SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA.

THE NORTH 10 FEET OF THE SOUTH HALF (S1/2) OF TRACT 55 IN SECTION 11, TOWNSHIP 50 SOUTH, RANGE 40 EAST, LESS THE EAST 15 FEET THEREOF, AND LESS THE WEST 264.00 FEET THEREOF, AND LESS THE EAST 22 FEET OF THE WEST 1056.00 FEET, ACCORDING TO THE FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION MAP No. 1, RECORDED IN PLAT BOOK 2, PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA: SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA.

THE EAST 22 FEET OF THE WEST 814 FEET OF THE SOUTH HALF (S1/2) OF TRACT 55 IN SECTION 11, TOWNSHIP 50 SOUTH, RANGE 40 EAST, LESS THE NORTH 10 FEET THEREOF, ACCORDING TO THE FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION MAP NO. 1, PLAT BOOK 2, PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY; SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA.

EXHIBIT

NOTES
Certification of Authorization #7109
Dimensions for building and building ties are to the foundation of same. Certification to date of field work & not signature date.

Unless otherwise noted Dimensions shown are Record and Measured.

THE SURVEY DEPICTED HERE IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE.

☐ Indicates proposed grades Elevations per N.G.V.D. 1929.

SCALE: 1" = 40'
FILENAME: SW 136th STREET

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

THIS SKETCH REFLECTS ALL EASEMENTS & RIGHTS OF WAY PER RECORDED PLAT &/OR TITLE COMMITMENT IF SUPPLIED. UNLESS OTHERWISE STATED, NO OTHER TITLE VERIFICATION HAS BEEN PERFORMED BY THE UNDERSIGNED.

DATE OF SURVEY: 4/20/...

CERTIFIED TO:
RODRIGUEZ FAMILY HOLDINGS, INC.
BRINKLEY, MCNERNEY, MORGAN, SOLOMON & TATUM, LLP
ATTORNEYS' TITLE INSURANCE FUND, INC.

DANIEL L. CARNAHAN PROFESSIONAL SURVEYOR & MAPPER NO. 3002 STATE OF FLORIDA

DENI/CARNAHAN & ASSOCIATES, INC
1721 N. STATE ROAD 7, MARGATE, FLORIDA 33063 TEL. (954)971-0540 FAX (954)971-5980

LAND SURVEYS - SUBDIVISIONS - CONSTRUCTION SURVEYS

PREPARED BY AND RETURN TO:
Donald J. Lunny, Jr., Esq.
Suite 1900
200 E. Las Olas Blvd.
Ft. Lauderdale, FL. 33301

PROPERTY IDENTIFICATION NOS.: 5040 11 01 0500 5040 11 01 0504
5040 11 01 0502 5040 11 01 0570
5040 11 01 0508 5040 11 01 0510
5040 11 01 0511 5040 11 01 0514
5040 11 01 0501 5040 11 01 0515
5040 11 01 0507 5040 11 01 0512
5040 11 01 0499 5040 11 01 0503
5040 11 01 0509 5040 11 01 0505
5040 11 01 0506

NON-EXCLUSIVE EASEMENT
TO THE TOWN OF DAVIE FOR GOVERNMENTAL SERVICES

This Declaration and Grant of Easement for Governmental Services made this _____day of September, 2006, by RODRIGUEZ FAMILY HOLDINGS, INC.

WHEREAS, the Grantor, RODRIGUEZ FAMILY HOLDINGS, INC, received a conveyance of the Exhibit "A" Property which has been recorded at Broward County Official Records Book 39987 at Page 401; and

WHEREAS, the Grantee, the Town of Davie, has requested this easement as a condition of the issuance of building permits for the Exhibit "B" Property and in order to service the real property described in Exhibit "B" and "C" hereto, until such time a Davie has obtained a sufficient right of way to make SW 13th Street a Standard Two Lane Rural Residential Street, at which time the Exhibit "A" Property Owner shall convey to Davie the Exhibit "A" Property by Special Warranty Deed; and,

WHEREAS, the Exhibit "B" Property is owned by MPC MANAGEMENT CORP., a Florida Corporation; and,

WHEREAS, the Exhibit "C" Property is not owned by either MPC MANAGEMENT CORP. or by or RODRIGUEZ FAMILY HOLDINGS, INC; and,

WHEREAS, the Exhibit "A" Property is currently an unimproved dirt driveway known as SW 13th Street that is approximately twenty feet (20') wide, and thus is too narrow at the present time to meet the forty foot (40') wide right of way requirement for a Standard Two Lane Rural Residential Street, but which may continue to be used as a private driveway; and,

WHEREAS, contemporaneous with the granting of this Non-Exclusive Easement for Government Services, the Grantor is also recording a Non-Exclusive Ingress/Egress License and Covenant to Convey the Exhibit "A" Property to the Town of Davie;

NOW, THEREFORE, IN WITNESSETH OF THE FOREGOING:

1. RODRIGUEZ FAMILY HOLDINGS, INC. does hereby grant, bargain, and quitclaim to the TOWN OF DAVIE, FLORIDA, a Florida Municipal Corporation a non-exclusive ingress and egress easement over and upon the Exhibit "A" Property for governmental service purposes, including but not limited to providing fire suppression

EXHIBIT
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and prevention services, emergency medical treatment and transport services, disaster response and recovery services, police protection services, solid waste collection services, mail delivery, and code enforcement or building inspection services.

2. Although this Easement does indirectly benefit the Exhibit "C" Property, neither the owners nor the invitees of the Exhibit "C" Property shall have any rights, claims or legally enforceable interest against Davie or the Grantor, or their respective successors and assigns, by reason of or arising under this easement. This Easement may be amended by an Amendment to Easement between the Owner of the Exhibit "A" Property and the Town of Davie, which shall require the written consent of the Owner(s) of the Exhibit "B" Property but which shall not require the written consent of the Owners of the Exhibit "C" Property. This Easement may be released by the Town of Davie executing a Release of Easement, which shall require the written consent of the Owner(s) of the Exhibit "B" Property but which shall not require the written consent of the Owners of the Exhibit "C" Property. This Easement shall terminate automatically upon the Exhibit "A" Property becoming Public Right of Way.

3. No warranties of title, specifications, or fitness for a particular purpose are made by the Grantor or by Davie with respect to this License or the driveway improvements. Neither Davie nor the Grantor warrant or represent that the Exhibit "A" Property is solely sufficient to provide access to all or any portion of the Exhibit "C" Property. Neither the Grantor nor Davie shall be required to maintain the Exhibit "A" Property.

4. This Non-Exclusive Easement to the Town of Davie for Government Services shall not be construed with regard to any presumption or other rule of law requiring construction against the party or parties causing same to be drafted.

IN WITNESS WHEREOF, RODRIGUEZ FAMILY HOLDINGS, INC., has caused this Easement to be executed and its corporate seal to be hereunto affixed, by its proper officer thereunto duly authorized, the day and year first above written.

Attest:_____
David Rodriguez, Secretary

RODRIGUEZ FAMILY HOLDINGS, INC.

_____
Witness

_____
Steven Rodriguez, President

_____
Typed Name of Witness

7900 Nova Drive, Suite 201
Davie, Florida 33324

_____
Witness

_____
Typed Name of Witness

STATE OF FLORIDA
COUNTY OF

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments appeared Steven Rodriguez as President and David Rodriguez as Secretary, who are personally known to me to be the persons described in and who executed the foregoing instrument, who acknowledged before me that they executed the same on behalf of the corporation, who produced their drivers licenses as identification, and who did not take an oath.

WITNESS my hand and official seal this ___ day of _____ 20__.

_____
NOTARY PUBLIC, STATE OF FLORIDA

_____
Printed Name of Notary

My commission expires:

(Notary Seal)

My commission no. is:

EXHIBIT "A" PROPERTY

[Legal Description of Private Driveway]

The South 10 feet of the North Half (N1/2) of Tract 55, in Section 11, Township 50 South, Range 40 East, Less the East 15 feet thereof, and Less the West 264 feet thereof, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida

The North 10 feet of the South Half (S1/2) of Tract 55 in Section 11, Township 50 South, Range 40 East, Less the East 15 feet thereof, and Less the West 264 feet thereof, and Less the East 22 feet of the West 1056 feet thereof, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida

The East 22 feet of the West 814 feet of the South Half (S1/2) of Tract 55 in Section 11, Township 50 South, Range 40 East, Less the North 10 feet thereof, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County, said lands situate, lying and being in Broward County, Florida

Folio Number: 5040 11 01 0500

EXHIBIT "B" PROPERTY

[Legal Description of Rodriguez Lands]

The Exhibit "B" Property consists of three parcels of property, as follows:

Parcel 1: Folio Number 5040 11 01 0502

The South ½ of the West 264 feet of Tract 55 in Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company's Subdivision Map No. 1, recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

Parcel 2: Folio Number 5040 11 01 0508

The North ½ of the West 264 feet of Tract 55 in Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company's Subdivision Map No. 1, recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

Parcel 3: Folio Number 5040 11 01 0511

The West 264 feet of Tract 56 in Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company's Subdivision Map No. 1, recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

EXHIBIT "C" PROPERTY

[Legal Description of other benefited Lands]

The Exhibit "C" Property consists of thirteen (13) parcels of land described as follows:

Parcel 1. Property ID. 5040 11 01 0501

The East 264 Feet of the North ½ of Tract 55 of Section 11, Township 50 South, Range 40 East, less the South 10 Feet and the East 15 Feet, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 2. Property ID. 5040 11 01 0507

The East 264 Feet of the West 1056 Feet of the North ½ of Tract 55, less the South 10 feet thereof, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 3. Property ID. 5040 11 01 0499

The East 264 Feet of the West 792 Feet of the North ½ of Tract 55, less the South 10 feet thereof, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 4. Property ID. 5040 11 01 0509

The East 264 Feet of the West 528 Feet of the North ½ of Tract 55, less the South 10 feet thereof, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 5. Property ID. 5040 11 01 0506

The East 264 Feet of the South ½ of Tract 55, less the North 10 Feet and the East 15 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 6. Property ID. 5040 11 01 0503

The East 220 Feet of the West 1034 Feet of the South ½ of Tract 55 , less the North 10 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 7. Property ID. 5040 11 01 0505

The East 264 Feet of the West 792 Feet of the South ½ of Tract 55, less the North 10 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 8. Property ID. 5040 11 01 0504

The East 264 Feet of the West 528 Feet of the South ½ of Tract 55, less the North 10 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 9. Property ID. 5040 11 01 0570

The North Half of the West 431 Feet of the East 466 Feet of Tract 56 of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 10. Property ID. 5040 11 01 0510

The East 598 feet, less the West 132 Feet, of Tract 56, of Section 11, Township 50 South, Range 40 East, less the North 10 Feet, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Less the Following Described Property:

The North Half of the West 431 Feet of the East 466 Feet of Tract 56, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida

Parcel 11. Property ID. 5040 11 01 0514

The West 132 of the East 598 Feet of Tract 56, less the North 22 Feet of the West 92 Feet of said East 598 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 12. Property ID. 5040 11 01 0515

Tract 56, less the East 598 Feet and less the West 528 Feet , of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida, Less the North 22 Feet and West 22 Feet thereof.

Parcel 13. Property ID. 5040 11 01 0512

The East 264 Feet of the West 528 Feet of Tract 56, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

G:\wpfiles\clients\Rodriguez,Steven\Road Purchase\Documents\Exh1Governmental AccessFin doc

PREPARED BY AND RETURN TO:
Donald J. Lunny, Jr., Esq.
Suite 1900
200 E. Las Olas Blvd
Ft. Lauderdale, FL 33301

PROPERTY IDENTIFICATION NOS.. 5040 11 01 0500 5040 11 01 0504
5040 11 01 0502 5040 11 01 0570
5040 11 01 0508 5040 11 01 0510
5040 11 01 0511 5040 11 01 0514
5040 11 01 0501 5040 11 01 0515
5040 11 01 0507 5040 11 01 0512
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5040 11 01 0506

NON-EXCLUSIVE INGRESS/EGRESS LICENSE AND COVENANT TO CONVEY TO TOWN OF DAVIE

This Declaration and Grant of Non-Exclusive Ingress/Egress License and Covenant to Convey to Town of Davie (herein, the "License") made this ___day of May, 2007.

WHEREAS, the Grantor, RODRIGUEZ FAMILY HOLDINGS, INC., received a conveyance of the Exhibit "A" Property which has been recorded at Broward County Official Records Book 39987 at Page 401; and,

WHEREAS, use of the Exhibit "A" Property for access to the Exhibit "B" Property and Exhibit "C" Property has been informally permissive over the years such that prescriptive rights or adverse possessory rights likely have never ripened in favor of the owners of the Exhibit "B Property or the Exhibit "C" Property; and,

WHEREAS, the property described in Exhibits "A", "B", and "C" were located within the corporate limits of the Town of Davie prior to the enactment of Ch. 2005-214, Laws of Florida, such that prior to such law, a statutory way of necessity did not exist pursuant to Subsection 704.01(2), Florida Statutes, over the Exhibit "A" Property in favor of the owners of the Exhibit "B Property or the Exhibit "C" Property; and,

WHEREAS, the Exhibit "B" Property and Exhibit "C" Property have been improved to their current extent largely before the enactment of Ch. 2005-214, Laws of Florida, and thus, without such statutory right being available; and,

WHEREAS, it is likewise unclear whether a common law right and easement of necessity would exist in favor of one, some, or all owners of the Exhibit "B" Property or the Exhibit "C" Property to use the Exhibit "A" Property given: (1) the doctrinal limits of such common law right, (2) the different chains of title of such owners that are affected, (3) the existence of a public right of way being located on the Florida Fruit Lands Company Subdivision No. 1 along the South Boundary of Tract 55, which right of way does not reflect an intervening canal between the right of way and such property (as is the case with the right of way along the East lines of Tracts 55 and 56), (4) the existence of a Tax Deed No. 11084, dated June 1, 1975 and recorded in Broward County Official Records Book 8639 at Page 184 conveying the Exhibit "A" Property (which reflects that the owners of the Exhibit "B" Property and the Exhibit "C" Property at the time did not seek to protect or preserve whatever common law rights they may have enjoyed in the Exhibit "A" Property by buying such Exhibit "A" Property at the duly advertised tax sale auction so as to prevent the possible nullification of any common law rights enjoyed by the operation of Section 197.552, Florida Statutes), and (5), other facts and circumstances not identified above; and,

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WHEREAS, the Town of Davie has allowed the continued use of SW 13th Street as a non conforming vehicle access way; and,

WHEREAS, the Exhibit "A" Property owner wishes to confirm for the benefit of the owners of the Exhibit "B" Property and the Exhibit "C" Property that the Exhibit "A" Property may continue to be used for ingress and egress, in a manner as approved by **Ordinance No. _____ of** the Town of Davie, so as to avoid any attendant need for an expensive and uncertain judicial determination of whether and to what extent statutory or common law ingress and egress easements may exist over the Exhibit "A" Property, or the Exhibit "B" Property, or the Exhibit "C" Property, or some combination of the foregoing; and,

WHEREAS, the Exhibit "A" Property is currently an unimproved (20') twenty foot more or less wide dirt driveway known as SW 13th Street that is too narrow at the present time to meet the Town of Davie's Standard Two Lane Rural Residential Street Requirements, but which may continue to be used as a nonconforming vehicle access way **pursuant to Ordinance No. _____ of the Town of Davie**; and,

WHEREAS, the Town of Davie, has requested this Non-Exclusive Ingress/Egress License and Covenant to Convey to Town of Davie as a condition of the issuance of building permits on the Exhibit "B" Property and in order to allow record legal access to the real property described in Exhibit "B" and "C" hereto, by the owners and invitees thereof, until such time as Davie has obtained the minimum right of way corridor necessary to make SW 13th Street a Standard Two Lane Rural Residential Street -- at which time the Exhibit "A" Owner shall convey to Davie the Exhibit "A" Property by Special Warranty Deed; and,

WHEREAS, the Town of Davie will require further additional right of way from the owners of the Exhibit "C" Property to service the neighborhood when, as, and if they further improve their lands; and,

WHEREAS, the Exhibit "B" Property is owned by MPC MANAGEMENT CORP., a Florida Corporation; and,

WHEREAS, the Exhibit "C" Property is not owned by either MPC MANAGEMENT CORP. or by or RODRIGUEZ FAMILY HOLDINGS, INC; and,

WHEREAS, contemporaneous with the granting of this Non-Exclusive Ingress/Egress License and Covenant to Convey to Town of Davie, the Grantor is also conveying a Nonexclusive Easement over the Exhibit "A" Property to the Town of Davie for Governmental Purposes;

NOW, THEREFORE, IN WITNESSETH OF THE FOREGOING THE TOWN OF DAVIE AND THE GRANTOR AGREE AND DECLARE AS FOLLOWS:

1. The Town of Davie will continue to obtain additional road right of way from each owner of the Exhibit "C" Property, if and as necessary, when such owner submits plans for building permits for improvements, so that additional road right of way is secured as quickly as possible which is adequate to meet the Standard Two Lane Rural Residential Street Requirements for SW 13th Street. No later than the date that the Town has obtained all of such additional right of way, it shall request a conveyance of the Exhibit "A" Property by Special Warranty Deed from its then owner(s).

2. Rodriguez Family Holdings, Inc. agrees, for itself and its successors and assigns, as the owner of the Exhibit "A" Property, to convey by Special Warranty Deed to Davie

the Exhibit "A" Property whenever the Town Administrator of Davie requests; provided however, the request by Davie shall be no later than the date Davie obtains sufficient right of way to enable SW 13th Street to meet the Standard Two Lane Rural Residential Street Requirements. This Covenant to Convey shall run with and touch upon the title of the Exhibit "A" Property.

3. Until such point in time that Davie obtains the additional right of way to meet the minimum right of way requirements to make SW 13th Street a Standard Two Lane Rural Residential Street, or until this Nonexclusive Ingress/Egress License and Covenant to Convey to Town of Davie is terminated, RODRIGUEZ FAMILY HOLDINGS, INC. does hereby, without requiring monetary compensation, grant, bargain, and quitclaim to the owners of the Exhibit "C" Property, and their invitees a non-exclusive ingress and egress license over and upon the Exhibit "A" Property to access the Exhibit "C" Property in the physical condition the Exhibit "C" Property was in as of January 01, 2006. The Town of Davie shall advise the owner(s) of the Exhibit "A" Property when it is ready to issue building permits to any owner of any of the Exhibit "C" Property so that an Acknowledgement can be executed by the Exhibit "A" Property owner to allow access rights over the Exhibit "A" Property in favor of such then proposed-to-be-improved Exhibit "C" Property owner to continue. The owner(s) of the Exhibit "A" Property shall execute and deliver the Acknowledgement to the Town of Davie without requiring payment of any monetary compensation from any one parcel described in such benefiting Exhibit "C" Property in excess of $3,000, and without delay, once being requested to do so by the Town of Davie. The Town of Davie shall then give the Acknowledgement to the benefiting Exhibit "C" Property owner, once the Town approves the delivery of same, for the benefiting Exhibit "C" Property owner to record in the Broward County Real Property records. The Town of Davie shall provide notice by certified mail to RODRIGUEZ FAMILY HOLDINGS, INC. of any proposed building permits it issues for any of the Exhibit "C" Property, such notice being sent to the attention of Steven Rodriguez and sent to the corporation's address of 7900 Nova Drive, Suite 201, Davie, Florida, 33324, or to such other address as is designated by the corporation in writing and delivered to the Town Administrator of Davie. The notice shall identify the building permit number, the legal description of the property, and the property's record title owners. The Town of Davie may delay delivering the Acknowledgement, if it determines appropriate, until the time as such benefiting Exhibit "C" Property owner has made an acceptable provision for the conveyance to the Town of any necessary additional right of way for SW 13th Street.

4. RODRIGUEZ FAMILY HOLDINGS, INC. does hereby, grant, bargain, and quitclaim to the owners of the Exhibit "B" Property and their invitees a non-exclusive ingress and egress license over and upon the Exhibit "A" Property to access the Exhibit "B" Property.

5. Although this License does benefit the Exhibit "C" Property, neither the owners nor the invitees of the Exhibit "C" Property shall have any rights, claims, or legally enforceable interest against Davie or the Grantor or their successors or assigns by reason of or arising under this License, except to use the Exhibit "A" Property in accordance with the terms hereof for purposes of access towards the Exhibit "C" Property; provided however, that such access is limited to the physical condition the Exhibit "C" Property as of the date this License was recorded, and such access rights shall not include access to any Exhibit "C" Property as improved after the date this License is recorded unless an additional Acknowledgment therefore is received as described in the foregoing Paragraph.

6. This License may be amended by an Amendment between the owner of the Exhibit "A" Property and the Town of Davie, which shall require the written consent of

the owner(s) of the Exhibit "B" Property but which shall not require the written consent of the owners of the Exhibit "C" Property. This License may be terminated by the Town of Davie executing a Release of License, which shall require the written consent of the owner(s) of the Exhibit "B" Property but which shall not require the written consent of the owners of the Exhibit "C" Property. This License shall terminate automatically upon the Exhibit "A" Property becoming Public Right of Way. The owner of the Exhibit "A" Property can not revoke this License.

7. No warranties of title, specifications, or fitness for a particular purpose are made by the Grantor or by Davie, or by their successors and assigns, with respect to this Non-Exclusive Ingress/Egress License and Covenant to Convey to the Town of Davie, or with respect to the condition of the Exhibit "A" Property, or with respect to whether the Exhibit "A" Property is safe or appropriate for use for vehicles, pedestrians, equestrians, or cyclists. Neither Davie nor the Grantor warrant or represent that the Exhibit "A" Property is solely sufficient to provide access to all or any portion of the Exhibit "C" Property. The Exhibit "A" Property is licensed "AS IS" and "WITH ALL FAULTS", and its use by the Exhibit "B" Property owners and Exhibit "C" Property owners shall be at such owners' risk and peril as long as this Nonexclusive Ingress/Egress License and Covenant to Convey to Town of Davie shall remain in effect. Neither the Grantor nor Davie shall be required to maintain the Exhibit "A" Property. The owners of the Exhibit "A" Property may install a minimal amount of road rock (such that significant pot holes are filled) and a minimal amount of pavement (1/2"), so that at least until Davie accepts the right of way as a public road, it remains in a dust resistant condition.

8. In the event Davie imposes any future special assessments, impact fees, or other charge or expense whatsoever (except ad valorem taxes) on the Exhibit "B" Property (herein "assessments") that relate to the acquisition or improvement or maintenance of right of way to service, or which is determined to benefit, the Exhibit "B" Property or the Exhibit "C" Property, or both, (including but not limited to SW 13th Street, and including the improvement, replacement, or maintenance, or both, of the culvert/bridge connecting SW 13th Street to Flamingo Road or median cuts or turn lanes or both within Flamingo Road determined in the future to be appropriate to service SW 13th Street), then the Exhibit "B" Property shall be entitled to a cumulative reduction of such assessments equal to the sum of: (1) the present value of designing, permitting, or installing any improvements to the Exhibit "A" Property, as well as the cost of any maintenance of the Exhibit "A" Property [determined by indexing such costs or contributions annually on October 1st of each calendar year (commencing October 1, 2007) in accordance with the latest published Engineering News Record Construction Cost Index as published by McGraw Hill Publishers (or if such index is no longer published such other alternative construction cost index as is approved by the Town and the Exhibit "B" Property owner], and (2) the value of the Exhibit "A" Property to be conveyed to Davie [determined by the Property Appraiser's then most recent assessed valuation of the Exhibit "A" Property or an appraisal if the property is not carried on the tax roll with a current valuation, as increased by the cumulative costs of insurance and other ownership expenses related to the private ownership period of such roadway section, and by ad valorem and non ad valorem taxes and assessments paid for such Exhibit "A Property, commencing with those levied effective January 1, 2006].

9. The owners of the Exhibit "C" Property, and their successors and assigns, by using the Exhibit "A" Property, thereby remise, release, acquit, satisfy, and forever discharge the Town [and its elected and appointed officers, its employees, and its attorneys, and all of their successors, heirs, personal representatives, devisees, and assigns] (hereinafter referred to as the "Town"), and Rodriguez Family Holdings, Inc [and its shareholders, officers, employees, attorneys, and affiliates, including, MPC Management Corp., Steven

S. Rodriguez, David A. Rodriguez, Connie Rodriguez, and Kimberly Kemper, and their successors, heirs, personal representatives, devisees, and assigns] (hereafter referred to as "Rodriguez") of and from any and all manner of action and actions, claims, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, damages (both compensatory and punitive), contracts, controversies, agreements, promises, variances, trespasses, judgments, executions, claims and demands (including any and all damages, expenses, attorneys' fees, costs or losses sought or claimed), in law or in equity, in whatever name or nature, for bodily injury, sickness, disease or death, or injury to personal property (including the loss of use there from) based in tort (including based upon alleged negligent, reckless, or intentional acts or omissions of the Town or Rodriguez, or both), in contract, by statute, by code, by ordinance, or by conduct of the Town, Rodriguez, or both, or by some or all of the foregoing, past or present, and in any manner arisen, arising or growing out of, or which in any way arises out of or could have arisen out of, or relates to or could relate to, or in any way pertains to the use or continued use of the Exhibit "A" Property during the period of time such property is not owned by the Town of Davie.

The owners of the Exhibit "C" Property, and their successors and assigns, by using the Exhibit "A" Property, thereby agree to hold the Town and Rodriguez harmless from and against all manner of action and actions, claims, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, damages (both compensatory and punitive), contracts, controversies, agreements, promises, variances, trespasses, judgments, executions, claims and demands (including any and all damages, expenses, attorneys' fees, costs or losses sought or claimed), in law or in equity, in whatever name or nature, for bodily injury, sickness, disease or death, or injury to personal property (including the loss of use there from) based in tort, in contract, in property, by statute, by code, by ordinance, or by conduct of the Town, Rodriguez, or both, or by some or all of the foregoing, past or present, and in any manner arisen, arising or growing out of, or which in any way arises out of or could have arisen out of, or relates to or could relate to, or in any way in the future pertain to:

(i) persons being permitted to use the Exhibit "A Property for ingress and egress to the Exhibit "B" Property, regardless of whether or not such persons are invitees, as long as this Nonexclusive Ingress/Egress License and Covenant to Convey to Town of Davie shall remain in effect, or,

(ii) the use and continued use of the Exhibit "A" Property while it remains in a condition that does not comply with all of the Town's typical standards for public roads or private driveways and as long as this Nonexclusive Ingress/Egress License and Covenant to Convey to Town of Davie shall remain in effect, or,

(iii) both (i) and (ii) above.

10. The owners of the Exhibit "B" Property, and their successors and assigns, by using the Exhibit "A" Property, thereby remise, release, acquit, satisfy, and forever discharge the Town [and its elected and appointed officers, its employees, and its attorneys, and all of their successors, heirs, personal representatives, devisees, and assigns] (hereinafter referred to as the "Town"), and Rodriguez Family Holdings, Inc

[and its shareholders, officers, employees, attorneys, and affiliates, including, MPC Management Corp., Steven S. Rodriguez, David A. Rodriguez, Connie Rodriguez, and Kimberly Kemper, and their successors, heirs, personal representatives, devisees, and assigns] (hereafter referred to as "Rodriguez") of and from any and all manner of action and actions, claims, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, damages (both compensatory and punitive), contracts, controversies, agreements, promises, variances, trespasses, judgments, executions, claims and demands (including any and all damages, expenses, attorneys' fees, costs or losses sought or claimed), in law or in equity, in whatever name or nature, for bodily injury, sickness, disease or death, or injury to personal property (including the loss of use there from) based in tort (including based upon alleged negligent, reckless, or intentional acts or omissions of the Town or Rodriguez, or both), in contract, in property, by statute, by code, by ordinance, or by conduct of the Town, Rodriguez, or both, or by some or all of the foregoing, past or present, and in any manner arisen, arising or growing out of, or which in any way arises out of or could have arisen out of, or relates to or could relate to, or in any way pertains to the use or continued use of the Exhibit "A" Property during the period of time such property is not owned by the Town of Davie.

The owners of the Exhibit "B" Property, and their successors and assigns, by using the Exhibit "A" Property, thereby agree to hold the Town and Rodriguez harmless from and against all manner of action and actions, claims, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, damages (both compensatory and punitive), contracts, controversies, agreements, promises, variances, trespasses, judgments, executions, claims and demands (including any and all damages, expenses, attorneys' fees, costs or losses sought or claimed), in law or in equity, in whatever name or nature, for bodily injury, sickness, disease or death, or injury to personal property (including the loss of use there from) based in tort, in contract, in property, by statute, by code, by ordinance, or by conduct of the Town, Rodriguez, or both, or by some or all of the foregoing, past or present, and in any manner arisen, arising or growing out of, or which in any way arises out of or could have arisen out of, or relates to or could relate to, or in any way in the future pertain to:

(i) persons being permitted to use the Exhibit "A Property for ingress and egress to the Exhibit "B" Property, regardless of whether or not such persons are invitees, as long as this Nonexclusive Ingress/Egress License and Covenant to Convey to Town of Davie shall remain in effect, or,

(ii) the use and continued use of the Exhibit "A" Property while it remains in a condition that does not comply with all of the Town's typical standards for public roads or private driveways and as long as this Nonexclusive Ingress/Egress License and Covenant to Convey to Town of Davie shall remain in effect, or,

(iii) both (i) and (ii) above.

11. This Non-Exclusive Ingress/Egress License and Covenant to Convey to Town of Davie shall not be construed with regard to any presumption or other rule of law requiring construction against the party or parties causing same to be drafted.

12. The Town of Davie agrees that the granting of this Non-Exclusive Ingress/Egress License and Covenant to Convey to the Town of Davie, together with the granting of the Nonexclusive Easement to the Town of Davie for Governmental Purposes, together with the contribution in aid of construction described in paragraph 2 above, shall be in satisfaction of any future right of way dedication requirements or right of way conveyance requirements that might ever be imposed or requested as a condition of the Town issuing Building Permits for any existing or additional improvements on the Exhibit "B" Property.

13. The legal obligations of Paragraphs 10 and 11 will be required as part of the consideration for the Exhibit "A" owners for allowing the use of the Exhibit "A" Property while this Non-Exclusive Ingress/Egress License and Covenant to Convey to Town of Davie is in effect.

14. This Non-Exclusive Ingress/Egress License and Covenant to Convey shall benefit the owners, and their successors and assigns, of the Exhibit "B" Property and Exhibit "C" Property, in accordance with the terms hereof.

15. Should any section, paragraph, sentence, clause, phrase, or other part of this Non-Exclusive Ingress/Egress License and Covenant to Convey to Town of Davie be declared by a Court of competent jurisdiction to be invalid or unenforceable, such decision shall not affect the validity of this Non-Exclusive Ingress/Egress License and Covenant to Convey to Town of Davie as a whole, or any portion or part thereof, other than the part so declared to be invalid or unenforceable. If, however, the part determined to be invalid or unenforceable materially affects the performance of the parties, or materially impacts the parties expectations or positions with respect to this Non-Exclusive Ingress/Egress License and Covenant to Convey to Town of Davie, the parties agree in good faith to attempt to modify this Non-Exclusive Ingress/Egress License and Covenant to Convey to Town of Davie in some fashion so as to, as near as possible, place the parties in the same position they were in , viz-a-vie their intent, performance expectations, and economic position. If, after such good faith negotiations, no modification is reached, then either party may cancel this Non-Exclusive Ingress/Egress License and Covenant to Convey to Town of Davie.

16. Paragraphs 7, 8, 9, 10, 11, and 12 shall survive the expiration or termination of this Non-Exclusive Ingress/Egress License and Covenant to Convey to Town of Davie.

IN WITNESS WHEREOF, Rodriguez Family Holdings, Inc. and the Town of Davie has caused this Non-Exclusive Ingress/Egress License and Covenant to Convey to Town of Davie to be executed and their corporate seals to be hereunto affixed, by its proper officer thereunto duly authorized, the day and year first above written.

Attest:_____
David Rodriguez Secretary

Rodriguez Family Holdings, Inc.

_____
Witness

By: _____
Steven Rodriguez, President

_____
Typed Name of Witness

7900 Nova Drive, Suite 201
Davie, Florida 33324

_____
Witness

_____
Typed Name of Witness

STATE OF FLORIDA
COUNTY OF BROWARD

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments appeared Steven Rodriguez as President and David Rodriguez as Secretary, who are personally known to me to be the persons described in and who executed the foregoing instrument, who acknowledged before me that they executed the same on behalf of the corporation, who produced their drivers licenses as identification, and who did not take an oath.

WITNESS my hand and official seal this __ day of _____ 20__.

_____
NOTARY PUBLIC, STATE OF FLORIDA

_____
Printed Name of Notary

My commission expires:

(Notary Seal)

My commission no. is:

Attest: _____
Town Clerk

Town of Davie, a Florida Municipal Corporation

By: _____
The Honorable Tom Truex, Mayor

_____
Witness

_____
Typed Name of Witness

_____
Witness

_____
Typed Name of Witness

_____
Address

_____
Town, State, Zip

STATE OF FLORIDA
COUNTY OF

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments appeared Tom Truex as Mayor and Russell Muniz as the Town Clerk, who are personally known to me to be the persons described in and who executed the foregoing instrument, who acknowledged before me that they executed the same on behalf of the Town of Davie, who produced their drivers licenses as identification, and who did not take an oath.

WITNESS my hand and official seal this __ day of _____ 20__.

_____
NOTARY PUBLIC, STATE OF FLORIDA

_____
Printed Name of Notary

My commission expires:

(Notary Seal)

My commission no. is:

EXHIBIT "A" PROPERTY

[Legal Description of Private Driveway owned by Rodriguez Family Holdings, Inc.]

The South 10 feet of the North Half (N1/2) of Tract 55, in Section 11, Township 50 South, Range 40 East, Less the East 15 feet thereof, and Less the West 264 feet thereof, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida

The North 10 feet of the South Half (S1/2) of Tract 55 in Section 11, Township 50 South, Range 40 East, Less the East 15 feet thereof, and Less the West 264 feet thereof, and Less the East 22 feet of the West 1056 feet thereof, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida

The East 22 feet of the West 814 feet of the South Half (S1/2) of Tract 55 in Section 11, Township 50 South, Range 40 East, Less the North 10 feet thereof, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County, said lands situate, lying and being in Broward County, Florida

Folio Number: 5040 11 01 0500

EXHIBIT "B" PROPERTY

[Legal Description of MPC Management Corp. Lands]

The Exhibit "B" Property consists of three parcels of property, as follows:

Parcel 1: Folio Number 5040 11 01 0502

The South ½ of the West 264 feet of Tract 55 in Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company's Subdivision Map No. 1, recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

Parcel 2: Folio Number 5040 11 01 0508

The North ½ of the West 264 feet of Tract 55 in Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company's Subdivision Map No. 1, recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

Parcel 3: Folio Number 5040 11 01 0511

The West 264 feet of Tract 56 in Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company's Subdivision Map No. 1, recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida; said lands situate, lying and being in Broward County, Florida.

EXHIBIT "C" PROPERTY

[Legal Description of other benefited Lands]

The Exhibit "C" Property consists of thirteen (13) parcels of land described as follows:

Parcel 1. Property ID. 5040 11 01 0501

The East 264 Feet of the North ½ of Tract 55 of Section 11, Township 50 South, Range 40 East, less the South 10 Feet and the East 15 Feet, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 2. Property ID. 5040 11 01 0507

The East 264 Feet of the West 1056 Feet of the North ½ of Tract 55, less the South 10 feet thereof, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 3. Property ID. 5040 11 01 0499

The East 264 Feet of the West 792 Feet of the North ½ of Tract 55, less the South 10 feet thereof, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 4. Property ID. 5040 11 01 0509

The East 264 Feet of the West 528 Feet of the North ½ of Tract 55, less the South 10 feet thereof, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 5. Property ID. 5040 11 01 0506

The East 264 Feet of the South ½ of Tract 55, less the North 10 Feet and the East 15 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 6. Property ID. 5040 11 01 0503

The East 220 Feet of the West 1034 Feet of the South ½ of Tract 55 , less the North 10 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 7. Property ID. 5040 11 01 0505

The East 264 Feet of the West 792 Feet of the South ½ of Tract 55, less the North 10 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 8. Property ID. 5040 11 01 0504

The East 264 Feet of the West 528 Feet of the South ½ of Tract 55, less the North 10 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 9. Property ID. 5040 11 01 0570

The North Half of the West 431 Feet of the East 466 Feet of Tract 56 of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 10. Property ID. 5040 11 01 0510

The East 598 feet, less the West 132 Feet, of Tract 56, of Section 11, Township 50 South, Range 40 East, less the North 10 Feet, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Less the Following Described Property:

The North Half of the West 431 Feet of the East 466 Feet of Tract 56, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida

Parcel 11. Property ID. 5040 11 01 0514

The West 132 of the East 598 Feet of Tract 56, less the North 22 Feet of the West 92 Feet of said East 598 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

Parcel 12. Property ID. 5040 11 01 0515

Tract 56, less the East 598 Feet and less the West 528 Feet, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida, Less the North 22 Feet and West 22 Feet thereof.

Parcel 13. Property ID. 5040 11 01 0512

The East 264 Feet of the West 528 Feet of Tract 56, of Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Company Subdivision Map No. 1, recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida.

CFN # 105145754, OR BK 39987 Page 401, Page 1 of 3, Recorded 07/01/2005 at 02:24 PM, Broward County Commission, Doc. D $30.10 Deputy Clerk 1043

PREPARED BY: W. Michael Brinkley, Esq.
Brinkley, McNerney, Morgan, Solomon & Tatum, LLP
200 E. Las Olas Boulevard, Suite 1900
Fort Lauderdale, FL 33301

Parcel Tax Identification No.: 10011-01-05000

DEED

THIS DEED, executed this 24 day of JUNE, 2005 by HILL JACKSON CORP., a Florida corporation, whose post office address is 3365 Sea View Street, Sarasota, Florida 34239, first party, and RODRIGUEZ FAMILY HOLDINGS, INC., a Florida corporation, whose post office address is 7900 Nova Drive, #201, Davie, Florida 33324, second party.

WITNESSETH, that 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 the said first party has in and to the following described land situate, lying and being in Broward County, Florida, to wit:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A"

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto 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. This conveyance from first party to second party grants bargains and sells to the said second party and the second party's heirs and assigns forever, the real property described above, including the statutory warranties, as set forth in Florida Statutes Chapter 689, from and including the date of execution of that certain Tax Deed No. 11084 recorded December 27, 1979, under Clerk's File No. 79-393487, in Official Records Book 8639, Page 184, of the Public Records of Broward County, Florida.

(3)

EXHIBIT
4

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 our presence:

Print Name: Anthony Perez

Print Name: Adam Oswald

HILL JACKSON CORP.,
a Florida corporation

By: Graham Hildebrand
Graham Hildebrand, President

STATE OF FLORIDA)
COUNTY OF Broward)

The foregoing instrument was acknowledged before me this 24th day of June, 2005 by Graham Hildebrand, President of Hill Jackson Corp., a Florida corporation, on behalf of the corporation, who is personally known to me or who has produced Florida Drivers License as identification.

ANTHONY PEREZ
Notary Public, State of Florida
My comm. expires July 25, 2008
No. DD340636

Notary Public
Print Name: Anthony Perez
My Commission expires:

G:\WPFiles\clients\Rodriguez, Steven\Road Purchase\Documents\deed correctlegal.doc

EXHIBIT "A"

The South 10 feet of the North Half (N1/2) of Tract 55, in Section 11, Township 50 South, Range 40 East, Less the East 15 feet thereof, and Less the West 264 thereof, according the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida.

The North 10 feet of the South Half (S1/2) of Tract 55 in Section 11, Township 50 South, Range 40 East, Less the East 15 feet thereof, and Less the West 264 thereof, and Less the East 22 feet of the West 1056 feet thereof, according the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida.

The East 22 feet of the West 814 feet of the South Half (S1/2) of Tract 55 in Section 11, Township 50 South, Range 40 East, Less the North 10 feet thereof, according the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida.

FUND OWNER'S FORM

Schedule A

Policy No. OPM-2631660 Effective Date: July 1, 2005 @2:25 P.M. Agent's File Reference: 013109-05739

Amount of Insurance: $4,300.00

1. Name of Insured: RODRIGUEZ FAMILY HOLDINGS, INC., a Florida corporation

2. The estate or interest in the land described herein and which is covered by this policy is a fee simple (if other, specify same) and is at the effective date hereof vested in the named insured as shown by instrument recorded in Official Records Book 39987, Page 401, of the Public Records of Broward County, Florida.

3. The land referred to in this policy is described as follows:

   SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A"

I, the undersigned agent, hereby certify that

- the transaction insured herein is governed by RESPA, ☐ Yes ☒ No
- if Yes to the above, I have performed all "core title agent services". ☐ Yes ☐ No

ISSUED BY

BRINKLEY, McNERNEY, MORGAN, SOLOMON & TATUM, LLP

NAME OF AGENT

5201
AGENT NO.

W Michael Brinkley
AGENT'S SIGNATURE

P. O. Box 522
MAILING ADDRESS

Fort Lauderdale, Florida
CITY

33302-0522
ZIP

(954) 522-2200
TELEPHONE

EXHIBIT
5

EXHIBIT "A"

The South 10 feet of the North Half (N1/2) of Tract 55, in Section 11, Township 50 South, Range 40 East, Less the East 15 feet thereof, and Less the West 264 thereof, according the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida.

The North 10 feet of the South Half (S1/2) of Tract 55 in Section 11, Township 50 South, Range 40 East, Less the East 15 feet thereof, and Less the West 264 thereof, and Less the East 22 feet of the West 1056 feet thereof, according the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida.

The East 22 feet of the West 814 feet of the South Half (S1/2) of Tract 55 in Section 11, Township 50 South, Range 40 East, Less the North 10 feet thereof, according the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida.

FUND OWNER'S FORM

Schedule B

Policy No.: OPM-2631660

This policy does not insure against loss or damage by reason of the following exceptions:

1. The lien of all taxes for the year 2005 and thereafter, which are not yet due and payable. (Folio No.10011-01-05000).

2. Rights or claims of parties in possession not shown by the public records.

3. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.

4. Easements or claims of easements not shown by the public records.

5. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

6. Any adverse ownership claim by the State of Florida by right of sovereignty to any portion of the lands insured hereunder, including submerged, filled and artificially exposed lands, and lands accreted to such lands.

7. Rights of titleholders of adjacent parcels in Tracts 55 and 56, their guests, invitees and licensees, to use the insured property for road purposes.

8. Restrictions conditions, reservations, easements and other matters contained on the Plat of Florida Fruit Lands Company's Subdivision No. 1, as recorded in Plat Book 2, Page 17, Public Records of Miami-Dade County, Florida.

9. Reservations in favor of the State of Florida, as set forth in the deed from the Trustees of the Internal Improvement Fund of the State of Florida, recorded in Deed Book 46, Page 240, Public Records of Miami-Dade County, Florida. Said reservations were partially assigned to the Central Broward Drainage District by the instruments recorded in O.R. Book 14557, Page 523 and O.R. Book 14557, Page 532; and partially release by the instruments recorded in O.R. Book 2466, Page 872; O.R. Book 2786, Page 232; O.R. Book 4684, Page 364; and O.R. Book 16910, Page 768, all of the Public Records of Broward County, Florida.

(continued on next page)

FUND OWNER'S FORM

Schedule B

Policy No.: OPM-2631660

10. Resolution by the Central Broward Drainage District recorded in O.R. Book 3438, Page 60, Public Records of Broward County, Florida.

11. Matters shown on the survey prepared by Higgins-Deni & Associates, Inc. dated April 26, 2005, under Order No. 0504045.

12. No insurance is provided nor coverage afforded as to title to the property described in Exhibit "A" which lies within the East 35 feet of Tract 55, in Section 11, Township 50 South, Range 40 East, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida.

OWNER'S TITLE INSURANCE POLICY

Attorneys' Title Insurance Fund, Inc.

ORLANDO, FLORIDA

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, ATTORNEYS' TITLE INSURANCE FUND, INC., a Florida corporation, herein called The Fund, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Fund will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

In Witness Whereof, ATTORNEYS' TITLE INSURANCE FUND, INC. has caused this policy to be signed and sealed as of Date of Policy shown in Schedule A, the policy to become valid when countersigned by an authorized signatory.

Attorneys' Title Insurance Fund, Inc.

By

Charles J. Kovaleski
President

SERIAL

OPM - 2631660

ATPR F8U@ THE FUND 11/10/2005
Policy rate calculation 11:46:37
POLICY/ENDORSEMENT CALCULATION WORKSHEET

POLICIES
AGENT NUMBER : 5201 STATE : FL CUSTOMER REF : 10-2005-6155
POLICY TYPE-NUMBER : OPM - 2631660 AMOUNT OF INSURANCE : 4,300.00
RATING DATE : 01 / 01 / 2005
COMMITMENT NUMBER : C- AMOUNT :
TIMESHARE (Y/N) : N
NEW HOME DISCOUNT(Y/N) : N
(NHD) EXPOSURE : (NHD) PREMIUM : .00 (NHD) FORM TYPE :
RESPA TRANSACTION (Y/N) : N CORE TITLE AGENT SERVICES PERFORMED (Y/N) : N
SIMULTANEOUS POLICY TYPE-NUMBER : - AMOUNT :

PRIOR OWNER'S POLICY : AMOUNT

ENDORSEMENTS
TYPE I - FLORIDA FORM 9 (Y/N) : N
FLORIDA FORM 9.1 (Y/N) : N
FLORIDA FORM 9.2 (Y/N) : N
- NAVIGATIONAL SERVITUDE (Y/N) : N (O)WNER, (M)ORTGAGEE, (B)OTH :
TYPE II -
SHARED APPRECIATION BALLOON MTG ADDITIONAL INTEREST
- ASSIGNMENT OF MTG OPTION CONST LOAN UPDATE
- CHANGE OF PARTNERS CONTIGUITY FOREIGN CURRENCY
- SURVEY
(R)ESIDENTIAL 1-4, (G)REATER THAN 1-4 RESIDENTIAL, (C)OMMERCIAL :

TYPE III - ALTA 4.1 ALTA 5.1 ALTA 6 ALTA 6.2 ALTA 7
- ALTA 8.1 REVERSE MORTGAGE REVOLVING CREDIT

PREMIUM CALCULATED USING RATES IN FORCE AS OF 01/01/2005
NO CREDITS OR DISCOUNTS APPLIED / PROMULGATED =

	FUND REMITTANCE		PROMULGATED
OWNER :	30.00	OWNER :	100.00
MORTGAGEE :		MORTGAGEE :	
TYPE I		TYPE I	
FLORIDA FORM 9 :		FLORIDA FORM 9 :	
FLORIDA FORM 9.1 :		FLORIDA FORM 9.1 :	
FLORIDA FORM 9.2 :		FLORIDA FORM 9.2 :	
NAVIGATIONAL SERVITUDE :		NAVIGATIONAL SERVITUDE :	
TYPE II :		TYPE II :	
TYPE III :		TYPE III :	
TOTAL DUE TO THE FUND :	30.00	TOTAL PROMULGATED :	100.00

FOR FUND USE-PREMIUM : DUE : REFUND :
SUBMISSION OF THIS WORKSHEET CERTIFIES AGENT'S RESPONSE TO RESPA QUESTIONS
REMARKS :
Total rates are calculated for policies only
********** End of policy rating information **********

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA PERTAINING TO THE SUBJECT OF WHETHER TO ALLOW THE CONTINUATION OF AN EXISTING NONCONFORMING VEHICLE ACCESSWAY IN ACCORDANCE WITH THE PROCEDURES AND REQUIREMENTS CONTAINED IN SECTION 2-292(D), TOWN OF DAVIE CODE OF ORDINANCES; DESCRIBING THE LAND AFFECTED AS ALL OF TRACTS 55 AND 56, IN SECTION 11, TOWNSHIP 50 SOUTH, RANGE 40 EAST, ACCORDING TO THE FLORIDA FRUITLANDS COMPANY SUBDIVISION NO. 1, RECORDED IN PLAT BOOK 2, PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID LANDS LYING AND SITUATE IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA; THE NONCONFORMING VEHICLE ACCESSWAY BEING GENERALLY DESCRIBED AS THE 12000 BLOCK OF SW 13TH STREET IN DAVIE, BROWARD COUNTY, FLORIDA; CONSIDERING THE APPROVAL IN CONNECTION THEREWITH OF A NON-EXCLUSIVE EASEMENT TO THE TOWN OF DAVIE FOR GOVERNMENTAL SERVICES AND A NON-EXCLUSIVE INGRESS/EGRESS LICENSE AND COVENANT TO CONVERY TO TOWN OF DAVIE; MAKING OTHER APPROPRIATE CONDITIONS IN CONNECTION WITH THE CONSIDERATION OF THIS MATTER; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, THAT:

SECTION 1: The lands affected by this ordinance are legally described as follows:

ALL OF TRACTS 55 AND 56, IN SECTION 11, TOWNSHIP 50 SOUTH, RANGE 40 EAST, ACCORDING TO THE FLORIDA FRUITLANDS COMPANY SUBDIVISION NO. 1, RECORDED IN PLAT BOOK 2, PAGE 17, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID LANDS LYING AND SITUATE IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA.

SECTION 2: The following, existing non-conforming vehicle access may continue to be used, subject to the provisions of this Ordinance described in Section 3 below:

The South 10 feet of the North Half (N1/2) of Tract 55, in Section 11, Township 50 South, Range 40 East, Less the East 15 feet thereof, and Less the West 264 feet thereof, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida.

The North 10 feet of the South Half (S1/2) of Tract 55 in Section 11, Township 50 South, Range 40 East, Less the East 15 feet thereof, and Less the West 264 feet thereof, and Less the East 22 feet of the West 1056 feet thereof, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County; said lands situate, lying and being in Broward County, Florida.

The East 22 feet of the West 814 feet of the South Half (S1/2) of Tract 55 in Section 11, Township 50 South, Range 40 East, Less the North 10 feet thereof, according to the Florida Fruit Lands Co. Sub. No. 1, Plat Book 2, Page 17, Public Records of Miami-Dade County, said lands situate, lying and being in Broward County, Florida.

SECTION 3: The continued use of the existing nonconforming vehicle access way shall be subject to the terms and conditions set forth in that certain A Non-Exclusive Easement To The Town Of Davie For Governmental Services and that certain Non-Exclusive Ingress/Egress License And Covenant To Convey To Town Of Davie, both of which are on file with the Town Clerk of the Town of Davie. The property described in Section 1 above shall be used and developed in accordance with the conditions and limitations of these approved documents. The appropriate Town officers are hereby authorized to make minor changes to such documents as may be necessary and proper and agreed to by the grantors, and they are authorized and requested to then execute same.

SECTION 4: Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof, other than the part so declared to be invalid.

SECTION 5: This Ordinance shall take effect immediately upon passage on second reading by the City Council.

PASSED ON FIRST READING by the Town Council this __ day of _____, 2007.

PASSED AND ADOPTED ON SECOND READING by the Town Council this _____ _____ day of _____, 2007.

_____
MAYOR

ATTEST:

_____
CITY CLERK

ORDINANCE NO. 2007-28

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE, FLORIDA CODE OF ORDINANCES BY SPECIFICALLY AMENDING CHAPTER 12, SECTION 12-292 ENTITLED "STREET STANDARDS" BY AMENDING SECTION 12-292 (D) TO PROVIDE FOR A PROCEDURE TO OBTAIN APPROVAL FOR EXISTING NONCONFORMING VEHICULAR ACCESSWAYS; BY CREATING A DEFINITION FOR "EXISTING NONCONFORMING VEHICULAR ACCESSWAYS" TO BE INCLUDED IN CHAPTER 12, SECTION 12-503, DEFINITIONS; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie deems it appropriate to amend the Code of Ordinances to provide a procedure whereby existing nonconforming vehicular accessways may be used for such public or private purposes necessary until compliance with applicable Town standards shall be achieved and to apply certain restrictions upon such existing nonconforming vehicular accessways; and

WHEREAS, the Town Council expresses its intent through the enactment of this ordinance to preserve and maintain the unique lifestyle enjoyed by the residents of Davie.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The foregoing "Whereas" clause is hereby ratified and confirmed as being true and correct and is incorporated herein by this reference.

SECTION 2. Chapter 12 entitled "Land Development Code" of the Code of Ordinances of the Town of Davie, be, and the same is hereby amended by creating Section. 12-292 (D): and creating within Section 12-503, Definitions, the following definition of an "existing nonconforming vehicular accessway" to read as follows:

Section, 12-503, Definitions: "Existing nonconforming vehicular accessway" shall be defined as "a way intended for vehicular traffic, whereby ingress and egress to and from lots or units shall be achieved over and upon a common or private parcel, primarily by the owners or occupants of said lots or units, but which may also be used to facilitate the entry thereupon of necessary public service and emergency vehicles."

Section, 12-292 (D) An "existing nonconforming vehicular accessway" may gain Town Council approval by following the procedures found herein and meeting the applicable prerequisites and conditions imposed thereby:

1. An "existing nonconforming vehicular accessway" shall be defined as found in section 12-503, Definitions;
2. The use of such an "existing nonconforming vehicular accessway" does not in its present state conform to the existing code requirements imposed under section 12-292(B), 12-292(C), 12-288 or any other applicable town code sections;
3. The "existing nonconforming vehicular accessway" was in use by resident(s) prior to the passage of the existing code restrictions applicable thereto;
4. The ~~affected residents~~ petitioner shall submit to the Town Council ~~through its designee~~ a petition request, upon a form to be provided by the town, and a copy of the petition request shall be sent ~~and signed~~ via certified mail with return receipt card to ~~by~~ all affected residents serviced by the subject existing non-conforming vehicular accessway at the mailing address for the affected

property as may be found in the most recent Broward County Property Appraiser's records, in order to obtain relief from the applicable code regulations as provided herein;

5. Said relief shall be authorized by the Town Council, and such approval shall be in the form of an ordinance approved by a majority of the Town Council;
6. Town Council ordinance approval may include, but not be limited to the following: staff recommendations, conditions, and requirements;
7. Such conditions shall include the approval and grant of all required governmental ingress and egress easements or similar licenses or covenants that shall run with the land; said document(s) shall be recorded in the Broward County public records upon their execution by the parties, either as an individual covenant running with the land of each affected resident or when an Association of residents exist as a part of the documents and covenants applicable thereto;
8. No part of this code section shall preclude the town or its residents upon the town's approval, from initiating any further action, including but not limited to special assessment, condemnation or creation of a special improvement district as may be necessary to bring said "existing nonconforming vehicular accessway" into a conforming state with codes and standards applicable to other public roads;
9. ~~All improvements and modifications to the "existing nonconforming vehicular accessway" required to achieve compliance with applicable road standards under the applicable town code section(s) as determined by the Town Engineer shall be completed within an amortization period of fifteen (15) years; said amortization period shall be deemed accepted upon application for the relief encompassed within this code section; said amortization period shall be tolled upon the passage of the Town Council ordinance approving the relief found herein;~~

~~10~~ 9. In order for the Town Council to evaluate the effects of the relief found within this code section upon the health, safety and welfare of all residents affected thereby, the following minimum criteria shall be provided in a form proscribed by the Development Services Director or his designee (unless waived by the Town Council):

a. Number of affected residential lots or units currently serviced;
b. Number of potential residential lots or units that may be serviced;
c. Dimensions of existing nonconforming vehicular accessway (length, width, surface type, depth, etc.);
d. Device(s) to be executed in approved dedication of affected parcels (rights of way, easements, etc.);
e. Title search shall be performed and submitted to the town (said records shall provide all documentation and records comprising a diligent and reliable search for prior ownership and previously-executed documents related to the existing nonconforming vehicular accessway);
f. Property identification numbers, folio numbers, and tax identification numbers shall be provided for all affected real property parcels;
g. A pre-approval public safety inspection shall be required to be performed by the Police and Fire Department designees;
h. A pre-approval engineering inspection shall be required to be performed by the Town Engineer or its designee;
i. A pre-approval Public Works and Utility Department inspection(s) shall be required to be performed by the Public Works and Utility Department designees;
j. An alternative route analysis may be conducted by the Town Engineer or its designee;
k. All such required criteria shall be presented to the Development Services Director or his designee prior to presentation to the Town Council.

SECTION 3. All Ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such

portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 5. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS 5th DAY OF September, 2007.

PASSED ON SECOND READING THIS 19th DAY OF September, 2007.

MAYOR/COUNCILMEMBER

Attest:

TOWN CLERK

APPROVED THIS 19th DAY OF September, 2007.

SUN-SENTINEL
PUBLISHED DAILY
FORT LAUDERDALE, BROWARD COUNTY, FLORIDA
BOCA RATON, PALM BEACH COUNTY, FLORIDA
MIAMI, MIAMI DADE COUNTY, FLORIDA

STATE OF FLORIDA
COUNTY OF BROWARD/PALM BEACH/MIAMI DADE
BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED

Chris Bull WHO, ON OATH, SAYS THAT HE/SHE IS A DULY AUTHORIZED REPRESENTATIVE OF THE CLASSIFIED DEPARTMENT OF THE SUN-SENTINEL, DAILY NEWSPAPER PUBLISHED IN BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA AND THAT THE ATTACHED COPY OF ADVERTISEMENT, BEING A:

NOTICE

IN THE MATTER OF:

ORDINANCE ESTABLISHING THE MILLAGE RATE TO BE LEVIED et al

IN THE CIRCUIT COURT, WAS PUBLISHED IN SAID NEWSPAPER IN THE ISSUES OF

9/8 13325111

AFFIANT FURTHER SAYS THAT THE SAID SUN-SENTINEL IS A NEWSPAPER PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI DADE COUNTY, FLORIDA, AND THAT THE SAID NEWSPAPER HAS HERETOFORE BEEN CONTINUOUSLY PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI, DADE COUNTY, FLORIDA, EACH DAY, AND HAS BEEN ENTERED AS SECOND CLASS MATTER AT THE POST OFFICE IN FORT LAUDERDALE, IN SAID BROWARD COUNTY, FLORIDA, FOR A PERIOD OF ONE YEAR NEXT PRECEDING THE FIRST PUBLICATION OF ATTACHED COPY OF ADVERTISEMENT, AND AFFIANT FURTHER SAYS THAT HE/SHE HAS NEITHER PAID, NOR PROMISED, ANY PERSON, FIRM, OR CORPORATION, ANY DISCOUNT, REBATE, COMMISSION, OR REFUND, FOR THE PURPOSE OF SECURING THIS ADVERTISEMENT FOR PUBLICATION IN SAID NEWSPAPER.

Chris Bull
(SIGNATURE OF AFFIANT)

SWORN TO AND SUBSCRIBED BEFORE ME
ON 08-September-2007, A.D.

Tara L. Bezak
(SIGNATURE OF NOTARY PUBLIC)

Tara L. Bezak
Commission # DD428648
Expires July 20, 2009

(NAME OF NOTARY, TYPED, PRINTED, OR STAMPED)

PERSONALLY KNOWN ✓ OR

PRODUCED IDENTIFICATION _____

Notice is hereby that on September 2007, at 7:00 p.m. or soon thereafter as practicable, at the Town Hall, 6591 Orange Drive, the Town Council of the Town of Davie will hold a public hearing to consider the proposed ordinances listed below and, at which time, interested parties may appear and be heard with respect to the proposed ordinance. Copies of the proposed ordinances may be inspected by the public at the office of the Town Clerk during business hours of the Town of Davie.

● AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ESTABLISHING THE MILLAGE RATE TO BE LEVIED FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2007, AND ENDING SEPTEMBER 30, 2008.

● AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ADOPTING THE BUDGET FOR THE TOWN OF DAVIE FOR THE FISCAL YEAR 2008.

● AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, PLANNING AND DEVELOPMENT, ARTICLE X, REZONINGS, SPECIAL PERMITS, VARIANCES AND VACATIONS, OR ABANDONMENT OF RIGHTS-OF-WAY, DIVISION 2, TO INCLUDE APPLICANTS ABLE TO AMEND THE LAND DEVELOPMENT CODE; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

● AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE, FLORIDA CODE OF ORDINANCES BY SPECIFICALLY AMENDING CHAPTER 12, SECTION 12-292 ENTITLED "STREET STANDARDS" BY AMENDING SECTION 12-292 (D) TO PROVIDE FOR A PROCEDURE TO OBTAIN APPROVAL FOR EXISTING NON-CONFORMING VEHICULAR ACCESSWAYS, BY CREATING A DEFINITION FOR "EXISTING NON-CONFORMING VEHICULAR ACCESSWAYS" TO BE INCLUDED IN CHAPTER 12 SECTION 12-503 DEFINITIONS; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

● AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 4-1-07 CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-5 (COUNTY) AND M-4 (COUNTY) DISTRICTS TO CF, COMMUNITY FACILITIES DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 4-1-07, Sharpe Project Development/SCI Funeral Services of Florida, Inc. 2401 SW 64 Avenue)

ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THIS BOARD OR COMMITTEE WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSES, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS MADE.

Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk at 797-1023 at least five business days prior to the meeting to request such accommodation. If you are hearing or speech impaired, please contact the Florida Relay Service by using the following numbers: 1-800-955-8770 (voice) or 1-800-955-8771 (TDD).

September 8, 2007

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director

PREPARED BY: Daniel J. Stallone, Esq., Code Compliance Official

SUBJECT: ORDINANCE - Existing Nonconforming vehicular access ways

AFFECTED DISTRICT: All

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE, FLORIDA CODE OF ORDINANCES BY SPECIFICALLY AMENDING CHAPTER 12, SECTION 12-292 ENTITLED "STREET STANDARDS" BY AMENDING SECTION 12-292 (D) TO PROVIDE FOR A PROCEDURE TO OBTAIN APPROVAL FOR EXISTING NONCONFORMING VEHICULAR ACCESSWAYS; BY CREATING A DEFINITION FOR "EXISTING NONCONFORMING VEHICULAR ACCESSWAYS" TO BE INCLUDED IN CHAPTER 12, SECTION 12-503, DEFINITIONS; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: Development Services staff is proposing a text addition and amendment to the Land Development Code that shall establish a procedure whereby existing nonconforming vehicular accessways may gain approval from the town with appropriate conditions and amortization schedules as applicable. Currently, the town code section 12-292 entitled "Street Standards" does not provide for such a procedure that will identify nonconforming vehicular accessways and provide a method to permit town approval of the same while formulating a method to achieve conformity through establishing conditions of approval and amortization.

The intent and purpose of this section is to address the existing nonconforming vehicular accessways that may serve affected residential property owners and to create a procedure that will allow for the development of vacant residential property parcels and permit the improvement of existing residential property parcels. In recognition of the nature of and existence of such nonconforming vehicular accessways, this proposed code amendment provides a method to achieve conformity to town street standards and encourage residential development along such routes.

The proposed code additions and amendments set forth definitions of the existing nonconforming vehicular accessways; establishes the procedure for town approval; and, sets minimum standards and criteria required of applicants seeking relief through this procedure in the application process applicable thereto.

PREVIOUS ACTIONS:

CONCURRENCES: The Local Planning Agency heard this matter at their August 8, 2007 meeting. The Agency was opposed to the ordinance and felt that it should be provided for by a variance request

and determined on a case by case basis. Chair, Michael Bender, passed the gavel and made a motion, seconded by Ms. Turin, to make this a variance request. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Pignato – absent; Ms.Turin – yes. Motion carried 4-0.

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

If yes, expected cost: $

Account Name:

If no, amount needed: $

What account will funds be appropriated from:

Additional Comments:

RECOMMENDATION(S): Complete and suitable for transmittal to the Town Council for further consideration.

Attachment(s): ORDINANCE

Administration 797-1030
Town Clerks Office 797-1020
Budget & Finance 797-1050
Parks & Recreation 797-1145
Development Services 797-1111
Human Resources 797-1100

Engineering 797-1113
Fire Department 797-1211
Police Department 693-8200
Public Works 797-1240
Utilities 433-4000
Planning & Zoning 797-1103

Town of Davie 6591 Orange Drive Davie, Florida 33314-3399 (954) 797-1000

Pre-approval Engineering Report

For SW 13th Street between 12400 Block and 12700 Block in Davie, Florida

In compliance with the town's land development code, section 12-292 (D) the following Engineering Analysis shall be performed by the Town Engineering Division.

1. A pre-approval engineering inspection shall be required to be performed by the Town Engineer or its designee.
2. An alternative route analysis may be conducted by the Town Engineer

Land Description:

A 20 ft strip of land is owned by Rodriguez Family Holdings along SW 13th Street from existing culvert crossing to their eastern property line. A small portion of that strip, approximately 250 ft from the Flamingo Road's west right-of-way line is only 10 ft in width.

1. Pre-approval engineering inspection

The Town Engineering Staff have performed a site inspection on Tuesday October 23, 2007.

1.1. Existing Site Conditions.

a) Currently the only available access to Rodriguez's residence is SW 13th Street which connects to Flamingo Rd. There are 11 residential homes and two vacant lots that have been served by this access-way to their properties through a 13 ft wide culvert crossing at the Flamingo Road and SW 13th Street intersection. Recently, approximately three inches loosely compacted asphalt aggregates have been laid on top of the existing access-way. The width of the asphalt access-way varies from 10 feet to 12 feet.

b) The new asphalt aggregates may support localized traffic. The composition of the sub-base of the access-way is unknown. The current roadway conditions limit two vehicles from safely traversing along the same paved surface. One vehicle is required to pull off the access way while the other vehicle passes. In some of the areas there is no safe area to pull aside. The culvert to access SW 13th Street only allows one vehicle to enter/exit site at any give time. This causes a circulation issue along Flamingo Road, if entering vehicle must stop to allow existing vehicle to exit through the shared culvert crossing. The current access-way does not have a storm sewer system in place. The adjacent properties along the access way do not have a defined swale system. The storm water runoff sheet flows from access-way onto adjacent properties. The existing access-way does not meet the town roadway engineering standards.

c) Referenced Code of Ordinances:

Town of Davie Land Development Code, Section 12-330 (a) states that all roadways must be completely compacted and stabilized with a dust free surface.

Town of Davie Land Development Code, Section 12-292 specifies the standard design of a roadway.

1.2. Emergency Response Assessment.

There is not a turn around area for fire trucks. Two speed bumps have been also installed with new asphalt aggregate course on the existing access-way. There is no fire hydrant located within development..

2. Alternative Route Analysis

Existing public road right-of way of SW 127 Avenue Road is adjacent to Rodriguez residence. It is the town engineer's opinion that SW 127th Ave may be the best alternative access for Rodriguez residence if a driveway is constructed and connected to the existing pavement.

Pre-approval Engineering Report

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c) Referenced Code of Ordinances:

Town of Davie Land Development Code, Section 12-292 specifies the standard design of a roadway.

1.2. Emergency Response Assessment.

There is not a turn around area for fire trucks. Two speed bumps have been also installed with new asphalt aggregate course on the existing access-way. There is no fire hydrant located within development..

Memorandum

TO:	Mayor and Town Council
THROUGH:	Marcie Nolan, AICP, Acting Development Services Director
FROM:	Daniel J. Stallone, Esq., Code Compliance Official
DATE:	November 29, 2007
RE:	Existing Nonconforming Vehicle Accessway Town Council Agenda Item No. 6.7

MEETING DATE: November 7, 2007

REQUEST:
The petitioner (Rodriguez Family Holdings Inc. 12000 Block of SW 13th Street) is requesting that the above referenced items be tabled to the November 27, 2007 meeting. This is the petitioner's first request for deferral.

PREVIOUS ACTIONS:
The Town of Davie Code of Ordinances was recently revised to include Ordinance No. 2007-28 whereby a procedure was defined for use by citizens who desire to obtain town approval for existing nonconforming vehicular accessways. The Development Services Department staff is in receipt of an application package submitted on behalf of the applicant, Rodriguez Family Land Holdings, Inc., by Mr. Donald J. Lunny, Esq. In respect thereof, the "Application for Approval of an Existing Nonconforming Vehicular Accessway" contains the applicable documents as required under Town code section 12-292 (D) for the purpose of obtaining such an approval.

CONCURENCES: None

JUSTIFICATION:
The petitioner is requesting the tabling of this item in order provide a copy of the Ordinance 2007-28 in the mailing of the notice to the affected residences.

ATTACHMENT:
Petitioner's Tabling Request Letter

BRINKLEY, MORGAN, SOLOMON, TATUM,
STANLEY, LUNNY & CROSBY, LLP
ATTORNEYS AT LAW
19TH FLOOR
SUN-SENTINEL BUILDING
200 EAST LAS OLAS BOULEVARD
FORT LAUDERDALE, FLORIDA 33301-2248

MAILING ADDRESS:
POST OFFICE BOX 522
FORT LAUDERDALE, FLORIDA 33302-0522

TELEPHONE (954) 522-2200
FACSIMILE (954) 522-9123
e-mail: lawfirm@brinkleymorgan.com
WEBSITE: www.brinkleymorgan.com

November 7, 2007

Mayor and Council Members
Town of Davie
6591 Orange Drive
Davie, FL 33314

Re: Request to Defer Agenda Item 6.7, Existing Non-Conforming Vehicular Accessway to November 27, 2007 Town Council Meeting

Dear Mayor and Council Members:

As you may recall, I represent the Rodriguez family in their effort to obtain an approval for an existing non-conforming vehicular accessway known as the 12000 Block of S.W. 13th Street.

As you all may recall, the Town recently enacted Ordinance No. 2007-28 to establish a process to allow applications to be considered by the Town Council for matters such as this one. This process is new for Davie, and our application is the Town's first formal application. Unfortunately, our office made a mistake in sending notice by certified mail to the affected residences. While we sent the affected residences the new Town application form, I omitted to include with the form a copy of recently adopted Ordinance No. 2007-28 as required by the form.

As a result, we will not be able to present our matter to the Town Council at tonight's meeting, and request that the item be deferred. We have advised all of the affected residents we could reach that we would not be presenting this matter tonight. We will be making our request to the Town Council for first hearing on November 27, 2007 and December 5, 2007.

I apologize for any inconvenience I have caused concerning this notice discrepancy. Please defer this item to the November 27, 2007 meeting.

Very truly yours,

Donald J. Lunny, Jr.
For the Firm

DJL/tw
cc: Russell Muniz, Town Clerk
Dan Stallone, Code Compliance Officer
Marcie Nolan, Acting Development Services Director

C:\wpfiles\clients\Rodriguez,Steven\SW 13th Street improvement\Agenda_Item_6.7 Existing Non-Conforming Vehicular Accessway.doc