

MEMORANDUM

Agenda Item No. 5(D)

TO: Honorable Vice Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: November 19, 2020

FROM: Geri Bonzon-Keenan
Successor County Attorney

SUBJECT: Resolution granting petition to close SW 76 Street, beginning approximately 145 feet west of the north alignment of SW 72 Court west for approximately 678 feet (Road Closing Petition No. P-852); retaining a utility easement right; and authorizing the County Mayor to execute the underground easement and to exercise all rights conferred therein

The accompanying resolution was prepared by the Transportation and Public Works Department and placed on the agenda at the request of Prime Sponsor Commissioner Xavier L. Suarez.



Geri Bonzon-Keenan
Successor County Attorney

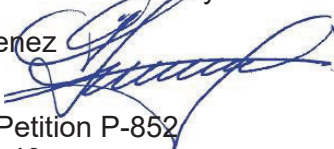
GBK/uw

Memorandum



Date: November 12, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Road Closing Petition P-852
Section: 35-54-40
SW 76 Street, Beginning Approximately 145 Feet West of the North Alignment of SW 72
Court West for Approximately 678 Feet

Recommendation

It is recommended that the Board of County Commissioners (Board) grant Road Closing Petition P-852, attached to this Memorandum as Attachment "B", following a public hearing, while reserving this land as a utility easement. The Miami-Dade County Departments of Regulatory and Economic Resources, Transportation and Public Works (DTPW), Water and Sewer and Fire Rescue have no objection to this road being closed. As this road has improvements including asphalt pavement and utilities, it will be reserved as a utility easement. A location map is included as Attachment "A", the legal description is included as Attachment "C" and the utility easement is included as Attachment "D" to this memorandum.

Scope

This road closing is located in County Commission District 7, represented by Commissioner Xavier L. Suarez.

Fiscal Impact/Funding Source

The properties abutting the subject road are tax exempt. Therefore, the granting of the petition will not result in an increase or decrease in revenue from property taxes. The fee for this road closing is \$8,246.

Track Record/Monitor

Alejandro Barrios, Chief, Stormwater Engineering and Right-of-Way Division, DTPW will oversee and monitor this project.

Background

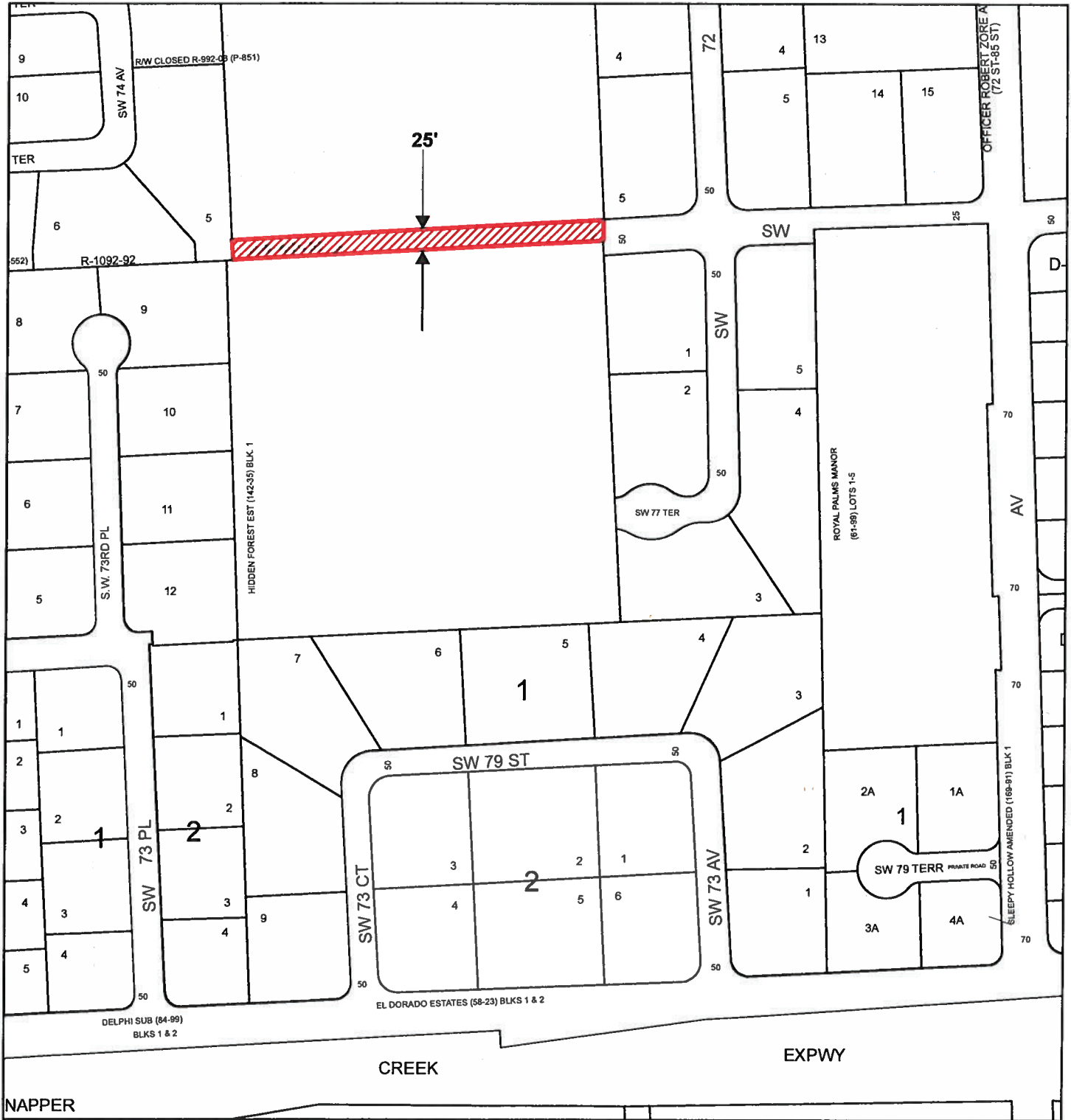
The petitioner, The University Baptist Church of Coral Gables, Inc., wishes to close a small portion of SW 76 Street, from approximately 145 feet west of the west right of way line of SW 72 Court, as it aligns north of SW 76 Street, west for approximately 678 feet, in order to incorporate the land into its property to eliminate illegal activities in the area. The Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (TIITF), owner of the property abutting subject right of way to the south, and the Miami-Dade County Department of Regulatory and Economic Resources (RER), managers of said property, have an access easement which was recorded in the Official Records Book 26878, Pages 3589-3601. Therefore, this action will not adversely impact the flow of vehicular traffic and access of emergency vehicles or RER personnel into the area. The subject road was dedicated in 1988, by the plat of TRANSCONTINENTAL ESTATES, recorded in Plat Book 135, Page 41, of the Public Records of Miami-Dade County, Florida. The underlying property is zoned EU-1 (Single Family One Acre Estate District). The road closing petition included in Attachment "B" has been signed by all abutting property owners.



Jennifer Moon
Deputy Mayor

Location Map

SECTION 35 TOWNSHIP 54 RANGE 40



This is not a survey

Legend

P852-Road Closing

MDC.Lot_line

<all other values>

LINE_TYPE

Lots

P-852

Municipality: UNINCORPORATED MIAMI-DADE
Commission District: Xavier L. Soares , 7

MIAMI-DADE COUNTY
 Department of Transportation & Public Works
 Right-of-Way
 111 NW 1st STREET, SUITE 1610, MIAMI FLORIDA 33128
 PH (305) 375-2714 FAX (305) 375-2825

Date: Rev. March 24, 2016
Prepared by :ym

PETITION TO CLOSE ROAD

TO: Board of County Commissioners
Miami-Dade County, Florida

The undersigned, pursuant to Sections 336.09 – 336.12 Florida Statutes, hereby petitions the Board of County Commissioners to vacate, abandon, discontinue and close an existing public street, alleyway, road, highway, or other place used for travel, or a portion thereof, and to renounce and disclaim any right of the County and the public in and to any land in connection therewith; or to renounce and disclaim any right of County and the public in and to certain land, or interest therein, acquired by purchase, gift, devise, dedication or prescription for street, alleyway, road or highway purposes; or to renounce and disclaim any right of the County and the public in and to certain land delineated on recorded map or plat as a street, alleyway, road or highway.

The undersigned hereby certify:

1. LEGAL DESCRIPTION: The complete and accurate legal description of the road, right-of-way sought to be closed is as follows:

The northern 25 feet of S.W. 76 Street, as shown on the plat of TRANSCONTINENTAL ESTATES, as recorded in Plat Book 135, Page 41, of the Public Records of Miami-Dade County, Florida.

2. PUBLIC INTEREST IN ROAD: The title or interest of the county and the Public in and to the above described road, right-of-way was acquired and is evidenced in the following manner (state whether public interest was acquired by deed, dedication or prescription and set forth where deed or plat is recorded in public records):

The subject portion of S.W. 76 Street was dedicated to Miami-Dade County in 1988 by the plat of TRANSCONTINENTAL ESTATES, recorded in Plat Book 135, Page 41, of the Public Records of Miami-Dade County, Florida.

3. ATTACH SURVEY SKETCH: Attached hereto, for the file, is a survey accurately showing and describing the above described right-of-way and its location and relation to surrounding property, and showing all encroachments and utility easements.

ATTACHMENT B

4. **ABUTTING PROPERTY OWNERS:** the following constitutes a complete and accurate schedule of all owners of property abutting upon the above described right-of-way.

PRINT NAME	FOLIO NO.	ADDRESS
University Baptist Church of Coral Gables, Inc.	30-4035-052-0010	624 Anastasia Avenue Coral Gables, FL 33134
Board of Trustees of the Internal Improvement Trust Fund of the State of Florida	30-4035-000-0610	3900 Commonwealth Blvd., Tallahassee, FL 32399

5. **ACCESS TO OTHER PROPERTY:** The undersigned certify that in the event this petition is granted no other property owners will be prevented from access to and from their property and no other property owners in the vicinity will be adversely affected.

6. **GROUND FOR REQUESTING PETITION AND PROPOSED USE FOR THE LAND BY THIS REQUEST:** The undersigned submits as a grounds and reasons in support of this petition the following (state in detail, why petition should be granted):


The purpose of this request is to permit the subject right-of-way to be closed in order to promote the health, safety and existing character in the surrounding neighborhood. The portion of SW 76 Street that is the subject of this Petition to Close Road will be closed in favor of the elimination of illegal and illicit activity in the area, and closing it will protect the public interest, the specimen trees and plants located to the south and area residents to the maximum extent possible.

ATTACHMENT B

7A. Signatures of **all** abutting property owners: Respectfully submitted,

SIGNATURE

ADDRESS


David Wideman

624 Anastasia Avenue, Coral Gables, FL

**Division of State Lands, State of Florida
Department of Environmental Protection**

By: _____
Name: _____
Title: _____

3900 Commonwealth Blvd., Tallahassee, FL 32399

ATTACHMENT B

7B. Signatures of all abutting property owners: Respectfully submitted,


SIGNATURE

ADDRESS

David Wideman

624 Anastasia Avenue, Coral Gables, FL

**Board of Trustees of the Internal Improvement Trust
Fund of Florida**

By:  3900 Commonwealth Blvd., Tallahassee, FL 32399
Cheryl McCall, Bureau Chief
Bureau of Public Land Administration
Department of Environmental Protection, Division of
State Lands, for and on behalf of the Board of
Trustees of the Internal Improvement Trust Fund of
Florida.

ATTACHMENT B

Attorney for Petitioner

Address: 200 S. Biscayne Blvd.
Suite 4100
Miami, FL 33131

STATE OF FLORIDA)
) SS
MIAMI-DADE COUNTY)

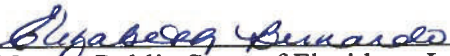
BEFORE ME, the undersigned authority, personally appeared Joshua Heller, who first by me duly sworn, deposes and says that he is the attorney of one of the petitioners named in and who signed the foregoing petition; that he is duly authorized to make this verification for and on behalf of the petitioners; that he has read the foregoing petition and that the statements therein contained are true.



Joshua Heller, Esq.

Sworn and subscribed to before me this

8th day of August, 2018



Notary Public State of Florida at Large

My Commission Expires: February 8, 2020



ELIZABETH BERNARDO
MY COMMISSION # FF 958623
EXPIRES: February 8, 2020
Bonded Thru Budget Notary Services

Return to:
 Right of Way Division.
 Miami-Dade County Department of .
 Transportation & Public Works .
 111 N.W. 1st Street .
 Miami, FL 33128-1970 .
 .
 Instrument prepared by: .
Luis F. Lacau Jr. P.L.S. .
 Department of Transportation and .
 Public Works .
 111 N.W. 1st Street .
 Miami, FL 33128-1970 .
 .

NON-EXCLUSIVE UTILITY EASEMENT

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

THIS EASEMENT, Made this ____ day of _____, A.D. 2020, by **MIAMI-DADE COUNTY**, a political subdivision of the of the State of Florida, "**GRANTOR**".

WITNESSETH:

That the said "GRANTOR", for and in consideration of benefits to the general public and for further good and valuable considerations, does hereby reserve a NON EXCLUSIVE UTILITY EASEMENT for the purpose of constructing and maintaining Utilities over, along, and under SW 76 Street, within the following described parcel of land, situate, lying and being in the County of Miami-Dade, State of Florida, "the easement," to-wit:

All that portion of the Right-of-Way for SW 76 Street lying South of and adjacent to Tract "A" of the Plat of "University Baptist Church" according to the plat thereof as recorded in Plat Book 167, Page 86 of the Public Records of Miami Dade County, Florida, said Right-of-Way being bounded in the North by the southerly line of said Tract "A", and being bounded in the South by the center line of said SW 76 Street, being bounded in the East by the southerly extension of the Easterly boundary line of said Tract "A", and being bounded in the West by the southerly extension of the westerly boundary of said Tract "A"

TO HAVE AND TO HOLD the said **EASEMENT**, subject however, to the following conditions:

THAT construction of utilities within the easement will in no way interfere with that certain access easement recorded in Official Records Book 26878 Page 3589 of the Public Records of Miami Dade County;

THAT any entity performing utility work within this easement will indemnify and hold GRANTOR harmless from any and all damages, liability, claims, demand, and suits of any nature associated with said entity's use of the easement;

It is expressly provided that if and whenever the use of the subject utility easement is discontinued, the interest to the said described easement shall immediately revert to the **GRANTOR**, its heirs and assigns, and it shall have the right to immediately repossess the same.

This grant of easement conveys only the interest of the County and its Board of County Commissioners in the property herein described and shall not be deemed to warrant the title or to represent any state of facts concerning the same.

IN WITNESS WHEREOF, the said **GRANTOR** has caused these presents to be executed in its name, by its Board of County Commissioners, acting by the Mayor and attested by the Clerk or Deputy Clerk of said Board, the day and year aforesaid.

ATTEST:

HARVEY RUVIN,
CLERK OF SAID BOARD

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: _____
Deputy Clerk

By: _____
Mayor

Approved by County Attorney as
To form and legal sufficiency.

STATE OF _____)
)
COUNTY OF _____)

I HEREBY CERTIFY, that on this _____ day of _____, A.D. 2020 before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared _____ and _____, personally known to me, or proven, by producing the _____ following _____ identification: _____ to be the _____ President and _____ Secretary of _____, a corporation under the laws of the State of _____, and in whose name the foregoing instrument is executed and that said officer(s) severally acknowledged before me that _____ executed said instrument acting under the authority duly vested by said corporation and its Corporate Seal is affixed thereto.

WITNESS my hand and official seal in the County and State aforesaid, the day and year last aforesaid.

Notary Signature

Printed Notary Name

+
NOTARY SEAL/STAMP

Notary Public, State of Florida

My commission expires: _____

Commission/Serial No. _____



MEMORANDUM
(Revised)

TO: Honorable Vice Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: November 19, 2020

FROM: 
Geri Bonzon-Keenan
Successor County Attorney

SUBJECT: Agenda Item No. 5(D)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(D)
11-19-20

RESOLUTION NO. _____

RESOLUTION GRANTING PETITION TO CLOSE SW 76 STREET, BEGINNING APPROXIMATELY 145 FEET WEST OF THE NORTH ALIGNMENT OF SW 72 COURT WEST FOR APPROXIMATELY 678 FEET (ROAD CLOSING PETITION NO. P-852); RETAINING A UTILITY EASEMENT RIGHT; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE UNDERGROUND EASEMENT AND TO EXERCISE ALL RIGHTS CONFERRED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, Road Closing Petition No. P-852 was signed by all property owners abutting on the road sought to be closed; and

WHEREAS, a public hearing was held in compliance with Resolution No. 7606,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The avenue, street, highway or other place used for travel as described in the attached petition is hereby vacated, abandoned and closed.

Section 2. All rights of Miami-Dade County and the public in and to the same are hereby renounced and disclaimed; save and except that: (i) this closure is conditioned upon, and the County retains, a utility easement in the property in substantially the form attached to the Mayor Memorandum as Attachment D; and (ii) that this closure is subject and subordinate to the existing access easement, recorded in Official Records Book 26878, Pages 3589 - 3601, over a

portion of the land in favor of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and Miami-Dade County. This Board authorizes the County Mayor or County Mayor's designee to execute the utility easement.

Section 3. It is found that the action will serve a public purpose and benefit the public without violating private property rights.

Section 4. The procedure utilized in the adoption of this resolution is expressly ratified and approved.

Section 5. Pursuant to Resolution No. 7606, the Clerk is hereby directed to publish notice of the adoption of this resolution one time within thirty (30) days hereafter in a newspaper of general circulation of Miami-Dade County and the County Mayor or County Mayor's designee shall record the proof of publication of the notice of public hearing of this resolution as adopted and the proof of publication of the notice of the adoption of this hearing in the public records of Miami-Dade County.

Section 6. Pursuant to Resolution No. 974-09, this Board (1) directs the County Mayor or the County Mayor's designee to record the utility easement in the Public Records of Miami-Dade County, Florida, and to provide a copy of the instrument to the Clerk of the Board within 30 days of recordation of the easement, and (2) directs the Clerk of the Board to attach and permanently store a recorded copy together with this Resolution.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Vice Chairwoman

Jose "Pepe" Diaz

Oliver G. Gilbert, III

Sally A. Heyman

Joe A. Martinez

Jean Monestime

Sen. Javier D. Souto

Sen. René García

Keon Hardemon

Eileen Higgins

Kionne L. McGhee

Raquel A. Regalado

District 8 - Vacant

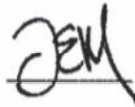
The Chairperson thereupon declared the resolution duly passed and adopted this 19th day of November, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Lauren E. Morse