

MEMORANDUM

Agenda Item No. 5(H)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: May 3, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution granting petition to close a portion of NW 95 Street from NW 8 Avenue west for 117.1 feet, and NW 9 Avenue from NW 96 Street south for 142.4 feet (Vacation of Right-of-Way Petition No. P-978) Ades Family Foundation Inc.; subject to certain conditions

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



Geri Bonzon-Keenan
County Attorney

GBK/jp

Memorandum



Date: May 3, 2022

To: Honorable Chairman José “Pepe” Díaz
and Members, Board of County Commissioners

From: Daniella Levine Cava *Daniella Levine Cava*
Mayor

Subject: Vacation of Right-of-Way Petition P-978
Section: 2-53-41
Portion of NW 95 Street from NW 8 Avenue West for 117.1 Feet and NW 9 Avenue from
NW 96 Street South for 142.4 Feet
Commission District: 2

Executive Summary

The purpose of the item is to gain Board approval for granting a petition filed by Ades Family Foundation, Inc. to vacate portions of County right-of-way located in District 2. The fee for this Vacation of Right-of-Way petition is \$8,003.63.

Recommendation

It is recommended that the Board of County Commissioners (Board) grant Vacation of Right-of-Way Petition P-978, attached to this Memorandum as Exhibit 2, following a public hearing and contingent on the recording of the plat of “ADES FAMILY FOUNDATION,” tentative Plat T-24650. In the event the plat is not approved, this resolution becomes null and void. 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 these portions of right-of-way being closed. This request conforms with County regulations governing the closing of roads as set forth in Resolution No. R-7606.

The portion of the subject right-of-way lying along NW 95 Street consists of undeveloped land covered with grass and weeds. The portion of the subject right-of-way for NW 9 Avenue is covered by areas of stone, gravel, bare dirt, grass, and brush, and is crossed by a segment of chain-link fence. A location map is attached as Exhibit 1.

Scope

This Vacation of Right-of-Way petition is located within District 2, which is represented by Commissioner Jean Monestime.

Fiscal Impact/Funding Source

The Property Appraiser’s Office has assessed the properties adjacent to the subject portions of the right-of-way at an average rate of \$9.45 per square foot. Therefore, the estimated value of the subject lands would be approximately \$60,436. If the subject portions of right-of-way are closed and vacated, the lands will be placed on the tax roll, generating an estimated \$1,065 per year in additional property taxes. The fee for this Vacation of Right-of-Way petition is \$8,003.63.

Track Record/Monitor

DTPW is the entity overseeing this project and the person responsible for monitoring is Maria D. Molina, P.E., Chief, Right-of-Way Division.

Attachments: Exhibit 1 – Location Maps, Exhibit 2 – Vacation of Right-of-Way Petition P-978

Delegated Authority

There is no delegation of authority associated with this item.

Background


The owners of all the abutting properties wish to close the subject portion of right-of-way along the north side of NW 95 Street from NW 8 Avenue west for approximately 117.1 feet and NW 9 Avenue from NW 96 Street south for 142.4 feet to incorporate the land into the abutting properties and the proposed plat of “ADES FAMILY FOUNDATION,” tentative Plat T-24650. The subject portions of right-of-way have neither been improved nor maintained by Miami-Dade County.

A chain-link fence in poor condition encloses part of the portion of right-of-way along NW 95 Street with the abutting land to the north (Folio 30-3102-000-0541). Although the parcel of land abutting on the east side of the second portion of right-of-way (Folio 30-3102-013-0270) fronts on NW 96 Street, its tenants use an area of the subject right-of-way for NW 9 Avenue as a driveway to access the dwelling located in the southwesterly corner of this parcel. The petitioner affirms that access to and from abutting properties will not be obstructed by the closure of this right-of-way. The attorney for the petitioner stated that the petitioner has made an agreement with the abutting property owner on the east side of the subject portion of NW 9 Avenue to the effect that, if this Vacation of Right-of-Way Petition is granted, the petitioner will transfer the westerly half of the subject portion of NW 9 Avenue to the said owner of the easterly abutting property, thereby adding the full width of the subject portion of NW 9 Avenue to the property abutting on the east.

The subject portion of right-of-way sought to be closed along the north side of NW 95 Street was dedicated to Miami-Dade County in 1968 by the Right-of-Way Deed to Dade County recorded in Official Records Book 6088, Page 140, of the Public Records of Miami-Dade County, Florida. This land lies outside the zoned right-of-way for NW 95 Street; however, a portion of it will be dedicated back to Miami-Dade County for public right-of-way by the aforementioned proposed plat of “ADES FAMILY FOUNDATION” to accommodate a deceleration lane, queuing area, and sidewalk associated with the proposed development.

The subject portion of NW 9 Avenue sought to be closed was dedicated to Miami-Dade County in 1920 by the plat of “PINWOOD PARK,” according to the plat thereof as recorded in Plat Book 6, Page 42, of the Public Records of Miami-Dade County, Florida.

The properties abutting the subject portions of right-of-way are zoned NCUAD (North Central Urban Area District), except for the property abutting on the east side of NW 9 Avenue, which is zoned RU-3B (Bungalow Court District, 10,000 square feet net).

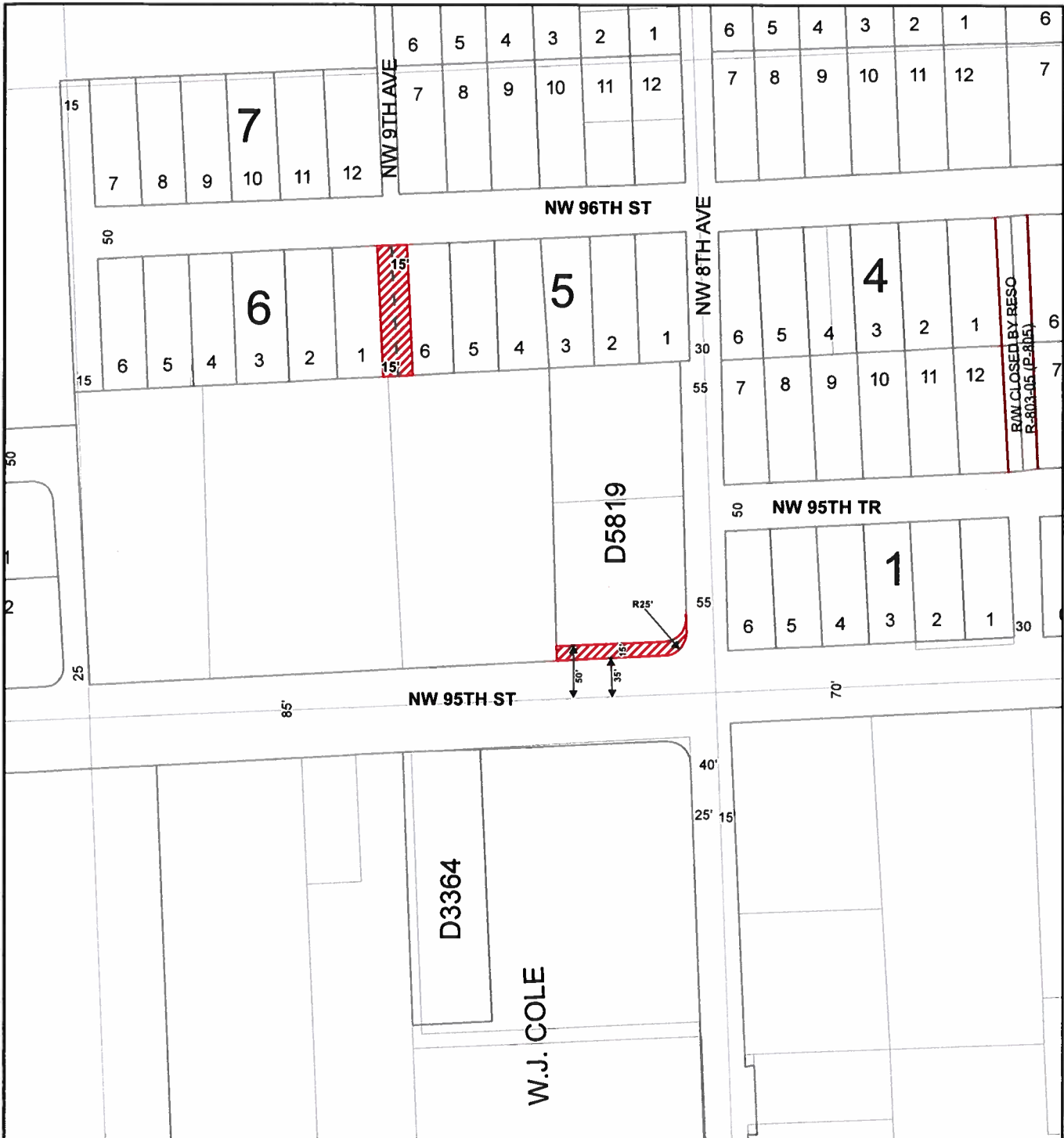


Jimmy Morales
Chief Operations Officer

Location Map

SECTION 02 TOWNSHIP 53 S RANGE 41 E

EXHIBIT "1"



This is not a survey

P- 978

Municipality: UNINCORPORATED MIAMI-DADE
Commission District: Jean Monestime 2

Legend

P-978 ROAD CLOSING

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

Location & Aerial Map

SECTION 02 TOWNSHIP 53 S RANGE 41 E

EXHIBIT "1"



This is not a survey

P- 978

Municipality: UNINCORPORATED MIAMI-DADE
Commission District: Jean Monestime 2

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EXHIBIT 2

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:

See attached Exhibit "A". The proposed right of way closure includes a portion of NW 9 Ave and a portion of NW 95 Street.

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):

Public interest in the portion of NW 9 Ave was acquired by plat; PINWOOD PARK Plat recorded in Plat Book 6, Page 42, of the Public Records of Miami-Dade County, Florida;

Public interest in the portion of NW 95 Street was dedicated by that certain Right of Way Deed to Dade County recorded in Official Records Book 6088, Page 140, of the Public Records of Miami-Dade County, Florida, and that certain Right of Way Deed to Dade County recorded in Official Records Book 1949, Page 15, of the Public Records of Miami-Dade County, Florida

3. ATTACH SURVEY SKETCH: Attached hereto 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.

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
ADES FAMILY FOUNDATION INC	30-3102-013-0300 30-3102-000-0570	900 NW 96 St 975 NW 95 St.
DELINA STAGGS THOMAS & LINA ANN MYERS-WESTCARR	30-3102-013-0270	830 NW 96 ST
ADES FAMILY FOUNDATION INC	30-3102-000-0530 30-3102-000-0541	855 NW 95 St NW Corner of NW 95 St & NW 8 Ave

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. **GROUNDS 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 NW 9 Ave right of way sought to be vacated by this petition has never been physically constructed, nor does it contain any constructed roadway or pedestrian improvements, and does not connect to the grid; this right of way is essentially functioning as a private driveway with no traffic connections and, accordingly, the proposed closure will not affect the level of service of the local streets. This right of way was never improved and is not serving any purpose. Approval of this road closure petition does not have any impact on the surrounding properties and will allow the reasonable development of the surrounding land.

The portion of NW 95 Street that the applicant seeks to vacate is outside the current zoned right of way (see Section 33-133(B)(9) of the Miami-Dade County Code of Ordinances, providing for a 70 foot right of way). Portions of this right of way to be vacated will be dedicated back to the County by future plat for purposes of a deacceleration lane, queuing area and public sidewalk for the proposed development abutting such portion of the right of way in accordance with the site plan under review under ASPR No. A2021000015. Once the geometry of the deacceleration lane is finalized following approval of paving and drainage plans for the proposed project, the portion of such vacated right-of-way will be dedicated back to the County by plat in accordance with the required right-of-way dedication under Section 33-133(B)(9) of the Miami-Dade County Code of Ordinances. The portion of NW 95 Street right of way that is sought to be vacated does not contain any constructed roadway or pedestrian improvements, and the proposed vacation help facilitate the thoughtful development of the abutting property.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

RIGHT-OF-WAY VACATION

EXHIBIT A



SCALE: 1"=40'

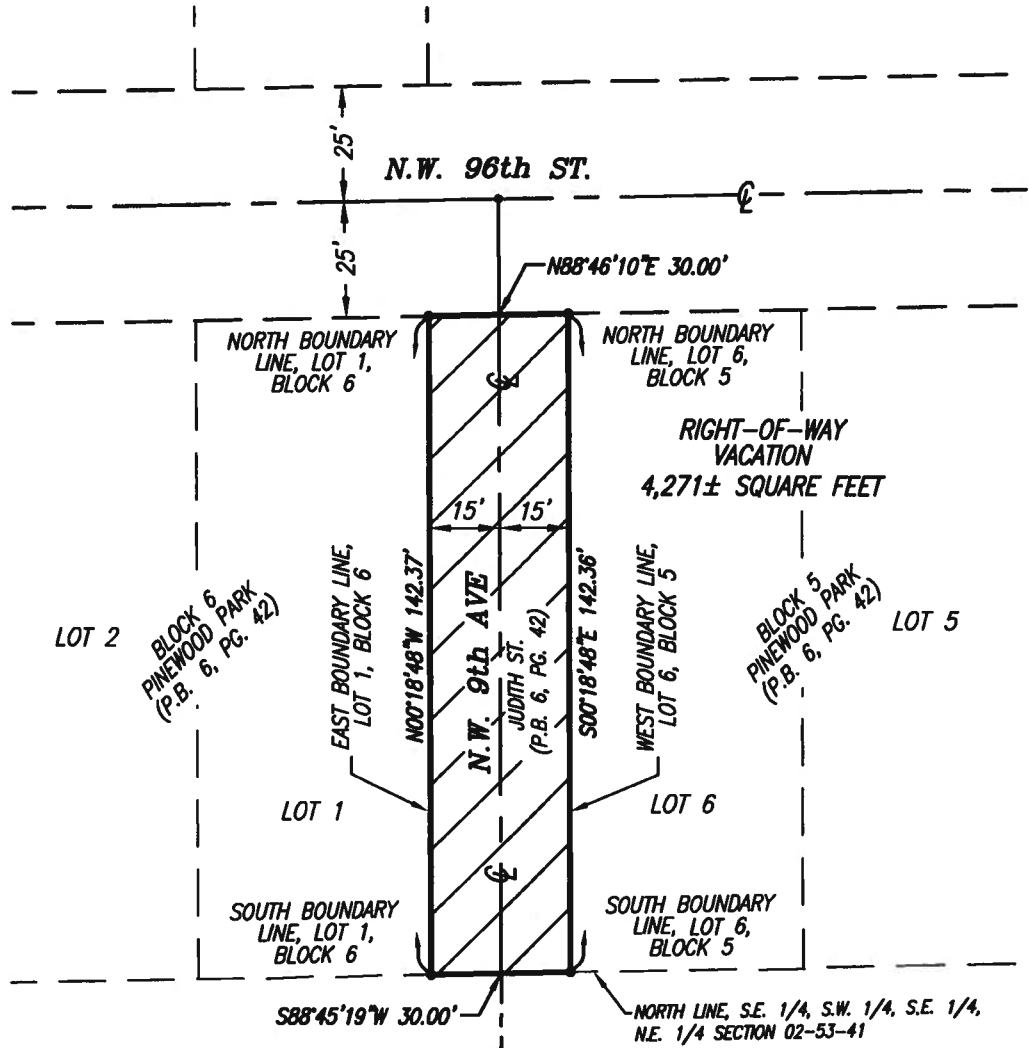
NOTES:

- 1) AUTHENTIC COPIES OF THIS SKETCH AND LEGAL DESCRIPTION MUST BEAR THE SIGNATURE AND EMBOSSED SEAL OF THE ATTESTING PROFESSIONAL LAND SURVEYOR.
- 2) THIS SKETCH HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE ENTITY (ENTITIES) NAMED HEREON ONLY. THE ATTACHED CERTIFICATION DOES NOT EXTEND TO ANY UNNAMED PARTIES.

LEGEND:

P.B. DENOTES PLAT BOOK
 PG. DENOTES PAGE
 ☉ DENOTES CENTERLINE

DENOTES SUBJECT PARCEL



LEGAL DESCRIPTION:

A PORTION OF N.W. 9TH AVENUE (JUDITH STREET BY PLAT) LYING BETWEEN BLOCKS 5 AND 6, "PINEWOOD PARK," ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 6 AT PAGE 42, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID PARCEL OF LAND BEING BOUNDED ON THE NORTH BY THE WESTERLY EXTENSION OF THE NORTHERLY BOUNDARY LINE OF LOT 6, SAID BLOCK 5, BEING BOUNDED ON THE SOUTH BY THE WESTERLY EXTENSION OF THE SOUTHERLY BOUNDARY LINE OF SAID LOT 6, BLOCK 5, BEING BOUNDED ON THE EAST BY THE WESTERLY BOUNDARY LINE OF SAID LOT 6, BLOCK 5, AND BEING BOUNDED ON THE WEST BY THE EASTERLY BOUNDARY LINE OF LOT 1, SAID BLOCK 6.

SAID PARCEL OF LAND CONTAINING 4,271 SQUARE FEET, MORE OR LESS.

ALL LYING AND BEING IN SECTION 02, TOWNSHIP 53 SOUTH, RANGE 41 EAST, MIAMI-DADE COUNTY, FLORIDA.



SCHWEBKE SHISKIN + ASSOCIATES (LB-87)

LAND SURVEYORS • ENGINEERS • LAND PLANNERS

3240 CORPORATE WAY, MIRAMAR, FLORIDA 33025 DADE:(305) 652-7010 BROWARD:(954) 435-7010 FAX:(305) 652-8284

THIS IS NOT A "LAND SURVEY."

ORDER NO.: 213620

DATE: 05/21/2021

SHEET 1 OF 2 SHEET(S)

F.B.: N.A.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION RIGHT-OF-WAY VACATION

EXHIBIT A



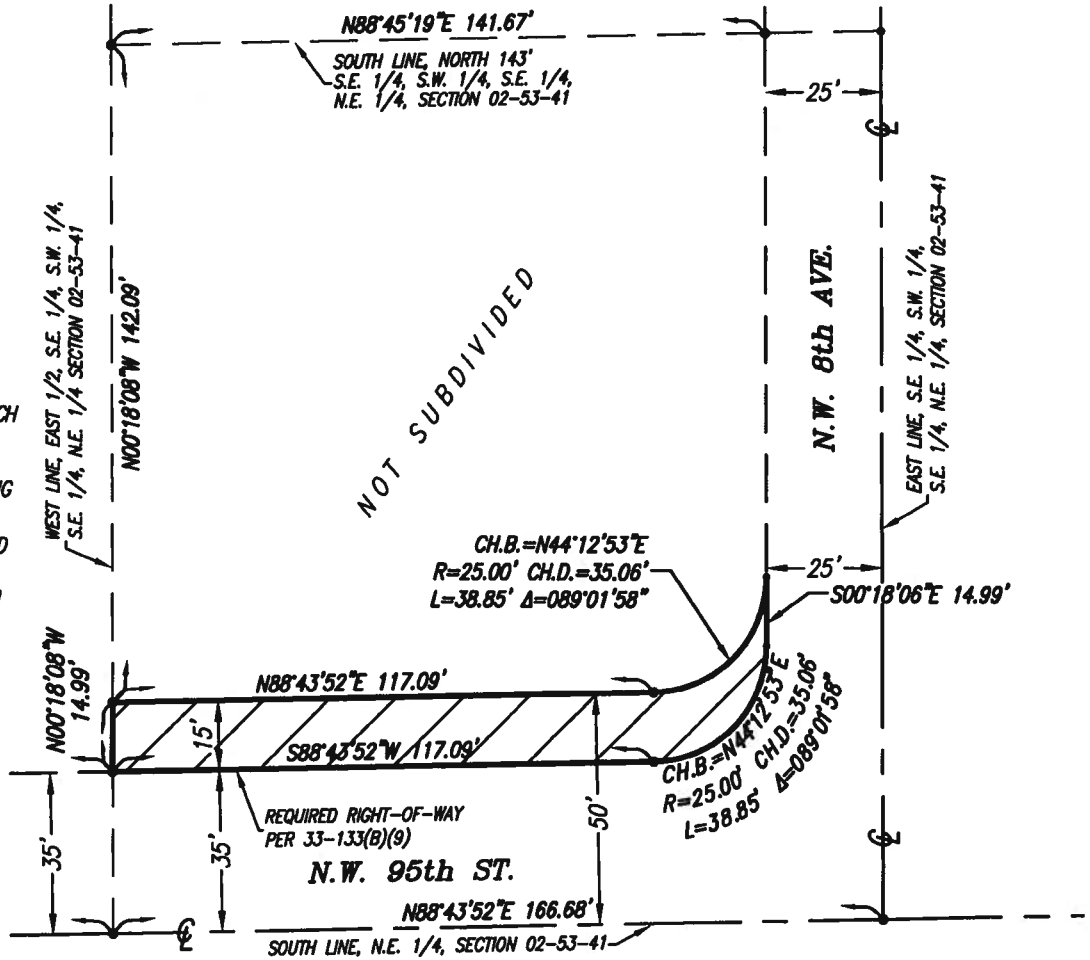
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LEGEND:

- DENOTES CENTERLINE
- DENOTES SUBJECT PARCEL



LEGAL DESCRIPTION:

THE NORTH 15.00 FEET OF THE SOUTH 50.00 FEET OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 02, TOWNSHIP 53 SOUTH, RANGE 41 EAST, LESS THE EAST 25.00 FEET THEREOF.

TOGETHER WITH:

THE EXTERNAL AREA FORMED BY A 25.00 FOOT RADIUS ARC CONCAVE TO THE NORTHWEST, SAID ARC BEING TANGENT TO A LINE 25.00 FEET WEST OF AND PARALLEL WITH, AS MEASURED AT RIGHT ANGLES TO, THE EAST LINE OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 02, AND BEING TANGENT TO A LINE 50.00 FEET NORTH OF AND PARALLEL WITH, AS MEASURED AT RIGHT ANGLES TO, THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 02.

LESS AND EXCEPT THEREFROM:

THE EXTERNAL AREA FORMED BY A 25.00 FOOT RADIUS ARC CONCAVE TO THE NORTHWEST, SAID ARC BEING TANGENT TO A LINE 25.00 FEET WEST OF AND PARALLEL WITH, AS MEASURED AT RIGHT ANGLES TO, THE EAST LINE OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 02, AND BEING TANGENT TO A LINE 35.00 FEET NORTH OF AND PARALLEL WITH, AS MEASURED AT RIGHT ANGLES TO, THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 02.

SAID PARCEL OF LAND CONTAINING 2,124 SQUARE FEET, MORE OR LESS.

ALL LYING AND BEING IN SECTION 02, TOWNSHIP 53 SOUTH, RANGE 41 EAST, MIAMI-DADE COUNTY, FLORIDA.



SCHWEBKE SHISKIN + ASSOCIATES (LB-87)

LAND SURVEYORS • ENGINEERS • LAND PLANNERS

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THIS IS NOT A "LAND SURVEY."

ORDER NO.: 213620

DATE: 05/21/2021

SHEET 2 OF 2 SHEET(S)

F.B.: N.A.



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: May 3, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 5(H)

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(H)
5-3-22

RESOLUTION NO. _____

RESOLUTION GRANTING PETITION TO CLOSE A PORTION OF NW 95 STREET FROM NW 8 AVENUE WEST FOR 117.1 FEET, AND NW 9 AVENUE FROM NW 96 STREET SOUTH FOR 142.4 FEET (VACATION OF RIGHT-OF-WAY PETITION NO. P-978) ADES FAMILY FOUNDATION INC.; SUBJECT TO CERTAIN CONDITIONS

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

WHEREAS, Vacation of Right-of-Way Petition No. P-978 was signed by the owners of all the properties abutting on the subject portions of right-of-way 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 foregoing recitals are approved and incorporated by reference.

Section 2. Vacation of Right-of-Way Petition No. P-978 is hereby granted and the alley, avenue, street, highway, or other place used for travel as described in the petition attached as Exhibit 2 to the Mayor’s Memorandum is hereby vacated, abandoned, and closed subject to the condition contained in section 3 below.

Section 3. All rights of Miami-Dade County and the public in and to the same are hereby renounced and disclaimed, save and except that this closure is conditioned upon the recording of the plat of “ADES FAMILY FOUNDATION” (tentative Plat T-24650). If the plat is not recorded within one year, then this resolution shall be null and void.

Section 4. It is found that the action will serve a public purpose and benefit the public without violating private property rights.

Section 5. The procedure utilized in the adoption of this resolution is expressly ratified and approved.

Section 6. 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 7. The County Mayor or County Mayor's designee is directed to forthwith file a Certificate with the Clerk subsequent to the recording of the plat confirming that the conditions set forth in Section 3 have been met, to be permanently stored alongside 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:

Jose "Pepe" Diaz, Chairman	
Oliver G. Gilbert, III, Vice-Chairman	
Sen. René García	Keon Hardemon
Sally A. Heyman	Danielle Cohen Higgins
Eileen Higgins	Joe A. Martinez
Kionne L. McGhee	Jean Monestime
Raquel A. Regalado	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared this resolution duly passed and adopted this 3rd day of May, 2022. 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