

ORDINANCE NO. C-21-11

AN ORDINANCE VACATING THAT PORTION OF N.E. 8TH STREET (PLATTED AS AVENUE "C"), A 40.00 FOOT ROAD RIGHT OF WAY LYING SOUTH OF AND ADJACENT TO LOT 25, BLOCK 257 "PROGRESSO" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 18 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, AND RETAINING A 40.00 FOOT NON-EXCLUSIVE UTILITY, PEDESTRIAN WALKWAY AND EMERGENCY VEHICLE ACCESS EASEMENT, LOCATED NORTH AND EAST OF PROGRESSO DRIVE, SOUTH OF NORTHEAST 9TH STREET AND WEST OF NORTHEAST 1ST AVENUE, ALL SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

WHEREAS, the applicant, Holman Automotive, Inc., applied for the vacation of a public right-of-way more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, the Planning and Zoning Board, as the local planning agency, at its meeting of November 18, 2020 (PZ Case No. V19008), recommended to the City Commission of the City of Fort Lauderdale ("City Commission") that they deny the application for the subject vacation of a public right-of-way as more particularly described and shown on Exhibit "A" attached hereto; and

WHEREAS, the applicant appealed the decision of the Planning and Zoning Board and on February 16, 2021, and the City Commission set a de novo hearing for March 16, 2021, at 6:00 p.m., to consider the applicant's appeal; and

WHEREAS, the City Clerk notified the public of a public hearing to be held on Tuesday, March 16, 2021 at 6:00 P.M., and Tuesday, April 6, 2021 at 6:00 P.M., in the City Commission Room, City Hall, Fort Lauderdale, Florida, and through communication media technology accessible through the City's website (www.fortlauderdale.gov), for the purpose of hearing any public comment to such vacation of right-of-way; and

WHEREAS, the second public hearing initially scheduled for April 6, 2021 was deferred to April 20, 2021 at the applicant's request; and

WHEREAS, such public hearings were duly held at the time and place designated and due notice of same was given by publication as is required by law; and

WHEREAS, the City Commission has determined that the application for vacation of right-of-way meets the criteria in Section 47-24.6.A.4 of the City of Fort Lauderdale Unified Land Development Regulations;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. The City Commission finds that the application for vacation of a right-of-way meets the criteria of Section 47-24.6 of the ULDR as enunciated and memorialized in the minutes of its meetings of March 16, 2021 and April 20, 2021, a portion of those findings expressly listed as follows:

- a. The subject right-of-way has been fenced off and used for a dealership vehicle storage area pursuant to an Encroachment Agreement between the City of Fort Lauderdale and Fort Lauderdale Lincoln Mercury Company dated November 9, 1987, as authorized by Resolution No. 87-262 adopted by the City Commission on October 6, 1987, and recorded in the Public Records of Broward County, Florida, at Book 14963, Page 490 ("1987 Encroachment Agreement).
- b. The subject right-of-way has been closed to the public pursuant to the 1987 Encroachment Agreement and used for a dealership car storage area. Therefore, the vacation of the right-of-way will not adversely impact the surrounding area since this section of right-of-way has functioned without being opened for over three decades.
- c. The vacation of the right-of-way will not change existing conditions and will not affect vehicle turn around or exiting of the area.
- d. Granting of the vacation of right-of-way and a simultaneous dedication of a pedestrian easement will reopen the area to pedestrian traffic increasing access from NE 1st Avenue to Progresso Drive.
- e. The applicant obtained letters of no objection from the franchise utilities and the City's Public Works Department. Applicant agrees to relocate all utilities to the satisfaction of the respective utility owners and is obtaining an easement over the proposed vacated right-of-way.

SECTION 2. That the public right-of-way located north and east of Progresso Drive, south of Northeast 9th Street and west of Northeast 1st Avenue, as more particularly described in Exhibit "A" attached hereto, is hereby vacated, abandoned, and closed and shall no longer constitute a public right-of-way, subject to conditions listed on Exhibit "B" attached hereto and incorporated herein.

SECTION 3. That a 40.00 foot non-exclusive utility, pedestrian walkway and emergency vehicle access easement, as more particularly described in Exhibit "A" attached hereto, is retained over the right-of-way that is to be vacated.

SECTION 4. That a copy of this Ordinance shall be recorded in the Public Records of Broward County by the City Clerk within 30 days from the date of final passage.

SECTION 5. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 6. That all ordinances or parts of ordinances in conflict herewith, are hereby repealed.

SECTION 7. Issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

SECTION 8. This approval is conditioned upon the applicant obtaining all other applicable state or federal permits before commencement of the development.

SECTION 9. That this Ordinance shall be in full force and effect upon the recordation in the public records of Broward County, Florida, of a certificate executed by the City Engineer evidencing that all conditions listed on Exhibit "B" attached hereto have been met. The applicant shall provide a copy of the recorded certificate to the City.

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PASSED FIRST READING this 16th day of March, 2021.

PASSED SECOND READING this _____ day of _____, 2021.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
JEFFREY A. MODARELLI

LEGAL DESCRIPTION

A portion of N.E. 8th Street(Platted as Avenue "C") 40' Right-of-Way as dedicated by PROGRESSO according to the plat thereof as recorded in Plat Book 2 at Page 18 of the Public Records of Dade County, Florida, described as follows:

BEGINNING at the Southwest corner of Block 257 of said plat run South 02°34'17" West, 40.00 feet to an intersection with the southerly Right-of-Way line of said N.E. 8th Street;

thence run South 87°23'38" East along the southerly Right-of-Way line of said N.E. 8th Street, 127.50 feet;

thence run North 02°34'17" East, 40.00 feet to an intersection with the northerly Right-of-Way line of said N.E. 8th Street;

thence run North 87°23'38" West (basis of bearings on an assumed meridian) along the northerly Right-of-Way line of said N.E. 8th Street, 127.50 feet to the POINT OF BEGINNING.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida.

NOTES:

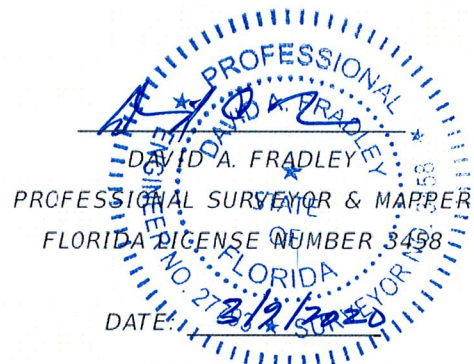
- NOTE: NOT VALID WITHOUT THE SIGNATURE AND THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. THIS IS NOT A SKETCH OF SURVEY IT IS ONLY THE GRAPHIC REPRESENTATION OF THE DESCRIPTION DEPICTED HEREON.
- THIS SKETCH & LEGAL DESCRIPTION CONSISTS OF TWO (2) SHEETS & IS NOT COMPLETE WITHOUT BOTH SHEETS.

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY THAT THE LEGAL DESCRIPTION AND SKETCH SHOWN HEREON ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SUBJECT TO NOTES AND NOTATIONS SHOWN HEREON.

PREPARED BY:



**40' NON-EXCLUSIVE UTILITY,
PEDESTRIAN WALKWAY, AND
EMERGENCY VEHICLE ACCESS EASEMENT**

WF WINNINGHAM & FRADLEY, INC.
ENGINEERS • PLANNERS • SURVEYORS
111 N.E. 44th STREET • OAKLAND PARK, FL 33334
954.771.7440 fax: 954.771.0298 • EB 0002995 LB 0002995

SKETCH & DESCRIPTION

DESIGNED: AMF	DATE: 07/22/19	PUBLISHED: 3/6/2020, 3:07:19 PM	
DRAWN: AMF	DATE: 07/22/19	PROJECT NUMBER	SHEET
CHECKED: DAF	DATE: 07/22/19	19019	SHEET 1

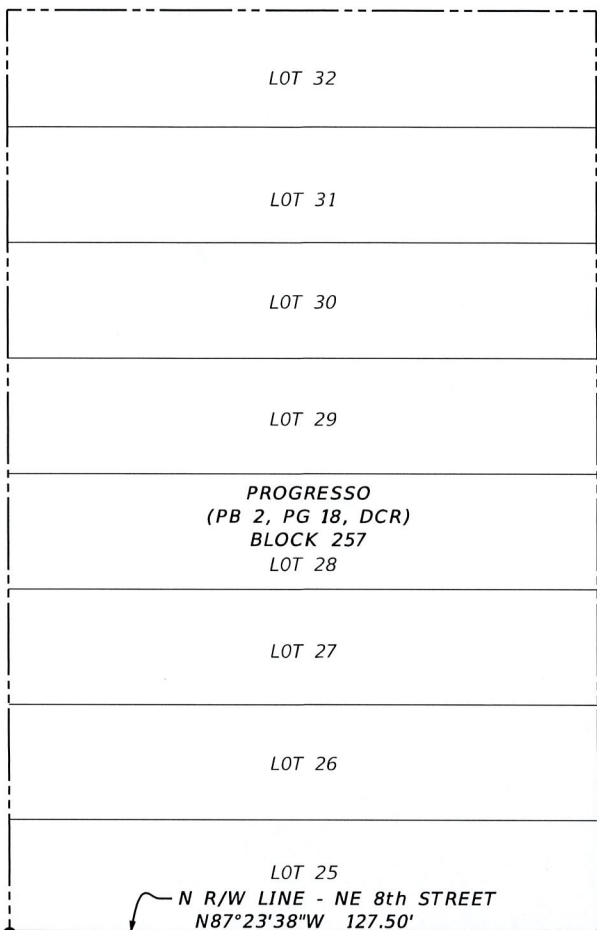
m.d.o.k.



SCALE: 1" = 40'
(FOR 8.5" x 11" DRAWING)

NE 1st AVENUE

(40' RIGHT OF WAY)
(PB 2, PG 18, DCR)



LEGEND

- DCR DADE COUNTY RECORDS
- PB PLAT BOOK
- PG PAGE
- POB POINT OF BEGINNING
- R/W RIGHT-OF-WAY
- R/W LINE
- ⊕ CENTERLINE
- TRIANGLE PARCEL
(PB 2, PG 18, DCR)

POB
SW COR BLOCK 257
PB 2, PG 18, DCR

S02°34'17"W
40.00'

N02°34'17"E
40.00'

N R/W LINE - NE 8th STREET
N87°23'38"W 127.50'
(BASIS OF BEARINGS)

S87°23'38"E 127.50'
S R/W LINE - NE 8th STREET

NE. 8th STREET

(40' RIGHT OF WAY)
(PB 2, PG 18, DCR)

PROGRESSO
TRIANGLE PARCEL
(PB 2, PG 18, DCR)

PROGRESSO DRIVE
(40' RIGHT OF WAY)
(PB 2, PG 18, DCR)

THIS IS NOT A SURVEY

40' NON-EXCLUSIVE UTILITY,
PEDESTRIAN WALKWAY, AND
EMERGENCY VEHICLE ACCESS EASEMENT

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SKETCH & DESCRIPTION

DESIGNED: AMF	DATE: 07/22/19	PUBLISHED: 3/6/2020, 3:08:09 PM
DRAWN: AMF	DATE: 07/22/19	PROJECT NUMBER SHEET
CHECKED: DAF	DATE: 07/22/19	19019 SHEET 2

J:\2019\9019-NE 8th Street Vacation\CAD\SRV\Legals\40' Easement Dedication_Sketch & Legal.dgn\Sheet 2 - Sketch

EXHIBIT "B"

**CONDITIONS OF APPROVAL
CASE NO. V19008**

1. Any City infrastructure known or unknown and found to be within the vacated area shall be relocated at the expense of the applicant, or easements granted, and the relocated facilities shall be required to be inspected and accepted by the City's Public Works Department;
2. Any other utility infrastructure known or unknown and found to be within the vacated area shall be relocated at the expense of the applicant, or easements granted, and the relocated facilities shall be required to be inspected and accepted by the applicable utility agency or service provider; and,
3. The vacating ordinance shall be in full force and effect on the date a certificate, executed by the City Engineer, and recorded in the public records of Broward County, Florida. The certificate shall state that all conditions of the vacation have been met. A copy of the recorded certificate must be provided to the City.