



776 N.E. 125 Street, North Miami, Florida 33161

## Council Report

To: The Honorable Mayor and City Council

From: Maxine Calloway  A.I.C.P., Community Planning & Development Director

Date: February 28, 2012

RE: **A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER TO ACCEPT CONVEYANCE OF A RIGHT-OF-WAY DEED, IN SUBSTANTIALLY THE ATTACHED FORM, FOR THE DEDICATION OF A 20-FOOT WIDE ALLEYWAY SOUTH OF N.E. 123 STREET FOR PUBLIC ACCESS, AND AUTHORIZING THE RECORDATION OF SAID DEED IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.**

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### RECOMMENDATION

That the City Council adopts the proposed resolution to accept the dedication of a 20-foot alleyway on the site located at 12290 Biscayne Boulevard for public access and to authorize recordation of said deed consistent with the requirements of Resolution 93-40.

### BACKGROUND

On August 24, 1993 through Resolution 93-40, the Mayor and City Council approved the abandonment of an unused alleyway that transected the parcel located at 12290 Biscayne Boulevard (identified as folio 06-2228-001-0550). The approval was granted subject to the condition that the property owner dedicate a new 20-foot wide alleyway, on the west side of the property, for the perpetual use of the public (see attached survey drawing). As such, the current property owner, MTV 123, LLC proposes to convey a 20-foot alleyway to the City of North Miami in order to satisfy the requirements of Resolution 93-40.

### CONCLUSION

Staff is of the opinion that the proposed resolution is beneficial to the City in that it provides public access from NE 124 Street to the subject site as well as adjacent lots. Staff also

believes the proposed request satisfies the requirements of Resolution 93-40 and recommends adoption of the proposed Resolution subject to the following condition:

1. That the applicant records the final property survey as well as right-of-way deed conveying said title to the City, declaring and designating the property as a public alleyway with proof of recordation furnished to the Community Planning and Development Department within forty five (45) days of Council approval.

#### Attachments

1. Resolution
2. Survey with proposed ROW dedication
3. Draft ROW Deed

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER TO ACCEPT CONVEYANCE OF A RIGHT-OF-WAY DEED, IN SUBSTANTIALLY THE ATTACHED FORM, FOR THE DEDICATION OF A TWENTY-FOOT (20) WIDE ALLEYWAY SOUTH OF N.E. 123 STREET FOR PUBLIC ACCESS, AND AUTHORIZING THE RECORDATION OF SAID DEED IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE AND ALL OTHER PURPOSES.**

**WHEREAS**, the Mayor and City Council of the City of North Miami ("City") adopted Resolution 93-40 approving the abandonment of an unused alleyway that transected the parcel located at 12290 Biscayne Boulevard (Folio No. 06-2228-001-0550) with the requirement that the property owner dedicate a new twenty-foot (20) wide public alleyway on the west side of the property; and

**WHEREAS**, the Department of Community Planning and Development recommends the acceptance of the conveyance of a Right-of-Way Deed to the City from **MTV 123, LLC**, a Florida limited liability company, to create said twenty-foot (20) alleyway for the perpetual use of the public access as required by Resolution 93-40, and as evidenced in "Composite Exhibit 1," attached and incorporated hereto; and

**WHEREAS**, the owner has executed a Right-of-Way Deed, conveying said title to the City, declaring and designating the property as a public alleyway, and for all purposes incidental thereto; and

**WHEREAS**, the Mayor and City Council of the City of North Miami find that it is in the best interest of the City to accept the Right-of-Way Deed for perpetual public access purposes, in substantially the attached form.

**NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:**

**Section 1. Authority of City Manager.** The Mayor and City Council of the City of North Miami, Florida, hereby authorize the City Manager to accept the attached Right-of-Way Deed conveying title to the East 20 Feet of the West 46.5 Feet of Lot 2 Lying South of the

Southerly Right-of-Way Line of N.E. 123 Street, Block 339, "Miami Shores Unit A", According to the Plat Thereof as Recorded in Plat Book 17, Pages 44 and 48 of the Public Records of Miami-Dade County, Florida, lying and being in Miami-Dade County, Florida to the City of North Miami for N.E. 123<sup>rd</sup> perpetual public access purposes and is authorized for recording said Right-of-Way Deed in the public records of Miami-Dade County.

**Section 2. Effective Date.** This Resolution shall become effective immediately upon adoption.

**PASSED AND ADOPTED** by a \_\_\_\_\_ vote of the Mayor and City Council of the City of North Miami, Florida, this \_\_\_\_\_ day of February, 2012.

\_\_\_\_\_  
ANDRE D. PIERRE, ESQ.  
MAYOR

ATTEST:

\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
ROLAND C. GALDOS  
INTERIM CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

**Vote:**

Mayor Andre D. Pierre, Esq.	_____	(Yes)	_____	(No)
Vice Mayor Jean R. Marcellus	_____	(Yes)	_____	(No)
Councilperson Michael R. Blynn, Esq.	_____	(Yes)	_____	(No)
Councilperson Scott Galvin	_____	(Yes)	_____	(No)
Councilperson Marie Erlande Steril	_____	(Yes)	_____	(No)



It is expressly provided that if and when the said alleyway shall be lawfully and permanently discontinued, the title to the Property shall immediately revert to the party of the first part, its heirs and assigns, and it shall have the right to immediately repossess the same.

And the said party of the first part does hereby fully warrant the title to the Property, and will defend the same against the lawful claims of all persons whomsoever, claiming by, through or under it.

**IN WITNESS WHEREOF**, the said party of the first part, has caused these presents to be signed for and on its behalf, the day and year first above written.

Signed, Sealed and Delivered  
in our presence: **(2 witnesses**  
for each signature or for all)

MTV 123, LLC, a Florida limited liability  
company

By: MTV Investment Group, LLC, a  
Florida limited liability company, its  
Managing Member

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness Printed Name

By: \_\_\_\_\_  
Alan Macken, Manager

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness Printed Name

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2012, by Alan Macken, the Manager of MTV Investment Group, LLC, a Florida limited liability company, the Managing Member of MTV 123, LLC, a Florida limited liability company, on behalf of the limited liability company.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Type or Stamp Name)

My Commission Expires:

EXHIBIT A

THE PROPERTY

The East 20 Feet of the West 46.5 Feet of Lot 2 Lying South of the Southerly Right-of-Way Line of N.E. 123 Street, Block 339, "Miami Shores Unit A", According to the Plat Thereof as Recorded in Plat Book 17, Pages 44 to 48 of the Public Records of Miami-Dade County, Florida.



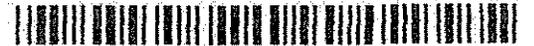
EXHIBIT A

THE PROPERTY

The East 20 Feet of the West 46.5 Feet of Lot 2 Lying South of the Southerly Right-of-Way Line of N.E. 123 Street, Block 339, "Miami Shores Unit A", According to the Plat Thereof as Recorded in Plat Book 17, Pages 44 to 48 of the Public Records of Miami-Dade County, Florida.

EXHIBIT B

DRAWING



CFN 2011R0874598  
OR Bk 27946 Pgs 3277 - 3279 (3pgs)  
RECORDED 12/30/2011 11:43:20  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

## DOCUMENT COVER PAGE

Document Title: Resolution No. R93-40

Executed By: City of North Miami

To: Public

Property: 12290 Biscayne Blvd.  
North Miami, Florida

Return Recorded Document To:  
Jay Koenigsberg, Esquire  
Isicoff, Ragatz & Koenigsberg  
1200 Brickell Avenue  
Suite 1900  
Miami, Florida 33131

RESOLUTION NO. R93-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORTH MIAMI PROPOSING TO: 1) VACATE THAT CERTAIN 20.0 FOOT WIDE ALLEY LYING WEST OF LOTS 24 AND 25, BLOCK 339 OF "MIAMI SHORES UNIT A" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 17, PAGES 44 TO 48 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, AND BOUNDED ON THE EAST BY THE WEST LINE OF SAID LOTS 24 AND 25, ON THE WEST BY THE EAST LINE OF LOT 1 OF SAID BLOCK 339 AND ITS SOUTHERLY PROJECTION, ON THE NORTH BY THE SOUTHERLY RIGHT-OF-WAY LINE OF N.E. 123 STREET, AND ON THE SOUTH BY THE WESTERLY PROJECTION OF A LINE 42.5 FEET NORTH OF THE SOUTH LINE OF SAID LOT 24, SAID LINE BEING MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF SAID LOT 24; AND 2) ACCEPT A DEDICATION FOR A NEW 20.0 FOOT WIDE ALLEY, LEGALLY DESCRIBED AS THE EAST 20.0 FEET OF THE WEST 46.5 FEET OF LOT 2 LYING SOUTH OF THE SOUTHERLY RIGHT-OF-WAY LINE OF N.E. 123 STREET, BLOCK 339, "MIAMI SHORES UNIT A", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 17, PAGES 44 TO 48 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; THE LOCATION OF BOTH THE EXISTING AND THE PROPOSED ALLEYWAYS IS JUST SOUTH OF N.E. 123 STREET AND JUST WEST OF BISCAYNE BOULEVARD IN THE IMMEDIATE VICINITY OF AN EXISTING RESTAURANT ADDRESSED 12290 BISCAYNE BOULEVARD.

WHEREAS, Cluckers Wood Roasted Chicken proposes to relocate its existing restaurant located at 13000 Biscayne Boulevard to a free-standing building at 12290 Biscayne Boulevard, and to construct a drive-through window at that location; and

WHEREAS, to facilitate access in and out of the property and to improve the internal traffic flow, it has been recommended by the Biscayne Boulevard Staff Review Committee, as well as by the North Miami Board of Adjustment and by the North Miami Planning Commission that the existing 20-foot wide alleyway which is located just west of 12290 Biscayne Boulevard and which runs perpendicular to N.E. 123 Street be vacated, and that a new 20-foot wide alleyway be dedicated further to the west; and

WHEREAS, the North Miami City Council has found the vacation and abandonment of said existing alleyway and the dedication of a new alleyway to be in the best interests of not only the petitioner and his proposed development, but also in the best interests of the City of North Miami;

NOW, THEREFORE, BE IT RESOLVED BY THE NORTH MIAMI CITY COUNCIL THAT:

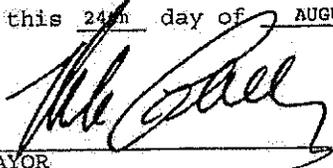
Section 1. The City Council of the City of North Miami hereby vacates and abandons that 20-foot wide alleyway located just west of 12290 Biscayne Boulevard and legally described as "that

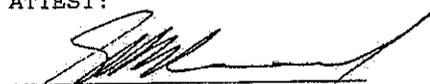
certain 20.0 foot alley lying west of Lots 24 and 25, Block 339 of Miami Shores Unit A, according to the plat thereof as recorded in Plat Book 17, Pages 44 to 48 of the Public Records of Dade County, Florida, and bounded on the east by the west line of said Lots 24 and 25, on the west by the east line of Lot 1 of said block 339 and its southerly projection, on the north by the southerly right-of-way line of N.E. 123 Street, and on the south by the westerly projection of a line 42.5 feet north of the south line of said Lot 24, said line being measured at right angles to the south line of Lot 24", subject to the dedication of a new 20.0 foot wide alleyway for the perpetual use of the public, which alleyway is legally described as "the east 20.0 feet of the west 46.5 feet of Lot 2 lying south of the southerly right-of-way line of N.E. 123 Street, Block 339, Miami Shores Unit A, according to the plat thereof as recorded in Plat Book 17, Pages 44 to 48 of the public records of Dade County, Florida, as provided by Right-of-Way Deed approved by the City Attorney.

Section 2. The Department of Engineering and Planning and the City Clerk's Office are hereby directed, respectively, to amend the official City map to show the above described changes, and to record this resolution and attached exhibit as may be required by law.

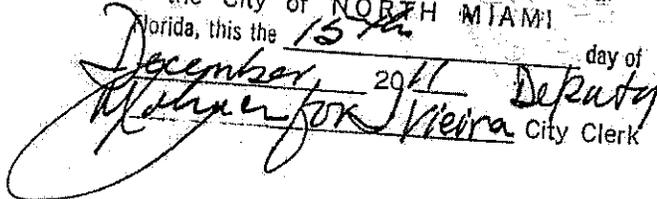
Section 3. This resolution shall be effective immediately from and after adoption hereof.

PASSED AND ADOPTED by a 5-0 vote of the City Council of the City of North Miami, Florida, this 24<sup>th</sup> day of AUGUST, 1993.

  
MAYOR

ATTEST:  
  
CITY CLERK

APPROVED   
CITY ATTORNEY

**CERTIFICATION**  
I certify this to be a true and correct copy of the record in my office.  
WITNESSETH my hand and official seal of the City of NORTH MIAMI Florida, this the 15<sup>th</sup> day of December, 2011  
  
Deputy City Clerk

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Third block of faint, illegible text, possibly a signature or a specific section header.

A handwritten signature or scribble in the middle of the page.



Text block below the seal, containing some legible words and possibly a date or reference number.

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