

ORDINANCE NO. 191126

An ordinance of the City of Gainesville, Florida, to vacate, abandon, and close a certain public right-of-way generally located south of SW 4<sup>th</sup> Avenue, west of SW 12<sup>th</sup> Street, north of SW 5<sup>th</sup> Avenue, and east of SW 13<sup>th</sup> Street, as more specifically described in this ordinance, subject to terms and conditions; providing directions to the Clerk of the Commission; providing a severability clause; providing a repealing clause; and providing an effective date.

**WHEREAS**, Salmanson Capital, LLC, represented by CHW, Inc., is the owner/developer (“Developer”) of certain property proposed to be developed into what is known as the “Ardent Mixed-Use Development” described in development application Petition PB-19-158 SUP; and

**WHEREAS**, pursuant to Section 30-3.41 of the City of Gainesville’s Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances), an application was initiated by the Developer and all owner(s) of land abutting the subject public right-of-way requesting the City to vacate, abandon, and close the right-of-way; and

**WHEREAS**, the request to vacate the subject public right-of-way was presented to and approved by the appropriate departments of the City of Gainesville; and

**WHEREAS**, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of the Charter Laws of the City of Gainesville and which acts as the Local Planning Agency pursuant to Section 163.3174, Florida Statutes, held a public hearing on July 23, 2020, and voted to recommend that the City Commission deny this vacation of public right-of-way; and

**WHEREAS**, at least 10 days’ notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings to be held by the City Commission; and

**WHEREAS**, public hearings were held pursuant to the notice described above at which hearings

1 the parties in interest and all others had an opportunity to be and were, in fact, heard; and  
2 **WHEREAS**, the City Commission finds that the vacation of the subject right-of-way meets the  
3 required criteria in Policy 10.2.1 of the Transportation Mobility Element of the Comprehensive  
4 Plan and Section 30-3.41 of the Land Development Code, subject to the terms and conditions set  
5 forth herein.

6 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,**  
7 **FLORIDA:**

8 **SECTION 1.** Upon the Developer completing all of the terms and conditions specified in Section  
9 3 of this ordinance and the City's recordation of this ordinance together with the executed  
10 affidavit of completion (as described in Section 3 of this ordinance) in the Public Records of  
11 Alachua County, Florida, the following described public right-of-way will be vacated, abandoned,  
12 and closed for use by the public generally. The following described public right-of-way is hereby  
13 vacated, abandoned, and closed for use by the public generally:

14 See legal description attached as **Exhibit A** and made a part hereof as if set forth  
15 in full. The location of the property is shown on **Exhibit B** for visual reference. In  
16 the event of conflict or inconsistency, **Exhibit A** shall prevail over **Exhibit B**.

17  
18 **SECTION 2.** The City reserves unto itself, its successors and assigns a public and private utilities  
19 easement over, under, across, and through the property described in Section 1 of this ordinance  
20 for the purpose of installing, maintaining, and operating public and private utilities.

21 **SECTION 3.** The public right-of-way described in Section 1 of this ordinance will not be vacated,  
22 abandoned, or closed for use by the public unless and until the Developer has satisfied all of the  
23 following terms and conditions at no cost or expense to the City. Notwithstanding the foregoing,  
24 nothing in this section precludes the Developer from applying for a temporary right-of-way

1 obstruction permit under Chapter 23 of the Code of Ordinances or obtaining from the City any  
2 necessary temporary construction easements. When the Developer has completed all of the  
3 following terms and conditions and same have been approved and accepted by the City, the City  
4 Manager shall evidence the completion and approval of the terms and conditions by executing  
5 the affidavit of completion attached as **Exhibit C**, which must be recorded together with this  
6 ordinance in the Public Records of Alachua County, Florida.

- 7 1. The Developer shall construct 10-foot wide sidewalks along SW 4<sup>th</sup> and SW 5<sup>th</sup> Avenues  
8 and an 8-foot wide sidewalk along SW 12<sup>th</sup> Street. Details of the sidewalk facilities will be  
9 determined by the City and its respective applicable departments during development  
10 plan review.
- 11 2. The Developer shall construct a development in substantial accordance with the proposal  
12 described in Petition PB-19-158 SUP.
- 13 3. Immediately north of Tax Parcel # 13129-002-000 and as shown on **Exhibit B**, the  
14 Developer shall construct an uninterrupted 20-foot wide transportation access corridor  
15 (“Corridor”) to Public Works standards. Details of the facility will be determined by the  
16 City and its respective applicable departments during development plan review.
- 17 4. The Developer shall execute and record an easement for the Corridor providing that the  
18 Developer shall maintain the Corridor and associated facilities in perpetuity to standards  
19 approved by the City and its respective applicable departments and providing for  
20 perpetual general public use of the Corridor.

21 **SECTION 4.** Upon receipt from the City Manager of the executed affidavit of completion (as  
22 described in Section 3 of this ordinance), the Clerk of the Commission or designee is authorized

1 and directed to record a true copy of this ordinance together with the affidavit of completion in  
2 the public records of Alachua County, Florida.

3 **SECTION 5.** If any word, phrase, clause, paragraph, section, or provision of this ordinance or the  
4 application hereof to any person or circumstance is held invalid or unconstitutional, such finding  
5 will not affect the other provisions or applications of this ordinance that can be given effect  
6 without the invalid or unconstitutional provision or application, and to this end the provisions of  
7 this ordinance are declared severable.

8 **SECTION 6.** All ordinances or parts of ordinances in conflict herewith are to the extent of such  
9 conflict hereby repealed.

10 **SECTION 7.** This ordinance will become effective immediately upon adoption; however, the  
11 vacation of the public right-of-way that is the subject of this ordinance will not become effective  
12 until this ordinance together with the executed affidavit of completion (as described in Section 3  
13 of this ordinance) has been recorded in the public Records of Alachua County, Florida. If this  
14 ordinance together with the executed affidavit of completion is not recorded in the Public  
15 Records of Alachua County, Florida, within two years following the effective date of this  
16 ordinance, this ordinance will be deemed null and void and of no further force and effect..

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1 PASSED AND ADOPTED this 5th day of November, 2020.

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LAUREN POE  
MAYOR

9 Attest:

Approved as to form and legality:

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12  
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14



OMICHELE D. GAINNEY  
CLERK OF THE COMMISSION



NICOLLE M. SHALLEY  
CITY ATTORNEY

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This ordinance passed on first reading this 15th day of October, 2020.

This ordinance passed on second reading this 5th day of November, 2020.

**EXHIBIT "A"**

**SW 4<sup>th</sup> Ave Alley Vacation:**

That certain 10' wide Alley lying South of Lots 8, 10, 12, 14, 16 & 18 of Block 9 of University Heights, according to the Plat thereof recorded in Plat Book "A", Page 99 of the Public Records of Alachua County, Florida.

AND

That certain 12' wide Alley lying West of Lots 20, 21 & 22 of Block 9, of University Heights, according to the Plat thereof recorded in Plat Book "A", Page 99 of the Public Records of Alachua County, Florida.



ROW to be vacated

Subject Property

University Heights South Historic District

University Heights South Historic District

SW 5th Ave

SW 4th Ave

SW 13th St

SW 12th St



**Legend**

- Subject Right-of-Way
- Alachua County Tax Parcels

EXHIBIT "B" - ORDINANCE NO. 191126

[Space Above This Line For Recording Data]

**EXHIBIT "C"**

**Affidavit of Completion  
Ordinance No. 191126 Terms and Conditions**

**Before me**, the undersigned Notary duly authorized to take acknowledgments and administer oaths, personally appeared the undersigned ("Affiant"), who makes this Affidavit upon oath and affirmation of belief and personal knowledge that the following matters, facts and things set forth herein are true and correct to the best of his/her knowledge:

1. The City of Gainesville, Florida, adopted Ordinance No. 191126 to vacate certain public right-of-way, as more particularly described therein, conditional on Salmanson Capital, LLC, represented by CHW, Inc., ("Developer") completing, at no cost to the City, all of the terms and conditions specified in Section 3 of Ordinance No. 191126. The Developer has completed, at no cost to the City, all of the terms and conditions specified in Section 3 of Ordinance No. 191126 and same have been approved and accepted by the City.

**Under penalties of perjury**, I declare that I have read the foregoing Affidavit and that the matters, facts and things set forth herein are true and correct to the best of my knowledge.

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

**WITNESSES:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Print Name

State of Florida  
County of Alachua

The forgoing instrument was acknowledged before me by means of \_\_\_\_ physical presence or \_\_\_\_ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, City Manager for the City of Gainesville, Florida. He/she [ ] is personally known to me or [ ] has produced a driver's license as identification.

[Notary Seal]

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

\_\_\_\_\_  
Print Name

My Commission Expires: \_\_\_\_\_