



MEMORANDUM

Office of the City Attorney

Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commission

DATE: September 24, 2001
RESOLUTION

FROM: City Attorney

SUBJECT: A Resolution repealing Resolution No. 001626 and determining the necessity and public purpose for the Depot Avenue Stormwater Park Project identified as project number 99-12-01; determining the necessity and public purpose for acquiring by eminent domain fee simple ownership of designated parcels of real property; authorizing the City Attorney to institute eminent domain proceedings to acquire certain real property for project number 99-12-01, which includes tax parcel numbers 15704-007-000 and 15706-001-000 as more particularly described in this Resolution; and providing an immediate effective date.

RECOMMENDATION: The City Commission adopt the proposed resolution.

On July 23, 2001, the City Commission adopted Resolution No. 001626 that approved the Depot Avenue Stormwater Project, and authorized the acquisition and use of the eminent domain powers to acquire the property necessary for the Project. The legal description of the property and attached to the Resolution contained technical errors that must be corrected. The size and depiction of the property to be acquired has not changed.

Additionally, the previously adopted Resolution made reference to the public purposes necessary for the acquisition of the property, including stormwater facilities, park and recreational purposes, community redevelopment purposes, and the expansion of public transit facilities. While the community redevelopment area has been expanded by the City Commission to include this property in addition to other properties, the proposed community redevelopment plan does not include any community redevelopment projects for this specific property. Therefore, it is not necessary to acquire this property for community redevelopment purposes, but for the other proper public purposes expressed above. The proposed Resolution eliminates the inapplicable references to community redevelopment purposes.

Prepared, Approved, and
Submitted by:


Marion J. Radson
City Attorney

MJR:js

RESOLUTION _____
PASSED _____

A RESOLUTION REPEALING RESOLUTION NO. 001626 AND DETERMINING THE NECESSITY AND PUBLIC PURPOSE FOR THE DEPOT AVENUE STORMWATER PARK PROJECT IDENTIFIED AS PROJECT NUMBER 99-12-01; DETERMINING THE NECESSITY AND PUBLIC PURPOSE FOR ACQUIRING BY EMINENT DOMAIN FEE SIMPLE OWNERSHIP OF DESIGNATED PARCELS OF REAL PROPERTY; AUTHORIZING THE CITY ATTORNEY TO INSTITUTE EMINENT DOMAIN PROCEEDINGS TO ACQUIRE CERTAIN REAL PROPERTY FOR PROJECT NUMBER 99-12-01, WHICH INCLUDES TAX PARCEL NUMBERS 15704-007-000 AND 15706-001-000 AS MORE PARTICULARLY DESCRIBED IN THIS RESOLUTION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the Florida Constitution permits the acquisition of private property for a public purpose upon payment of full compensation; and

WHEREAS, pursuant to sections 166.401, 166.411, and 337.27, Chapters 73 and 74, Florida Statutes, and the Charter Laws of the City of Gainesville, a Special Act, the City of Gainesville has the right and power to exercise eminent domain to acquire property for the purposes set forth in those sections; and

WHEREAS, fee simple acquisition of tax parcel numbers 15704-007-000 and 15706-001-000, as more fully described in this Resolution, is necessary for a stormwater park, which includes permitting, installing, constructing, reconstructing, operating, maintaining and upgrading stormwater facilities; for preservation, park, and recreational purposes, and for the necessary expansion of the public transit facilities including parking and ingress/egress; and

WHEREAS, the acquisition of the aforescribed tax parcels 15704-007-000 and 15706-001-000 is for a public purpose; and

WHEREAS, on July 23, 2001, the City Commission adopted Resolution No. 001626 that authorized the acquisition and exercise of eminent domain powers for the Depot Avenue Stormwater Project, and

WHEREAS, the legal description of the property described in Resolution No. 001626 contained technical errors, and made reference to community redevelopment purposes that are no longer germane to the acquisition of properties for the Depot Avenue Stormwater Park Project;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. The Depot Avenue Stormwater Park Project, known as Project No. 99-12-01, is necessary and for a public purpose;

- Section 2. Fee simple acquisition of tax parcel numbers 15704-007-000 and 15706-001-000 as more fully described in Section 3 below, is necessary for the Depot Avenue Stormwater Park Project, which includes permitting, installing, constructing, reconstructing, operating, maintaining, and upgrading stormwater facilities; for preservation, park, and recreational purposes, and for the necessary expansion of public transit facilities including parking and ingress/egress;
- Section 3. The legal descriptions of the real property to be acquired are more particularly described in "Exhibit A" attached hereto and made a part hereof as if set forth in full.
- Section 4. The City Attorney is authorized to initiate and pursue to final judgment eminent domain proceedings to acquire fee simple title to the aforescribed real property, and to take any other necessary legal action associated with or arising out of such condemnation proceedings. The City Attorney is further authorized to accomplish the acquisition of said real property by settlement and compromise if same can be effected in accordance with the terms, conditions, and limitations established from time to time by the City Commission.
- Section 5. Resolution No. 001626 adopted by the City Commission on July 23, 2001, is hereby repealed.

Passed and adopted this _____ day of _____, 2001.

Thomas D. Bussing, Mayor

Attest:

By: _____
Kurt Lannon, Clerk of the Commission

EXHIBIT "A"

Legal Description

Parcel I: A parcel of land located in the northeast ¼ of Section 8, Township 10 South, Range 20 East, City of Gainesville, Alachua County, Florida, being more particularly described as follows:

For a point of reference commence at a concrete monument being the intersection of the southerly right of way line of the Seaboard Coastline Railroad and the east line of Section 8, Township 10 South, Range 20 East, Alachua County, Florida; Thence run North 01°28'03" East, along said east line a distance of 410.14 feet to a concrete monument; Thence run North 44°59'40" West, a distance of 97.95 feet to a nail and cap set in concrete (R.L.S. #2678); Thence run North 42°50'52" East, a distance of 81.53 feet to a concrete monument; Thence run North 26°12'11" West, a distance of 807.60 feet to a concrete monument being the Point of Beginning; Thence from said Point of Beginning run South 63°47'49" West, a distance of 342.30 feet to a concrete monument being a point on a curve, said curve being concave to the east, having a radius of 1403.01 feet and a radial bearing of North 81°45'08" East; Thence run northerly along said curve through a central angle of 05°11'15" along the arc a distance of 127.03 feet with a tangent length of 63.56 feet and a chord bearing and distance of North 05°39'10" West and 126.98 feet to a concrete monument having a radial bearing of North 86°56'24" East; Thence run North 09°45'52" East, a distance of 93.04 feet to a concrete monument being a point on a curve, said curve being concave to the east, having a radius of 527.86 feet and a radial bearing of South 82°48'07" East; Thence run northeasterly along said curve through a central angle of 34°36'54" along an arc a distance of 318.91 feet with a tangent of 154.49 feet and a chord bearing and distance of North 24°30'21" East and 314.08 feet to a concrete monument having a radial bearing of South 48°11'12" East; Thence run South 26°12'11" East, a distance of 393.10 feet to close on the Point of Beginning.

Parcel II: Commence at the northeast corner of said Section 8, Township 10 South, Range 20 East and run North 13°28'00" West 95.32 feet to the centerline of the Seaboard Coastline Railroad; Run thence South 78°27'00" west, along said centerline, 693.85 feet; Thence South 16°52'00" West, 34.11 feet to the point of intersection of the east right of way line of South Main Street with the south right of way line of the Seaboard Coastline Railroad and the Point of Beginning; From the Point of Beginning thus described run thence South 16°52'00" West, along said east right of way line of Main Street, 190.09 feet; Thence South 73°7'15" East, 75.13 feet to a point located 20 feet westerly as measured at right angles, from the center line of the Seaboard Coastline Railroad's spur track; Thence northeastwardly, parallel with the center line of said spur track, the following chord bearings and distances: North 28°07'24" East 100 feet; North 38°16'24" East 100 feet and North 49°42'48" East 127.85 feet to the southerly right of way line of the Seaboard Coastline Railroad; Thence South 78°27'00" west along said southerly right of way line of the Seaboard Railroad, 227.96 feet to the Point of Beginning.

Parcel III: A tract of land located in the northwest ¼ of Section 9, Township 10 South, Range 20 East, and the northeast ¼ of Section 8, Township 10 South, Range 20 East, Alachua County, Florida, being more particularly described as follows:

For a point of reference commence at a concrete monument being the intersection of the southerly right of way line of the Seaboard Coastline Railroad and the west line of Section 9, Township 10 South, Range 20 East, Alachua County, Florida; Thence run North 01°28'03" East along said west line a distance of 410.14 feet to a concrete monument and the Point of Beginning; Thence from said Point of Beginning run North 44°59'40" West a distance of 97.95 feet to a nail and cap set in concrete (R.L.S. #2678); Thence run North 42°50'52" East a distance of 81.53 feet to a concrete monument; Thence run North 26°12'11" West a distance of 807.60 feet to a concrete monument;

Thence run South 63°47'49" West a distance of 342.30 feet to a concrete monument and a point on a curve, said curve being concave to the east, having a radius of 1,403.01 feet and a radial bearing of North 81°45'08" East; Thence run southerly along said curve through a central angle of 18°31'21" along an arc distance of 453.56 feet with a tangent length of 228.78 feet and a chord bearing and distance of South 17°30'32" East and 451.59 feet to a concrete monument; Thence run South 63°53'53" West a distance of 7.81 feet to a concrete monument; Thence run South 26°05'47" East a distance of 84.84 feet to a concrete monument; Thence run North 63°53'53" East a distance of 8.04 feet to a concrete monument and a point on a curve, said curve being concave to the northeast, having a radius of 1,412.68 feet and a radial bearing of North 59°26'13" East; Thence run southeasterly along said curve through a central angle of 41°25'28" along an arc a distance of 1,021.36 feet having a tangent of 534.15 feet and a chord bearing and distance of South 51°16'31" East and 999.26 feet to a concrete monument and a point of tangency; Thence run South 71°59'15" East a distance of 124.36 feet to a concrete monument and the westerly right of way of Plant Street as per plat of "Veitch Addition to Gainesville" recorded in Plat Book "A", Page 90 of the Public Records of Alachua County, Florida; Thence run North 23°05'04" West along the said west right of way line a distance of 417.32 feet to a concrete monument and the northeast corner of Lot 45 and the southerly right of way line of 1st Avenue of said "Veitch Street Addition to Gainesville"; Thence run South 67°05'40" West along said southerly right of way line of 1st Avenue a distance of 111.56 feet to a concrete monument; Thence run North 44°59'40" West a distance of 180.08 feet to close on the Point of Beginning; and being shown on print of survey prepared by The Perry C. McGriff Co., Inc., Dated July 11, 1979.