



City of Gainesville  
Department of Doing  
Planning Division

PO Box 490, Station 11  
Gainesville, FL 32627-0490  
306 NE 6<sup>th</sup> Avenue  
P: (352) 334-5022  
F: (352) 334-2648

## CITY PLAN BOARD STAFF REPORT

**PUBLIC HEARING DATE:** April 26, 2018

**ITEM NO:** 3

**PROJECT NAME AND NUMBER:** Vacation of 8' wide alley, PB-18-35 SVA

**APPLICATION TYPE:** Right-of-Way vacation - **Quasi-Judicial:**

**RECOMMENDATION:** Staff recommends approval of the application.

**CITY PROJECT CONTACT:** Jason Simmons, Planner

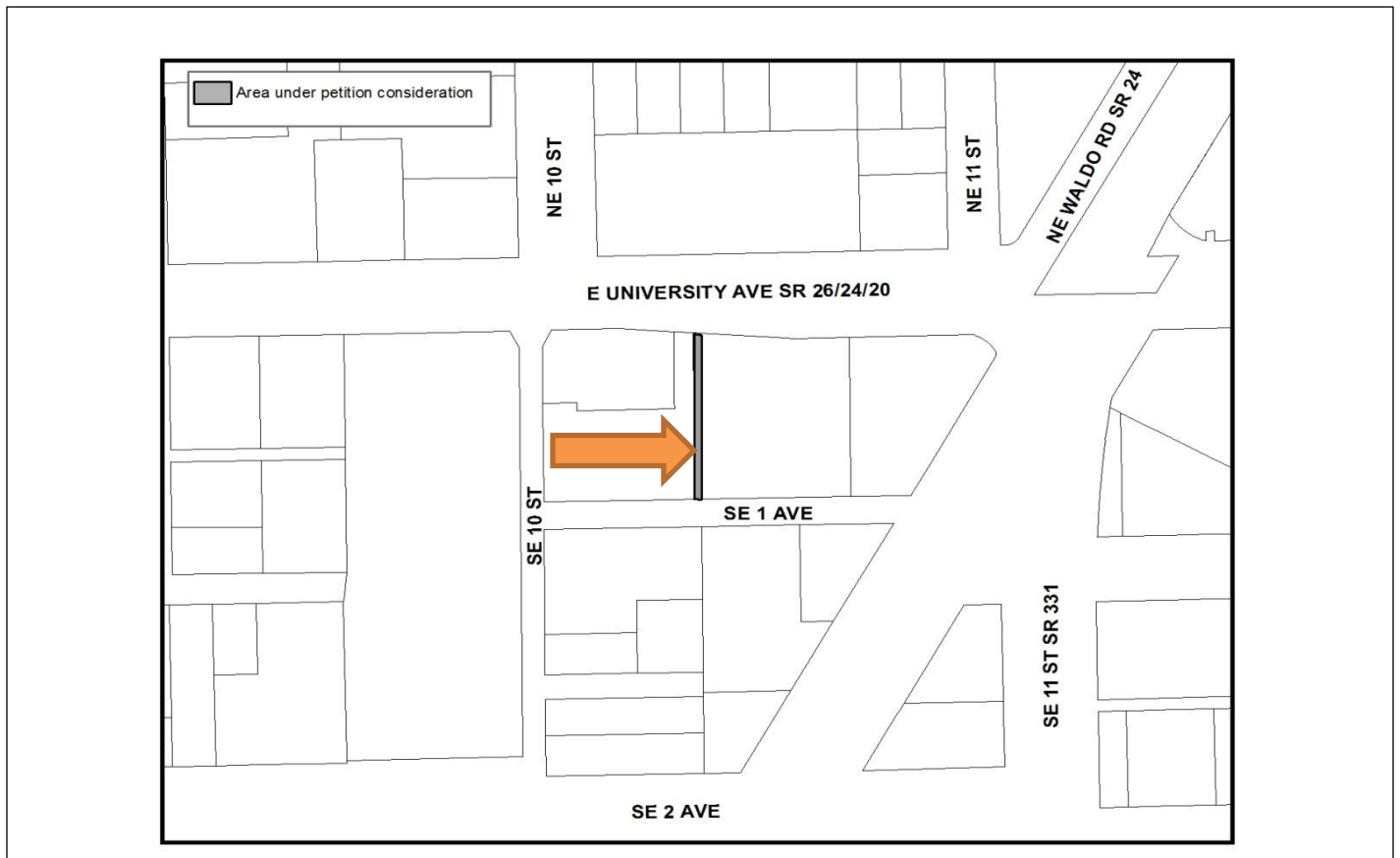


Figure 1: Location Map

**APPLICATION INFORMATION:**

**Agent/Applicant:** Kami Corbett and Foley & Lardner LLP, Inc.

**Property Owner(s):** E.W. Burch, Jr., ABC Liquors, Inc., and BW University and 10<sup>th</sup> LLC, owners

**SITE INFORMATION:**

**Address:** Located between 1007 and 1021 E. University Avenue

**Parcel Number(s):** 12007-000-000, 12007-001-000, 12005-000-000, & 12007-002-000

**Existing Use(s):** Vacant commercial

**Zoning Designation(s):** Urban 7

**PURPOSE AND DESCRIPTION:**

Kami Corbett and Foley & Lardner LLP, Inc., agent for E.W. Burch, Jr., ABC Liquors, Inc., and BW University and 10<sup>th</sup> LLC, owners. Request to vacate an 8 foot wide alley lying between lots 3 and 4, G.B. Crawford Addition, between East University Avenue and SE 1<sup>st</sup> Avenue. Located south of East University Avenue, east of SE 10<sup>th</sup> Street, north of SE 1<sup>st</sup> Avenue, and west of SE Williston Road. Related to Petition PB-17-165 SUP.

**STAFF REVIEW AND RECOMMENDATION:**

**DESCRIPTION**

The purpose of this request is to vacate an 8 foot wide alley that lays between lots 3 and 4 of the G.B. Crawford Addition, between East University Avenue and SE 1<sup>st</sup> Avenue. The distance the alley runs between the avenues is approximately 205 feet. (as shown on the location map on page 1). The right-of-way to be vacated is approximately 0.04 acres in total. There are two sections to the alley. The southern section is approximately 105 feet long by 8 feet wide (approximately 0.02 acres in size) and is owned by the City of Gainesville. The northern section is approximately 100 feet long by 8 feet wide (approximately 0.02 acres in size) and is owned by the BW University and 10<sup>th</sup> LLC, who are a part of this application request. Although this northern section of the alley right-of-way is not owned by the City of Gainesville, there is no record of this portion of the alley ever being vacated and turned over to private landowners. The sketch to accompany the legal description that is included in Exhibit 1 indicates that this section was acquired by adverse possession by a previous landowner, prior to purchase by the current owners.

**REVIEW**

Vacation of this right-of-way will facilitate the redevelopment of the adjoining properties on either side of the alley. The right-of-way is primarily paved and was part of the parking and vehicular use area of the former ABC alcoholic beverage store that is adjacent to the right-of-way on the east side. The two ends of the alley right-of-way are unimproved. The driveway for the former ABC store provided through access from East University Avenue to SE 1<sup>st</sup> Avenue, thus rendering the right-of-way unnecessary for providing access for the general public. The right-of-way did provide additional vehicle space for the patrons of the privately owned abutting business.

**Basis for Recommendation**

The City Plan Board shall consider the following criteria in determining whether the public interest will be best served by the proposed action:

**1. Whether the public benefits from the use of the subject right-of-way as part of the City street system.**

The public does not utilize the existing right-of-way as part of it is currently unimproved and the majority of it is paved as part of the parking area for the former ABC alcoholic beverage store to the east of the alley. The right-of-way does not provide access as a functioning alley.

**2. Whether the proposed action is consistent with the City’s Comprehensive Plan.**

This proposal is consistent with Policy 10.2.1 of the Transportation Mobility Element, which states that the City shall only vacate streets under certain conditions. The closure of the right-of-way will not foreclose reasonably foreseeable future bicycle or pedestrian use or other transportation corridor in the area, and it will not foreclose non-motorized access to adjacent land uses or transit stops. The proposed vacation will allow for the redevelopment of the adjacent properties which will need to provide sidewalks that will enhance pedestrian and bicycle access throughout the area.

**3. Whether the proposed action would violate individual property rights.**

Staff finds that the proposed action will not violate existing property rights, and specifically that the vacation of the right-of-way will not make any other properties landlocked or inaccessible.

**4. The availability of alternative action to alleviate the identified problems.**

Multi-modal enhancements (bike and sidewalk improvements) will likely be a part of a development proposal for the parcels adjacent to the right-of-way, which will provide better connectivity within the immediate area. The existing right-of-way is partially unimproved and partially included within the vehicular use area of the vacant adjacent ABC alcoholic beverage store. The need to pursue alternative action to the proposed vacation is unnecessary.

**5. The effect of the proposed action on traffic circulation.**

This proposal should not negatively impact existing traffic circulation in the area because access from SE 1<sup>st</sup> Avenue through to East University Avenue has been provided through the parking lot of the former ABC alcoholic beverage store at 1021 East University Avenue. This driveway/parking area includes most of the alley right-of-way. (See Survey in Exhibit 1)

**6. The effect of the proposed action on crime.**

The proposed action will have no effect on crime. The right-of-way vacation would not create conditions that limit visibility, create unsafe areas, or limit access to law enforcement.

**7. The effect of the proposed action upon the safety of pedestrians and vehicular traffic.**

The safety of pedestrians and vehicular traffic will not be affected.

**8. The effect of the proposed action on the provision of municipal services including, but not limited to, emergency services and waste removal services.**

The proposed action will not affect municipal services, since the right-of-way is not utilized by these services today.

**9. The necessity to relocate utilities, both public and private.**

The proposed vacation will not necessitate the relocation of utilities. Any proposed utilities for a development will need to be approved under the development review process. Typically, the City proposes that an existing public utility easement be retained as a condition of approval for a street vacation request, or a new easement be created to provide access to existing or proposed utilities.

**10. The effect the proposed action will have on property values in the immediate and surrounding areas.**

The removal of this right-of-way should have no negative effect on the property values in the surrounding area.

**11. The effect of the vacation on geographic areas that may be impacted.**

The proposed street vacation will not negatively affect this part of the City.

**12. The effect of the vacation on the design and character of the neighborhood.**

Specifically, the vacation will not negatively affect the surrounding neighborhood.

**RECOMMENDATION**

Staff recommends approval of the application.

**LIST OF EXHIBITS:**

- Exhibit 1**      **Application**
- Exhibit 2**      **Aerial, Land Use, and Zoning Maps**
- Exhibit 3**      **Pictures**



**APPLICATION TO VACATE PUBLIC RIGHT-OF-WAY  
PLANNING & DEVELOPMENT SERVICES**

<b>OFFICE USE ONLY</b>	
Petition No. _____	Fee: \$ _____
Date: _____	EZ Fee: \$ _____
1 <sup>st</sup> Step Mtg Date: _____	Tax Map No. _____
Abutting Property Owners Petition _____	City Commission Petition _____
Account No. 001-660-6680-3401 [ ]	
Account No. 001-660-6680-1124 (Enterprise Zone) [ ]	
Account No. 001-660-6680-1125 (Enterprise Zone Credit) [ ]	

<b>Applicant Information (Please PRINT)</b>	
Name: Kami Corbett Foley & Lardner, LLP	
Address: 100 N. Tampa Street, Suite 2700	
City: Tampa	
State: Florida	Zip: 33602
Phone: 813-225-4102	Fax: _____

<b>CRITERIA FOR VACATION OR CLOSURE</b>
At the public hearing, the City Commission shall consider the following criteria in determining whether the general public welfare would be best served by the proposed action:
<ol style="list-style-type: none"> <li>Whether the public benefits from the use of the subject right-of-way as part of the city street system.</li> <li>Whether the proposed action is consistent with the city's comprehensive plan.</li> <li>Whether the proposed action would violate individual private property rights.</li> <li>The availability of alternative action to alleviate the identified problems.</li> <li>The effect of the proposed action upon traffic circulation.</li> <li>The effect of the proposed action upon crime.</li> <li>The effect of the proposed action upon the safety of pedestrians and vehicular traffic.</li> <li>The effect of the proposed action upon the provision of municipal services including but not limited to emergency services and waste removal services.</li> <li>The necessity to relocate utilities both public and private.</li> <li>The effect the proposed action will have upon property values in the immediate and surrounding areas.</li> <li>The effect of the proposed action on geographic areas which may be impacted.</li> <li>The effect of the proposed action on the design and character of the area.</li> </ol>

**Certified Cashier's Receipt:**

Under the provisions of Section 30-192(b) of the Land Development Code, City of Gainesville, **THE ABUTTING PROPERTY OWNERS/THE CITY COMMISSION** hereby petition(s) to have the following public right-of-way vacated (a legal description and a map is required):

Please see attached:

Provide reasons for vacating this right-of-way (please add additional sheet(s) to provide more information, if needed):

To facilitate the redevelopment of adjoining properties.

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The recording of the approved ordinance abandoning public property effects an automatic reverter of the property back to the fee owners of the property out of which the street was carved. The City of Gainesville does not issue any formal deed instruments. The local title companies will be able to track the accretion of the property to the appropriate abutting property owners.

*The signature of all abutting property owners is required for petitions initiated by property owners.*

ABUTTING PROPERTY OWNERS' INFORMATION			
PARCEL NO.	PROPERTY OWNER	ADDRESS	SIGNATURE
12007-000-000	EW Burch, Jr.	15th E SE 10th Street	<i>EW Burch Jr</i>
12007-001-000	EW Burch, Jr.	2222 W University Ave	<i>EW Burch Jr</i>
12005-000-000	ABC Liquors, Inc.	1021 E University Avenue	
12007-002-000	BW University and 10th LLC	Crawford GB Plat	

Petition must be filed with the Department of Community Development in accordance with the application cut-off dates as adopted by the City Plan Board (Development Review Board application cut-off dates). A copy of the schedule may be obtained from the Planning Division, Room 158, Planning Counter, Thomas Center B, 306 NE 6th Avenue. Phone: 334-5022.

Petitioner's Signature: *[Signature]* Date: 12-29-2017

Under the provisions of Section 30-192(b) of the Land Development Code, City of Gainesville, **THE ABUTTING PROPERTY OWNERS/THE CITY COMMISSION** hereby petition(s) to have the following public right-of-way vacated (a legal description and a map is required):

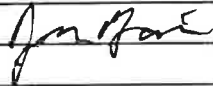
Please see attached:

Provide reasons for vacating this right-of-way (please add additional sheet(s) to provide more information, if needed):

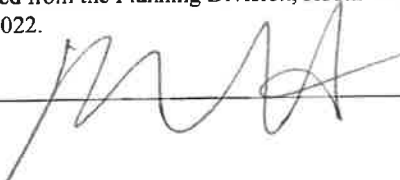
To facilitate the redevelopment of adjoining properties.  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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ABUTTING PROPERTY OWNERS' INFORMATION			
PARCEL NO.	PROPERTY OWNER	ADDRESS	SIGNATURE
12007-000-000	EW Burch, Jr.	15th E SE 10th Street	
12007-001-000	EW Burch, Jr.	222 W University Ave	
12005-000-000	ABC Liquors, Inc.	1021 E University Avenue	
12007-002-000	BW University and 10th LLC	Crawford GB Plat	

Petition must be filed with the Department of Community Development in accordance with the application cut-off dates as adopted by the City Plan Board (Development Review Board application cut-off dates). A copy of the schedule may be obtained from the Planning Division, Room 158, Planning Counter, Thomas Center B, 306 NE 6th Avenue. Phone: 334-5022.

Petitioner's Signature:  Date: 12-29-2012



Under the provisions of Section 30-192(b) of the Land Development Code, City of Gainesville, **THE ABUTTING PROPERTY OWNERS/THE CITY COMMISSION** hereby petition(s) to have the following public right-of-way vacated (a legal description and a map is required):

Please see attached:

Provide reasons for vacating this right-of-way (please add additional sheet(s) to provide more information, if needed):

To facilitate the redevelopment of adjoining properties.

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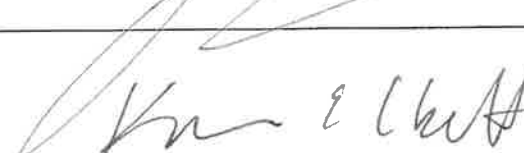
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The recording of the approved ordinance abandoning public property effects an automatic reverter of the property back to the fee owners of the property out of which the street was carved. The City of Gainesville does not issue any formal deed instruments. The local title companies will be able to track the accretion of the property to the appropriate abutting property owners.

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ABUTTING PROPERTY OWNERS' INFORMATION			
PARCEL NO.	PROPERTY OWNER	ADDRESS	SIGNATURE
12007-000-000	EW Burch, Jr.	15th E SE 10th Street	
12007-001-000	EW Burch, Jr.	222 W University Ave	
12005-000-000	ABC Liquors, Inc.	1021 E University Avenue	
12007-002-000	BW University and 10th LLC	Crawford GB Plat	
			<b>T. Austin Simmons, VP of Brightwork Real Estate, Inc., Manager of Owner</b>

Petition must be filed with the Department of Community Development in accordance with the application cut-off dates as adopted by the City Plan Board (Development Review Board application cut-off dates). A copy of the schedule may be obtained from the Planning Division, Room 158, Planning Counter, Thomas Center B, 306 NE 6th Avenue. Phone: 334-5022.

Petitioner's Signature:  Date: 12/18/17  
12/29/17

# PROPERTY OWNER AFFIDAVIT

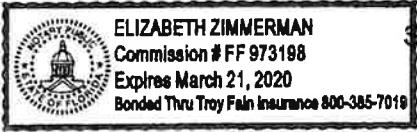
Owner Name: EW Burch, Jr			
Address: 222 W University Ave Gainesville, FL 32603		Phone:	
Agent Name: Kami Corbett and Foley & Lardner LLP			
Address: 100 N Tampa Street, Ste 2700 Tampa, FL 33602		Phone: 813-225-4102	
Parcel No.: 12007-001-000			
Acreage: 14,464 Square Feet		S: 4	T: 10
R: 20			
Requested Action: Petition to vacate alleyway located between Block 3 & Block 4 of appearing on the plat of G. B Crawford, recorded in Plat Book A, Page 11, Public Records of Alachua County, Florida.			
I hereby certify that: I am the owner of the subject property or a person having a legal or equitable interest therein. I authorize the above listed agent to act on my behalf for the purposes of this application.			
Property owner signature: <u>EW Burch Jr</u>			
Printed name: <u>E. W. Burch, Jr.</u>			
Date: <u>12/19/17</u>			
The foregoing affidavit is acknowledged before me this <u>19<sup>th</sup></u> day of <u>December</u> , 20 <u>17</u> , by <u>E. W. Burch, Jr.</u> , who is/are personally known to me, or who has/have produced _____ as identification.			
NOTARY SEAL <u>Esther Mallard</u>			
Signature of Notary Public, State of <u>Florida</u>			



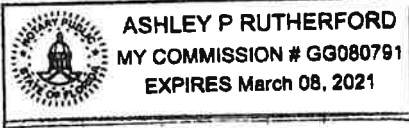
ESTHER MALLARD  
Commission # GG 006768  
Expires May 22, 2021  
Bonded thru Budget Notary Services

#89

# PROPERTY OWNER AFFIDAVIT

Owner Name: ABC Liquors Inc.			
Address: PO Box 593688 Orlando, FL 32859-3688		Phone:	
Agent Name: Kami Corbett and Foley & Lardner LLP			
Address: 100 N Tampa Street, Ste 2700 Tampa, FL 33602		Phone: 813-225-4102	
Parcel No.: 12005-000-000			
Acreage: 36,040 Square Feet	S: 4	T: 10	R: 20
Requested Action: Petition to vacate alleyway located between Block 3 & Block 4 of appearing on the plat of G. B Crawford, recorded in Plat Book A, Page 11, Public Records of Alachua County, Florida.			
<p><b>I hereby certify that:</b> I am the owner of the subject property or a person having a legal or equitable interest therein. I authorize the above listed agent to act on my behalf for the purposes of this application.</p> <p>Property owner signature: <u><i>Jess Barks</i></u></p> <p>Printed name: <u>Jess Barks</u></p> <p>Date: <u>12-13-17</u></p> <p>The foregoing affidavit is acknowledged before me this <u>13<sup>th</sup></u> day of <u>December</u>, 20<u>17</u>, by <u>Jess Barks</u>, who is/are personally known to me, or who has/have produced _____ as identification.</p>			
NOTARY SEAL		<u><i>Elizabeth Zimmerman</i></u>	
		Signature of Notary Public, State of <u>Florida</u>	

# PROPERTY OWNER AFFIDAVIT

Owner Name: BW University and 10th LLC				
Address: 3708 West Swann Avenue Tampa, FL 33609		Phone:		
Agent Name: Kami Corbett and Foley & Lardner LLP				
Address: 100 N Tampa Street, Ste 2700 Tampa, FL 33602		Phone: 813-225-4102		
Parcel No.: 12007-002-000				
Acreage: 871.2 Square Feet		S: 4	T: 10	R: 20
Requested Action: Petition to vacate alleyway located between Block 3 & Block 4 of appearing on the plat of G. B Crawford, recorded in Plat Book A, Page 11, Public Records of Alachua County, Florida.				
<b>I hereby certify that:</b> I am the owner of the subject property or a person having a legal or equitable interest therein. I authorize the above listed agent to act on my behalf for the purposes of this application.				
Property owner signature: _____				
Printed name: _____		T. Austin Simmons, VP of Brightwork Real Estate, Inc., Manager of Owner		
Date: <u>12/18/17</u>				
The foregoing affidavit is acknowledged before me this <u>18<sup>th</sup></u> day of <u>December</u> , 20 <u>17</u> , by <u>T. Austin Simmons</u> , who is/are personally known to me, or who has/have produced _____ as identification.				
NOTARY SEAL		_____ Signature of Notary Public, State of <u>Florida</u>		
				



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## DESCRIPTION

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Date: December 13, 2017

Re: 8' Alley, G.B. Crawford Addition

Description:

THAT CERTAIN 8 FOOT WIDE ALLEY, LOCATED BETWEEN LOTS 3 AND 4, G.B. CRAWFORD ADDITION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK "A", PAGE 11, OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA.

**ALL AS SHOWN ON THE MAP  
ATTACHED HERewith AND  
MADE A PART HEREOF**

**DESCRIPTION**

THAT CERTAIN 8 FOOT WIDE ALLEY, LOCATED BETWEEN LOTS 3 AND 4, G.B. CRAWFORD ADDITION, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK "A", PAGE 11, OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA

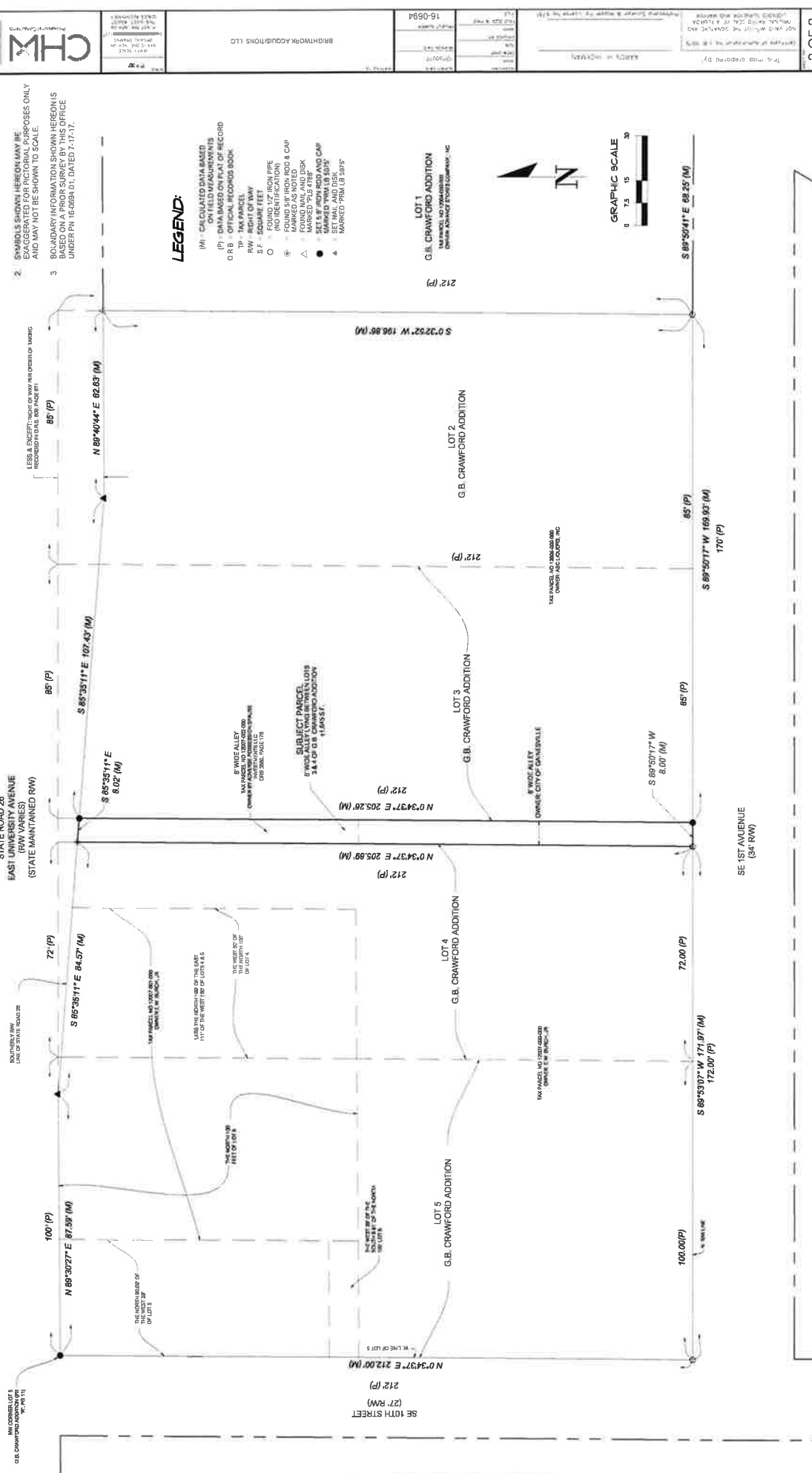
**SKETCH TO ACCOMPANY LEGAL DESCRIPTION**

OF AN 8' WIDE ALLEY SITUATED BETWEEN LOTS 3 & 4, G.B. CRAWFORD ADDITION, IN SECTION 4, TOWNSHIP 10 SOUTH, RANGE 20 EAST, CITY OF GAINESVILLE, ALACHUA COUNTY, FLORIDA.

\*SKETCH - NOT A BOUNDARY SURVEY\*

**SURVEYOR'S NOTES:**

1. BEARINGS SHOWN HEREON ARE BASED ON A VALUE OF SOUTH 89°53'07" WEST FOR THE CRAWFORD ADDITION, AS PER PLAT THEREOF RECORDED IN PLAT BOOK "A", PAGE 11, OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA.
2. SYMBOLS SHOWN HEREON MAY BE EXAGGERATED FOR PICTORIAL PURPOSES ONLY AND MAY NOT BE SHOWN TO SCALE.
3. BOUNDARY INFORMATION SHOWN HEREON IS BASED ON A PRIOR SURVEY BY THIS OFFICE UNDER PN 16-0894.01, DATED 7-17-17.



**LEGEND:**

- (M) - CALCULATED DATA BASED ON SURVEY INFORMATION
- (P) - DATA BASED ON PUBLIC RECORD
- OR B - OFFICIAL RECORDS BOOK
- TP - TAX PARCEL
- RW - RIGHT OF WAY
- S.F. - SQUARE FEET
- - FOUND 5/8\"/>
- ⊙ - FOUND 5/8\"/>
- △ - FOUND 1/2\"/>
- - SET MAIL AND DISK
- ▲ - SET MAIL AND DISK
- - MARKED 'PRM 18 3095'

**LOT 1**  
G.B. CRAWFORD ADDITION  
TAX PARCEL NO. 13066.000.000  
OWNER: AVANTAGE COMPANY, INC.

**LOT 2**  
G.B. CRAWFORD ADDITION

**LOT 3**  
G.B. CRAWFORD ADDITION

**LOT 4**  
G.B. CRAWFORD ADDITION

**LOT 5**  
G.B. CRAWFORD ADDITION

**SUBJECT PARCEL**  
8' WIDE ALLEY  
TAX PARCEL NO. 13066.000.000  
OWNER: AVANTAGE COMPANY, INC.

**SUBJECT PARCEL**  
8' WIDE ALLEY  
TAX PARCEL NO. 13066.000.000  
OWNER: AVANTAGE COMPANY, INC.

**SUBJECT PARCEL**  
8' WIDE ALLEY  
TAX PARCEL NO. 13066.000.000  
OWNER: AVANTAGE COMPANY, INC.








**AERIAL PHOTOGRAPH**

Name	Petition Request	Petition Number
CHW, Inc. agent for E.W. Burch, Jr., AC Liquors, Inc., and BW University and 10th LLC, owners	Request to vacate an 8 foot wide alley lying between lots 3 and 4, G.B. Crawford Addition, between East University Avenue and SE 1st Avenue. Located south of East University Avenue, north of SE 1st Avenue and west of SE Williston Rd	PB-18-17 SUB






**Petition  
PB-18-35 SVA  
Existing Land Use**

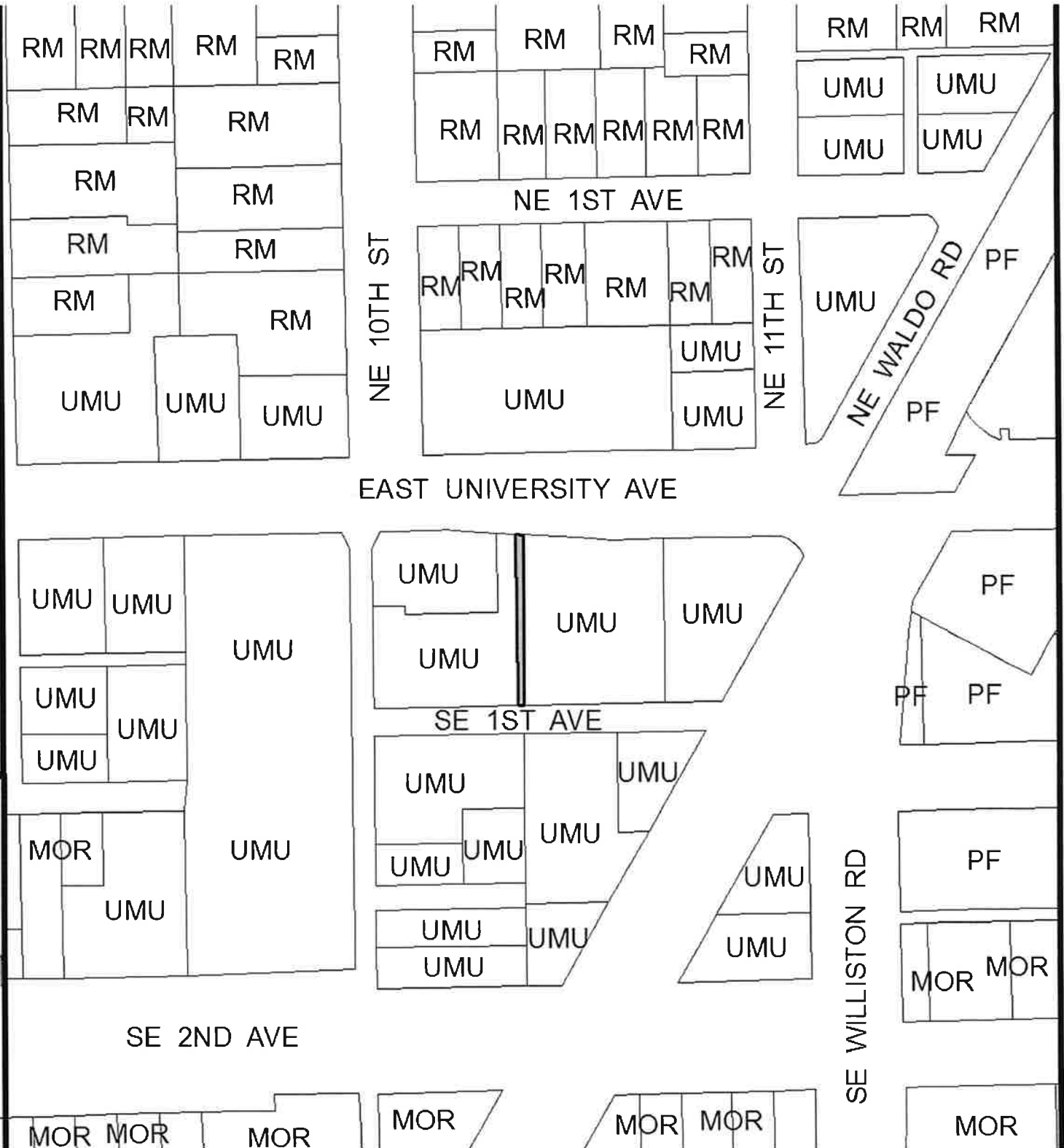
 Area under petition consideration

**City of Gainesville  
Land Use Categories**


- RM Residential Medium Density
- PF Public Facilities
- MOR Mixed-Use Office/Residential
- UMU Urban Mixed-Use

CHW, Inc agent for E.W. Burch,  
ABC Liquors, BW University and  
10th LLC, owners.  
Vacate 8-foot wide alley

--- Division line between two land use categories  
 City Limits



**Petition  
PB-18-35 SVA  
Existing Zoning Districts**

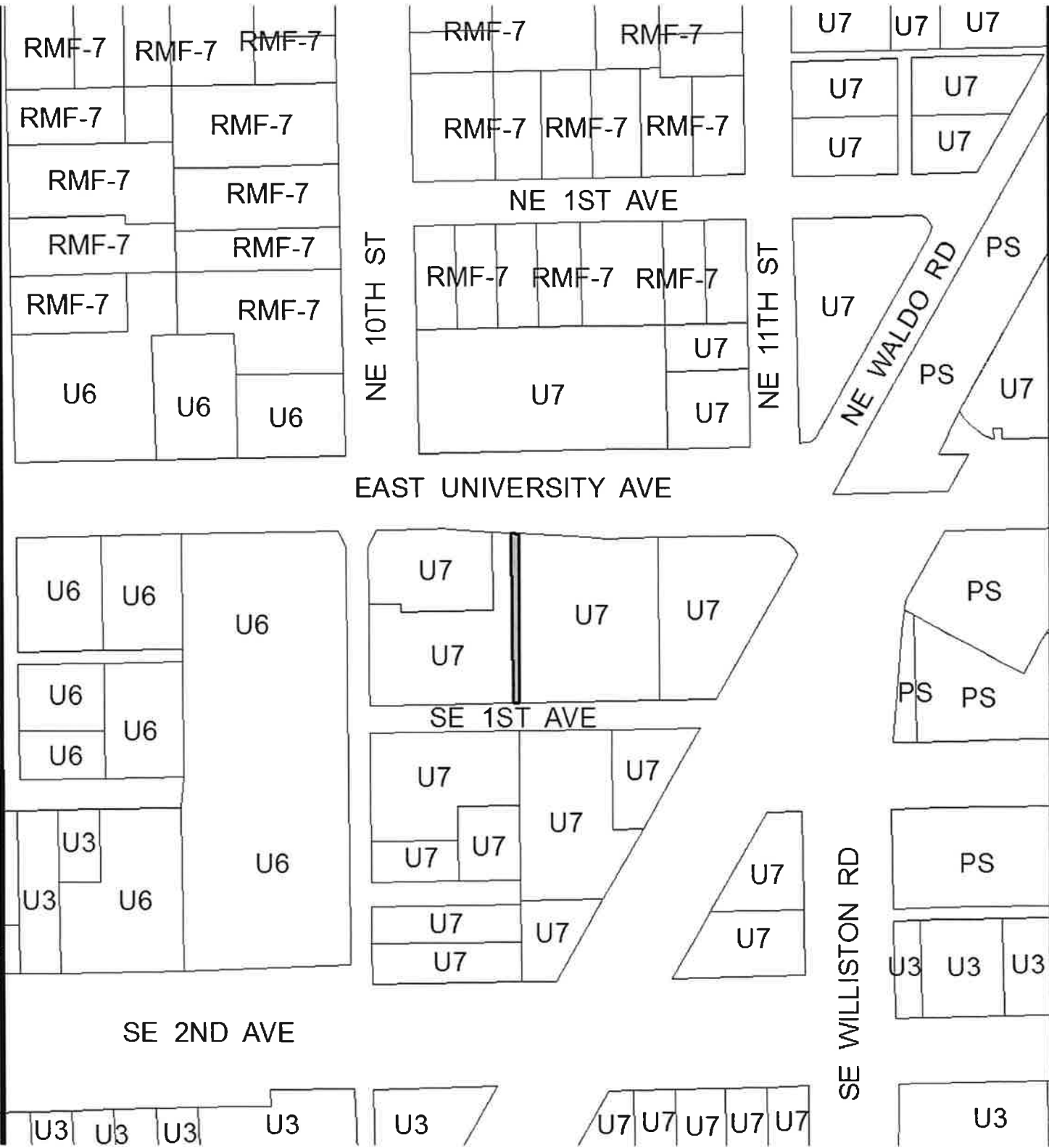
 Area under petition consideration

**City of Gainesville  
Zoning Districts**

- RMF-7 Multiple Family Residential
- PS Public Services & Operations
- U3 Urban 3
- U6 Urban 6
- U7 Urban 7

CHW, Inc agent for E.W. Burch,  
ABC Liquors, BW University and  
10th LLC, owners.  
Vacate 8-foot wide alley

--- Division line between two land use categories  
 City Limits



# Vacation of ROW

View south of 8 foot alley

Legend



Google Earth

© 2018 Google

6.68 ft



# Vacation of ROW

1021 E. University Avenue

Legend



Google Earth

© 2018 Google



6.86 ft

