



MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 040918

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

TO: Mayor and City Commission

DATE: June 27, 2005

FROM: City Attorney

**CITY ATTORNEY
SECOND READING**

SUBJECT: Ordinance No. 0-05-39, Petition 196SVA-04PB
An ordinance of the City of Gainesville, Florida, to vacate, abandon and close a 15-foot alley running west of Southeast 11th Street (a/k/a Williston/Waldo Road) to the abandoned rail line (bicycle rail trail) in Block 28, New Gainesville, as recorded in Plat Book A, page 65, Public Records of Alachua County, Florida; reserving a utility easement; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

STAFF REPORT

The purpose of this request is to vacate a 15-foot wide right-of-way west of S.E. 11th Street (also known as Williston Road and/or Waldo Road) to allow for the future expansion of the existing Education Child Care Center located north of the right-of-way. South of the right-of-way is vacant, unclassified land. The right-of-way runs for approximately 115 feet west into the bicycle rail trail. The owner of the child care center would like to purchase the unclassified land for the purpose of expansion after the right-of-way is vacated. The right-of-way is a "paper street," that consists of several trees and other vegetation. It provides no public service and would best be used as taxable land.

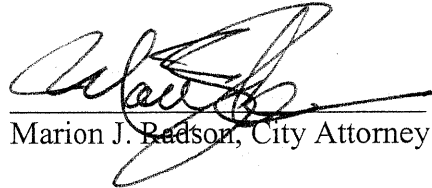
The Plan Board heard the petition and recommended that it be approved with the condition to retain an easement for utilities.

Public notice was published in the Gainesville Sun on February 1, 2005. Letters were mailed to surrounding property owners on February 2, 2005. The Plan Board held a public hearing February 17, 2005. The City Commission heard and approved this petition March 14, 2005.

CITY ATTORNEY MEMORANDUM

The City Commission, at its meeting of March 14, 2005, authorized the City Attorney to draft the proposed ordinance for street vacation.

Prepared and
submitted by:



Marion J. Radson, City Attorney

MJR/afm

Passed on first reading by a vote of 7-0.

ORDINANCE NO. _____
0-05-39

An ordinance of the City of Gainesville, Florida, to vacate, abandon and close a 15-foot alley running west of Southeast 11th Street (a/k/a Williston/Waldo Road) to the abandoned rail line (bicycle rail trail) in Block 28, New Gainesville, as recorded in Plat Book A, page 65, Public Records of Alachua County, Florida; reserving a utility easement; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, pursuant to Section 30-192 of the Code of Ordinances of the City of Gainesville, an application was initiated to vacate, abandon and close a 15-foot alley running west of Southeast 11th Street (a/k/a Williston/Waldo Road) to the abandoned rail line (bicycle rail trail) in Block 28, New Gainesville, as recorded in Plat Book A, page 65, Public Records of Alachua County, Florida, as more specifically described herein; and

WHEREAS, notice was given and publication made as required by law and a public hearing was held by the City Plan Board on February 17, 2005; and

WHEREAS, notice was given and publication made of a public hearing which was then held by the City Commission on March 14, 2005; and

WHEREAS, at least ten (10) days notice has been given of the public hearing once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of the public hearings in the City Commission meeting room, First Floor, City Hall, in the City of Gainesville; and

WHEREAS, notice has also been given by mail to all owners of property abutting the portion to be vacated prior to the adoption of this ordinance; and

1 **WHEREAS**, prior to the public hearings the application was presented to and approved
2 by the appropriate Departments of the City; and

3 **WHEREAS**, the City Commission finds that it is in the public interest to vacate;
4 abandon and close the area, subject to a utility easement.

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

7 **Section 1.** The right-of-way in the City of Gainesville, as shown on the Map, attached
8 hereto as Exhibit "A" and made a part hereof as if set forth in full, no longer serves a public
9 purpose and is hereby vacated, abandoned and closed for use by the public generally.

10 **Section 2.** The City reserves unto itself, its successors and assigns an easement over,
11 under, across and through the right-of-way described in Exhibit "A", attached hereto and made a
12 part hereof, for the purpose of maintaining and operating public and private utilities.

13 **Section 3.** The Clerk of the Commission or designee is authorized to record a true copy
14 of this Ordinance in the Public Records of Alachua County, Florida.

15 **Section 4.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
16 or unconstitutional by any court of competent jurisdiction, then said holding shall in no way
17 affect the validity of the remaining portions of this ordinance.

18 **Section 5.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
19 such conflict hereby repealed.
20

1 Section 6. This ordinance shall become effective immediately upon final adoption.

2 PASSED AND ADOPTED this ____ day of _____, 2005.

3
4 _____
5 Pegeen Hanrahan, Mayor

6
7 ATTEST: Approved as to form and legality:

8
9
10 _____ By: _____
11 KURT LANNON, MARION J. RADSON, CITY ATTORNEY
12 CLERK OF THE COMMISSION

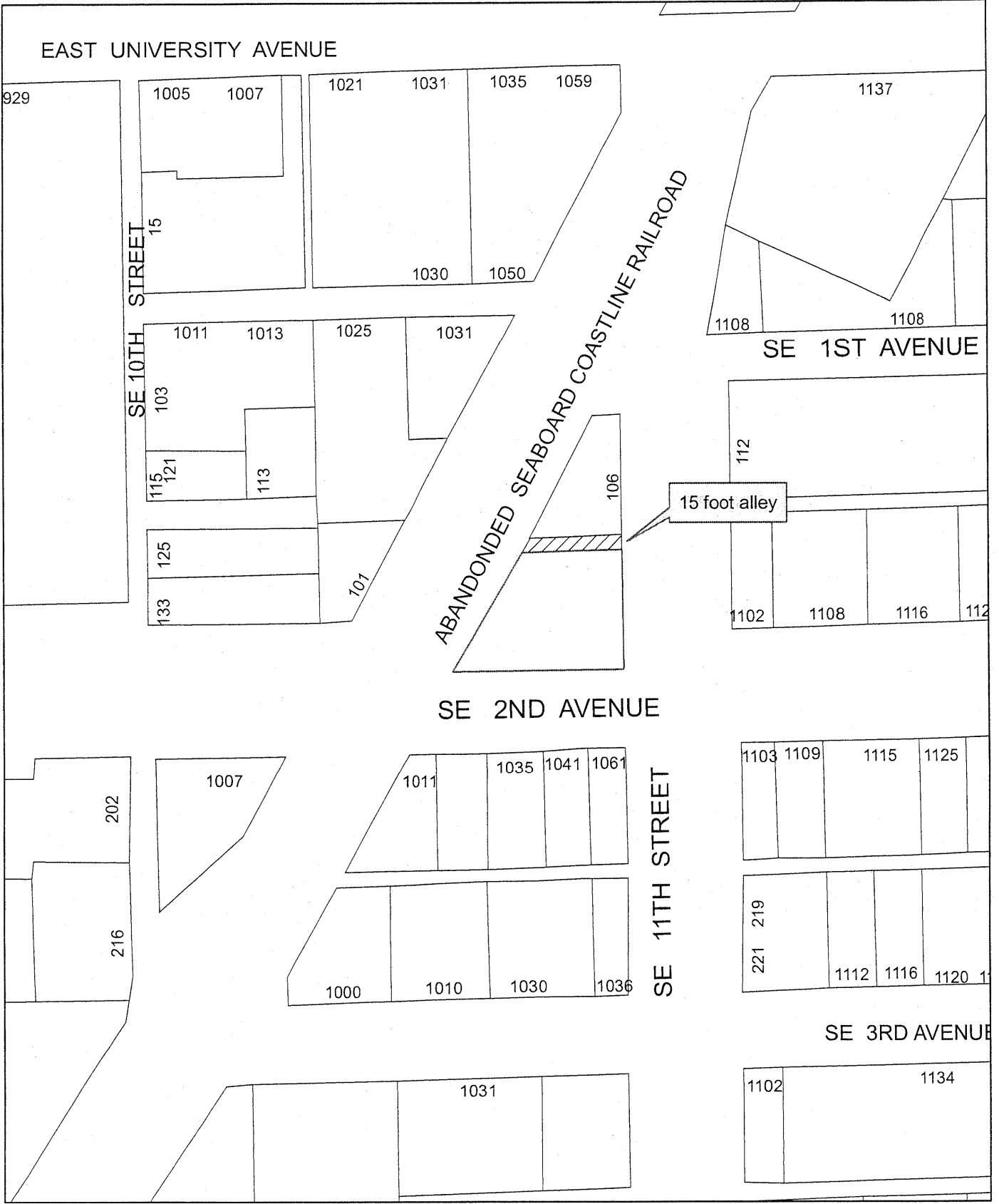
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14
15 This ordinance passed on first reading this ____ day of _____, 2005.

16
17 This ordinance passed on second reading this ____ day of _____, 2005.

18
19
20 MJR/afm

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22 H:\Marion Radson\Planning\196SVA 04 pet.doc

LOCATION MAP FOR PETITION 196SVA-04PB



 Petition Area

Prepared by the Dept. of Comm. Dev./050205 File: 196SVA-04PB

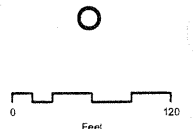


EXHIBIT "A"