

ORDINANCE NO. _____
0-06-124

An ordinance of the City of Gainesville, Florida, to vacate, abandon and close that portion of Northeast 12th Avenue located in the vicinity between the east right-of-way line of Waldo road and the west boundary of the Cedar Grove Residential Subdivision, as more specifically described in this Ordinance; reserving public and private utilities easements; providing conditions and a reversionary interest; 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 that portion of Northeast 12th Avenue located in the vicinity between the east right-of-way line of Waldo road and the west boundary of the Cedar Grove Residential Subdivision, as more specifically described herein to make possible a commercial retail development; and

WHEREAS, notice was given and publication made as required by law and a public hearing was held by the City Plan Board on September 21, 2006; 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

WHEREAS, prior to the public hearings the application was presented to and approved

1 by the appropriate Departments of the City; and

2 **WHEREAS**, the City Commission finds that it is in the public interest to vacate, abandon
3 and close the right-of-way as set forth herein to make possible a commercial retail development,
4 but that the right-of-way is otherwise required for public use and benefit if the project is not
5 constructed and completed; and

6 **WHEREAS**, the City Commission is willing to vacate, abandon and close the right-of-
7 way subject to specific terms and conditions in an enforceable agreement between the City and
8 the owner/developer, its successors and assigns.

9 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
10 **CITY OF GAINESVILLE, FLORIDA:**

11 **Section 1.** Except as provided in Sections 2 and 3 below, the following described right-
12 of-way in the City of Gainesville no longer serves a public purpose and is hereby vacated,
13 abandoned and closed for use by the public generally in order to make possible a commercial
14 retail development:

15 See legal description attached hereto as Exhibit "A", and made a part hereof
16 as if set forth in full.

17 **Section 2.** The City reserves unto itself, its successors and assigns a public and private
18 utilities easement over, under, across and through the right-of-way described in Exhibit "A",
19 attached hereto and made a part hereof, for the purpose of operating, maintaining, removing and
20 relocating the public and private utilities located therein.

21 **Section 3.** The vacation, abandonment and closure of the right-of-way described in § 1
22 of this Ordinance is subject to the terms and conditions of a certain Vacation of Right-of-Way
23 Agreement between the City and the applicant of the petition to vacate the right-of-way, Wal-

1 Mart Stores East LP, which Agreement provides, among other things, that this ordinance may be
2 repealed and the vacation, abandonment and closure of the right-of-way shall be of no further
3 force and effect, in the event the commercial retail development is not constructed and completed
4 within five years of the date of the final adoption of this ordinance.

5 **Section 4.** The Clerk of the Commission or designee is authorized to record a true copy
6 of this Ordinance in the Public Records of Alachua County, Florida.

7 **Section 5.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
8 or unconstitutional by any court of competent jurisdiction, then said holding shall in no way
9 affect the validity of the remaining portions of this ordinance.

10 **Section 6.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
11 such conflict hereby repealed.

12 **Section 7.** This ordinance shall become effective immediately upon final adoption.

13 **PASSED AND ADOPTED** this _____ day of _____, 2007.

14
15 _____
16 Pegeen Hanrahan, Mayor

17
18 ATTEST:

Approved as to form and legality:

19
20
21 _____
22 KURT LANNON,
23 CLERK OF THE COMMISSION

By: _____
MARION J. RADSON, CITY ATTORNEY

24
25 This ordinance passed on first reading this ____ day of _____, 2007.

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27 This ordinance passed on second reading this ____ day of _____, 2007.

28
29 MJR/afm

30 H:\Marion Radson\Planning\127SVA 06PB pet.doc

LEGAL DESCRIPTION

A PARCEL OF LAND SITUATED IN THE SOUTHWEST $\frac{1}{4}$ OF SECTION 34, TOWNSHIP 9 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE, COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 34, THENCE RUN NORTH 89 DEG. 06 MIN. 21 SEC. EAST ALONG THE SOUTH LINE OF SAID SECTION, A DISTANCE OF 362.32 FEET; THENCE RUN NORTH 01 DEG. 03 MIN. 14 SEC. WEST, A DISTANCE OF 773.28 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF THE ABANDONED SEABOARD AIRLINE RAILROAD; THENCE RUN NORTH 29 DEG. 30 MIN. 05 SEC. EAST ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE, A DISTANCE OF 710.95 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF NORTHEAST 12TH AVENUE (80 FOOT RIGHT OF WAY) SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUE NORTH 29 DEG. 30 MIN. 05 SEC. EAST, A DISTANCE OF 91.92 FEET TO THE NORTH LINE OF SAID NORTHEAST 12TH AVENUE; THENCE RUN NORTH 89 DEG. 59 MIN. 33 SEC. EAST, A DISTANCE OF 1474.60 FEET; THENCE RUN SOUTH 00 DEG. 55 MIN. 04 SEC. EAST, A DISTANCE OF 80.01 FEET TO THE SOUTH LINE OF SAID NORTHEAST 12TH AVENUE; THENCE RUN SOUTH 89 DEG. 59 MIN. 33 SEC. WEST ALONG SAID SOUTH LINE, A DISTANCE OF 1521.15 FEET TO THE POINT OF BEGINNING

CONTAINS 2.75 ACRES, 119,830 SQUARE FEET MORE OR LESS.