

MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 060421

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

TO: Mayor and City Commission

DATE: January 8, 2007

FROM: City Attorney

SECOND READING

SUBJECT: Ordinance No. 0-06-110 Petition 116SVA-06PB
An ordinance of the City of Gainesville, Florida, to vacate, abandon and close that portion of Southwest 12th Avenue located between Southwest 14th Street and the southern right-of-way line of Railroad Street, 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.

Recommendation: The City Commission adopt the proposed ordinance.

COMMUNITY DEVELOPMENT STAFF REPORT

This is a request to vacate a portion of Southwest 12th Avenue, located between Southwest 14th Street and the southern right-of-way line of Railroad Street, to facilitate the development of a cancer hospital and associated facilities.


The Plan Board's recommendation of approval of the street vacation is conditional upon the following: 1) the Special Use Permit and Site Plan for the Shands Cancer Hospital development must be approved by the City; and 2) the second reading of the ordinance approving the street vacation of a portion of Southwest 12th Avenue located between Southwest 14th Street and the southern right-of-way line of Railroad Street, as shown on the Little Gandy subdivision, shall be coordinated with the final sign-off of the site plans for Shands Cancer Hospital. The Plan Board has at this point approved the Special Use Permit for a height of eight stories for the hospital, along with preliminary development plan approval.

Public notice was published in the Gainesville Sun on August 1, 2006. Letters were mailed to surrounding property owners on August 2, 2006. The Plan Board held a public hearing August 17, 2006.

CITY ATTORNEY MEMORANDUM

The City Commission, at its meeting of September 25, 2006, authorized the City Attorney to draft and the Clerk of the Commission to advertise an ordinance vacating the public right-of-way. The vacation of the right-of-way is subject to the terms of a Vacation of Right-of-Way Agreement between the City and the applicant. The Agreement was approved by the City Commission on November 27, 2006 and applies equally to all other street vacation ordinances relating to this Project.

Prepared and
submitted by:



Marion J. Radsen, City Attorney

Passed on first reading on November 27, 2006 by a vote of 7-0.

ORDINANCE NO. 060421
0-06-110

An ordinance of the City of Gainesville, Florida, to vacate, abandon and close that portion of Southwest 12th Avenue located between Southwest 14th Street and the southern right-of-way line of Railroad Street, 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 Southwest 12th Avenue located between Southwest 14th Street and the southern right-of-way line of Railroad Street, as more specifically described herein to make possible the Shands Cancer Hospital 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 August 17, 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 by the appropriate Departments of the City; and

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

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

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

10 **Section 1.** Except as provided in Sections 2 and 3 below, the following described right-
11 of-way in the City of Gainesville no longer serves a public purpose and is hereby vacated,
12 abandoned and closed for use by the public generally in order to make possible the project,
13 commonly known as "Shands Cancer Hospital":

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

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

20 **Section 3.** The vacation, abandonment and closure of the right-of-way described in § 1
21 of this Ordinance is subject to the terms and conditions of a certain Vacation of Right-of-Way
22 Agreement between the City and the applicant of the petition to vacate the right-of-way,
23 Southeastern Health Care Foundation, Inc., which Agreement provides, among other things, that

1 this ordinance may be repealed and the vacation, abandonment and closure of the right-of-way
2 shall be of no further force and effect.


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

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

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


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


11 **PASSED AND ADOPTED** this 8th day of January, 2007.

12 
13 _____
14 Pegen Hanrahan, Mayor

15 ATTEST:

Approved as to form and legality:

16 
17 _____
18 KURT LANNON,
19 CLERK OF THE COMMISSION

20 By: 
21 _____
22 MARION J. RADSON, CITY ATTORNEY
23 JAN 08 2007

24 This ordinance passed on first reading this 27th day of November, 2006.

25 This ordinance passed on second reading this 8th day of January, 2007.

26 MJR/afm

27 H:\Marion Radson\Planning\116SVA 06PB pet.doc
28
29
30

JULY 17, 2006

PREPARED FOR: SOUTHEASTERN HEALTHCARE FOUNDATION, INC.
PROJECT NO.: 05-0811
DRAWING FILE: 05-0811 Gandy sketch.dwg
DESCRIPTION FOR: Portion of S.W. 12TH Avenue in Little Gandy Sub-Division

LEGAL DESCRIPTION:

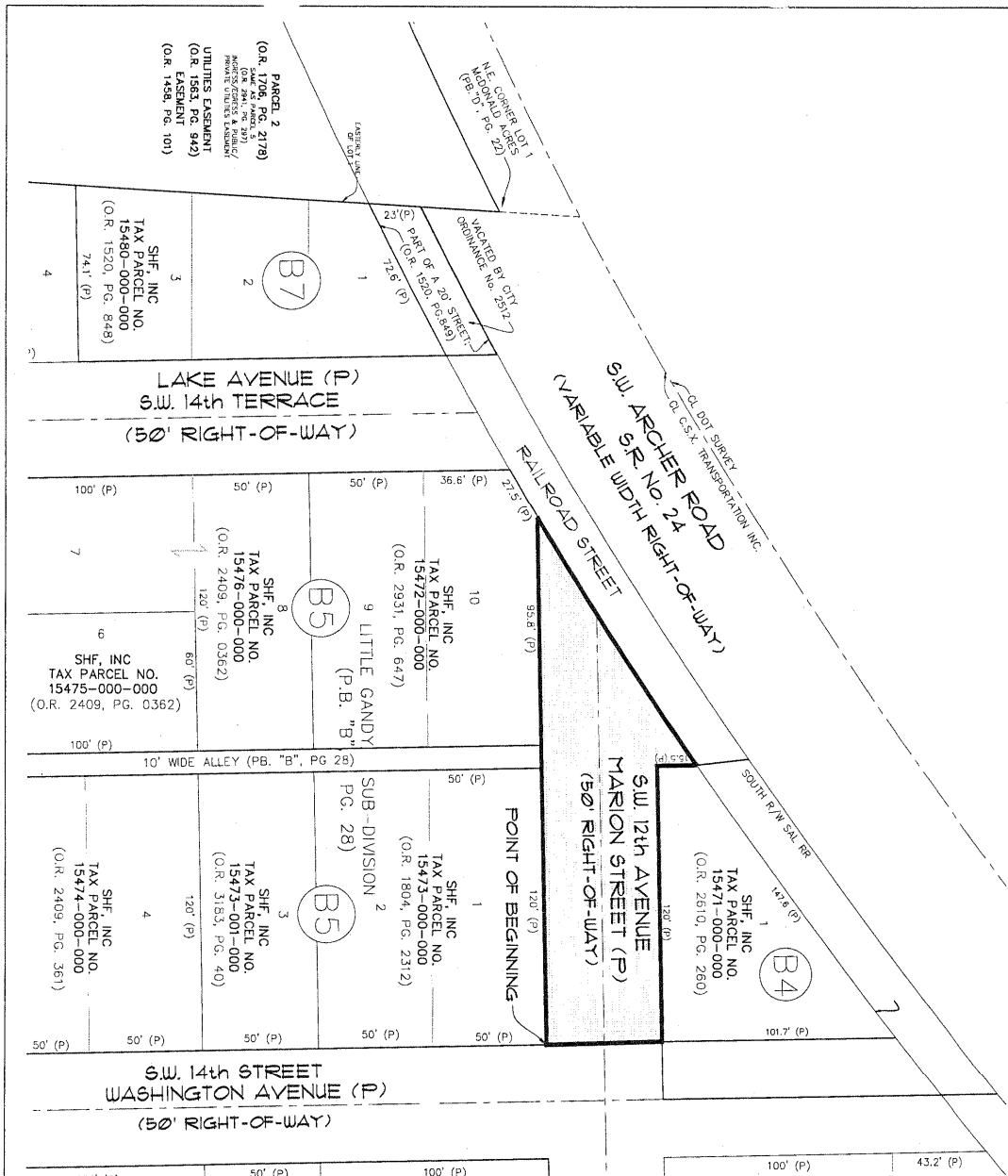
A PORTION OF SOUTHWEST 12th AVENUE (MARION STREET PER PLAT) SHOWN ON LITTLE GANDY SUB-DIVISION RECORDED IN PLAT BOOK "B" PAGE 28 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA, LOCATED IN SECTION 7, TOWNSHIP 10 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF LOT 1 OF BLOCK 5 OF SAID LITTLE GANDY SUB-DIVISION; THENCE WESTERLY ALONG THE NORTH LINE OF SAID LOT 1 AND ALONG THE NORTH LINE OF LOT 10 OF SAID BLOCK 5 OF LITTLE GANDY SUB-DIVISION TO THE SOUTHERLY RIGHT OF WAY LINE OF RAILROAD STREET AS SHOWN ON SAID LITTLE GANDY SUB-DIVISION; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY AND ALONG SAID SOUTHERLY RIGHT OF WAY LINE TO THE NORTHWEST CORNER OF LOT 1 OF BLOCK 4 OF SAID LITTLE GANDY SUB-DIVISION; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF SAID LOT 1 OF BLOCK 4 TO THE SOUTHWEST CORNER OF SAID LOT 1 OF BLOCK 4; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 1 OF BLOCK 4 TO THE SOUTHEAST CORNER OF SAID LOT 1 OF BLOCK 4; THENCE SOUTHERLY TO THE POINT OF BEGINNING.

All as shown on the Map
attached herewith
and made a part hereof



116SVA-06PB



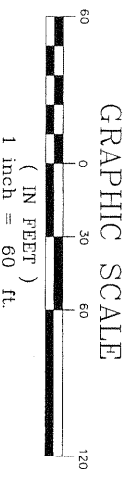
**SKETCH TO ACCOMPANY
LEGAL DESCRIPTION**

SITUATED IN SECTION 1, TOWNSHIP 10 SOUTH,
RANGE 20 EAST,
ALACHUA COUNTY, FLORIDA

**** SKETCH - NOT A BOUNDARY SURVEY ****

DESCRIPTION: (SEE ATTACHED)

- LEGEND:**
- O.R. = OFFICIAL RECORDS BOOK
 - R/W = RIGHT OF WAY
 - P.B. = PLAT BOOK
 - PG. = PAGE
 - (CR) = COMPUTED FROM RECORD MEASUREMENTS
 - CL = CENTERLINE
 - DOT = DEPARTMENT OF TRANSPORTATION
 - (P) = PER RECORD PLAT
 - [Shaded Box] = DESCRIBED AREA



REVISION NOTE: REVISED LEGAL AND SKETCH
(SPLIT INTO TWO PARCELS)

| | | | |
|---|--|---------------------------------------|--|
| This map prepared by: ALAN L. TILLY | | COMPUTER FILE: 05-0811gandy sketch | DRAWING SCALE: 1" = 60' |
| Certificate of Authorization No. LB. 5075 NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER | Professional Surveyor & Mapper Fla. License No. 6501 | SURVEY DATE: N/A | BAR IS ONE HALF INCH ON ORIGINAL DRAWING .5" = 100 FEET ON THIS PRINT IF NOT ONE HALF INCH ON ORIGINAL DRAWING, SELECT APPROPRIATE |

| | |
|---|----------------------|
| CERTIFIED TO: SOUTHEASTERN HEALTHCARE FOUNDATION, INC. FIRST AMERICAN TITLE INSURANCE COMPANY | DESIGN BY: KTM |
| | CHECKED BY: ALT |
| | FIELD BOOK: N/A |
| | JOB NO.: 05-0811 |
| | SHEET NO.: 1 OF 1 |

Causseaux & Ellington, Inc.
Engineering • Surveying • Planning
6011 NW 1st Place, Gainesville, Florida 32607
Phone: (352) 331-1976 Fax: (352) 331-2476