

MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 041262

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

TO: Mayor and City Commission

DATE: May 23, 2005
~~May 9, 2005~~

FROM: City Attorney

SECOND READING
~~FIRST READING~~

SUBJECT: **Ordinance No. 0-05-37, Petition 159-BSVA-04PB**
An ordinance of the City of Gainesville, Florida, to vacate, abandon and close that portion of Northwest 2nd Avenue located between Northwest 13th Street (US 441) and Northwest 14th Street; reserving a temporary utilities easement reserving an ingress/egress easement for public safety purposes; providing a special condition; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission adopt the proposed ordinance.

STAFF REPORT

The petitioner is proposing the redevelopment of a three-block area in the southeast corner of the College Park Special Area District, located between University Avenue and Northwest 3rd Avenue and between Northwest 13th Street (US 441) and Northwest 14th Street. The three-block area has been assembled for purchase by the petitioner for the purpose of developing a mixed-use project, consisting of commercial, office, place of religious assembly and residential uses, to be known as "University Corners."

The petitioner is proposing to vacate, abandon, and close a portion of Northwest 1st Avenue located between Northwest 13th Street (US 441) and Northwest 14th Street. In addition, the request is to vacate, and abandon that portion of Northwest 2nd Avenue, located between Northwest 13th Street (US 441) and Northwest 14th Street. The proposal is not to physically "close" Northwest 2nd Avenue to through-traffic, however, it is to "one-way" the eastern portion of the street from Northwest 13th Street (US 441). Northwest 2nd Avenue will become a "private" street, open to the public ingress and egress.

The two streets for which a vacation is requested are minor local streets that are no more than two blocks in length. Northwest 1st Avenue is located very close to University Avenue and because of the amount of traffic generated in the area, this street has always been underutilized and has created dangerous circulation problems for both pedestrians and vehicles trying to enter, exit, or cross Northwest 1st Avenue at Northwest 13th Street (US 441).

The City shall retain temporary public and private utilities easements over, under, across, and through the vacated right-of-ways. In addition, the City shall retain an emergency ingress/egress easement for public safety vehicles and personnel over, across and through the N.W. 2nd Avenue right-of-way described in Exhibit "A".


The Plan Board heard the petition and recommended that it be approved.

Public notice was published in the Gainesville Sun on November 2, 2004. Letters were mailed to surrounding property owners on November 3, 2004. The Plan Board held a public hearing November 18, 2004.

CITY ATTORNEY MEMORANDUM

The City Commission, at its meeting of December 13, 2004, approved the petition and authorized the City Attorney to draft the proposed ordinance for street vacation.

Prepared and
submitted by:



Marion J. Radson, City Attorney

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Passed on first reading by a vote of 6-0.

ORDINANCE NO. _____
0-05-37

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4 **An ordinance of the City of Gainesville, Florida, to vacate, abandon**
5 **and close that portion of Northwest 2nd Avenue located between**
6 **Northwest 13th Street (US 441) and Northwest 14th Street; reserving a**
7 **temporary utilities easement reserving an ingress/egress easement for**
8 **public safety purposes; providing a special condition; providing a**
9 **severability clause; providing a repealing clause; and providing an**
10 **effective date.**

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13 **WHEREAS**, pursuant to Section 30-192 of the Code of Ordinances of the City of
14 Gainesville, an application was initiated to vacate, abandon and close that portion of Northwest
15 2nd Avenue located between Northwest 13th Street (US 441) and Northwest 14th Street, as more
16 specifically described herein; and

17 **WHEREAS**, notice was given and publication made as required by law and a public
18 hearing was held by the City Plan Board on November 18, 2004; and

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

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

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

27 **WHEREAS**, the City Commission finds that it is in the public interest to vacate;

1 abandon and close the area for the purpose of accommodating a planned development, commonly
2 known as University Corners, subject to a temporary utilities easement and an ingress/egress
3 easement for public safety purposes.

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

6 **Section 1.** Except as provided in Sections 2, 3 and 4 below, the following described
7 right-of-way in the City of Gainesville no longer serves a public purpose and is hereby vacated
8 and abandoned for use by the public generally, in order to make possible the planned
9 development, commonly known as University Corners (Ordinance No. 040657):

10 See Legal Description attached hereto as Exhibit "A", and made a part
11 hereof as if set forth in full.

12 **Section 2.** The City reserves unto itself, its successors and assigns a temporary public
13 and private utilities easement over, under, across and through the right-of-way described in
14 Exhibit "A", attached hereto and made a part hereof, for the purpose of operating, maintaining,
15 removing and relocating the public and private utilities located therein. Said temporary easement
16 will expire at such time as all private and public utilities located therein are relocated from the
17 right-of-way described in Exhibit "A".

18 **Section 3.** The City reserves unto itself, its successors and assigns an emergency
19 ingress/egress easement for public safety vehicles and personnel over, across and through the
20 right-of-way described in Exhibit "A", attached hereto and made a part hereof.

21 **Section 4.** In the event the planned development, commonly known as University
22 Corners, is not adopted by Ordinance No. 040657, or the planned development is not constructed
23 and completed as provided in said Ordinance, then this Ordinance may be repealed and the

1 vacation, abandonment, and closure of the right-of-way shall be of no further force and effect.

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

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

7 **Section 7.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
8 such conflict hereby repealed.

9 **Section 8.** This ordinance shall become effective immediately upon passage; however,
10 the vacation of the right-of-way shall not take effect until and unless the amendment to the City
11 of Gainesville 2000-2010 Comprehensive Plan adopted by Ordinance No. 040656 becomes
12 effective as provided in Section 9 of said Ordinance.

13 **PASSED AND ADOPTED** this ____ day of _____, 2005.

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15 _____
16 Pegeen Hanrahan, Mayor

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18 ATTEST: Approved as to form and legality:

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21 _____ By: _____
22 KURT LANNON, MARION J. RADSON, CITY ATTORNEY
23 CLERK OF THE COMMISSION

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

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

29 MJR/afm

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EXHIBIT "A"

UNIVERSITY CORNERS

NW 2nd Avenue
Street Vacation

LEGAL DESCRIPTION:

An area of land located in Section 6, Township 10 South, Range 20 East, and further described as:

Commence at a nail and disk, P.L.S. #4788 located at the intersection of the centerline of NW 1st Avenue and the eastern right of way line of NW 14th Street, run North 00° 25' 54" West, a distance 180.17 feet, to the southern right of way line of NW 2nd Avenue and the Point of Beginning; thence run North 00° 25' 33" West, along said eastern right of way line, a distance 40.00 feet to the northern right of way line of said NW 2nd Avenue; thence run North 89° 29' 02" East, along said northern right of way line, a distance of 322.87 feet; thence continuing along said northern right of way line, run North 45° 17' 02" East, a distance of 7.17 feet to the western right of way line of NW 13th Street; thence run South 01° 22' 04" West, along said western right of way line, a distance of 50.02 feet, to the southern right of way line of NW 2nd Avenue; thence run North 44° 25' 56" West, along said southern right of way line, a distance of 6.94 feet; thence continuing along said southern right of way line, run South 89° 29' 02" West, a distance of 321.62 feet to the eastern right of way line of NW 14th Street, and the Point of Beginning.