



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 13, 2005

FROM: City Attorney

CITY ATTORNEY

FIRST 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.

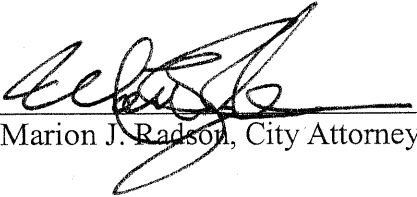
The Plan Board heard the petition and recommended that it be approved with the condition to retain an easement for utilities.

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

ORDINANCE NO. _____
0-05-39

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

12
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 a 15-foot alley running
15 west of Southeast 11th Street (a/k/a Williston/Waldo Road) to the abandoned rail line (bicycle
16 rail trail) in Block 28, New Gainesville, as recorded in Plat Book A, page 65, Public Records of
17 Alachua County, Florida, as more specifically described herein; and

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

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

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

26 **WHEREAS**, notice has also been given by mail to all owners of property abutting the
27 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:

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

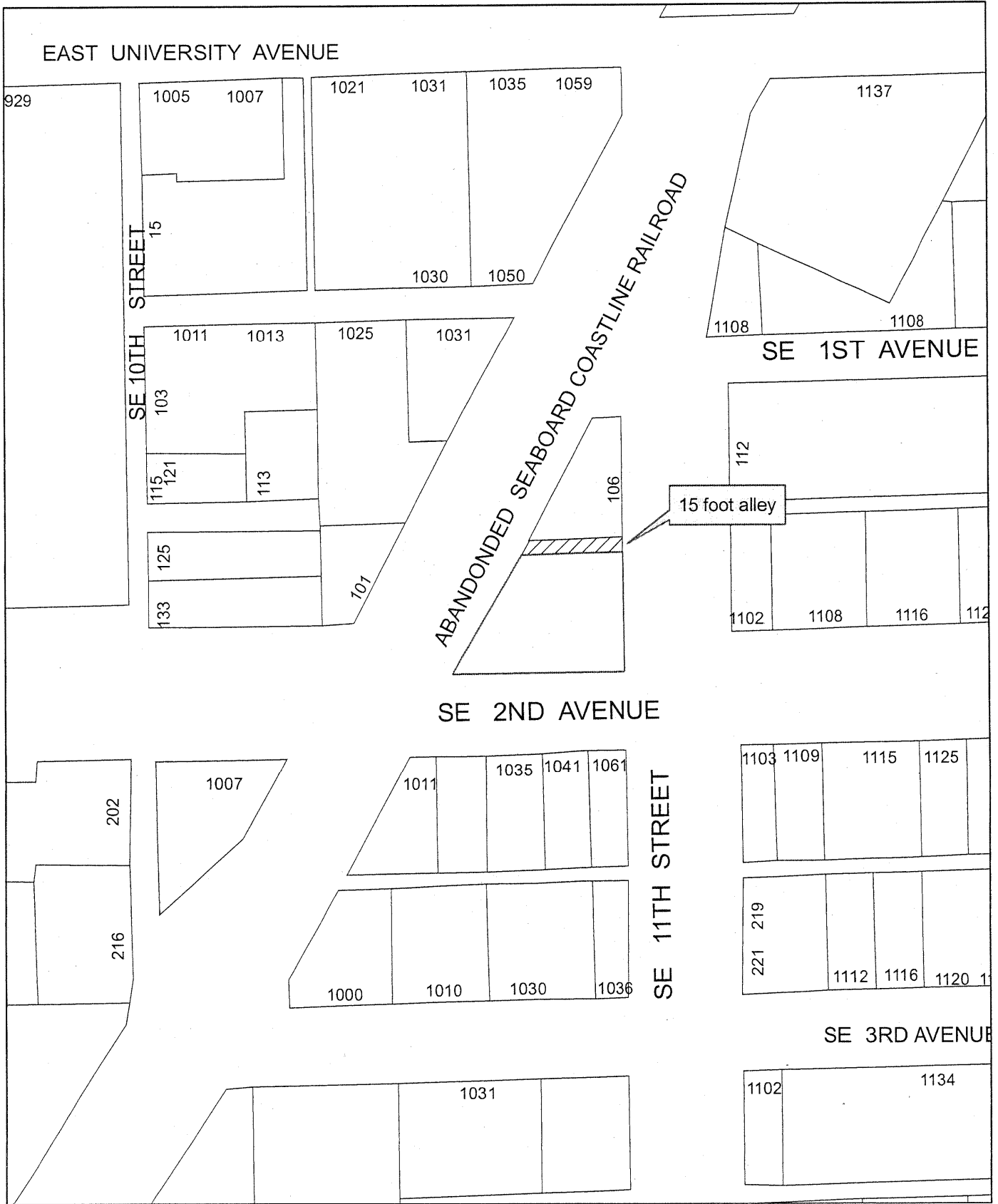
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15 This ordinance passed on first reading this ____ day of _____, 2005.

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

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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

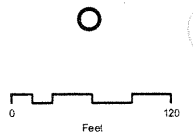


EXHIBIT "A"

0001 LEGALS

**ADVERTISEMENT
NOTICE OF PROPOSED
ENACTMENT OF ORDINANCE BY CITY COMMISSION, GAINESVILLE, FLORIDA**

Notice is hereby given that the proposed ordinance, whose title appears below will be considered for First Reading on the 13th day of June, 2005, at the City Commission meeting and if then adopted on First Reading will be considered for Second and Final Reading and adoption on the 27th day of June, 2005, at the City Commission meeting. The meetings begin at 6:00 p.m. and the ordinances will be read as soon thereafter as may be heard. The meetings are held in the City Commission Auditorium, on the First Floor of City Hall, 200 East University Avenue, Gainesville, Florida. A copy of said ordinance may be inspected by any member of the public at the office of the Clerk of the Commission on the First Floor of City Hall during regular business hours located at 200 East University Avenue, Gainesville, Florida, and at the Public Library, Main Branch, located at 401 East University Avenue. On the dates mentioned above all interested parties may appear at the meeting and be heard with respect to the proposed ordinance. Persons with disabilities, who require assistance to participate in the meetings, are requested to notify the Equal Opportunity Office at 334-5051 or call the TDD phone line at least 2 business days in advance.

ORDINANCE TITLE
Ordinance 0-05-39

An ordinance of the City of Gainesville, Florida, to vacate, abandon and close a 15-foot alley running west of Southwest 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.

Note: "All persons are advised that, if any person decides to appeal any decision made at any of these meetings, they will need a record of the proceedings and, for such purpose, they need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

June 3, 2005
Publish Date

Clerk of the Commission

#A000000421