



MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 991039

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

TO: Mayor and City Commissioners

DATE: April 10, 2000

FROM: Marion J. Radson, City Attorney

**CITY ATTORNEY
FIRST READING**

SUBJECT: Ordinance No. 0-00-46, Petition No. 11SVA-00PB

An ordinance of the City of Gainesville, Florida, to vacate, abandon and close an area comprising of approximately 3 feet by 52.15 feet on Northwest Fourth Avenue, located in the vicinity of 322 Northwest Eighth Street; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission: (1) approve Petition 11SVA-00 PB, and (2) adopt the proposed ordinance.

STAFF REPORT


This is a petition requesting the City to vacate a 3-foot by 52.15-foot portion of Northwest Fourth Avenue. At the present time, a portion of the house situated at 322 Northwest Eighth Street is built in the City's right-of-way. The proposed street vacation would allow the addition of 157 square feet to the existing lot and would thereby allow the entire house to be within the new property line. The house was constructed in the 1930s.

The petition is asking for 3 feet of right-of-way to be closed for the length of the property. The public has not had use of this right-of-way because the house is located in this portion of the right-of-way. The street is currently open to travel and will continue to be open to travel if the petition is approved. This property lies within the Northwest 5th Avenue/Pleasant Street Redevelopment District. The Redevelopment Advisory Board has found this petition consistent with the redevelopment plan.

The Plan Board reviewed the petition and recommends approval.

Public notice was published in the Gainesville Sun on February 1, 2000. Letters were mailed to property owners on February 2, 2000. The Plan Board held a public hearing February 17, 2000. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 11SVA-00 PB. Plan Board vote 6-0.

Ordinance prepared and submitted by: _____


Marion J. Radson, City Attorney

MJR/afm

1 presented to and approved by the appropriate Departments of the
2 City; and

3 **WHEREAS**, the City Plan Board has recommended in favor of
4 the vacation, abandonment and closing of the portion of the
5 street subject to the recommendations of the Departments of the
6 City.

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

9 **Section 1.** The following described right-of-way in the City
10 of Gainesville no longer serves a public purpose and is hereby
11 vacated, abandoned and closed for use by the public generally:

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

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

18 **Section 3.** If any section, sentence, clause or phrase of this
19 ordinance is held to be invalid or unconstitutional by any court
20 of competent jurisdiction, then said holding shall in no way
21 affect the validity of the remaining portions of this ordinance.

22 **Section 4.** All ordinances, or parts of ordinances, in
23 conflict herewith are to the extent of such conflict hereby
24 repealed.

25 **Section 5.** This ordinance shall become effective immediately

1 upon final adoption.

2 **PASSED AND ADOPTED** this _____ day of

3 _____, 2000.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Paula M. DeLaney, Mayor

ATTEST: Approved as to form and legality:

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

This ordinance passed on first reading this _____ day
of _____, 2000.

This ordinance passed on second reading this _____
day of _____, 2000.

MJR/afm

LEGAL DESCRIPTION AND SKETCH

SECTION 5, TOWNSHIP 10 SOUTH, RANGE 20 EAST,
ALACHUA COUNTY, FLORIDA

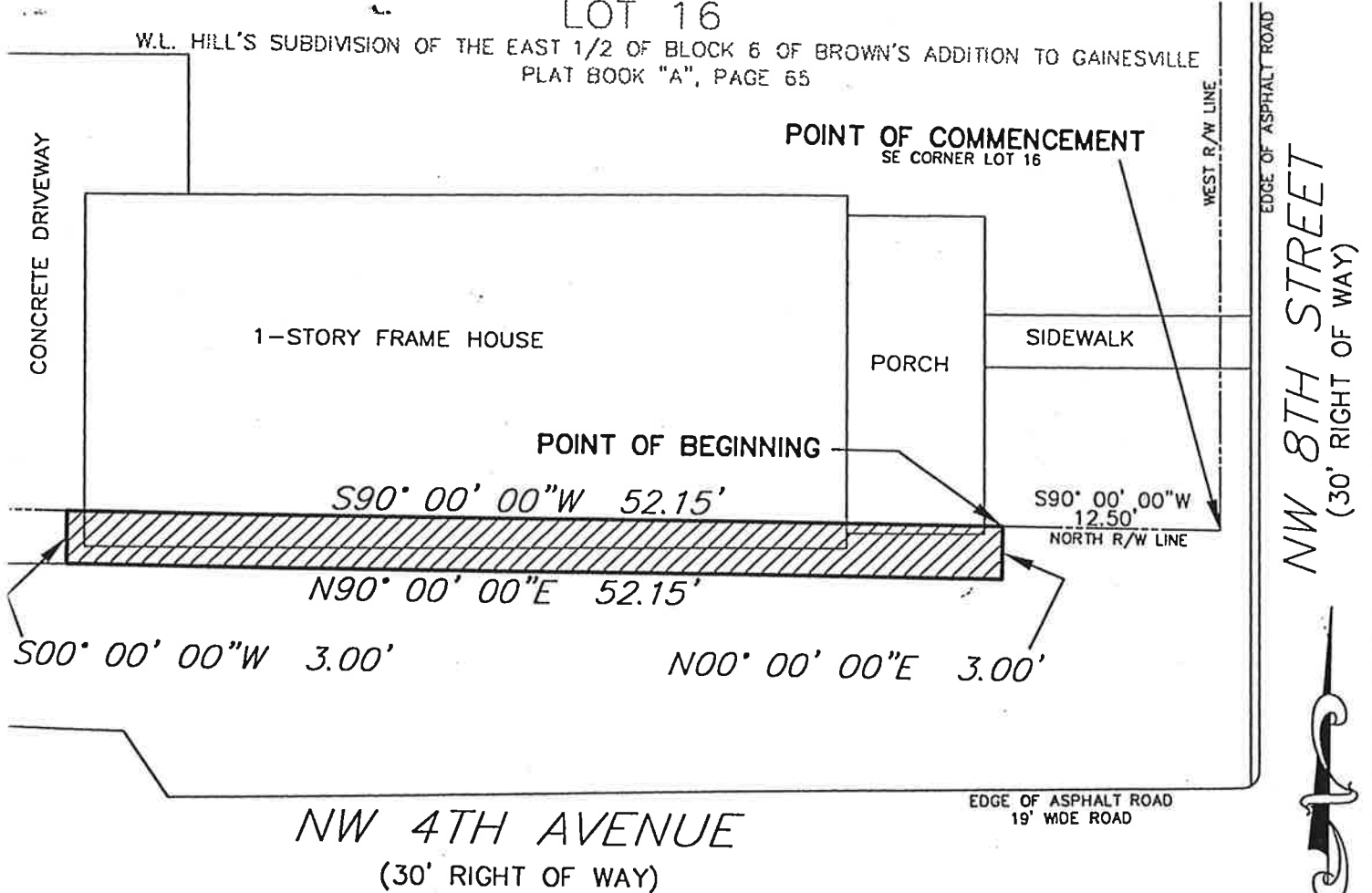
LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 10 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF NORTHWEST FOURTH AVENUE AND THE WEST RIGHT-OF-WAY LINE OF NORTHWEST EIGHTH STREET, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 16 OF W. L. HILL'S SUBDIVISION OF THE EAST 1/2 OF BLOCK 6 OF BROWN'S ADDITION TO GAINESVILLE, ACCORDING TO PLAT RECORDED IN PLAT BOOK "A", PAGE 65 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; THENCE S90° 00' 00"W ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 12.50 FEET TO AN INTERSECTION WITH THE VERTICAL PROJECTION OF THE ROOF OVERHANG ON THE EAST SIDE OF A ONE STORY FRAME HOUSE AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE S90° 00' 00"W ALONG SAID RIGHT-OF-WAY LINE FOR 52.15 FEET TO AN INTERSECTION WITH THE VERTICAL PROJECTION OF THE ROOF OVERHANG ON THE WEST SIDE OF SAID HOUSE; THENCE S00° 00' 00"W ALONG SAID VERTICAL PROJECTION OF SAID OVERHANG OF SAID HOUSE FOR 3.00 FEET; THENCE N90° 00' 00"E FOR 52.15 FEET; THENCE N00° 00' 00"E FOR 3.00 FEET TO THE POINT OF BEGINNING. SAID PARCEL OF LAND SITUATE, LYING, AND BEING IN ALACHUA COUNTY, FLORIDA, AND ENCOMPASSING THE ENTIRE PORTION OF SAID HOUSE EXTENDING INTO THE RIGHT-OF-WAY OF NORTHWEST FOURTH AVENUE, CONTAINING 156.45 SQUARE FEET MORE OR LESS.

LOT 16

W.L. HILL'S SUBDIVISION OF THE EAST 1/2 OF BLOCK 6 OF BROWN'S ADDITION TO GAINESVILLE
PLAT BOOK "A", PAGE 65



NOTES

Bearings shown hereon are referenced to north right of way line of Northwest Fourth Avenue as bearing S90° 00' 00"W.

The attached sketch is NOT A SURVEY.

Reproductions of this sketch are not valid unless sealed with an embossed surveyor's seal.

P... indicates right-of-way.

S. A. Muldowney
GERALD A. MULDOWNEY
PROFESSIONAL SURVEYOR & MAPPER, FLORIDA REGISTRATION NUMBER 4005
PROFESSIONAL SURVEYING & MAPPING CERTIFICATE OF AUTHORIZATION NO. LB 6792



DESIGNED	DWS	SCALE	1" = 10'
DRAWN	JFM	DATE	OCTOBER 19, 1999
CHECKED	GAM	PROJECT #	103-009-03

EXHIBIT "A"

RIGHT OF WAY VACATION

SHEET 1 OF 1

**CITY
-----OF----- INTER-OFFICE COMMUNICATION
GAINESVILLE**

Item No.: 10

TO: City Plan Board

DATE: February 17, 2000

FROM: Planning Division Staff

SUBJECT: Petition 11SVA-00 PB, Dynan Group, Inc. agent for Associates Financial Services of America, Inc. Pursuant to Sec. 30-192(b), City of Gainesville Land Development Code, to vacate, abandon and close a portion of Northwest 4th Avenue (800 block), located in the vicinity of 322 Northwest 8th Street.

Recommendation

Planning Division staff recommends approval of Petition 11SVA-00PB.

Explanation

This is a petition requesting the City to vacate a 3 feet by 52.15 foot portion of Northwest 4th Avenue. At the present time, a portion of the house situated at 322 Northwest 8th Street is built in the City's right-of-way. The proposed street vacation would allow the addition of 157 square feet to the existing lot and would thereby allow the entire house to be within the new property line. The house was constructed in the 1930's.

The City Plan Board and City Commission shall consider the following criteria in determining whether the public welfare would be best served by the proposed action:

1. **Whether the public benefits from the use of the subject right-of-way as part of the city street system.**

The petition is asking for 3 feet of right-of-way to be closed for the length of the property. The public has not had use of this right-of-way because the house is located in this portion of the right-of-way. The street is currently open to travel and will continue to be open to travel if the petition is approved.

2. **Whether the proposed action is consistent with the City's comprehensive plan.**

The proposed street vacation is consistent with the Comprehensive Plan. The plan supports redevelopment of blighted areas, Objective 2.4 of the Future Land Use Element. This property lies within the Northwest 5th

Avenue/Pleasant Street Redevelopment District. The Redevelopment Advisory Board has found this petition consistent with the redevelopment plan.

3. Whether the proposed action would violate individual property rights.

The partial vacation of the right-of-way does not involve or impact any other properties.

4. The availability of alternative action to alleviate the identified problems.

The two alternative actions is to leave the situation in its current status or have the house removed from the right-of-way.

5. The effect of the proposed action on traffic circulation.

There will be no effect on traffic circulation as a result of this petition. There will be no change to the paved width of the street.

6. The effect of the proposed action on crime.

The proposed petition will have no direct effect on crime.

7. The effect of the proposed action upon the safety of pedestrians and vehicular traffic.

The existing street is a sub-standard section which does not have sidewalk. No sidewalk improvement is currently programmed for this site. The 5th Avenue/Pleasant Street Advisory Board has recommended in favor of the petition, finding that the improvement to property value in the area is equally important as a potential future sidewalk improvement.

8. The effect of the proposed action on the provision of municipal services including, but not limited to emergency services and waste removal services.

There will no change in the availability of municipal services.

9. The necessity to relocate utilities, both public and private.

The proposed 3 feet wide vacation will not interfere with GRU's ability to operate or maintain existing utilities within the right-of-way.

10. **The effect the proposed action will have on property values in the immediate and surrounding area.**

The street vacation is proposed in order to make the property located at 322 Northwest 8th Street more marketable.

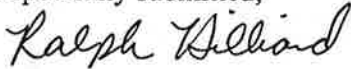
11. **The effect of the proposed action on geographic areas which may be impacted.**

The petition will have no impact on surrounding geographic areas.

12. **The effect of the proposed action on the design and character of the area.**

The petition is consistent with the design and character of the area.

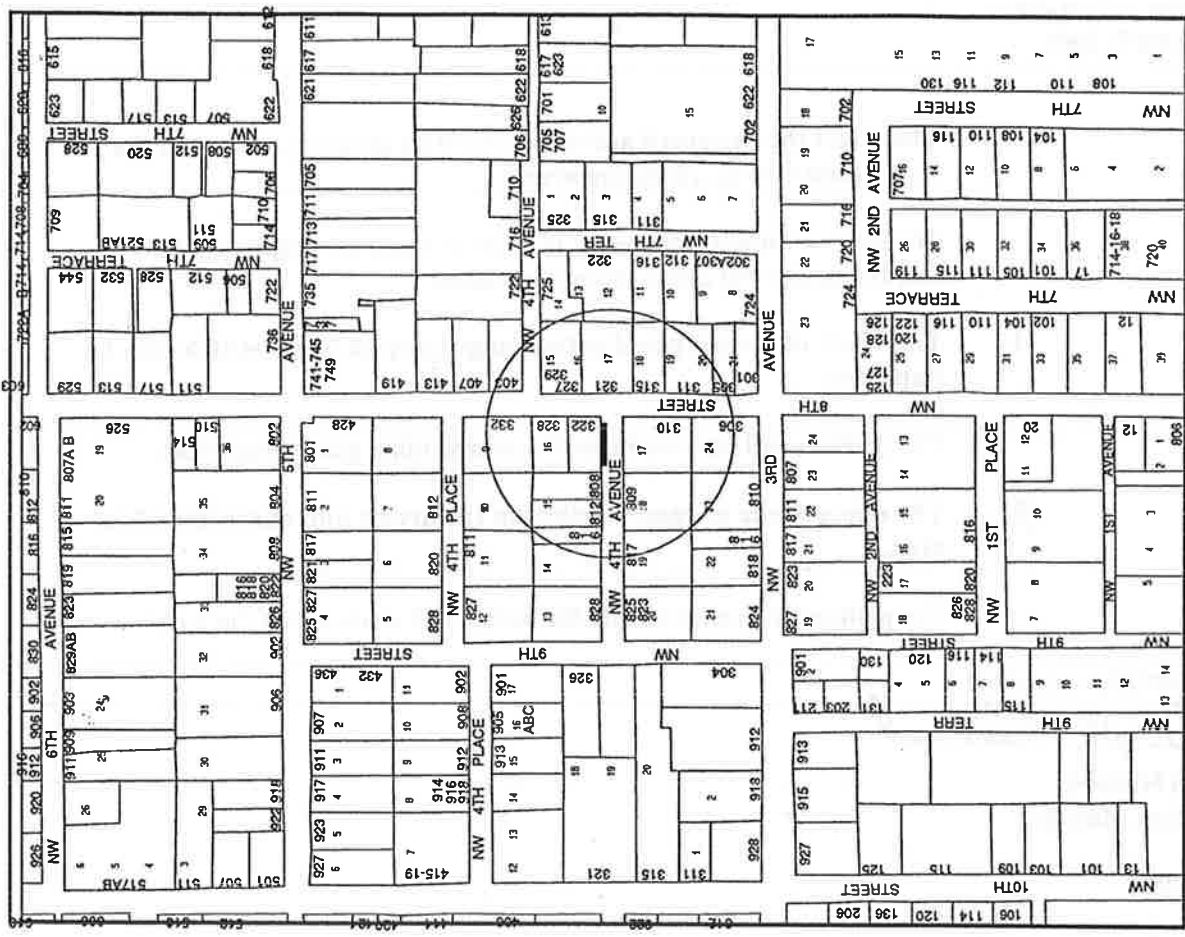
Respectfully submitted,



Ralph Hilliard
Planning Manager

RH:CRM

Street Closing



Area under petition consideration

Name	Petition Request	Map(s)	Petition Number
Associates Financial Services of America, Inc.	Street Vacation	3950	11SVA-00PB



INTEROFFICE MEMORANDUM

Sensitivity: COMPANY CONFIDENTIAL

Date: 28-Jan-2000 12:58pm
From: Tim Vaughan
Dept: 790-CRA - DOWNTOWN DISTRICT
Tel No: 334-5029 Ext.56

To: Carolyn Morgan
CC: Thomas Saunders
CC: Nancy Testa

Subject: 322 NW 8th. St. Sidewalk Right of Way

Carolyn:

Thank you for providing us information on the request to vacate the sidewalk right of way on the south side of the property at 322 NW 8th. St. The advisory board members present at the Fifth Avenue/Pleasant Street board meeting had no objections to the application to vacate the right of way. Since this would make the property more marketable and allow financing of the property, this would be compatible with the CRA's overall goals, which include improving the marketability and resolving title problems within the district. While sidewalks are also important, in this case we have another consideration that is equally important.

Tim Vaughan

Reviewing Department: Public Works

Checking Official: Rick Melzer - Box 58

Phone No.: 334-5072

Return to: Planning Division - Box 12
P.O. Box 490, Gainesville, FL 32602
Room 158, Thomas Center B
phone 334-5023; fax 334-3259

PETITION NO. 115VA-00 PB Response due date: 1-19-00

Staff discussion of proposed street closing at Development Reviewing Meeting in the First Step Center, Room 119, Thomas Center B, Gainesville, Florida on 1-20-00

RECOMMENDATION:

Based upon the below criteria and any other relevant considerations, please indicate your recommendation concerning this request.

The reasons for vacating the right of way
listed by the petitioner satisfy the street
vacation criteria as far as Public Works
and Land Rights are concerned. I
have verified that information provided
in the petition that is relevant to those concerns
in the field, and recommend approval.

Checking Official Signature: Patrick R. Durbin PSM Date: 1/19/2000

SITE PLAN EVALUATION SHEET

FIRE PROTECTION/LIFE SAFETY REVIEW

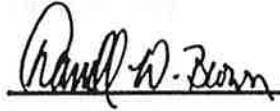
Petition No. 11 SVA-00 PB
Review Date: 2/07/00
Review For: Technical Review Committee Plan Reviewed: 01/23/00
Description, Agent & Location: 322 NW 8th Street, Right of Way
Vacation

Review Type: Other
Project Planner: Carolyn Morgan

APPROVABLE **APPROVABLE** **DISAPPROVED** **CONCEPT**
SUBJECT TO COMMENTS

- Plan meets fire protection requirements of Gainesville's Land Development Code Section 30-160 as submitted.
- Revisions are necessary for plan to meet requirements of Gainesville's Land Development Code, Section 30-160.
- Revisions are necessary for compliance with related codes and ordinances and are submitted for applicant information prior to further development review.

Comments By:



Darrell W. Brown
Fire Inspector

REVISIONS / RECOMMENDATIONS:

This right-of-way does not serve as an existing or expected access for fire service vehicles. No portion of NW 4th Avenue is to be vacated, abandoned, or closed related to this petition.

item (11) Cardw
to [signature]

Reviewing Department: Utilities

Checking Official: Ellen Underwood - Box A118

Phone No.: 334-3400, x. 1644

Return to: Planning Division - Box 12
P.O. Box 490, Gainesville, FL 32602
Room 158, Thomas Center B
phone 334-5023; fax 334-3259

PETITION NO. 115VA-00 PB Response due date: Wed. 1-19-00

Staff discussion of proposed street closing at Development Reviewing Meeting in the First Step Center, Room 119, Thomas Center B, Gainesville, Florida on _____

RECOMMENDATION:

Based upon the below criteria and any other relevant considerations, please indicate your recommendation concerning this request.

There are existing utilities,
electric, water, sanitary sewer
and gas located within this
R/W - however; closing only
3 feet will not interfere with
GRU's ability to operate/maintain
these facilities. - Recommend approval

Checking Official Signature: [Signature] Date: 1-21-00

Reviewing Department: Building
Checking Official: Brenda Strickland
Phone No.: 334-3400, x. 5644
Return to: Planning Division - Box 12
P.O. Box 490, Gainesville, FL 32602
Room 158, Thomas Center B
phone 334-5023; fax 334-3259

PETITION NO. 11SVA-99 00 Response due date: 1-19-00

Staff discussion of proposed street closing at Development Reviewing Meeting in the First Step Center, Room 119, Thomas Center B, Gainesville, Florida on 1-20-00

RECOMMENDATION:

Based upon the below criteria and any other relevant considerations, please indicate your recommendation concerning this request.

The Building Department has no problem with the
proposed vacation. Based on the Building Code
it is making a non-conforming structure somewhat
better.

Checking Official Signature: Brenda S. Strickland Date: _____

Reviewing Department:

Arborist

Checking Official:

Meg Niederhofer - Box 27

Phone No.:

Victor Call - Box 27
334-2171

Return to:

Planning Division - Box 12
P.O. Box 490, Gainesville, FL 32602
Room 158, Thomas Center B
phone 334-5023; fax 334-3259

PETITION NO. 11SVA-00 PB Response due date: 1-19-00

Staff discussion of proposed street closing at Development Reviewing Meeting in the First Step Center, Room 119, Thomas Center B, Gainesville, Florida on 1-20-00

RECOMMENDATION:

Based upon the below criteria and any other relevant considerations, please indicate your recommendation concerning this request.

Vacation request preserves existing conditions
and preserves proper title. Recommend approve

Checking Official Signature:

Victor Call

Date:

1/20/99

Quasi-Judicial Registration Form

RECEIVED

Name: (please print) Inez O. Jackson-Jones

FEB 11 2000

Address: 7578 Beverly Dr.

PLANNING DIVISION

Telephone Number: 910/868-9406

Please indicate whether you are for or against this petition: FOR or AGAINST (mark "X")

Please indicate whether you are requesting a Formal Hearing: YES or NO (mark "X")

Complete the following section of the form only if you are requesting a formal quasi-judicial hearing:

(Please refer to the enclosed Quasi-Judicial Hearing sheet contained in this mail-out for more information)

As an affected person receiving notice of the Ordinance Adoption Public Hearing on Petition 11SVA-00 PB, I hereby request, that the City Commission conduct a formal quasi-judicial hearing as described above.

Signature: Inez O. Jackson-Jones

This form and exhibits to be presented to the City Commission must be delivered to the Clerk of the Commission at least 7 days prior to the Ordinance Adoption Public Hearing as stated in the notification letter sent to you. The Clerk of the Commission Office is located at City Hall, 1st floor, 200 East University Avenue, Gainesville, Florida. Forms may be mailed to the following address: Clerk of the Commission, Quasi-Judicial Hearing, Petition 11SVA-00 PB, P.O. Box 490, Station 19, Gainesville, Florida, 32602.

Attorney Information (If applicable):

Name: (please print) _____

Address: _____

Signature: _____

Telephone Number: _____

LEGAL DESCRIPTION AND SKETCH

IN SECTION 5, TOWNSHIP 10 SOUTH, RANGE 20 EAST,
ALACHUA COUNTY, FLORIDA

Petition 11SVA-00 PB
Legislative Matter No. 991030

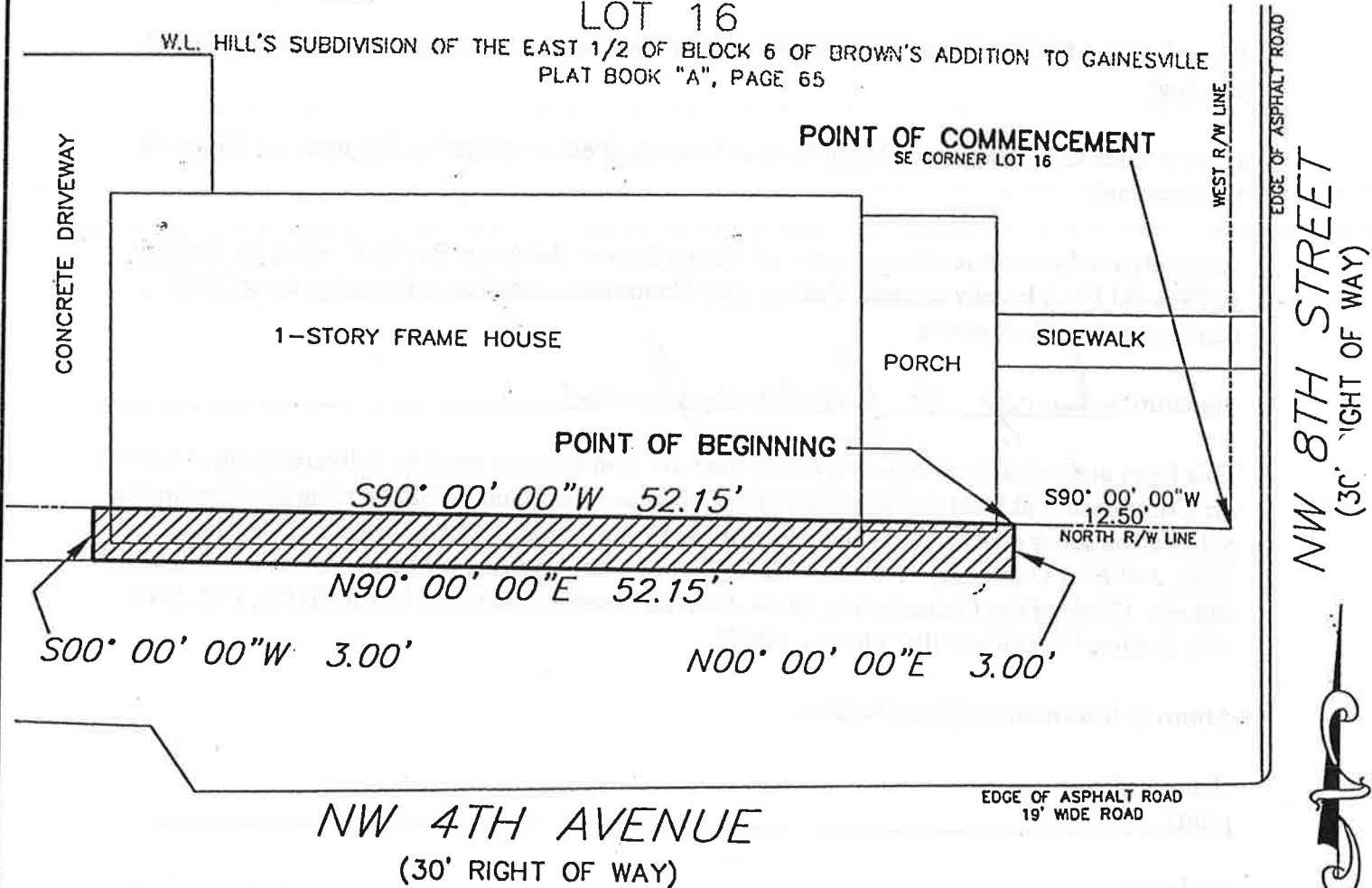
LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 5, TOWNSHIP 10 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF NORTHWEST FOURTH AVENUE AND THE WEST RIGHT-OF-WAY LINE OF NORTHWEST EIGHTH STREET, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 16 OF W. L. HILL'S SUBDIVISION OF THE EAST 1/2 OF BLOCK 6 OF BROWN'S ADDITION TO GAINESVILLE, ACCORDING TO PLAT RECORDED IN PLAT BOOK "A", PAGE 65 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; THENCE S90° 00' 00" W ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 12.50 FEET TO AN INTERSECTION WITH THE VERTICAL PROJECTION OF THE ROOF OVERHANG ON THE EAST SIDE OF A ONE STORY FRAME HOUSE AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE S90° 00' 00" W ALONG SAID RIGHT-OF-WAY LINE FOR 52.15 FEET TO AN INTERSECTION WITH THE VERTICAL PROJECTION OF THE ROOF OVERHANG ON THE WEST SIDE OF SAID HOUSE; THENCE S00° 00' 00" W ALONG SAID VERTICAL PROJECTION OF SAID OVERHANG OF SAID HOUSE FOR 3.00 FEET; THENCE N90° 00' 00" E FOR 52.15 FEET; THENCE N00° 00' 00" E FOR 3.00 FEET TO THE POINT OF BEGINNING. SAID PARCEL OF LAND SITUATE, LYING, AND BEING IN ALACHUA COUNTY, FLORIDA, AND ENCOMPASSING THE ENTIRE PORTION OF SAID HOUSE EXTENDING INTO THE RIGHT-OF-WAY OF NORTHWEST FOURTH AVENUE, CONTAINING 156.45 SQUARE FEET MORE OR LESS.

LOT 16

W.L. HILL'S SUBDIVISION OF THE EAST 1/2 OF BLOCK 6 OF BROWN'S ADDITION TO GAINESVILLE
PLAT BOOK "A", PAGE 65



NOTES

1. Bearings shown hereon are referenced to north right of way line of Northwest Fourth Avenue as bearing S90° 00' 00" W.
2. The attached sketch is NOT A SURVEY.
3. Reproductions of this sketch are not valid unless sealed with an embossed surveyor's seal.
4. R/W indicates right-of-way.

Gerald A. Muldowney
GERALD A. MULDOWNEY
PROFESSIONAL SURVEYOR & MAPPER, FLORIDA REGISTRATION NUMBER 4005
PROFESSIONAL SURVEYING & MAPPING CERTIFICATE OF AUTHORIZATION NO. LB



DYNAN GROUP INC.
CIVIL ENGINEERS AND LAND SURVEYORS

200 NE First Street
GAINESVILLE, FL 32601
Tel: (352) 378-1511 Fax: (352) 378-1513

DESIGNED	DWS	SCALE	1" = 10'
DRAWN	JFM	DATE	OCTOBER 19, 1999
CHECKED	GAM	PROJECT #	103-009-03
DRAWING #103-09		RIGHT OF WAY VACATION	

10. **Petition 11SVA-00 PB** Dynan Group, Inc., agent for Associates Financial Services of America, Inc. Pursuant to Sec. 30-192(b), City of Gainesville Land Development Code, to vacate, abandon and close a portion of Northwest 4th Avenue (800 block), located in the vicinity of 322 Northwest 8th Street.

Ms. Carolyn Morgan was recognized. Ms. Morgan pointed out the location of the proposed vacation on a map. She explained that the proposal was to vacate three feet for the length of a house because the house extended into the right-of-way. She noted that the house was constructed in the 1930's. She reviewed the findings the board was required to make to approve the petition. Ms. Morgan noted that the area of the house was a redevelopment area and clearing the title to the house would make it more marketable and, therefore, less likely to become blighted. She indicated that the vacation did not affect any other property nor did it close or change the width of the street. She presented slides of the property and the surrounding area. Ms. Morgan offered to answer questions from the board.

Dr. Fried asked if there were plans to reconstruct or improve the house.

Ms. Morgan suggested the agent for the petitioner could answer that question.

Mr. Jerry Muldowney, agent for the petitioner, was recognized. Mr. Muldowney indicated that he also represented Mrs. Willie Mae Chisom who was unable to stay at the meeting. He stated that the driving force behind the requested vacation was to preserve the marketable title to the property. He explained that the requested vacation would not create a non-conforming use with regards to building setback distances. He noted that it would have no affect on the existing physical improvements in the area. He stated that traffic circulation, public access, pedestrian safety and municipal services would not be affected by the petition. Mr. Muldowney stated Mrs. Chisom did have a buyer for the property and the intent was for the purchaser to live in the house and there were no plans for redevelopment. He offered to answer any questions from the board.

There were no questions from the board.

There was no public comment on the petition.

<u>Motion By:</u> Mr. Polshek	<u>Seconded By:</u> Dr. Fried
<u>Moved to:</u> Approve Petition 11SVA-00 PB with staff conditions.	<u>Upon Vote:</u> Motion Carried 6-0 Yeas: Carter, Dowling, Fried, McGill, Polshek, Guy

