

MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 050075

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

TO: Mayor and City Commission

DATE: September 12, 2005

FROM: City Attorney

FIRST READING

SUBJECT: Ordinance No. 0-05-80, Petition No. 168SVA-04PB

An ordinance of the City of Gainesville, Florida, to vacate, abandon and close a certain portion of the right-of-way located in the vicinity of Southeast 12th Street between Southeast 2nd Avenue and Southeast 4th Avenue, as more specifically described in this ordinance ; reserving a public utilities easement; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

CITY ATTORNEY MEMORANDUM

The City Commission, at its meeting of July 25, 2005, authorized the City Attorney's Office to draft the proposed ordinance for the vacation of right-of-way.

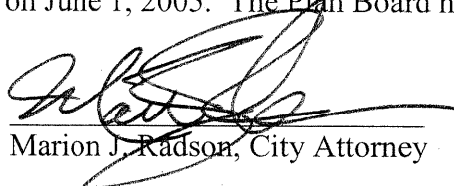
PLANNING STAFF REPORT

This is a request by the Public Works Department to vacate right-of-way for the purpose of installing stormwater facilities. The request is to vacate a portion of right-of-way east of Southeast 11th Street (also known as Williston Road and/or Waldo Road) on the south side of the intersection of Southeast 2nd Avenue and Southeast 12th Street. The right-of-way to be vacated is undeveloped, but would have served as the continuation of Southeast 12th Street to the south. Upon vacation of the right-of-way, the City would retain use of the area for stormwater mediation, following street resurfacing planned for the area. The remaining vacated right-of-way will not be used, but a utility easement would be retained over the entire site. The right-of-way is a "paper street," that consists of several trees and other vegetation. It provides no public access and would best be used for stormwater mediation.

The Plan Board heard this petition and recommended that it be approved with the staff condition that an easement be retained over the vacated area.

Public notice was published in the Gainesville Sun on May 31, 2005. Letters were mailed to surrounding property owners on June 1, 2005. The Plan Board held a public hearing June 16, 2005.

Prepared and submitted by:



Marion J. Radson, City Attorney

D R A F T

8/15/2005

ORDINANCE NO. _____
0-05-80

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3
4 **An ordinance of the City of Gainesville, Florida, to vacate, abandon**
5 **and close a certain portion of the right-of-way located in the vicinity of**
6 **Southeast 12th Street between Southeast 2nd Avenue and Southeast 4th**
7 **Avenue, as more specifically described in this ordinance ; reserving a**
8 **public utilities easement; providing a severability clause; providing a**
9 **repealing clause; and providing an immediate effective date.**

10
11
12 **WHEREAS**, pursuant to Section 30-192 of the Code of Ordinances of the City of
13 Gainesville, an application was initiated to vacate, abandon and close a certain portion of the
14 right-of-way located at Southeast 12th Street between Southeast 2nd Avenue and Southeast 4th
15 Avenue, as more specifically described herein; and

16 **WHEREAS**, notice was given and publication made as required by law and a public
17 hearing was held by the City Plan Board on June 16, 2005; and

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

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

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

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

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8/15/2005

1 abandon and close the right-of-way subject to a public utilities easement with conditions as set
2 forth herein.

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

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

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

10 **Section 2.** The City reserves unto itself, its successors and assigns a public and private
11 utilities easement over, under, across and through the right-of-way described in Exhibit "A",
12 attached hereto and made a part hereof, for the purpose of installing, maintaining and operating
13 public and private utilities.

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

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

19 **Section 5.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
20 such conflict hereby repealed.

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8/15/2005

1 **Section 6.** This ordinance shall become effective immediately upon final adoption.

2 **PASSED AND ADOPTED** this ____ day of 2005.

3
4
5 _____
6 Pegeen Hanrahan, Mayor

7 ATTEST: Approved as to form and legality:

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

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

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

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21 MJR/afm

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23 H:\Marion Radson\Planning\168SVA-04PB pet.doc

EXHIBIT A

Subj. Vacation Descriptions for S.E. 12th Street between 2nd & 3rd Avenues:

PARCEL "A" (NORTHERLY PORTION):

ALL OF THAT PORTION OF SOUTHEAST 12TH STREET, (KNOWN AS "D" STREET, AN 80-FOOT RIGHT-OF-WAY ACCORDING TO THE PLAT OF NEW GAINESVILLE AS RECORDED IN PLAT BOOK "A" PAGE 65 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA), LYING SOUTH OF SOUTHEAST 2ND AVENUE, (KNOWN AS SOUTH SECOND STREET, AN 80-FOOT RIGHT-OF-WAY ACCORDING TO SAID PLAT) AND NORTH OF THE SOUTH RIGHT OF WAY LINE OF A 15-FOOT WIDE ALLEY LYING APPROXIMATELY 120 FEET SOUTH OF SAID SOUTHEAST 2ND AVENUE (AND SEPARATING THE NORTH AND SOUTH HALVES OF BLOCKS 41 & 42 OF SAID PLAT).

PARCEL "B" (SOUTHERLY PORTION):

ALL OF THAT PORTION OF SOUTHEAST 12TH STREET, (KNOWN AS "D" STREET, AN 80-FOOT RIGHT-OF-WAY ACCORDING TO THE PLAT OF NEW GAINESVILLE AS RECORDED IN PLAT BOOK "A" PAGE 65 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA), LYING SOUTH OF THE SOUTH RIGHT OF WAY LINE OF A 15-FOOT WIDE ALLEY (SAID ALLEY SEPARATING THE NORTH AND SOUTH HALVES OF BLOCKS 41 & 42 OF SAID PLAT) LYING APPROXIMATELY 120 FEET SOUTH OF SOUTHEAST 2ND AVENUE (KNOWN AS SOUTH SECOND STREET, AN 80-FOOT RIGHT-OF-WAY ACCORDING TO SAID PLAT) AND NORTH AND WEST OF A CREEK, LOCALLY KNOWN AS THE ROSEWATER LATERAL BRANCH (SHOWN AS A MEANDERING STEAM RUNNING SOUTH-SOUTHWEST FROM THE APPROXIMATE MIDDLE OF THE WEST EDGE OF BLOCK 41 TO THE APPROXIMATE MIDDLE OF THE EAST EDGE OF BLOCK 46 OF SAID PLAT).