

Legislative #

121023

**RESOLUTION NO. 121023**

**PASSED May 2, 2013**

**A Resolution of the City of Gainesville, Florida; approving the vacation of a portion of the Plat of “Shady Forest” recorded in Book 95, Page 255, of the Public Records of Alachua County, Florida, said portion being located north of SW 17<sup>th</sup> Place, east of the westerly boundary of SW 38<sup>th</sup> Terrace and west of the easterly boundary of SW 37<sup>th</sup> Street; providing directions to the Clerk of the Commission; providing for filing of the original hereof; and providing an immediate effective date.**

**WHEREAS**, Section 177.101, Florida Statutes, provides the procedural and substantive requirements for vacating plats, in whole or in part, and returning the platted property to acreage, the requirements include proof of fee simple ownership of the tract being vacated, proof that the vacation will not affect the ownership or rights of convenient access of persons owning other parts of the subdivision, publication of legal notice and proof of payment of property taxes; and

**WHEREAS**, if the property is within an incorporated city, Section 177.101(4) states that “the governing body of the county shall be furnished with a certified copy of a resolution of the town council or city commission, as the case may be, showing that it has already by suitable resolution vacated such plat or subdivision or such part thereof sought to be vacated;” and

**WHEREAS**, Section 30-192(a) of the City’s Land Development Code states that reversion of subdivided land to acreage shall be done in accordance with Section 177.101, Florida Statutes; and

**WHEREAS**, the owner of real property which comprises a portion of the plat of “Shady Forest ” as recorded in Book 95, Page 255, of the Public Records of Alachua County, Florida, has petitioned the City to vacate a portion of the plat and all streets and alleys that have not become

highways necessary for use by the traveling public, in accordance with Section 177.101, Florida Statutes; and

**WHEREAS**, the platted property is located within the city limits of the City of Gainesville; and

**WHEREAS**, the owner held a neighborhood workshop on December 20, 2012, notice of which was published in the Gainesville Sun and mailed to surrounding residents; and

**WHEREAS**, notice of the petition was provided and the petition was heard and approved by the Development Review Board on February 14, 2013; and

**WHEREAS**, legal notice of the petition hearing before the City Commission was published twice in the Gainesville Sun prior to the petition hearing; and

**WHEREAS**, based on information submitted by the petitioner, the City Commission finds that the persons making application for said plat vacation own the title to the real property sought to be vacated and that all outstanding property taxes have been paid; and

**WHEREAS**, the City Commission finds that the original plat recorded in Book 95, Page 255, of the Public Records of Alachua County, Florida, does not on its face contain a dedication of streets or rights-of-way to the public;

**WHEREAS**, the City Commission finds that during the time the platted property has been located within the City limits, the City has not accepted a dedication of the streets or rights-of-way, nor has the City improved or maintained the streets or rights-of-way; and

**WHEREAS**, the City Commission finds that the lots in the plat that are not being vacated and the adjacent properties have convenient access via other private streets and rights-of-way; and

**WHEREAS**, based on the foregoing, the City Commission finds that vacation of a portion of the plat will not adversely affect the ownership or right of convenient access of other persons owning other parts of the plat or adjacent properties; and

**WHEREAS**, the City Commission desires to preserve and not release or vacate any recorded public easements within said plat;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA;**

**Section 1.** That the vacation and reversion to acreage of a portion of the plat of “Shady Forest” as recorded in the Official Records of Alachua County at Book 95, Page 255, and more specifically described in **Exhibit "A"** and depicted on **Exhibit "B"** attached hereto and made a part hereof as if set forth in full, is approved as to the City in accordance with Section 177.101, Florida Statutes. In the event of conflict between Exhibit “A” and Exhibit “B”, Exhibit “A” shall govern.

**Section 2.** That this Resolution does not release nor is it intended to release any easements or conveyances that exist and are duly recorded in the Public Records of Alachua County. The City Commission expressly retains and reserves all rights to recorded easements and conveyances that were granted to the City.

**Section 3.** That the original of this Resolution be recorded in the Records of Alachua County.

**Section 4.** The Clerk of the Commission is authorized to provide a certified copy of this Resolution to the Board of County Commissioners of Alachua County, Florida.

**Section 5.** This Resolution shall be effective immediately upon adoption.

**PASSED AND ADOPTED** this 2nd day of May, 2013.

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Craig Lowe, Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

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Kurt Lannon, Clerk of the Commission

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Nicolle M. Shalley, City Attorney

# EXHIBIT "A"

## Legal Description

That part of Shady Forest, as recorded in Official Records Book 95, Page 255 of the Public Records of Alachua County, Florida, lying North of the North right-of-way line of S.W. 17<sup>th</sup> Place, and being more particularly described as follows:

Commence at the Northeast corner of Section 11, Township 10 South, Range 19 East, Alachua County, Florida; thence South  $89^{\circ}16'00''$  West, along the North line of said Section 11, a distance of 2,647.69 feet to the Northwest corner of Government Lot 4 of said Section 11; thence South  $00^{\circ}47'03''$  East, along the West line of said Government Lot 4, a distance of 2,517.40 feet to the Northwest corner of said Shady Forest, and the Point of Beginning; thence North  $89^{\circ}15'30''$  East, along the North line of said Shady Forest, a distance of 881.87 feet to the Northeast corner of said lands; thence South  $00^{\circ}46'59''$  East, along the East line of said land, a distance of 770.79 feet to the intersection with the Easterly projection of the North right-of-way line of S.W. 17<sup>th</sup> Place; thence South  $89^{\circ}14'58''$  West, along said North right-of-way line, and its Westerly projection thereof, a distance of 881.86 feet to the West line of said Shady Forest; thence North  $00^{\circ}47'03''$  West, along said West line of Shady Forest, a distance of 770.93 feet to the Point of Beginning.

