

ORDINANCE 17 - 04

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF ALACHUA, AMENDING AND RESTATING CITY OF ALACHUA ORDINANCE 11 02, ADOPTED AND EFFECTIVE DECEMBER 13, 2010, VACATING A PORTION OF NW 158TH LANE (FORMERLY KNOWN AS OLD STATE ROAD NUMBER 2, SOUTH OF US 441 AND EAST OF INTERSTATE I-75).; PROVIDING FOR THE REPEAL OF ALL ORDINANCES AND APPENDICES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Recitals

WHEREAS, in October, 1977 the State of Florida Department of Transportation conveyed by quit claim deed that portion of NW 158 Lane (formerly known as Old State Road #2) south of US Highway 441 and east of Interstate 75. The conveyance is recorded in the Official Record Book 1102, Page 870 of the Public Records of Alachua County, Florida; and

WHEREAS, NW 158 Lane south of US Highway 441 and east of Interstate 75 is a deteriorated City street with minimal traffic capacity that provides no measurable benefit to the public; and

WHEREAS, in December, 2007 the City of Alachua received a letter dated December 7, 2007 from an authorized representative of one of the adjacent property owners (the applicant) petitioning the City of Alachua to vacate that portion of NW 158 Lane adjacent to property identified with tax parcel numbers 03066-000-000, 03066-008-001, 03066-008-000, 03066-008-002, 03054-000-000, 03054-002-000, 03869-013-000, and 03869-000-000; and

WHEREAS, the City of Alachua City Commission adopted Ordinance 11 02 on December 13, 2010, in order to vacate portions of NW 158th Lane as particularly described in Ordinance 11 02 and in this Ordinance 17-04; and

WHEREAS, the conveyance to or as directed by adjoining property owners of the vacated portion of NW 158th Lane has not occurred and present circumstances including the development of property adjoining NW 158th Lane and City plans to upgrade utility infrastructure, now require the authorized transfer, reservation of certain Public Utility Easements, and the acquisition of additional Public Utility Easements;

NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF ALACHUA, FLORIDA THAT THE FOLLOWING SECTIONS OF ORDINANCE 11 02 BE AMENDED AND RESTATED AS FOLLOWS:

Section 1. Findings of Fact and Conclusions of Law

- A.** The above Recitals are true and correct and are incorporated herein by reference.
- B.** The following described street in the City of Alachua no longer serves a public purpose,

A PORTION OF OLD STATE ROAD NO. 2 (A.K.A. NW 158TH LANE), SITUATED IN SECTIONS 9 & 10, TOWNSHIP 8 SOUTH, RANGE 18 EAST, ALACHUA COUNTY, FLORIDA, BEING 33.00 FEET NORTHERLY AND SOUTHERLY OF THE FOLLOWING DESCRIBED RIGHT-OF-WAY CENTERLINE

COMMENCE AT THE SOUTHEAST CORNER OF THE AFOREMENTIONED SECTION 9, TOWNSHIP 8 SOUTH, RANGE 18 EAST, FOR A POINT OF REFERENCE; THENCE SOUTH 00°27'55" WEST, A DISTANCE OF 3.76 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF THE ABANDONED SEABOARD COASTLINE RAILROAD (200 FOOT RIGHT-OF-WAY); THENCE NORTH 88°37'15" WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 790.33 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE NO. 75 (300 FOOT RIGHT-OF-WAY); THENCE NORTH 04°11'43" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 100.12 FEET TO THE CENTERLINE OF THE AFOREMENTIONED ABANDONED SEABOARD COASTLINE RAILROAD; THENCE CONTINUE NORTH 04°11'43" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 277.68 FEET TO THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF SAID INTERSTATE NO. 75 WITH THE AFOREMENTIONED CENTERLINE OF OLD STATE ROAD NO. 2 (66 FOOT RIGHT-OF-WAY) AND THE POINT OF BEGINNING OF THE AFOREMENTIONED RIGHT-OF-WAY CENTERLINE (LENGTHEN OR SHORTEN RIGHT-OF-WAY LINES TO BEGIN ON SAID EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE NO. 75); THENCE SOUTH 79°35'30" EAST, ALONG SAID CENTERLINE OF OLD STATE ROAD NO. 2, A DISTANCE OF 1077.38 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 2844.96 FEET, AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 83°43'47" EAST, 410.59 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE AND WITH SAID CENTERLINE THROUGH A CENTRAL ANGLE OF 8°16'35", AN ARC DISTANCE OF 410.95 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 87°52'04" EAST, ALONG SAID CENTERLINE, A DISTANCE OF 654.92 FEET TO THE TERMINUS OF SAID CENTERLINE, SAID TERMINUS BEING LOCATED NORTH 02°07'56" EAST (SAID BEARING BEING PERPENDICULAR TO THE LAST CALL), A DISTANCE OF 33.00 FEET FROM THE INTERSECTION OF THE WEST LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2163, PAGE 29, WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF OLD STATE ROAD NO. 2 (66 FOOT RIGHT-OF-WAY).

- C. The City of Alachua maintains public works and utility system infrastructure in the portion of NW 158 Lane that is being proposed for closure and vacation. These facilities consist of stormwater pipe and structures, wastewater, electric system infrastructure, and water system infrastructure. These facilities are planned to remain in service. The City must have easement rights to operate and maintain this infrastructure.
- D. The City of Alachua plans construction of additional public works and utility infrastructure in the portion of NW 158 Lane that is being proposed for conveyance after closure and vacation. The City must reserve easement rights for these facilities. A 30 foot wide ingress / egress and public utility easement are sufficient for the reservation of these easements.
- E. The City of Alachua maintains public works and utility system infrastructure in the portion of NW 158 Lane that is being proposed for conveyance to adjoining landowners. These facilities consist of stormwater pipe and structures, electric system infrastructure, wastewater facilities and water system infrastructure. These facilities are planned to remain in service. The City must have easement rights to operate and maintain this infrastructure.
- F. The City of Alachua plans construction of additional public works and utility infrastructure in the portion of NW 158 Lane that is being proposed for conveyance. The City must reserve easement rights for these facilities. A 30 foot wide ingress / egress and public utility easement are sufficient for the reservation of these easements.
- G. Ordinance 11 02, adopted and effective December 13, 2010, vacating a portion of NW 158th Lane, was duly recorded in OR Book 4081 Page 366 of the Public Records of Alachua County on January 23, 2012.
- H. The Mayor and City Manager were and are authorized by Ordinance 11 02 to convey the vacated portion of 158th Lane to the owners of the adjoining lands under certain conditions . A serious economic downturn

worsened in 2010 causing adjoining landowners and the City to not move forward with conveying the portion of the vacated street called for in the ordinance.

- I. The City now is required, in the interest of public health, safety, and to meet present and future needs created by an expanding economy, to amend and restate the language of Ordinance 11 02 to specifically direct the Mayor and City Manager/Clerk, in order to complete a major upgrade to water, wastewater, and other utility infrastructure over the portion of NW 158th Lane vacated and on other parts of land of more than one of the adjoining land owners, to convey the right of way vacated subject to the easements contemplated in Ordinance 11 02 and accept other easements on property of adjoining landowners necessary to complete the upgrade of utility infrastructure.
- J. The overpass described in Section 3, paragraph 1, of Ordinance 11 02 adopted in 2010 has since been filled and blocked by Florida Department of Transportation construction of a new access ramp from US 441 thereby eliminating through traffic making impossible a connecting path contemplated in the original language of 11-02.
- K. The Florida Department of Transportation, as a part of the same recent ramp enhancement project, constructed a "Park N Ride" parking area comparable to that contemplated in Section 3 of existing Ordinance 11 02 language. The need for an additional parking area does not exist. Further, current adjoining property owners, by separate agreement, have committed to fund costly utility facility costs and equity requires the release of any requirement to contribute the unneeded parking.
- L. It is to the benefit of the described adjoining land owners and in the public interest that the portion of NW 158th Lane vacated by Ordinance 11 02 , in consideration of easements reserved in the deeds of transfer and in easements separately delivered, now be conveyed by Quit Claim Deed to adjoining land owners.
- M. The City has received written authorization and direction from Wal-Mart Stores East, LP, a Delaware Limited Partnership, to convey the southern portion 158th Lane vacated by Ordinance 11 02 and adjacent to Wal-Mart Stores East, LP property, recorded and described in OR 3044 Page 305, directly from City to the owners of Tax Parcel Numbers 03066-008-000 and 03066-008-002.
- N. The City has received written authorization and direction from First Street Group, L.C., a Florida Limited Liability Company, the owner of property described in OR Book 2256 Page 2504 that is adjacent to the southern portion of NW 158th Lane vacated by Ordinance 11 02, to directly convey to the owner of Tax Parcel 03066-008-000 that portion of NW 158th Lane north of the property of First Street Group, L.C. that is south of the center line of the street and directly south of Tax Parcel 03066-008-000.
- O. City staff has worked with 158th Lane adjoining land owners, their attorneys, surveying and engineering consultants and the City Attorney for more than a year to develop the plan and route for a major utility infrastructure improvement to serve the area surrounding the I 75 - US 441 intersection and all municipal service areas west of the Interstate. The cooperation of all landowners necessary, including the Florida Department of Transportation, to secure land rights for a major improvement project from NW 147 Drive and US 441, to and under I 75, and to NW 167 Boulevard have been secured and the documents relating to the 158th Lane vacation are essential to establishing or securing those rights.

Section 2. Authorization to Record in Public Record

The City Clerk or designee is authorized to record a true copy of this ordinance in the Public Records of Alachua County, Florida.

Section 3. Authorization to Convey to Adjacent Land Owners Subject to Conditions

The Mayor and City Manager are hereby authorized to convey the vacated street described in Section 1 to the fee owners of the adjoining lands. This conveyance is subject to fulfillment of the following conditions by the applicant / petitioner:

1. Provide a 30 ft wide public utilities easement and ingress / egress easement over portion of the ROW that closed and vacated. The easements will accommodate existing (electric, water, storm, wastewater) and future utility infrastructure. Should the applicant desire to relocate the City's infrastructure, the applicant will be required to bear the responsibility for providing new easements and for the cost to relocate the infrastructure.

Section 4. Inclusion of the Code

It is the intention of the City Commission of the City of Alachua, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Alachua, Florida; that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article" or other appropriate designation to accomplish such intention

Section 5. Providing for Severability

It is the declared intent of the Alachua City Commission that, if any section, sentence, clause, phrase or provision of this ordinance is for any reason held or declared to be unconstitutional, void or inoperative by a court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this ordinance and the remainder of this ordinance, after the exclusion of such part or parts, shall continue to be valid.

Section 6. Repealing Clause

All other ordinances or parts of ordinances in conflict herewith, are to the extent of such conflict, hereby repealed.

Section 7. Effective Date

This Ordinance shall be effective upon its passage and adoption on the second and final reading.

PASSED on first reading on the 26th day of September, 2016.

PASSED and **DULY ADOPTED**, in regular session, with a quorum present and voting, by the City Commission, upon second and final reading on the 10th day of October, 2016.

**CITY COMMISSION OF THE
CITY OF ALACHUA, FLORIDA**

Gib Coerper, Mayor
SEAL

ATTEST:

APPROVED AS TO FORM

Traci L. Gresham, City Manager/Clerk

Marian B. Rush, City Attorney