

City Council Agenda Items  
and  
Contracts, Leases or Agreements

9/18/2012

City Council Meeting Date  
Agenda Items Only

Andrew Garner  
Submitted By

Planning  
Division

Development Services  
Department

Action Required:

VAC 12-4201: Vacation (NANTUCKET PHASE IV, 563): Submitted by CIVIL DESIGN ENGINEERING for property located WEST OF MORNINGSIDE DRIVE. The property is zoned DG, DOWNTOWN GENERAL. The request is to vacate a utility easement.

Cost of this request	\$ -	Category / Project Budget	Program Category / Project Name
Account Number	\$ -	Funds Used to Date	Program / Project Category Name
Project Number	\$ -	Remaining Balance	Fund Name

Budgeted Item

Budget Adjustment Attached

James C. Pace  
Department Director      08-30-2012  
Date

Previous Ordinance or Resolution # \_\_\_\_\_

[Signature]  
City Attorney      8-30-2012  
Date

Original Contract Date: \_\_\_\_\_

Original Contract Number: \_\_\_\_\_

Paul a. Behm  
Finance and Internal Services Director      8-30-2012  
Date

Received in City Clerk's Office  
08-30-12 P05:00 RCVD  
Kim G.

[Signature]  
Chief of Staff      8-31-12  
Date

Received in Mayor's Office  
ENTERED 8/31/12 PH

[Signature]  
Mayor      9/4/12  
Date

Comments:

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## CITY COUNCIL AGENDA MEMO

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**To:** Mayor Jordan, City Council

**Thru:** Don Marr, Chief of Staff  
Jeremy Pate, Development Services Director 

**From:** Andrew Garner, Senior Planner

**Date:** August 29, 2012

**Subject:** VAC 12-4201 (Nantucket IV)

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### RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to vacate portions of a utility easements.

### BACKGROUND

The subject property contains approximately 3.76 acres on the west side of Morningside Drive and north of Chesapeake Way, adjacent to the existing Nantucket Phases I-III project which is a senior living development.

On April 12, 2012 the Fayetteville Subdivision Committee approved the Large Scale Development for Nantucket Phase 4 (LSD 12-4009) for 47 new multi-family dwellings on the subject property. The applicant's request is to vacate approximately 0.24 acres of utility easement located in the northern portion of the site in the location of the new proposed development.

### DISCUSSION

On August 27, 2012, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 8-0-0.

### BUDGET IMPACT

None.

**ORDINANCE NO.**

AN ORDINANCE APPROVING VAC 12-4201 SUBMITTED BY CIVIL DESIGN ENGINEERING FOR PROPERTY LOCATED WEST OF MORNINGSIDE DRIVE (NANTUCKET PHASE IV) TO VACATE A UTILITY EASEMENT, A TOTAL OF 0.24 ACRES.

**WHEREAS**, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

**WHEREAS**, the City Council has determined that the following described portion of the platted utility easement is not required for corporate purposes;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easement in Exhibit B (attached).

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached and labeled Exhibit A shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the following Condition of Approval and shall not be in effect until the condition is met:

1. New easements to serve the Nantucket IV development shall be dedicated by easement plat.

**PASSED** and **APPROVED** this    day of    , 2012.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

# EXHIBIT "A"

C. 2  
VAC 12-4201 Nantucket Phase IV  
Page 4 of 20

## VAC 12-4201

765-1153-001  
FAYETTEVILLE SENIOR CITIZEN APARTMENTS  
351 E. 4TH ST, SUITE 1  
MOUNTAIN HOME, AR 72653-3802  
DEED #98-101716

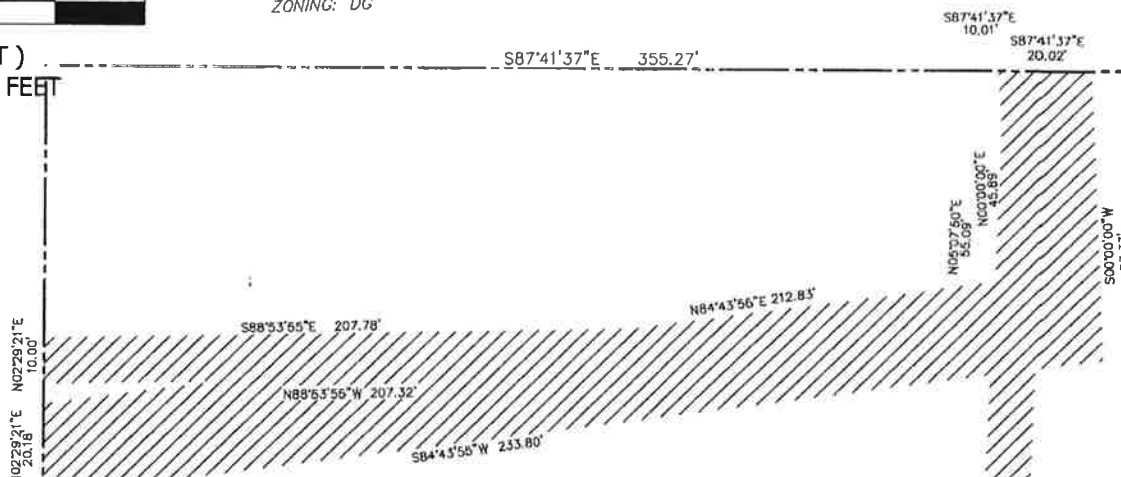
ZONING: DG

GRAPHIC SCALE



( IN FEET )

1 INCH = 40 FEET



N02°29'21" E 10.00'  
N02°29'21" E 20.18'  
N02°29'21" E 45.307'  
N05°07'50" E 55.09'  
N05°07'50" E 55.09'  
N05°07'50" E 204.64'  
N05°07'50" E 270.25'  
N05°07'50" E 204.64'  
N05°07'50" E 270.25'  
N08°53'55" E 207.78'  
N08°53'55" E 207.78'  
N08°53'55" E 207.78'  
N08°53'55" E 207.32'  
S87°41'37" E 10.01'  
S87°41'37" E 20.02'  
N84°43'56" E 212.83'  
S84°43'55" W 233.80'

20' UTILITY EASEMENT BOOK AND PAGE: 23A, PAGE 69

PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 22, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE NE CORNER OF THE SE1/4 OF THE NW1/4 OF SAID SECTION 22; THENCE S03°17'05" W 123.55 FEET TO THE NORTHEAST PROPERTY CORNER OF LOT 1 AS FILED UNDER PLAT 2012-00017192; THENCE ALONG NORTH PROPERTY LINE OF LOT 1, N87°41'37" W 126.37 FEET TO THE POINT OF BEGINNING;

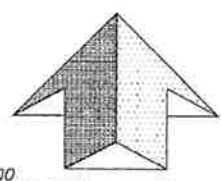
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10' UTILITY EASEMENT BOOK AND PAGE: 1016, PAGE 728

PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 22, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS:

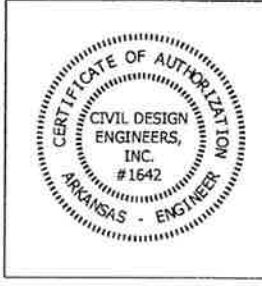
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5-000  
BACH TRUST  
SUITE 2  
AR 72653-32782  
#1642  
N

LEGEND			
(NOT ALL SYMBOLS SHOWN ARE APPLICABLE)			
(Solid line)	EXISTING	(Dashed line)	PROPOSED
(Thin solid line)	PROPERTY LINE	(Thin dashed line)	EASEMENT LINE



NO.	DATE	REVISION	INIT



**CIVIL DESIGN ENGINEERS, INC.**  
4285 N. SHILOH DRIVE SUITE 110  
FAYETTEVILLE, AR 72703  
PHONE : (479) 856-6111  
<http://www.civilde.com>

NANTUCKET PHASE 4  
FAYETTEVILLE, AR

DRAWN BY: FERDI FOURIE	CHECKED BY: FERDI FOURIE
DWG: 1021EASEMENT.DWG	
SCALE: 1"=40'	DATE: AUGUST 1, 2012

**EXHIBIT "B"**  
**VAC 12-4201**

20' UTILITY EASEMENT BOOK AND PAGE: 23A, PAGE 69

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N05°07'50"E 55.09 FEET; THENCE S87°41'37"W 10.01 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.11 ACRES, OR 4,776 SQUARE FEET MORE OR LESS.



PC Meeting of August 27, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.  
Fayetteville, AR 72701  
Telephone: (479) 575-8267

**PLANNING DIVISION CORRESPONDENCE**

TO: Fayetteville Planning Commission  
FROM: Andrew Garner, Senior Planner  
THRU: Jeremy Pate, Development Services Director  
DATE: ~~August 21, 2012~~ Updated August 28, 2012

**12-4201: Vacation (NANTUCKET PH. IV, 563):** Submitted by CIVIL DESIGN ENGINEERING for property located WEST OF MORNINGSIDE DRIVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 3.76 acres. The request is to vacate a utility easement. Planner: Andrew Garner

**Findings:**

*Property:* The subject property contains approximately 3.76 acres on the west side of Morningside Drive and north of Chesapeake Way, adjacent to the existing Nantucket Phases I-III project which is a senior living development. Surrounding land use and zoning is depicted in *Table 1*.

**Table 1  
Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North, South, West	Nantucket Senior Living Complex	DG, Downtown General
East	Undeveloped pasture	RSF-4

*Background:* On April 12, 2012 the Fayetteville Subdivision Committee approved the Large Scale Development for Nantucket Phase 4 (LSD 12-4009) for 47 new multi-family dwellings on the subject property.

*Request:* The applicant's request is to vacate approximately 0.24 acres of water and sewer easement and general utility easement located in the northern portion of the site in the location of the new proposed development.

*Easement Vacation Approval:* The applicant has submitted the required sewer easement notification forms to the City Utilities Department with no objections. At the time of publication of this report the applicant has not submitted responses from the other utility companies that have a right to the general utility easement.

**UTILITIES**

**RESPONSE**

Ozarks Electric	Not provided
Cox Communications	Not provided
Southwestern Electric Power Company	Not provided
Arkansas Western Gas	Not provided
AT&T	Not provided

**CITY OF FAYETTEVILLE:**

**RESPONSE**

Water/Sewer	No objections
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**Public Comment:** No public comment has been received.

**Recommendation:** Staff recommends forwarding **VAC 12-4201** to the City Council with a recommendation for approval subject to the following conditions:

1. The applicant shall provide all of the utility approval forms prior to staff submitting the City Council agenda request.
2. New easements to serve the Nantucket IV development shall be dedicated by easement plat prior to issuance of a building permit.

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**CITY COUNCIL ACTION: Required**

**PLANNING COMMISSION ACTION: Required**

**Planning Commission Action:**     **Forwarded**     **Denied**     **Tabled**

**Date: August 27 2012**

**Motion: Cook**

**Second: Cabe**

**Vote: 8-0-0**

**Notes: On consent agenda**

August 1, 2012  
City of Fayetteville Planning Commission  
125 W. Mountain Street  
Fayetteville, AR 72701  
Phone (479) 575-8267  
Fax (479) 575-8202

**Re: Request to Vacate Existing Easement  
Nantucket Senior Citizen Residential Homes – Phase 4  
Fayetteville, AR  
CDE Project No. 1036**

Dear Planning Commission,

A request is hereby made to vacate an existing water and sewer easement at 1201 S. Morningside Drive, where the approved Large Scale Development for the Nantucket Phase 4 Senior Citizen Residential Homes is proposed. A part of the existing sewer line will be demolished as part of this project, and new easements will be recorded for the proposed public sewer line and other utilities under a new easement plat.

Please let me know if you have any questions.

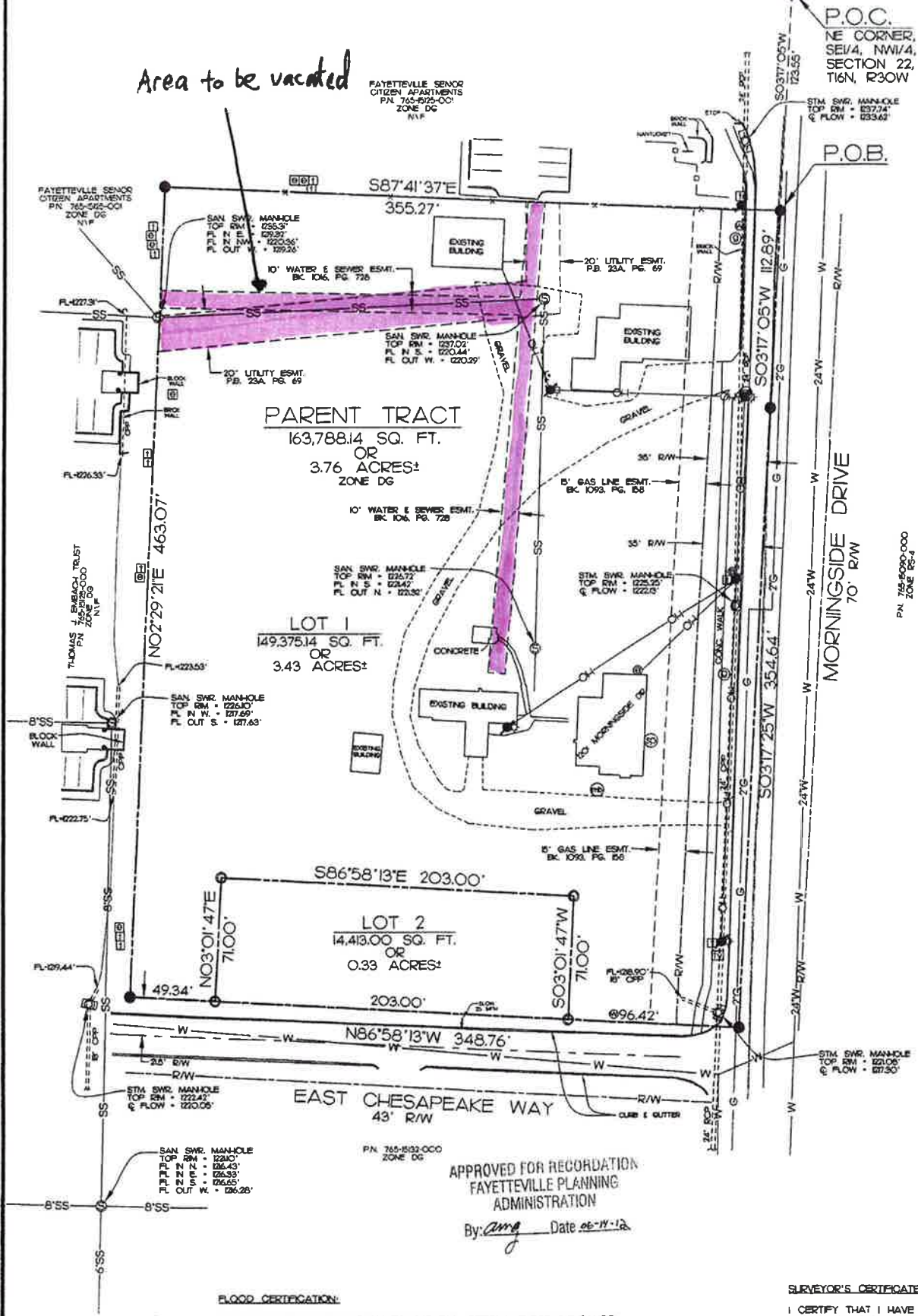
Sincerely,



Ferdi Fourie, P.E.  
Project Engineer  
FF/FF



Area to be vacated



- NOTES:
1. BASIS C WASHINGTON
  2. DECLAR SURVEY OR SUBSE
  3. THIS S SEAL AND
  4. THE PR GENERAL ARKANSAS ARE AS F
  5. SURVEY SEARCH F RESTRICTI OTHER FA COMMITTE
- FRONT & REAR YAR THIS IS PI ARKANSAS
5. SURVEY SEARCH F RESTRICTI OTHER FA COMMITTE

- SURVEY D
- PART OF NORTHWEST NORTH, R2 COUNTY, J DESCRIBED
- COMMENCE OF SAID : THE POINT THENCE S 85° RIGHT-OF-W SAID NORTH THENCE N 11° FEET TO SQUARE F TO ALL R COVENANT

- SURVEY D
- PART OF NORTHWEST NORTH, R2 COUNTY, J DESCRIBED
- COMMENCE OF SAID : THE POINT THENCE S 85° RIGHT-OF-W SAID NORTH THENCE N 11° FEET TO SQUARE F TO ALL R COVENANT

APPROVED FOR RECORDATION  
 FAYETTEVILLE PLANNING  
 ADMINISTRATION  
 By: *[Signature]* Date 06-11-12

FLOOD CERTIFICATION:

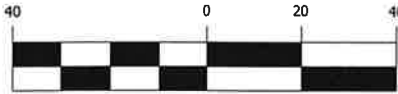
I CERTIFY THAT I HAVE EXAMINED THE FIA OFFICIAL FLOOD INSURANCE HAZARD RATE MAP PANEL NO. 054800220F EFFECTIVE DATE MAY 16, 2009) AND FOUND THE DESCRIBED PROPERTY HEREON LIES IN ZONE "X", AN AREA HAVING NO SPECIAL FLOOD HAZARD.

SURVEYOR'S CERTIFICATE:

I CERTIFY THAT I HAVE COMPLETED A SURVEY PROPERTY. THE PROPERTY LINES AND CORNERS REST OF MY KNOWLEDGE AND ABILITY. CORNER THERE ARE NO VISIBLE ENCROACHMENTS EXCEPT THIS SURVEY MEETS THE CURRENT "M" PROPERTY BOUNDARY SURVEYS, PER THE STA

*[Signature]*  
 ROBERT J. CASTER, P.L.S. NO.870, ARKANSAS

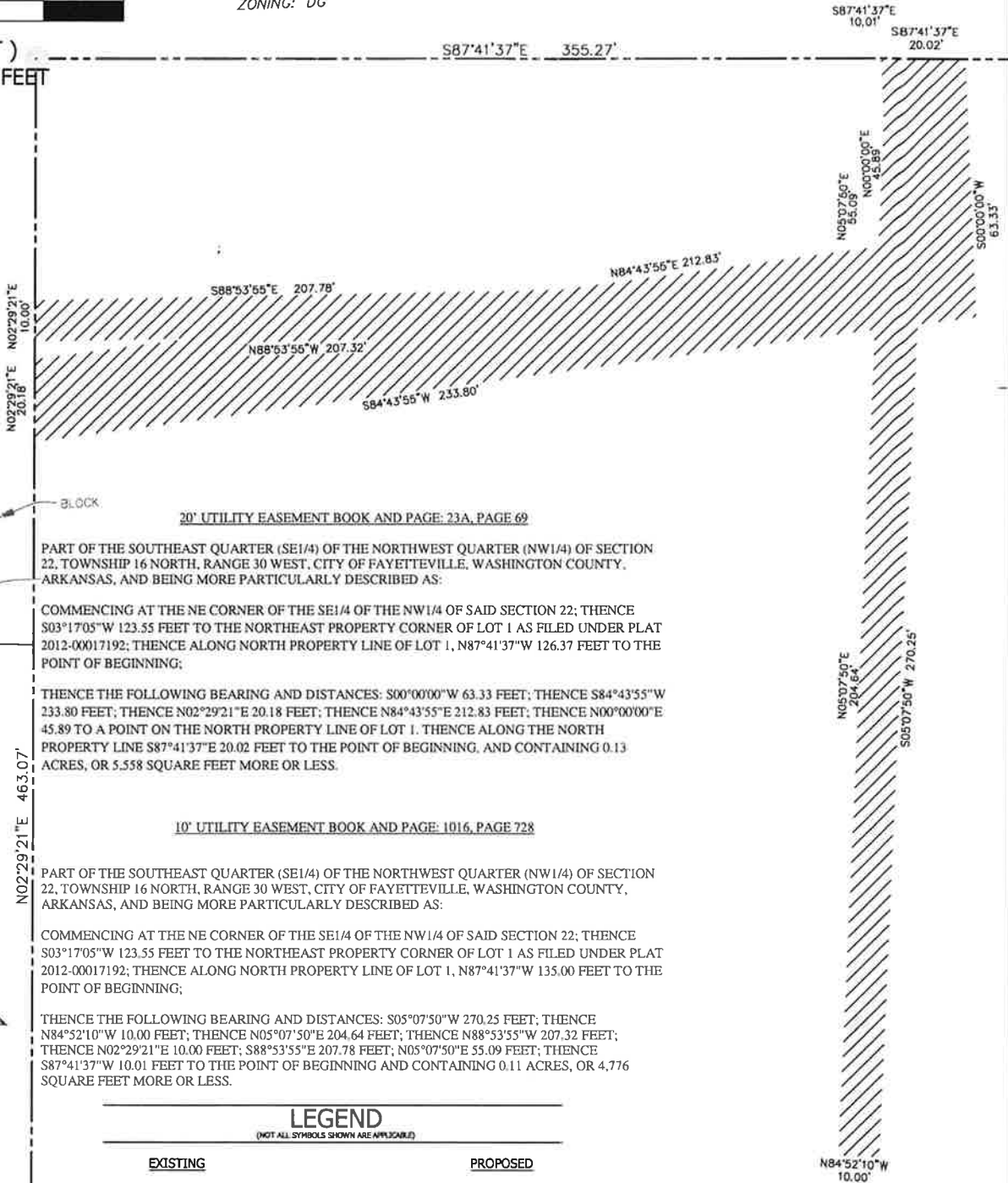
**GRAPHIC SCALE**



( IN FEET )  
 1 INCH = 40 FEET

765-15125-001  
 FAYETTEVILLE SENIOR CITIZEN APARTMENTS  
 351 E. 4TH ST, SUITE 1  
 MOUNTAIN HOME, AR 72653-3802  
 DEED #98-101716

ZONING: DG



**20' UTILITY EASEMENT BOOK AND PAGE: 23A, PAGE 69**

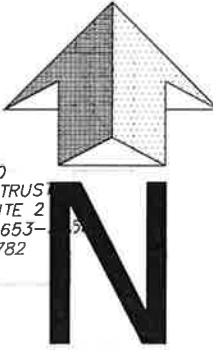
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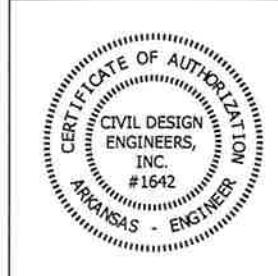
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5-000  
 EACH TRUS  
 T, SUITE 2  
 AR 72653-  
 4-32782  
 DG

**LEGEND**  
(NOT ALL SYMBOLS SHOWN ARE APPLICABLE)

— — — — —	— — — — —
EXISTING	PROPOSED
— — — — —	— — — — —
PROPERTY LINE	EASEMENT LINE



NO.	DATE	REVISION	INIT



**CIVIL DESIGN ENGINEERS, INC.**

4285 N. SHILOH DRIVE SUITE 110  
 FAYETTEVILLE, AR 72703  
 PHONE : (479) 856-6111  
<http://www.civilde.com>

SHEET:  
**EXHIBIT - EASEMENT VACATION**

**NANTUCKET PHASE 4**  
**FAYETTEVILLE, AR**

DRAWN BY: FERDI FOURIE	CHECKED BY: FERDI FOURIE
DWG: 1021EASEMENT.DWG	
SCALE: 1"=40'	DATE: AUGUST 1, 2012

**PETITION TO VACATE AN EASEMENT LOCATED AT 1149 and 1201 S. MORNINGSIDE DRIVE, CITY OF FAYETTEVILLE, ARKANSAS**

TO: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in 1149 and 1201 S. Morningside Drive, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

20' UTILITY EASEMENT BOOK AND PAGE: 23A, PAGE 69

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THENCE THE FOLLOWING BEARING AND DISTANCES: S00°00'00"W 63.33 FEET; THENCE S84°43'55"W 233.80 FEET; THENCE N02°29'21"E 20.18 FEET; THENCE N84°43'55"E 212.83 FEET; THENCE N00°00'00"E 45.89 TO A POINT ON THE NORTH PROPERTY LINE OF LOT 1. THENCE ALONG THE NORTH PROPERTY LINE S87°41'37"E 20.02 FEET TO THE POINT OF BEGINNING, AND CONTAINING 0.13 ACRES, OR 5,558 SQUARE FEET MORE OR LESS.

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That the abutting real estate affected by said abandonment of the alley are at 1149 and 1201 S. Morningside Drive City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

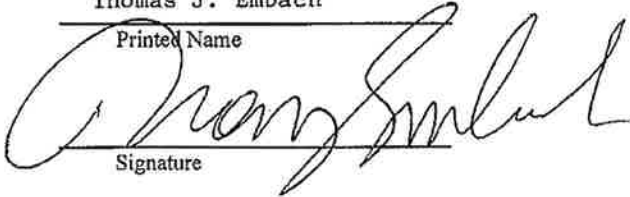
The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this 10 day of August, 2012.

Thomas J. Embach

Printed Name

A handwritten signature in cursive script, appearing to read "Thomas J. Embach", written over a horizontal line.

Signature

**UTILITY APPROVAL FORM**  
**FOR RIGHT- OF- WAY, ALLEY, AND**  
**UTILITY EASEMENT VACATIONS**

DATE: 10 August, 2012

UTILITY COMPANY: City Water and Sewer

APPLICANT NAME: Civil Design Engineers, Inc. APPLICANT PHONE: 479-856-6111

REQUESTED VACATION (*applicant must check all that apply*):

- ~  Utility Easement
- ~  Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~  Alley
- ~  Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

**General location / Address** (referring to attached document- must be completed\*\*)

\*\* 1149 and 1201 S. Morningside Drive, Fayetteville, AR

*(ATTACH legal description and graphic representation of what is being vacated-SURVEY)*

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

\_\_\_\_\_  
\_\_\_\_\_

- No objections provided the following conditions are met:

\_\_\_\_\_  
\_\_\_\_\_

  
\_\_\_\_\_  
Signature of Utility Company Representative

*Utilities Engineer*  
\_\_\_\_\_  
Title

**UTILITY APPROVAL FORM**  
**FOR RIGHT- OF- WAY, ALLEY, AND**  
**UTILITY EASEMENT VACATIONS**

DATE: 10 August, 2012

UTILITY COMPANY: Cox Communications

APPLICANT NAME: Civil Design Engineers, Inc. APPLICANT PHONE: 479-856-6111  
REQUESTED VACATION (*applicant must check all that apply*):

- ~ Utility Easement
- ~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

**General location / Address** (referring to attached document- must be completed\*\*)

**\*\*1149 and 1201 S. Morningside Drive, Fayetteville, AR**

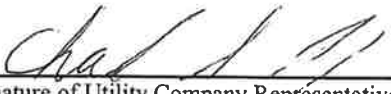
**(ATTACH legal description and graphic representation of what is being vacated-SURVEY)**

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- No objections provided the following conditions are met:

Any damage to or relocation of existing facilities will be at  
Owner/developers expense.

  
Signature of Utility Company Representative

Construction Planner II  
Title

**UTILITY APPROVAL FORM**  
**FOR RIGHT- OF- WAY, ALLEY, AND**  
**UTILITY EASEMENT VACATIONS**

DATE: 10 August, 2012

UTILITY COMPANY: Ozarks Electric

APPLICANT NAME: Civil Design Engineers, Inc. APPLICANT PHONE: 479-856-6111

REQUESTED VACATION (*applicant must check all that apply*):

- ~ Utility Easement
- ~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

**General location / Address** (referring to attached document- must be completed\*\*)

\*\* 1149 and 1201 S. Morningside Drive, Fayetteville, AR

*(ATTACH legal description and graphic representation of what is being vacated-SURVEY)*

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- No objections provided the following conditions are met:

Greg McGee  
Signature of Utility Company Representative

Lead Staking Tech  
Title

**UTILITY APPROVAL FORM**  
**FOR RIGHT- OF- WAY, ALLEY, AND**  
**UTILITY EASEMENT VACATIONS**

DATE: 10 August, 2012

UTILITY COMPANY: City Solid Waste

APPLICANT NAME: Civil Design Engineers, Inc. APPLICANT PHONE: 479-856-6111  
REQUESTED VACATION (*applicant must check all that apply*):

- ~  Utility Easement
- ~  Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~  Alley
- ~  Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

**General location / Address** (referring to attached document- must be completed)\*\*

\*\* 1149 and 1201 S. Morningside Drive, Fayetteville, AR

**(ATTACH legal description and graphic representation of what is being vacated-SURVEY)**

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

\_\_\_\_\_  
\_\_\_\_\_

- No objections provided the following conditions are met:

\_\_\_\_\_  
\_\_\_\_\_

Ben Peep  
\_\_\_\_\_  
Signature of Utility Company Representative

Waste Reduction Coordinator  
\_\_\_\_\_  
Title



**UTILITY APPROVAL FORM**  
**FOR RIGHT- OF- WAY, ALLEY, AND**  
**UTILITY EASEMENT VACATIONS**

DATE: 10 August, 2012

UTILITY COMPANY: Sourcegas

APPLICANT NAME: Civil Design Engineers, Inc. APPLICANT PHONE: 479-856-6111

REQUESTED VACATION (*applicant must check all that apply*):

- ~ Utility Easement
- ~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

**General location / Address** (referring to attached document- must be completed\*\*)

\*\*1149 and 1201 S. Morningside Drive, Fayetteville, AR

**(ATTACH legal description and graphic representation of what is being vacated-SURVEY)**

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- No objections provided the following conditions are met:



Signature of Utility Company Representative

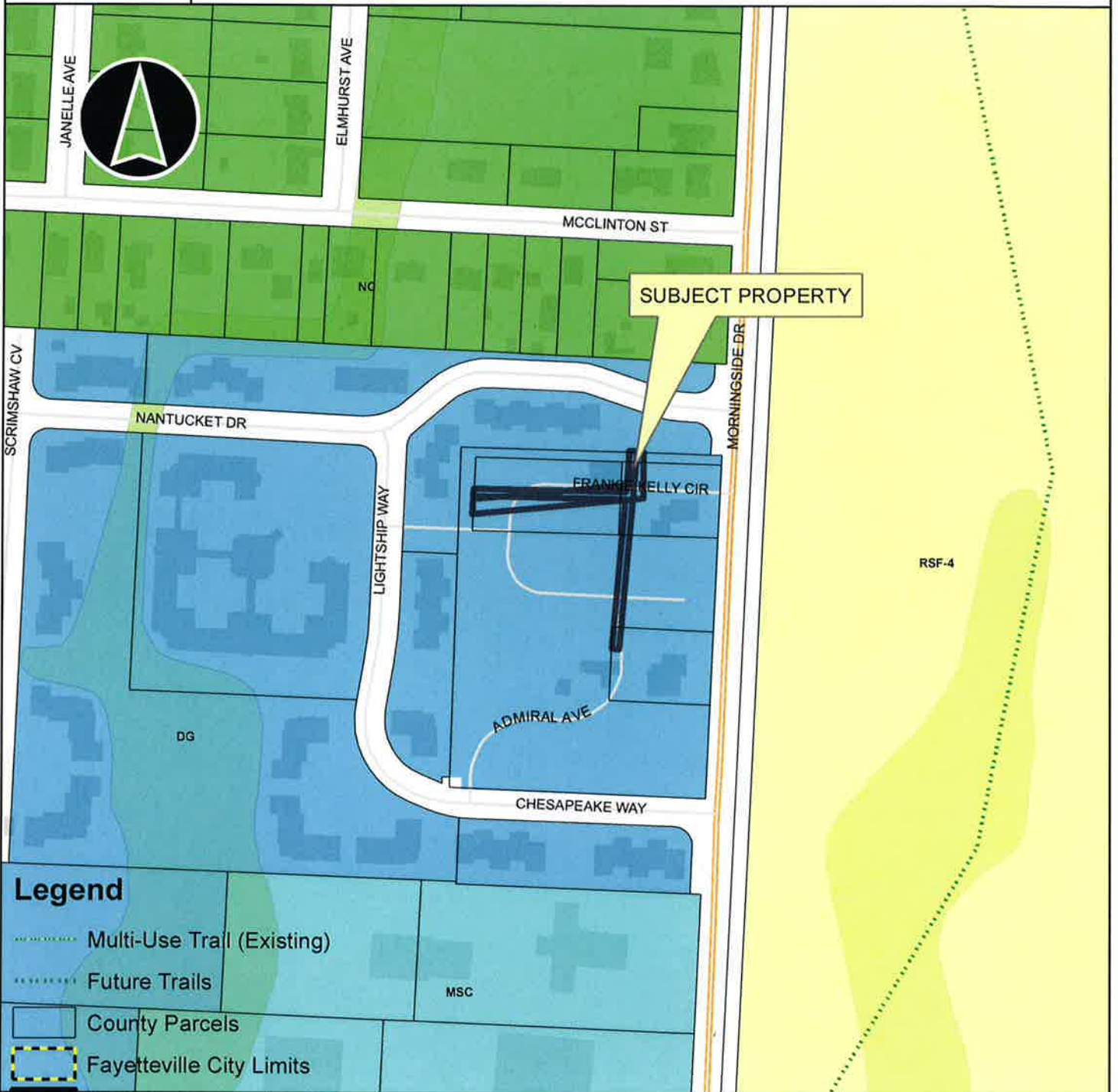
Fayetteville Division Manager

Title

VAC12-4201

# NANTUCKET PHASE IV

Close Up View



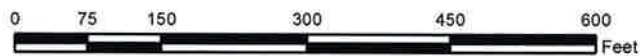
## Legend

- Multi-Use Trail (Existing)
- Future Trails
- County Parcels
- Fayetteville City Limits

## Overview

VAC12-4201

- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



VAC12-4201  
 One Mile View

# NANTUCKET PHASE IV

