

City of Fayetteville Staff Review Form

C. 6  
VAC 12-4205 (21st  
Amendment/Dickson St.)  
Page 1 of 14

City Council Agenda Items  
and  
Contracts, Leases or Agreements

10/2/2012

City Council Meeting Date  
Agenda Items Only

Quin Thompson  
Submitted By

Planning  
Division

Development Services  
Department

Action Required:

VAC 12-4205: Vacation (21th AMENDMENT/DICKSON ST., 484): Submitted by JOHN STARNES, AIA for property located at 404 & 406 WEST DICKSON STREET. The property is zoned MSC, MAIN STREET CENTER, and contains 0.10 acre. The request is to vacate a sidewalk 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

*Ch. Thompson*  
Department Director  
9/14/12  
Date

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

*K. Starnes*  
City Attorney  
9/17/12  
Date

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

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

*Paul A. Bueh*  
Finance and Internal Services Director  
9-17-2012  
Date

Received in City Clerk's Office  
09-14-12 P03:59 RCVD  
*King J.*

*Ann Man*  
Chief of Staff  
9-17-12  
Date

Received in Mayor's Office  
ENTERED  
9/17/12  
*[Signature]*

*Leonell Jordan*  
Mayor  
9/18/12  
Date

Comments:

## CITY COUNCIL AGENDA MEMO

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**To:** Mayor Jordan, City Council

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

**From:** Quin Thompson, Current Planner

**Date:** September 13, 2012

**Subject:** VAC 12-4205 (404 & 406 W DICKSON STREET / 21<sup>ST</sup> AMENDMENT)

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### RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to vacate two sections of sidewalk/landscape easement on Dickson Street.

### BACKGROUND

The subject properties are located on the north side of Dickson Street at numbers 404 and 406 and contain two sidewalk easements executed in September of 2001 as a part of the Dickson Street Enhancement Project. The easements cover portions of the Dickson Street sidewalk that fall outside of the dedicated street right-of-way. The applicant's request is to vacate approximately 264 square feet of easement at the sidewalk on the south boundary of the properties. The property would then be dedicated to the City as right-of-way as shown on the sketch shown by the applicant.

The intention is to build an arcade to support a second story patio area above the sidewalk. The Fayetteville Unified Development Code prohibits construction of permanent structures within, above and below an easement (UDC Chap. 166.12); however, building a balcony above right-of-way is permitted (UDC Chap. 166.21 D.2.c).

### DISCUSSION

On September 10, 2012, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 9-0-0.

### BUDGET IMPACT

None.

**ORDINANCE NO.**

AN ORDINANCE APPROVING VAC 12-4205 SUBMITTED BY JOHN STARNES, AIA FOR PROPERTY LOCATED AT 404 & 406 WEST DICKSON STREET TO VACATE A LANDSCAPE EASEMENT, A TOTAL OF 0.10 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 sidewalk 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 sidewalk 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 Condition of Approval and shall not be in effect until the condition is met.

1. The vacated sidewalk easement shall be dedicated to the City of Fayetteville as Right-of-Way by separate document.

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

APPROVED:

ATTEST:

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

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

# EXHIBIT "A"



02.55 10 15 20 Feet

1 inch = 20 feet



**EXHIBIT "B"**  
**VAC 12-4205**

**404 and 406 W. Dickson Survey Legal Descriptions**

**Easement Description:**

A part of the northwest quarter (NW ¼) of the northeast quarter (NE ¼) of section sixteen (16), township sixteen (16) north, range thirty (30) west, more particularly described as commencing at the southwest corner of said 40-acre tract; thence along said 40-line S87-03-28 E 644.04 feet (deed call – east 646 feet); thence N 02-27-31 E 13.17 feet to the point of beginning; said point being on the north right – of – way of Dickson Street;

Thence N 02-27-31 E 5.96 feet to the face of a building; thence along and with the face of said building S 87-34-45 E 26.00 feet to the bottom of steps; Thence S 02-27-31 W 6.20 feet to the north right-of-way of Dickson Street; Thence along said right-of-way N 87-03-28 W 26.00 feet to the point of beginning, containing 158.09 square feet, more or less, city of Fayetteville, Arkansas.

**Easement Description:**

A part of the northwest quarter (NW ¼) of the northeast quarter of section 16 in township 16 north, range 30 west more particularly described as follows; commencing at the southwest corner of said 40-acre tract; thence along said 40-line S87-03-28 E 670.04 feet (deed call – east 672 feet); thence N 02-27-31 E 13.17 feet to the point of beginning; said point being on the north right-of-way of Dickson Street;

Thence N 02-27-31 E 6.20 feet to the bottom of steps; thence along and with said steps S 87-34-45 E 0.90 feet to the face of a building; thence along and with the face of said building S 03-13-17 W 0.23 feet,  
S 87-23-59 E 16.65 feet;

Thence S 02-27-31 W 6.07 feet to the north right-of-way of Dickson Street; Thence along said right-of-way N 87-03-26 W 17.55 feet to the point of beginning, containing 105.87 square feet, more or less, city of Fayetteville, Arkansas.

**PRELIMINARY**  
NOT FOR CONSTRUCTION

**john starnes, architect**

100 N. Dixieland, Suite D2, PMB 172  
Rogers, AR 72756  
voice 479.466.3874  
info@jstarnes.com



EXISTING



PROPOSED



PC Meeting of September 10, 2012

THE CITY OF FAYETTEVILLE, ARKANSAS

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

**PLANNING DIVISION CORRESPONDENCE**

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TO: Fayetteville Planning Commission  
FROM: Quin Thompson, Current Planner  
THRU: Jeremy Pate, Development Services Director  
DATE: ~~September 6, 2012~~ UPDATED: September 10, 2012

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**VAC 12-4205: Vacation (21<sup>st</sup> Amendment/Dickson St, 484):** Submitted by JOHN STARNES for property located at 406 W. DICKSON STREET. The property is zoned MSC, MAIN STREET CENTER and contains approximately .10 acres. The request is to vacate a sidewalk easement. Planner: Quin Thompson

**Findings:**

*Property Description and Background:* The subject properties are located on the north side of Dickson Street at numbers 404 and 406 and contain two sidewalk easements executed in September of 2001. The sidewalk easements cover portions of the Dickson Street sidewalk that fall outside of the dedicated street right-of-way. These easements were acquired by the City from the property owners as a part of the Dickson Street Enhancement Project about a decade ago.

*Request:* The applicant's request is to vacate approximately 250 square feet of easement at the sidewalk on the south boundary of the properties. The property would then be dedicated to the City as right-of-way. The intention is to build an arcade to support a second story patio area above the sidewalk. The Fayetteville Unified Development Code prohibits construction of permanent structures within, above and below an easement (UDC Chap. 166.12); however, building a balcony above right-of-way is permitted (UDC Chap. 166.21 D.2.c).

*Easement Vacation Approval:* The subject easement is exclusively for sidewalk; no utility approval is required. The City Transportation Department and the Development Services Department have rights to the easement and do not object to the request.

**Public Comment:** No public comment has been received.

**Recommendation:** Staff recommends forwarding **VAC 12-4205** to the City Council with a recommendation for approval subject to the following condition:

1. The vacated sidewalk easement shall be dedicated to the City of Fayetteville as Right-of-Way by separate document.

2. The applicant must provide an easement vacation application signed by the Transportation Department before the request will be added to the City Council agenda.

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**CITY COUNCIL ACTION: Required**

**PLANNING COMMISSION ACTION: Required**

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

**Date: September 10, 2012**

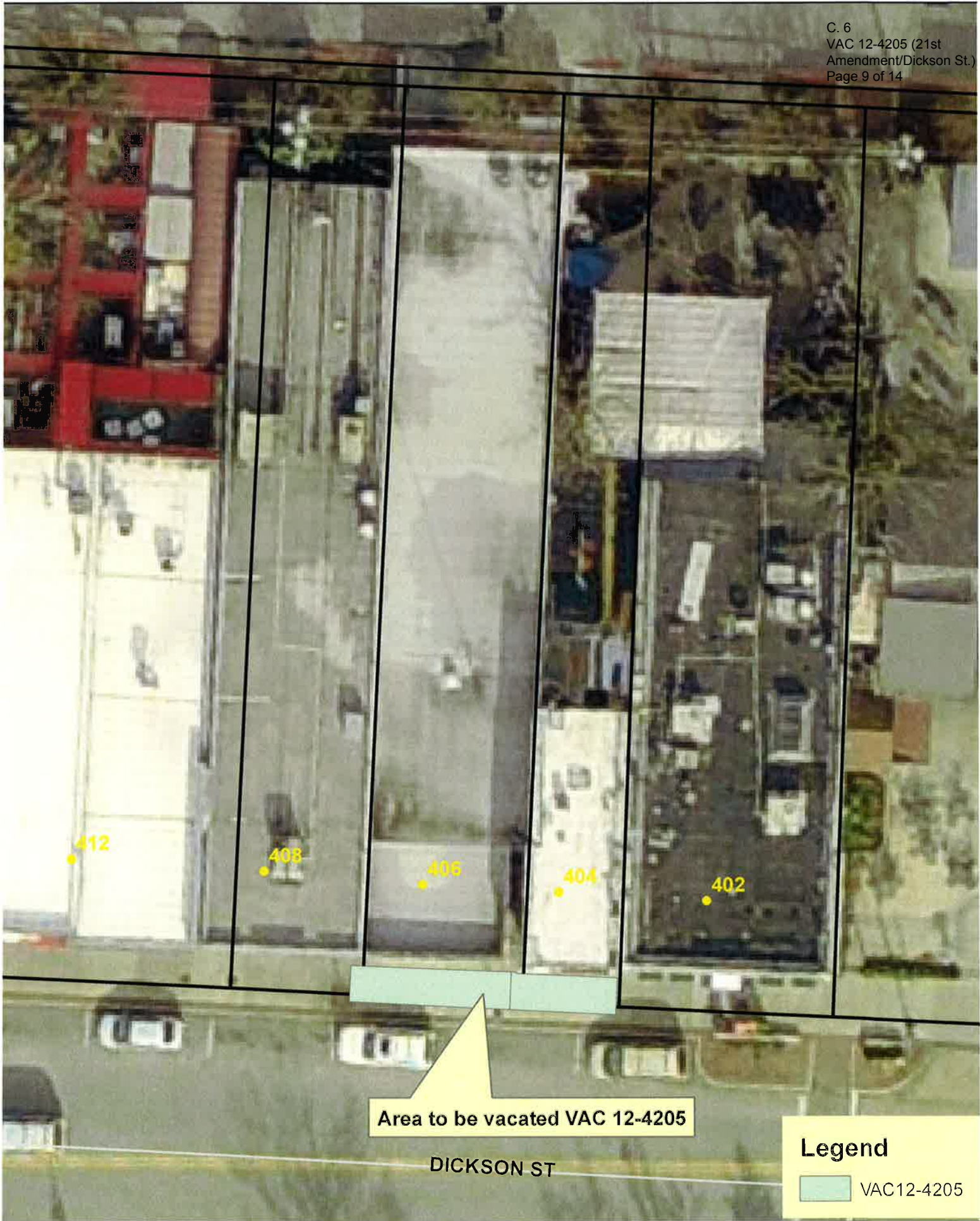
**Motion:**

**Second:**

**Vote: 8-0-0**

**Notes: \_\_\_\_\_**




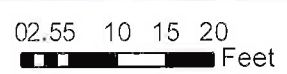


Area to be vacated VAC 12-4205

DICKSON ST

**Legend**

 VAC12-4205



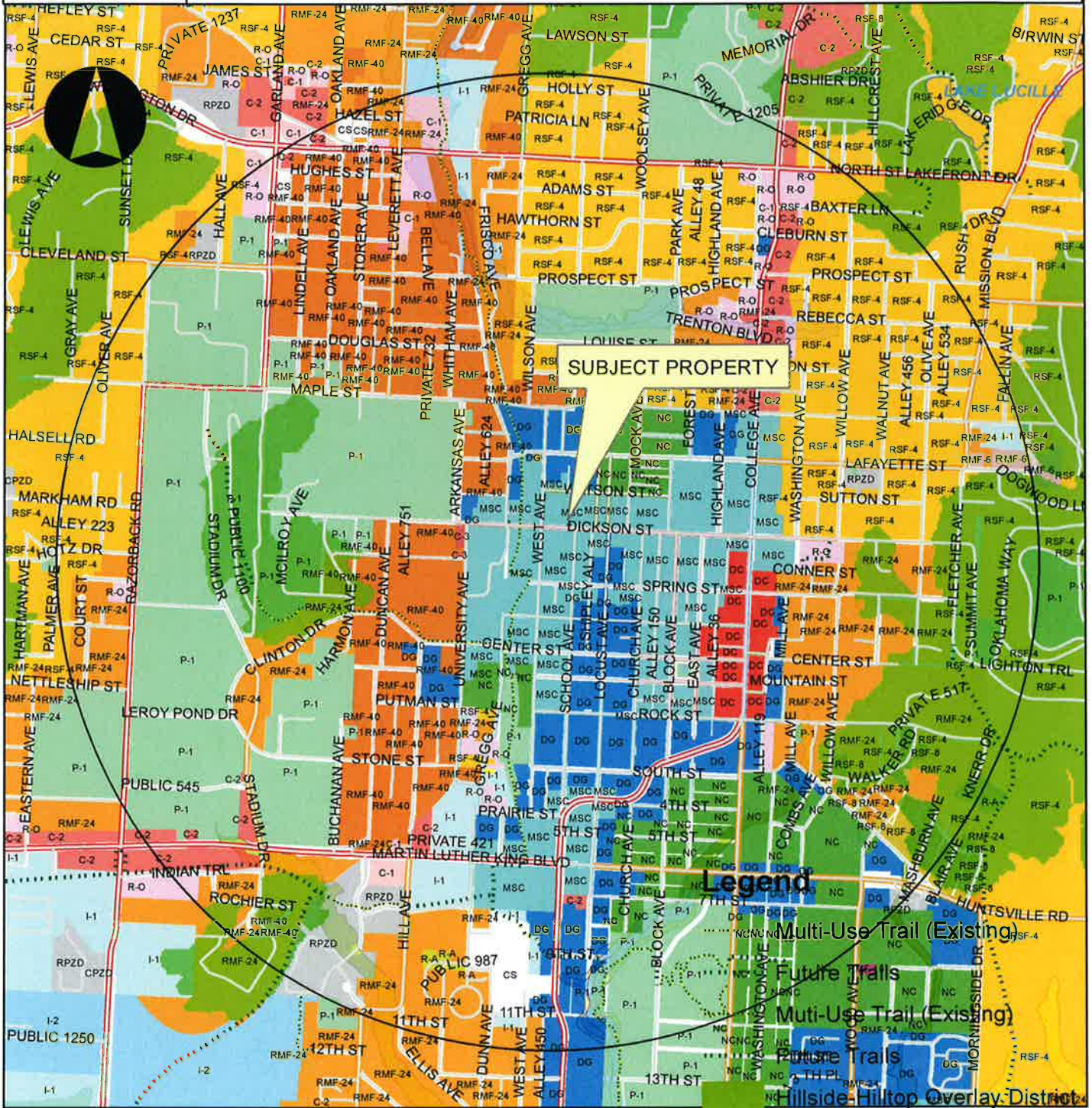
1 inch = 20 feet



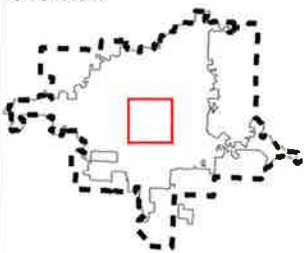
VAC12-4205

# DICKSON STREET

One Mile View



Overview



Legend

Subject Property

VAC12-4205

Boundary

VAC12-4205

Design Overlay District

Planning Area

Fayetteville

0 0.25 0.5

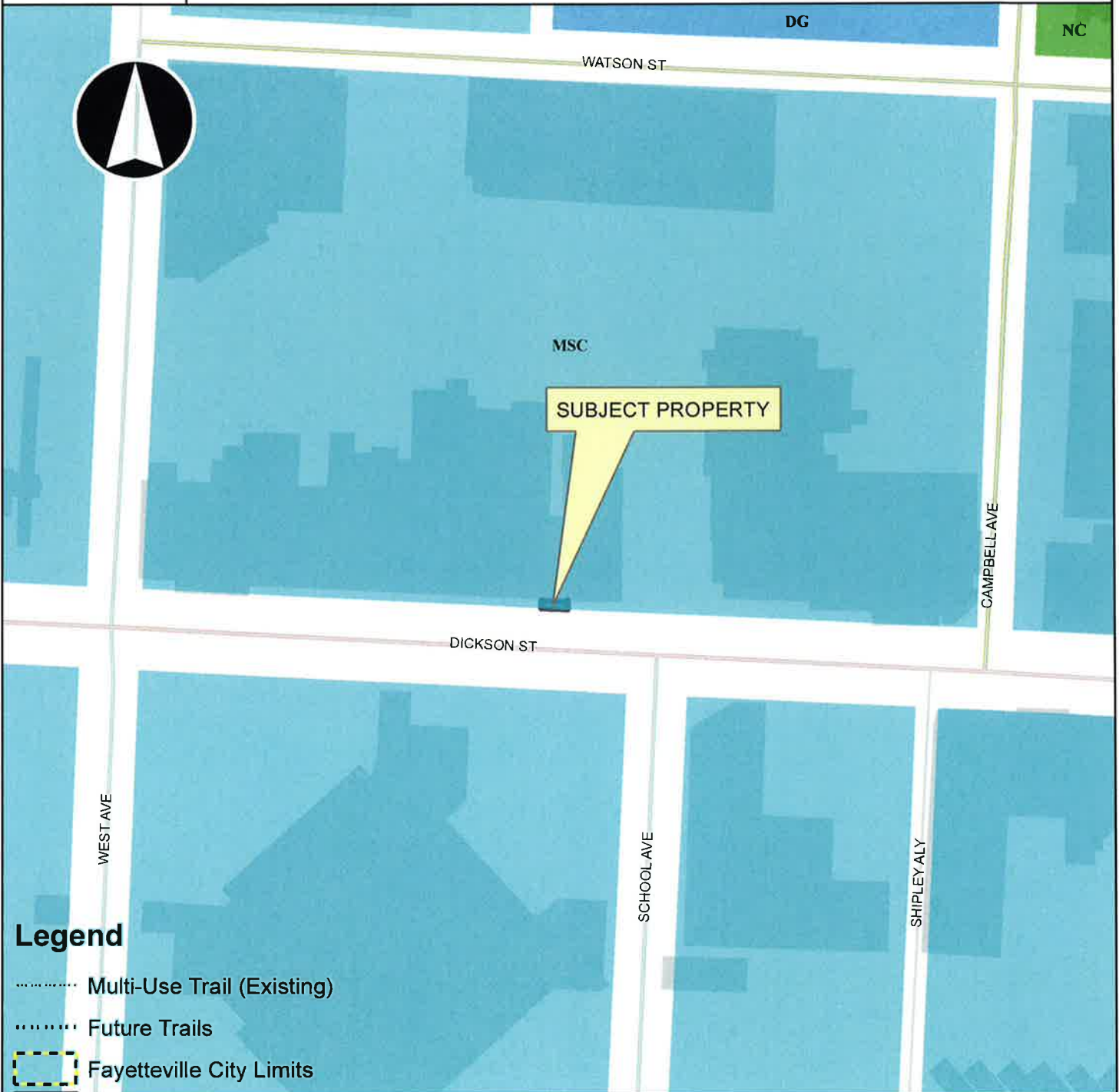
Miles

1 Miles

VAC12-4205

# DICKSON STREET

Close Up View



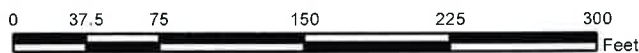
## Legend

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

### Overview

VAC12-4205

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



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

DATE: 9-14-2012

UTILITY COMPANY: TRANSPORTATION DEPT

APPLICANT NAME: John Starnes for Zach Wooden APPLICANT PHONE: 479-466-3874

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

- Landscape (sidewalk) 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\*\*)

**\*\* 404 & 406 W Dickson St**

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

TRANSPORTATION DEPARTMENT 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

ASSISTANT TRANSPORTATION MANAGER

Title

**EXHIBIT "B"**  
**VAC 12-4205**

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