

City of Fayetteville Staff Review Form

D. 1  
 VAC 12-4221 (2111 Martin  
 Luther King Blvd./Panda Express)  
 Page 1 of 18

City Council Agenda Items  
 and  
 Contracts, Leases or Agreements

10/16/2012

City Council Meeting Date  
 Agenda Items Only

Jesse Fulcher  
 Submitted By

Planning  
 Division

Development Services  
 Department

Action Required:

VAC 12-4221: Vacation (2111 MARTIN LUTHER KING BLVD./PANDA EXPRESS, 559): Submitted by LOREL HOFFMAN for property located at 2111 MARTIN LUTHER KING BOULEVARD. The property is zoned C-2, THOROUGHFARE COMMERCIAL, and contains 2,039 square feet. The request is to vacate a portion of a water and sewer 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

*Jesse C. Fulcher*  
 Department Director

09-18-2012  
 Date

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

*Jim Kelley*  
 City Attorney

9-28-12  
 Date

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

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

*Paul A. Behr*  
 Finance and Internal Services Director

9-29-2012  
 Date

Received in City Clerk's Office 09-23-12 A08:58 RCVD  
*WJB*

*Terry J. Gully*  
 Chief of Staff

9-28-12  
 Date

Received in Mayor's Office  


*Leonell Jordan*  
 Mayor

10/11/12  
 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 

**From:** Jesse Fulcher, Current Planner

**Date:** September 28, 2012

**Subject:** VAC 12-4221 (2111 MARTIN LUTHER KING/PANDA EXPRESS)

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### RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance to vacate a portion of a water and sewer easement.

### BACKGROUND

The subject property is located at 2111 Martin Luther King Boulevard and is zoned C-2, Thoroughfare Commercial. The site is currently developed with a commercial building. The applicant has submitted a Site Improvement Plan application to redevelop the property with a new Panda Express restaurant. Before this development proposal can move forward, a portion of the existing water and sewer easement must be vacated.

*Request:* The applicant's request is to vacate a portion of an existing water and sewer easement. The Water and Sewer Division has reviewed this request and does not object to the vacation. Utility improvements will be required at the time of development.

### DISCUSSION

On September 24, 2012, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 7-0-0.

### BUDGET IMPACT

None.

**ORDINANCE NO.**

AN ORDINANCE APPROVING VAC 12-4221 SUBMITTED BY LOREL HOFFMAN FOR PROPERTY LOCATED AT 2111 MARTIN LUTHER KING BOULEVARD TO VACATE A PORTION OF A WATER AND SEWER EASEMENT, A TOTAL OF 2,039 SQUARE FEET

**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 water and sewer 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 portion of a water and sewer 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.

“Any relocation of existing utilities shall be at the owner/developer’s expense.”

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

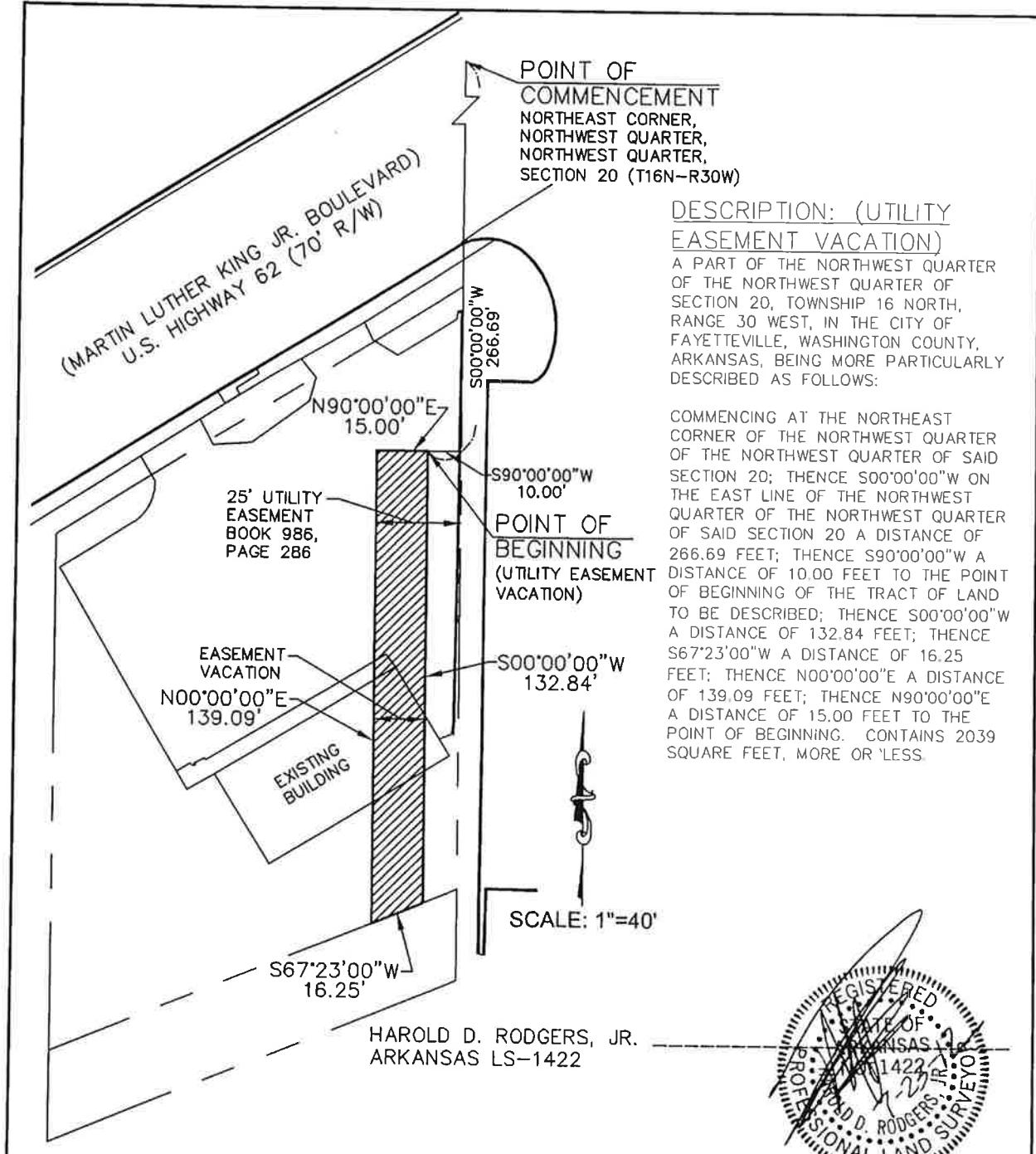
APPROVED:

ATTEST:

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

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

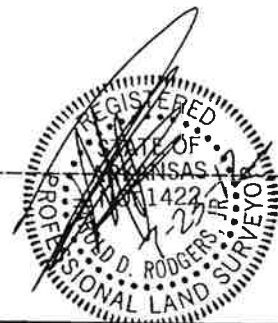
# EXHIBIT "A"



DESCRIPTION: (UTILITY EASEMENT VACATION)

A PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 30 WEST, IN THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 20; THENCE S00°00'00"W ON THE EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 20 A DISTANCE OF 266.69 FEET; THENCE S90°00'00"W A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE DESCRIBED; THENCE S00°00'00"W A DISTANCE OF 132.84 FEET; THENCE S67°23'00"W A DISTANCE OF 16.25 FEET; THENCE N00°00'00"E A DISTANCE OF 139.09 FEET; THENCE N90°00'00"E A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING. CONTAINS 2039 SQUARE FEET, MORE OR LESS.



**SURVEYS 4 DESIGN, LLC**  
 1302 CHESTNUT LANE  
 EUDORA, KANSAS 66025  
 PH. (660) 596-2666

EXHIBIT "A"  
 PROJECT #: 12-2207  
**PANDA EXPRESS**  
 2111 U.S. HIGHWAY 62  
 FAYETTEVILLE, ARKANSAS  
 UTILITY EASEMENT VACATION EXHIBIT  
 2207EXHIBIT.dwg

**EXHIBIT "B"**  
**VAC 12-4221**

DESCRIPTION: (UTILITY EASEMENT VACATION)  
A PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER  
OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 30 WEST, IN THE  
CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING  
MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST  
QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 20;  
THENCE S00°00'00"W ON THE EAST LINE OF THE NORTHWEST  
QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 20 A  
DISTANCE OF 266.69 FEET; THENCE S90°00'00"W A DISTANCE  
OF 10.00 FEET TO THE POINT OF BEGINNING OF THE TRACT OF  
LAND TO BE DESCRIBED; THENCE S00°00'00"W A DISTANCE OF  
132.84 FEET; THENCE S67°23'00"W A DISTANCE OF 16.25 FEET;  
THENCE N00°00'00"E A DISTANCE OF 139.09 FEET; THENCE  
N90°00'00"E A DISTANCE OF 15.00 FEET TO THE POINT OF  
BEGINNING. CONTAINS 2,039 SQUARE FEET, MORE OR LESS.



## PC Meeting of September 24, 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: Jesse Fulcher, Current Planner  
THRU: Jeremy Pate, Development Services Director  
DATE: ~~September 19, 2012~~ Updated September 27, 2012

**VAC 12-4221: Vacation (2111 MARTIN LUTHER KING/PANDA EXPRESS, 559):**  
Submitted by LOREL HOFFMAN for property located at 2111 MARTIN LUTHER KING. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.04 acres. The request is to vacate a portion of a water and sewer easement on the subject property. Planner: Jesse Fulcher

#### **Findings:**

*Property Description and Background:* The subject property is located at 2111 Martin Luther King Boulevard and is zoned C-2, Thoroughfare Commercial. The site is currently developed with a commercial building. The applicant has submitted a Site Improvement Plan application to redevelop the property with a new Panda Express restaurant. Before this development proposal can move forward, a portion of the existing water and sewer easement must be vacated.

*Request:* The applicant's request is to vacate a portion of an existing water and sewer easement. The Water and Sewer Division has reviewed this request and does not object to the vacation. Utility improvements will be required at the time of development.

*Easement Vacation Approval:* The applicant has submitted the required easement vacation notification forms to the utility companies and to the City with the results summarized below.

#### **UTILITIES**

#### **RESPONSE**

AEP/SWEPCO	No Objections
Ozarks Electric Cooperative	No Objections
Cox Communications	No Objections
Source Gas	No Objections

AT&T No Objections

**CITY OF FAYETTEVILLE:**

**RESPONSE**

Water/Sewer No Objections

Transportation No Objections

Solid Waste No Objections

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

**Recommendation:** Staff recommends forwarding VAC 12-4221 to the City Council with a recommendation for approval subject to the following condition:

1. Relocation of or damage to any existing utilities will be at the owner's expense.

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**CITY COUNCIL ACTION: Required**

**PLANNING COMMISSION ACTION: Required**

**Planning Commission Action:**     Forwarded     Denied     Tabled

**Date: September 24, 2012**

**Motion: Cook**

**Second: Cabe**

**Vote: 7-0-0**

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

**Panda Express Water line Vacation**

**PETITION TO VACATE A WATER LINE EASEMENT, LOCATED IN (lot 2, block 2, Fayetteville Center Subdivision), CITY OF FAYETTEVILLE, ARKANSAS**

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

I, the undersigned, being the authorized agent of all the owners of the real estate abutting the water line easement, hereinafter sought to be abandoned and vacated, lying in (lot 2, block 2, Fayetteville Center Subdivision), City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a water line easement, which is described as follows:


(see attached survey by Surveys 4 Design, LLC)

That the abutting real estate affected by said abandonment of the alley are (see attached Special Certificate provided to applicant by Waco Title) 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 15 day of August, 2012

Printed Name: Lorel Hoffman, agent

Signature 





UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND  
UTILITY EASEMENT VACATIONS

DATE: 8/13/2017

UTILITY COMPANY: City of Fayetteville Water & Sewer

APPLICANT NAME: LOREL HOFFMAN, AGENT APPLICANT PHONE: (479) 781-7373  
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\*\*)

\*\* 2111 MARTIN LUTHER KING, 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:

It does not appear that this parcel has legal sewer service. A sewer main must be adjacent to the parcel to provide legal sewer service. A main extension will be required.

[Signature]  
Signature of Utility Company Representative

Utilities Engineer  
Title

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

DATE: 8/13/2017

UTILITY COMPANY: \_\_\_\_\_

APPLICANT NAME: LOREL HOFFMAN, AGENT APPLICANT PHONE: (479) 781-7313  
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\*\*)

\*\* 2111 MARTIN LUTHER KING, FAYETTEVILLE, AK.

(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:

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

Brian A. Dampert - SUPERVISOR  
Signature of Utility Company Representative

\_\_\_\_\_  
Title

**UTILITY APPROVAL FORM**

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

DATE: 8/13/2017

UTILITY COMPANY: AEP-SWEPSCO

APPLICANT NAME: LOREL HOFFMAN, AGENT APPLICANT PHONE: (479) 781-7313  
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\*\**)

\*\* 2111 MARTIN LUTHER KING, FAYETTEVILLE, AK.

(*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:

John Boyer  
Signature of Utility Company Representative

Dist. Engineer  
Title

**UTILITY APPROVAL FORM**

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

DATE: 8/13/2017

UTILITY COMPANY: OZARKS

APPLICANT NAME: LOREL HOFFMAN, AGENT APPLICANT PHONE: (479) 781-7378  
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\*\*)

**\*\* 2111 MARTIN LUTHER KING, 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:

This is in AEP Territory. Ozarks Electric has no objection.  
\_\_\_\_\_

Greg McGee  
Signature of Utility Company Representative

Lead Staking Tech.  
Title

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

DATE: 8/13/2017

UTILITY COMPANY: ATT/SWBT

APPLICANT NAME: LOREL HOFFMAN, AGENT APPLICANT PHONE: (479) 781-7373

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\*\*)

**\*\* 2741 MARTIN LUTHER KING, 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:

DAMAGE TO OR RELOCATION OF ANY EXISTING ATT FACILITIES  
WILL BE AT THE OWNER AND OR DEVELOPER'S EXPENSE

Susan K. Clouser  
Signature of Utility Company Representative

ENGINEER OSP DESIGN  
Title

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

DATE: 8/13/2017

UTILITY COMPANY: GOX

APPLICANT NAME: LOREL HOFFMAN APPLICANT PHONE: (414) 781-7373  
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)\*\*  
\*\* 211 MARTIN LUTHER KING, FAYETTEVILLE, AK.

*(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 any existing facilities will be at the owners/developers expense.

*Chad J. M.*  
Signature of Utility Company Representative

81312  
Title

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

DATE: 8/13/2017

UTILITY COMPANY: \_\_\_\_\_

APPLICANT NAME: LOREL HOFFMAN, AGENT APPLICANT PHONE: (479) 781-7373  
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

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

\*\* 2111 MARTIN LUTHER KING, FAYETTEVILLE, AK.

(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:

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

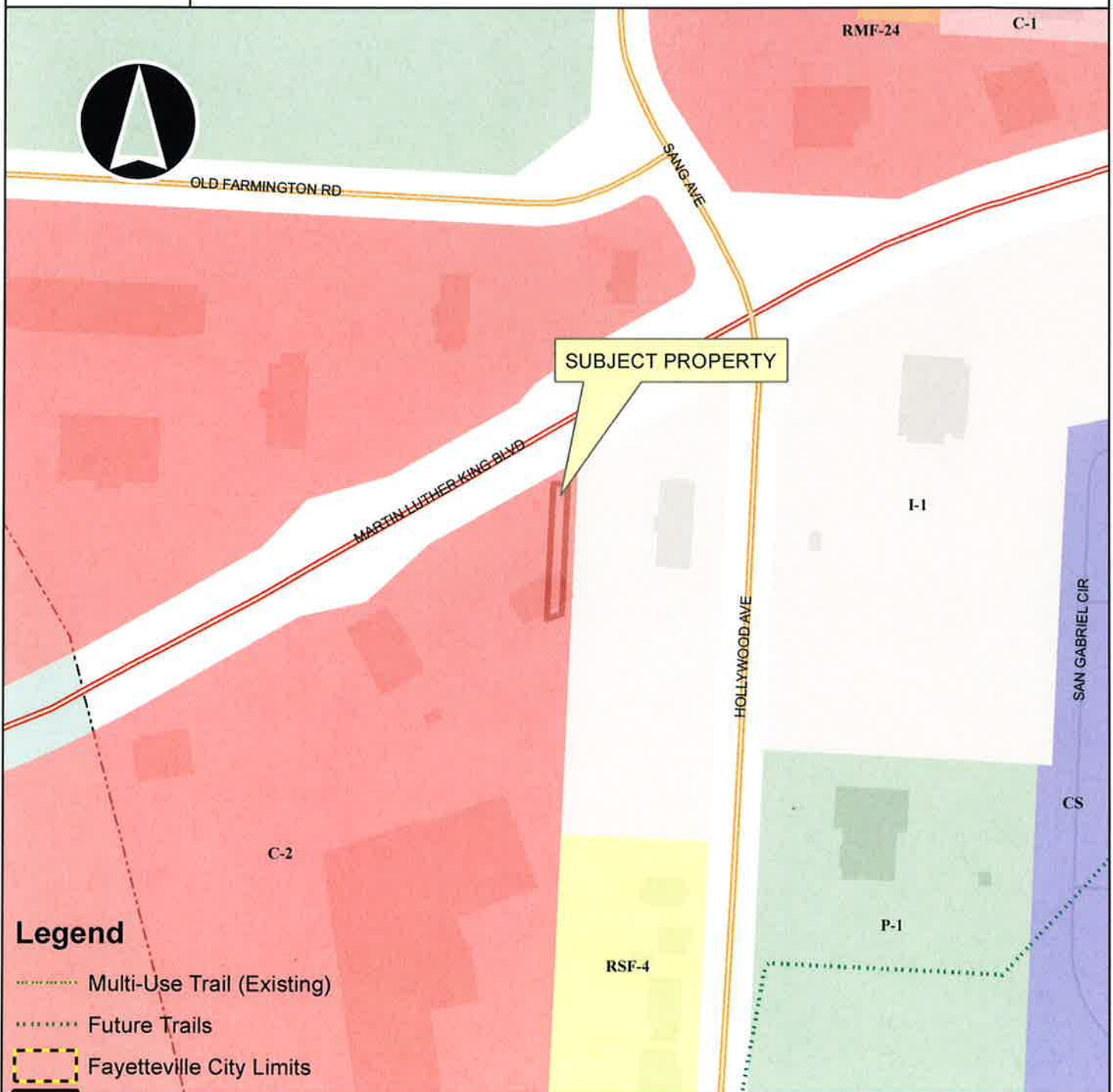
Beira Duff  
Signature of Utility Company Representative  
Waste Reduction Coordinator  
Title



VAC12-4221

# PANDA EXPRESS

Close Up View



### Legend

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

### Overview

VAC12-4221

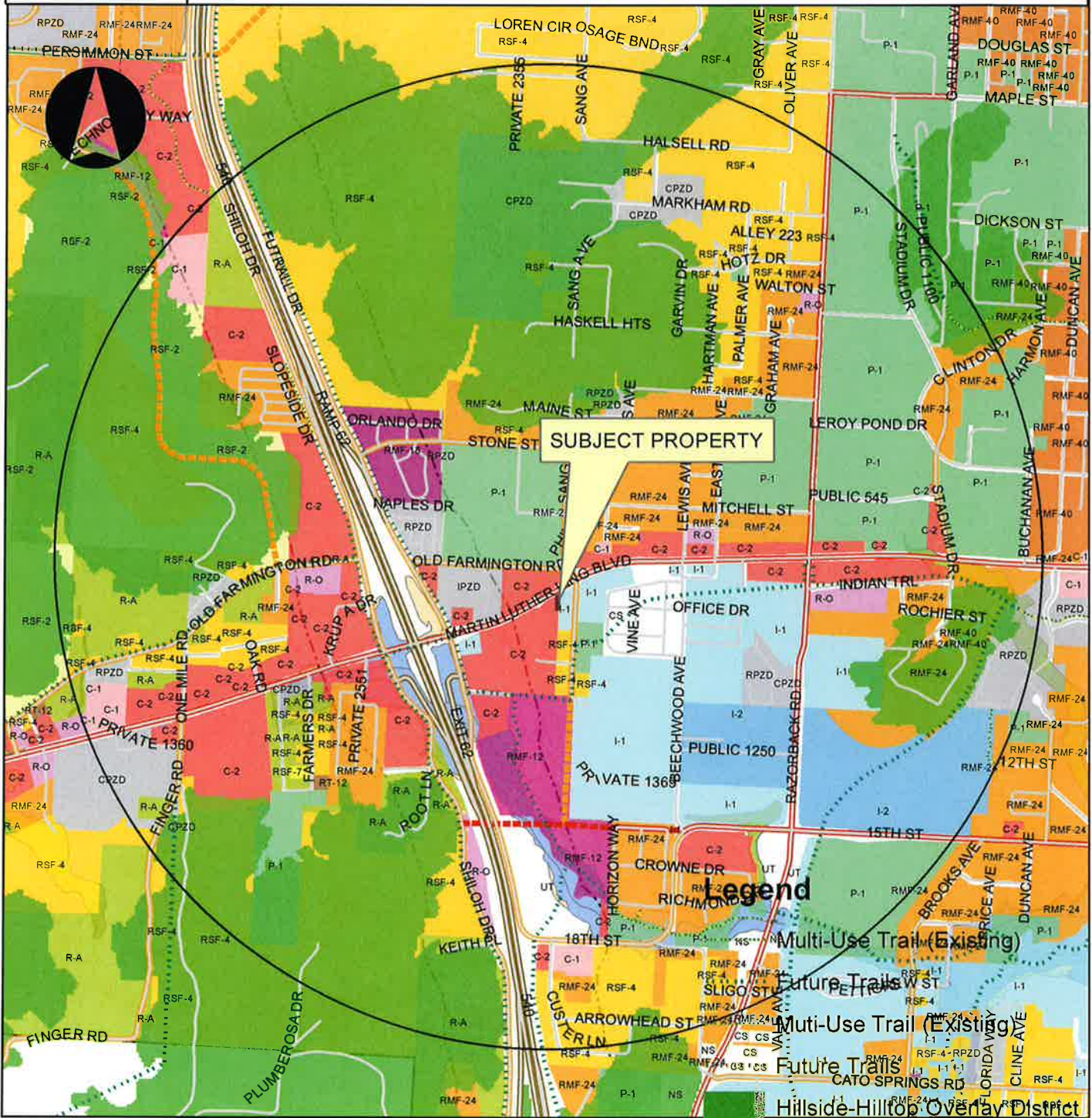
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



VAC12-4221

# PANDA EXPRESS

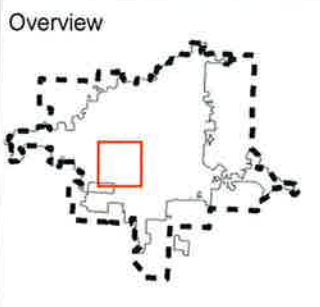
One Mile View



SUBJECT PROPERTY

## Legend

- Multi-Use Trail (Existing)
- Future Trails
- Multi-Use Trail (Existing)
- Future Trails
- Hillside-Hilltop Overlay District



- Legend
- Subject Property
- VAC12-4221

Boundary



- VAC12-4221
- Design Overlay District
- Planning Area
- Fayetteville