

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

March 5th, 2013

City Council Meeting Date
Agenda Items Only

Matt Mihalevich *MM*

Engineering

Development Services

Submitted By

Division

Department

Action Required:

Approval of a donation of 1.21 acres of property to the City of Fayetteville by Lori and Alex Mahler located on Cato Springs Road to be utilized for the future Cato Springs Trail and trailhead.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

Budget Adjustment Attached

James C. Pace
Department Director

02-14-2013
Date

Previous Ordinance or Resolution # _____

John A. Kelly
City Attorney

2-15-13
Date

Original Contract Date: _____

Original Contract Number: _____

Paul a. Buhn
Finance and Internal Services Director

2-15-2013
Date

Received in City Clerk's Office *2-14-13 P04:39 RCVD*

Don Man
Chief of Staff

2-15-13
Date

King J.

Received in Mayor's Office
ENTERED 2/15/13

Lionel Joyner
Mayor *2/19/13*
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director *JP*
Chris Brown, City Engineer *CB*

From: Matt Mihalevich, Trails Coordinator *MM*

Date: February 14th, 2013

Subject: Mahler Property Donation for Cato Springs Trail

PROPOSAL:

Approval of a donation of 1.21 acres of property to the City of Fayetteville by Lori and Alex Mahler located on Cato Springs Road to be utilized for the future Cato Springs Trail and trailhead.

RECOMMENDATION:

City staff was contacted by Mr. Alex Mahler regarding his desire to donate property on Cato Springs Road for the Cato Springs trail and trailhead. The Fayetteville Alternative Transportation and Trails (FATT) Master Plan identifies the Cato Springs Trail extending south from the Town Branch Trail along Cato Springs Branch to the future Regional Park west of I-540 and Cato Springs Road (see attached map). Staff has reviewed the proposed trail alignment and the property is suitable for the future trail and trailhead. The Cato Springs Trail is not scheduled for construction within the next 5 years, but since the property owner is willing to donate now, it is the time to consider acceptance of the property for the future.

Several piles of concrete and soil have been deposited on Mr. Mahler's property over the years creating a violation of the City grading ordinance and the flood damage prevention code. The violation has not been addressed and is now before the City Prosecutor's office waiting on a court date of late March or early April. If the property donation is approved, the City will be required to remove the soil piles and bring the property into compliance as quickly as possible. The Transportation Trails Construction Crew has agreed to perform the necessary work to bring the property into compliance and the Parks Department will then seed with native grasses and brush hog the property annually. Any code violations, fines and court costs that Mr. Mahler could possibly be liable for are not transferable with the property. Correspondence with Deputy City Prosecutor, Brian Thomas is included in the packet.

On February 30th, Parks, Transportation and Engineering Staff met on site to discuss the property and supported the donation for the trail. On February 4th, the Parks and Recreation Advisory Board unanimously approved the donation subject to inspection of the property for hazardous materials. On February 8th staff inspected the property and no hazardous materials were found.

BUDGET IMPACT:

The cost for the clean-up and seeding will be allocated from existing Trails and Parks budgets.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING ACCEPTANCE OF A DONATION OF 1.21 ACRES OF PROPERTY FROM LORI AND ALEX MAHLER NEAR CATO SPRINGS ROAD TO BE UTILITIZED FOR THE FUTURE CATO SPRINGS TRAIL TRAILHEAD

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes acceptance of a donation of 1.21 acres of property described in the attached Exhibit "A" from Lori and Alex Mahler located near Cato Springs Road to be utilized for the future Cato Springs Trail trailhead.

PASSED and APPROVED this 5th day of March, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

WARRANTY DEED

BE IT KNOWN BY THESE PRESENTS:

THAT WE, **Alex Mahler and Lori Mahler, husband and wife**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, the following described land situated in the County of Washington, State of Arkansas, to-wit:

Part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-eight (28) in Township Sixteen (16) North, Range Thirty (30) West, being more particularly described as follows, to-wit: Beginning at a point 215 feet East of the Northwest corner of said forty acre tract and running thence East 332 feet more or less to the centerline of branch, thence in a Southwest direction along center of branch to a point due South of the beginning point, thence North to the point of beginning, less and except that portion on the North side embraced in Cato Springs Road, also less and except part of the Northwest Quarter (NW¼) of Section Twenty-eight (28) in Township Sixteen (16) North, Range Thirty (30) West, described as follows, to-wit: Beginning at a point 425 feet East of the Northwest corner of said forty acre tract, and running thence East 70 feet, more or less, thence South to the centerline of branch, thence in a Southwest direction along the center of branch to a point due South of the beginning point, thence North to the point of beginning.

LESS AND EXCEPT Cato Springs Road right-of-way: A part of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-Eight (28), Township Sixteen (16) North, Range Thirty (30) West in Washington County, Arkansas, being more particularly described as follows: Commencing at the Northwest (NW) corner of said forty (40) acre tract; thence along the North line of said tract South 87°13'23" East 215.00 feet to the POINT OF BEGINNING, being the Northwest (NW) corner of a property described in Book 1231, Page 528 as recorded with the Circuit Clerk of said county; thence continuing along said North line South 87°13'23" East 210.00 feet; thence leaving said North line South 02°31'31" West 37.93 feet; thence North 85°18'23" West 148.65 feet; thence North 87°01'38" West 61.45 feet to the West line of said property; thence along said West line North 02°31'31" East 32.74 feet to the Point of Beginning, containing 7,283 square feet, more or less; LESS AND EXCEPT that portion deeded to the City of Fayetteville described in Book 704, Page 170 as recorded with said Circuit Clerk, containing 2,358 square feet, more or less; having a net total of 4,925 square feet, more or less, consisting of 4,140 square feet in existing right-of-way and 785 square feet in new proposed right-of-way. Subject all other easements and rights-of-way of record, if any.

TO HAVE AND TO HOLD the said lands and appurtenances hereunto belonging unto the said Grantee and Grantee's successors and assigns, forever. And the said Grantors, hereby covenant that they are lawfully seized of said lands and premises; that the same is unencumbered, and that the Grantors will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS the execution hereof on this _____ day of _____, 2013.

REVENUE STAMPS AFFIDAVIT

The foregoing deed has the correct amount of Revenue Stamps affixed to it or is exempt from such stamps.

Alex Mahler

Signed: _____
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Lori Mahler

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

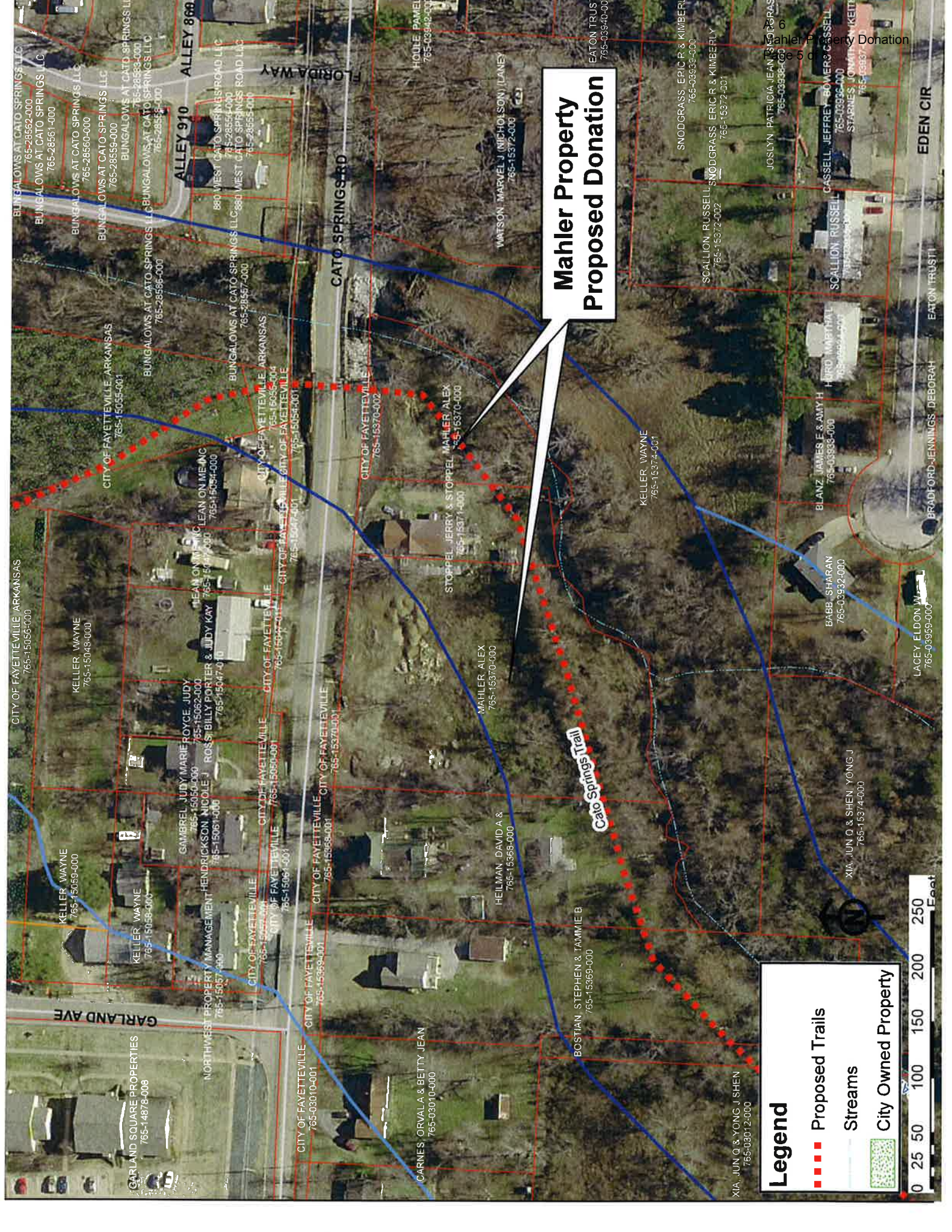
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Alex Mahler and Lori Mahler, husband and wife**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal this _____ day of _____, 2013.

MY COMMISSION EXPIRES:



Notary Public



Mahler Property Proposed Donation

Legend

- Proposed Trails
- Streams
- City Owned Property



Cato Springs Trail

XIA, JUN Q & YONG J SHEN
765-03012-000

XIA, JUN Q & SHEN YONG J
765-15374-000

BOSTIAN, STEPHEN & TAMMIE B
765-15369-000

HELLMAN, DAVID A &
765-15368-000

MAHLER, ALEX
765-15370-000

STOPPEL, JERRY & STOPPEL, MAHLER, ALEX
765-15371-000

KELLER, WAYNE
765-15374-001

BABB, SHARAN
765-03932-000

BLANZ, JAMES E & AMY H
765-03933-000

SCALLION, RUSSELL
765-03932-002

SCALLION, RUSSELL, SNODGRASS, ERIC R & KIMBERLY
765-16372-001

JOSLYN, PATRICIA JEAN SNODGRASS
765-03938-000

SNODGRASS, ERIC R & KIMBERLY
765-03933-000

EATON TRUST I
765-03940-000

WATSON, MARVEL J (MICHELSON), LAMAR
765-15372-000

HOULE, PAMELA
765-03942-001

LACEY, ELDON W
765-03959-000

EATON TRUST II

BRADFORD, JENNINGS, DEBORAH

EDEN CIR

Mahler Property Donation
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CITY OF FAYETTEVILLE, ARKANSAS
765-15055-000

KELLER, WAYNE
765-15049-000

LEAN ON ME, INC
765-15047-000

ROSS, BILLY PORTER & JUDY KAY
765-15047-010

GAMBREL, JUDY MARIE ROYCE, JUDY
765-15050-000

HENDRICKSON, NICOLE J
765-15031-000

NORTHWEST PROPERTY MANAGEMENT
765-15037-000

CITY OF FAYETTEVILLE
765-15064-001

CITY OF FAYETTEVILLE
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CITY OF FAYETTEVILLE
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GARLAND SQUARE PROPERTIES
765-14878-008

GARLAND AVE

CITY OF FAYETTEVILLE
765-03010-001

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Fayetteville Active Transportation and Trails Master Plan

For More Information,
Please visit <http://trails.accessfayetteville.org>

**Frisco Trail Extension
Construction 2013**

**Tsa La Gi Trail
Construction 2013**

Walker Park

**Town Branch Trail
Construction 2013**

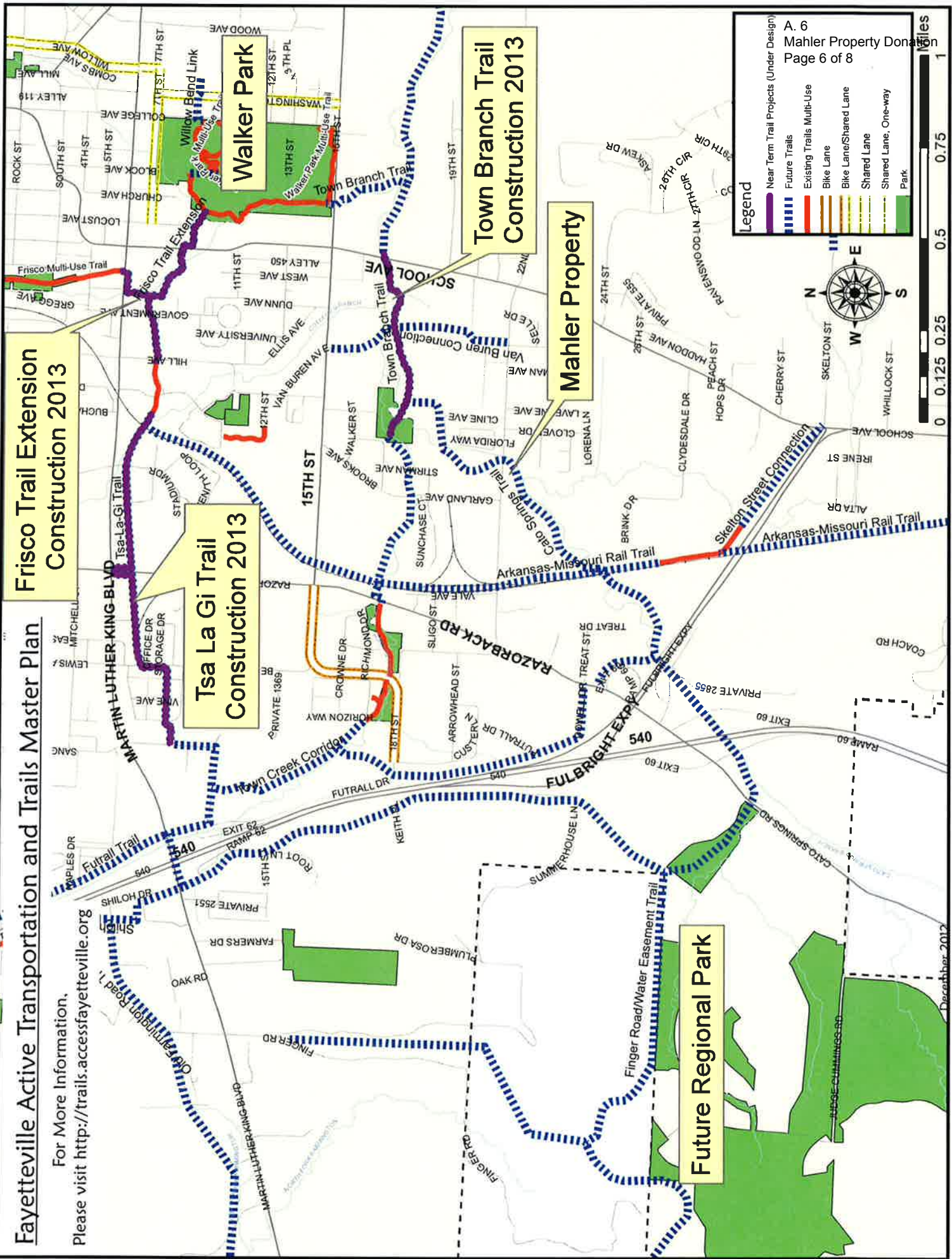
Mahler Property

Future Regional Park

Legend

- Near Term Trail Projects (Under Design)
- Future Trails
- Existing Trails Multi-Use
- Bike Lane
- Bike Lane/Shared Lane
- Shared Lane
- Shared Lane, One-way
- Park

A. 6
Mahler Property Donation
Page 6 of 8



Matt,

Mr. Mahler's hearing for the grading violation will not likely come up on a court docket until late March or early April. If the property is brought into compliance before the hearing by Mr. Mahler, or the property is sold or even donated to the city then there will not be a need to have the hearing. Of course if the City were to receive the property as a donation it would be prudent to have it brought into compliance as quickly as possible if it is not so already on the date of transfer. As we talked about, any code violations or especially any fines or court costs that Mr. Mahler could possibly be liable for is not transferable with the property. This holds true not just for the City but for any subsequent title holder.

Let me know how it goes.
Brian

Brian Thomas
Deputy City Prosecutor
(479) 575-8377
TDD (Telecommunication Device for the Deaf) (479) 521-1316

