

City Council Agenda Items  
and  
Contracts, Leases or Agreements

7/16/2013

City Council Meeting Date  
Agenda Items Only

Jesse Fulcher  
Submitted By

Planning  
Division

Development Services  
Department

Action Required:

VAC 13-4402: Vacation (2111 MARTIN LUTHER KING BOULEVARD/PANDA EXPRESS, 559): Submitted by LOREL HOFFMAN for property located at 2111 MARTIN LUTHER KING BOULEVARD. The property is zoned C-2, THOROUGHFARE COMMERCIAL. 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 <input type="checkbox"/>		Budget Adjustment Attached <input type="checkbox"/>	

*Jesse Fulcher*  
Department Director 06-27-2013  
Date

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

*LoREL Hoffman*  
City Attorney 6-27-13  
Date

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

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

*Maria Hertweck*  
Finance and Internal Services Director 6/28/13  
Date

Received in City Clerk's Office 06-27-13 P04:23 RCVD  
*dmw*

*Don Man*  
Chief of Staff 6/28/13  
Date

Received in Mayor's Office  
ENTERED  
6/28/13  
*FF*

*Donald Jones*  
Mayor 6/28/13  
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:** June 26, 2013

**Subject:** VAC 13-4402 (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 being redeveloped with a new Panda Express restaurant. The Planning Commission and City Council reviewed and approved a utility easement vacation in 2012 for this exact easement (VAC 12-4221). However, a small portion of the easement was not included in the legal description due to it being across a parcel line.

The applicant's request is to vacate a portion of an existing water and sewer easement that was omitted in the previous request. The Water and Sewer Division has reviewed this request and does not object to the vacation. Utility improvements are being made as part of the development.

### DISCUSSION

On June 24, 2013, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 6-0-0.

### BUDGET IMPACT

None.

**ORDINANCE NO.**

AN ORDINANCE APPROVING VAC 13-4402 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 0.01 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 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 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     , 2013.

APPROVED:

ATTEST:

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

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

# EXHIBIT "A"

POINT OF COMMENCEMENT  
NORTHEAST CORNER,  
NORTHWEST QUARTER,  
NORTHWEST QUARTER,  
SECTION 20 (T16N-R30W)

(MARTIN LUTHER KING  
JR. BOULEVARD)  
U.S. HIGHWAY 62 R/W

## DESCRIPTION: (UTILITY EASEMENT VACATION)

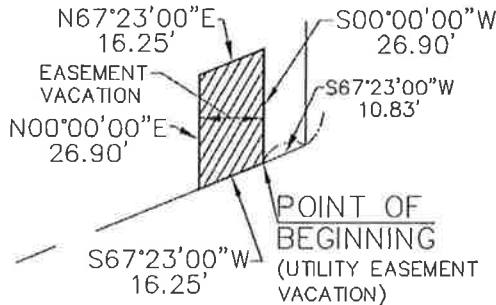
A PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 30 WEST, IN THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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 422.47 FEET; THENCE S67°23'00"W A DISTANCE OF 10.83 FEET TO THE POINT OF BEGINNING OF THE UTILITY EASEMENT VACATION TO BE DESCRIBED; THENCE S67°23'00"W A DISTANCE OF 16.25 FEET; THENCE N00°00'00"E A DISTANCE OF 26.90 FEET; THENCE N67°23'00"E A DISTANCE OF 16.25 FEET; THENCE S00°00'00"W A DISTANCE OF 26.90 FEET TO THE POINT OF BEGINNING CONTAINS 403 SQUARE FEET, MORE OR LESS.

S00°00'00"W  
422.47'



SCALE: 1"=40'



HAROLD D. RODGERS, JR.  
ARKANSAS LS-1422

**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  
2207EXHIBIT3.dwg

**EXHIBIT "B"**  
**VAC 13-4402**

**UTILITY EASEMENT VACATION LEGAL DESCRIPTION**

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:

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PC Meeting of June 24, 2013

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: Jesse Fulcher, Current Planner  
THRU: Jeremy Pate, Development Services Director  
DATE: ~~June 18, 2013~~ Updated June 27, 2013

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**VAC 13-4402: 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 0.01 acre. 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 being redeveloped with a new Panda Express restaurant. The Planning Commission and City Council reviewed and approved a utility easement vacation in 2012 for this exact easement (VAC 12-4221). However, a small portion of the easement was not included in the legal description due to it being across a parcel line.

*Request:* The applicant's request is to vacate a portion of an existing water and sewer easement that was omitted in the previous request. The Water and Sewer Division has reviewed this request and does not object to the vacation. Utility improvements are being made as part of the 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 13-4402** 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: June 24, 2013**

**Motion: Winston**

**Second: Autry**

**Vote: 6-0-0**

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

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) 784-7373  
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







May 9, 2013

City of Fayetteville  
Planning Department  
125 West Mountain Street  
Fayetteville, Arkansas 72701

**Re: Easement Vacation Request  
Panda Express Restaurant**

To Whom It May Concern:

The purpose of this letter is to summarize the requested Easement Vacation for the Panda Express development.

The development is proposed for a 2,212 square foot fast food restaurant with drive-thru facilities located at 2111 West Martin Luther King Blvd. An easement vacation is necessary to remove approximately 403 square feet of an existing utility easement in order to develop the property.

Please call us if you have any questions.

Respectfully,  
**Bannister Engineering, LLC**

A handwritten signature in black ink that reads 'T. Jason Bannister'.

T. Jason Bannister, P.E.  
President

**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)

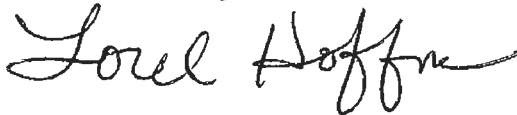
That the abutting real estate affected by said abandonment of the alley are (see attached Special Certificate provided to applicant by Waco Title) City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment 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.

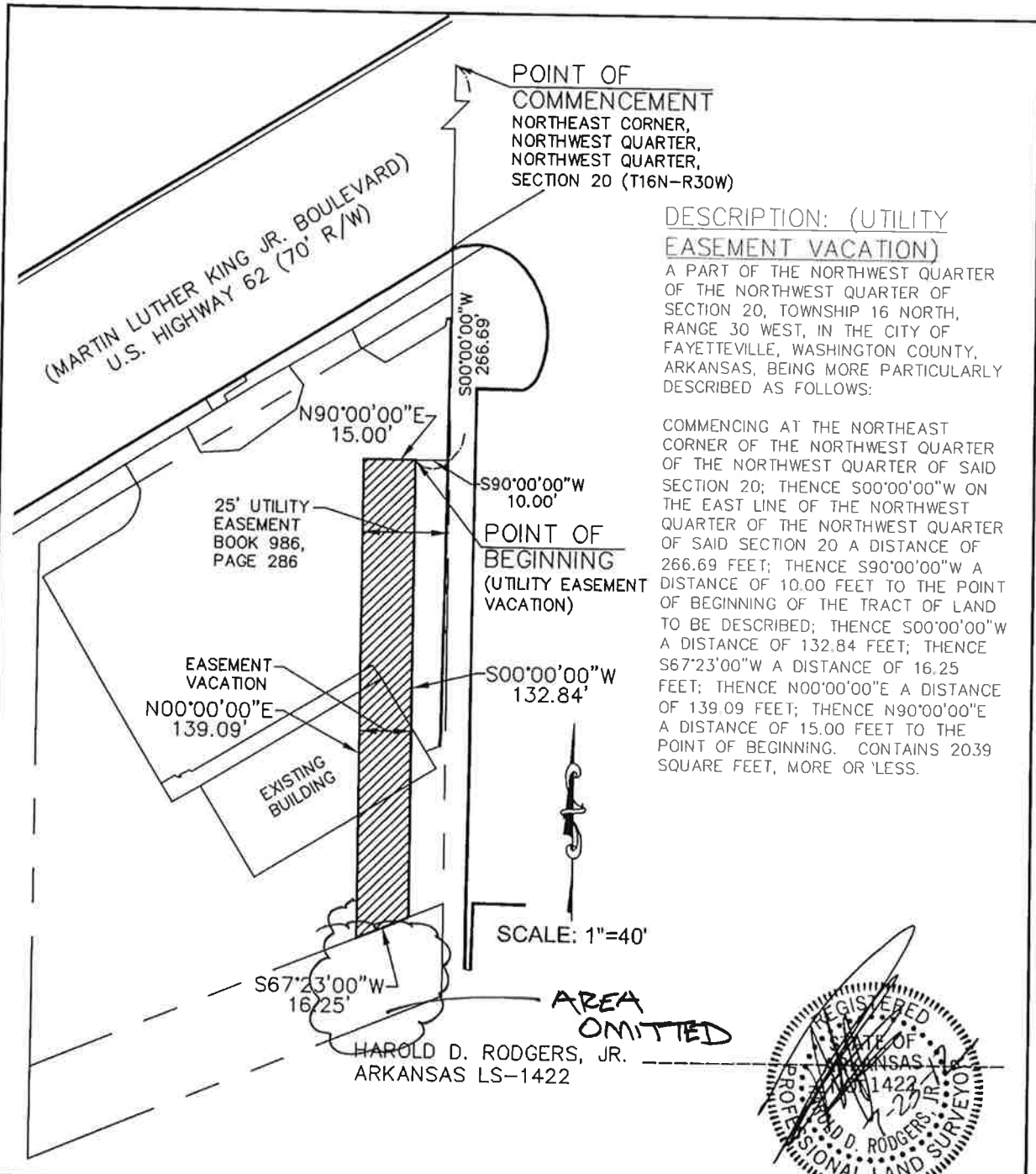
WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting 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 5 day of June, 2013

Printed Name: Lorel Hoffman, agent

Signature



PREVIOUS VACATION  
(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:

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**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  
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**POINT OF  
 COMMENCEMENT**  
 NORTHEAST CORNER,  
 NORTHWEST QUARTER,  
 NORTHWEST QUARTER,  
 SECTION 20 (T16N-R30W)

(MARTIN LUTHER KING  
 JR. BOULEVARD)  
 U.S. HIGHWAY 62 R/W

**DESCRIPTION: (UTILITY EASEMENT  
 VACATION)**

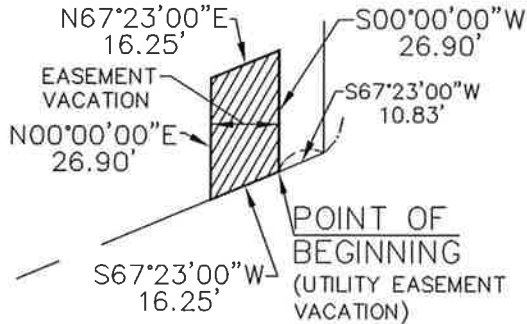
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 NORTH, RANGE 30 WEST, IN THE CITY OF FAYETTEVILLE,  
 WASHINGTON COUNTY, ARKANSAS, BEING MORE  
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COMMENCING AT THE NORTHEAST CORNER OF THE  
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 LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST  
 QUARTER OF SAID SECTION 20 A DISTANCE OF 422.47  
 FEET; THENCE S67°23'00"W A DISTANCE OF 10.83 FEET  
 TO THE POINT OF BEGINNING OF THE UTILITY EASEMENT  
 VACATION TO BE DESCRIBED; THENCE S67°23'00"W A  
 DISTANCE OF 16.25 FEET; THENCE N00°00'00"E A  
 DISTANCE OF 26.90 FEET; THENCE N67°23'00"E A  
 DISTANCE OF 16.25 FEET; THENCE S00°00'00"W A  
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S00°00'00"W  
 422.47'



SCALE: 1"=40'



HAROLD D. RODGERS, JR.  
 ARKANSAS LS-1422

**SURVEYS 4 DESIGN, LLC**

1302 CHESTNUT LANE  
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EXHIBIT "A"

PROJECT #: 12-2207

**PANDA EXPRESS**

2111 U.S. HIGHWAY 62

FAYETTEVILLE, ARKANSAS

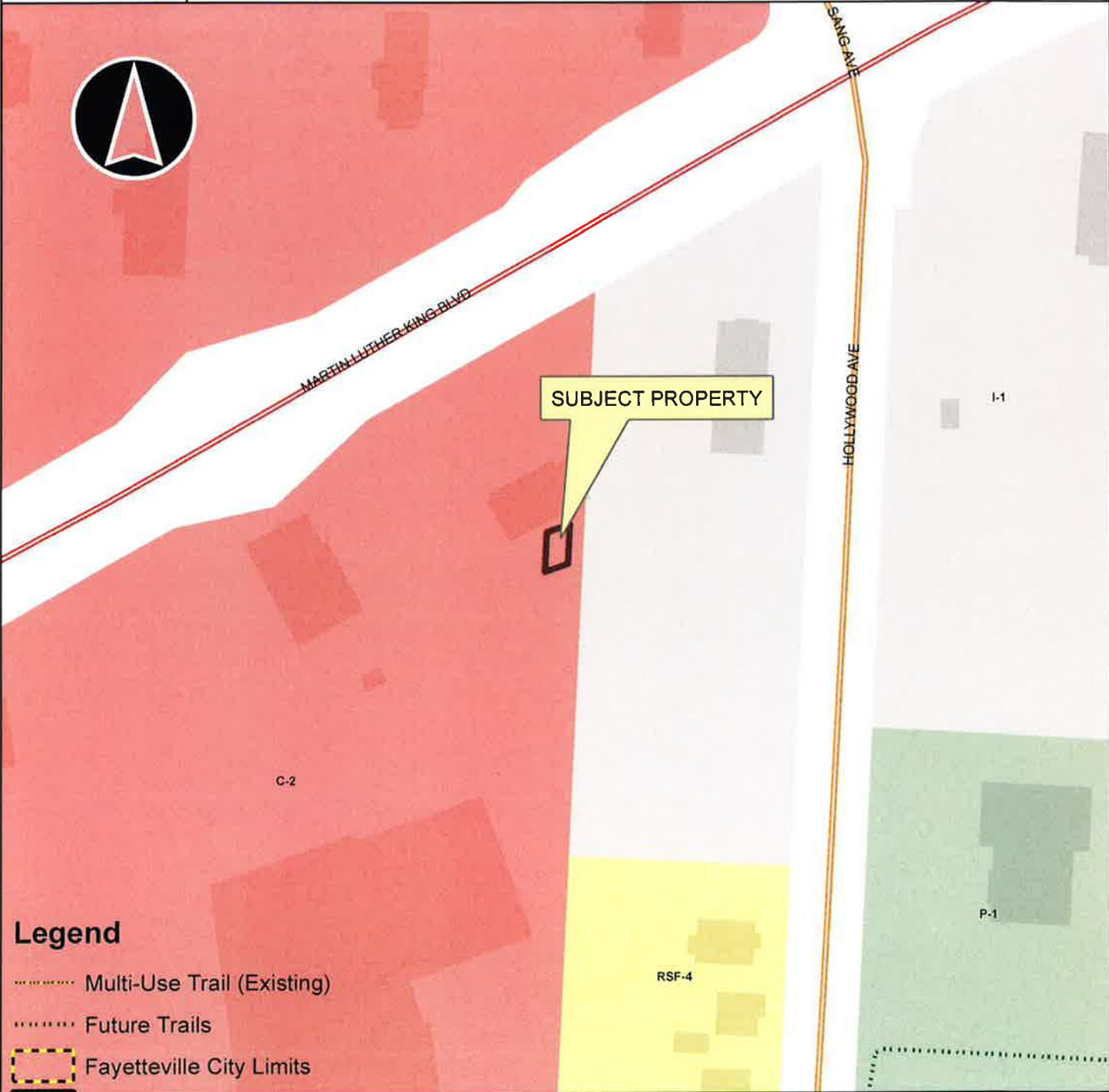
UTILITY EASEMENT VACATION EXHIBIT

2207EXHIBIT3.dwg

VAC13-4402

# PANDA EXPRESS

Close Up View



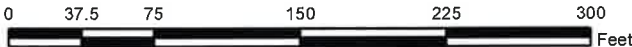
## Legend

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

Overview

VAC13-4402

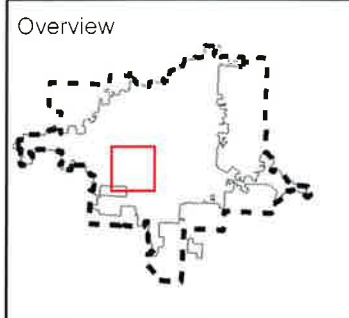
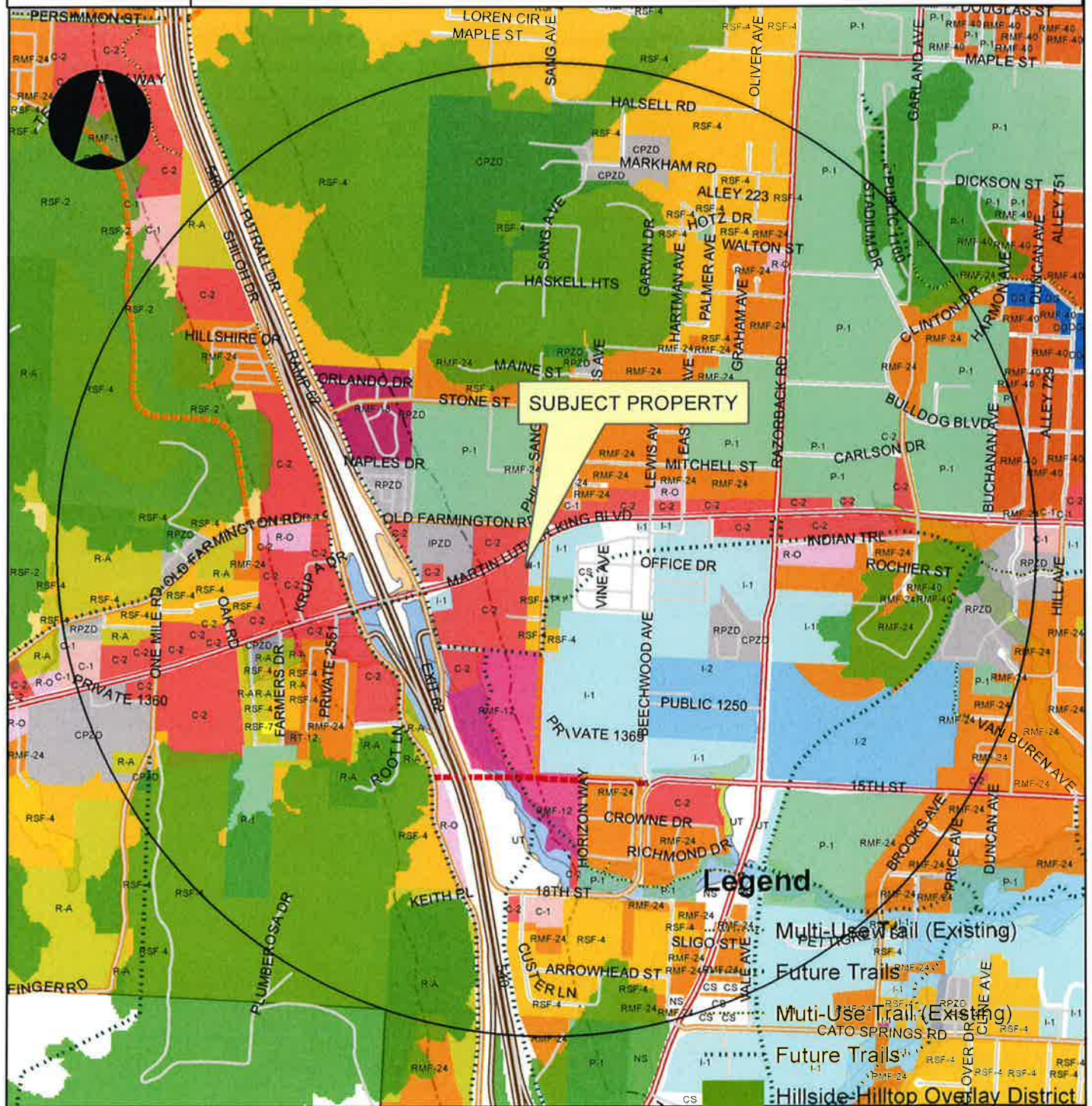
- Footprints 2010
- Hillside-Hilltop Overlay District
- ▭ Design Overlay District
- ▭ Design Overlay District
- Planning Area



VAC13-4402

# PANDA EXPRESS

One Mile View



Legend

- Subject Property
- VAC13-4402
- Boundary
- VAC13-4402
- Design Overlay District
- Planning Area
- Fayetteville

0 0.25 0.5 1 Miles