


CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Quin Thompson, Current Planner

Date: October 17, 2013

Subject: VAC 13-4491 [2315 & 2319 Marks Mill Ln (Zweig)]

RECOMMENDATION

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

BACKGROUND

The subject property is located south of Township Street and northwest of Marks Mill Lane in the Summit Place subdivision. The applicant is in the process of adjusting the property lines of three adjacent lots (PLA 13-4441,) which will result in the elimination of the center lot. A General Utility Easement is platted on a boundary line that will be moved; the easement will be unnecessary and at the same time restrict development of the lot on which it is located. There are currently no utilities within the subject easement.

The applicant's request is to vacate the utility easement as indicated in "Exhibit A."

Permissions from the franchise utilities and City utility departments have been granted.

DISCUSSION

On October 14, 2013, 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 13-4491 SUBMITTED BY ALAN REID AND ASSOCIATES FOR PROPERTIES LOCATED AT 2315 & 2319 NORTH MARKS MILL LANE TO VACATE AN UTILITY EASEMENT, A TOTAL OF 1,363 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 utility easement 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 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 "B"
VAC 13-4491

DESCRIPTION OF EASEMENT TO BE VACATED

A TEN (10) FOOT WIDE UTILITY EASEMENT BEING DESCRIBED AS FOLLOWS: A PART OF LOT 117 & 118 OF THE CORRECTED REPLAT OF PHASE 1, SUMMIT PLACE SUBDIVISION, FAYETTEVILLE, ARKANSAS, AS PER THE RECORDED CORRECTED REPLAT OF SAID SUBDIVISION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, SUBJECT TO EASEMENTS, RIGHTS-OF-WAY AND RESTRICTIONS OF RECORD, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 117; THENCE S45°13'13"W 5.00 FEET ALONG THE SOUTH LINE OF SAID LOT 117 TO THE SOUTHWEST CORNER OF SAID 10 FOOT WIDE EASEMENT; THENCE LEAVING THE SOUTH LINE OF SAID LOT 117 AND RUNNING PARALLEL WITH THE BOUNDARY LINE BETWEEN LOTS 117 & 118, N44°25'00"W 137.28 FEET ALONG THE WESTERN BOUNDARY OF SAID EASEMENT TO A POINT ON THE SOUTH BOUNDARY OF AN EXISTING 20 FOOT WIDE ACCESS AND UTILITY EASEMENT; THENCE N55°14'04"E 5.07 FEET ALONG THE SOUTH LINE SAID 20 FOOT ACCESS AND UTILITY EASEMENT TO A POINT ON THE BOUNDARY LINE BETWEEN LOTS 117 & 118; THENCE N55°20'41"E 5.07 FEET ALONG THE SOUTH LINE OF SAID 20 FOOT ACCESS AND UTILITY EASEMENT TO THE NORTHEAST CORNER OF SAID 10 FOOT WIDE EASEMENT TO BE VACATED; THENCE LEAVING THE SOUTH LINE OF SAID 20 FOOT ACCESS AND UTILITY EASEMENT AND RUNNING PARALLEL WITH THE BOUNDARY LINE BETWEEN LOTS 117 & 118, S44°25'00"E 135.50 FEET ALONG THE EASTERN BOUNDARY OF SAID EASEMENT TO A POINT ON THE SOUTH BOUNDARY OF SAID LOT 118; THENCE S45° 13'13"W 5.00 FEET TO THE POINT OF BEGINNING.



PC Meeting of October 14, 2013

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: ~~October 8, 2013~~ UPDATED October 17, 2013

VAC 13-4491: Vacation (2315 & 2319 N. MARKS MILL LN./ZWEIG, 329): Submitted by ALAN REID AND ASSOCIATES for properties located at 2315 AND 2319 NORTH MARKS MILL LANE. The properties are zoned NC, NEIGHBORHOOD CONSERVATION and contains a total of 0.36 acres. The request is to vacate a utility easement.

Planner: Quin Thompson

Findings:

Property and Background: The subject property is located south of Township Street and northwest of Marks Mill Lane in the Summit Place subdivision. The applicant is in the process of adjusting the property lines of three adjacent lots (PLA 13-4441,) which will result in the elimination of the center lot. A General Utility Easement is platted on a boundary line that will be moved; the easement will be unnecessary and at the same time restrict development of the lot on which it is located. There are currently no utilities within the subject easement.

**Table 1
 Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North	Stormwater Detention/Undeveloped	NC, Neighborhood Conservation
South	Single family residential	NC, Neighborhood Conservation
East	Single family residential	NC, Neighborhood Conservation
West	Mixed Commerical / Single family residential	C-2, Thoroughfare Commercial/ NC, Neighborhood Conservation

Request: The applicant requests a vacation of an unused general utility easement as indicated on the submitted exhibit.

Easement Vacation Approval: Permissions from the franchise utilities and City utility departments have been granted.

Public Comment: No public comment has been received.

Recommendation: The subject general utility easement is not necessary and restricts development of the proposed lot on which it occurs. Staff recommends forwarding **VAC 13-4491** to the City Council with a recommendation for approval.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: X Forwarded Denied Tabled

Date: October 14, 2013

Motion: WINSTON

Second: CHESSER

Vote: 8-0-0

Notes: CONSENT AGENDA



Alan Reid
& ASSOCIATES, LLC
PROFESSIONAL
LAND
SURVEYORS

September 3, 2013

City of Fayetteville
Planning & Engineering
125 West Mountain Street
Fayetteville, Arkansas 72701

Re: Utility Easement Vacation

Dear Planner,

On behalf of my clients, TMS Development and Mark Zweig, Inc., I am submitting for your review a proposed utility easement vacation. The easement is ten (10) feet in width and is centered on the boundary line between Lots 117 & 118 of Summit Place Subdivision.

My client is in the process of obtaining a property line adjustment of Lots 117, 118 & 119 of said Summit Place Subdivision. His intent is to eliminate Lot 118, thus enlarging the remaining two lots. An easement vacation is being requested to remove that easement which would restrict his new building area.

The easement which is being asked to be vacated contains no utility services. Arkansas One Call has visited the site and confirms this. I have received approval to vacate the easement from all utilities companies.

If you have any questions or comments, please contact me at: 479-444-8784.

Best regards,

A handwritten signature in black ink, appearing to read 'Alan Reid'.

Alan Reid
Professional Land Surveyor

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

DATE: 11/15/13

UTILITY COMPANY: COX

APPLICANT NAME: MARK ZWELG/TMS DEV APPLICANT PHONE: 508-380-0469
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 position to vacate the following (~~alley~~, easement, right-of-way), described as follows:

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

** 2315/2319 MARKS MILL LANE, 72703

(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 owners/developers expense.

Request a final plat showing this easement vacation be sent to my office via email.

Chad A. [Signature]
Signature of Utility Company Representative

Construction Planner III
Title

UTILITY APPROVAL FORM

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

DATE: 8/15/13

UTILITY COMPANY: AEP/KUEPLO

APPLICANT NAME: MARK ZWEIF/TWS DEV. APPLICANT PHONE: 508-380-0469
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)**

** 2315/2319 MARK'S MILL LANE, 72703

(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 relocation of existing facilities will be
@ the OWNER'S expense.

Reed R. Bestman
Signature of Utility Company Representative

Project Engineer
Title

UTILITY APPROVAL FORM

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

DATE: 8/15/13

UTILITY COMPANY: DECC

APPLICANT NAME: MARK ZWEIF/TNS DEY APPLICANT PHONE: 508-380-0469
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**)

** 2315, 2319 MARK'S MILL LAKE, 72703

(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: 11/15/13

UTILITY COMPANY: AWW - SOURCE ONE

APPLICANT NAME: MARK ZWIG/TMS DEV: APPLICANT PHONE: 508-380-0469
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**)

** 2315/2319 MARK'S MILL LANE, 72703

(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

Divisional Manager

Title

UTILITY APPROVAL FORM

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

DATE: 8/15/13

UTILITY COMPANY: TRANSPORTATION

APPLICANT NAME: MARK ZWELG/TMS DEV APPLICANT PHONE: 508-380-0469

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**)

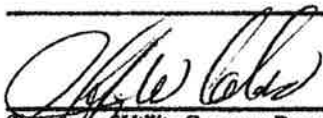
** 2315/2319 MARKS MILL LANE, 72703

(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

ASSISTANT TRANSPORTATION MANAGER

Title

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

DATE: 8/15/13

UTILITY COMPANY: SOLID WASTE

APPLICANT NAME: MARK ZWIG/TMS DEV APPLICANT PHONE: 506-380-0409
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**)

** 2315/2319 MARKS MILL LALE. 72703

(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 Rupp
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

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

DATE: 8/15/13

UTILITY COMPANY: WATER & SEWER

APPLICANT NAME: MARK ZWIG/THE DEV APPLICANT PHONE: 508-360-0469
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**)

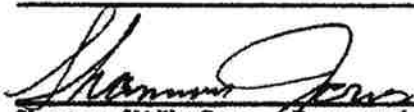
** 2315/2319 MARKS MILL LANE, 72703

(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 purposes 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: 11/15/13

UTILITY COMPANY: ATI

APPLICANT NAME: MARK ZWEIF/TMS Dev. APPLICANT PHONE: 508-380-0469
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 position to vacate the following (alley, easement, right-of-way), described as follows:

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

2315/2319 MARK'S MILL LANE, 72703

(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:

RELOCATION OF OR DAMAGE TO ANY EXISTING AT&T/
SWBT PLANT WILL BE @ THE APPLICANT'S EXPENSE

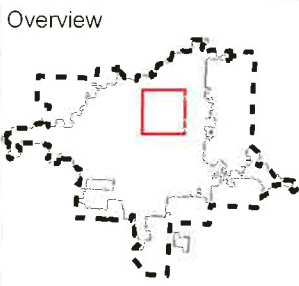
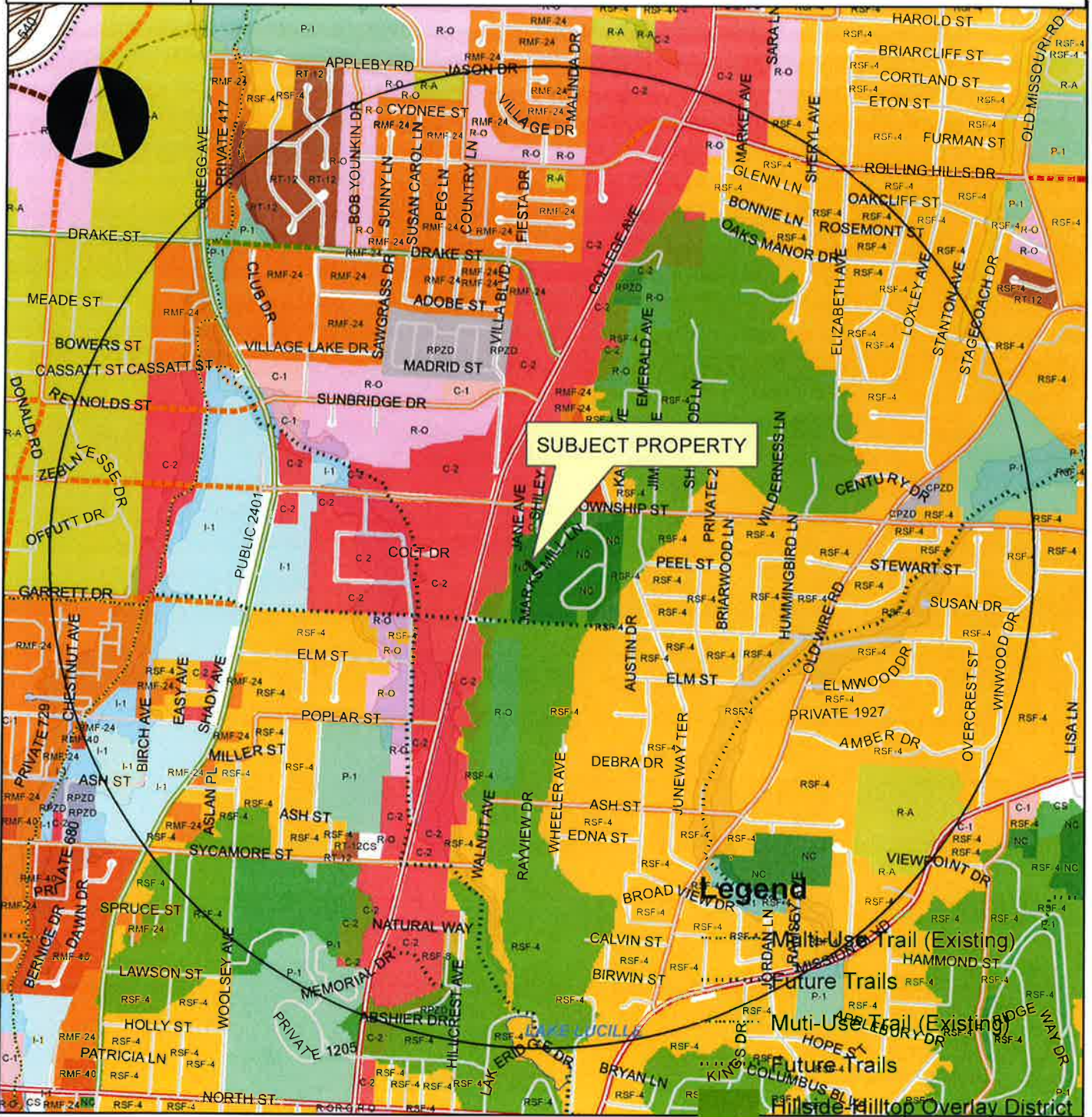
Susan K Clouser
Signature of Utility Company Representative

OSP DESIGN ENGINEER
Title

VAC13-4491

ZWEIG

One Mile View



Legend	VAC13-4491
Subject Property	Design Overlay District
	Planning Area
	Fayetteville

0	0.25	0.5	1
Miles			

VAC13-4491

ZWEIG

Close Up View



SUBJECT PROPERTY

NC

C-2

RSF-4

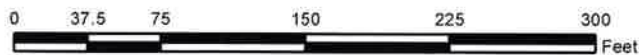
Legend

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

Overview

VAC13-4491

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



PETITION TO VACATE A TEN (10) FOOT WIDE UTILITY EASEMENT BETWEEN LOT ONE HUNDRED SEVENTEEN (117) AND ONE HUNDRED EIGHTEEN (118), SUMMIT PLACE SUBDIVISION TO THE 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 utility easement hereinafter sought to be abandoned and vacated, lying between Lots 118 & 119, Summit Place Subdivision, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate of said easement which is described as follows:

DESCRIPTION OF EASEMENT ENCROACHMENT

A TEN (10) FOOT WIDE UTILITY EASEMENT, SAID EASEMENT BEING FIVE (5) FEET EACH SIDE OF THE BOUNDARY LINE BETWEEN LOTS 117 & 118 OF SUMMIT PLACE SUBDIVISION TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS SHOWN ON PLAT OF SAID SUBDIVISION FILED IN THE LAND RECORDS OF WASHINGTON COUNTY, ARKANSAS.

That the abutting real estate affected by said abandonment of the utility easement is (1) Lot 117, Summit Place Subdivision, (2) Lot 118, Summit Place Subdivision, (3) Lot 125, an existing detention pond out lot lying to the North of the petitioners property and (4) the street right-of-way of Mark's Mill Lane, lying South of the petitioners property and, and that the public interest and welfare would not be adversely affected by the abandonment of the above described utility easement.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described utility easement.

Dated this ____ day of _____, 2012

Printed name

Signature

Printed name

Signature

