

City of Fayetteville Item Review Form

2014-0022

Legistar File Number

02/04/2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jesse Fulcher

Submitted By

Development Services

Department

Action Required:

VAC 13-4567: Vacation (1851 E. HUNTSVILLE ROAD/KUM AND GO, 565): Submitted by CEI ENGINEERING for property located at 1851 EAST HUNTSVILLE ROAD. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 1.93 acres. The request is to vacate a water/sewer easement.

Does this item have a cost? No

| | | |
|---|--|-----------------------------|
| Cost of this request | Category or Project Budget | Program or Project Name |
| Account Number | Funds Used to Date \$0.00 | Program or Project Category |
| Project Number | Remaining Balance | Fund Name |
| Budgeted Item? <input type="checkbox"/> | Budget Adjustment Attached? <input type="checkbox"/> | |

V20130812

01-17-14 11:26 RCVD

Previous Ordinance or Resolution # _____

Original Contract Number: _____

Comments:

dmw
Keeper 1-17-14

ENTERED
1-17-14
JK

Paul a. Buber
Paul a. Buber for Dan Mann
David Jackson

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

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

From: Jesse Fulcher, Senior Planner

Date: January 16, 2014

Subject: VAC 13-4567: Vacation (1851 E. Huntsville/Kum & Go)

RECOMMENDATION:

The Planning Commission and Planning Division staff recommend approval of an ordinance to vacate two existing water and sewer easements.

BACKGROUND:

The subject property is located at the southeast corner of Huntsville Road and Happy Hollow Road and is owned by the City of Fayetteville. A large scale development application for Kum & Go convenience store was recently permitted by the Planning Commission and a land sale agreement is in place. Within the property there are two 20-foot wide water and sewer easements that will conflict with the development of the property. There are no utilities within either of the easements.

The applicant's request is to vacate the existing 20-foot water and sewer easements as indicated on the attached exhibit.

DISCUSSION:

On January 13, 2014 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 13-4567 SUBMITTED
BY CEI ENGINEERING FOR PROPERTY LOCATED AT 1851
EAST HUNTSVILLE ROAD TO VACATE WATER/SEWER
EASEMENT, A TOTAL OF 7,193 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/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/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.

PASSED and **APPROVED** this day of , 2014.

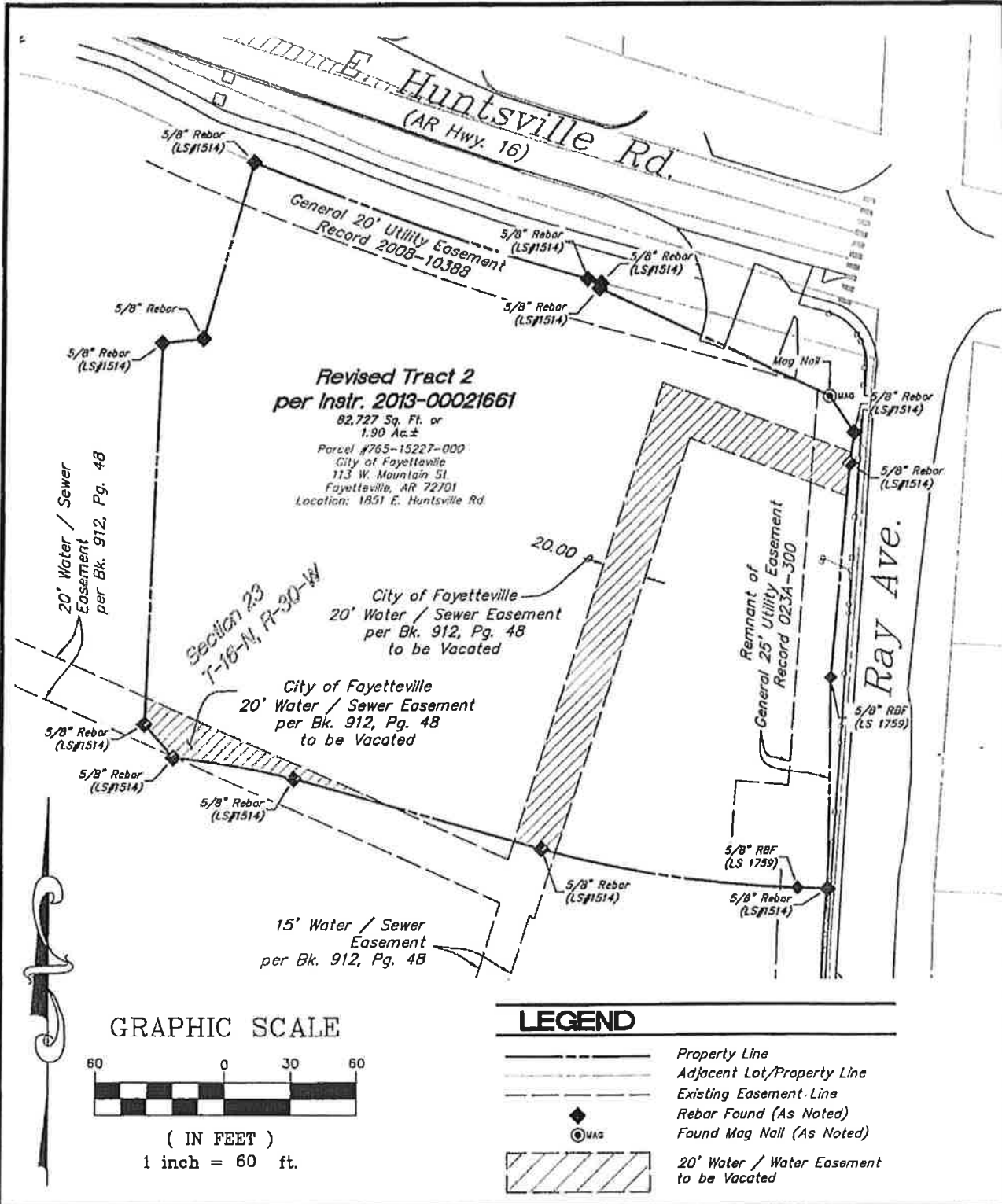
APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

EXHIBIT "A"
VAC 13-4567



JOB # 130427047 DRAWING 2013-11-19-13-4567-CALCULATED-DIMENSIONS LAST SAVED BY: INKEDOWN

CEI Engineering Associates, Inc.
 ENGINEERS • PLANNERS • SURVEYORS
 LANDSCAPE ARCHITECTS • ENVIRONMENTAL SCIENTISTS
 3108 SW Regency Parkway, Suite 2 Phone PH: (479)273-9472
 Bentonville, AR 72712 Fax FAX: (479)273-0844

City of Fayetteville
 Scale: 1" = 60'

| | | | | |
|----------|-----|----|-----|-------|
| 11/19/13 | NKN | ## | TLP | KMH |
| DATE | PLS | PM | DRW | CHK'R |

EXHIBIT A
 E. Huntsville Rd & Happy Hollow Rd
 Fayetteville Arkansas
 DATE 11/19/13 8:31 AM
 SHEET NO. 1 OF 1
 REV-0

EXHIBIT "B"
VAC 13-4567

TRACT OF LAND SITUATED IN A PART OF THE NE1/4 OF THE NW1/4 OF SECTION 23, TOWNSHIP 16 NORTH, RANGE 30 WEST OF THE 5TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 323.8 FEET SOUTH OF THE NW CORNER OF THE SAID NE¼ OF THE NW¼ OF ABOVE DESCRIBED SECTION 23, THENCE SOUTH 68°08' EAST 220 FEET, THENCE SOUTH 70°10' EAST 225 FEET, THENCE SOUTH 76°43' EAST 214 FEET, THENCE SOUTH 1°08' EAST 700 FEET, THENCE NORTH 89° WEST 325 FEET, THENCE NORTH 45° WEST 475 FEET, MORE OR LESS, TO A POINT 550 FEET SOUTH OF THE POINT OF BEGINNING, THENCE NORTH 550 FEET TO THE POINT OF BEGINNING, CONTAINING 9.5 ACRES, MORE OR LESS.

A PERMANENT EASEMENT OF 15 FEET IN WIDTH, BEING 7½ FEET EITHER SIDE OF A CENTERLINE. SAID CENTERLINE BEGINNING AT A POINT ON THE EAST PROPERTY LINE OF THE ABOVE DESCRIBED REAL ESTATE, SAID POINT BEING SOUTH 1°08' EAST 79 FEET, FROM THE NE CORNER OF SAID REAL ESTATE; RUNNING THENCE NORTH 72°45' WEST 94 FEET, THENCE SOUTH 15°10' WEST 335 FEET TO A POINT.

ALSO A PERMANENT EASEMENT OF 20 FEET WIDTH, BEING 10 FEET EITHER SIDE OF A CENTERLINE. SAID CENTERLINE BEGINNING AT A POINT WHICH IS SOUTH 1°08' EAST 79 FEET, THENCE NORTH 72°45' WEST 94 FEET, THENCE SOUTH 15°10' WEST 235 FEET FROM THE NE CORNER OF SAID REAL ESTATE AND RUNNING THENCE NORTH 68°45' WEST 341 FEET, THENCE NORTH 81°00' WEST TO THE EAST RIGHT-OF-WAY LINE OF HIGHWAY 16 BYPASS, TO A POINT, SAID POINT BEING APPROXIMATELY 25 FEET EAST 347 FEET SOUTH OF THE NW CORNER OF THE ABOVE DESCRIBED REAL ESTATE.



PC Meeting of January 13, 2014

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, Senior Planner
 DATE: January 3, 2014 Updated January 16, 2014

VAC 13-4567: Vacation (1851 E. HUNTSVILLE ROAD/KUM AND GO, 565): Submitted by CEI ENGINEERING for property located at 1851 EAST HUNTSVILLE ROAD. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 1.93 acres. The request is to vacate a water/sewer easement. Planner: Jesse Fulcher

Findings:

Property and Background: The subject property is located at the southeast corner of Huntsville Road and Happy Hollow Road and is owned by the City of Fayetteville. A large scale development application for Kum & Go convenience store was recently permitted by the Planning Commission and a land sale agreement is in place. Within the property there are two 20 foot wide water and sewer easements that will conflict with the development of the property. There are no utilities within either of the easements. Surrounding land use and zoning is depicted in *Table 1*.

**Table 1
 Surrounding Land Use and Zoning**

| Direction from Site | Land Use | Zoning |
|---------------------|---|---|
| North | Church | C-1, Neighborhood Commercial, C-2, Thoroughfare Commercial and P-1, Institutional |
| South | Fire Station, Warehouse, Single-family home | P-1, Institutional, C-2, Thoroughfare Commercial, RSF-4, Residential Single-family |
| East | Residential | C-1, Neighborhood Commercial, RMF-24, Residential Multi-family and RSF-4, Residential Single-family |
| West | Funeral Home | C-1, Neighborhood Commercial and RSF-4 |

Request: The applicant's request is to vacate the existing 20-foot water and sewer easements as indicated on the attached exhibit.

Easement Vacation Approval: The applicant has submitted the required easement vacation forms to the City Utility Departments and applicable franchise utilities, with no objections.

| <u>UTILITIES</u> | <u>RESPONSE</u> |
|-------------------------------------|-----------------|
| Cox Communications | N/A |
| Southwestern Electric Power Company | N/A |
| Source Gas | N/A |
| AT&T | N/A |
| <u>CITY OF FAYETTEVILLE:</u> | <u>RESPONSE</u> |
| Water/Sewer | No objections |
| Solid Waste | No objections |

Public Comment: No public comment has been received.

Recommendation: Staff recommends forwarding VAC 13-4567 to the City Council with a recommendation for approval.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: Forwarded Denied Tabled

Date: January 13, 2014

Motion: Winston

Second: Cook

Vote: 7-0-0

Notes: Removed from consent to answer questions from neighbor.

PETITION TO VACATE AN easement LOCATED IN book 912 at page 48 at Washington County, Arkansas
Circuit Clerk's Office and dated June 14, 1976, 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 (*alley, easement, right-of-way*) hereinafter sought to be abandoned and vacated, lying in (*lot, block, subdivision*), City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a(n) (*alley, easement, right-of-way*) which is described as follows:

(Legal Description of area to be vacated)

THAT ENTIRE PORTION OF A 15 FEET WIDE PERMANENT EASEMENT AND THAT ENTIRE PORTION OF A 20 FEET WIDE PERMANENT EASEMENT, RECORDED IN BOOK 912 AT PAGE 48 AT WASHINGTON COUNTY, ARKANSAS CIRCUIT CLERK'S OFFICE, AND DATED JUNE 14, 1976, OVER, UPON, AND ACROSS REVISED TRACT 2 OF MEXICAN ORIGINAL PROPERTY LINE ADJUSTMENT, ACCORDING TO INSTRUMENT 2013-00021661, AND BEING A PART OF THE NORTHEAST QUARTER (NE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION TWENTY THERE (23), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, FIFTH PRINCIPAL MERIDIAN.

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 12 day of December, 2013.

Siobhan Harman

Printed Name

Signature

Lionel Jordan

Printed Name

Signature

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

DATE: 11/19/13

UTILITY COMPANY: City of Fayetteville Water and Sewer

APPLICANT NAME: Siobhan Harmon, Kum & Go, L.C. APPLICANT PHONE: (515) 457-6232
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**)

** 1851 East Huntsville Road, Fayetteville, Arkansas 72701

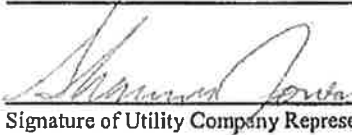
(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

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.)

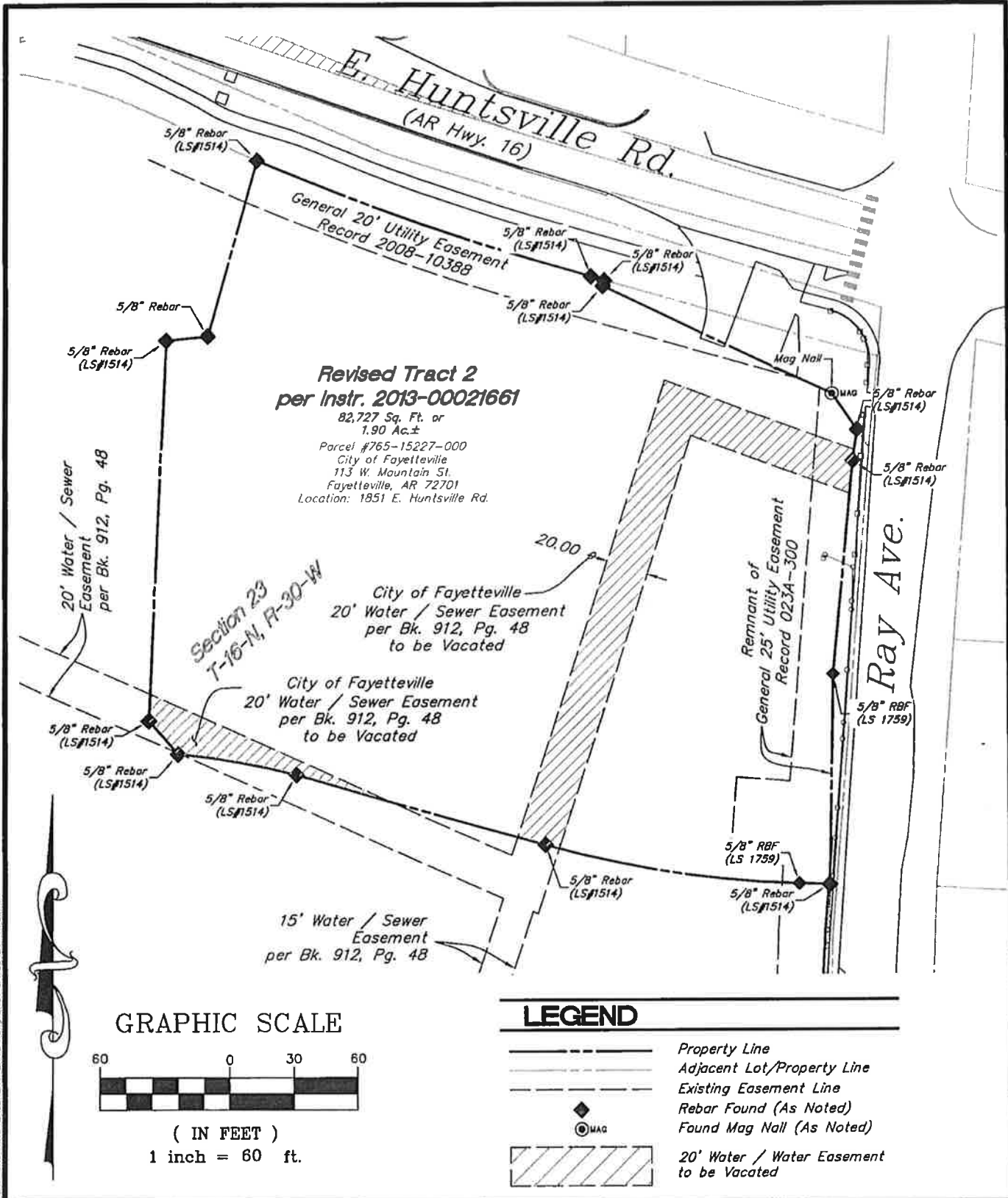
No objections provided the following conditions are met:



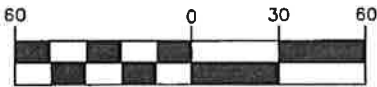
Signature of Utility Company Representative

Utilities Engineer

Title



GRAPHIC SCALE



(IN FEET)
 1 inch = 60 ft.

LEGEND

- Property Line
- Adjacent Lot/Property Line
- Existing Easement Line
- ◆ Rebar Found (As Noted)
- ⊙ MAG Found Mag Nail (As Noted)
- ▨ 20' Water / Water Easement to be Vacated



Engineering Associates, Inc.

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Phone PH: (479)273-9472
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City of Fayetteville

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| | | | | |
|----------|-----|----|-----|-------|
| 11/19/13 | NKN | ## | TLP | KMH |
| DATE | PLS | PM | DRW | CHK'R |

EXHIBIT A

**E. Huntsville Rd. & Happy Hollow Rd
 Fayetteville Arkansas**

| | |
|----------|-----------|
| DATE | SHEET NO. |
| 11/19/13 | 1 OF 1 |
| 8:31 AM | |
| REV-0 | |

Easement Vacation Description:

Kum & Go, L.C., Store #418
Fayetteville, Washington County, AR

THAT ENTIRE PORTION OF A 15 FEET WIDE PERMANENT EASEMENT AND THAT ENTIRE PORTION OF A 20 FEET WIDE PERMANENT EASEMENT, RECORDED IN BOOK 912 AT PAGE 48 AT WASHINGTON COUNTY, ARKANSAS CIRCUIT CLERK'S OFFICE, AND DATED JUNE 14, 1976, OVER, UPON, AND ACROSS REVISED TRACT 2 OF MEXICAN ORIGINAL PROPERTY LINE ADJUSTMENT, ACCORDING TO INSTRUMENT 2013-00021661, AND BEING A PART OF THE NORTHEAST QUARTER (NE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION TWENTY THREE (23), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, FIFTH PRINCIPAL MERIDIAN.



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3108 S.W. Regency Parkway, Suite 2
Bentonville, AR 72712
479.273.9472 Fax 479.273.0844

DISTRIBUTION:
RER/File
Kum & Go, 418

December 2, 2013

City of Fayetteville
Planning Commission and City Council
113 W. Mountain Street
Fayetteville, AR 72701
Attn: Chair of the Board

**Re: Kum & Go #418 – General Utility Easement Vacation Request
1851 East Huntsville Road
Fayetteville, Arkansas 72701
CEI Project No. 27547.0**

To the Fayetteville City Planning Commission and City Council:

This is a formal request for a vacation of a portion of the water/sewer utility easement located within the Parcel #765-15227-000. A portion of this 7.66± acre site will include the proposed Kum & Go property. The area of the easement to be vacated contains no utilities that impact any of the surrounding parcels; the easement was dedicated as part of a previous Large Scale Development plan. Kum & Go requests the easement vacation in order to construct a 4,991 s.f. convenience store with 8 fuel pumps and on-site parking.

Large Scale Development plans were submitted to the City Planning Department (LSD 13-4414) on December 4, 2013 and shall be considered inclusive of this request.

We appreciate your consideration in this matter, and if you have questions or concerns, please do not hesitate to call.

Respectfully submitted,

CEI Engineering Associated, Inc.


Mike Clotfelter, Project Designer

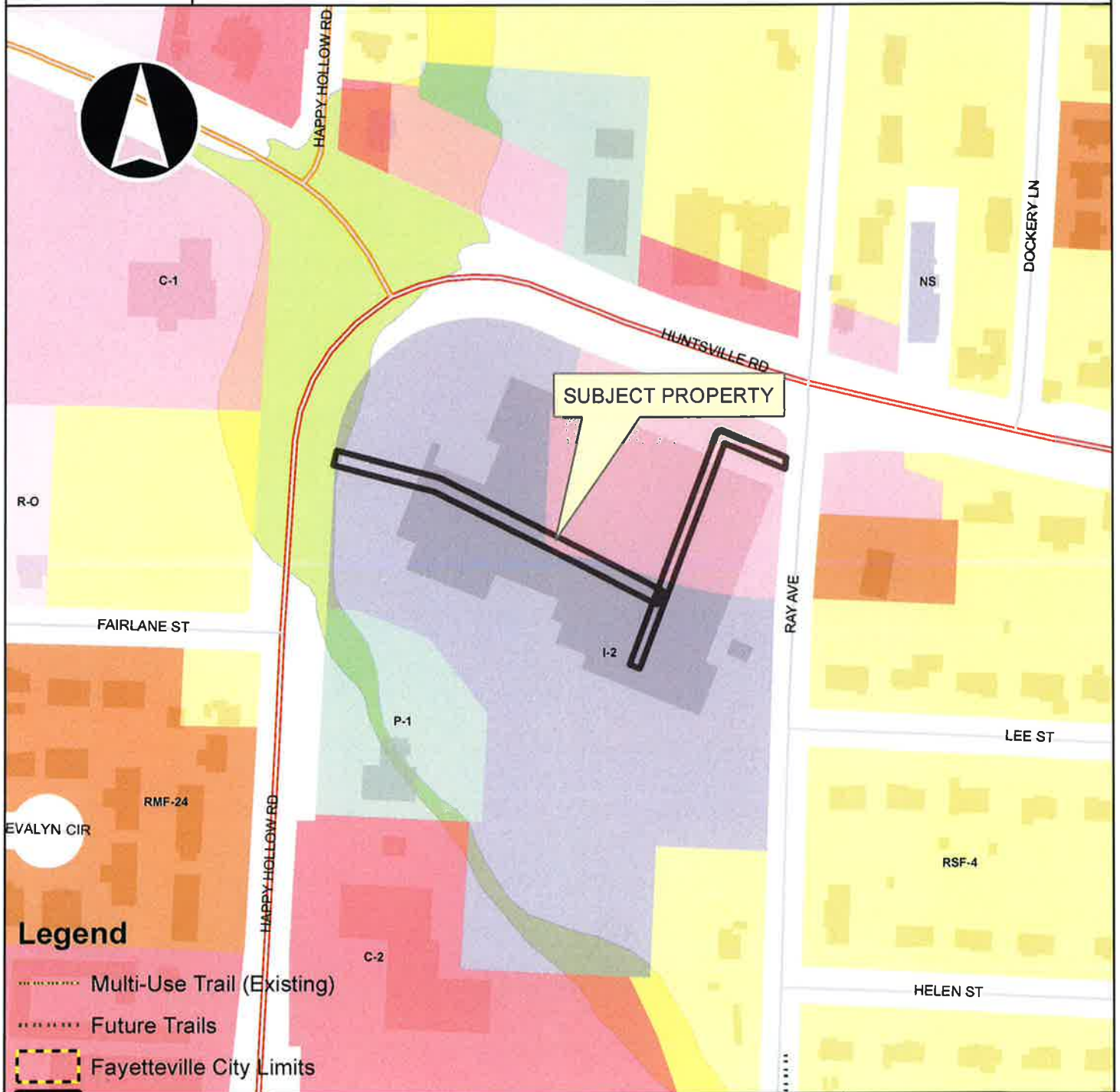
Providing Comprehensive Land Development Services

CALIFORNIA ■ ARIZONA ■ TEXAS ■ ARKANSAS ■ ILLINOIS ■ GEORGIA ■ VIRGINIA

VAC13-4567

KUM AND GO

Close Up View



Legend

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

Overview VAC13-4567

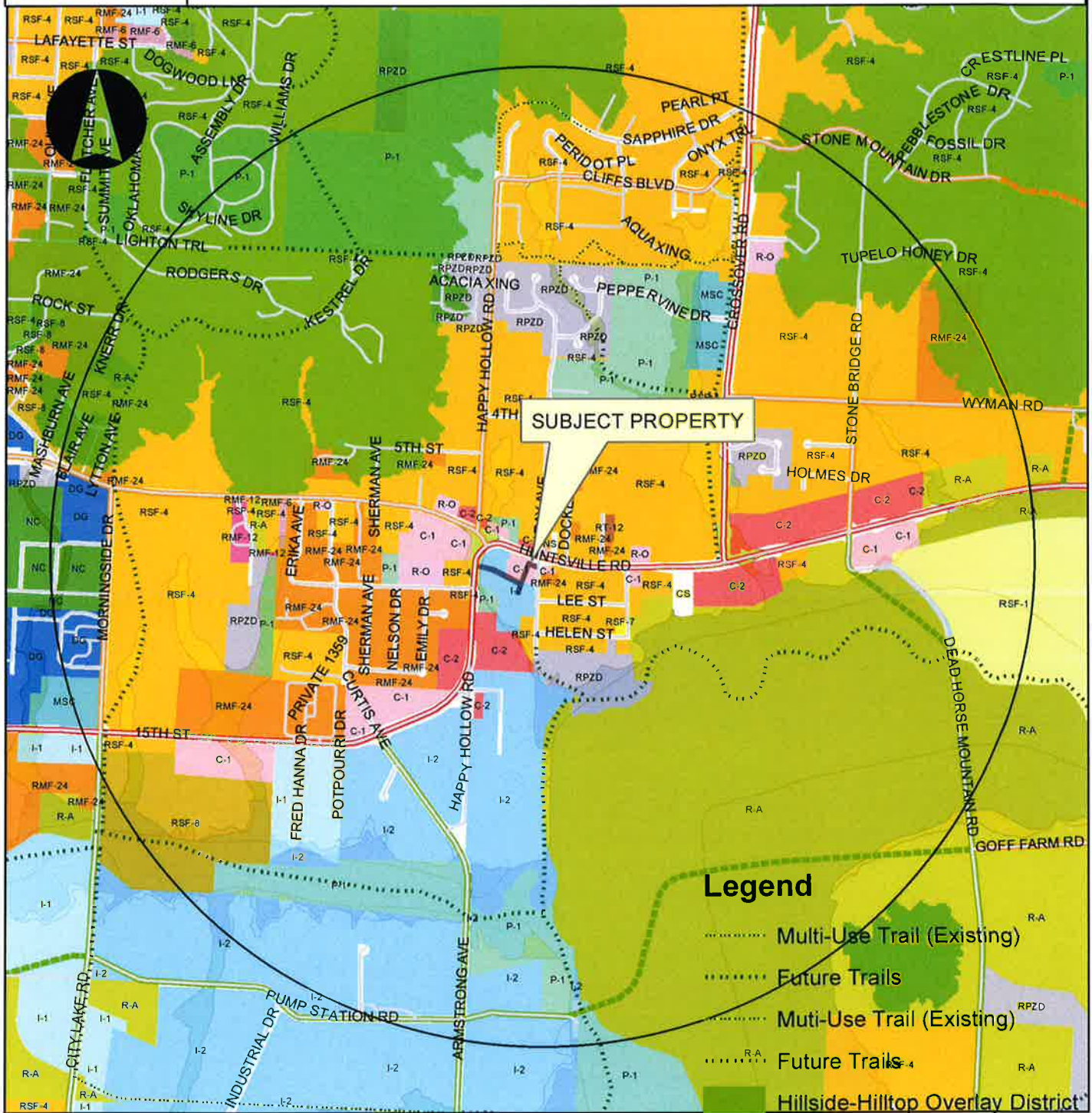
- Footprints 2010
- Hillside-Hilltop Overlay District
- Design Overlay District
- Design Overlay District
- Planning Area



VAC13-4567

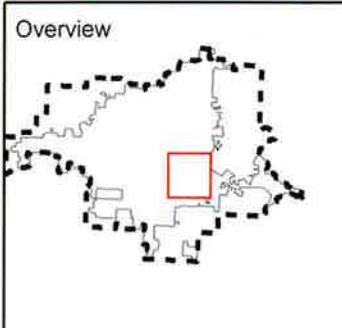
KUM AND GO

One Mile View



Legend

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



Legend

- Subject Property
- VAC13-4567
- Boundary

0 0.25 0.5 1 Miles

- VAC13-4567
- Design Overlay District
- Planning Area
- Fayetteville