

City of Fayetteville Item Review Form

2014-0263

Legistar File Number

07/01/2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Quin Thompson

Submitted By

Development Services

Department

Action Required:

VAC 14-4740: Vacation (514 W. MLK BLVD/FILBECK, 523): Submitted by BLEW & ASSOCIATES for property located at 514 W. MLK BLVD. The property is zoned MSC, MAIN STREET/CENTER and contains approximately 0.76 acres. The request is to vacate an existing utility 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

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

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

Comments:



*Long Clark 06-11-2014*  
*OK [signature] 6-12-14*

*Paul A. Becker 6-12-2014*

*Long Man 6-12-14*  
*[signature]*

## CITY COUNCIL AGENDA MEMO

### MEETING OF JULY 1, 2014

**TO:** Fayetteville City Council

**THRU:** Andrew Garner, City Planning Director *ameg*

**FROM:** Quin Thompson, Current Planner

**DATE:** June 10, 2014

**SUBJECT:** **VAC 14-4740: Vacation (514 W. MLK BLVD/FILBECK, 523):** Submitted by BLEW & ASSOCIATES for property located at 514 W. MLK BLVD. The property is zoned MSC, MAIN STREET/CENTER and contains approximately 0.76 acres. The request is to vacate existing utility easements.

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### RECOMMENDATION:

Staff and the Planning Commission recommend approval of an ordinance to vacate utility easements as requested.

### BACKGROUND:

The subject 0.76-acre property is at 514 West Martin Luther King Boulevard, is zoned MSC, Main Street Centre and is developed with a small auto repair shop and storage yard that is not in use. There are existing utility easements that entirely bisect the site including the existing building. The applicant requests vacation of these utility easements, as indicated on the attached survey.

### DISCUSSION:

On June 9, 2014 the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 6-0-0.

### BUDGET/STAFF IMPACT:

N/A

### Attachments:

CC Ordinance  
Exhibit A  
Exhibit B  
Planning Commission Staff Report

**ORDINANCE NO.**

AN ORDINANCE APPROVING VAC 14-4740 SUBMITTED BY BLEW AND ASSOCIATES FOR PROPERTY LOCATED AT 514 W. MLK BLVD TO VACATE AN EXISTING UTILITY EASEMENT.

**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 easements are 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 portions of utility easements described in Exhibit "B" attached hereto and made a part thereof.

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'

## 14-4740

VAC14-4740

### FILBECK

Close Up View

PRAIRIE ST



DG

GREGG AVE

SUBJECT PROPERTY

P

MARTIN LUTHER KING BLVD

MSC

#### Legend

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

Overview VAC14-4740

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



**EXHIBIT "B"**  
**VAC 14-4740**

PROPOSED EASEMENT VACATION

AN EXISTING UTILITY EASEMENT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT THAT IS N89°57'29"E 25.00', N00°02'31"W 15.03' AND S88°03'50"E 84.54' FROM THE SOUTHWEST CORNER OF LOT 16 AND RUNNING THENCE N00°01'23"E 42.83'; THENCE S89°55'39"W 84.54'; THENCE N00°02'31"W 10.00'; THENCE N89°55'39"E 84.55'; THENCE N00°01'23"E 130.40'; THENCE N89°57'29"E 20.00'; THENCE S00°01'23"W 130.39'; THENCE N89°55'39"E 64.23'; THENCE S00°04'21"E 10.00'; THENCE S89°55'39"W 64.25'; THENCE S00°01'23"W 43.53'; THENCE N88°03'50"W 20.01' TO THE POINT OF BEGINNING.



## PLANNING COMMISSION MEMO

**TO:** Fayetteville Planning Commission

**THRU:** Andrew Garner, City Planning Director

**FROM:** Quin Thompson, Current Planner

**MEETING DATE:** ~~June 9, 2014~~ Updated June 10, 2014

**SUBJECT:** **VAC 14-4740: Vacation (514 W. MLK BLVD/FILBECK, 523):** Submitted by BLEW & ASSOCIATES for property located at 514 W. MLK BLVD. The property is zoned MSC, MAIN STREET/CENTER and contains approximately 0.76 acres. The request is to vacate an existing utility easement.

**RECOMMENDATION:**

Staff recommends forwarding **VAC 14-4740** to the City Council with a recommendation for approval.

**BACKGROUND:**

*Property and background:* The subject 0.76-acre property is at 514 West Martin Luther King Boulevard, is zoned MSC, Main Street Centre and is developed with a small auto repair shop and storage yard. There are existing utility easements that entirely bisect the site including the existing building. Surrounding land use and zoning is depicted in *Table 1*.

**Table 1**  
**Surrounding Land Use and Zoning**

Direction from Site	Land Use	Zoning
North	Single family residence	DG, Downtown General
South	Farmer's Co-op	MSC, Main Street Center
East	Frisco multi-use trail	P-1, Institutional
West	Screen printing shop	MSC, Main Street Center

*Proposal:* The applicant requests vacation of utility easements that bisect the site, as indicated on the attached survey.

**DISCUSSION:**

*Vacation Approval:* The applicant has submitted the required vacation forms to the City utility departments and applicable franchise utilities, with no objections.

**UTILITIES**

Cox Communications

**RESPONSE**

No objections

AEP/SWEPCO

No objections

Source Gas

No objections

AT&T

No objections

**CITY OF FAYETTEVILLE:**

**RESPONSE**

Water/Sewer

No objections

**Public Comment:**

No public comment has been received.

**Recommendation:**

Staff recommends forwarding **VAC 14-4740** to the City Council with a recommendation for approval subject to the following conditions:

**Conditions of Approval:**

1. Any relocation or damage to utilities shall be at the owner/developer's expense.

<b>PLANNING COMMISSION ACTION: Required</b>			
Date: <u>June 9, 2014</u>	<input type="checkbox"/> Tabled	<input checked="" type="checkbox"/> Forwarded	<input type="checkbox"/> Denied
Motion: <u>Winston</u>	Second: <u>Autry</u>	Vote: <u>6-0-0</u>	Note: <u>On the consent agenda.</u>
<b>CITY COUNCIL ACTION: Required</b>			
Date: _____	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	

**BUDGET/STAFF IMPACT:**

None

**Attachments:**

Request Letter

Petition to Vacate

Utility Approvals

Easement Vacation Exhibit

One Mile Map

Close Up Map





**Blew Associates, P.A.**  
Civil Engineers Professional Land Surveyors

524 W. Sycamore Street Suite #4 Fayetteville, AR 72703  
PH: 479-443-4506 \* FAX: 479-582-1883  
<http://www.blewinc.com>

April 30, 2014

City of Fayetteville Planning Commission and  
City of Fayetteville City Council.

We would like to present for your consideration a request for an easement  
vacation on behalf of Krystal Filbeck

We ask for a vacation of the areas as shown on the attached drawing where  
during the process of a property boundary survey, the main existing building  
were found to encroach upon an existing utility easement.

We would request a vacation of these areas to remove the buildings from  
encroaching upon these easements.

Thank you for your consideration on this matter.

Scott Blacksher  
Office Manager

**PETITION TO VACATE AN EASEMENT LOCATED IN BLOCK 21, FERGUSON'S ADDITION,  
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 easement hereinafter sought to be abandoned and vacated, lying in Block 21, Ferguson's Addition, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

AN EXISTING UTILITY EASEMENT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT THAT IS N89°57'29"E 25.00', N00°02'31"W 15.03' AND S88°03'50"E 84.54' FROM THE SOUTHWEST CORNER OF LOT 16, BLOCK 21 OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AND RUNNING THENCE N00°01'23"E 42.83'; THENCE S89°55'39"W 84.54'; THENCE N00°02'31"W 10.00'; THENCE N89°55'39"E 84.55'; THENCE N00°01'23"E 130.40'; THENCE N89°57'29"E 20.00'; THENCE S00°01'23"W 130.39'; THENCE N89°55'39"E 64.23'; THENCE S00°04'21"E 10.00'; THENCE S89°55'39"W 64.25'; THENCE S00°01'23"W 43.53'; THENCE N88°03'50"W 20.01' TO THE POINT OF BEGINNING.

That abutting real estate affected by said abandonment of the easement are a part of block 21, Ferguson's Addition, 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 the 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 easements of the public for the use of said easement.

Dated this 19th day of MAY, 2014.

Printed Name

  
Signature

Printed Name

Signature

### UTILITY RELEASE FORM

General Utility Easement, Drainage Easement, Public Access Easement, Alley, Street, R.O.W.

Utility Company Cox Communications Date 4/25/2014

Requested Vacation Job# 14-203

I have been notified of the petition to vacate the following described as follows: 514 W. MLK BLVD

Legal Description

*Handwritten:* 514 W. MLK BLVD

UTILITY COMPANY COMMENTS (Send release form to the applicant's provided address).

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided the following described easements are retained.
- Objects to the vacation(s) described above, reason described below.

Describe reasons for objection or easements to be retained

Any damage to or relocation of existing facilities will be at the owners/developers expense.

Charl A. [Signature]  
Signature of Utility Company Representative

Construction Planner III NWA  
Title

### UTILITY RELEASE FORM

General Utility Easement, Drainage Easement, Public Access Easement, Alley, Street, R.O.W.

Utility Company AEP SWEPCO Date 3-26-14

Requested Vacation

I have been notified of the petition to vacate the following described as follows: Utility Easement

Legal Description

See Attached Survey

UTILITY COMPANY COMMENTS (Send release form to the applicant's provided address).

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided the following described easements are retained.
- Objects to the vacation(s) described above, reason described below.

Describe reasons for objection or easements to be retained

[Signature]  
Signature of Utility Company Representative

DISTRIBUTION ENGINEER  
Title

### UTILITY RELEASE FORM

General Utility Easement, Drainage Easement, Public Access Easement, Alley, Street, R.O.W.

Utility Company

SourceGas

Date

3/26/14

Requested Vacation

I have been notified of the petition to vacate the following described as follows:

Utility Easement

Legal Description

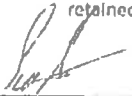
See Attached Survey

UTILITY COMPANY COMMENTS (Send release form to the applicant's provided address).

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided the following described easements are retained.
- Objects to the vacation(s) described above, reason described below.

Describe reasons for objection or easements to be retained

Signature of Utility Company Representative



Title

Field Coord

### UTILITY RELEASE FORM

General Utility Easement, Drainage Easement, Public Access Easement, Alley, Street, R.O.W.

Utility Company  Date

Requested Vacation

I have been notified of the petition to vacate the following described as follows:


Legal Description

*see attached survey*

UTILITY COMPANY COMMENTS (Send release form to the applicant's provided address).

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided the following described easements are retained.
- Objects to the vacation(s) described above, reason described below.

Describe reasons for objection or easements to be retained

  
Signature of Utility Company Representative

Manager OSP Engineering/Design AT&T  
Title

### UTILITY RELEASE FORM

General Utility Easement, Drainage Easement, Public Access Easement, Alley, Street, R.O.W.

Utility Company CITY OF FAYETTEVILLE Date 14 MAY 2014  
WATER & SEWER

Requested Vacation EASEMENT WEST OF NEW TRAIL CROSSING ON MLK

I have been notified of the petition to vacate the following described as follows: City of Fayetteville

Legal Description

See Attached Survey

UTILITY COMPANY COMMENTS (Send release form to the applicant's provided address).

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided the following described easements are retained.
- Objects to the vacation(s) described above, reason described below.

Describe reasons for objection or easements to be retained

Tommy [Signature]  
Signature of Utility Company Representative

INTERIM UTILITY DIRECTOR  
Title







