

**City of Fayetteville Staff Review Form**

**2015-0062**

**Legistar File ID**

**2/17/2015**

**City Council Meeting Date - Agenda Item Only**  
N/A for Non-Agenda Item

Jeremy Pate

1/30/2015

City Planning /  
Development Services Department

**Submitted By**

**Submitted Date**

**Division / Department**

**Action Recommendation:**

VAC 14-4936: Vacation (2269 N. HENBEST DR./ADVENTURE SUBARU, 325): Submitted by JORGENSEN & ASSOCIATES for property located at 2269 N. HENBEST DR. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 4.78 acres. The request is to vacate an existing utility easement.

**Budget Impact:**

Account Number	Fund
Project Number	Project Title
<b>Budgeted Item?</b> <u>NA</u>	Current Budget            \$            -
	Funds Obligated            \$            -
	Current Balance            \$            -
<b>Does item have a cost?</b> <u>No</u>	Item Cost
<b>Budget Adjustment Attached?</b> <u>NA</u>	Budget Adjustment
	Remaining Budget            \$            -

V20140710

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

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

Approval Date: \_\_\_\_\_

Comments:



## CITY COUNCIL AGENDA MEMO

### MEETING OF FEBRUARY 17, 2015

**TO:** Fayetteville City Council

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

**FROM:** Jesse Fulcher, Senior Planner

**DATE:** January 30, 2015

**SUBJECT:** **VAC 14-4936: Vacation (2269 N. HENBEST DR./ADVENTURE SUBARU, 325):** Submitted by JORGENSEN & ASSOCIATES for property located at 2269 N. HENBEST DR. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 4.78 acres. The request is to vacate an existing utility easement.

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#### **RECOMMENDATION:**

Staff and the Planning Commission recommend approval of an ordinance to vacate an existing utility easement.

#### **BACKGROUND:**

The subject property is located at the southwest corner of Shiloh Drive and Henbest Drive and is developed with the Adventure Subaru car dealership. There is a platted 10-foot wide utility easement located to the west of the existing building.

The applicant is requesting approval to vacate the existing 10-foot utility easement. Prior to the vacation taking effect, the owner must relocate an existing gas line that is within the easement and plat a new easement for the relocated line. The gas company has agreed to the vacation.

#### **DISCUSSION:**

On January 26, 2015 the Planning Commission forwarded this item to the City Council with a recommendation for approval with a vote of 8-0-0.

#### **BUDGET/STAFF IMPACT:**

N/A

#### **Attachments:**

CC Ordinance  
Exhibit A  
Exhibit B  
Planning Commission Staff Report



# PLANNING COMMISSION MEMO

**TO:** Fayetteville Planning Commission

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

**FROM:** Jesse Fulcher, Current Planner

**MEETING DATE:** ~~January 26, 2015~~ Updated January 30, 2015

**SUBJECT:** **VAC 14-4936: Vacation (2269 N. HENBEST DR./ADVENTURE SUBARU, 325):** Submitted by JORGENSEN & ASSOCIATES for property located at 2269 N. HENBEST DR. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 4.78 acres. The request is to vacate an existing utility easement.

**RECOMMENDATION:**

Staff recommends forwarding **VAC 14-4936** to the City Council with a recommendation for approval.

**BACKGROUND:**

*Property and background:* The subject property is located at the southwest corner of Shiloh Drive and Henbest Drive and is developed with the Adventure Subaru car dealership. There is a platted 10-foot wide utility easement located to the west of 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	Undeveloped	R-O, Residential Office
South	Commercial/Institutional	C-2, Thoroughfare Commercial/R-A, Residential Agricultural
East	Professional Office	R-O, Residential Office
West	Commercial	C-2, Thoroughfare Commercial

*Proposal:* The applicant is requesting approval to vacate the existing 10-foot utility easement. Prior to the vacation taking effect, the owner must relocate an existing gas line that is within the easement and plat a new easement for the relocated line. The gas company has agreed to the vacation.

**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**

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

AEP/SWEPCO

No objections/No comments

Ozarks Electric

No objections/No comments

Source Gas

The existing gas line shall be relocated within a new utility easement.

AT&T

No objections/No comments

**CITY OF FAYETTEVILLE:**

**RESPONSE**

Water/Sewer

No objections/No comments

Transportation

No objections/No comments

Recycling & Solid Waste

No objections/No comments

**Public Comment:**

Staff has received no public comment.

**Recommendation:**

Staff recommends forwarding **VAC 14-4936** 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.
2. The existing gas line shall be relocated within a new utility easement prior to this vacation taking effect.

<b>PLANNING COMMISSION ACTION: Required</b>			
Date: <u>January 26, 2015</u>	<input type="checkbox"/> Tabled	<input checked="" type="checkbox"/> Forwarded	<input type="checkbox"/> Denied
Motion: Cook	Second: Chesser	Vote: 8-0-0	
<b>CITY COUNCIL ACTION: Required</b>			
Date: February 17, 2015	<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



# JORGENSEN & ASSOCIATES

## CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.  
JUSTIN L. JORGENSEN, P.E.  
BLAKE E. JORGENSEN, P.E.

December 17<sup>th</sup>, 2014

City of Fayetteville  
113 W. Mountain St  
Fayetteville, AR 72701


Attn: Planning Department  
Re: Adventure Subaru

To Whom It May Concern:

In pursuit of an expansion to the campus of the Subaru Dealership, a vacation of an existing easement is being requested. This easement only contains a SourceGas, gas line. This vacation will be contingent on the applicant platting any new necessary easements along with relocating any existing utilities in said easements. No permanent loss of existing services will occur with this vacation.

Please review this application and contact us with any questions that you may have.

Sincerely;

  
Blake E. Jorgensen

**PETITION TO VACATE EASEMENTS LOCATED IN THE CITY OF FAYETTEVILLE, ARKANSAS**

TO:

The Fayetteville City Planning Commission and  
The Fayetteville City Council

On behalf of the owners of the real estate found on the attached Easement Vacation, we are requesting that the existing easements as called on the aforementioned plat, be abandoned and vacated; lying in the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate said Easements which are shown on the attached Easement Vacation Plat.

The petitioners kindly ask that the City of Fayetteville, Arkansas, abandon and vacate the described real estate as called out on the Easement Vacation Plat, subject, however, to the existing utility easements as required, and that the described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further ask that the described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the petitioners respectfully request that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the described real estate, subject to said utility 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 16 day of December, 2014

David D. Nelson  
Printed Name

David D. Nelson  
Signature

UTILITY APPROVAL FORM

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

DATE: 12/11/14

Gas Company

UTILITY COMPANY: \_\_\_\_\_

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 442-9127

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 Nelms Subaru

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

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above, and no comments.
- 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

Fayetteville Division Manager  
\_\_\_\_\_  
Title



**UTILITY APPROVAL FORM**

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

DATE: 12-15-14

UTILITY COMPANY: BZARKS ELECTRIC COOP

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 442-9127

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

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General location / Address Nelms Subaru

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

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above, and no comments.
- 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:

Mike Phipps  
Signature of Utility Company Representative

System Staking Tech  
Title

UTILITY APPROVAL FORM

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

DATE: 12/12/14

UTILITY COMPANY: SWGPCO

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 442-9127

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 Nelms Subaru

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

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above, and no comments.
- 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:

John Rayer  
Signature of Utility Company Representative

Dist. Engineer  
Title

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

DATE: 12/15/2014

UTILITY COMPANY: Cox Communications

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 442-9127

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 Nelms Subaru

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

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above, and no comments.
- 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 the owners/developers expense.

Kimberly G. Rowell  
Signature of Utility Company Representative

V.P. Arkansas  
Title

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

DATE: 12/11/2014

UTILITY COMPANY: AT&T

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 442-9127

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** Nelms Subaru

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

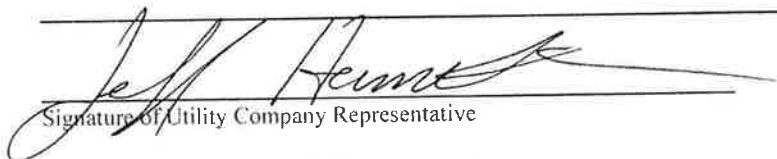
UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above, and no comments.
- 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

MGR OSP PIng & Engrg Design

Title

UTILITY APPROVAL FORM

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

DATE: 22 DEC 2014

UTILITY COMPANY: CITY OF FAYETTEVILLE WATER & SEWER

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 442-9127

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 Nelms Subaru

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

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above, and no comments.
- 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:

Tim Ryander  
Signature of Utility Company Representative

INTERIM UTILITY DIRECTOR  
Title

**UTILITY APPROVAL FORM**

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

DATE: 12/15/2014

UTILITY COMPANY: City of Fayetteville Recycling & Trash

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 442-9127

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 Nelms Subaru

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

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above, and no comments.
- 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

Comm Sales Rep  
Title

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

DATE: 12-15-14

UTILITY COMPANY: City of Fayetteville Transportation

APPLICANT NAME: Jorgensen & Associates APPLICANT PHONE: 442-9127

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 Nelms Subaru

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

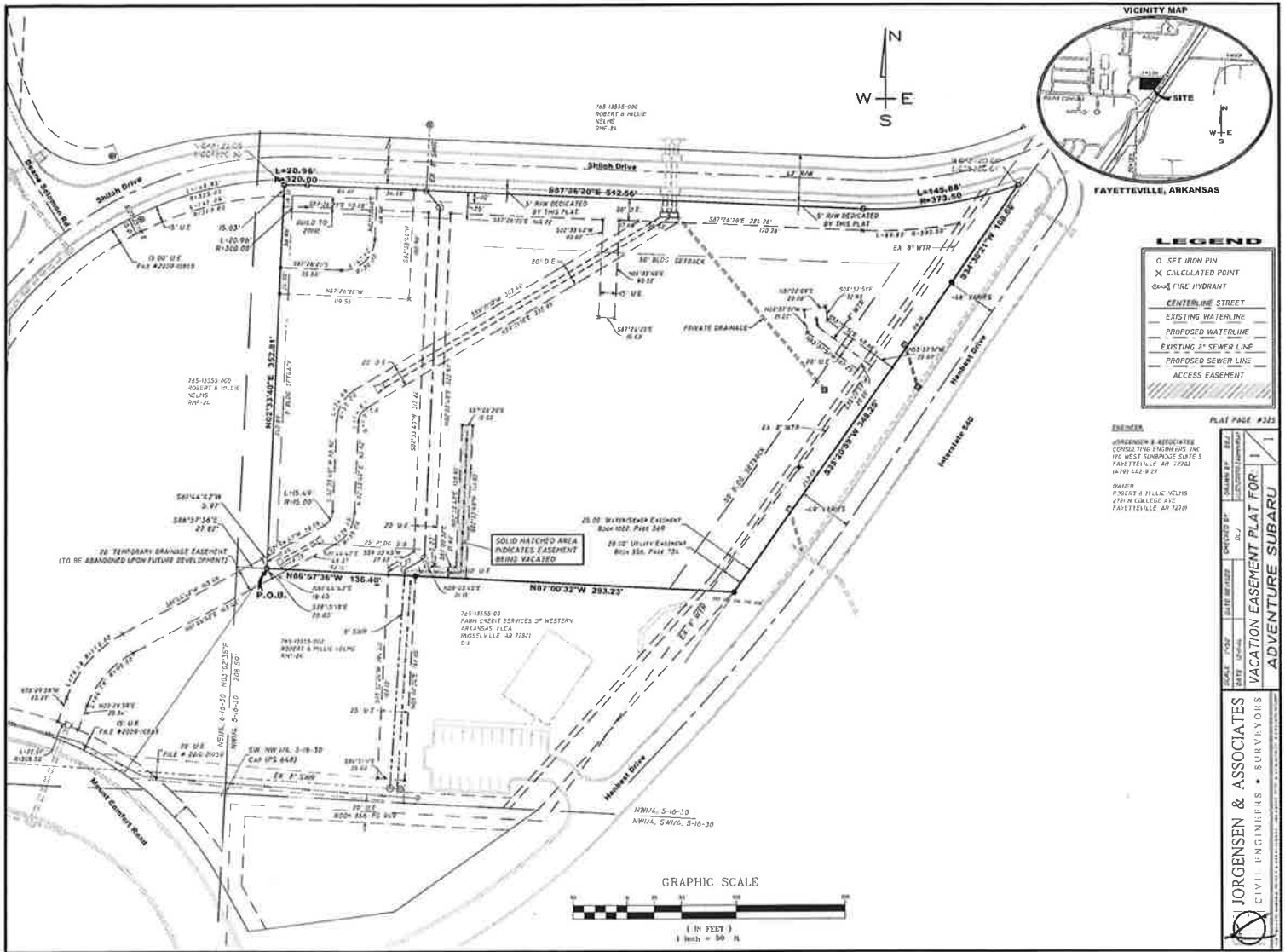
UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above, and no comments.
- 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:

Joey Smith  
Signature of Utility Company Representative

Assistant Transportation Manager  
Title



**LEGEND**

- SET IRON PIN
- × CALCULATED POINT
- ⊕ 8" FIRE HYDRANT
- CENTERLINE STREET
- EXISTING WATERLINE
- - - PROPOSED WATERLINE
- EXISTING 8" SEWER LINE
- - - PROPOSED SEWER LINE
- ▨ ACCESS EASEMENT

**PLAT PAGE #323**

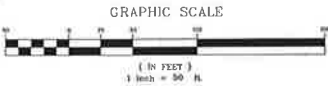
**ENGINEER**

JORGENSEN & ASSOCIATES  
 CONSULTING ENGINEERS, INC.  
 114 WEST SUNSHINE SUITE 3  
 FAYETTEVILLE, AR 72703  
 (479) 452-9777

**OWNER**

ROBERT A. HELIC HELMS  
 974 W. COLLEGE AVE.  
 FAYETTEVILLE, AR 72701

**VACATION EASEMENT PLAT FOR ADVENTURE SUBARU**  
 SCALE: AS SHOWN DATE REVISION: DATE: APPROVED BY: DATE: DRAWN BY: DATE: CHECKED BY: DATE:

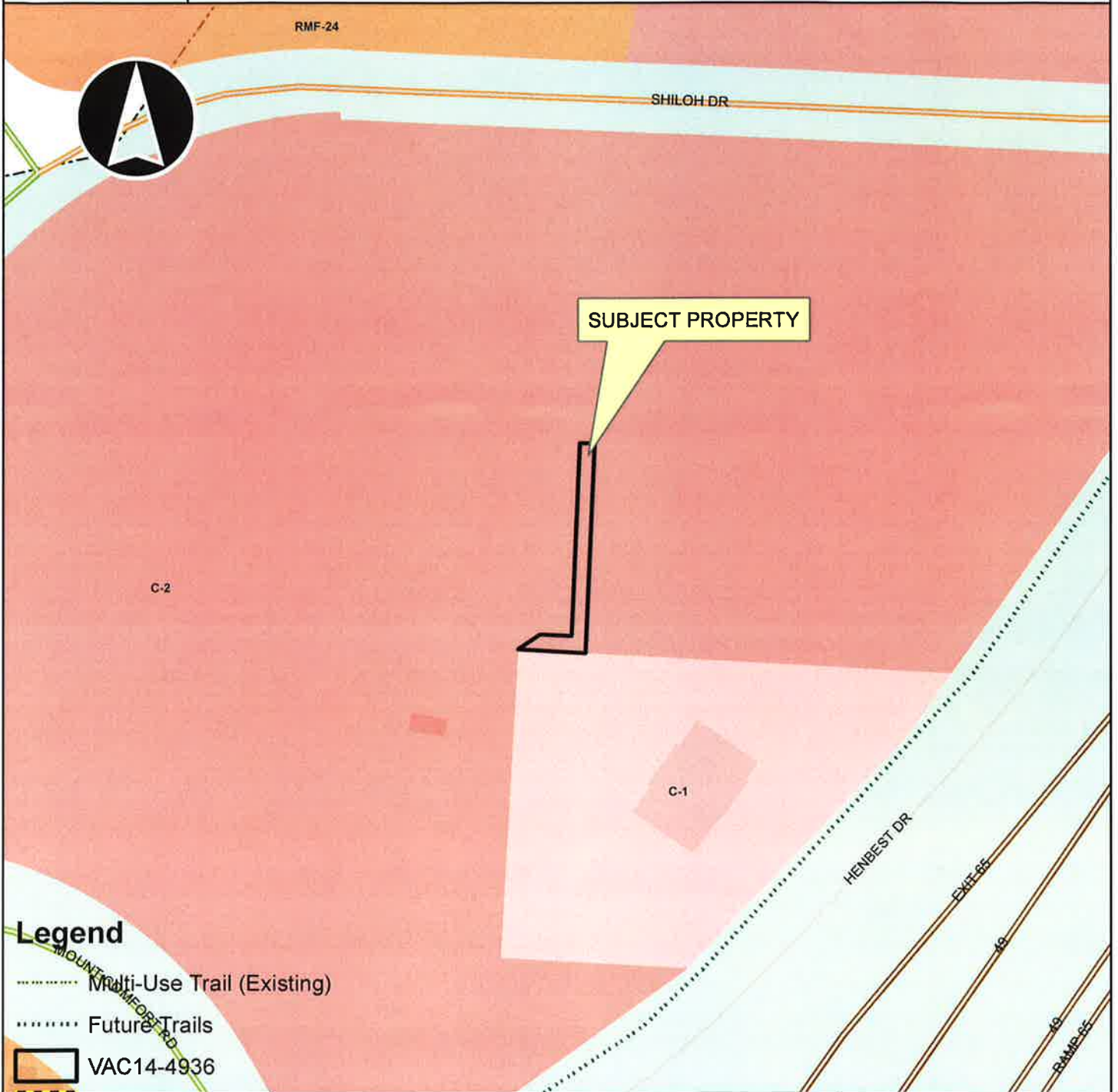




VAC14-4936

# ADVENTURE SUBARU

Close Up View

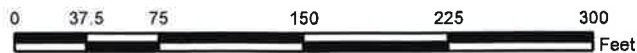


## Legend

- Multi-Use Trail (Existing)
- Future Trails
- VAC14-4936

Overview Fayetteville City Limits

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





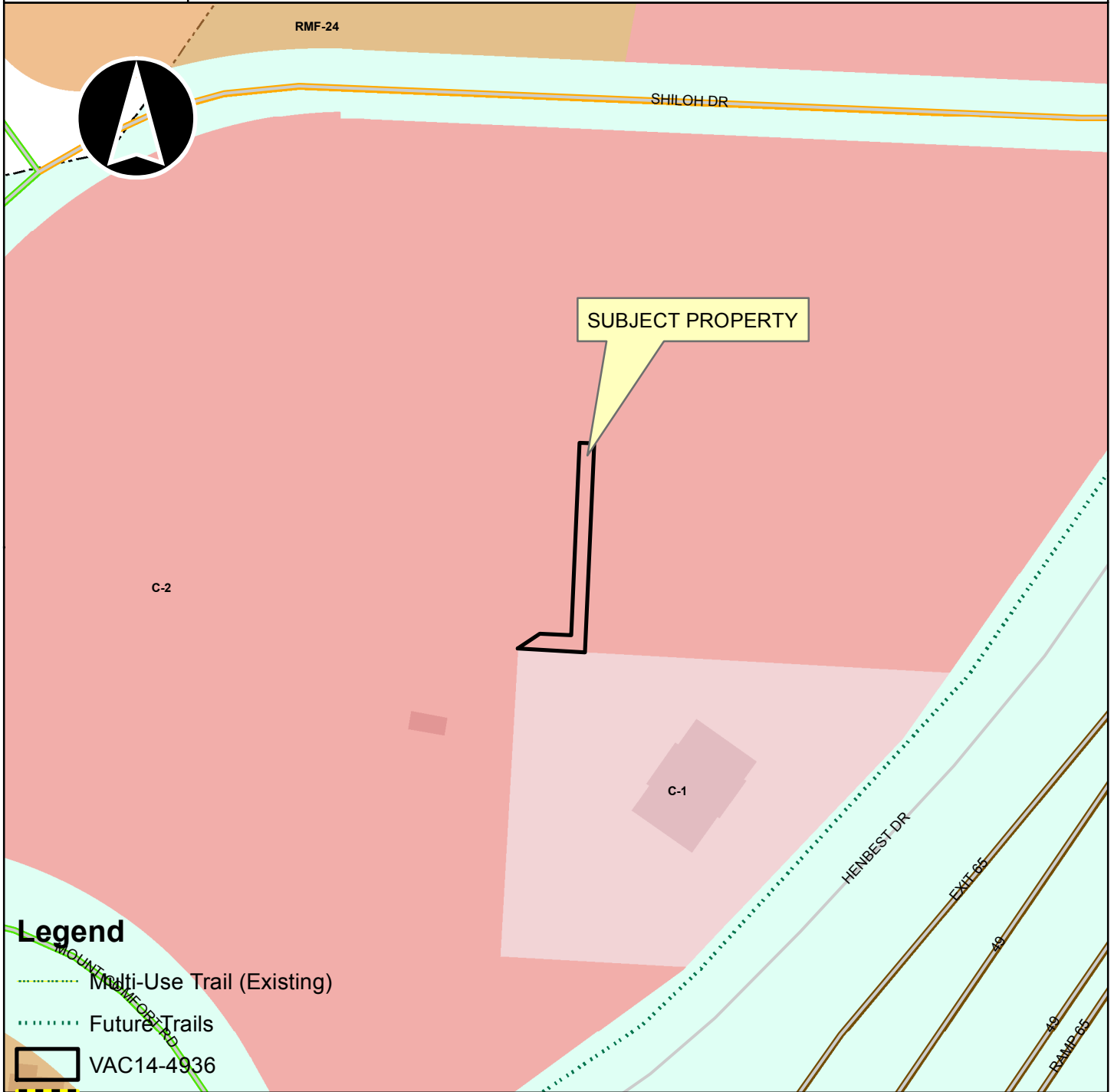


**EXHIBIT 'A'**  
**14-4936**

VAC14-4936

Close Up View

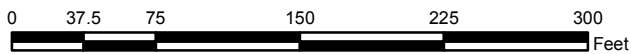
**ADVENTURE SUBARU**



**Legend**

- Multi-Use Trail (Existing)
- Future Trails
- VAC14-4936

- Overview
- Fayetteville City Limits
  - Footprints 2010
  - Hillside-Hilltop Overlay District
  - Design Overlay District
  - Design Overlay District
  - Planning Area



## EXHIBIT 'B'

### LEGAL DESCRIPTION:

A part of the NW1/4 of Section 5, T16N, R30W in Washington County, Arkansas, and being described as follows: Commencing at the SW Corner of said NW1/4, thence N03°02'35"E 208.59 feet, thence S86°57'36"E 164.21 feet to the POINT OF BEGINNING, thence N59°03'45"E 17.92 feet, thence S87°00'32"E 21.62 feet, thence N02°33'40"E 130.95 feet, thence S87°26'20"E 10.00 feet, thence S02°33'40"W 141.03 feet, thence N87°00'32"W 46.56 feet to the POINT OF BEGINNING: Containing 1,701.00 square feet or 0.0390 acres more or less subject to easements and right of way of record.

**ORDINANCE NO.**

AN ORDINANCE APPROVING VAC 14-4936 SUBMITTED BY JORGENSEN & ASSOCIATES FOR PROPERTY LOCATED AT 2269 NORTH HENBEST DRIVE 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 utility 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 utility easement 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.

Section 3: That this vacation approval is subject to the following conditions of approval:

1. Any damage or relocation of existing facilities shall be at the owner/developer’s expense.
2. The existing gas line shall be relocated within a new utility easement prior to this vacation taking effect.

**PASSED** and **APPROVED** this    day of    , 2015.

APPROVED:

ATTEST:

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

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