



Legislation Text

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**File #: 2015-0174, Version: 1**

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**VAC 15-4986 (2991 LABORDITE DRIVE/CRYSTAL SPRINGS SUBDIVISION)**

AN ORDINANCE APPROVING VAC 15-4986 SUBMITTED BY RIVERWOOD HOMES, LLC FOR PROPERTIES LOCATED AT 2991 LABORDITE TO VACATE PORTIONS OF 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 condition of approval:

1. Any damage or relocation of existing facilities and associated new easement dedication shall be at the owner/developer's expense.

**City of Fayetteville Staff Review Form**

**2015-0174**

**Legistar File ID**

**4/21/2015**

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

Jeremy Pate

3/27/2015

City Planning /  
Development Services Department

**Submitted By**

**Submitted Date**

**Division / Department**

**Action Recommendation:**

VAC 15-4986: Vacation (2991 LABORDITE DRIVE/CRYSTAL SPRINGS SUBDIVISION PH. III, 246): Submitted by RIVERWOOD HOMES, LLC for properties located at 2991 LABORDITE DRIVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 0.07 acres. The request is to vacate a portion of an existing 35' 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 APRIL 21, 2015

**TO:** Fayetteville City Council

**FROM:** Andrew Garner, Director of Planning

**DATE:** March 27, 2015

**SUBJECT:** **VAC 15-4986: Vacation (2991 LABORDITE DRIVE/CRYSTAL SPRINGS SUBDIVISION PH. III, 246):** Submitted by RIVERWOOD HOMES, LLC for properties located at 2991 LABORDITE DRIVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 0.07 acres. The request is to vacate a portion of an existing 35' utility easement.

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#### **RECOMMENDATION:**

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

#### **BACKGROUND:**

This property is lots 138, 147, 148, and 149 in the Crystal Springs Subdivision which is zoned RSF-4, Residential Single Family Four Units per Acre. The lots are undeveloped and contain a 35-foot utility easement along the northern property line.

The applicant requests to vacate portions of the northern 35-foot utility easement, as shown on the attached plans, to provide additional room for development on the lots.

#### **DISCUSSION:**

On March 23, 2015 the Planning Commission forwarded this item to the City Council with a recommendation for approval with a vote of 8-0-0 on the consent agenda.

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

N/A

#### **Attachments:**

CC Ordinance  
Exhibit A  
Exhibit B  
Planning Commission Staff Report



## PLANNING COMMISSION MEMO

**TO:** Fayetteville Planning Commission

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

**MEETING DATE:** March 23, 2015 *Updated with Planning Commission results*

**SUBJECT:** **VAC 15-4986: Vacation (2991 LABORDITE DRIVE/CRYSTAL SPRINGS SUBDIVISION PH. III, 246):** Submitted by RIVERWOOD HOMES, LLC for properties located at 2991 LABORDITE DRIVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 0.07 acres. The request is to vacate a portion of an existing 35-foot utility easement.

**RECOMMENDATION:**

Staff recommends forwarding **VAC 15-4986** to the City Council with a recommendation for approval.

**BACKGROUND:**

*Property and background:* This property is lots 138, 147, 148, and 149 in the Crystal Springs Subdivision which is zoned RSF-4, Residential Single Family Four Units per Acre. The lots are undeveloped and contain a 35-foot utility easement along the northern property line. The surrounding zoning and land use is listed in *Table 1*.

**Table 1  
Surrounding Land Use and Zoning**

Direction	Land Use	Zoning
North, South, East, West	Single family dwellings	RSF-4

*Proposal:* The applicant requests to vacate portions of the northern 35-foot utility easement, as shown on the attached plans, to provide additional room for development on the lots.

**DISCUSSION:**

*Vacation Approval:* The applicant has submitted the required vacation forms to the City utility departments and applicable franchise utilities, with the following responses:

<u>UTILITIES</u>	<u>RESPONSE</u>
Cox Communications	No objections
AEP/SWEPSCO	No objections
Source Gas	No objections
AT&T	No objections

Ozarks Electric

No objections

**CITY OF FAYETTEVILLE**

**RESPONSE**

Water/Sewer

To be provided

Trash & Recycling

No objections

Transportation

Not applicable

**Public Comment:**

No public comment has been received.

**Recommendation:**

Staff recommends forwarding **VAC 15-4986** to the City Council with a recommendation for approval subject to the following conditions:

**Conditions of Approval:**

1. Prior to the City Council agenda request being submitted for this item the applicant shall provide the City Planning Division with the utility permission form from the City Water and Sewer Department.
2. Any relocation or damage to utilities and associated new easement dedication shall be at the owner/developer's expense.

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**PLANNING COMMISSION ACTION**

Forwarded     Denied     Tabled

**Date:** March 23, 2015

**Motion:** Cook

**Second:** Chesser

**Vote:** 8-0-0

**Notes:**

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**BUDGET/STAFF IMPACT:**

None

**Attachments:**

- Petition to Vacate
- Utility Approvals
- Easement Vacation Exhibit
- One Mile Map
- Close Up Map

# **Riverwood Homes, LLC**

Residential Contractor & Developer  
1533 W. Enterprise Drive  
Fayetteville, Arkansas 72704

Mark Marquess 479-435-2088

Charles Sloan 479-530-4506

markm@riverwoodhomesnwa.com

charlies@riverwoodhomesnwa.com

## **PETITION TO VACATE EASEMENT LOCATED IN LOTS 138, 148, & 149, CRYSTAL SPRING SUBDIVISION, PHASE III, CITY OF FAYETTEVILLE, ARKANSAS**

**TO:** The Fayetteville City Planning Commission

The Fayetteville City Council

I, the undersigned, being all owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in Lots 138, 148 & 149 Crystal Springs Subdivision, Phase III, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate and easement which is described in the attached legal description.

That the abutting real estate affected by said abandonment of the easement are Lots #137, 139, 147, 150, & 164 in Crystal Springs Subdivision, Phase III, Lots # 12, 13, 14, 15, 16, 17 in Cobblestone Subdivision, Phase I, and Lot #54 in Cobblestone Subdivision, Phase II, City of Fayetteville used by the public for a period of many years, and that 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 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 the particular land the owners be free from the easements of the public for the use of said easement.

Dated this 26<sup>th</sup> day of January, 2015.

Mark Marquess – Riverwood Homes, LLC



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**UTILITY APPROVAL FORM**

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

DATE: 10/23/14

UTILITY COMPANY: Cox Communications - Chad Hodge

APPLICANT NAME: Riverwood Homes, LLC APPLICANT PHONE: 479-282-0406

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**

Utility Easement on Lots 138, 147, 148, and 149 in Crystal Springs Phase III, Fay.,

- (*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. Powell  
Signature of Utility Company Representative

VP Arkansas  
Title

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

DATE: 3/17/15

UTILITY COMPANY: John Lee - SWEPCO

APPLICANT NAME: Riverwood Homes, LLC APPLICANT PHONE: 479-282-0406

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 Utility Easement on Lot #138,148,149 In Crystal Springs Phase III

- (*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:

\_\_\_\_\_

\_\_\_\_\_

*Long J*  
Signature of Utility Company Representative

DISTRIBUTION ENGINEER  
Title



UTILITY APPROVAL FORM

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

DATE: 10/23/14

UTILITY COMPANY: Source Gas

APPLICANT NAME: Riverwood Homes, LLC APPLICANT PHONE: 479-282-0406

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**

Utility Easement Lots 138, 147, 148, and 149 in Crystal Springs Phase III, Fay.,

(*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:

\_\_\_\_\_

Brian A. Danpat  
Signature of Utility Company Representative

Supervisor - Division Operations  
Title

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

DATE: 10/23/14

UTILITY COMPANY: AT&T - Jeff Hamilton

APPLICANT NAME: Riverwood Homes, LLC APPLICANT PHONE: 479-282-0406

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**

Utility Easement on Lots 138, 147, 148, and 149 in Crystal Springs Phase III, Fay.,

- (**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:  
**If any AT&T facilities are damaged or require relocation will be the responsibility**  
**of the developer/property owner.**

  
\_\_\_\_\_  
Signature of Utility Company Representative  
**MGR OSP Plng & Engrg Design**  
\_\_\_\_\_  
Title

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

DATE: \_\_\_\_\_, 10/23/14

UTILITY COMPANY: \_\_\_\_\_ Ozark Electric - Greg McGee

APPLICANT NAME: \_\_\_\_\_ Riverwood Homes, LLC APPLICANT PHONE: \_\_\_\_\_ 479-282-0406

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**

Utility Easement on Lots 138, 147, 148, and 149 in Crystal Springs Phase III, Fay.,

- (*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:

\_\_\_\_\_  
\_\_\_\_\_

Greg McGee  
Signature of Utility Company Representative

Lead Staking Tech  
Title

UTILITY APPROVAL FORM

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

DATE: 10/23/14 *Rec'd 03-26-2015 to Jim Beavers*

UTILITY COMPANY: Water & Sewer

APPLICANT NAME: Riverwood Homes, LLC APPLICANT PHONE: 479-282-0406

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**

Utility Easement on Lot 138, 147, 148, and 149 in Crystal Springs Phase III, Fay,  
AR

(*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:  
\_\_\_\_\_  
\_\_\_\_\_

*Jim Beavers P.E. 03-26-2015*  
Signature of Utility Company Representative

*Utilities Engineer*  
Title

UTILITY APPROVAL FORM

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

DATE: 10/23/14

UTILITY COMPANY: Maury Nelson - Solid Waste

APPLICANT NAME: Riverwood Homes, LLC APPLICANT PHONE: 479-282-0406

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**

Utility Easement on Lot 138, 147, 148, and 149 in Crystal Springs Phase III, Fay,

(*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

Commercial Sales Rep

Title



VAC15-4986

# CRYSTAL SPRINGS PHASE 3

Close Up View



PRIVATE 3032

VERONA LN

RSF-8

AZURE AVE

MIRAMAR DR

SUBJECT PROPERTY

RSF-4

RAVEN LN

CRYSTAL DR

LABORDITE DR

## Legend

..... Multi-Use Trail (Existing)


..... Future Trails


 VAC15-4986

 Fayetteville City Limits

 Footprints 2010

 Hillside-Hilltop Overlay District

 Design Overlay District

 Design Overlay District

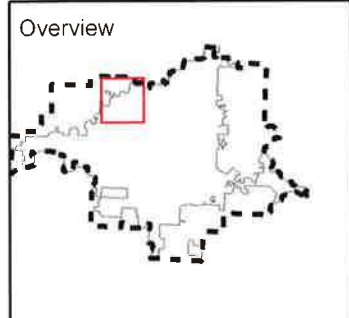
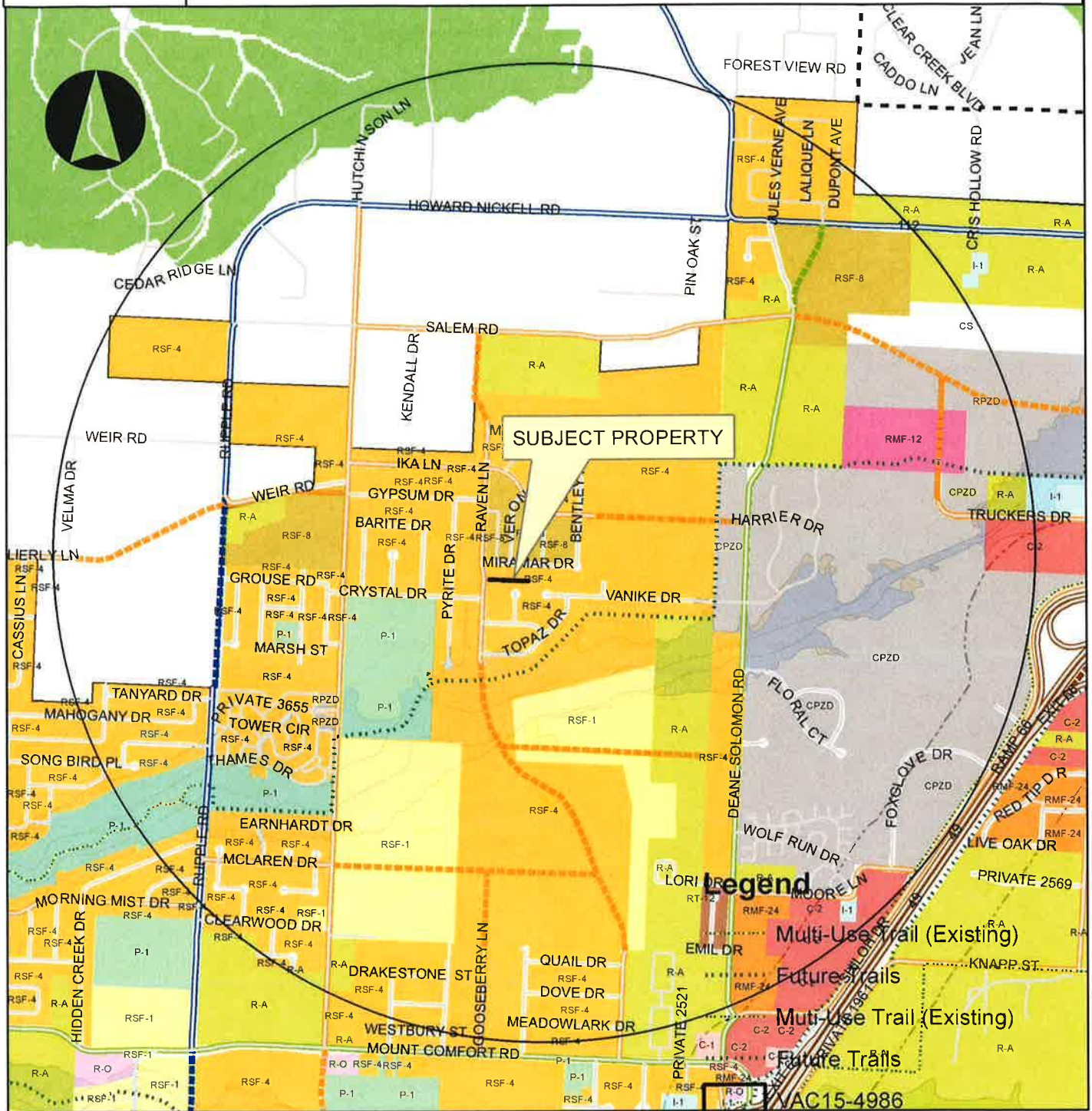
 Planning Area



VAC15-4986

# CRYSTAL SPRINGS PHASE 3

One Mile View



**Legend**

- Hillside-Hilltop Overlay District
- Design Overlay District
- Planning Area
- Fayetteville

Subject Property

Boundary

0      0.25      0.5      1

**Miles**

**Legend**

- Hillside-Hilltop Overlay District
- Design Overlay District
- Planning Area
- Fayetteville

Multi-Use Trail (Existing)

Future Trails

Multi-Use Trail (Existing)

Future Trails

VAC15-4986



**15-4986**  
**EXHIBIT 'B'**

**EASEMENT VACATION DESCRIPTION**

A PART OF LOTS 138, 147, 148 AND 149, PER FINAL PLAT OF CRYSTAL SPRINGS PHASE III, FILED OF RECORD IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS AT 0023-00000206. VACATING THE SOUTHERN EIGHT (8) FEET OF THE THIRTY-FIVE (35) FEET BUILDING SET BACK AND UTILITY EASEMENT PER SAID FINAL PLAT; MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 138 AND CONTINUING S02°33'54"W 35.00 FEET ALONG THE WEST BOUNDARY OF SAID LOT 138 AND CONTINUING THENCE S87°24'46"E 25.00 FEET TO A POINT ON THE EAST BOUNDARY OF THE DRAINAGE EASEMENT AND BUILDING SET BACK INTERSECTING THE SOUTHERLY LIMITS OF THE EXISTING UTILITY EASEMENT AND BUILDING SET BACK NEAR THE NORTHWEST CORNER OF SAID LOT 138, SAID POINT BEING THE POINT OF BEGINNING;

THENCE N02°33'54"E 8.00 FEET TO THE NORTHERN LIMITS OF THE VACATION OF THE EXISTING UTILITY EASEMENT;

THENCE S87°24'46"E 426.48 FEET TO A POINT ON THE EASTERLY BOUNDARY OF SAID LOT 149;

THENCE S47°40'20"W 11.33 FEET TO A POINT ON THE SOUTHERN BOUNDARY OF THE 35 FOOT EXISTING UTILITY EASEMENT AND BUILDING SET BACK PER SAID FINAL PLAT;

THENCE ALONG SOUTHERN BOUNDARY OF SAID EXISTING UTILITY EASEMENT AND BUILDING SET BACK N87°24'46"W 418.46 FEET TO THE POINT OF BEGINNING, CONTAINING 0.067 ACRES, 2904.8 S.F.

MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

LESS AND EXCEPT PORTIONS OF EASEMENTS AND BUILDING SETBACKS INTERSECTING THIS DESCRIBED AREA AS DEPICT ON ATTACHED PLAT.

**ORDINANCE NO.**

AN ORDINANCE APPROVING VAC 15-4986 SUBMITTED BY RIVERWOOD HOMES, LLC FOR PROPERTIES LOCATED AT 2991 LABORDITE TO VACATE PORTIONS OF 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 condition of approval:

1. Any damage or relocation of existing facilities and associated new easement dedication shall be at the owner/developer’s expense.

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

APPROVED:

ATTEST:

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

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