

City of Fayetteville Staff Review Form

2019-0316

Legistar File ID

6/4/2019

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

Garner Stoll

5/17/2019

CITY PLANNING (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

VAC 19-6634: Vacation (EAST OF 902 S. SCHOOL AVE./STEVENS, 562): Submitted by ANGELA STEVENS for property located EAST OF 902 S. SCHOOL AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.82 acres. The request is to vacate a portion of a water and sewer easement.

Budget Impact:

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

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF JUNE 4, 2019

TO: Mayor and Fayetteville City Council

THRU: Don Marr, Chief of Staff
Garner Stoll, Development Services Director

FROM: Andrew Garner, City Planning Director

DATE: May 17, 2019

SUBJECT: **VAC 19-6634: Vacation (EAST OF 902 S. SCHOOL AVE./STEVENS, 562):**
Submitted by ANGELA STEVENS for property located EAST OF 902 S. SCHOOL AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.82 acres. The request is to vacate a portion of a water and sewer easement.

RECOMMENDATION:

Staff and Planning Commission recommend approval of **VAC 19-6634** as shown in the attached Exhibits 'A' and 'B' and with the following condition of approval:

1. Any relocation of, or damage to existing utilities or existing facilities shall be at the owner/developer's expense;

BACKGROUND:

The subject property is located east of 902 S. School Avenue. The request is to vacate a portion of the 60-foot water and sewer easement in the rear of the property. In 2013, Ordinance number 5585 granted a trail easement to the City of Fayetteville, in exchange the applicant received a vacation of the Locust Street right-of-way. According to Ordinance No. 5585, the City retained the entire 60-foot water and sewer easement. Additionally, there is another utility easement that runs through the middle of the property.

Proposal: The applicant proposes to vacate the 60-foot water and sewer easement that runs along the property's eastern boundary.

DISCUSSION:

At the May 13, 2019 Planning Commission meeting, this item was forwarded as part of the consent agenda to City Council with a recommendation for approval, with the condition as recommended by staff.

BUDGET/STAFF IMPACT:

N/A

Attachments:

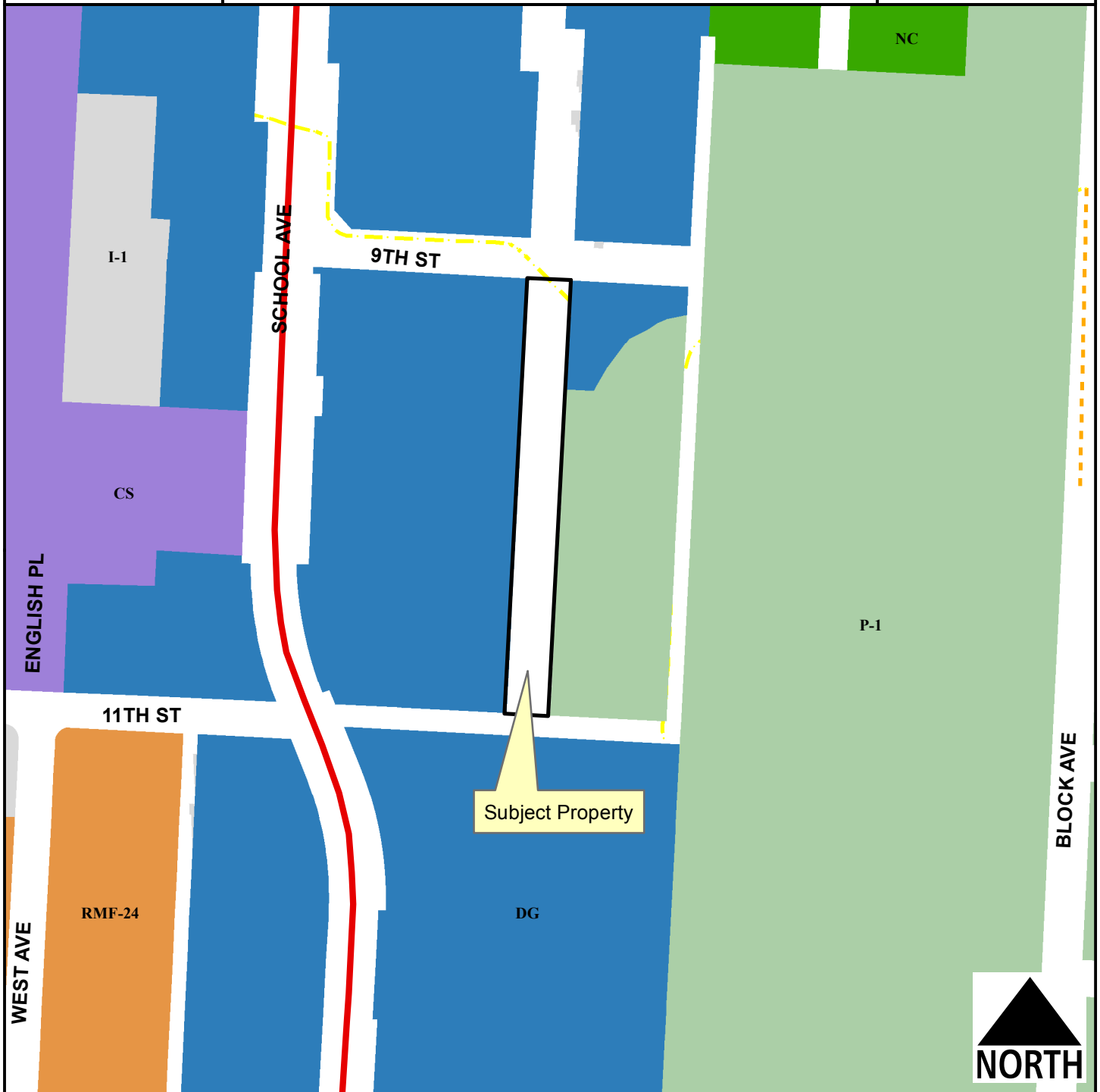
- Exhibit A
- Exhibit B
- Planning Commission packet

VAC19-6634

A. STEVENS

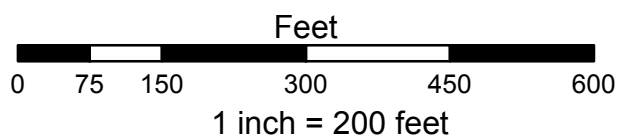
19-6634
EXHIBIT 'A'

Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint



- RMF-24
- I-1 Heavy Commercial and Light Industrial
- Downtown General
- Community Services
- Neighborhood Conservation
- P-1

19-6634
EXHIBIT 'B'

Legal description

*All that part of Block Number (6) in revised plat of Blocks 5&6 Ferguson's Addition to the city of Fayetteville, Washington County, Arkansas, per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas. That portion of the water and sewer easement that was formerly known as "That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped); **from Fayetteville ordinance number 5585 dated 5/21/2013.** Commencing at the Northwest corner of said block six (6) thence a distance of 295 feet along the NORTH line of said block six (6) to the POINT OF BEGINNING; thence continuing along said North line a distance of 60 feet; thence SOUTH a distance of 600 feet; thence WEST a distance of 60 feet; thence NORTH a distance of 600 feet to the POINT OF BEGINNING containing 35205 square feet or 0.8082 acres more or less.*

That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped) as per the Revised Plat of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.



TO: Fayetteville Planning Commission

THRU: Andrew Garner, City Planning Director

FROM: Abdul R. Ghous, Planner

MEETING DATE: May 13, 2019 (Updated with Planning Commission results)

SUBJECT: VAC 19-6634: Vacation (East of 902 S. School Ave./Stevens, 562): Submitted by ANGELA STEVENS for property located EAST OF 902 S. SCHOOL AVE. The property is zoned DG, Downtown General and contains approximately 0.82 acres. The request is to vacate a portion of a water and sewer easement.

RECOMMENDATION:

Staff recommends forwarding **VAC 19-6634** to City Council with a recommendation of approval and conditions based on the findings contained in this report.

RECOMMENDED MOTION:

"I move to forward **VAC 19-6634** to City Council with a recommendation for approval with the conditions as recommended by staff."

BACKGROUND:

The subject property is located east of 902 S. School Avenue. The request is to vacate a portion of the 60-foot water and sewer easement in the rear of the property. In 2013, Ordinance number 5585 granted a trail easement to the City of Fayetteville, in exchange the applicant received a vacation of the Locust Street right-of-way. According to Ordinance No. 5585, the City retained the entire 60-foot water and sewer easement. Additionally, there is another utility easement that runs through the middle of the property. The property is zoned DG, Downtown General. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Commercial	DG, Downtown General
South	Commercial	DG, Downtown General
East	Undeveloped/Park	DG, Downtown General/P-1, Institutional
West	Commercial	DG, Downtown General

Proposal: The applicant proposes to vacate a 60-foot water and sewer easement that runs along the property's eastern boundary (see attached exhibit).

DISCUSSION:

Vacation Approval: The applicant has submitted the required vacation forms to the City water/sewer departments with the following responses:

City of Fayetteville

Response

Water/Sewer

No objections and no comment.

Public Comment: No public comment has been received at the time of writing this report.

RECOMMENDATION: Staff recommends forwarding **VAC 19-6634** to the City Council with a recommendation for approval subject to the following conditions:

Conditions of Approval:

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

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date:	<u>May 13, 2019</u>	<input type="checkbox"/> Tabled	<input checked="" type="checkbox"/> Forwarded	<input type="checkbox"/> Denied	
Motion:	<u>Belden</u>	<u>Note: recommend approval</u>			
Second:	<u>Johnson</u>				
Vote:	<u>8-0-0 (on consent agenda)</u>				

BUDGET/STAFF IMPACT:

None

Attachments:

- Request Letter
- Petition to Vacate
- Ordinance 5585
- Vacation Exhibit
- Utility Approval
- One Mile Map
- Close-up Map
- Current Land Use Map

3/27/2019

City of Fayetteville Planning Commission
Fayetteville City Council
Fayetteville, Arkansas

Dear City of Fayetteville Planning Commission and Fayetteville City Council:

In 2013 I was approached by Matt Milhalevich, the City of Fayetteville's Trails Coordinator. He requested that I allow an easement across my property for the walking path and bridge into Walker Park at 9th street. I was more than happy to accommodate him, the city, and my fellow citizens with that access, but I requested one exchange in return; I asked if he would facilitate the vacation of the Locust Street right of way that ran through the back of my property. He took care of that and on May 21, 2013 the vacation of the right of way of Locust between 9th and 11th was granted with Ordinance number 5585.

It took me a couple of years to realize that though I had received the requested ROW vacation, I inherited a rather large water and sewer easement over the area that had been the right of way. This was extremely disappointing and not what I had expected. The city already has a 12 foot sewer easement through the middle of my property in question and now I have a 60 foot one towards the rear. After granting the City the trails access, I will admit I felt a bit cheated and taken advantage of. It has taken me a few years to find the extra time to request a vacation of this utility easement.

I have visited with Tin Nyander of the Fayetteville City Water and Sewer Services and after reviewing my request to vacate the easement that was established with ordinance 5585, He agreed it was not necessary for the city to have a water and sewer easement on this portion of my property and the Operations manager has signed off on it.

My request is for the City to vacate the 60 foot water and sewer easement from 9th street through the undeveloped right of way that would be 11th street, so I can responsibly control and use my property.

Sincerely,

Angela Stevens

A handwritten signature in black ink, appearing to read 'A Stevens', with a stylized flourish at the end.

PETITION TO VACATE AN WATER AND SEWER EASEMENT LOCATED IN REVISED PLAT OF BLOCKS 5 & 6 IN FERGUSON'S ADDITION, CITY OF FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Planning Commission and
The Fayetteville City Council

I, the undersigned, being an owner of the real estate abutting the water and sewer easement hereinafter sought to be vacated, lying in City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a water and sewer easement which is described as follows:

Originally

That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped) as per the Revised Plat of Blocks 5 & 6 in Ferguson's Addition to the City of Fayetteville per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas.

OR

*All that part of Block Number (6) in revised plat of Blocks 5&6 Ferguson's Addition to the city of Fayetteville, Washington County, Arkansas, per Plat Book 4, Page 222 as recorded with the Circuit Clerk of Washington County, Arkansas. That portion of the water and sewer easement that was formerly known as "That portion of the undeveloped 60' right-of-way known as Locust Avenue being bounded on the North by the Southerly right-of-way of Sixth Street (now known as Ninth Street) and bounded on the South by the Northerly right-of-way of Seventh Street (now unnamed and undeveloped); **from Fayetteville ordinance number 5585 dated 5/21/2013.** Commencing at the Northwest corner of said block six (6) thence a distance of 295 feet along the NORTH line of said block six (6) to the POINT OF BEGINNING; thence continuing along said North line a distance of 60 feet; thence SOUTH a distance of 600 feet; thence WEST a distance of 60 feet; thence NORTH a distance of 600 feet to the POINT OF BEGINNING containing 35205 square feet or 0.8082 acres more or less.*

That the abutting real estate affected by the said vacation of the water and sewer easement are in blocks 5 & 6 in Ferguson's Addition, City of Fayetteville, Arkansas the parcel numbers being: 765-05438-000, 765-05426-000, 765-05428-000, 765-05429-000, 765-05430-000. The real estate affected by the utility easement has not been used by the public or the City of Fayetteville many years, and that the public interest and welfare would not be adversely affected by the vacation of the portion of the above described water and sewer easement.

The petitioners pray that the City of Fayetteville, Arkansas vacate the above described water and sewer easement, 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, vacate the water and sewer easement on the above described real estate, and that title to said real estate sought to be vacated be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the water and sewer easements and of the public for the use of vacated right of way.

Dated this 27 day of March, 20 19.

Angela C Stevens

Printed Name

Signature

ORDINANCE NO. 5585

AN ORDINANCE APPROVING VAC 13-4346 SUBMITTED BY CITY STAFF FOR PROPERTY LOCATED AROUND 902 SOUTH SCHOOL STREET (FERGUSON'S ADDITION) TO VACATE A 60 FOOT RIGHT-OF-WAY

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 right-of-way 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 60 foot right-of-way in Exhibit B (attached).

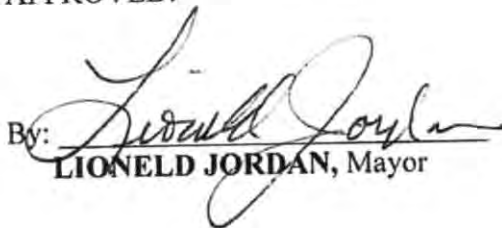
Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached and labeled Exhibit A shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Condition of Approval and shall not be in effect until the condition is met.

The City shall retain a water and sewer easement for the entire 60-foot right-of-way width for the entire length of the property that is being vacated.

PASSED and APPROVED this 21st day of May, 2013.

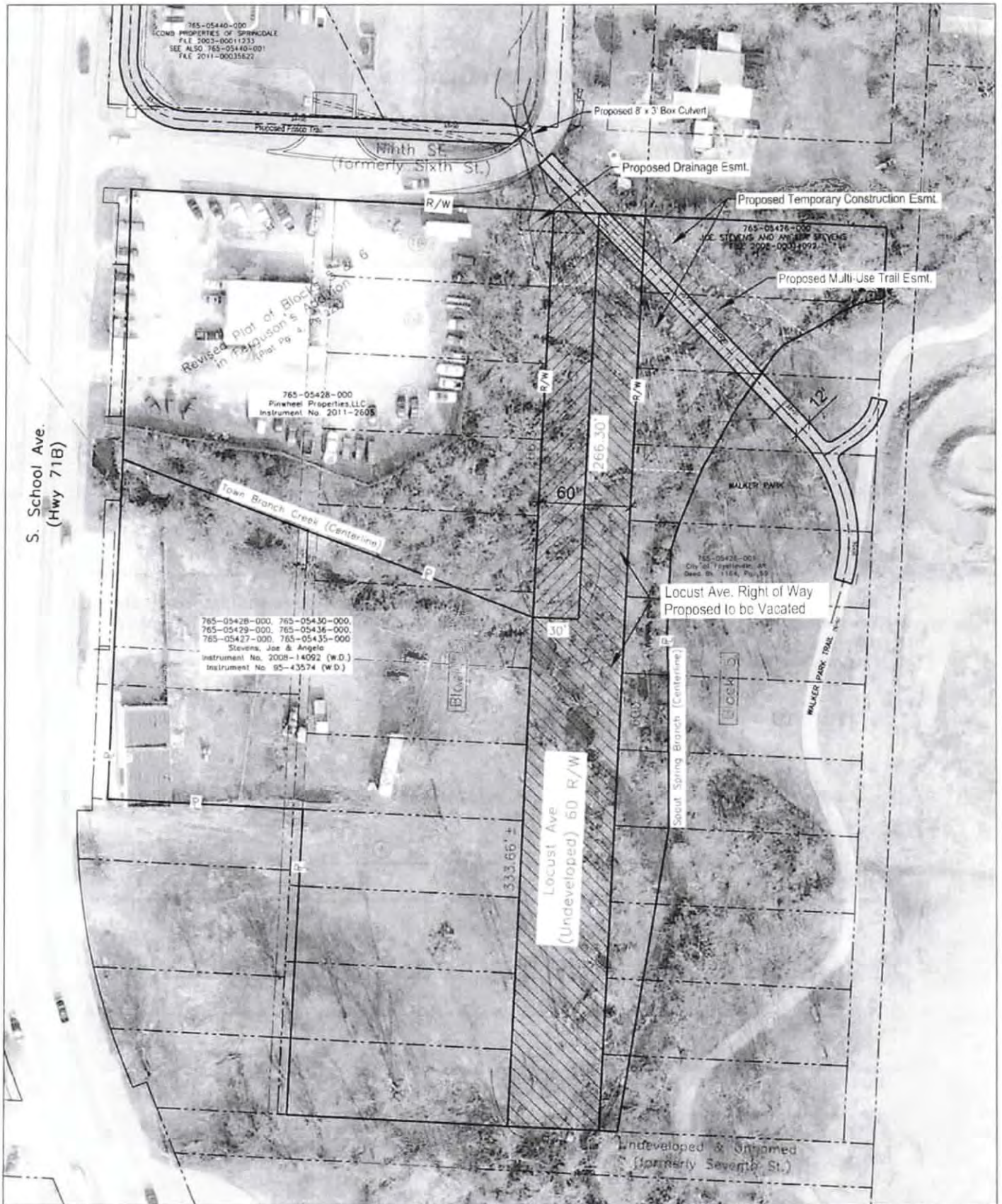
APPROVED:

By: 
LIONELD JORDAN, Mayor

ATTEST:

By: 
LISA BRANSON, Deputy City Clerk





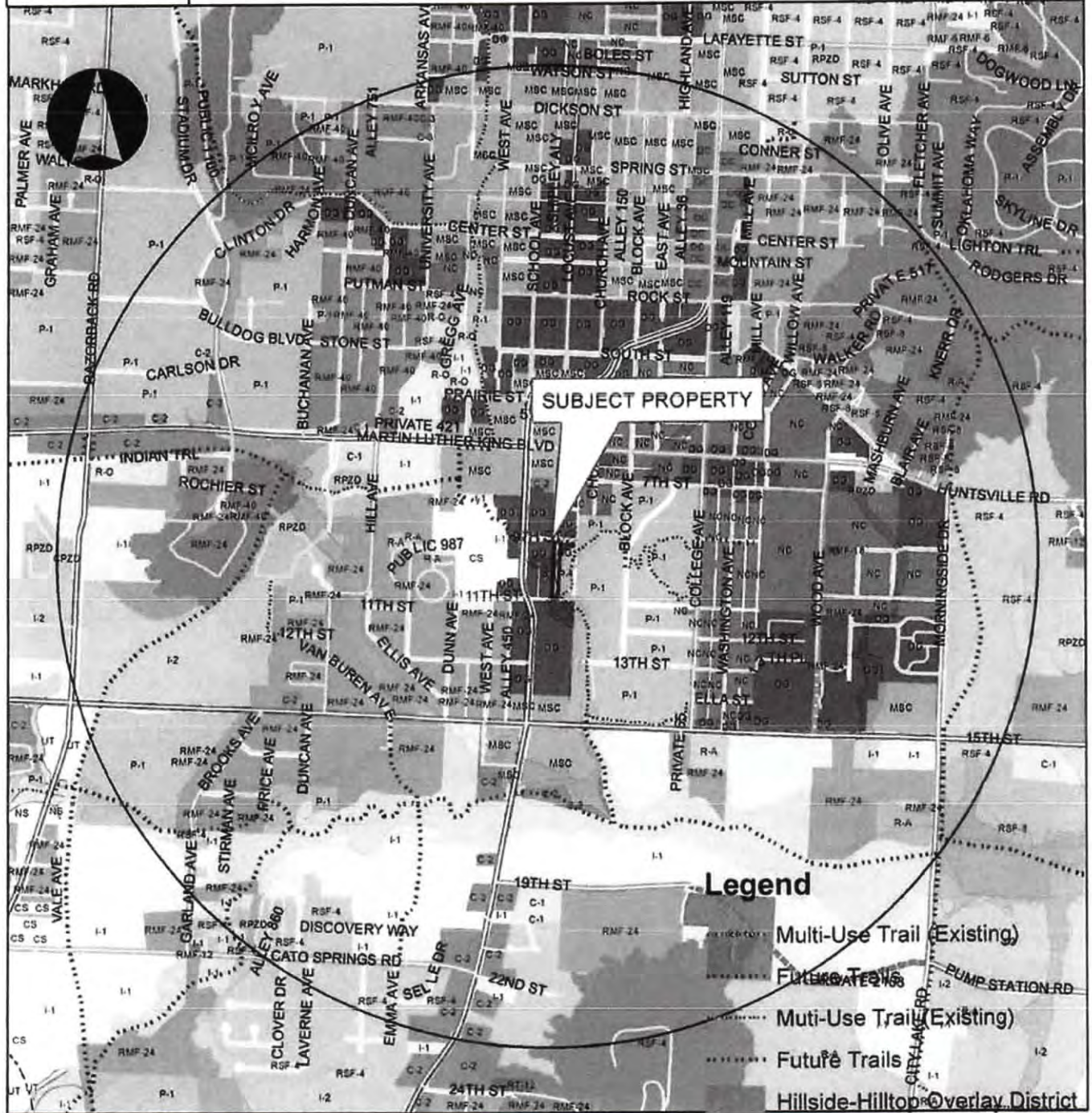
Frisco Trail Southern Extension Stevens Property Exhibit



February 2013

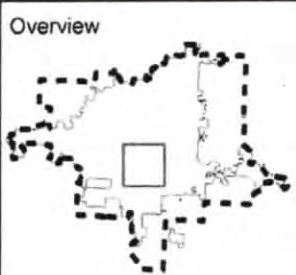
FERGUSON'S ADDITION

One Mile View



Legend

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



- Legend
- Subject Property
- VAC13-4346

Boundary

0 0.25 0.5

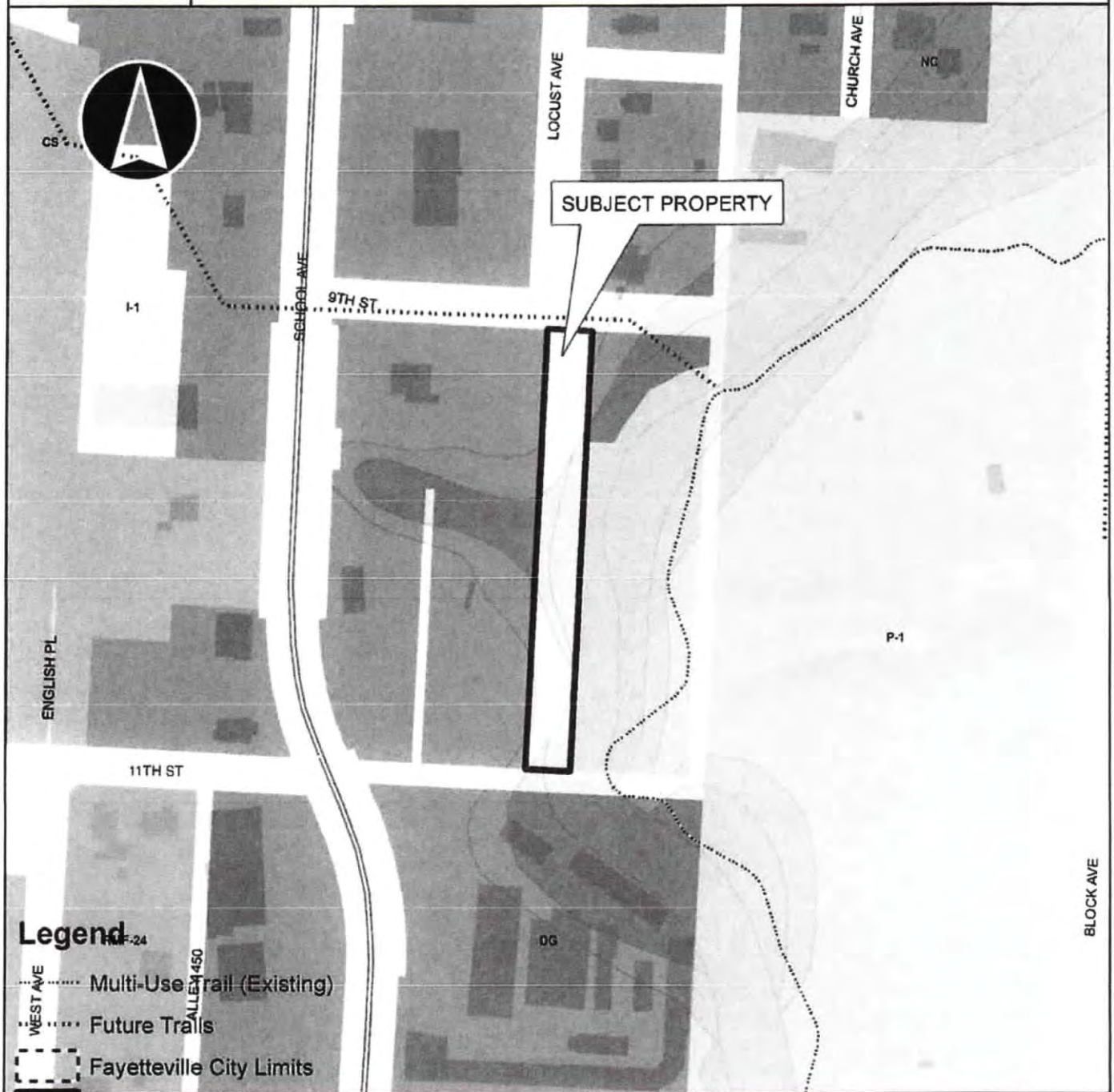


- VAC13-4346
- Design Overlay District
- Planning Area
- Fayetteville

1 Miles

FERGUSON'S ADDITION

Close Up View



Legend

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

Overview WAC13-4346

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

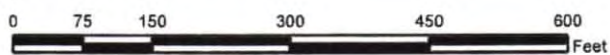
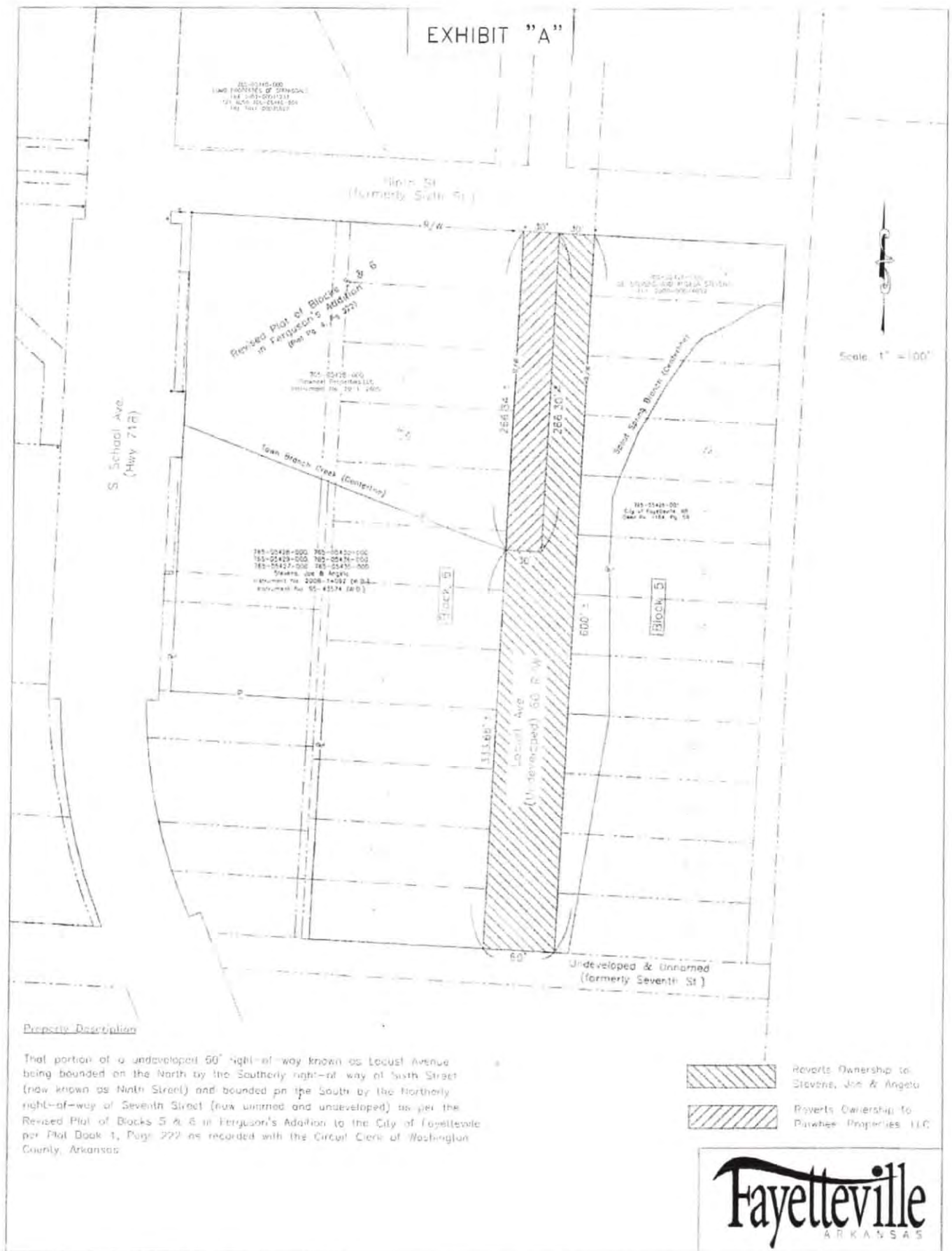


EXHIBIT "A"





0 50 100 100 Feet

WASHINGTON COUNTY, AR

1087

UTILITY APPROVAL FORM

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

DATE: 3/26/2019

UTILITY COMPANY: City of Fayetteville Water and Sewer

APPLICANT NAME: ~~City of Fayetteville~~ APPLICANT PHONE: ~~479-444-8416~~

ANGELA STEVENS

263-7065

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 902 & 1020 S School Ave - Locust Ave south of 9th to the undeveloped
ROW that would be 11th Street



(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:

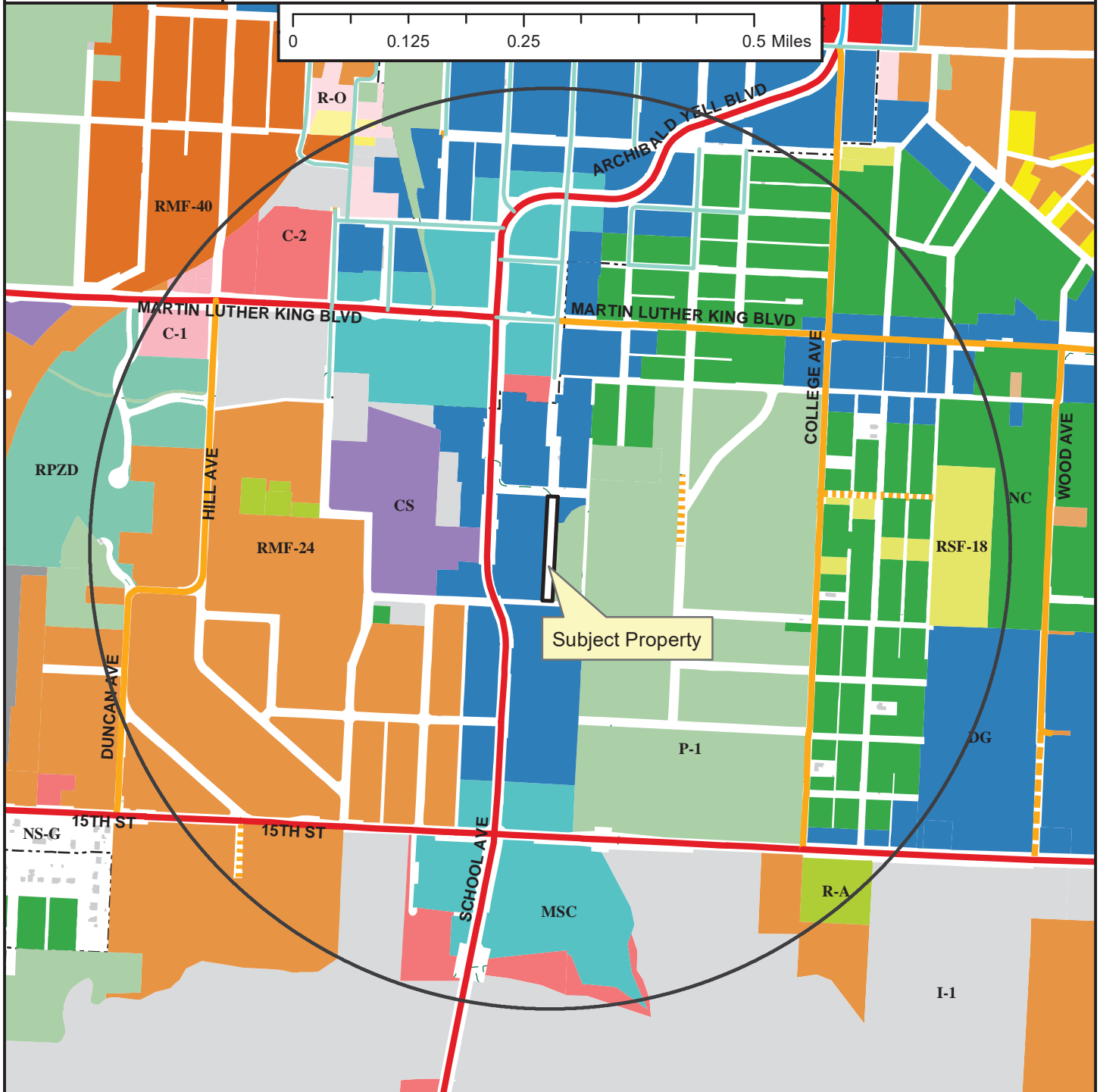
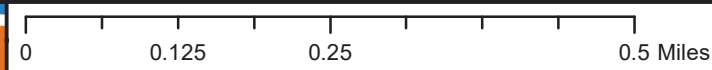
Angela Stevens
Signature of Utility Company Representative

W&S OPERATIONS MANAGER
Title

VAC19-6634

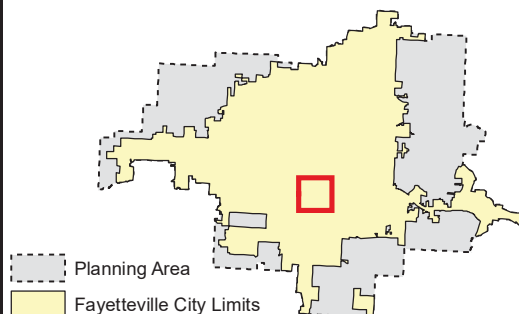
A. STEVENS

One Mile View



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Building Footprint

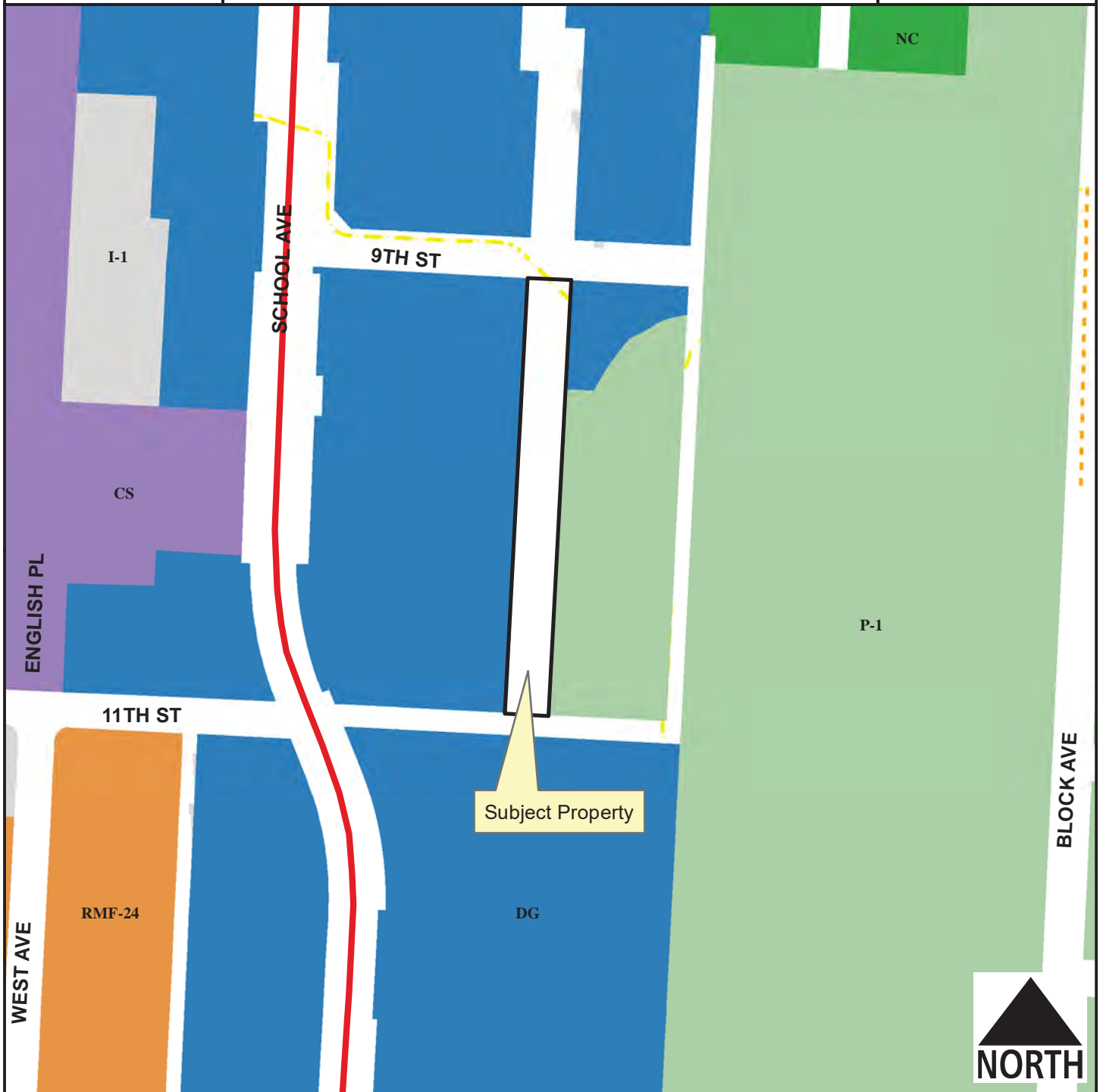


- | | |
|---|---|
| Zoning
RESIDENTIAL SINGLE-FAMILY
RSF-5
RSF-1
RSF-4
RSF-7
RSF-8
RSF-18
RESIDENTIAL MULTI-FAMILY
RMF-12 Residential Two and Three-family
RMF-6
RMF-12
RMF-18
RMF-24
RMF-40
INDUSTRIAL
I-1 Heavy Commercial and Light Industrial
I-2 General Industrial | EXTRACTION
E-1
COMMERCIAL
C-1
C-2
C-3
FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential
INSTITUTIONAL
P-1 |
|---|---|

VAC19-6634

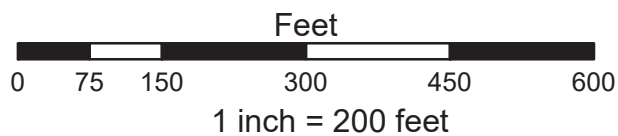
A. STEVENS

Close Up View



Legend

- Planning Area
- Fayetteville City Limits
- Shared Use Paved Trail
- Trail (Proposed)
- Building Footprint

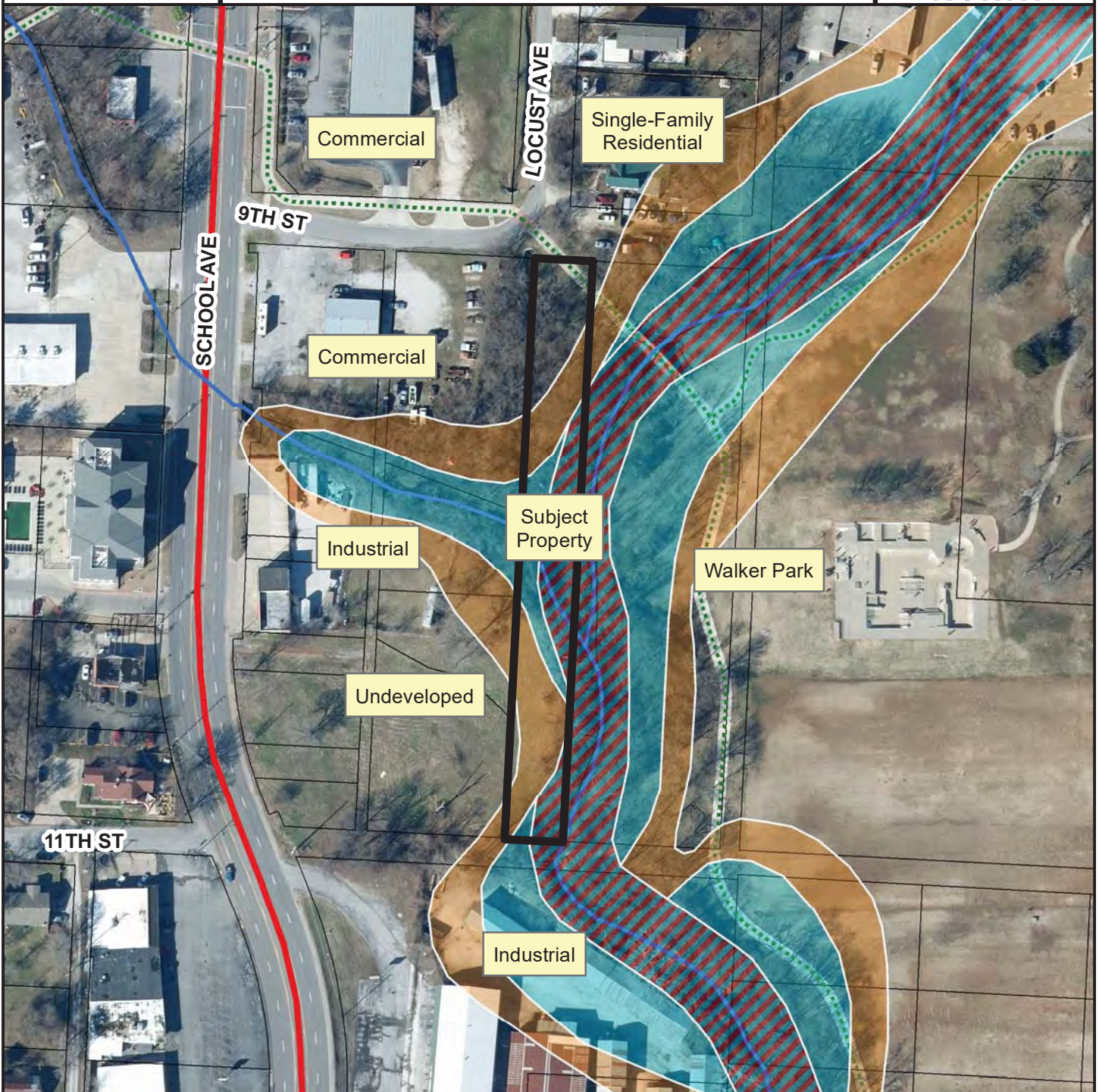


- RMF-24
- I-1 Heavy Commercial and Light Industrial
- Downtown General
- Community Services
- Neighborhood Conservation
- P-1




VAC19-6634

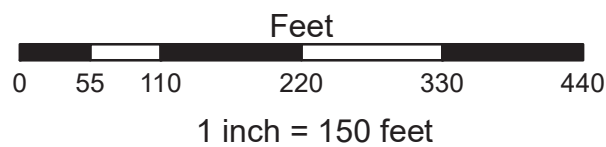
Current Land Use

A. STEVENS





Streets Existing MSP Class

-  PRINCIPAL ARTERIAL
-  Planning Area
-  Fayetteville City Limits



FEMA Flood Hazard Data

-  100-Year Floodplain
-  Floodway