

City of Fayetteville Staff Review Form

2021-0767

Legistar File ID

10/19/2021

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

Jonathan Curth

10/1/2021

DEVELOPMENT SERVICES (620)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

VAC-2020-000005: Vacation (2020 S. CLINE AVE./CLINE AVE. R-O-W, 600): Submitted by OLSSON ENGINEERS, INC. for right of way and general utility easement located at 2020 S. CLINE AVE. The right of way and easement are within property that is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE. The request is to vacate portions of existing street right of way containing approximately 0.30 acres and existing portions of a utility easement containing approximately 0.20 acres.

Budget Impact:

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

V20210527

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF OCTOBER 19, 2021

TO: Mayor; Fayetteville City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Jessie Masters, Development Review Manager

MEETING DATE: October 1, 2021

SUBJECT: **VAC-2020-000005: Vacation (2020 S. CLINE AVE./CLINE AVE. R-O-W, 600):** Submitted by OLSSON ENGINEERS, INC. for right of way and general utility easement located at 2020 S. CLINE AVE. The right of way and easement are within property that is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE. The request is to vacate portions of existing street right of way containing approximately 0.30 acres and existing portions of a utility easement containing approximately 0.20 acres.

RECOMMENDATION:

City Planning staff and the Planning Commission recommend approval of a request to vacate a portion of public right-of-way as described and shown in the attached Exhibits 'A' and 'B' and with the following conditions of approval:

1. Retain utility easement along western boundary of Lots 8 through 10 for overhead electric facilities being used to serve adjacent property; and
2. Any relocation of or damage to existing utilities or existing facilities shall be at the owner/developer's expense; and

BACKGROUND:

The subject property is located in south Fayetteville, between S. School and S. Garland Avenues to the east and west, and approximately 450 feet north of Cato Springs Drive. More specifically, the property includes the northern extent of Cline Avenue's right-of-way. Cline Avenue is a dead-end street that was platted with the McClintons 2nd Addition. The right-of-way to be vacated consists of 0.30 acres; associated utility easements to be vacated consist of a total of 0.20 acres. The University of Arkansas owns all properties adjacent to the right-of-way and easements proposed for abandonment. In 2020, the University of Arkansas began construction of the Engineering Research Center, a building that straddles the right-of-way.

Proposal: The applicant proposes to vacate 0.30 acres of public right-of-way along S. Cline Avenue, as well as two portions of a general utility easement, one totaling 0.03 acres, the other totaling 0.17 acres. The request is to accommodate use of the property for the new Civil Engineering Research Center Structures Lab, which is currently under construction by the University of Arkansas. The application was submitted in September of 2020, however the required owner authorization from the University was not submitted until August of 2021.

DISCUSSION:

Staff supports the vacation request as indicated, for both the existing right-of-way and utility easements. Typically, City Plan 2040 and its specified goal of encouraging complete, compact, and connected developments direct staff towards a recommendation of denial for historically platted right-of-way serving a residential neighborhood. That said, staff finds that given the right-of-way proposed for vacation is encroached upon and surrounded by an institutional use and property owner, it no longer serves the purpose of neighborhood connectivity. Similarly, the specific institutional property owner is the University of Arkansas, a state institution that is not subject to the City of Fayetteville's zoning requirements nor design requirements. This contributed to work on the building beginning prior to vacation approval. Lastly, the applicant has submitted the required vacation forms to the relevant City departments and franchise utility companies, receiving consent from all.

At the September 27, 2021 Planning Commission meeting, this item was forwarded to City Council on the consent agenda. Commissioner Belden made the motion with Commissioner Winston providing the second. No public comment was received at or in advance of the meeting.

BUDGET/STAFF IMPACT:

N/A

Attachments:

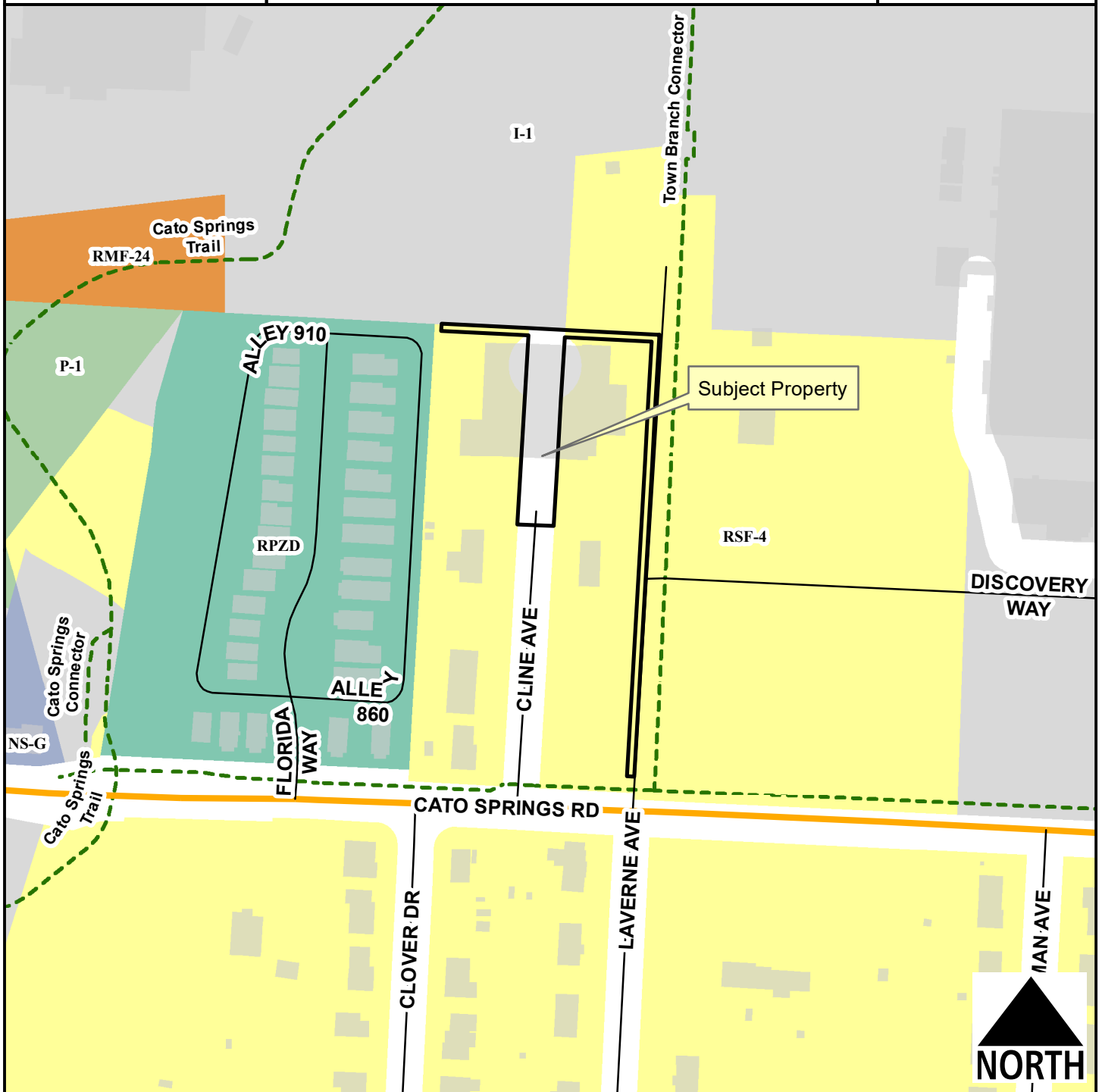
- Exhibit A
- Exhibit B
- Planning Commission Staff Report

VAC-2020-000005

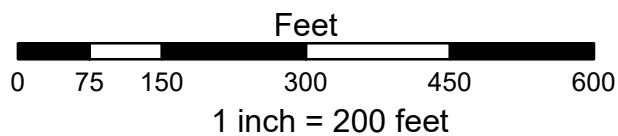
Cline Ave

VAC-2020-000005
EXHIBIT 'A'

Close Up View



- Neighborhood Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail



- RSF-4
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- Neighborhood Services - Gen.
- Commercial, Industrial, Residential
- P-1

VAC-2020-000005
EXHIBIT 'B'

DESCRIPTION: S. CLINE AVE. RIGHT OF WAY VACATION

A portion of S. Cline Ave. located in McClinton's Second Addition to the City of Fayetteville, Arkansas located in the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 21, Township 16 North, Range 30 West being more particularly described as follows: BEGIN at the found rebar pin at the Southeast corner of Lot 8 in said McClinton's Second Addition to the City of Fayetteville, Arkansas as shown on plat of said addition recorded in File 1-00000148 in the records of Washington County, Arkansas, run thence North 03° 17' 53" East along the West right of way line of said S. Cline Ave. a distance of 90.00 feet to the northeast corner of said Lot 8 in said addition; thence leaving said west right of way line South 87° 06' 07" East along the north line of said addition a distance of 50.00 feet to the northwest corner of Lot 7 in said addition; thence leaving said north line South 03° 17' 53" West along the east right of way line of S. Cline Ave. a distance of 270.00 feet to found rebar pin at the southwest corner of Lot 5 in said addition; thence leaving said east right of way line North 87° 06' 07" West a distance of 50.00 feet to the southeast corner of Lot 10 in said addition; thence North 03° 17' 53" East along said west right of way line a distance of 180.00 feet to the point of beginning, containing 13,500 square feet or 0.30 acres, more or less.

DESCRIPTION: UTILITY EASEMENT TRACT "A" VACATION

A portion of the utility easement located in West side of McClinton's Second Addition to the City of Fayetteville, Arkansas located in the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 21, Township 16 North, Range 30 West being more particularly described as follows: Commence at the found rebar pin at the Southeast corner of Lot 8 in said McClinton's Second Addition to the City of Fayetteville, Arkansas as shown on plat of said addition recorded in File 1-00000148 in the records of Washington County, Arkansas, run thence North 03° 17' 53" East along the West right of way line of said S. Cline Ave. a distance of 80.00 feet to the "TRUE POINT OF BEGINNING" of this easement vacation description; thence leaving said west right of way line North 87° 06' 07" West a distance of 120.00 feet; thence North 03° 17' 53" East a distance of 10.00 feet to the North line of Lot 8 in said addition; thence South 87° 06' 07" East along the North line of said Lot 8 in said addition a distance of 120.00 feet to the Northeast corner of said Lot 8; thence leaving said North line South 03° 17' 53" West along the East line of said Lot 8 a distance of 10.00 feet to the Point of Beginning, containing 1,200 square feet or 0.03 acres, more or less.

DESCRIPTION: UTILITY EASEMENT TRACT "B" VACATION

All of the utility easement located in the East side of McClinton's Second Addition to the City of Fayetteville, Arkansas located in the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 21, Township 16 North, Range 30 West being more particularly described as follows: BEGIN at the Northwest corner of Lot 7 in said McClinton's Second Addition to the City of Fayetteville, Arkansas as shown on plat of said addition recorded in File 1-00000148 in the records of Washington County, Arkansas, run thence South 87° 06' 07" East along the North line of said Lot 7 a distance of 130.00 feet to the Northeast corner of Lot 7; thence leaving said North line South 03° 17' 53" West along the East line of said addition a distance of 608.20 feet to the North right of way line of W. Cato Springs Rd.; thence leaving said East line North 86° 57' 55" West along said North right of way line a distance of 10.00 feet; thence leaving said North right of way line North 03° 17' 53" East a distance of 598.17 feet; thence North 87° 06' 07" West a distance of 120.00 feet to the West line of said Lot 7 in said addition; thence North 03° 17' 53" East along said West line of said Lot 7 a distance of 10.00 feet to the Point of Beginning, containing 7,283 square feet or 0.17 acres, more or less.



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

MEETING DATE: September 27, 2021 **(Updated with Planning Commission Results)**

SUBJECT: **VAC-2020-000005: Vacation (2020 S. CLINE AVE./CLINE AVE. R-O-W, 600):** Submitted by OLSSON ENGINEERS, INC. for right of way and general utility easement located at 2020 S. CLINE AVE. The right of way and easement are within property that is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE. The request is to vacate portions of existing street right of way containing approximately 0.30 acres and existing portions of a utility easement containing approximately 0.20 acres.

RECOMMENDATION:

Staff recommends forwarding **VAC-2020-000005** to the City Council with a recommendation of approval and a condition based on the findings contained in this report.

RECOMMENDED MOTION:

"I move to forward **VAC-2020-000005** to the City Council with a recommendation for approval and conditions recommended by staff."

BACKGROUND:

The subject property is located in south Fayetteville, between S. School and S. Garland Avenues to the east and west, and approximately 450 feet north of Cato Springs Drive. More specifically, the property includes the northern extent of Cline Avenue's right-of-way. Cline Avenue is a dead end street that was platted with the McClintons 2nd Addition. The right-of-way to be vacated consists of 0.30 acres; associated utility easements to be vacated consist of a total of 0.20 acres. The University of Arkansas owns all properties adjacent to the right-of-way and easements proposed for abandonment. In 2020, the University of Arkansas began construction of the Engineering Research Center, a building that straddles the right-of-way. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Institutional (University of Arkansas Engineering Research Center)	I-1, Heavy Commercial and Light Industrial
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
East	Institutional (University of Arkansas Engineering Research Center)	RSF-4, Residential Single-Family, 4 Units per Acre
West	Single-Family Residential	RPZD (The Bungalows at Cato Springs)

Proposal: The applicant proposes to vacate 0.30 acres of public right-of-way along S. Cline Avenue, as well as two portions of a general utility easement, one totaling 0.03 acres, the other totaling 0.17 acres. The request is to accommodate use of the property for the new Civil

Engineering Research Center Structures Lab, which is currently under construction by the University of Arkansas. The application was submitted in September of 2020, however the required owner authorization from the University was not submitted until August of 2021.

DISCUSSION:

Staff supports the vacation request as indicated, for both the right-of-way and the existing utility easements. Typically, City Plan 2040 and its specified goal of maintaining complete, compact, and connected developments would lean staff towards a recommendation of denial for historically platted right-of-way serving a residential neighborhood. That said, staff finds that given the area's surroundings by institutional uses and property owners, the right-of-way as it stands no longer serves the purpose of neighborhood connectivity. Staff also finds that the entity that owns the surrounding property, the University of Arkansas, as a state institution, is not subject to the City of Fayetteville zoning requirements, nor design requirements that may typically be required for non-residential uses. This contributed to work on the building beginning prior to vacation approval.

Franchise Utility Consent. The applicant has submitted the required vacation forms to the relevant City departments and franchise utility companies with the following responses:

<u>Utility</u>	<u>Response</u>
Cox Communications	Any damage or relocation of existing Cox facilities will be at the applicant's expense.
AEP/SWEPCO	Retain U.E. along western boundary of lots 8 through 10 for overhead electric facilities being used to serve adjacent property.
BlackHills Energy AR	No objections and no comment.
AT&T	No objections and no comment.
Ozarks Electric	No objections and no comment.
<u>City of Fayetteville</u>	<u>Response</u>
Water/Sewer	No objections and no comment.
Solid Waste & Recycling	No objections and no comment.
Transportation	No objections and no comment.

Public Comment:

No public comment has been received.

RECOMMENDATION: Staff recommends forwarding **VAC-2020-000005** 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.

2. Retain utility easement along western boundary of lots 8 through 10 for overhead electric facilities being used to serve adjacent property.
-

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>September 27, 2021</u>	<input type="checkbox"/> Tabled	<input checked="" type="checkbox"/> Forwarded	<input type="checkbox"/> Denied
Motion: Belden, on the consent agenda			
Second: Winston			
Vote: 7-0-0			

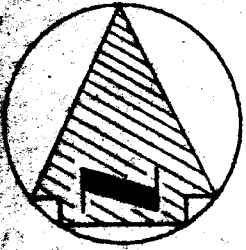
BUDGET/STAFF IMPACT:

None

Attachments:

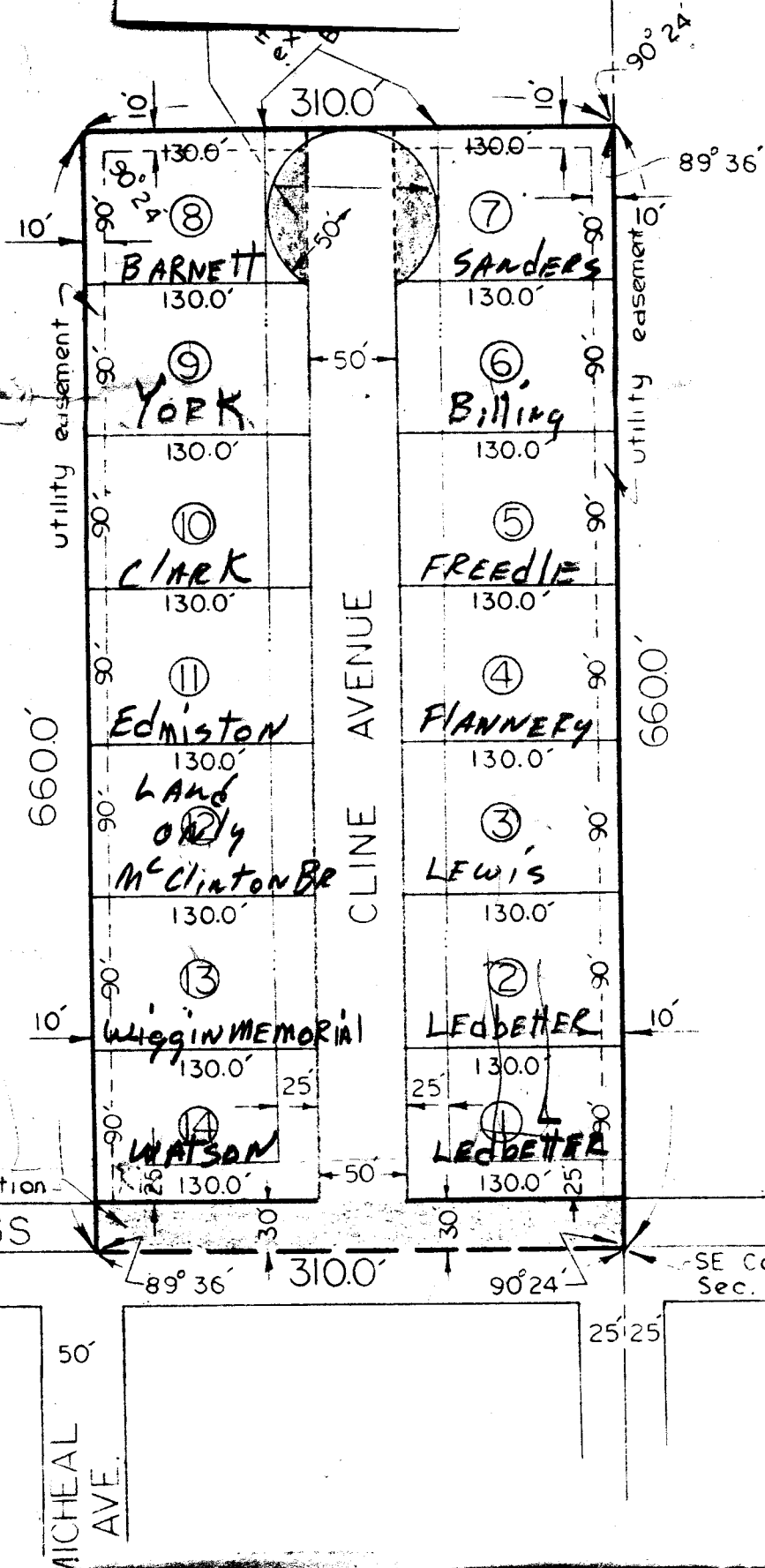
- McClinton's Second Addition
- Letter of Intent
- Petition to Vacate
- Vacation Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map

McClinton's Second Addition



SCALE: 1" = 100'

McClinton's
Second
add



VAC-2020-000005

**Letter of
Intent**

olsson

Planning Department
City of Fayetteville
City Administration Building
113 West Mountain
Fayetteville, Arkansas 72701

Re: Application for Street and Easement Vacation
City of Fayetteville, Arkansas
Olsson Project No. 020-0511

Dear Planning Department,

Enclosed are the application materials for the vacation of part of South Cline Avenue and existing general utility easements in McClinton's 2nd Addition to The City of Fayetteville, Arkansas.

The reason for this street and easement vacation request is to accommodate the construction of the New Civil Engineering Research Center Structures lab. The Existing utilities within the vacation area will be abandoned during construction of the New Civil Engineering Research Center Structures Lab.

Thank you for your consideration of this application.

Sincerely,



Gary Lee Denzer, PS 1266

Petition to Vacate

PETITION

PETITION TO VACATE PART OF A STREET RIGHT OF WAY AND TWO EXISTING EASEMENTS LOCATED IN MCCLINTON'S SECOND 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 street right of way and two easements hereinafter sought to be abandoned and vacated, lying in McClinton's Second Addition, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate part of a street right of way and two easements which is described as follows:

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That the abutting real estate affected by said abandonment of the street right of way and existing easements are Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 & 10, in McClinton's 2nd Addition to the 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 street right of way and two easements.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, 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 28 day of May, 2020.

James A. Ezell
Printed Name

[Signature]
Signature

Printed Name

Signature

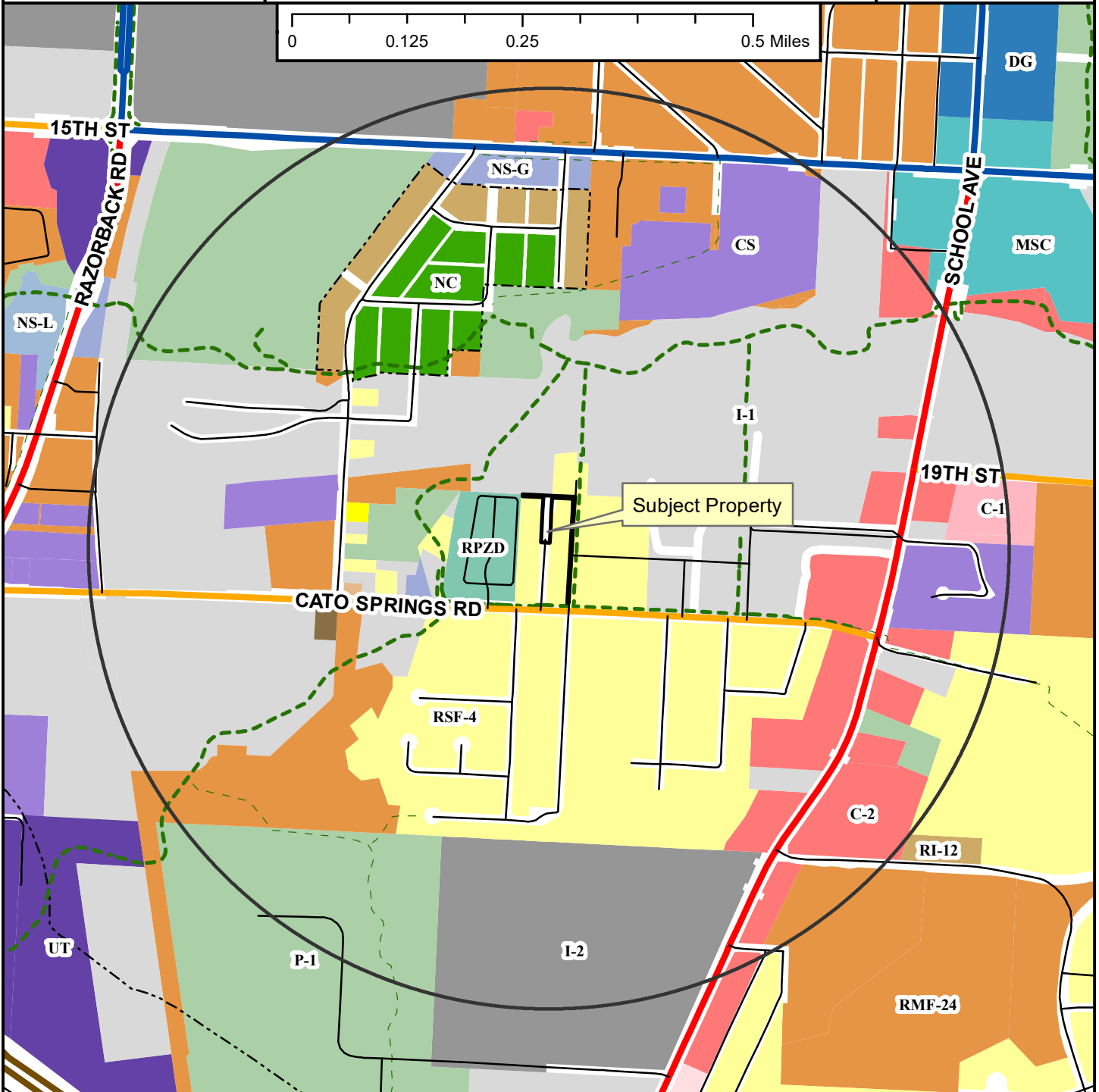
VAC-2020-000005

One Mile View

Cline Ave

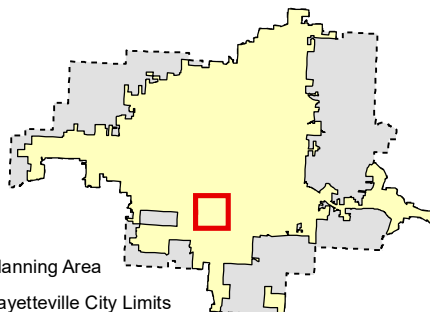


0 0.125 0.25 0.5 Miles



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- - - Shared-Use Paved Trail
- - - Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area

- Planning Area
- Fayetteville City Limits



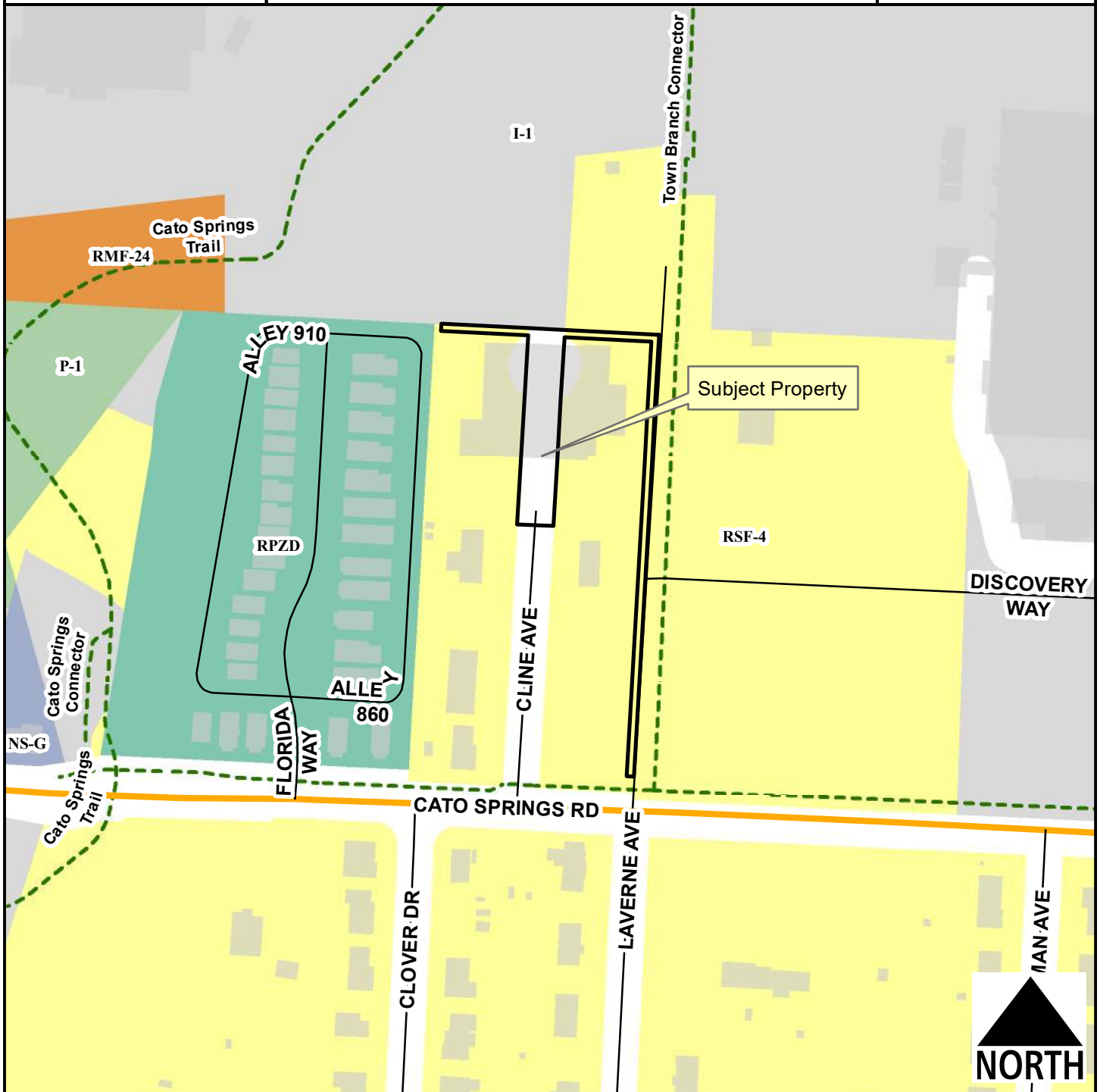
- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
 - I-2 General Industrial
- EXTRACTION**
- E-1
- COMMERCIAL**
- C-1 Residential-Office
 - 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

Planning Commission
September 27, 2021

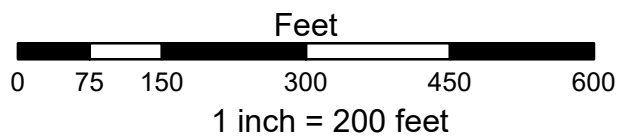
VAC-2020-000005

Cline Ave

Close Up View



- Neighborhood Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail



- RSF-4
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- Neighborhood Services - Gen.
- Commercial, Industrial, Residential
- P-1

Planning Commission
September 17, 2021

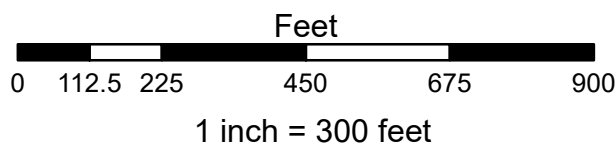
VAC-2020-000005

Cline Ave

Current Land Use



- Neighborhood Link
- Stream
- Planning Area
- Fayetteville City Limits
- Design Overlay District



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway