

City of Fayetteville Staff Review Form

2022-0512

Legistar File ID

7/5/2022

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Jonathan Curth

6/17/2022

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

VAC-2022-0015: Vacation (2584 N. CANDLEWOOD DR./HARBAUGH, 294): Submitted by HALL ESTILL LAW FIRM for property located at 2584 N. CANDLEWOOD DR. in WARD 3. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 0.89 acres. The request is to vacate a 0.02-acre portion of a drainage easement.

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 JULY 5, 2022

TO: Mayor; Fayetteville City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Planner

DATE: June 17, 2022

SUBJECT: **VAC-2022-0015: Vacation (2584 N. CANDLEWOOD DR./HARBAUGH, 294):**
Submitted by HALL ESTILL LAW FIRM for property located at 2584 N. CANDLEWOOD DR. in WARD 3. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE and contains approximately 0.89 acres. The request is to vacate a 0.02-acre portion of a drainage easement.

RECOMMENDATION:

Staff recommends approval of VAC-2022-0015 as shown in the attached Exhibits 'A' and 'B' and with the following conditions of approval:

1. Any damage or relocation of existing facilities will be at the applicant's expense; and
2. A new drainage pipe shall be installed by the applicant, and approved by the City, and the old pipe filled with approved materials prior to final approval of the vacation.

BACKGROUND:

The subject property is in northeast Fayetteville on the east side of N. Candlewood Lane roughly a quarter-mile north of the street's intersection with E. Township Street. The property is zoned RSF-4, Residential Single-Family, 4 Units per Acre and totals approximately 0.89 acres. A single-family dwelling was built on the property in 2000, and an elevated driveway and retaining wall were concurrently built on top of an existing drainage easement, which contains a 24-inch corrugated metal pipe. City records indicate that the driveway and retaining wall were built without proper building permitting, review, or inspections.

Request: The applicant proposes to vacate a portion of an existing drainage easement as indicated in the attached exhibits and totaling approximately 0.02 acres.

DISCUSSION:

The applicant submitted the required approvals from the public utility and service providers with conditions as noted above. With submittal of the required vacation forms and utility consent, staff recommends approval.

BUDGET/STAFF IMPACT:
N/A

Attachments:

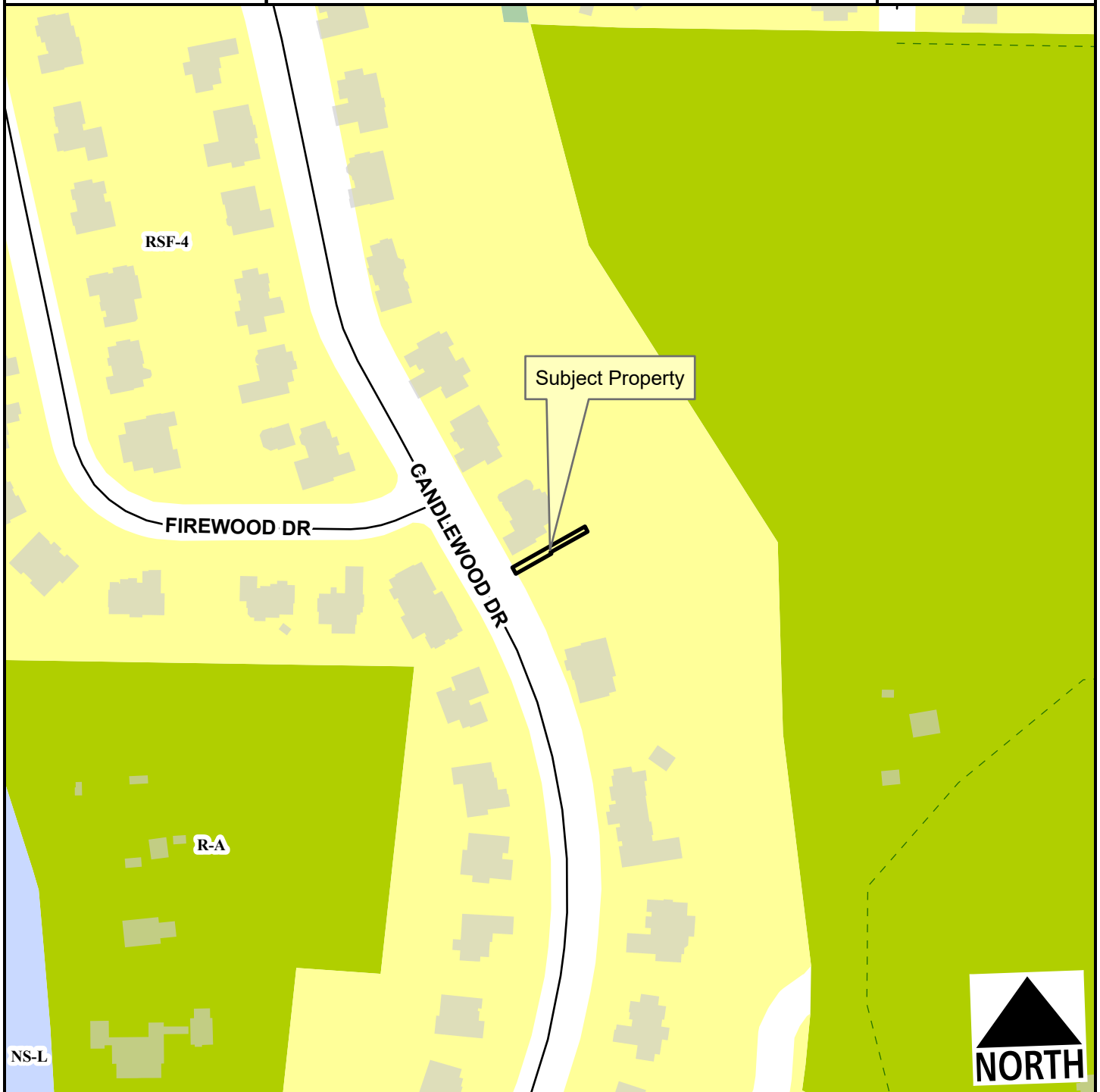
- Exhibit A
- Exhibit B
- Request Letter
- Petition to Vacate
- Survey

VAC-2022-0015

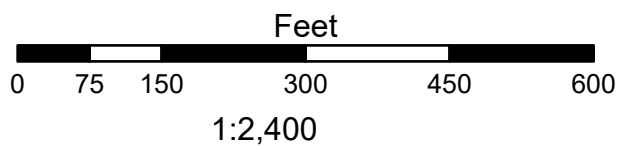
2584 N CANDLEWOOD DR

VAC-2022-0015
EXHIBIT 'A'

Close Up View



- Residential Link
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)



- Residential-Agricultural
- RSF-4
- Neighborhood Services - Ltd.
- P-1

VAC-2022-0015
EXHIBIT 'B'

AREA OF TWENTY (20) FOOT WIDE DRAINAGE EASEMENT TO BE VACATED

A PART OF LOT NUMBERED THIRTY-FOUR (34) CANDLEWOOD SUBDIVISION, FAYETTEVILLE, ARKANSAS, AS PER THE PLAT OF SAID SUBDIVISION FILED IN PLAT BOOK 16 AT PAGE 44 OF THE LAND RECORDS OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHERNMOST CORNER OF SAID LOT THIRTY-FOUR (34), SAID POINT BEING AN EXISTING IRON REBAR ON THE NORTHEAST RIGHT-OF-WAY LINE OF CANDLEWOOD DRIVE; THENCE N59°33'18"E 25.00 FEET ALONG THE SOUTHEAST BOUNDARY LINE OF SAID LOT THIRTY-FOUR (34) TO THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE FRONT TWENTY-FIVE (25) FOOT BUILDING SETBACK AND UTILITY EASEMENT LINE OF SAID LOT THIRTY-FOUR (34); THENCE N30°24'41"W 10.00 FEET ALONG SAID BUILDING SETBACK AND UTILITY EASEMENT LINE TO A POINT ON THE NORTHWEST BOUNDARY LINE OF AN EXISTING TWENTY (20) FOOT WIDE DRAINAGE EASEMENT; THENCE N59°33'18"E 114.54 FEET ALONG SAID DRAINAGE EASEMENT BOUNDARY LINE TO A POINT ON THE EAST EDGE OF A CONCRETE RETAINING WALL; THENCE S29°24'48"E 8.03 FEET TO THE SOUTHEAST CORNER OF SAID RETAINING WALL; THENCE S59°55'52"W 58.44 FEET ALONG SAID RETAINING WALL TO A POINT; THENCE S29°30'33"E 2.36 FEET ALONG AN EXISTING CONCRETE RETAINING WALL TO A POINT ON THE SOUTHEAST BOUNDARY LINE OF SAID LOT THIRTY-FOUR (34); THENCE S59°33'18"W 55.93 FEET TO THE POINT OF BEGINNING, CONTAINING 1018.4 SQUARE FEET, MORE OR LESS.

May 18, 2022

VIA PORTAL DELIVERY

City of Fayetteville Planning Commission and Planning Department
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: Petition to partially vacate the city's utility easement on 2584 North Candlewood Dr.

To Whom It May Concern:

The undersigned represents the owners Ryan and Megan Timberlake residing at 2584 North Candlewood Drive in their request to have the city partially vacate a utility easement. Prior to filing this petition the petitioner's representatives, including myself and our engineer, met with city staff including engineers and city attorney. This partial vacation request and petition is more or less what the participants of that meeting agreed to as a workable solution to the issue of the prior owner and builder having constructed part of the retaining wall and driveway on top of a part the easement that is subject to this request. The solution also requires the landowners to fix this issue where the drainage still works effectively. The petition and exhibits set this out much clearer, but it is the desire of these petitioners to have their petition reviewed and approved by City Staff, Planning Commission and City Council.

Although in talking with the City Attorney, the neighbor on the adjoining lot does not necessarily have to sign any sort of consent, however I am sending Mr. and Mrs. Delery copies of everything that we are filing herein. The petitioner's representatives and the City have both previously discussed this matter with the Delery's.

Sincerely yours,

Hall, Estill, Hardwick, Gable, Golden &
Nelson, P.C.

/s/ Robert K. Rhoads

Robert K. Rhoads

RKR:slt

Cc: Mr. & Mrs. Delery;
Mr. and Mrs. Timberlake;
Tom Henley;
Kit Williams;
City Staff

**PETITION TO VACATE A SEWER EASEMENT LOCATED IN LOT 34
CANDLEWOOD SUBDIVISION, CITY OF FAYETTEVILLE, ARKANSAS**

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

We, Ryan and Megan Timberlake, the undersigned, being all the owners of the real estate at 2584 N. Candlewood Drive, Fayetteville, Arkansas abutting the 20 foot utility easement hereinafter sought to be partially abandoned and vacated, lying in *Lot 34 Candlewood Subdivision, Fayetteville, Arkansas, as per Plat in Plat Book 16 at Page 44 on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas*, petition to partially vacate an easement which is described in Exhibit 1 attached hereto.

1. That the 20 foot drainage easement in question is to the benefit of the City of Fayetteville, see attached Exhibit 1.

2. That housing structures have been constructed over part of the easement (See Exhibit 1) over 20 years ago, and it would be wasteful to tear down these structures.

3. That the City's interest and welfare would not be adversely affected by the abandonment of a portion of the above described easement.

4. That the petitioner's engineers have met with the City's engineers and submitted plans to the City of Fayetteville engineers whereby the drainage pipes will be moved over as set out in the plat attached hereto as Exhibit 2, and the existing sewer pipe will be filled in by the petitioners with concrete.

5. That the above described easement is only the City's drainage easement therefore no consent is required by the utility companies.

6. The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate a portion of the above described easement, as set out in the attached Exhibits 1 and 3.

7. 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, as set out in Exhibit 2 and that title to said real estate sought to be abandoned be vested in the petitioners as provided by law, and as to that particular land the owners be free from the easements of the City except for the portion not vacated.

Dated this 17th day of May, 2022.

RYAN TIMBERLAKE
Printed Name


Signed Name

MEGAN TIMBERLAKE
Printed Name

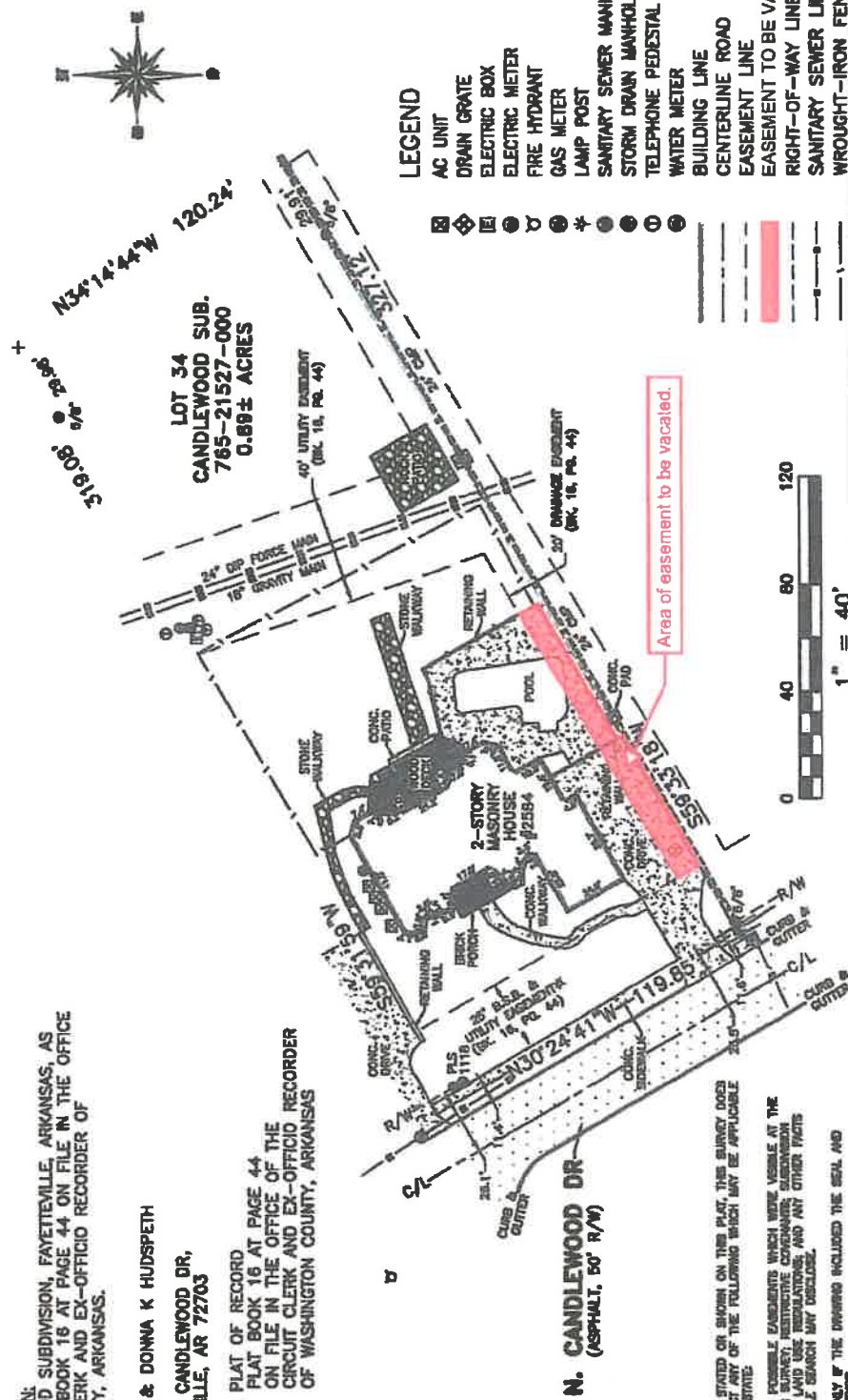

Signed Name

1.1

SURVEY DESCRIPTION:
LOT 34 CANDLEWOOD SUBDIVISION, FAYETTEVILLE, ARKANSAS, AS PER PLAT IN PLAT BOOK 16 AT PAGE 44 ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

BUYER: MICHAEL L & DONNA K HUDSPETH
ADDRESS: 2584 N. CANDLEWOOD DR,
FAYETTEVILLE, AR 72703

BASIS OF BEARING: PLAT OF RECORD
PLAT BOOK 16 AT PAGE 44
ON FILE IN THE OFFICE OF THE
CIRCUIT CLERK AND EX-OFFICIO RECORDER
OF WASHINGTON COUNTY, ARKANSAS



PLAT NOTES:
EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE.

ENCUMBRANCES, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF MAKING OF THIS SURVEY, RESTRICTIONS, COVENANTS, EASEMENTS, RESTRICTIONS ON OTHER LAND USE, REGULATIONS, AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDED THE SEAL AND SIGNATURE OF THE SURVEYOR.

THIS SURVEY MEETS OR EXCEEDS THE CURRENT "ARKANSAS MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS AND PLATS".

DECLARATION IS MADE TO THE ORIGINAL PURCHASER OF THE SURVEY, IT IS NOT TRANSMISSIBLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY.

Alan Reid & Associates
118 South College Avenue
Fayetteville, Arkansas 72701
(479) 444-8784

DATE: 03/10/2022
SCALE: 1" = 40'
REVISION:
DRAWN BY: DF

PROJECT NO.
22054

LOT SURVEY



2584
N CANDLEWOOD DRIVE
FAYETTEVILLE, AR

[illegible]

CONCEPT 1



AREA OF TWENTY (20) FOOT WIDE DRAINAGE EASEMENT TO BE VACATED

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BUYER: MICHAEL L & DONNA K HUDSPETH

ADDRESS: 2584 N. CANDLEWOOD DR.,
FAYETTEVILLE, AR 72703

BASIS OF BEARING: PLAT OF RECORD
PLAT BOOK 16 AT PAGE 44
ON FILE IN THE OFFICE OF THE
CIRCUIT CLERK AND EX-OFFICIO RECORDER
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N. CANDLEWOOD DR
(ASPHALT, 50' R/W)

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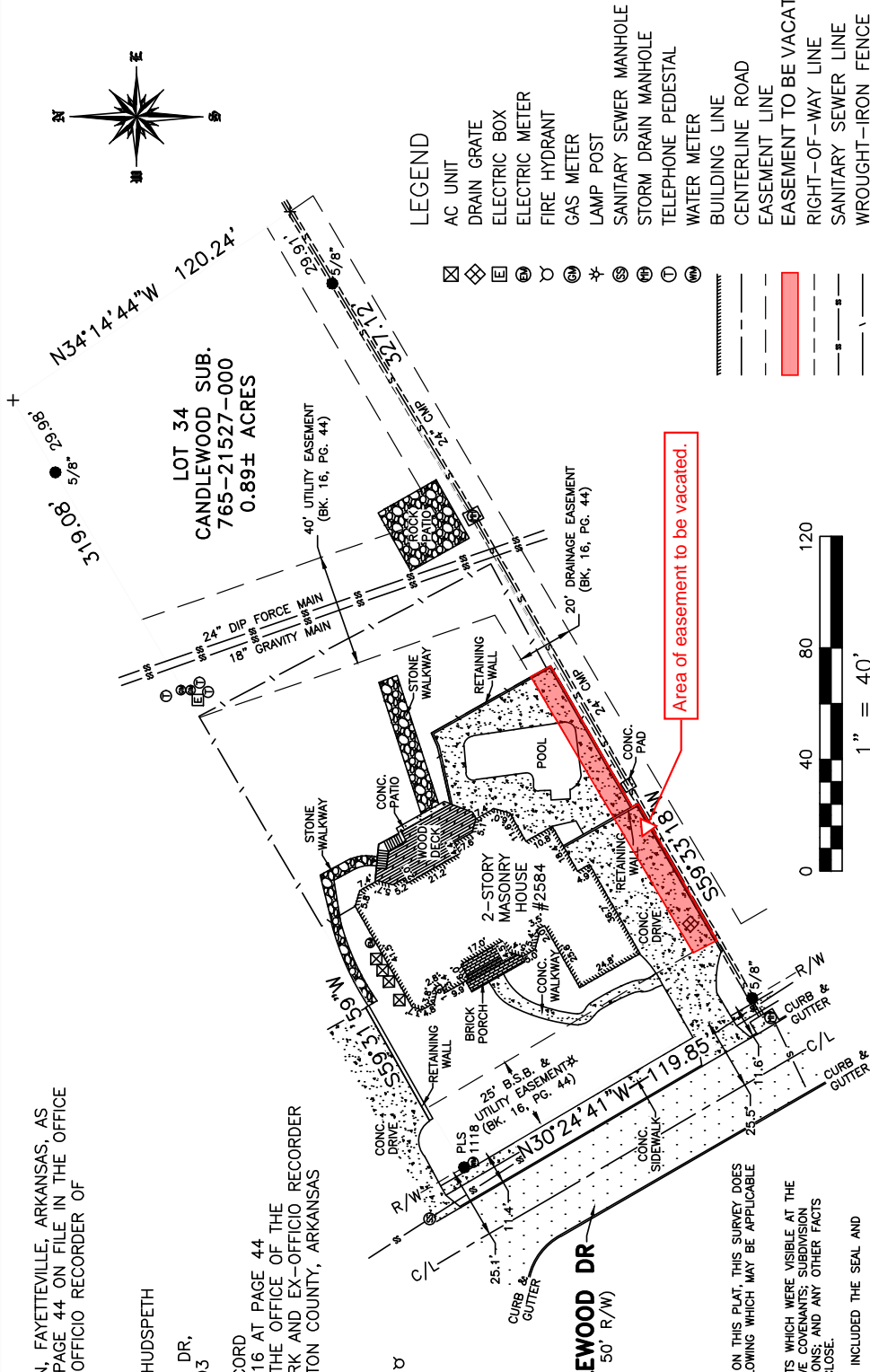
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