City of Fayetteville Staff Review Form

2018-0302

Legistar File ID

6/19/2018

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

Garner Stoll

Submitted By

6/1/2018

Submitted Date

City Planning / Development Services Department

Division / Department

Action Recommendation:

VAC 18-6174: Vacation (237 S. LOCUST AVE./GRAY, 523): Submitted by ATLAS SURVEYING, INC. for property located at 237 S. LOCUST AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.02 acres. The request is to vacate a portion of a utility easement and a street right-of-way.

Budget Impact:

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Number</td>
<td>Project Title</td>
</tr>
<tr>
<td>Budgeted Item?</td>
<td>NA</td>
</tr>
<tr>
<td>Does item have a cost?</td>
<td>No</td>
</tr>
<tr>
<td>Budget Adjustment Attached?</td>
<td>NA</td>
</tr>
<tr>
<td>Current Budget</td>
<td>$ -</td>
</tr>
<tr>
<td>Funds Obligated</td>
<td>$ -</td>
</tr>
<tr>
<td>Current Balance</td>
<td>$ -</td>
</tr>
<tr>
<td>Item Cost</td>
<td></td>
</tr>
<tr>
<td>Budget Adjustment</td>
<td></td>
</tr>
<tr>
<td>Remaining Budget</td>
<td>$ -</td>
</tr>
</tbody>
</table>

Previous Ordinance or Resolution #

Original Contract Number: Approval Date:

Comments:
MEETING OF JUNE 19, 2018

TO: Mayor and City Council

THRU: Garner Stoll, Development Services Director

FROM: Harry Davis, Current Planner

DATE: June 1, 2018

SUBJECT: VAC 18-6174: Vacation (237 S. LOCUST AVE./GRAY, 523): Submitted by ATLAS SURVEYING, INC. for property located at 237 S. LOCUST AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.02 acres. The request is to vacate a portion of a utility easement and a street right-of-way.

RECOMMENDATION:
Staff and Planning Commission recommend approval of VAC 18-6174 with the following conditions of approval:

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

2. A 10-foot wide utility easement shall remain along Locust Avenue and will be extended approximately 8-feet into the proposed area of vacated right-of-way, matching the new southern property line and right-of-way.

BACKGROUND:
The subject vacation area is at the corner of Locust Avenue and South Street, zoned DG for Downtown General, and contains 0.02 acres of excess right-of-way and utility easement. The larger property is currently occupied with a single-family residence.

Proposal: The applicant proposes to vacate a portion of utility easement and right-of-way. Both are needed in order to construct a detached garage in the vacation proposal area.

DISCUSSION:
At the May 14, 2018 Planning Commission, this item was forwarded as part of the consent agenda to City Council with a recommendation for approval, with all conditions as recommended by staff.

Exhibit ‘A’ and ‘B’ attached to this report are the most updated and corrected exhibits. The original legal description at Planning Commission for this item was incorrect, which caused earlier maps to appear as if the applicant wanted to vacate portions of Locust Avenue. This has been corrected and verified by staff.
BUDGET/STAFF IMPACT:
N/A

Attachments:
- Exhibit A
- Exhibit B
- Planning Commission packet
| VAC 18-6174 EXHIBIT 'A' |

**Area requested to be vacated**

<table>
<thead>
<tr>
<th><strong>PARCEL 1: 0.09 ACRES</strong></th>
</tr>
</thead>
</table>

**Total Acreage**

---

**SURVEYOR'S NOTES**

**LAST RIGHT VAC**

**DATE OF RECORDING**

**REFERENCE DOCUMENTS**

1. Deed of Trust: Filed in Book 2016, Page 222
2. Warranty deed: Filed in Book 2016, Page 223

**ZONING**

**BUILDER'S NOTES**

<table>
<thead>
<tr>
<th><strong>PROPERTY DIMENSIONS</strong></th>
</tr>
</thead>
</table>

**LEGAL DESCRIPTION OF PROPERTY**

**RIGHT OF WAY & EASEMENT VACATION**

<table>
<thead>
<tr>
<th>BROCK POSEY</th>
</tr>
</thead>
</table>

**LEGEND**

<table>
<thead>
<tr>
<th><strong>UTILITY</strong></th>
</tr>
</thead>
</table>

**ATLAS PROFESSIONAL LAND SURVEYING**

**COUNTY RECORDED INFORMATION**

1. **JERRY SMITH**
2. **DATE OF RECORDING**
3. **REFERENCE DOCUMENTS**
4. **ZONING**
5. **BUILDER'S NOTES**
6. **LEGAL DESCRIPTION OF PROPERTY**
7. **RIGHT OF WAY & EASEMENT VACATION**
8. **LEGEND**

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[Diagram and map details]
VAC 18-6174 – EXHIBIT ‘B’

STREET RIGHT OF WAY VACATION DESCRIPTION:
BEGINNING AT THE SE CORNER OF BLOCK 38 IN THE ORIGINAL TOWN OF FAYETTEVILLE,
WASHINGTON COUNTY, ARKANSAS AND RUNNING THENCE S01°09'28"W 8.00 FEET, THENCE
N88°36'03"W 68.29 FEET, THENCE N01°14'59"E 8.00 FEET, THENCE S88°36'03"E 68.28 FEET TO
THE POINT OF BEGINNING, CONTAINING 0.01 ACRES, MORE OR LESS.

10' UTILITY EASEMENT VACATION DESCRIPTION:
BEGINNING AT A POINT WHICH IS N88°36'03"W 10.00 FEET FROM THE SE CORNER OF BLOCK 38
IN THE ORIGINAL TOWN OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS AND RUNNING
THENCE N88°36'03"W 58.28 FEET, THENCE N01°23'57"E 10.00 FEET, THENCE S88°36'03"E 58.24
FEET, THENCE S01°09'28"W 10.00 FEET TO THE POINT OF BEGINNING
TO: City of Fayetteville Planning Commission  
THRU: Andrew Garner, City Planning Director  
FROM: Harry Davis, Planner  
MEETING DATE: May 14, 2018  
SUBJECT: VAC 18-6174: Vacation (237 S. LOCUST AVE./GRAY, 523): Submitted by ATLAS SURVEYING, INC. for property located at 237 S. LOCUST AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.02 acres. The request is to vacate a portion of a utility easement and a street right-of-way.

RECOMMENDATION: Staff recommends forwarding VAC 18-6174 to City Council with a recommendation for approval with conditions.

RECOMMENDED MOTION: “I move to forward VAC 18-6174 to City Council with a recommendation for approval with all conditions as recommended by staff.”

BACKGROUND: The subject vacation area is at the corner of Locust Avenue and South Street, zoned DG for Downtown General, and contains 0.02 acres of excess right-of-way and utility easement. The larger property is currently occupied with a single-family residence. Surrounding land uses and zoning districts are in Table 1.

<table>
<thead>
<tr>
<th>Direction</th>
<th>Land Use</th>
<th>Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Single-family Residential</td>
<td>DG, Downtown General</td>
</tr>
<tr>
<td>South</td>
<td>Single-family Residential</td>
<td>DG, Downtown General</td>
</tr>
<tr>
<td>East</td>
<td>Single-family Residential</td>
<td>DG, Downtown General</td>
</tr>
<tr>
<td>West</td>
<td>Single-family Residential</td>
<td>DG, Downtown General</td>
</tr>
</tbody>
</table>

Proposal: The applicant proposes to vacate a portion of utility easement and right-of-way. Both are needed in order to construct a detached garage in the vacation proposal area.

DISCUSSION:

Vacation Approval: The applicant has submitted the required vacation forms to the City utility departments, and franchise utility companies with the following responses:
<table>
<thead>
<tr>
<th>Utility</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cox Communications</td>
<td>No objections, provided that any damage to or relocation of existing facilities will be at the owner/developer's expense.</td>
</tr>
<tr>
<td>AEP/SWEPCO</td>
<td>A 10-foot wide utility easement shall remain along Locust Avenue and will be extended approximately 8-feet into the proposed area of vacated right-of-way, matching the new southern property line and right-of-way.</td>
</tr>
<tr>
<td>BlackHills Energy AR</td>
<td>No objections and no comment.</td>
</tr>
<tr>
<td>AT&amp;T</td>
<td>If AT&amp;T facilities are required to be relocated due to this vacation, all costs to do so will be the responsibility of the owner/developer.</td>
</tr>
<tr>
<td>Ozarks Electric</td>
<td>No objections and no comment.</td>
</tr>
</tbody>
</table>

**City of Fayetteville**

<table>
<thead>
<tr>
<th>Response</th>
<th>No objections and no comment.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water/Sewer</td>
<td>No objections and no comment.</td>
</tr>
<tr>
<td>Solid Waste &amp; Recycling</td>
<td>No objections and no comment.</td>
</tr>
<tr>
<td>Transportation</td>
<td>No objections and no comment.</td>
</tr>
</tbody>
</table>

Staff is in support of the proposal, as the existing right-of-way is approximately 65-feet wide, which is well in excess of the Master Street Plan Local section of 50-feet wide. The resulting right-of-way from road centerline towards the property will be over 28-feet. The utility companies above have accepted the utility easement vacation.

**Public Comment:**
No public comment has been received.

**RECOMMENDATION:** Staff recommends forwarding **VAC 18-6174** 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. A 10-foot wide utility easement shall remain along Locust Avenue and will be extended approximately 8-feet into the proposed area of vacated right-of-way, matching the new southern property line and right-of-way;
3. Prior to this item being submitted to City Council in Legistar, the applicant shall provide a revised "Petition to Vacate", which includes accurate legal descriptions for both vacation areas;

4. Prior to this item being submitted to City Council in Legistar, the applicant shall provide revised legal descriptions for both vacation areas per comments from the GIS Division.

**Planning Commission Action:**
- [x] Forwarded
- [ ] Tabled
- [ ] Denied

**Meeting Date:** May 14, 2018

**Motion:** Brown  Motion as part of consent agenda

**Second:** Scroggin  Motion passes

**Vote:** 6-0-2

**BUDGET/STAFF IMPACT:**
None.

**Attachments:**
- GIS Division comments
- Petition to Vacate
- Utility Approvals
- Easement Vacation Exhibit
- One Mile Map
- Close-Up Map
- Current Land Use Map
STREET RIGHT OF WAY VACATION DESCRIPTION:

BEGINNING AT THE SE CORNER OF BLOCK 38 IN THE ORIGINAL TOWN OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS AND RUNNING THENCE S01°09'28"W 8.00 FEET, THENCE N88°36'03"W 68.29 FEET, THENCE N01°14'59"E 8.00 FEET, THENCE S88°36'03"E 68.28 FEET TO THE POINT OF BEGINNING, CONTAINING 0.01 ACRES, MORE OR LESS.

10' UTILITY EASEMENT VACATION DESCRIPTION:

BEGINNING AT THE SW CORNER OF BLOCK 38 IN THE ORIGINAL TOWN OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS AND RUNNING N01°14'59"E FEET 10.00', THENCE S88°36'03"E 58.24 FEET, THENCE S01°09'28"W 10.00 FEET, THENCE N88°36'03"W 58.28 FEET TO THE POINT OF BEGINNING.

directional on 10' util easement are incorrect, surveyor is VAC the street RoW
PETITION TO VACATE A UTILITY EASEMENT AND STREET RIGHT OF WAY LOCATED IN AND SOUTH OF LOT 38, THE ORIGINAL TOWN PLAT OF FAYETTEVILLE, 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 easement and right-of-way hereinafter sought to be abandoned and vacated, lying in lot 38, in the Original Town of Fayetteville, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a utility easement and street right-of-way which is described as follows:

STREET RIGHT OF WAY VACATION DESCRIPTION:  
BEGINNING AT THE SE CORNER OF LOT 38 IN THE ORIGINAL TOWN OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS AND RUNNING THENCE S01°00'28"W 8.00 FEET, THENCE N88°36'03"W 58.29 FEET, THENCE N01°14'59"E 8.00 FEET, THENCE S88°36'03"E 68.28 FEET TO THE POINT OF BEGINNING, CONTAINING 0.01 ACRES, MORE OR LESS.

10' UTILITY EASEMENT VACATION DESCRIPTION:  
BEGINNING AT THE SW CORNER OF LOT 38 IN THE ORIGINAL TOWN OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS AND RUNNING N01°14'59"E FEET 10.00', THENCE S88°36'03"E 58.24 FEET, THENCE S01°09'28"W 10.00 FEET, THENCE N88°36'03"W 58.28 FEET TO THE POINT OF BEGINNING.

That the abutting real estate affected by said abandonment of the alley is lot 38, in the Original Town of Fayetteville 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 utility easement and street right-of-way.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer 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 that particular land the owners be free from the easements of the public for the use of said alley.

Dated this 6th day of APRIL, 2018.

Printed Name

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

DATE: 1/19/18

UTILITY COMPANY: Black Hills Corp.

APPLICANT NAME: Atlas PLS

APPLICANT PHONE: 479-294-6197

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: 237 S. Locust Ave, Fayetteville, 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:

Signature of Utility Company Representative

Title

September 2017
Page 5
UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 11/19/18
UTILITY COMPANY: AT&T
APPLICANT NAME: ATLAS PLS APPLICANT PHONE: 479-294-6171

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 237 S. Locust Ave, Fayetteville, 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:
   If AT&T facilities are required to be relocated due to this vacate, all cost to do so will be the responsibility of the owner/developer.

Jeff Hamilton
Signature of Utility Company Representative

MGR OSP PLNG& ENGRG DESIGN
Title

Digitally signed by Jeff Hamilton
DN: cn=Jeff Hamilton, o=AT&T, ou=Engineering,
email=jl54@att.com, c=US
Date:2018.02.26 12:54:22 -06'07

September 2017
Page 5
UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 1-19-18

UTILITY COMPANY: AEP/SWEPCO

APPLICANT NAME: Atlas PLS

APPLICANT PHONE: 479-294-6177

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: 237 S. Locust Ave, Fayetteville, 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:

10' U.E. along Locust to remain as the 8' x 10' corner of the vacated row to be U.E. as well.

Signature of Utility Company Representative

DISTRIBUTION ENGINEER

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

DATE: 1-19-18

UTILITY COMPANY: Cox Communications

APPLICANT NAME: Atlas PLS APPLICANT PHONE: 479-294-6177

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 237 S. Locust Ave, Fayetteville 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:

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

Signature of Utility Company Representative

Construction & Planning Manager
Title

September 2017
Page 3
UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 1-19-18

UTILITY COMPANY: Ozarks Electric

APPLICANT NAME: Atlas PLS  APPLICANT PHONE: 479-294-6177

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: 237 S. Locust Ave, Fayetteville 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:

Wesley Mahaffey
Signature of Utility Company Representative

Staking Tech. III
Title

September 2017
Page 5
UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 2/2/18

UTILITY COMPANY: City of Fayetteville Transportation

APPLICANT NAME: APAS, PLC  APPLICANT PHONE: 479.291.9617

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: 237 S, Locust Ave, Fayetteville, 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:

☐

[Signature of Utility Company Representative]

[Title]

May 2017
Page 5
UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 2/2/18

UTILITY COMPANY: City of Fayetteville Sewer Waste

APPLICANT NAME: Atlacia APPLICANT PHONE: 479-294-6177

REQUESTED VACATION (applicant must check all that apply):

X 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 237 E Locust Ave, Fayetteville, 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:


Signature of Utility Company Representative

Com Sales Rep

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

DATE: 1-19-18

UTILITY COMPANY: Fayetteville Water and Sewer
APPLICANT NAME: Atlas PLS
APPLICANT PHONE: 479-294-6177

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 237 S. Locust Ave, Fayetteville 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:

Signature of Utility Company Representative

Title: W&S Operations Manager

September 2017
Page 5
Area requested to be vacated
Streets Existing
MSP Class

- **Principal Arterial**
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

1 inch = 200 feet

VAC18-6174

Current Land Use

Subject Property

Single Family

Residential Mixed Use

Commercial

Rock St

South St

West Ave

Locust Ave

4th St

4th St

Archibald Yell Blvd

Block Ave

Prairie St

Alley 417

Alley 155

Shawn Gray

0 75 150 300 450 600 Feet

NORTH