City of Fayetteville Staff Review Form

2020-1073

Legistar File ID

1/5/2021

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

Garner Stoll	12/18/2020	CITY PLANNING (630)
Submitted By	**Submitted Date**	**Division / Department**

Action Recommendation:

VAC-2020-000009: Vacation (EAST OF 662 W. TAYLOR ST./GREGG AVE. R-O-W, 444): Submitted by JORGENSEN & ASSOCIATES, INC. for property located EAST OF 662 W. TAYLOR ST. The public street right-of-way contains approximately 0.21 acres. The request is to vacate a portion of the street right-of-way. Planner: Jonathan Curth

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 OF FAYETTEVILLE ARKANSAS

CITY COUNCIL MEMO

MEETING OF JANUARY 5, 2021

TO: Mayor; Fayetteville City Council

THRU: Susan Norton, Chief of Staff
Garner Stoll, Development Services Director

FROM: Jonathan Curth, Development Review Manager

MEETING DATE: December 18, 2020

SUBJECT: **VAC-2020-000009: Vacation (EAST OF 662 W. TAYLOR ST./GREGG AVE. R-O-W, 444):** Submitted by JORGENSEN & ASSOCIATES, INC. for property located EAST OF 662 W. TAYLOR ST. The public street right-of-way contains approximately 0.21 acres. The request is to vacate a portion of the street right-of-way.

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. Easements shall be dedicated over the vacated right-of-way to ensure access and maintenance for existing utility infrastructure; and

2. Any damage or relocation of existing facilities will be at the applicant's expense; and

BACKGROUND:
The subject property includes 0.21 acres of unbuilt right-of-way north of Gregg Avenue's intersection with Taylor Street. Washington County records suggest the right-of-way was platted in 1893 with the Archias Bushnell Addition, but there is no indication that it was ever improved or utilized by the public. The right-of-way is characterized by sloping terrain, a City sanitary sewer main, and a topographical dead end to the north at Scull Creek, its floodway, and the Scull Creek Trail. While property abutting the right-of-way's western edge is developed, to the east is undeveloped City property and, beyond that, railroad right-of-way.

Proposal: The applicant proposes to vacate approximately 225 linear feet of public right-of-way, totaling 0.25 acres and as indicated in the attached exhibit and maps. Where right-of-way vacation requires consent from affected, adjacent property owners, the applicant has not received this. As an alternative, evidence of the multiple attempts to contact the property owner have been provided with the application, of which the most recent is included in the attached Planning Commission staff report. The non-responsive property owner has a County-listed address in Wilmette, Illinois.

DISCUSSION:
At the December 14, 2020 Planning Commission meeting, this item was forwarded to City Council with a recommendation for approval, with conditions as recommended by staff. The

Commission voted 5-2-0, with Commissioners Brown and Garlock dissenting. While several Commissioners expressed initial reluctance to support the vacation, the possibility of developing the property alongside undeveloped land to the east represented a potential for infill that many supported. Those opposed expressed concern that vacating this right-of-way was undesirable and could compromise future widening of the railroad right-of-way to accommodate multiple tracks and regional rail transit. No public comment was made at or in advance of the meeting.

BUDGET/STAFF IMPACT:
N/A

Attachments:

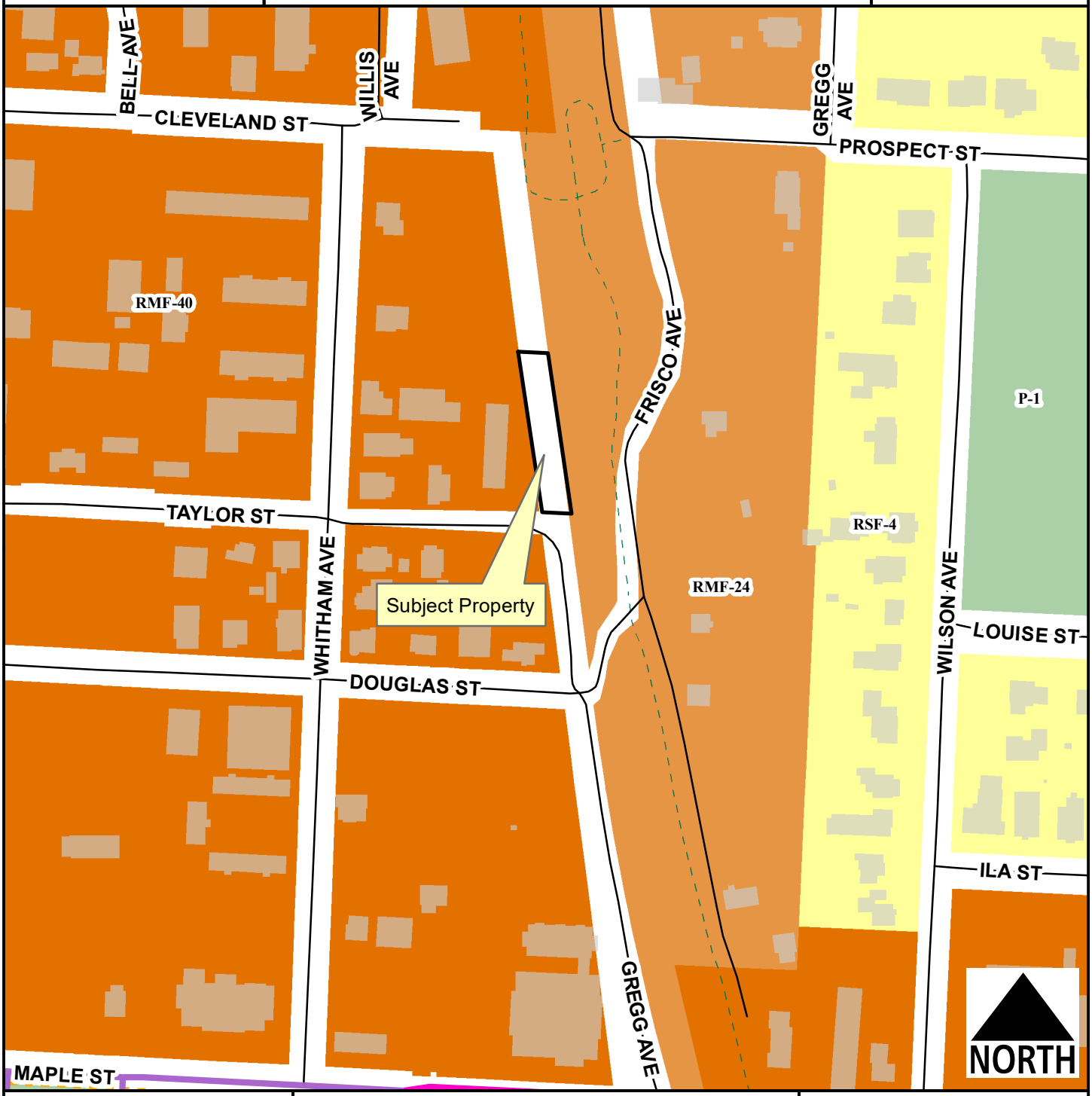
- Exhibit A
- Exhibit B
- Planning Commission Staff Report

VAC-2020-000009

Close Up View

N. Gregg Ave. R-O-W

VAC-2020-000009
EXHIBIT 'A'



Legend

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

Feet

0 75 150 300 450 600

1 inch = 200 feet

- RSF-4
- RMF-24
- RMF-40
- P-1

VAC-2020-000009
EXHIBIT 'B'

LEGAL DESCRIPTION:

A portion of land to be vacated laying east of Lot 15 in Block 4 of Archias-Bushnell Subdivision in Fayetteville, Arkansas, as per plat on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Beginning at the NE Corner of said Lot 15 in Block 4, said point being the POINT OF BEGINNING, thence S87°13'41"E 40.79 feet, thence S08°30'43"E 225.02 feet, thence N87°13'41"W 40.79 feet, thence N08°30'43"W 225.02 feet to the POINT OF BEGINNING: Containing 9,000.78 square feet or 0.2066 acres more or less.

CITY OF FAYETTEVILLE ARKANSAS

PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

FROM: Jonathan Curth, Development Review Manager

MEETING DATE: December 14, 2020 **(Updated with Planning Commission Results)**

SUBJECT: **VAC 2020-000009: Vacation (EAST OF 662 W. TAYLOR ST./N. GREGG AVE R-O-W, 444):** Submitted by JORGENSEN & ASSOCIATES, INC. for property located EAST OF 662 W. TAYLOR. This public street right-of-way contains approximately 0.21 acres. The request is to vacate a portion of the street right of way.

RECOMMENDATION:
Staff recommends forwarding **VAC-2020-000009** to City Council, with conditions.

RECOMMENDED MOTION:
"I move to forward **VAC-2020-000009** to City Council, recommending approval and with conditions as recommended by staff."

BACKGROUND:
The subject property includes 0.21 acres of unbuilt right-of-way north of Gregg Avenue's intersection with Taylor Street. Washington County records suggest the right-of-way was platted in 1893 with the Archias Bushnell Addition, but there is no indication that it was ever improved or utilized by the public. The right-of-way is characterized by sloping terrain, a City sanitary sewer main, and a topographical dead end to the north at Scull Creek, its floodway, and the Scull Creek Trail. While property abutting the right-of-way's western edge is developed, to the east is undeveloped City property and railway right-of-way. Surrounding land use and zoning is depicted in Table 1.

Table 1
Surrounding Land Use/Zoning

Direction	Land Use	Zoning
North	Undeveloped	RMF-24, Residential Multi-family, 24 Units per Acre
South	Single-family Residential;	RMF-40, Residential Multi-family, 40 Units per Acre
East	Undeveloped	RMF-24, Residential Multi-family, 24 Units per Acre
West	Multi-family Residential	RMF-40, Residential Multi-family, 40 Units per Acre

Proposal: The applicant proposes to vacate approximately 225 linear feet of public right-of-way, totaling 0.25 acres and as indicated in the attached exhibit and maps.

DISCUSSION:
Staff supports the request given the existing topography, Scull Creek floodway, lack of feasible connectivity, and the limited potential public value given redundant connections through the Scull Creek Trail to the east and Whitham Avenue to the west.

Vacation Approval: The applicant has submitted the required vacation forms to the relevant City departments and franchise utility companies with the following responses. Adjacent property owner consent is also required for vacation. When a property owner is nonresponsive, the applicant may provide documentation of efforts to contact adjacent property owners as has occurred with this request (attached):

Utility	Response
Cox Communications	No objections and no comment.
AEP/SWEPCO	No objections provided the a 50-foot easement is dedicated on the transmission power line running north-south through the property.
BlackHills Energy AR	No objections and no comment.
AT&T	No objections and no comment.
Ozarks Electric	No objections and no comment.
City of Fayetteville	Response
Water/Sewer	No objections, provided the area is retained as a water/sewer easement.
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-2020-000009** to City Council recommending approval with the following conditions.

Conditions of Approval:

1. Easements shall be dedicated over the vacated right-of-way to ensure access and maintenance for existing utility infrastructure; and

2. Any damage or relocation of existing facilities will be at the applicant's expense.

PLANNING COMMISSION ACTION: Required YES

Date: December 14, 2020 ❒ **Tabled** ☒ **Forwarded** ❒ **Denied**

Motion: Belden, as recommended by staff

Second: Hoffman

Vote: 5-2-0, Commissioners Brown and Garlock voted 'no'

BUDGET/STAFF IMPACT:
None

Attachments:

- Request Letter
- Exhibit
- Staff Exhibits
- Adjacent Property Owner Contact Documentation
- One Mile Map
- Close-up Map
- Current Land Use Map

JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
www.jorgensenassoc.com
Established 1985

VAC-2020-000009
Request Letter

October 7, 2020

City of Fayetteville
113 W Mountain Street
Fayetteville, AR 72701

Re: Right-of-Way Vacation

To: Planning Department, Planning Commission, and City Council

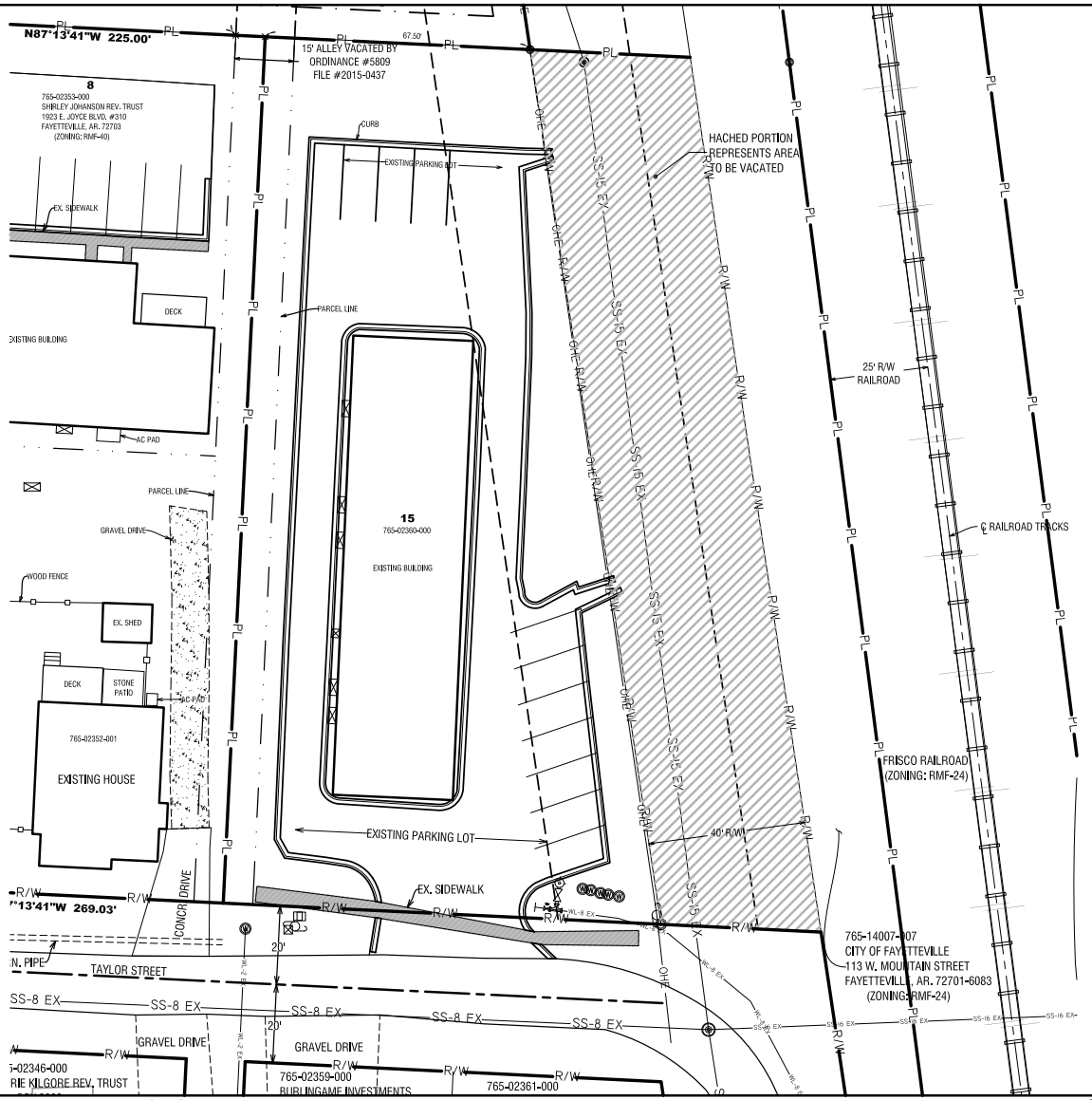
Please accept this request to vacate a portion of the N Gregg Avenue Right-of-Way located at the intersection of Gregg and Taylor Street. This portion of Right-of-Way cannot feasibly built to connect to Cleveland Street to the north, due to topography, an existing floodplain and floodway, and the Scull Creek Trail. We have consulted with city staff and they support this request as well as obtained Utility Approval as required with no objections. Thanks for your consideration.

Sincerely;

Blake E. Jorgensen, P.E.

VAC-2020-000009

Exhibit



LEGAL DESCRIPTION (PORTION BEING VACATED):

A portion of land to be vacated laying east of Lot 15 in Block 4 of Archias-Bushnell Subdivision in Fayetteville, Arkansas, as per plat on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being described as follows: Beginning at the NE Corner of said Lot 15 in Block 4, said point being the POINT OF BEGINNING, thence S87°13'41"E 40.79 feet, thence S08°30'43"E 225.02 feet, thence N87°13'41"W 40.79 feet, thence N08°30'43"W 225.02 feet to the POINT OF BEGINNING: Containing 9,000.78 square feet or 0.2066 acres more or less.

- CALCULATED POINT
- FOUND IRON PIN
- SET IRON PIN & CAP
- CENTERLINE MARKER
- SEWER MANHOLE
- POWER POLE

EXISTING 8" SEWER LINE — EX SS-8
PROPOSED 8" SEWER LINE — SS-8
BUILDING SETBACK
CENTERLINE STREET

EXISTING WATERLINE — EX WL-8
PROPOSED 8" WATER LINE — WL-8
UTILITY EASEMENT

JORGENSEN +ASSOCIATES
Civil Engineering · Land Surveying
124 W Sunbridge Drive,Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
www.jorgensenassoc.com
Established 1985

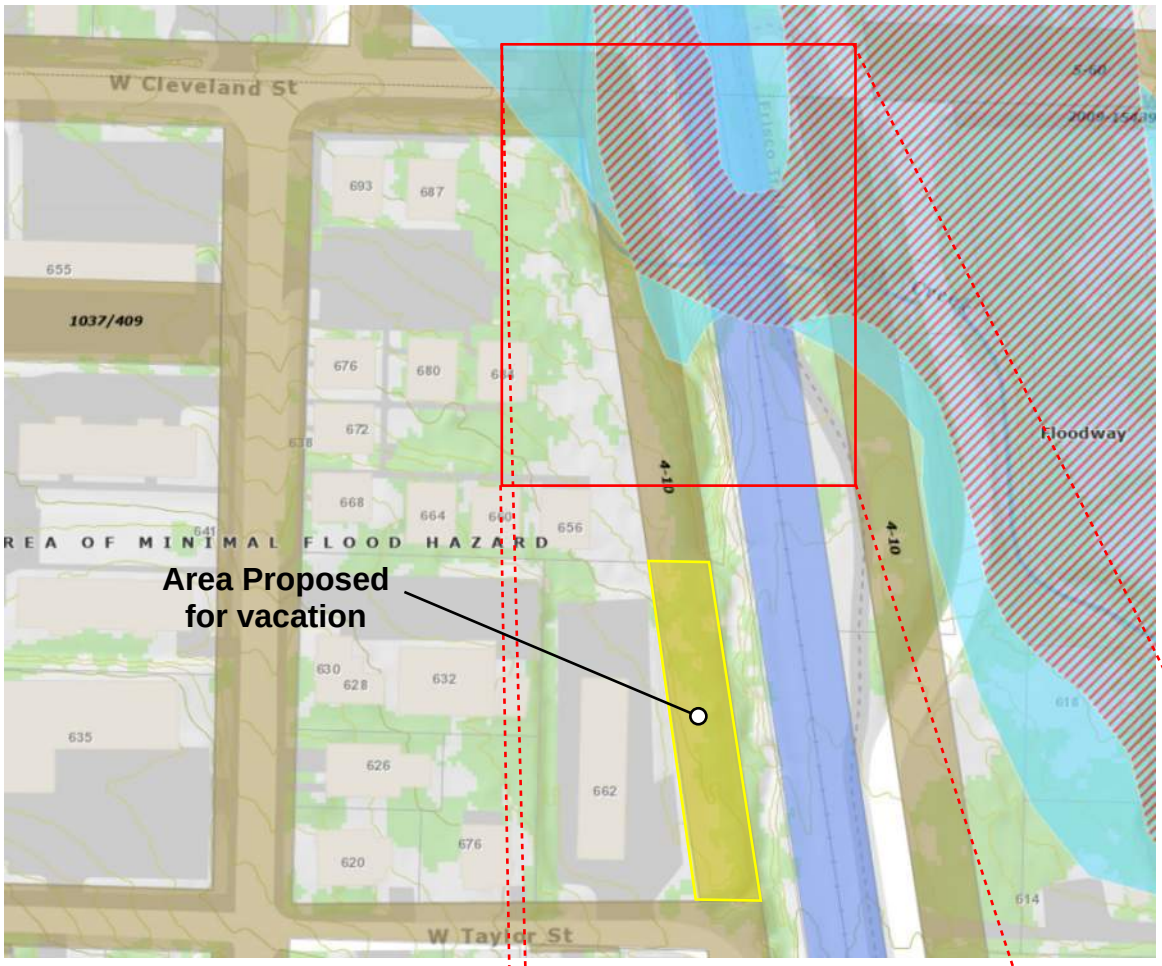
PROJECT TITLE: N GREGG ST VACATION
LOCATION: FAYETTEVILLE, AR
SHEET TITLE: VACATION EXHIBIT

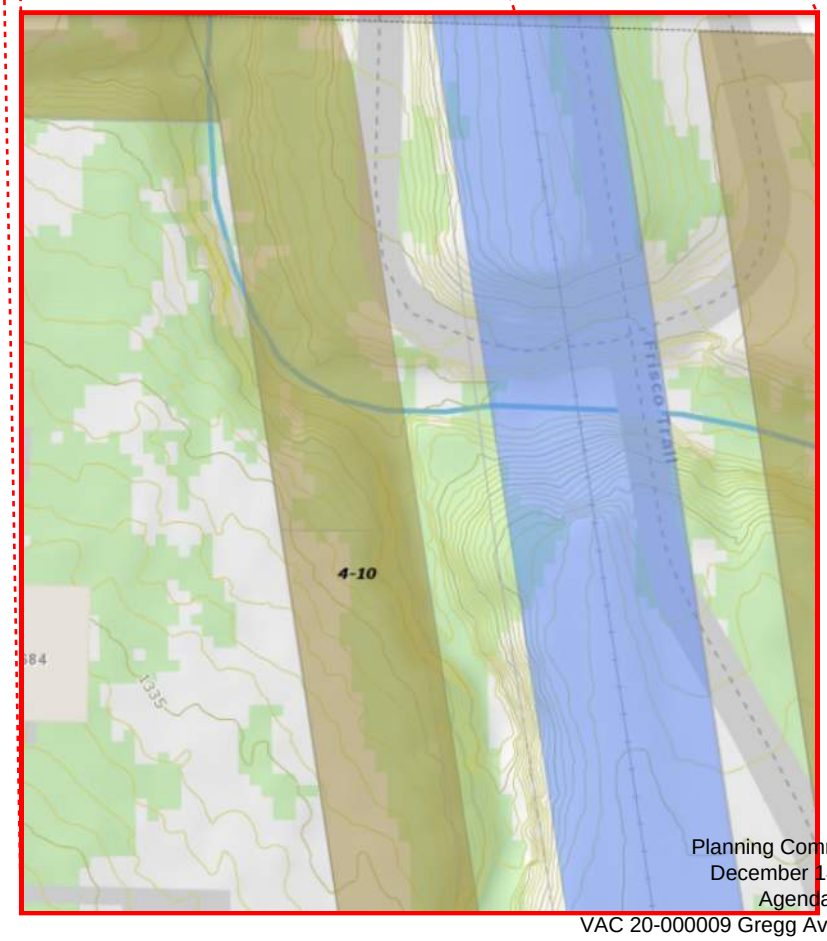
SHEET SCALE: 1"=30'
DATE: 10.27.2020
PROJECT FILE: Z/LSD/2019078

SHEET # 1

VAC-2020-000009

Staff Exhibits





Flood Hazard Area

- 100-Year Floodplain (1% Annual Chance)
- Floodway
- 500-Year Floodplain (0.2% Annual Chance)

Right-of-Way

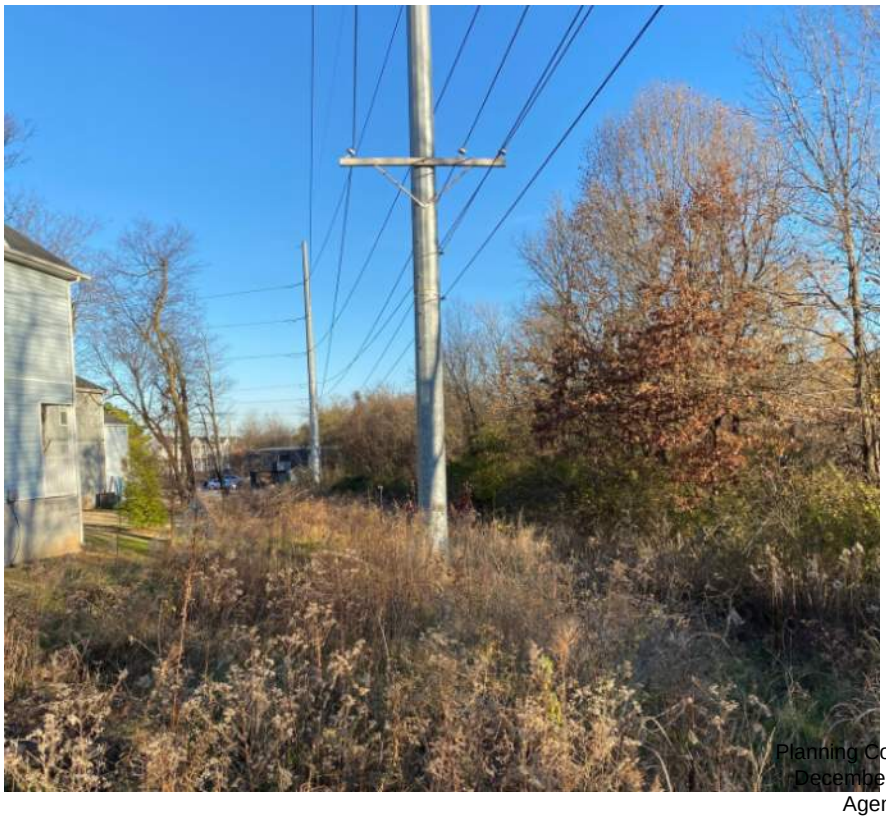
- Fayetteville
- Railroad
- 1' Contour
- 5' Contour

- Area proposed for vacation

Looking north from Taylor Street's intersection with Gregg Avenue

Looking south towards Taylor Street's intersection with Gregg Avenue

Looking north towards right-of-way *not* proposed for vacation



JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying

VAC-2020-000009

Adjacent Property Owner Contact Documentation

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
www.jorgensenassoc.com
Established 1985

October 22nd, 2020

ADA1, LLC
442 Beverly Dr.
Wilmette, IL 60091

Re: Right-of-Way Vacation

Please accept this 2nd request to vacate a portion of the N Gregg Avenue Right-of-Way located at the intersection of Gregg and Taylor Street (see attached exhibit). This portion of Right-of-Way cannot feasibly built to connect to Cleveland Street to the north, due to topography, an existing floodplain and floodway, and the Scull Creek Trail. We have consulted with city staff and they support this request, as part of the vacation process, we are required to notify adjacent property owners and we have included a notification form that if you could be so kind to fill out and mail back to our office we would appreciate it. If you have any questions, please feel free to call our office or email me at blake@jorgensenassoc.com.

Thanks for your consideration.

Sincerely;

_____
Blake E. Jorgensen, P.E.

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Willamette, IL 60091

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- ☐ Return Receipt (electronic) $0.00
- ☐ Certified Mail Restricted Delivery $0.00
- ☐ Adult Signature Required $0.00
- ☑ Adult Signature Restricted Delivery $

Postage $0.55

$6.95

ADA1, LLC
442 Beverly Dr.
Willamette, IL 60091

CLARENCE B. CRAFT STA, FAYETTEVILLE, AR 72703 USPS

OCT 22 2020

Postmark Here

10/22/2020

0190 06

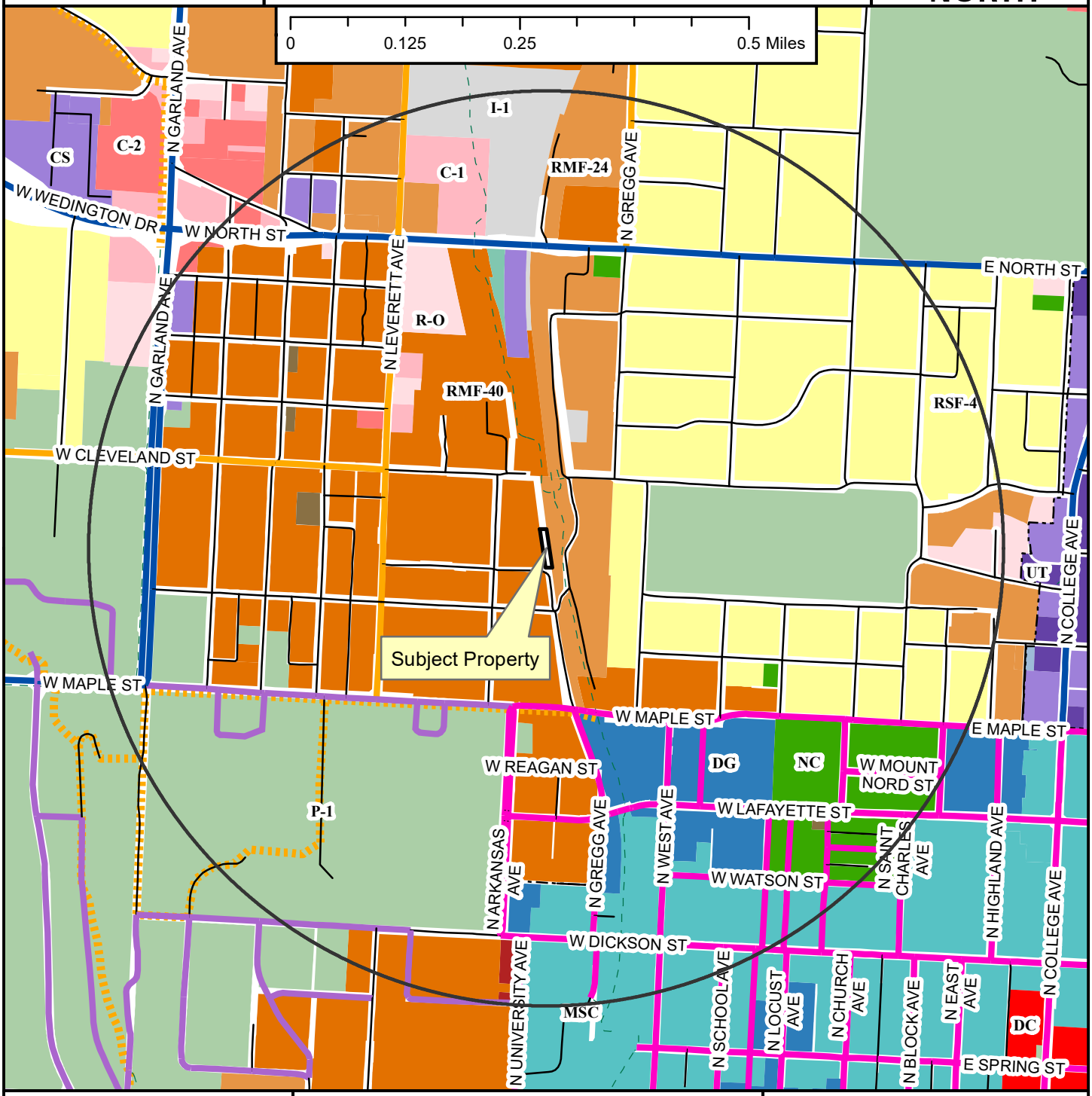
7015 1730 0000 4225 6733

VAC-2020-000009

One Mile View

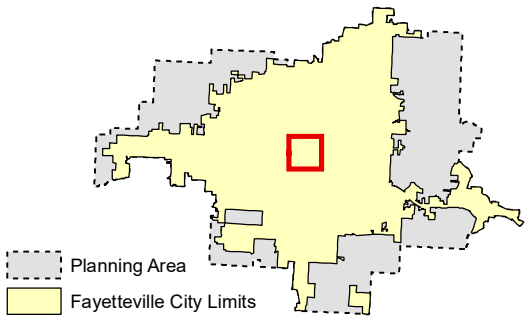
N. Gregg Ave. R-O-W

NORTH



Legend

- Planning Area
- Fayetteville City Limits
- Trail (Proposed)
- Design Overlay District



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
Residential-Office
C-1
C-2
C-3

FORM BASED DISTRICTS
Downtown Core
Urban Thoroughfare
Main Street Center
Downtown General
Community Services
Neighborhood Services
Neighborhood Conservation

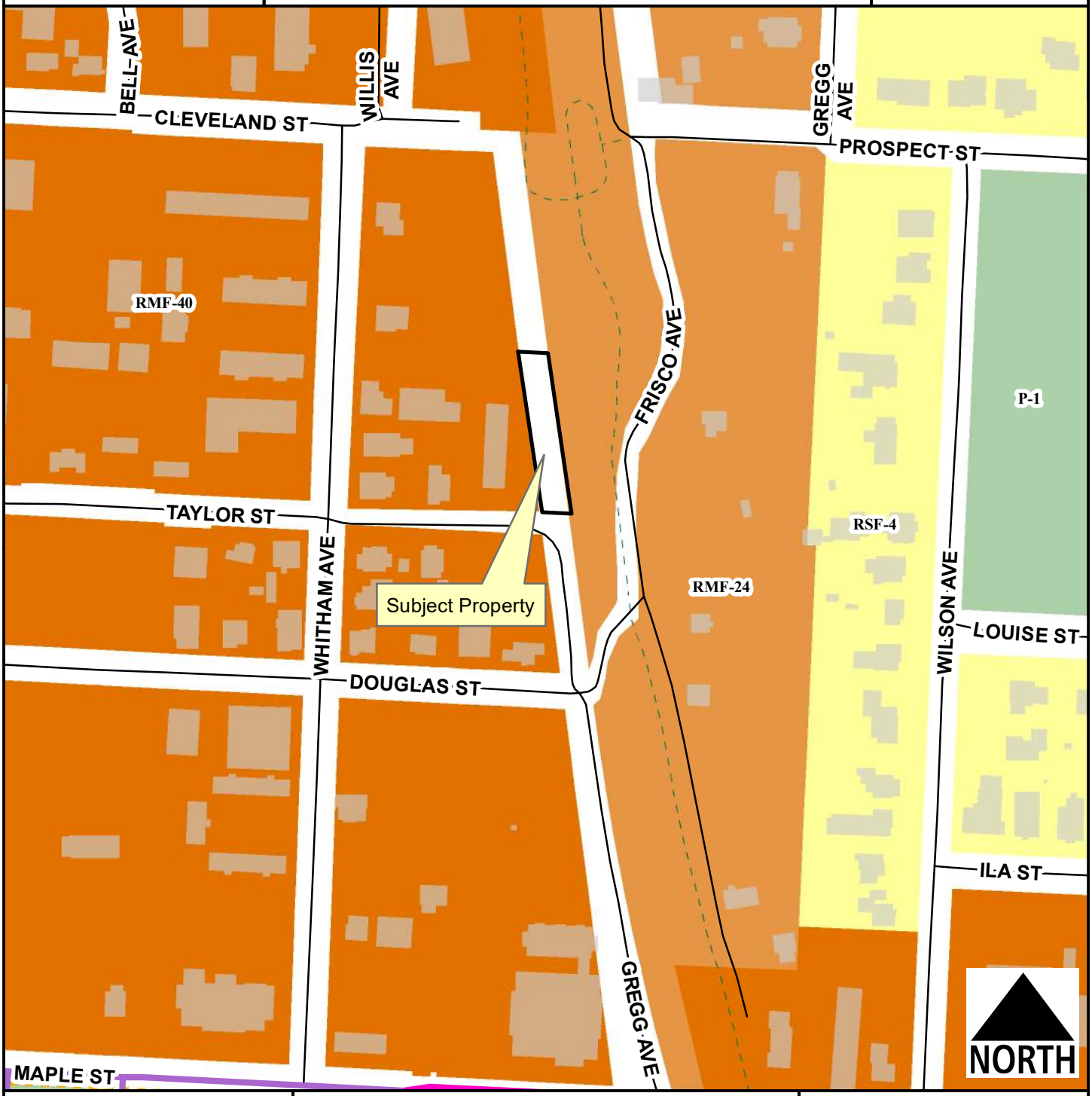
PLANNED ZONING DISTRICTS
Commercial, Industrial, Residential

INSTITUTIONAL
P-1

VAC-2020-000009

Close Up View

N. Gregg Ave. R-O-W



Legend

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

Feet

0 75 150 300 450 600

1 inch = 200 feet

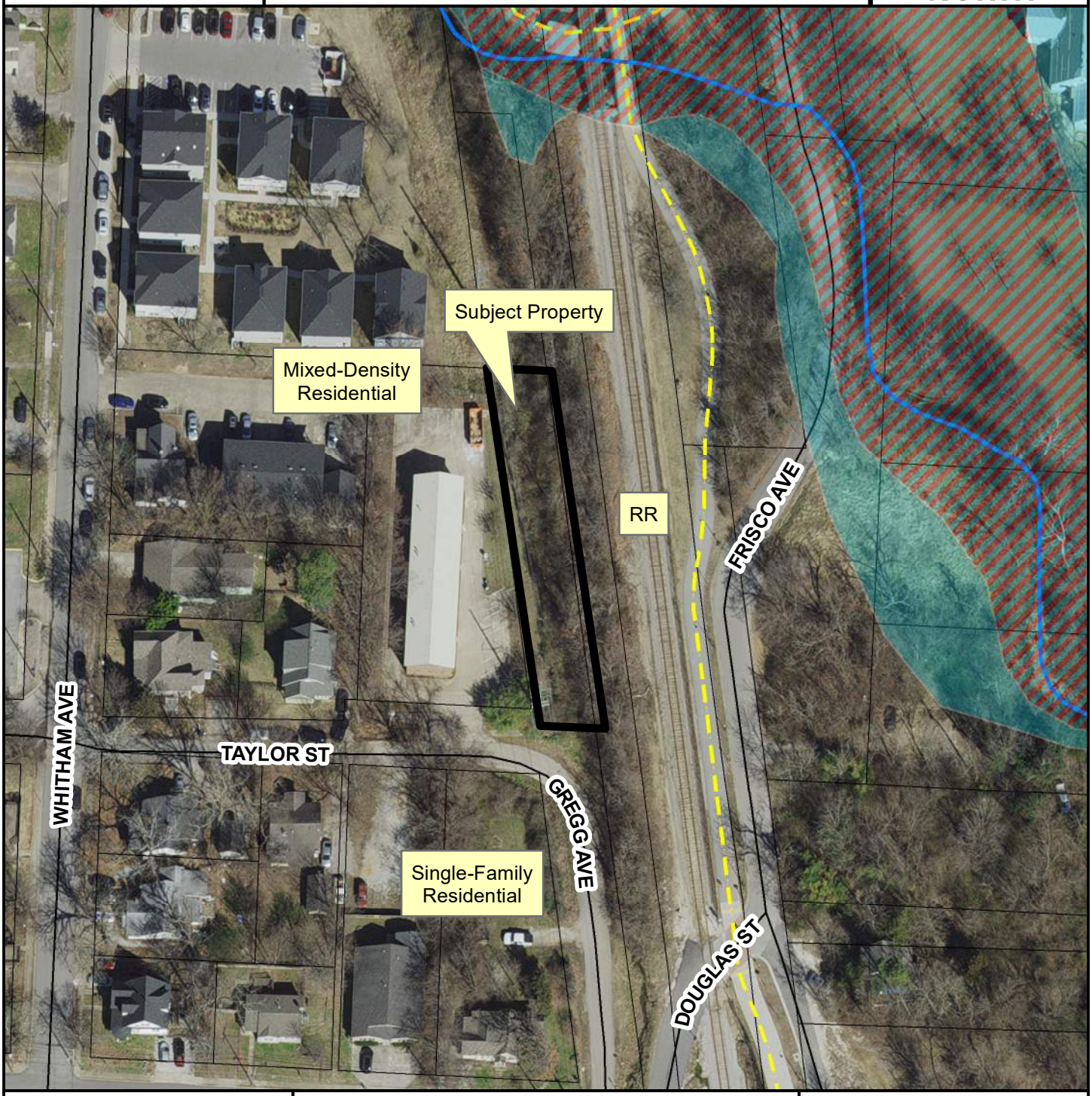
- RSF-4
- RMF-24
- RMF-40
- P-1

VAC-2020-000009

Current Land Use

N. Gregg Ave. R-O-W

NORTH



Shared Use Paved Trail

Planning Area

Fayetteville City Limits

Feet

0 30 60 120 180 240

1 inch = 90 feet

FEMA Flood Hazard Data

100-Year Floodplain

Floodway

ADJACENT PROPERTY OWNER NOTIFICATION/APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND EASEMENT VACATION REQUESTS

Date: 10.7.20 (3rd Notice 12.31.20)

Address / location of vacation: East of 662 W Taylor Street (Owner Address 442 Beverly Dr, Wilmette, IL 60091

Adjacent property address: 662 W Taylor Street

Lot: 9, 10, 11, 12, 16 Block: 5 Subdivision: Archias-Bushnell

REQUESTED VACATION:

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

(Include legal description and graphic representation of what is being vacated)

ADJACENT PROPERTY OWNERS COMMENTS:

☐ I have been notified of the requested vacation and decline to comment.

☐ I *do not object* to the vacation described above.

☐ I *do object* to the requested vacation because:

Project Name

Name of Adjacent Property Owner *(printed)*

Signature of Adjacent Property Owner

Jorgensen + Associates

Applicant Name

Fayetteville, AR

10/7/2020, 4:00:01 PM

1:3,000

0 0.025 0.05 0.1 mi

0 0.04 0.08 0.16 km

FIRM Panels

Cross-Sections

SFHA / Flood Zone Boundary

Flood Hazard Boundaries

Other Boundaries

Limit Lines

The data contained herein was compiled from various sources for the sole use and benefit of the City of Fayetteville Geographic Information System and the public agencies it serves. Any use of the data by anyone other than the City of Fayetteville is at the sole risk of the user, and by acceptance of the data, the user does hereby agree to indemnify the City of Fayetteville and hold the City of Fayetteville harmless from and without liability for any claims, actions, cost for damages of any nature, including the city's cost of defense, asserted by user or by another arising from the use of the data. The City of Fayetteville makes no express or implied warranties with reference to the data. No word, phrase, or clause found herein shall be construed to waive that tort immunity set forth under Arkansas law.

WRITTEN NOTIFICATION FORM

Project Description:
The applicant, Tillman B, LLC proposes a vacation of the unused portion of the N Gregg Avenue Right-of-Way, East of 662 W Taylor Street. This right-of-way cannot feasibly be built to connect to Cleveland Street to the north due to topography, floodplain and the Scull Creek Trail.

Building/land Use: Right-of-Way

Zoning: NA

Size of Property: 0.2 acres

Density/Intensity: NA

Public Hearings:

As of issuance of this letter and as result of the City of Fayetteville mayoral declaration closing City Hall, public meetings are being held remotely. Although the meetings and dates below are accurate, participation instructions are forthcoming or can be found the week of a meeting at:

https://www.fayetteville-ar.gov/1503/Meeting-Agendas-and-Video

Planning Commission; 5:30 PM; December 14th, 2020

THIS IS NOW BEING HEARD @ THE JAN 5TH, 2020 MEETING.

Property Owner:
Name: City of Fayetteville

Applicant
Tillman B, LLC 124. W Sunbridge Suite 5, Fayetteville, AR 72703 479.442.9127

Review Location, Meeting Details, & Public Comment:

The project information is available for public review from the City of Fayetteville Planning Division. Additionally public comment can be made and meeting information can be requested at planning@fayetteville-ar.gov or 479.575.8267.

JORGENSEN +ASSOCIATES
Civil Engineering · Surveying

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479 442 9127
www.jorgensenassoc.com
Established 1985

12.31.20

ADA1, LLC
442 Beverly Dr.
Wilmette, IL 60091

Re: Right-of-Way Vacation

Please accept this 3rd request to vacate a portion of the N Gregg Avenue Right-of-Way located at the intersection of Gregg and Taylor Street (see attached exhibit). This portion of Right-of-Way cannot feasibly built to connect to Cleveland Street to the north, due to topography, an existing floodplain and floodway, and the Scull Creek Trail. We have consulted with city staff and they support this request, as part of the vacation process, we are required to notify adjacent property owners and we have included a notification form that if you could be so kind to fill out and mail back to our office we would appreciate it. If you have any questions, please feel free to call our office or email me at blake@jorgensenassoc.com.

We much appreciate a response to this notification as this item is planned to be heard at the Jan. 5th, 2021 City Council. An email to me would potentially suffice to save you the hassle of sending anything in the mail, or even a scanned response to the letter that could be emailed.

We apologize for the multiple requests, however we are trying to ensure that we are adequately attempting to gain your response.

Thanks for your consideration.

Sincerely;

Blake E. Jorgensen, P.E.

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Adult Signature Required $0.00
Adult Signature Restricted Delivery $
Postage $0.55
Total Postage and Fees $8.95
Sent To ADA1, LLC
Street and Apt. No., or PO Box No. 442 Beverly Dr.
City, State, ZIP+4® Wilmette, Il. 60091
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions
7019 2280 0000 5034 0526
CLARENCE BR STA, FAYETTEVILLE, AR
Postmark Here
DEC 31 2020
12/31/2020
72703 USPS
Tracking #:
70192280000050340526
Return Receipt $2.85
Tracking #:
9590 9402 3556 7305 0965 95
Total $6.95
Grand Total: $6.95

From: Blake Jorgensen
To: alon.melzer@aol.com
Subject: ADA1, LLC
Date: Thursday, December 31, 2020 8:56:55 AM

Good morning Alon, I'm trying to contact a member of the ADA1, LLC for a project that I'm working on in Fayetteville Arkansas. I'm hoping that you may be a member of this LLC whom can help me out in regards to vacating some right-of-way in the vicinity. If you can help me out with a simple response that would be fantastic.

If I have the wrong contact, please disregard and thanks for your time and Happy New Year's.

Blake Jorgensen, PE
124 W Sunbridge Suite 5
Fayetteville, AR 72703
479.442.9127

JORGENSEN
+ASSOCIATES

From: Blake Jorgensen
To: "Matt Neistat"
Cc: "Ronda Husselman"; "Kyle Peco"; "Kevin Dufour"
Subject: Whitham Cottages - ADA1, LLC
Date: Monday, December 28, 2020 12:32:43 PM

Good afternoon, I hope all is well. We prepared some surveys for one of you clients for a project in Fayetteville, Arkansas some time ago and I was hoping you all may be able to help connect me to a member of the ADA1, LLC. We are doing a project close to this property that you all helped transact and all the certified mail that I send to the address is not getting a response so I was hoping you all may be able to connect me with them. We just need an acknowledgement of mail for notifications.

Thanks for your time and I hope everyone has a great New Years.

Blake Jorgensen, PE
124 W Sunbridge Suite 5
Fayetteville, AR 72703
479.442.9127