O-22- 76

ORDINANCE NO. _____

AN ORDINANCE VACATING AND ABANDONING A CERTAIN UNUSED EASEMENT ON PROPERTY LOCATED AT 3917 MCCAIN BOULEVARD IN THE CITY OF NORTH LITTLE ROCK, ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, Act 67 of 1885 provides that cities of the first class may vacate and abandon easements not required for municipal purposes; and

WHEREAS, Timothy Daters, on behalf of McCain Mall Company Limited Partnership and McCain Mall GP, LLC, has requested that an unused 10' electric easement located at 3917 McCain Boulevard be vacated for future construction (see letter from Mr. Daters attached hereto as Exhibit A); and

WHEREAS, the herein described easement abandonment is supported by the North Little Rock Planning Department and City Engineer (see Exhibit B attached hereto); and

WHEREAS, there are no objections from utility companies to the vacation of the herein described easement, provided that the property owner execute a new easement for the relocated electric line (see approvals attached hereto, collectively, as Exhibit C).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the City Council hereby vacates and abandons an unused 10' electric easement on property located at 3917 McCain Boulevard (conditioned upon the property owner executing a new easement for a relocated electric line), more particularly described below.

LOT 2-CP, BLOCK 1 OF THE MCCAIN BOULEVARD ADDITION TO THE CITY OF NORTH LITTLE ROCK, PULASKI COUNTY, ARKANSAS (See map and survey attached, collectively, hereto as Exhibit D).

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 3: That the provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

SECTION 4: It is hereby found and determined that the City has no need for the referenced unused easement, that the abandonment hereof has been properly reviewed and approved, and that the immediate passage of this Ordinance is necessary in order to insure the proper and orderly growth of this land and the City of North Little Rock, Arkansas, and being necessary for the immediate preservation of the public health, safety and welfare; THEREFORE, an emergency is

hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED: APPROVED:

_____ _____

Mayor Terry C. Hartwick

SPONSOR: ATTEST

Council Member Charlie Hight Diane Whitbey, City Clerk

APPROVED AS TO FORM:

Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/kt

FILED 10:45 A.M. __ P.M.

By Amy Fields, CA

DATE 8/8/22

Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas

RECEIVED BY

WHITE - DATERS & ASSOCIATES, INC.
24 Rahling Circle
Little Rock, Arkansas 72223
Phone: 501-821-1667
www.whitedaters.com

EXHIBIT
A

July 15, 2022

North Little Rock City Council
c/o
Mr. Shawn Spencer
Planning Director
City of North Little Rock
City Services Building
120 Main St.
North Little Rock, AR 72114

RE: Easement Abandonment and Replat McCain Mall Addition

Mr. Spencer,

On behalf of the Owners, McCain Mall Company Limited Partnership and McCain Mall GP, LLC please place the abandonment of the existing easement on the agenda for the next City Council meeting.

This easement interferes with the planned Chipotle Restaurant. The only utility in the existing easement was a North Little Rock Electric underground line which has now been relocated to NLR Electric's satisfaction.

Councilman Hight has agreed to sponsor the ordinance.

Thank you for your assistance. Please contact me if you need any additional information.

Sincerely,

Timothy W. Daters, P.E.

EXHIBIT
B

From: SSpencer@nlr.ar.gov <SSpencer@nlr.ar.gov>
Sent: Friday, April 01, 2022 2:00 PM
To: Erika Glidden <erika@whitedaters.com>
Subject: RE: Chipotle - Replat Lot 2, Mall Addn

NLR Planning has no objection to abandon the easement at Chipotle.

Shawn Spencer
NLR Planning Department

From: DCook@nlr.ar.gov <DCook@nlr.ar.gov>
Sent: Wednesday, May 04, 2022 1:34 PM
To: Erika Glidden <erika@whitedaters.com>
Cc: CWilbourn@nlr.ar.gov
Subject: RE: Chipotle - Replat Lot 2, Mall Addn

Erika,

NLR Engineering has no issues with abandoning the electric easement. Thanks,

David Cook, P.E.
City Engineer
500 West 13th Street
North Little Rock, AR 72114
Office: 501-371-8339
Cell: 501-351-8936
DCook@nlr.ar.gov

From: Wilbourn, Chris <CWilbourn@nlr.ar.gov>
Sent: Friday, April 29, 2022 2:21 PM
To: Cook, David <DCook@nlr.ar.gov>
Subject: FW: Chipotle - Replat Lot 2, Mall Addn

Please review

EXHIBIT
C

From: Caleb Knox cknox@summitutilities.com
Sent: Tuesday, April 05, 2022 8:46 AM
To: Erika Glidden erika@whitedaters.com
Cc: Adam Gober agober@summitutilities.com
Subject: RE: [EXTERNAL EMAIL] Chipotle - Replat Lot 2, Mall Addn

Good morning Erika,

Summit Utilities has no objection to the proposed abandonment.

Summit Utilities does have active facilities within and along the street right of way. Summit recommends calling Arkansas One Call at 811 or by visiting arkonecall.com to have all utilities located and marked prior to construction or excavation. If any exposure of Summit facilities occurs, please contact Mark Criswell at 501-772-0003 immediately.

Please let me know if I can provide any further information.

summit

Caleb "Drew" Knox, EI
Engineer | AR/OK Region
501.377.4865 w. | 501.553.6488 c.
www.summitutilitiesinc.com/

From: Fulmer, Curt <Curt_Fulmer@comcast.com>
Sent: Thursday, April 14, 2022 3:10 PM
To: Erika Glidden <erika@whitedaters.com>; Hill, Richard <Richard_Hill2@comcast.com>; [CENHRT-South Little Rock Construction] <CENHRT-South_Little_Rock_Construction@comcast.com>
Subject: RE: Chipotle - Replat Lot 2, Mall Addn

Erika,

I responded to Tim Daters on this already.

Comcast has a line feeding the old bank that will probably
Be cut during construction. We are ok with this and will have to reroute if
New business ask for service.

Timothy Daters

From: Fulmer, Curt <Curt_Fulmer@comcast.com>
Sent: Friday, April 01, 2022 4:28 PM
To: Timothy Daters
Cc: [CENHRT-South Little Rock Construction]
Subject: RE: Chipotle - Replat Lot 2, Mall Addn

Yes sir I am ok with it.

From: Timothy Daters <tdaters@whitedaters.com>
Sent: Friday, April 1, 2022 4:26 PM
To: Fulmer, Curt <Curt_Fulmer@cable.comcast.com>
Cc: [CENHRT-South Little Rock Construction] <CENHRT-South_Little_Rock_Construction@comcast.com>
Subject: [EXTERNAL] RE: Chipotle - Replat Lot 2, Mall Addn

Looks like as part of this project we will need to get a new service to chipotle
Are you OK with us abandoning the existing elec easement?
Thanks
Tim

Timothy E Daters, PE
President
White-Daters & Associates
24 Rahling Circle
Little Rock, AR 72223
P: (501) 821-1667
F: (501) 821-1668
M: (501) 580-5694
E: tdaters@whitedaters.com

From: Fulmer, Curt <Curt_Fulmer@comcast.com>
Sent: Friday, April 01, 2022 4:10 PM
To: Timothy Daters <tdaters@whitedaters.com>
Cc: [CENHRT-South Little Rock Construction] <CENHRT-South_Little_Rock_Construction@comcast.com>
Subject: RE: Chipotle - Replat Lot 2, Mall Addn

Tim,

We have lines where the blue lines are, but it looks like they may not be in the way sir.

Erika,

NLRW has no concerns abandoning the easement in question. Let me know if you need additional.

Respectfully,

Scott Kerby, P.E.

North Little Rock Wastewater
7400 Baucum Pike
P.O. Box 17898
North Little Rock, Arkansas 72117-0898
(501)945-7186

SKerby@nlrwu.com

WASTEWATER
ENGINEERING DEPT

From: MONROE, TIMOTHY I <tm994e@att.com>
Sent: Tuesday, April 19, 2022 11:03 AM
To: Erika Glidden <erika@whitedaters.com>; MANION, JOSEPH E <jm4138@att.com>
Subject: RE: Chipotle - Replat Lot 2, Mall Addn

Erika,

We are ok to abandon. Our facilities through this section are in the ROW of McCain Blvd and do not interfere with this property. I approve.

Thanks,

Timothy Monroe

OSP Engineer AT&T Arkansas
17000 Cantrell Rd
Little Rock, AR
Cell: 501.650.3962

Trevino, Kim

From: Woodward, Gregory
Sent: Monday, August 1, 2022 9:47 AM
To: Fields, Amy
Cc: tdaters@whitedaters.com; Trevino, Kim
Subject: RE: Abandonment of Electric Easement at McCain Mall

Amy,

NLRED does not object to the abandonment on the condition that the owners execute a new easement for the relocated facilities.

Thanks,
Greg Woodward

Distribution Design Supervisor
North Little Rock Electric Department
1400 West Maryland
North Little Rock, AR 72120
gwoodward@nlr.ar.gov
Office: (501) 992-4073
Cell: (501) 680-6134

From: Fields, Amy <AFields@nlr.ar.gov>
Sent: Monday, August 1, 2022 9:45 AM
To: Woodward, Gregory <GWoodward@nlr.ar.gov>
Cc: tdaters@whitedaters.com; Trevino, Kim <KRTrevino@nlr.ar.gov>
Subject: Abandonment of Electric Easement at McCain Mall

Greg:

Please see attached letter from Mr. Daters seeking abandonment of NLR Electric easement at McCain Mall. My office is working on drafting legislation to approve the abandonment and has approvals from all utilities except NLR Electric. Can you please confirm our conversation that NLRED does not object to the abandonment on the condition that the owners execute a new easement for the relocated facilities. Thanks,

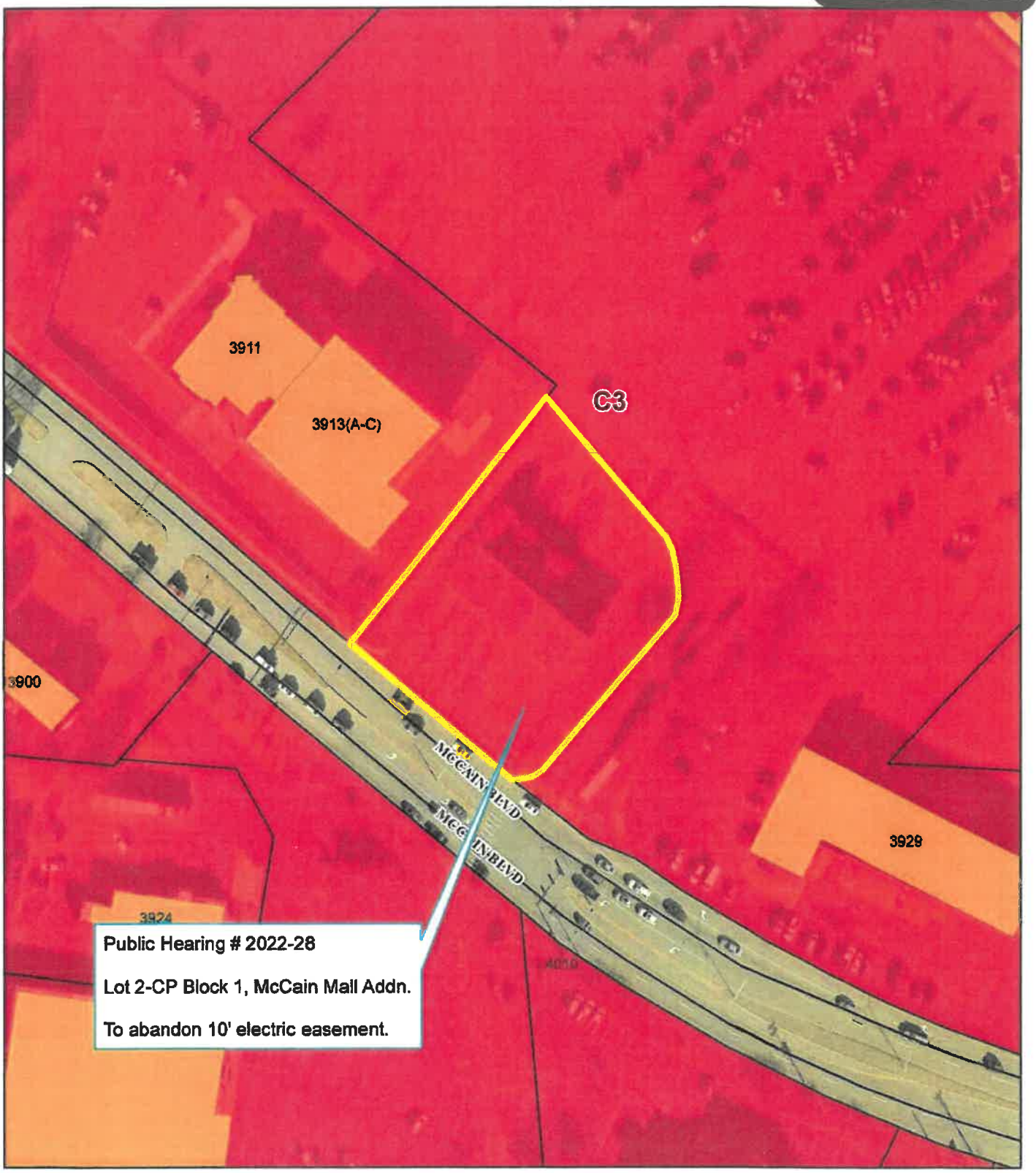
Amy

Amy Beckman Fields
City Attorney
North Little Rock City Attorney's Office
116 Main Street
North Little Rock, AR 72114
(501) 975-3755

EXHIBIT

D

Public Hearing Case # 2022-28



NLR PLANNING

Zoning Map

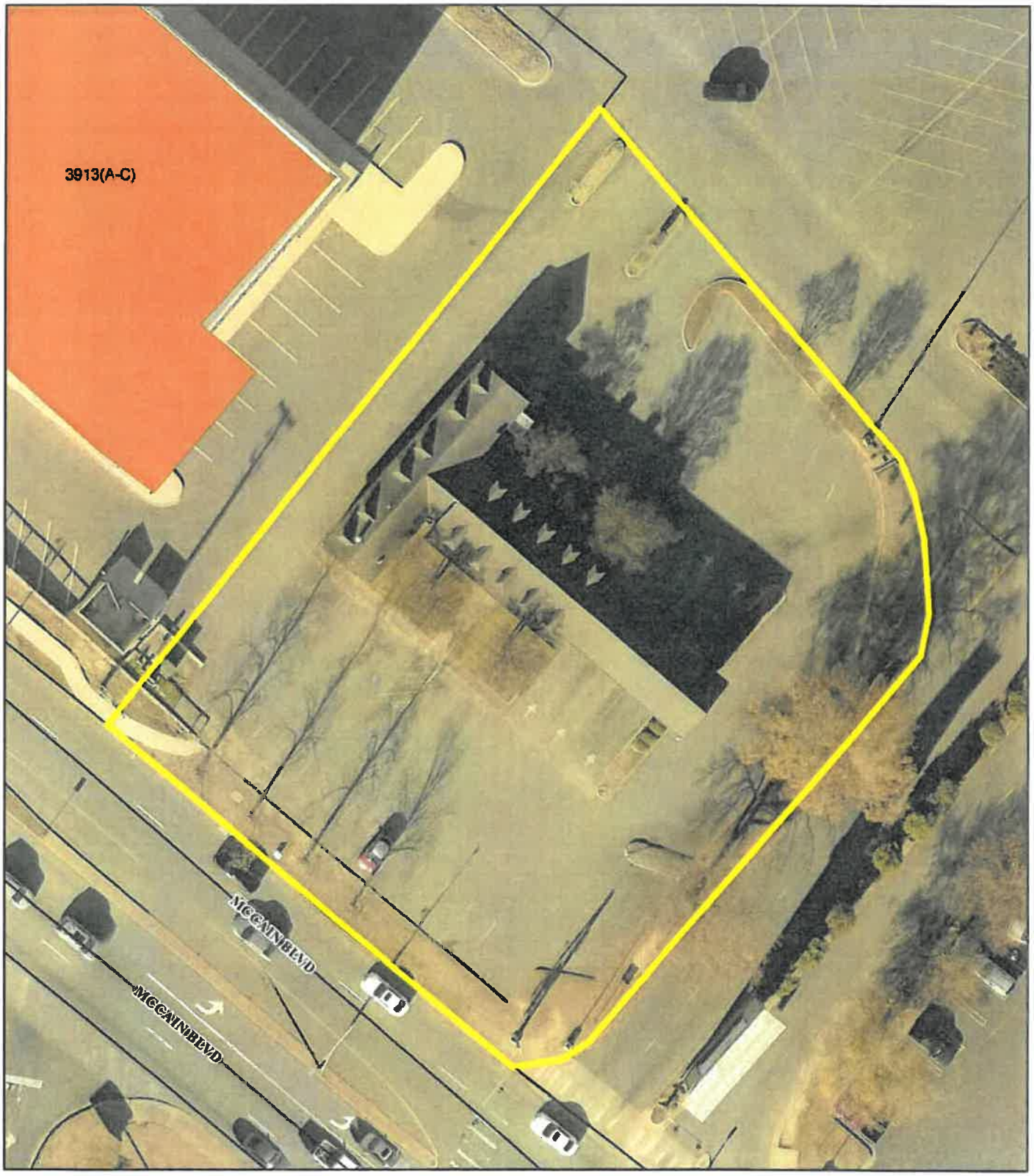
1 inch = 100 feet

0 50 100 200 300 Feet

N W E S

Date: 7/25/2022

Public Hearing Case # 2022-28



NLR PLANNING

Ortho Map

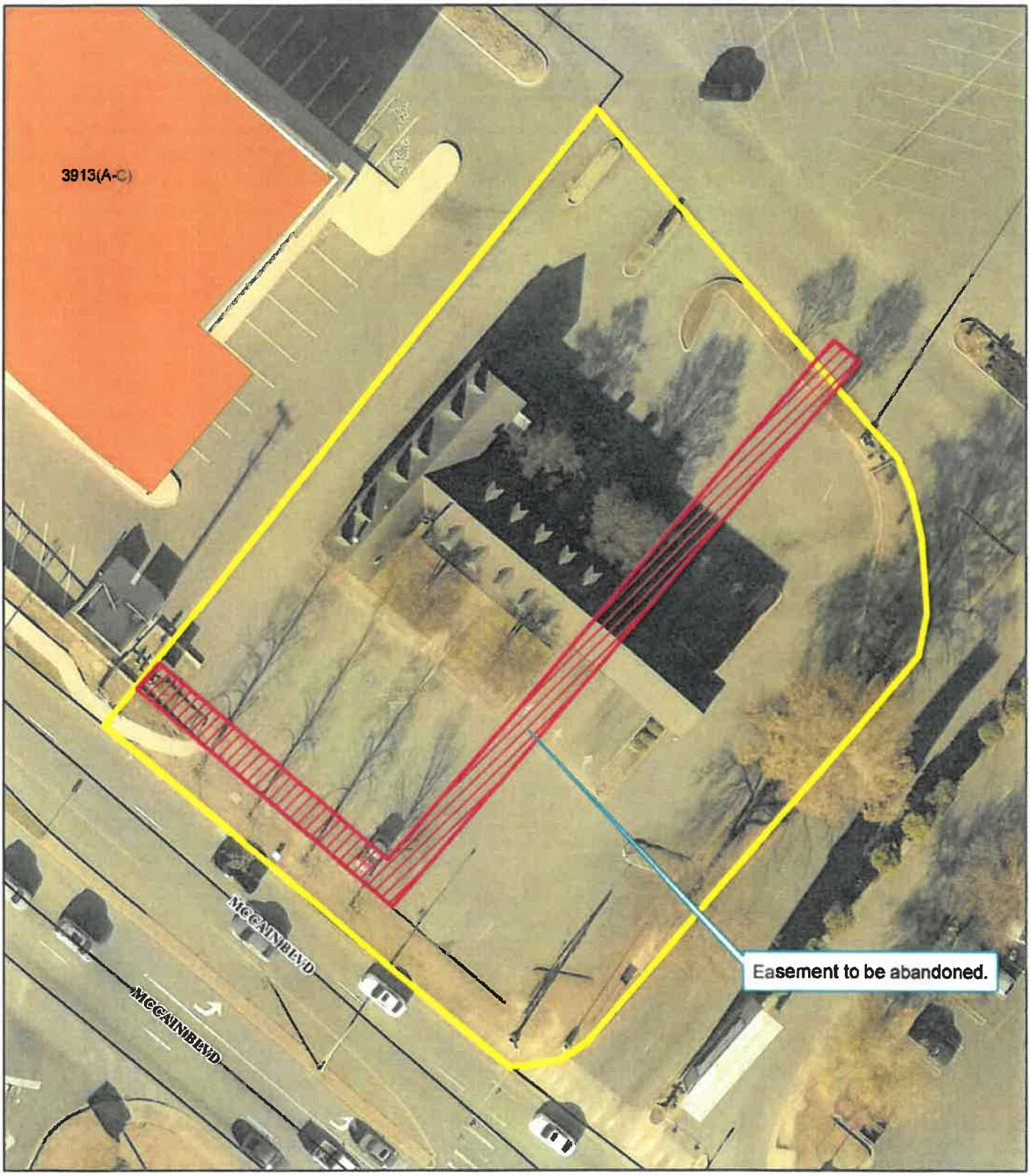
1 inch = 40 feet

0 20 40 80 120 Feet

N W E S

Date: 7/25/2022

Public Hearing Case # 2022-28



NLR PLANNING

Ortho Map

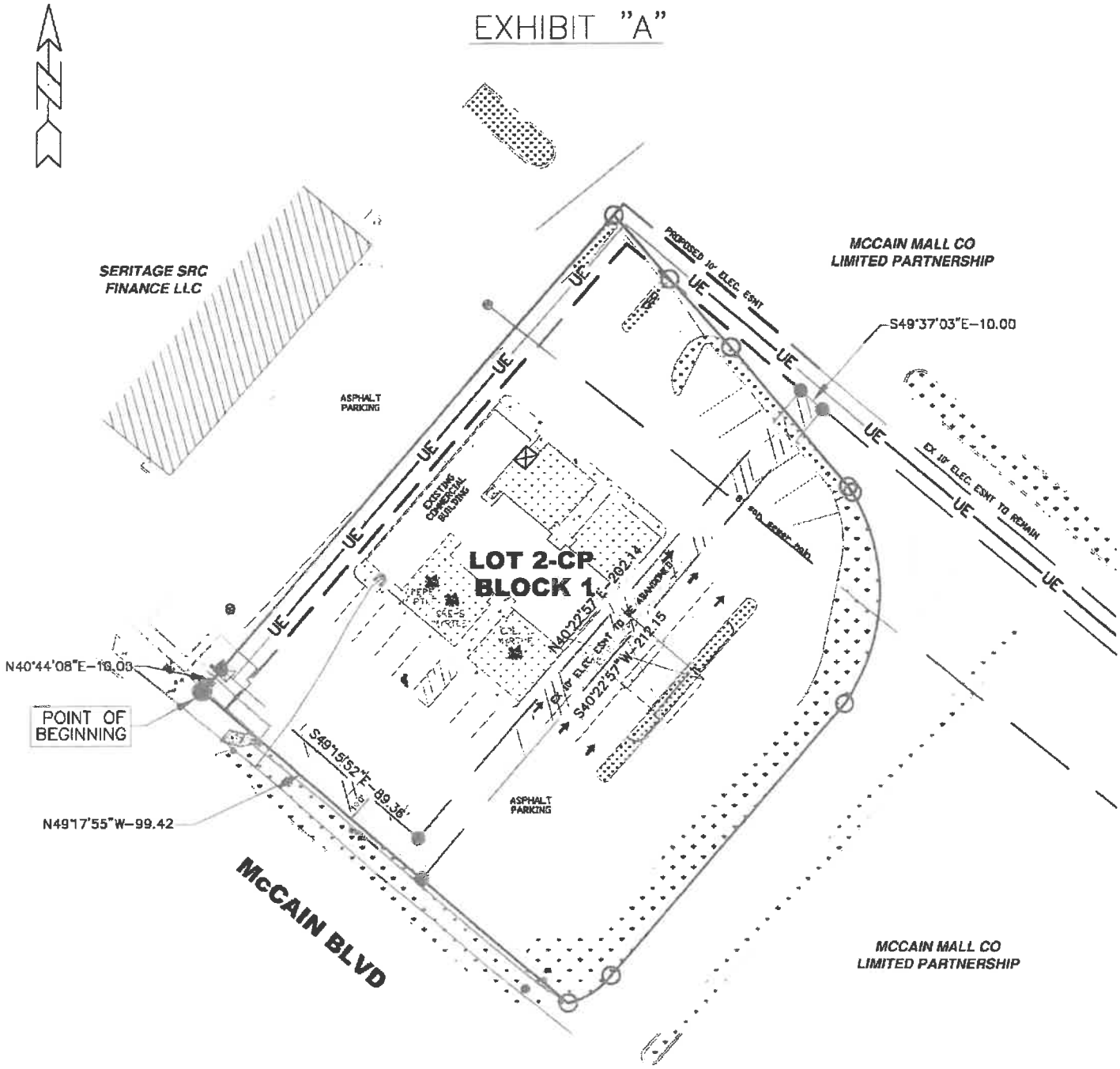
1 inch = 40 feet

0 20 40 80 120 Feet

N W E S

Date: 7/25/2022

EXHIBIT "A"



LEGAL DESCRIPTION OF ELECTRICAL EASEMENT TO BE ABANDONED:

A TRACT OF LAND LOCATED IN THE NW1/4, SECTION 19, T-2-N, R-11-W, PULASKI COUNTY, ARKANSAS MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE WEST CORNER OF LOT 2-CP, BLOCK 1, MCCAIN MALL ADDITION TO THE CITY OF NORTH LITTLE ROCK, ARKANSAS; THENCE ALONG THE NORTHWEST LINE OF LOT 2-CP N40° 44' 08"E, 10.00; THENCE S49° 15' 52"E, 89.36 FEET; THENCE N40° 22' 57"E, 202.14 FEET; THENCE S49° 37' 03"E, 10.00 FEET; THENCE S40° 22' 57"W, 212.15 FEET TO A POINT ON THE SOUTHWEST LINE OF LOT 2-CP; THENCE ALONG SAID SOUTHWEST LINE N49° 17' 55"W, 99.42 FEET, BACK TO THE POINT OF BEGINNING.