



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-1665

A Resolution to authorize Mayor Jordan to sign the proposed Sprout Spring Historic District Petition.

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SIGN THE PROPOSED SPROUT SPRING HISTORIC DISTRICT PETITION AGREEING THAT THE CITY OWNED PROPERTY OF THE YVONNE RICHARDSON COMMUNITY CENTER SHALL BE INCLUDED WITHIN THE SPROUT SPRING HISTORIC DISTRICT

WHEREAS, Emma Willis and other concerned citizens are attempting to establish a historic district within Fayetteville entitled “Sprout Spring Historic Districts” and need to obtain “a majority in numbers of the property owners within the proposal historic district agreeing that their property shall be included in the historic district,” A.C.A. § 14-172-203; and

WHEREAS, the City of Fayetteville as the property owner of the Yvonne Richardson Community Center should be able by City Council Resolution to authorize Mayor Jordan to sign the proposed Sprout Spring Historic District petition for those two properties.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign for the City the petition for the Sprout Springs Historic District agreeing that the Yvonne Richardson Community Center shall be included in this historic district.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby agrees that approval of this Resolution and Mayor Jordan’s signature of the petition does not imply nor require that the City Council must approve any ordinance to establish such district which requires City Council consideration of reports to the Arkansas Historic Preservation Program by the Division of Arkansas Heritage, other recommendations and at least one public hearing and all other requirements of A.C.A. § 14-172-207 **Establishment of historic districts** before final City Council approval.



MEETING OF FEBRUARY 6, 2024

TO: Mayor Jordan and City Council
THRU: D'Andre Jones, Ward 1, Position 2
FROM: D'Andre Jones, Ward 1, Position 2
DATE:
SUBJECT: **A Resolution to authorize Mayor Jordan to sign the proposed Sprout Spring Historic District Petition.**

RECOMMENDATION:

Mayor Jordan sign the petition for the Sprout Springs Historic District agreeing that the Yvonne Richardson Community Center and the Fayetteville Senior Center shall be included in this historic district.

BACKGROUND:

DISCUSSION:

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), D'Andre Approval Email (#4), Email from D'Andre requesting resolution (#5), Spout Spring for Resolution File 2024-1665 (#6)

Williams, Kit

From: D'Andre Jones <dre91732000@gmail.com>
Sent: Tuesday, January 9, 2024 10:58 AM
To: Williams, Kit
Subject: Fwd: Agenda issue

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jan 19th deadline Feb 6 city council meeting
Sent from my iPhone

Begin forwarded message:

From: D'Andre Jones <dre91732000@gmail.com>
Date: December 26, 2023 at 5:59:39 AM CST
To: Emma Willis <emwill1102@gmail.com>
Cc: Kara Paxton <kapaxton@fayetteville-ar.gov>, "Bostick, Britin" <bbostick@fayetteville-ar.gov>, Sharon Killian <sharon@nwaheritage.org>
Subject: Re: Agenda issue

I will be sponsoring the item
Sent from my iPhone

On Dec 26, 2023, at 3:03 AM, Emma Willis <emwill1102@gmail.com> wrote:

Dear City Clerk/Council Member Jones/Council Member Stafford,

I am writing to request that a resolution including city-owned property in the proposed Spout Spring local historic district be placed on the agenda for the January 16 City Council meeting.

I understand that the internal deadline for agenda submissions is December 29. I am happy to provide any necessary details and information to facilitate the writing of the resolution and presentation at the council meeting.

I am aware that this would be an item of new business seeking an affirmative vote. However, I believe this inclusion is vital for the comprehensive preservation and revitalization of the Spout Spring area, a significant part of our city's history and cultural heritage.

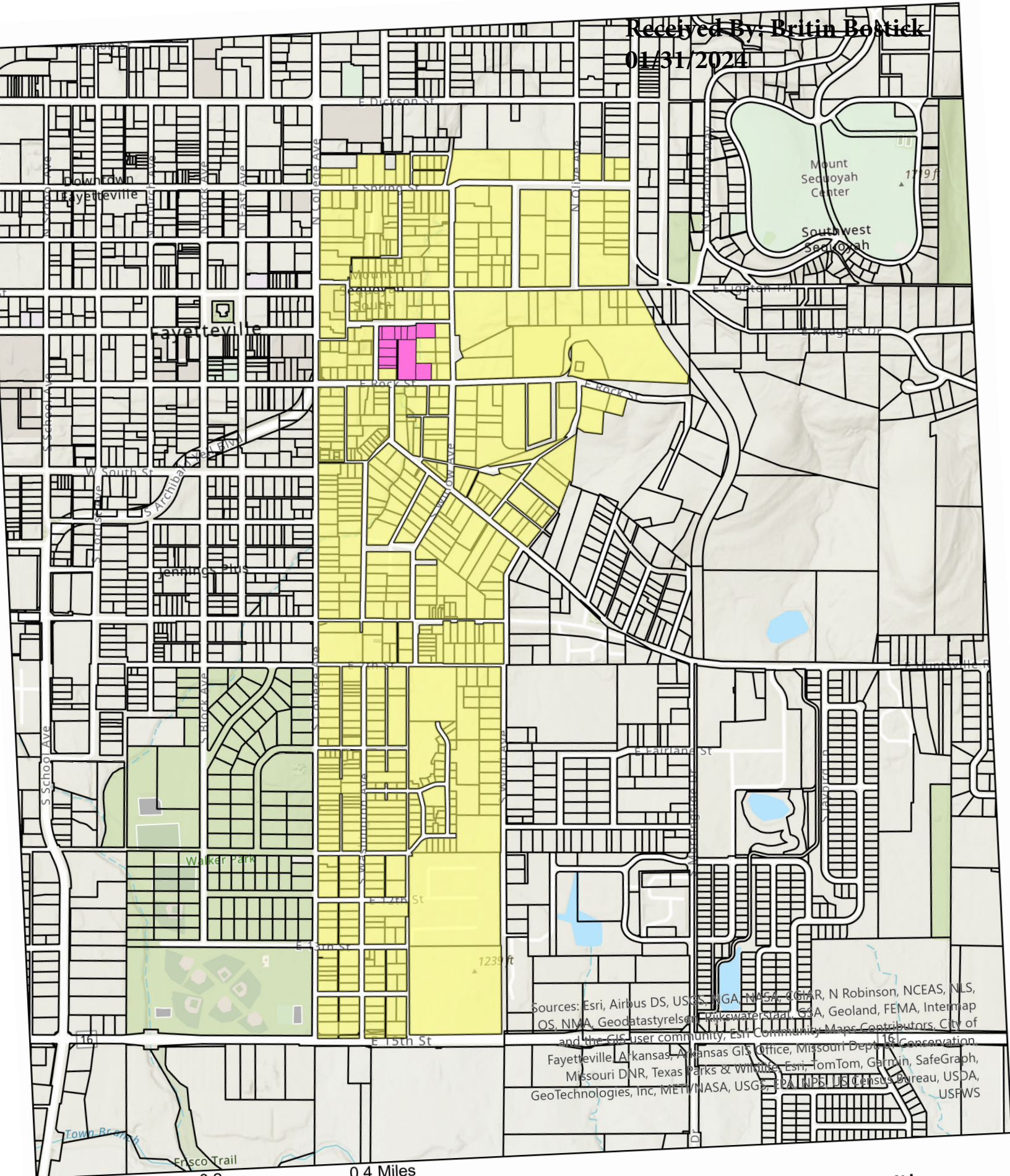
I am flexible and happy to work with whichever council member wishes to sponsor the resolution, be it Council Member Jones or Council Member Stafford. I am also available to speak on the item during the meeting or at the prior agenda session on January 9.

Please let me know how I can best assist with this process. I am eager to collaborate with your office and the council to ensure this important initiative sees progress.

Thank you for your time and consideration.

Sincerely,

Emma Willis



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodastystrelse, Pukwaterstaat, GSA, Geoland, FEMA, Intermap and the GIS-user community, Esri Community Maps Contributors, City of Fayetteville, Arkansas, Arkansas GIS Office, Missouri Dept. of Conservation, Missouri DNR, Texas Parks & Wildlife, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

0 0.1 0.2 0.4 Miles



Proposed Spout Spring Historic District with City-Owned Parcels of the Yvonne Richardson Community Center Per Resolution File # 2024-1665

- Spout Spring Proposed Parcels
- Fayetteville_Parcels
- YRCC Parcels



MEETING OF FEBRUARY 20, 2024

TO: Mayor and City Council

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

FROM: Britin Bostick, Long Range Planning/Special Projects Manager

DATE: February 9, 2024

**SUBJECT: Establishment of Local Historic Districts (Local Ordinance Districts) and
Petition Signature Requirements**

BACKGROUND:

The Arkansas Historic Districts Act, Ark. Code Ann. 14-172-201, et seq., as amended, provides for the establishment of historic districts by ordinance adopted by vote of the governing body of any city, town, or county. The process prescribed requires that:

- The Historic District Commission (HDC) shall make an investigation and report on the historic significance of the buildings, structures, features, sites, or surroundings to be included in the proposed historic district. This report must be transmitted to the Arkansas Historic Preservation Program (AHPP) and the city's Planning Commission for their consideration and recommendation.
- Both AHPP and the Planning Commission have 60 days to provide a recommendation to HDC. Failure to make a recommendation shall be taken as approval of the report.
- HDC shall hold a public hearing on the establishment of the proposed historic district after giving notice in the newspaper once a week for three (3) consecutive weeks, with the first notification published at least twenty (20) days prior to the hearing. The notice shall include the time and place of the hearing, the purpose of the hearing, and describe the boundaries of the proposed historic district.
- HDC shall submit a final report with its recommendations to the City Council within 60 days after the public hearing. The report from HDC must contain:
 - A complete description of the area to be included in the historic district.
 - A map showing the exact boundaries of the district.
 - A proposed ordinance designed to implement the historic district including the state's requirements for such implementation.
 - Such other matters as HDC deems necessary and advisable.
- The City Council may then accept the report from HDC and enact the ordinance; return the report to HDC with amendments and revisions for consideration by the commission and a further report within 90 days; or reject the report and discharge the commission.

The process to initiate a local historic district can come in two ways. §14-172-203 Applicability of the Arkansas Historic Districts Act specifies that none of the provisions of the subchapter shall be in operation until and unless:

- A petition signed by a majority in numbers of the property owners within a proposed historic district is filed with the City Clerk, agreeing that their property shall be included in the historic district.
- The boundaries of the proposed historic district are identical to and encompass the area of a National Register of Historic Places Historic District as certified by the United States Department of the Interior.

DISCUSSION:

During the February 6, 2024 City Council meeting, Long Range Planning staff was asked to seek guidance from AHPP on the requirements and/or criteria for petition signatures required for the establishment of a local historic district when the exact boundaries of a National Register Historic District are not used. Long Range Planning staff consulted with AHPP the following day via phone and email seeking the requested guidance. While the AHPP staff consulted is not an attorney and AHPP does not have regulatory authority in these matters, they provided the following information in response, with reference to Arkansas Attorney General Opinion Ark. Op. Atty. Gen. No. 77-130 (Ark.A.G.), 1977 WL 23010:

- Owners of real property within the proposed historic district should be included for the purposes of the petition signatures required.
- Right-of way is typically included in a local ordinance historic district. Streetscapes and landscaping are considered features of a historic district, particularly in residential areas.
- One property owner with multiple properties has only one signature total. If a property has multiple individual owners each owner would have one signature.

The Attorney General opinion further states that, "Property owners, including governmental units, who are other than natural persons may join the petition by the signature of the president or other appropriate officer, keeping in mind...that the capacity in which the individual signs the petition should be exhibited on the petition." AHPP staff offered additional guidance on the question of property owners, recommending that property deeds would be the most reliable sources for a listing of property owners within the proposed district as tax records may from time to time not include the names of all owners. They also noted that they were not aware of any active local ordinance historic districts in Arkansas that did not follow this practice, and that the state enabling legislation and the Attorney General Opinion predate the Certified Local Government Program (CLG). An Arkansas city or county is eligible to participate in the CLG program if it has appointed an HDC and has passed a local preservation ordinance designating one or more local historic districts, according to applicable state law.

BUDGET/STAFF IMPACT:

N/A

Attachments:

Ark. Op. Atty. Gen. No. 77-130 (Ark.A.G.), 1977 WL 23010

Ark. Op. Atty. Gen. No. 77-130 (Ark.A.G.), 1977 WL 23010

Office of the Attorney General

State of Arkansas
Opinion No. 77-130
July 22, 1977

*1 The Honorable Robert Johnston
State Representative
2122 Broadway
Little Rock, Arkansas 72206

Dear Representative Johnston:

This is in response to your letter of June 30, 1977, requesting an opinion. You stated that the City of Little Rock is seeking to establish a historic district under the provisions of Ark. Stat. Ann. §§ 19-5001-5012 (Repl. 1968). You specifically requested that we render an opinion regarding the proper interpretation of the proviso in § 19-5010: ‘Provided, none of the provisions of this Act shall be in operation until and unless there has been filed with the City Clerk of the city or town in which a historic district is contemplated, a petition signed by a **majority in numbers** of the property owners within such a proposed historic district agreeing that their property shall be included in such historic district.’

Your inquiry raises several questions: ‘What is a **majority in numbers**, who is a ‘property owner’ for the purposes of the statute and when is property ownership determined?’ We will deal with each of these questions in order.

A literal reading of § 19-5010 leaves no room for doubt but that the General Assembly intended the required petition to be signed by a majority of the persons owning real property in the proposed district. Although the legislature has, in the case of somewhat similar petition requirements for the establishment of improvement districts, water and light districts, cemetery districts and other special purpose governmental entities, required the assent of persons owning more than one-half in value or area of the real property to be obtained as a condition precedent to the formation of the governmental entity, the language of those statutes varies significantly from the language of this statute. See, Ark. Stat. Ann. § 20-1014 (Supp. 1975); § 20-505 (Repl. 1968); § 20-701 (Supp. 1975); § 20-901 (Repl. 1968); § 20-1201 (Repl. 1968); § 20-130 (Repl. 1968); § 20-1502 (Repl. 1968); and § 21-501 (Repl. 1968). The legislature’s discretion in establishing local improvement districts is limited by Article 19, § 27 of the Constitution which mandates that such district not be established except ‘upon the consent of a majority in value of the property owners owning property adjoining the locality to be affected; . . .’ A historic district is not a local improvement district having no authority to assess the real property within the district and, therefore, does not come within the purview of Article 19, § 27.

Therefore, it is our opinion that the plain and unambiguous words of the statute must control and the petition required by the statute must contain the signatures of a majority in number of the persons owning property within the proposed district.

While the statute providing for a historic district does not define ‘property owner’, the legislature has defined the term in a similar context to mean the ‘holder or holders of legal title’ (Ark. Stat. Ann. § 20-232 (Repl. 1968)). The Arkansas Supreme Court has declared in Colquitt v. Stevens, 111 Ark. 314, 163 S.W. 1141 (1914) that the persons holding record title to property must sign a petition for the establishment of an improvement district. The Court stated that a holder of a life estate in property was not able to sign a petition and that a wife, holding property in her own name, could not ratify her husband’s signature which purported to obligate the property which she individually owned. Further, in Johnson v. Norsworthy, 239 Ark. 545, 390 S.W.2d 439 (1965) it was held that individuals who were the controlling owners of a corporation had not effectually signed for the corporation where only their individual names appeared on a petition with no reference to their capacity in the corporation.

*2 Therefore, it is our opinion that a person must hold legal title to real property in the historic district before being considered a ‘property owner’ and, therefore, being eligible to sign the required petition. Further, since the statute refers to ‘holders’ of legal title, persons who own as tenants in common or joint tenants are property owners, since they hold an

ownership interest in real property which they can individually convey. Tenants by the entireties, on the other hand, would have to join together, as neither tenant could convey or obligate the property singly. Property owners, including governmental units, who are other than natural persons may join the petition by the signature of the president or other appropriate officer, keeping in mind the teaching of the Norsworthy case that the capacity in which the individual signs the petition should be exhibited on the petition.

Once sufficient signatures have been obtained on the petition it should be filed with the City Clerk. If the Clerk determines that the petition contains a sufficient number of signatures, according to the property ownership lists, then the petition is prima facie valid and the city may proceed on that basis. Swiderski v. Goggins, 257 Ark. 164, 514 S.W.2d 705 (1974). The prima facie validity of the petition could be challenged in a proper judicial action. High v. Bailey, 203 Ark. 461, 157 S.W.2d 203 (1941). However, once the petition has been filed, signatures cannot be removed therefrom without judicial permission. Reed v. Paving District, 171 Ark. 710, 286 S.W. 829 (1926).

The foregoing opinion, which I hereby approve, was prepared by Special Assistant Attorney General Lonnie A. Powers.
Yours truly,

Bill Clinton

Ark. Op. Atty. Gen. No. 77-130 (Ark.A.G.), 1977 WL 23010

End of Document

© 2019 Thomson Reuters. No claim to original U.S. Government Works.