

**City Council Agenda Items
and
Contracts, Leases or Agreements**

12/6/2011

City Council Meeting Date
Agenda Items Only

Alison Jumper *AJ*
Submitted By

Park Planning
Division

Parks and Recreation
Department

Action Required:

Tree Preservation Area Modification for Hilton Garden Inn submitted by Jorgensen and Associates for property located on Lot 3 of the Hilton Garden Inn subdivision on Shiloh Drive. The property is zoned C-2, Thoroughfare Commercial. The request is to vacate the 0.09 acre tree preservation area.

Cost of this request	\$ -	Category / Project Budget	Program Category / Project Name
Account Number	\$ -	Funds Used to Date	Program / Project Category Name
Project Number	\$ -	Remaining Balance	Fund Name

Budgeted Item

Budget Adjustment Attached

Connie Edmonston
Department Director 11-17-11
Date

Previous Ordinance or Resolution # _____

Kevin
City Attorney 11-18-11
Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Beck
Finance and Internal Services Director 11-18-2011
Date

Received in City Clerk's Office 11-17-11 POS:17 RCVD
King

Am Man
Chief of Staff 11-21-11
Date

Received in Mayor's Office
ENTERED 11/23/11

Freddie Jordan
Mayor 11/23/11
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director *CE*
Jeremy Pate, Development Services Director *J*

From: Alison Jumper, Park Planning Superintendent *AJ*

Date: November 15, 2011

Subject: Tree Preservation Area Removal for Hilton Garden Inn

BACKGROUND

The subject property is located within the previously approved Hilton Garden Inn Large Scale Development. An approximately 4,103 square foot (0.09 acre) tree preservation area was recorded on an easement plat in 2009; however the project was never built. The tree preservation area includes approximately seven trees. Species include hackberry, bois d'arc willow and black locust, many of which which were rated as low and mid priority as documented on a 2007 tree preservation plan for Homewood Suites by Hilton and in the tree preservation plan for the Hilton Garden Inn as submitted in 2008. Additionally, none of the species are considered significant as outlined in the City of Fayetteville Landscape Manual and the willow and locust trees are listed as invasive/less desirable. The trees have since been damaged by the 2009 ice storm.

DISCUSSION

The applicant is requesting to remove the 4,103 tree preservation area entirely. Mitigation for removal of these trees equates to (19) 2" caliper large species trees using the high priority mitigation ratio. The applicant proposes utilizing Low Impact Development design features throughout the development. Providing additional mitigation trees in strategic locations at a rate of 150% of the required mitigation would provide larger areas of canopy and shade for the building and parking areas.

RECOMMENDATION

Staff recommends approving the removal of the tree preservation area with the following conditions:

1. No tree removal shall occur prior to development approval for this project.
2. The applicant shall plant a minimum of (29) 2" caliper large species mitigation trees on the property and deposit a three year maintenance bond with the City of Fayetteville prior to obtaining a certificate of occupancy.

BUDGET IMPACT

None.

Attachments:

- Exhibit A- Recorded Tree Preservation Easement
- Exhibit B- Aerial Photo of Subject Property
- Exhibit C- Photos of Existing Tree Preservation Area
- Applicant's request

RESOLUTION NO. _____

A RESOLUTION TO VACATE ABOUT ONE-TENTH OF AN ACRE OF A TREE PRESERVATION EASEMENT TO BE MITIGATED BY THE PLANTING OF 29 LARGE SPECIES TREES AND DEVELOPING THE LOT UTILIZING LOW IMPACT DEVELOPMENT STANDARDS

WHEREAS, a Large Scale Development was approved but not constructed on this property; and

WHEREAS, as part of the Large Scale Development the developer had dedicated about one-tenth of an acre for a tree preservation easement; and

WHEREAS, a new Large Scale Development is being proposed whose developer wishes the City Council to vacate this one-tenth of an acre tree preservation easement in exchange for planting about 50% more large species trees than would normally be required for mitigation and for developing the property utilizing Low Impact Development standards pursuant to Chapter 179 of the U.D.C.; and

WHEREAS, §167.04(L)(2) authorizes the City Council to approve the vacation of a tree preservation easement if such vacation “is in the best interest of the City of Fayetteville.”

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 vacates the existing one-tenth of an acre tree preservation easement for the Hilton Garden Inn Large Scale Development plat on the condition that the developer/owner plants at least twenty-nine (29) large species trees (2” caliper) on this site, bonds the trees for three years, and develops this site in conformity with Chapter 179 **Low Impact Development Code** of the U.D.C.

PASSED and **APPROVED** this 6th day of December, 2011.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

Fayetteville Code of Ordinances

- (5) *Maintenance agreement and landscape establishment guarantee.* All plans requesting on-site mitigation or off-site forestation shall include a binding three year maintenance and monitoring plan, which shall hold the applicant responsible for the health of all planted trees.
- (a) Approval of a plan requesting on-site mitigation or off-site forestation shall be contingent upon the applicant depositing with the city either currency, bond irrevocable letter of credit or other surety, in an amount equal to the estimated cost of materials and labor of trees at the time of planting. The bond, irrevocable letter of credit, or other surety must cover the entire three year maintenance and monitoring period. The applicant shall submit cost estimates to the urban forester.
- (b) Upon completion of the three year landscape establishment period, the urban forester shall inspect the site and determine whether 90% of the trees are healthy and have a reasonable chance of surviving to maturity. Upon such finding, the city shall release the currency, bond, or letter of credit.
- (c) In the absence of such a finding, the applicant shall be notified to replace any unhealthy or dead trees, or take other appropriate action as approved by the urban forester. If the applicant does not take remedial steps to bring the property into compliance, the city shall use the necessary monies from the landscape establishment guarantee to do so.
- (d) In the event trees are injured or destroyed by natural disasters, including but not limited to, tornadoes, straight-line winds, ice storms, fire, floods, hail, or lightning strikes, or through the independent actions of third parties, the applicant shall be relieved of the responsibility of replanting the tree or trees so affected.
- (K) *Tree preservation plan review form.* The urban forester shall use a standardized form for all recommendations or administrative determinations made regarding an applicant's tree preservation plan.
- (1) The form shall clearly indicate whether the urban forester is making a final administrative determination, or a recommendation to the Planning Commission or City Council.
- (2) The form shall also clearly indicate the applicant's plan is "APPROVED," "DISAPPROVED," or "CONDITIONALLY APPROVED," and explain the reasoning therefore.
- (3) A statement shall appear on the form explaining the process by which a final administrative determination may be appealed in accordance with Chapter 155 of the Unified Development Code.
- (4) The urban forester shall sign and date the form, and ensure that a copy becomes part of the permanent file for the project.
- (L) *Continuing preservation and protection under approved tree preservation plans.*
- (1) In order to ensure that an applicant's heirs, successors, assigns, or any subsequent purchasers of the subject property are put on notice as to the existence and extent of an approved tree preservation plan, tree preservation areas shall be clearly depicted on the easement plats for large scale developments and the final plats for nonresidential subdivisions. This shall be accompanied by a narrative statement describing the nature of the protection afforded, and bearing the signature of the urban forester. Lots in residential subdivisions are expressly exempt from these requirements. If it is impractical to include the actual depiction of the canopy to be preserved on the easement plat, or final plat itself, a note cross referencing an accompanying document shall suffice.
- (2) The geographic extent and location of tree preservation areas, once recorded, may only be modified, or abolished with the express approval of the City Council. Applicants requesting such action shall bear the burden of proving to the City Council's satisfaction that such modification or abolition is in the best interest of the City of Fayetteville. Such requests shall be submitted to the urban forester, who shall ask the city clerk to place it on the agenda of the next regularly scheduled City Council meeting.
- (3) Property owners wishing to remove diseased or dead trees from within a recorded tree preservation area shall seek prior approval from the urban forester, who shall determine if such removal is consistent with sound arboricultural and horticultural practices, as well as the intent of this chapter. Any tree so removed shall be replaced with a tree of like or similar species, unless the urban forester determines that natural replacements of

HILTON GARDEN INN EASEMENT PLAT



CH2 ENGINEERING, INC.
 2817 MILLIKEN DR
 SUITE 200
 OKLAHOMA CITY, OK 73106
 (405) 842-0234



CURVE	LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH	START POINT	END POINT
C1	130.00	130.00	90.00	S 45.00° E	130.00	Station 0+00	Station 0+90
C2	130.00	130.00	90.00	S 45.00° W	130.00	Station 0+90	Station 0+00

GRAPHIC SCALE
 (IN FEET)
 1 inch = 50 ft



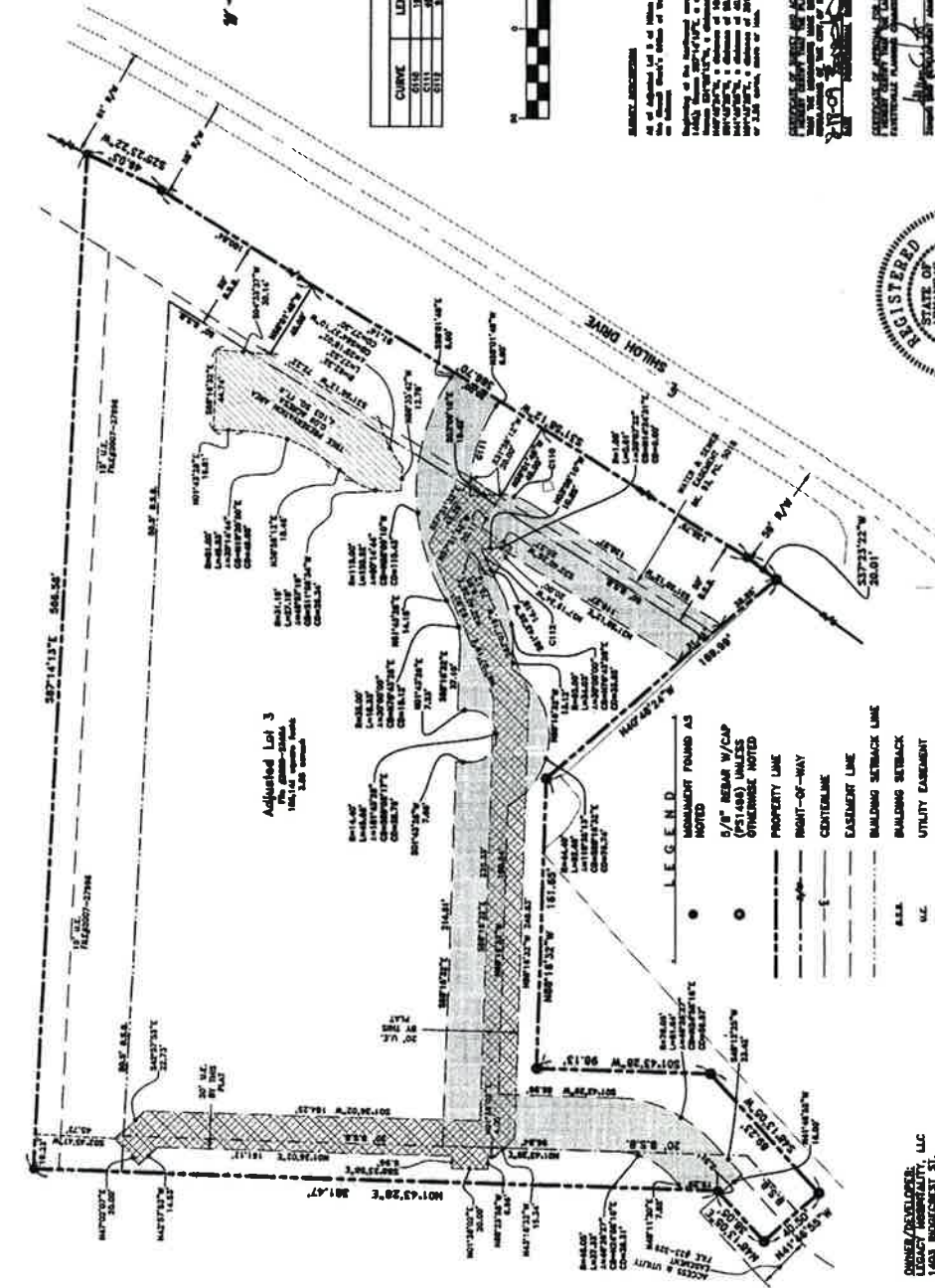
GENERAL NOTES:
 1. THIS SURVEY WAS CONDUCTED BY CH2 ENGINEERING, INC. ON BEHALF OF THE CLIENT.
 2. THE BOUNDARY CONFIGURATION SHOWN ON THIS SURVEY DOES NOT PURPORT TO BE A TRUE AND CORRECT SURVEY AND SHOULD NOT BE USED FOR ANY PURPOSES OTHER THAN THAT FOR WHICH IT WAS DESIGNED.
 3. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF OKLAHOMA CITY AND THE STATE OF OKLAHOMA.
 4. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF OKLAHOMA CITY AND THE STATE OF OKLAHOMA.
 5. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF OKLAHOMA CITY AND THE STATE OF OKLAHOMA.

LEGEND:
 BOUNDARY FOUND AS NOTED
 5/8" BEARS W/CAP (PS148) UNLESS OTHERWISE NOTED
 PROPERTY LINE
 RIGHT-OF-WAY
 CENTERLINE
 EASEMENT LINE
 BUILDING SETBACK LINE
 BUILDING SETBACK
 UTILITY EASEMENT
 DRAINAGE EASEMENT
 UTILITY EASEMENT BY THIS PLAT
 TREE PRESERVATION AREA BY THIS PLAT
 ACCESS EASEMENT BY THIS PLAT



- This survey is valid only if the drawing includes the seal and signature of the surveyor.
- This survey was not conducted by a certified title company. All documents were provided by the client/clients and/or researched by HZ Engineering, Inc., and may be subject to record/unrecorded, easements, rights of way, covenants, building setback lines, subdivision restrictions, zoning, land regulations or other facts which on accurate and current title search may reveal.
- Building setbacks for zone C-2 (Thoroughfare Commercial):
 Front 25 Feet/20 Feet, if parking allowed
 Side, when contiguous to a 80 Feet
 Rear, when contiguous to a 15 Feet
 Rear 20 Feet

OKLAHOMA STATE ARCHIVES
 OKLAHOMA COUNTY CLERK
 REC'D: 09/01/2009 AT 11:58:08 AM
 FILE# 0023-00000368



OWNER/DEVELOPER:
 LEGACY COMMUNITIES, LLC
 2817 MILLIKEN DR
 SUITE 200
 OKLAHOMA CITY, OK 73106
 (405) 842-0234

SUBSEAL:
 HZ ENGINEERING
 2817 MILLIKEN DR
 SUITE 200
 OKLAHOMA CITY, OK 73106
 (405) 842-0234

- Every document of record reviewed and considered as a part of this survey is noted herein. Only the documents noted herein were supplied the surveyor.
- Except as specifically stated or shown on this plat, the survey does not purport to reflect any of the following which may be applicable to the subject land:
 Easements, other than those easements which were visible at the time of making of this survey, building setback lines, subdivision restrictions, zoning, land regulations, or other fact-of-law regulations, or any other facts which on accurate and current title search may be discovered.
- This plat represents an assessment of Adjusted Lot 3 of the Property Line Adjustment recorded as File #2008-21444 in the Circuit Clerk's Office of Oklahoma County, Oklahoma.
- Beats of Beatings: Oklahoma State Plane Grid North Zone (NAD83) based on City of Fayetteville OS Monumentation

Exhibit A



Existing Tree
Preservation Area

Homewood
Suites

Holiday Inn

MULBERRY ST

GILES RD

DOROTHY JEANNE ST

TELLURIDE DR

STEAMBOAT DR

PALAK DR

SHILOH DR

WEDINGTON DR

WEDINGTON DR

RAMP 64

EXIT 64

RAMP 64

EXIT 64

FUTRALL DR

N



0 50 100 200 Feet

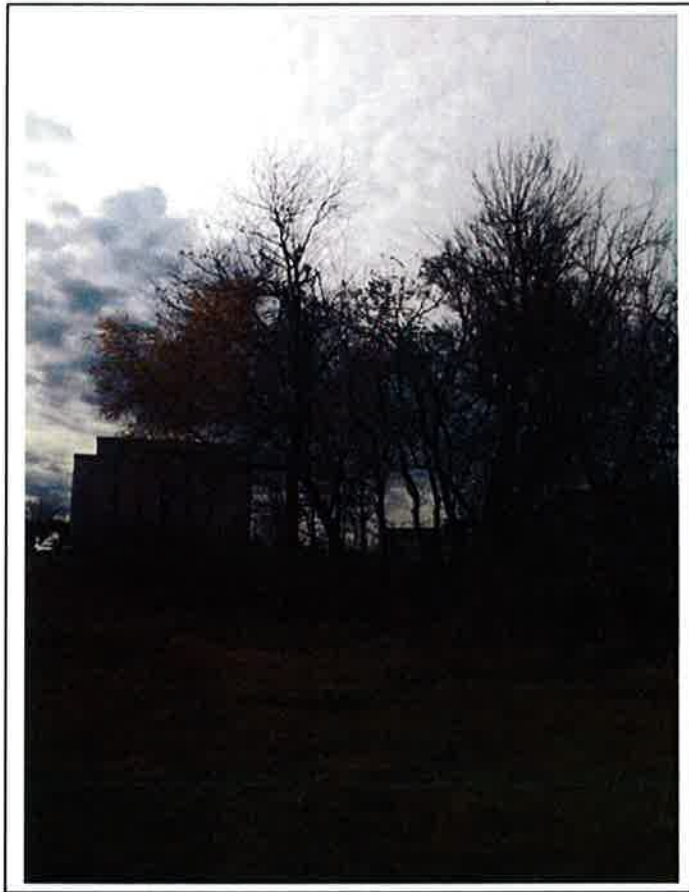


Exhibit C



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.

JUSTIN L. JORGENSEN, P.E.

BLAKE E. JORGENSEN, P.E.

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Attn: Alison Jumper, RLA
Re: The Hilton Garden Inn


Dear Alison;

Please find the attached Site Analysis Plan along with the Vacation Request for the Hilton Garden Inn. This site consists of mostly open field, with the exception of the grove of trees as found on this plat. Slopes are moderate within the 1-5% range. Existing utilities lie on the eastern frontage, and easements as shown on this plat have already been platted; no new easements are planned. The existing tree canopy is ~ 9,000 sq.ft., 2,092 sq.ft. is found in the existing U.E. leaving 6,908 sq.ft. of canopy outside existing U.E. This grove of trees does not contain any significant trees, there are a few locust and some hackberries, ranging from 8"-16" diameter. The health of the trees is fair, with the exception of a few trees that are poor.

As mentioned in our correspondence to the Planning Department, we feel that our proposal will be environmentally advantageous, as the previous plan contained no Low Impact Development features. We also feel that this hotel will garner a lot of attention from various visitors and having these features highlighted throughout this development will reflect positively on our city. Topographically, this tree preservation area lies in an existing swale/basin that naturally lends its self to be converted into a Storm Water Quality Basin. Additionally, by installing the Multi-Use trail at the required 2% above the existing back-of-curb, we will be damming up this tree preservation area, creating a basin that will likely need to be maintained as it will capture debris and trash. As a tree preservation area, we would not be able to maintain this area properly.

We hope that these matters can be taken into consideration as we move forward with this project. Please contact us with any questions or comments.

Thanks for your time.



Blake E. Jorgensen, P.E.