

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

12/6/2011

City Council Meeting Date
Agenda Items Only

Alison Jumper
Submitted By

Park Planning
Division

Parks and Recreation
Department

Action Required:

Tree Preservation Area Modification for Bellafonte Ph. II: Submitted by Appian Centre for Design for property located at Bellafont Gardens Phase II. The property is zoned C-3, Central Business Commercial. The request is to vacate a portion of the 1.66 acre tree preservation area within the Bellafont Subdivision.

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

[Signature]
Department Director 11-17-2011
Date

Previous Ordinance or Resolution # _____

[Signature]
City Attorney 11-18-11
Date

Original Contract Date: _____

Original Contract Number: _____

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

Received in City Clerk's Office 11-17-11 10:17 RCVD
Kim G.

Don Man
Chief of Staff 11-21-11
Date

Received in Mayor's Office
ENTERED
11/18/11
[Signature]

Frederick J. Jumper
Mayor 11/23/11
Date

Comments:

Tabled to 12/20/11 CC mtg.

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 *JP*

From: Alison Jumper, Park Planning Superintendent *AJ*

Date: November 15, 2011

Subject: Tree Preservation Area Modification for Bellafont Gardens Lot 1

BACKGROUND

The subject property is located within the previously approved Bellfont Gardens Phase II Large Scale Development. Lot 1 in its entirety was platted as a tree preservation area to satisfy a portion of the tree preservation requirements for Bellafont Gardens Phase II. This property reverted back to the original investors who are currently requesting the modification.

The applicant's request is to modify tree preservation by removing approximately 0.53 acres within Lot 1 of Bellafont Gardens to allow for the development of the lot, as indicated on Exhibit A. Additionally, the applicant proposed to dedicate approximately 0.5 acres of land located on the western edge adjacent on Lot 4 of Bellafont Gardens Phase I (Exhibit B).

DISCUSSION

The owner has been working with staff to find a agreeable solution. This request proposed includes dedicating a approximately 0.5 acres or 21,800 square feet of tree preservation area to the south. This is dependent on vacating an existing 20' utility easement along the west side of Lot 4 (see Exhibit C). By vacating this easement, a new tree preservation area can be dedicated adjacent to an existing tree preservation area to the west, making a larger contiguous area for habitat.

RECOMMENDATION

Staff recommends vacating a approximatley 0.53 acres of the 1.66 acre tree preservation area within Lot 1 of Bellafonte Gardens as shown in Exhibit A with the following conditions:

1. The applicant shall vacate the existing 20' utility easemetn and dedicate approximately 0.5 acres of tree preservation area on Lot 4 of Bellafont Gardens by separate document prior to development approval for Lot 1 Bellafont Gardens.

2. Applicant shall plant approximately (52) 2" caliper large species trees in the new tree preservation area on Lot 4 at the time of development of Lot 1. Trees shall be bonded for three years.
3. The applicant shall coordinate with the adjacent property owner and utilize on street parking on Joyce Boulevard to satisfy parking requirements. No parking shall be proposed on Lot 1.

BUDGET IMPACT

None.

Attachments:

- Exhibit A-Vacation proposal
- Exhibit B- Proposed concept
- Exhibit C- Utility/tree preservation area
- Exhibit D-Bellafont Final Plat
- Applicant's request

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A MODIFICATION OF THE TREE PRESERVATION AREA IN THE BELLEFONT GARDENS DEVELOPMENT TO SHIFT ABOUT ONE-HALF ACRE OF TREE PRESERVATION AREA FROM LOT 1 TO LOT 4

WHEREAS, the City Council has the authority under §167.04 (L)(2) of the U.D.C. to modify the extent and location of tree preservation areas if it is in the best interests of the City of Fayetteville; and

WHEREAS, the City Council has determined that it is in the best interests of the City of Fayetteville to grant the developer's request to modify the existing tree preservation area.

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 modifies the existing tree preservation area for Bellefont Gardens by removing about .53 acres from Lot 1 to allow for development of the lot as shown on Exhibit A and to require dedication of a mitigation of fifty-two (52) 2" caliper large species trees to be planted and bonded by the developer on about .5 acres on Lot 4 in conjunction with the developer vacating an existing 20-foot wide utility easement as shown on Exhibit "B".

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that no development on Lot 1 may be permitted until the vacation of the utility easement, dedication of the one-half acre tree preservation area, planting of the 52 trees and their bonding had been accomplished by the developer and that no parking shall be allowed on Lot 1.

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

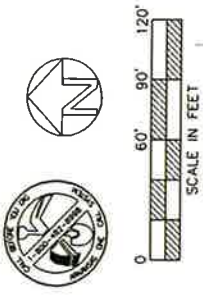
APPROVED:

ATTEST:

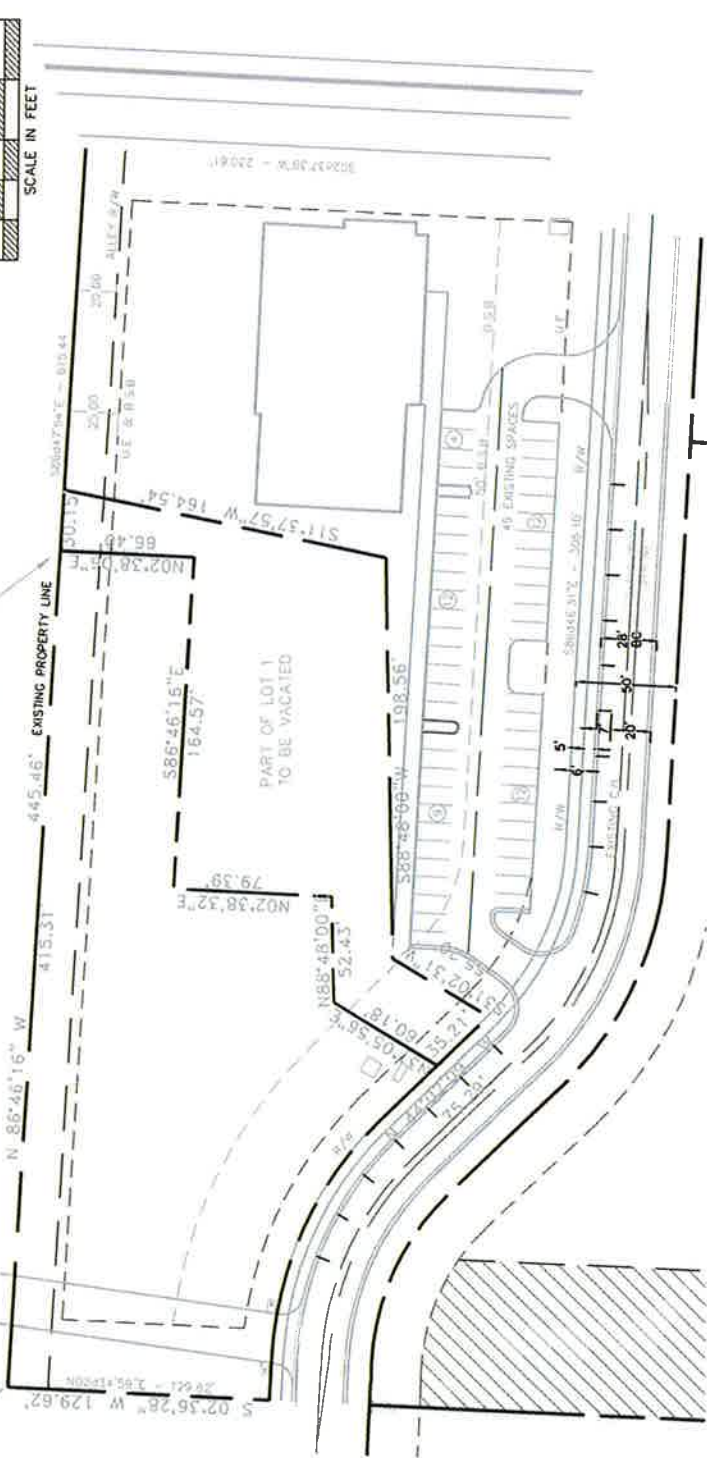
By: _____
LIONELD JORDAN, Mayor

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

NW CORNER
 NW 1/4, NW 1/4
 SEC 25, T-17-N
 R-30-W
 PLAT 2005-3303
 2" ALUMINUM CAP



P.O.B.
 (LOT 1 VACATED)



LEGAL DESCRIPTION (ORIGINAL LOT 1):

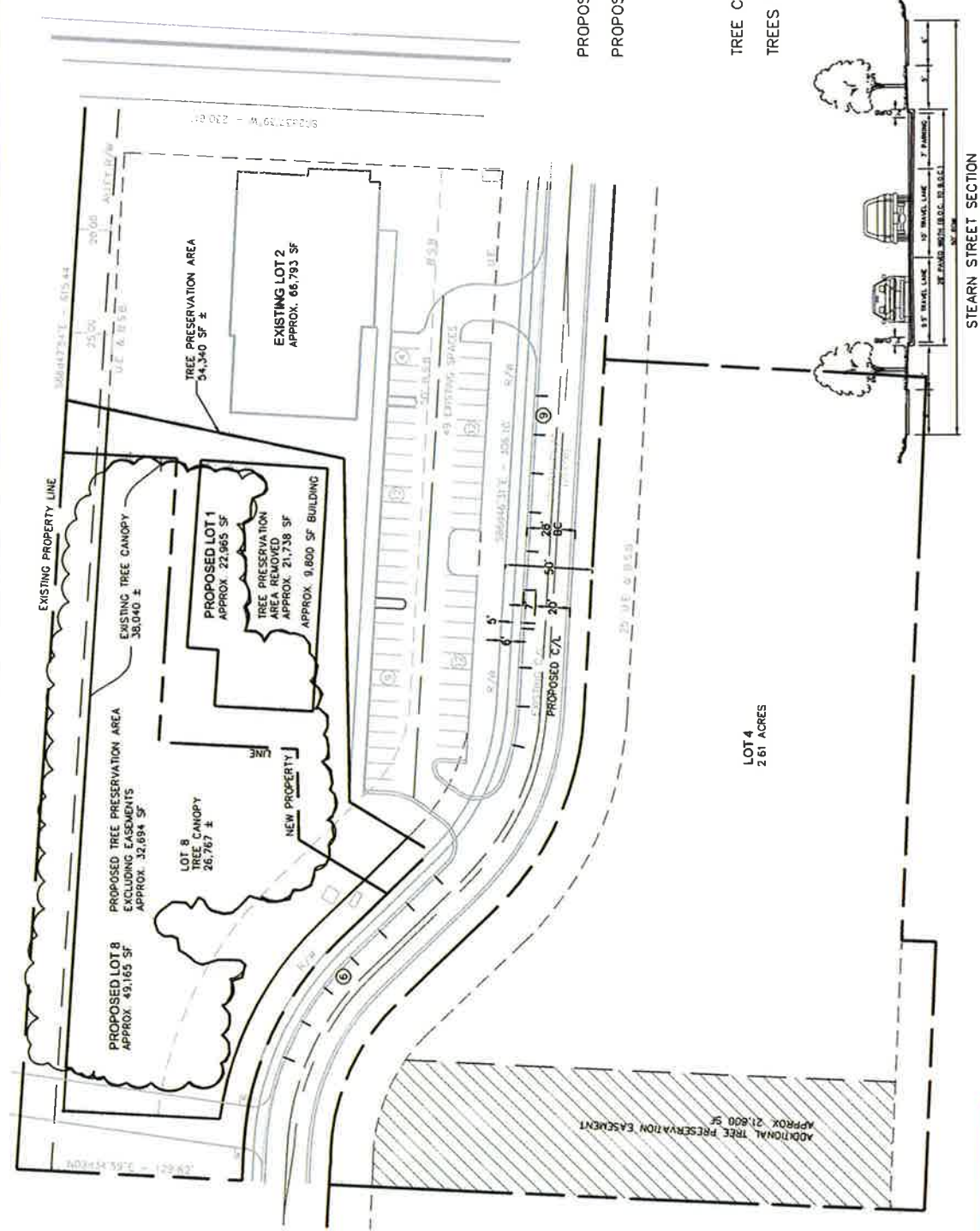
Lot 1 of Bellofont Gardens in Fayetteville, Arkansas, as per plat on file in the Circuit Clerk and Ex-officio Recorder of Washington County, Arkansas.

LEGAL DESCRIPTION (PART OF LOT 1 BEING VACATED):

A part of Lot 1 of Bellofont Gardens in Fayetteville, Arkansas, as per plat on file in the Circuit Clerk and Ex-officio Recorder of Washington County, Arkansas and being more particularly described as follows: Beginning at the NW Corner of said Section 25; thence along the north line of the NW 1/4, S86°46'16"E 415.31 feet to the P.O.B., thence S86°46'16"E 30.15 feet, thence S11°37'57"W 164.54 feet, thence S88°48'00"W 198.56 feet, thence S31°02'31"W 55.20 feet to the North right-of-way of Stearns Street, thence along said right-of-way N44°02'09"W 35.21 feet, thence leaving said right of way N31°05'56"E 60.18 feet, thence N88°48'00"E 52.43 feet, thence N02°38'32"E 79.39 feet, thence S86°46'16"E 164.57 feet, thence N02°38'06"E 66.40 feet to the P.O.B., containing 0.53 acres.

Exhibit A

BELLOFONT GARDENS TREE PRESERVATION AREA MODIFICATION
 DATE: 04/12/2005
 FILE NO: 2005-100011
 PROJECT: BELLOFONT GARDENS TREE PRESERVATION AREA MODIFICATION
 COUNCIL PROPOSAL
 SCALE: 1/4" = 100'
 DRAWN BY: J. H. HARRIS
 CHECKED BY: J. H. HARRIS
 DATE: 04/12/2005



EXISTING LOT 1 -- 72,309 SF
1.66 ACRES

EXISTING LOT 2 -- 66,793 SF
1.53 ACRES

EXISTING LOT 4 -- 2.61 ACRES

PROPOSED LOT 1: 22,965 SF TOTAL

PROPOSED LOT 8: 49,165 SF
32,694 SF TREE PRES. EASEMENT
26,767 SF TREE CANOPY

LOT 4: APPROX. 21,800 SF TREE PRES. EASEMENT

TREE CANOPY TO BE MITIGATED -- APPROX. 11,322 SF

TREES TO BE PLANTED: 52 (2" CAL.)
OR
60 (1.5" CAL.)

LOT 4
2.61 ACRES

APPLIED
URBAN DESIGN, INC.
300 WEST WYOMING STREET, SUITE 200 FAYETTEVILLE, ARKANSAS 72701
(479) 220-7007 FAX (479) 220-1000
WWW.APPLIEDURBANDESIGN.COM

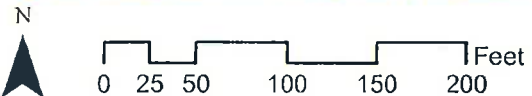
DATE: 11/20/11	PROJECT: BELLAFRONT PRESERVATION
COUNCIL PROPOSAL	SCALE: 1"=40'
	PAGE: 1 OF 2
	SUBMITTAL: 1

STEARNS STREET SECTION
FACING WEST

15' TRAVEL LANE
5' PARKING
12' TRAVEL LANE
5' PARKING
12' TRAVEL LANE
5' PARKING
12' TRAVEL LANE
5' PARKING

Exhibit B

*ALL SQUARE FOOTAGE IS APPROXIMATE AND SUBJECT TO EASEMENTS AND SURVEYS



Bellafont Gardens Exhibit C

PITTMAN NURSERY CORPORATION MASTER ORDER FORM 2009

Sales: Lisa Williamson, Sheila McCray, Ashley White, Pal King, Kelli Clark
 Phone: 1-800-553-6661 Fax: 870-234-6640 www.PittmanNursery.com
 Store Name/#: _____ Ordered By: _____ Ship Date: _____
 P.O.# _____ Wrap Tags or 10 cent Picture Tags available upon request.

B 5
 Bellafort Gardens Tree
 Preservation Area Modification

DESCRIPTION	SIZE	PRICE
Linden Little Leaf	#05	9.90
Loquat X Coppertone Loquat Japanese Plum	#05	12.90
Loropetalum Pizzaz Purple	#01	3.90
	#03	7.90
Magnolia Evergreen Alta Little Gem	#01	6.90
Magnolia Southern	#01	3.90
Magnolia Fiscata	#03	9.90
Magnolia Alta Claudia Wannamaker	#05	15.90
DD Blanchard Little Gem Sweet Bay		
Magnolia Southern	#05	12.90
Magnolia Alta Braken's Brown Claudia	#15	42.90
Wannamaker DD Blanchard Little Gem		
Magnolia Southern Sweet Bay	#15	39.90
Magnolia Alta Broken Leaf Little Gem	#25	62.90
Southern		
Magnolia Sweet Bay	#25	72.90
Magnolia Broken Leaf Southern	#45	197.50
Magnolia Saucer Ann(Pink) Galaxy (Red/Purple)	#05	15.90
Jane (Purple) Star(White) Susan (Fuchsia)		
Magnolia Saucer Assorted Alexandria (White- inside/Pink-outside) Ann(Pink) Jane (Purple) Star(White) Susan(Fuchsia)	#15	39.90
Mahonia Bealei - Leatherleaf		
Maple Red Maple (Drummond Red Maple)	#01	2.90
Maple Dwarf Japanese Green	#15	52.90
Maple Emporer I	#03	27.90
	#05	37.90
	#15	129.90
	#25	225.90
Maple Silver	#05	7.90
Maple Red Sugar	#05	8.90
Maple Amur Autumn Blaze Autumn Flame	#05	9.90
Maple Red Sunset October Glory	#05	12.90
Maple Coral Bark X Crimson Queen Dwarf Jap. Blood-good Dwarf Jap. Emporer Emporer	#05	37.90
Maple Amur Autumn Blaze X Crimson Queen October Glory Red Silver Sugar	#15	39.90
Maple Red Sunset	#15	45.90
Maple Crimson Prince Emporer JapBloodgood	#15	129.90

DESCRIPTION	SIZE	PRICE
Maple AutumnBlaze AutumnFlame October Glory Red Red Sunset Silver Sugar	#25	62.90
Maple Bloodgood X Crimson Queen Dwarf. Japanese Garnet	#25	189.90
Maple Dwarf Japanese Emperor	#25	225.90
	#35	267.50
Maple Tamukeyama-Weeping Laceleaf	#25	230.90
Maple October Glory Red	#35	92.90
Maple Dwarf Jap. Bloodgood 6-7	#35	225.90
Maple Emporer I	#35	290.90
Maple Dwarf Jap. Bloodgood	#45	290.90
Maple Dwarf Green Japanese Emperor I (Red)	#45	290.90
Millettia Evergreen Wisteria	#03	7.90
Mimosa	#05	8.90
MockOrange Sweet Mockorange	#01	2.90
Mulberry Fruitless	#25	62.90
Nandina Dwarf Firepower X Harbor Dwarf	#01	3.90
Nandina Domestica Dwarf Firepower X Harbour Dwarf	#03	6.90
Oak Burr Chinquapin Compton Live Overcup Sawtooth Shumardi Water White	#01	2.90
Oak Compton Shumardi	#03	6.90
Oak Burr CherryBark Chinquapin Compton Live NorthernRed Nuttall Overcup Pin Post Sawtooth Shumardi Water White Willow	#05	9.90
Oak Burr Live NorthernRed Nuttall Overcup Pin SouthernRd Shumardi White Willow	#15	39.90
Oak Cherry Bark Overcup Willow	#35	125.90
Oak Live Pin Willow	#45	225.90
Oleander Red	#01	3.90
	#03	6.90
Osmanthus Sweet Olive	#03	9.90
	#05	12.90
	#15	39.90
Palm Date Palm Windmill Palm	#01	9.90
	#03	12.90
	#05	24.90
	#15	69.90
Palm Sago	#02	14.90
	#05	19.90
	#07	27.90
X Palm Mexican Fan	#02	24.90

Availability and prices are subject to change. Ask about quantity discounts. X=temporarily out 3/7/2009 Page 5 of 14
 Solid flats only (2 each): 606 flat=36 ct. 4.5"flat=15 ct. 4"flat=18 ct. Order Quantities: 6", 8", & 1gal. pot=10 each HB=10 each #3g=10 each #5g=5 each



October 20, 2011

City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Re: Belafont Tree Preservation

Dear Aldermen and Fayetteville Commissioners,

Lot 1 of the Belafont Subdivision been established as a 1.66 acre Tree Preservation Area of which approximately 80% of the property is covered in trees. Through a series of ill-fated transactions and poor timing, the previous owner defaulted on his loans and Chambers Bank has been the recipient of an unbuildable lot made up of tree preservation.

In order to recoup a portion of its losses, the Bank would like to retain the majority of the tree preservation and create a small lot made up of currently unforested land and some tree canopy. Pending the removal of a utility easement, the owner will plant (52) 2" trees or (60) 1.5" trees and dedicate as easement 21,800 square feet along the west edge of Lot 4. This would mesh well with an existing preservation easement along the east edge of the adjacent lot, which contains what we know as the Lindsey building.

The owner and I have been working for some time now with the City of Fayetteville staff and believe that we have come to an amiable solution. Please review the attached exhibits for the location and size of easements and lots. Feel free to call us with any questions.

Respectfully,

A handwritten signature in black ink, appearing to read "Evan Niehues".

Evan Niehues, RLA

Appian, Inc.

eniehues@appianonline.com

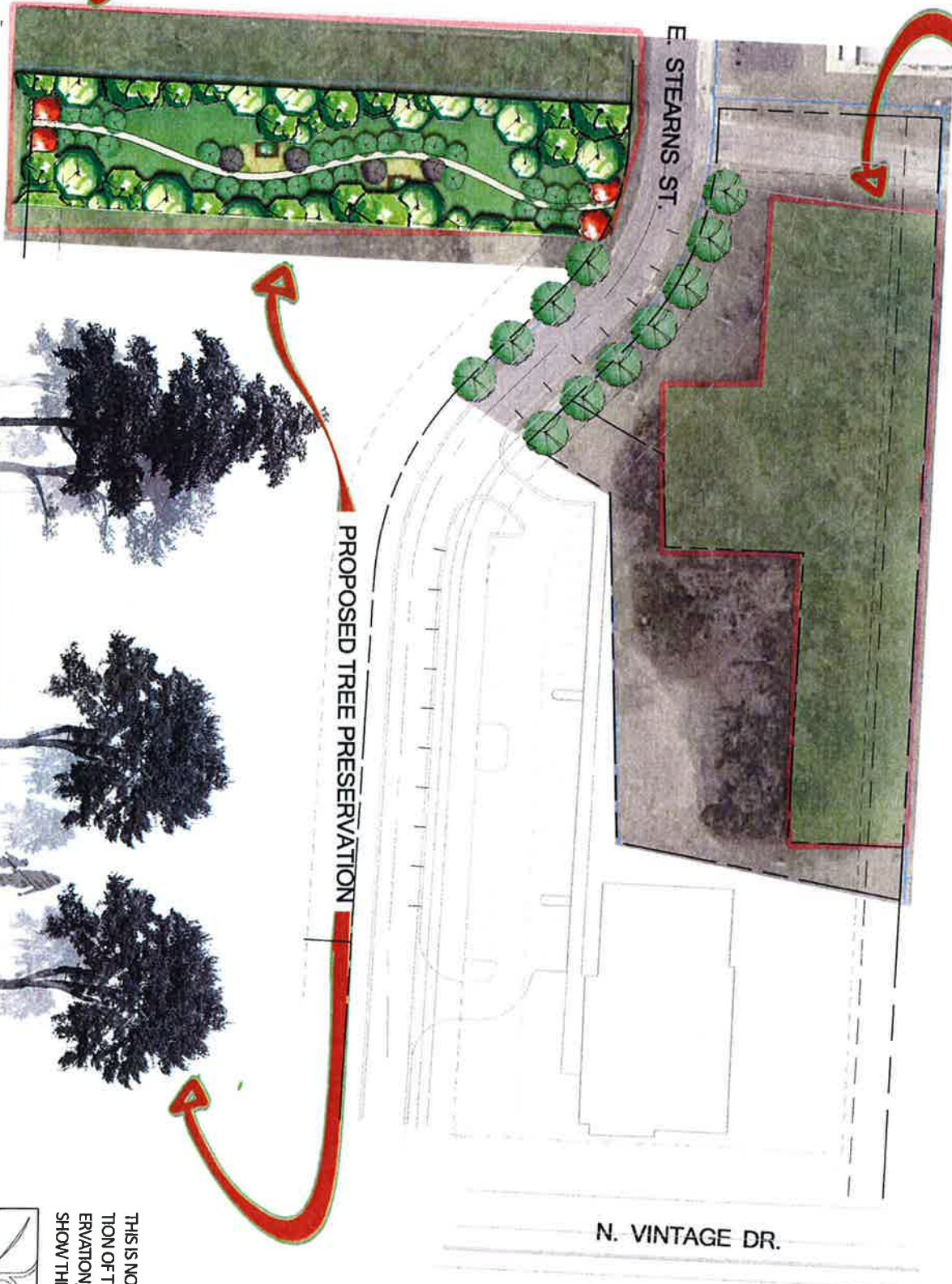
Fayetteville Code of Ordinances

- (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

City Council Authority

BELLAFONT TREE PRESERVATION

*Handed out at the City Council Meeting
 12/16/11*



EXISTING TREE PRESERVATION

EXISTING TREE PRESERVATION

PROPOSED TREE PRESERVATION

wild prairie/native trees maintained lawn tree lined gravel path native trees

N. VINTAGE DR.

E STEARNS ST.

THIS IS NOT AN EXACT REPRESENTATION OF THE PROPOSED TREE PRESERVATION, BUT A GRAPHIC TO SHOW THE GENERAL PROPOSAL

305 WEST WASHINGTON, SUITE 100, FAYETTEVILLE, AR 72701 PHONE: 479.781.1111 FAX: 479.781.1112 WWW.JOPPO.COM	BELLAFONT TREE PRESERVATION FAYETTEVILLE, ARKANSAS

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A MODIFICATION OF THE TREE PRESERVATION AREA IN THE BELLEFONT GARDENS DEVELOPMENT TO SHIFT ABOUT ONE-HALF ACRE OF TREE PRESERVATION AREA FROM LOT 1 TO LOT 4

WHEREAS, the City Council has the authority under §167.04 (L)(2) of the U.D.C. to modify the extent and location of tree preservation areas if it is in the best interests of the City of Fayetteville; and

WHEREAS, the City Council has determined that it is in the best interests of the City of Fayetteville to grant the developer's request to modify the existing tree preservation area.

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 modifies the existing tree preservation area for Bellefont Gardens by removing about .53 acres from Lot 1 to allow for development of the lot as shown on Exhibit A and to require dedication of a mitigation of fifty-two (52) 2" caliper large species trees to be planted and bonded by the developer on about .5 acres on Lot 4 in conjunction with the developer vacating an existing 20-foot wide utility easement as shown on Exhibit "B".

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that no development on Lot 1 may be permitted until the vacation of the utility easement, dedication of the one-half acre tree preservation area, planting of the 52 trees and their bonding had been accomplished by the developer.

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

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

