



CITY PLAN COMMISSION STAFF REPORT

City of Kansas City, Missouri
City Planning & Development Department
www.kcmo.gov/cpc

February 7, 2023

Project Name
Tree Preservation and Protection Ordinance

Docket #1

Request
CD-CPC-2022-00186
(Ordinance 220961)
Zoning Code Text Amendment

Applicant
Office of the Mayor
414 E 12th St, Kansas City, MO 64106

Owner
Not Applicable

Location	Citywide
Area	Not Applicable
Zoning	Not Applicable
Council District	All
County	All
School District	All

Surrounding Land Uses
Not applicable

Major Street Plan
Not Applicable

Land Use Plan
Not Applicable

APPROVAL PROCESS



PROJECT TIMELINE

Ordinance 220961 was introduced on October 27, 2022 and referred to Neighborhood Planning and Development Committee. On November 2, 2022 the Committee held the ordinance in order to allow City Planning Commission consideration. The City Plan Commission heard presentations for this ordinance at the November 15, 2022 hearing and voted to continue the case to allow time for revisions.

NEIGHBORHOOD AND CIVIC ORGANIZATIONS NOTIFIED

Mailed notice of the hearing is not required because the request is text amendment to the Code.

REQUIRED PUBLIC ENGAGEMENT

Public engagement as required by 88-505-12 does not apply to this request because the text amendment will be applied city-wide. This ordinance is sponsored by the Mayor and written by outside parties. Limited public engagement was held to discuss this proposed ordinance. The primary writers of the ordinance consulted various environmentally driven groups, including, but not limited to, Bridging The Gap.

EXISTING CONDITIONS

Section 88-425 is where the current Landscaping and Screening standards are located in the Zoning and Development Code. The section has a variety of requirements relating to landscaping in and around parking lots, general landscaping, street trees, screening of mechanical and utility equipment, etc. The City is seeing continued development, which is greatly impacting existing tree canopy cover and forested areas. These areas provide habitat for wildlife, as well as countless benefits to human health and wellness. The Zoning and Development Code does not prohibit mass clearing of these natural areas; thus, developers clear and mass grade entire project sites. Codifying preservation standards through the proposed ordinance, which strives to preserve natural areas and inspire more creative development incorporating natural areas into site design, is one step to reach goals laid out in complementary City Policy, including the Climate Protection and Resiliency Plan and Urban Forest Master Plan.

SUMMARY OF REQUEST + KEY POINTS

Amending Chapter 88, the Zoning and Development Code, by enacting a new section to be known as Tree Preservation and Protection, which would require preservation or mitigation of certain areas of trees, as defined in the ordinance.

PROFESSIONAL STAFF RECOMMENDATION

Docket #1 Approval

ORDINANCE REVIEW

This section serves as an overview description of the ordinance.

Scope and Purpose

The intent and scope of the proposed ordinance is to enhance standards related to environmental protection, specifically for tree canopy across the entire city. City Planning and Development Department will primarily implement this ordinance, as it will be located in Chapter 88, Zoning and Development Code. Additionally, the Parks Department will play a role in administering the funds collected as a result of the regulations in the ordinance. More specifically the Forestry Division will determine the rate of payment required.

The primary objectives of the ordinance are to enhance environmental system benefits provided by tree canopy cover including, but not limited to stormwater management, mitigating urban heat island effect, reducing erosion and sedimentation, and encouraging walkable environments. All development subject to this ordinance is outlined in the "Applicability" section.

Protected Tree Canopy Cover

Protected tree canopy cover is any area of contiguous, as defined by 88-810-385, forested areas of one acre or larger within a development site. This area also includes stream buffer, as regulated by 88-415. If contiguous areas of canopy cover on a development site cannot be preserved, mitigation is required in the form of tree planting or payment into the Capital Improvement Sales Tax Fund—Tree Planting.

Mitigation & Tree Preservation and Protection Plan

As stated in the previous section, mitigation is required when protected canopy cover is deemed by the developer to need removal. The ordinance provides "offsets" to lessen the amount of mitigation required. Required landscaping per 88-425 can be counted towards required mitigation, as well as areas preserved in the stream buffer per 88-415. Mitigation calculations are detailed in the next section.

Required plans include an existing conditions sheet, and tree preservation/mitigation sheet. The plans need to denote which areas of trees will be preserved and/or removed, as well as a corresponding data table showing how much mitigation is needed. Staff will review these sheets against the proposed ordinance to ensure all standards are met.

Mitigation Rate

Required mitigation will be calculated using the following formula:

Total acres of contiguous canopy to be removed minus stream buffer offset, multiplied by 0.35, multiplied by 300 caliper inches.

The result from this formula will dictate how many caliper inches of tree planting is required. For example, if 100 caliper inches are required, 50, two-inch trees would satisfy the mitigation. When opting to pay money in lieu, or in combination with planting mitigation, the number of caliper inches is multiplied by the rate determined by the City Forester. For all the examples used thus far, the rate has been \$285.

The multiplier of 0.35 was chosen based on inspiration from the citywide goal of 35 percent tree canopy cover; however, 35 percent coverage does not directly correlate when applied in this ordinance. Approximately one-third of the canopy removed will have to be replaced. Examples of mitigation requirements are provided at the end of this report. Additionally, if a developer chooses to follow standards of 88-410 for an Open Space Development or Conservation Development, any mitigation required can be reduced by 50 percent.

Administrative Adjustments for Alternative Compliance

This section takes some existing language from the Zoning and Development Code, which allows alternative compliance approved by staff based on the criteria outlined in the proposed ordinance. Sections 88-425 for Landscaping and Screening and 88-420 for Parking and Loading also allow for similar flexibility if the standards cannot be met due to circumstances outside of the developer's control and that they do not create this hardship on themselves.

Protection Measures and Prohibitions

Specific measures for protecting existing, preserved, trees are outlined in the ordinance pertaining to the time of construction of development. Some prohibited activities within the construction fencing around preserved tree clusters are storage of materials, collection of excavation waste or demolition debris, and parking vehicles.

Capital Improvement Sales Tax Fund—Tree Planting

This section of the ordinance dictates how the money in the fund can be used. The fund will be administered by the Parks Department.

STAFF ANALYSIS

Specific Review Criteria

Zoning and Development Code Text Amendments (88-510-07)

In reviewing and making decisions on zoning and development code text amendments, the City Planning and Development Director, City Plan Commission, and City Council must consider at least the following factors:

- A. Whether the proposed zoning and development Code text amendment corrects an error or inconsistency in the Zoning and Development Code or meets the challenge of a changing condition;**
The proposed amendment to the Zoning and Development Code will address changing conditions of development and its impact on the environment. The City strives to address climate change through various initiatives and plans, including the Climate Protection and Resiliency Plan, adopted on August 25, 2022, Comprehensive Plan, adopted in 1997, and supporting Area Plans. Efforts to combat climate change and preserve the natural resources in the City must be addressed through different approaches, which is the goal of this proposed ordinance. As development continues throughout the City, it is important to weigh environmental impacts with future development.

B. Whether the proposed zoning and development code text amendment is consistent with adopted plans and the stated purpose of this Zoning and Development Code; and

The proposed amendment to the Zoning and Development Code is consistent, and builds upon, existing sections of the Code. More specifically, the proposed Tree Preservation and Protection ordinance will have enhanced standards that align with Section 88-410 – Open Space Developments and Conservation Developments, 88-415 – Stream Buffers, and 88-425 – Landscape and Screening. Revisions were made to connect the proposed ordinance to 88-410 – Open Space Developments and Conservation Developments. Staff feels these two sections will work well together because of their similar goals. Developers who choose to follow the standards and designate their project as an Open Space Development or Conservation Development will have reduced mitigation requirements for any applicable tree canopy removed.

Water Services staff has provided feedback that this ordinance will automatically impact stormwater requirements without needing to address them specifically. Drainage studies are already a requirement for development and dictate how much water the site will need to retain and slowly release. Preserved tree canopy will factor into the studies, thus reducing the on-site man-made stormwater infrastructure needed.

C. Whether the proposed zoning and development code text amendment is in the best interests of the City as a whole.

Staff believes the intent of the proposed ordinance is in the best interest of the City as a whole. Since this ordinance was last presented to the City Plan Commission, staff and the author group had multiple meetings with members of the development community and amicably revised the ordinance.

Overall, staff is supportive of the proposed policy related to tree preservation and mitigation. Countless revisions have been made to further simplify the process and requirements for both City staff and the design professionals who will prepare the plans.

Additional information acting as a type of user manual will be posted to the Parks Department website giving examples of how to successfully apply the ordinance for design professionals creating the plan sheets.

ATTACHMENTS

1. Ordinance 220961 (revised draft)
2. Examples of ordinance application

PROFESSIONAL STAFF RECOMMENDATION

City staff recommends **Approval**.

Respectfully Submitted,



Genevieve Kohn
Planner

ORDINANCE NO. 220961

Amending Chapter 88, Code of Ordinances, by enacting new Sections 88-424-01 through 88-424-11, Tree Preservation and Protection, and amending Section 88-810 by adding and inserting definitions applicable to this new code section.

WHEREAS, this purpose of this legislation is to support and complement other City development requirements, with a focus on achieving baseline tree preservation and total tree canopy on a site, considering the anticipated use and level of development; and

WHEREAS, the intent of this ordinance is to preserve and advance the aesthetic, economic, and environmental benefits of the urban forest, by protecting trees and mitigating any unnecessary removal of trees; and

WHEREAS, trees provide multiple benefits such as stormwater management, runoff infiltration, and air quality improvement that will take replacement trees decades to match, making them critical to retain; and

WHEREAS, a healthy tree canopy cover enhances the City's natural beauty and improves health, safety, and general welfare of Kansas City residents; and

WHEREAS, to further the intent of this ordinance is to preserve and enhance the City's tree canopy cover and ensure that certain criteria are followed including the Urban Forest Master Plan, adopted by City Council Resolution No. 200143 on May 21, 2020, which established a goal of 35 percent tree canopy cover for the City; and this is affirmed by Kansas City's Climate Protection and Resiliency Plan.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 88, Code of Ordinances, is hereby amended by enacting new sections 88-424-01 through 88-424-13, Tree Preservation and Protection to read as follows:

88-424 - TREE PRESERVATION AND PROTECTION

88-424-01 - SCOPE AND PURPOSE

The intent of this section is to preserve and advance the aesthetic, economic, and environmental benefits of a high-quality urban forest, by protecting trees and mitigating any unnecessary removal of trees. Trees provide multiple benefits such as stormwater management, runoff infiltration, and air quality improvement that will take replacement trees decades to match, making them critical to retain. Further, a healthy tree canopy cover enhances the city's natural beauty and improves health, safety, and general welfare of Kansas City residents.

To further the intent of this section which is to preserve and enhance the city's tree canopy cover, certain criteria are followed. The Urban Forest Master Plan, adopted by City Council Resolution No. 200143 on May 21, 2020, established a goal of 35 percent tree canopy cover for the city. This

is affirmed by Kansas City's Climate Protection and Resiliency Plan. Additionally, this section furthers other proposed and city council approved plans including the Climate Protection and Resiliency Plan, the IBC Energy Code, and the proposed KC Spirit Playbook.

This section sets forth regulations for the preservation, protection, planting, maintenance, and removal of trees within the city, to accomplish the following objectives:

88-424-01-A. Preserve the character of Kansas City's existing tree canopy cover by preventing indiscriminate removal or destruction of trees.

88-424-01-B. Acknowledge the environmental benefits of site design that retains existing tree canopy cover and requires additional landscaping during development.

88-424-01-C. Retain protected trees and limit unnecessary removal prior to and during development by establishing tree protection measures during development.

88-424-01-D. Allow mitigation or payment to the Capital Improvement Sales Tax Fund-Tree Planting as required by 88-424-02, Applicability, while emphasizing the difficulty in replacing trees.

88-424-01-E. Support ecosystem services and natural environments, protect riparian banks and beds to prevent erosion and sedimentation, filter and control stormwater, reduce carbon sequestration, and improve energy conservation through tree canopy shade.

88-424-01-F. Encourage walking and activities and enable activity in neighborhoods to provide "eyes on the street" to assist with crime mitigation.

88-424-01-G. Enhance transition to and enable compatibility between varying land uses, buffer noise, and provide visual screening.

88-424-01-H. Protect and enhance property values, maintain investment by the private sector and the city, further stimulate economic activity, and encourage beautification.

88-424-02 - APPLICABILITY

Requirements of this section are applicable to requests for the following permits and approvals in conjunction with land disturbance and development, as follows:

88-424-02-A. Any permit for land/site disturbance, including utility plans, which involves clearing, cutting, grubbing, or grading on one acre or more. No permit shall be issued prior to approval of the tree preservation and protection plan and certification by an SAF certified forester, ISA certified arborist, professional landscape architect, or a professional engineer registered in the State of Missouri stating that tree protection measures have been implemented on the site.

88-424-02-B. Development of property requiring development plan (including UR,

MPD, and major amendments), project plan, special use permit, or preliminary plat, as defined in this chapter.

88-424-02-C. Application for building permit (site plan approval, per 88-530) disturbing more than 10,000 sq. ft. of property but not requiring a development plan, project plan, preliminary plat, or final plat approval, unless a tree preservation and protection plan has been approved for a larger area that includes the subject site.

88-424-02-D. This section does not supersede and shall be implemented in accordance with other provisions of this chapter including 88-415 Stream Buffers and 88-425 Landscaping, and 88-410 Open Space Developments and Conservation Developments.

88-424-03 - EXEMPTIONS

88-424-03-A. Application for building permit for a single family detached house on a single previously platted lot.

88-424-03-B. Projects not listed in the Applicability section above.

88-424-03-C. Projects in which no tree canopy cover will be impacted or removed, certified by a statement submitted by an SAF certified forester, ISA certified arborist, professional landscape architect, or a professional engineer registered in the State of Missouri. The statement shall be placed on required plans and plats.

88-424-03-D. City capital improvement projects which are subject to provisions of (Administrative Regulation) AR 5-7 Tree Canopy Preservation & Expansion.

88-424-03-E. Emergency tree removal due to storm damage, accidental causes, or to ensure public safety when pruning is impractical, as determined by the city forester.

88-424-03-F. Tree removal on properties owned by the Kansas City Aviation Department, where such removal is required by Federal Aviation Administration or Transportation Security Administration regulations.

88-424-03-G. Pruning or removal by public utilities of trees that encroach upon electric, telephone, or cable television transmission lines, or gas, sewer, or water pipes; as specified by Federal or State regulations, or by agreements with the City.

88-424-03-H. Existing orchards, nurseries, or tree farms, where product is removed for sale and replaced, unless such use is ceased for future development.

88-424-03-I. Owners and occupants of premises containing a dwelling structure, performing regular maintenance and cultivation of trees on the premises as required by 48-29 and 48-30 of the Kansas City Code of Ordinances.

88-424-03-J. Owners and occupants of non-residential premises performing regular maintenance and cultivation of trees on the premises as required by 56-433 of the Kansas City Code of Ordinances.

88-424-03-K. A development plan (including rezoning to UR or MPD), project plan, special use permit, or preliminary plat that has been previously approved; or an application for approval of such that has been deemed complete and is proceeding through the approval process.

88-424-03-L. Removal of canopy cover to construct or dedicate land to rights-of-way as determined by the major street plan.

88-424-04 - PROTECTED TREE CANOPY COVER

Areas of contiguous tree canopy cover of one acre or more on the entire development site shall be preserved and protected. However, if proposed development of the property cannot be designed to allow preservation of all or portions of the existing tree canopy cover, mitigation per 88-424-05 or payment of money in lieu per 88-424-12 shall be required.

88-424-05 – MITIGATION

Preservation of tree canopy cover is prioritized. If preservation cannot be achieved, mitigation shall be required.

88-424-05-A. Mitigation may be achieved either through on-site planting of trees at the rate specified in 88-424-07 or by payment to the Capital Improvement Sales Tax Fund-Tree Planting at a rate per caliper inch of tree as determined by the city forester, per 88-424-13. Any combination of on-site planting of trees or payment may be utilized.

88-424-05-B. Offsets to required mitigation are as follows:

1. Trees planted as required by 88-425 Landscaping and Screening may be counted toward caliper inches required for mitigation.
2. Undisturbed acreage within required stream buffers may offset total acreage of canopy cover removed.
3. Mitigation shall not be required for removal of tree canopy cover within utility easements as shown on the approved final plat.

88-424-05-C. Trees planted to meet mitigation requirements shall be species native to the region or native cultivars, when available, or selected from the city's list of approved tree species. Species selection shall be based upon the amount of space available for proper growth on the site and provide desired diversity. Beyond trees to be planted as required by 88-425 Landscaping and Screening, trees planted to achieve mitigation shall be planted in areas of the site where they will achieve the highest environmental benefits of tree canopy cover, such as within stream buffers, riparian areas, detention areas, or areas of steep slope that cannot be developed.

88-424-06 - REQUIRED PLANS

88-424-06-A. Plan Preparation

The plan must be prepared by an ISA certified arborist, an SAF certified forester, a professional engineer, or a professional landscape architect registered in the State of Missouri. The two plans required – Existing Conditions Tree Plan and Tree Preservation and Mitigation Plan – may be combined.

88-424-06-B. Plan Content for Existing Conditions Tree Plan

The plan shall portray and denote areas of existing tree canopy cover, specifically:

1. Cloud showing all existing and contiguous tree canopy cover of one acre or greater across the entire development site area.
2. Any additional information as required by the city planning and development department director.

88-424-06-C. Plan Content for Tree Preservation and Mitigation Plan

The plan shall include information as required above, with additional information regarding mitigation (if mitigation is required). This information shall also be shown on the landscaping plan required per 88-425 Landscaping and Screening.

1. Site layout.
2. Areas of existing tree canopy cover to remain.
3. Areas of existing tree canopy cover to be removed, denoting contiguous tree canopy acreage to one decimal point.
4. Note stating that no mitigation shall be required if contiguous tree canopy cover is less than one acre.
5. Information regarding any required mitigation per 88-424-07, including:
 - a. chart showing acreage of contiguous tree canopy of one acre or greater to be removed and required caliper inches for mitigation;
 - b. location of trees to be planted, denoting trees required to meet 88-425 Landscaping and Screening and those planted to further meet required mitigation;
 - c. if offset for stream buffers is utilized, show location and acreage of all zones, including any additional acreage required for stream buffer mitigation; and

- d. payment to the Capital Improvement Sales Tax Fund-Tree Planting when used for full mitigation efforts or in combination with planting mitigation.
6. Any additional information, such as the intent to apply for alternative compliance per 88-424-10.
7. Any additional information as required by the city planning and development department director.

88-424-06-D. Plan Review Considerations

The following factors should be considered during preparation of the plan. City planning and development staff may consider these factors and any other relevant information when evaluating the plan.

1. The desirability of preserving a tree or group of trees by reason of age, location, size, species, or significance, including native trees.
2. The general health and condition of the tree or group of trees or the presence of any insect, disease, injury, or hazard.
3. Whether the design incorporates the required tree preservation priorities.
4. The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.
5. The impact of the reduction in tree cover on adjacent properties, surrounding neighborhoods, the property on which the tree or group of trees is located, and adjacent right-of-way.
6. Whether alternative construction methods are proposed to reduce the impact of development on existing trees.
7. The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.
8. The effects of proposed mitigation involving planting of replacement trees.
9. Compliance with other chapters of the Kansas City Code of Ordinances and adopted city plans and policies.
10. The extent to which development of the site and the enforcement of this chapter may be impacted by state and federal regulations.
11. Any relationships or impacts to other projects or development.

88-424-06-E. Plan Approval

If the decision-making body for any development plan per 88-517, project plan per 88-518, master planned development per 88-520, special use permit per 88-525, urban redevelopment district per 88-260, and site plan per 88-530 finds that trees were removed prior to application filing or approval of said plan as a means of circumventing the requirements of this ordinance, such action shall be grounds for disapproval of said application.

88-424-07 - MITIGATION RATE

88-424-07-A. The following mitigation rate is applicable to tree canopy cover removed. Required mitigation shall be calculated as follows:

1. First, calculate the total acreage of contiguous canopy cover to be removed on the entire development site. Subtract total acreage of the stream buffer offset per 88-424-05-B that will remain undisturbed.
2. Second, multiple the acreage calculated in step one by 0.35.
3. Third, multiple the acreage calculated in step two by 300 caliper inches.
4. The final result is the number of caliper inches required for mitigation. Caliper inches of trees planted shall satisfy this requirement, meaning, a two-inch caliper tree shall satisfy two inches of required mitigation.

88-424-07-B. Open Space Developments and Conservation Developments

Mitigation rates shall be reduced by 50% for trees removed if a development plan is approved pursuant to 88-410 Open Space Developments and Conservation Developments.

88-424-08 - COMPLIANCE

Prior to issuance of a final certificate of occupancy, all trees shown on the approved tree preservation/mitigation and landscape plans must be in place and in vigorous growing condition, as certified by a sealed letter submitted by an SAF certified forester, an ISA certified arborist, or a professional landscape architect licensed in the State of Missouri. Further, if any easements are platted or dedicated, copies of the recorded easements and as-built drawings shall be submitted, showing location of the stream buffer and all preserved tree areas.

88-424-09 – IMPLEMENTATION OF PLANS AND AGREEMENTS**88-424-09-A. Preservation and Protection Under Approved Plan**

Trees planted or preserved in accordance with the approved e preservation and protection plan, mitigation plan, and landscape plan per 88-425 are protected in

perpetuity, platting of tree preservation tracts or easements is required with preliminary plat submittal. Location of these tracts or easements and language shall be shown on all approved plans, preliminary plat, and final plat.

1. Areas within which tree canopy cover is to be preserved shall be platted as “tree preservation tracts or easements.”
2. Areas within which trees are to be planted to meet required mitigation shall be platted as “tree preservation tracts or easements” and shown on approved plans and on the final plat. Individual trees to be planted per an approved landscape plan per 88-425 are not required to be in tracts or easements.

88-424-10 – ADMINISTRATIVE ADJUSTMENTS FOR ALTERNATIVE COMPLIANCE

88-424-10-A. The city planning and development department director is authorized to approve an administrative adjustment allowing for alternative compliance with the tree preservation and protection standards of this article.

88-424-10-B. Alternative compliance may be approved when the city planning and development department director determines that the proposed alternative would be at least as effective as strict compliance in meeting the overall intent of the standards.

88-424-10-C. Alternative compliance may also be approved when the city planning and development department director determines that:

1. Conditions and circumstances upon which the waiver or modification is sought are not caused by the applicant; and
2. That alternative preservation will be provided to off-set the waiver or reduction in otherwise applicable standards.

88-424-11 – TREE PROTECTION MEASURES AND PROHIBITIONS

A preliminary site inspection at the time of site disturbance permit approval will be conducted by the city planning and development department to ensure compliance with the tree preservation and protection plan.

88-424-11-A. Tree Protection Measures

All trees to remain, per the approved tree preservation and protection plan, shall be protected during construction by fencing and barriers as shown on the approved tree preservation and protection plan and on construction documents. All measures shall be erected and in place prior to commencement of any land disturbance, demolition, or construction activity. Protective/temporary fencing shall be required for all protected trees to remain to prevent infringement on the root system from any construction-related activities.

1. The protective fencing shall be installed at the dripline of the tree or 1' for every 1" DBH away from the trunk, whichever is greater.
2. The fencing shall remain in place until all other construction-related activity has been completed or final grade achieved and until final landscaping has been completed.

88-424-11-B. Prohibited Activities

The following activities are prohibited within the protective fencing area:

1. Storage of materials for construction.
2. Collection of waste accumulated due to excavation, demolition, or construction activities.
3. Cleaning of equipment or depositing materials or liquids, including but not limited to paint, solvents, asphalt, concrete, or mortar.
4. Attachment of signs, wires, nails, or similar materials to a protected tree.
5. Vehicular and construction equipment traffic or parking.
6. Grade changes, including filling or excavating, or other land disturbance;
7. Soil compaction within the drip line of the area resulting from vehicular traffic or storage of equipment.

88-424-11-C. Additional Measures

Other protective measures may be required based upon the individual characteristics of the site and the proposed construction methods.

88-424-12 - Payment in Lieu of Planting Trees as Required with Mitigation

88-424-12-A. Notwithstanding anything contained in 88-424, the developer may elect, at the time of preliminary plat application, to pay money to the Capital Improvement Sales Tax Fund-Tree Planting in lieu of, or in combination with planting trees on-site.

88-424-12-B. When a developer elects to pay money in lieu of planting for mitigation, the required payment must be deposited prior to recording the subdivision plat or minor subdivision or (if platting or minor subdivision is not required) receiving a certificate of occupancy.

88-424-12-C. Calculation of payment to meet mitigation requirements shall be as follows:

1. The payment for trees removed is based upon the number of tree caliper inches required for mitigation, multiplied by the average cost per caliper inch for trees, including planting and maintenance, per acre of tree canopy cover removed.
2. The tree replacement cost per caliper inch is established by wholesale tree prices and the average costs of current tree planting contract rates, and will include all costs for materials, labor, maintenance, and warranty.
3. The average tree cost per caliper inch will be reviewed annually by the city forester and adjusted accordingly.

88-424-13 - Capital Improvement Sales Tax Fund-Tree Planting

88-424-13-A. Purpose

The purpose of the Capital Improvement Sales Tax Fund-Tree Planting is to facilitate tree planting, to ensure mitigation or tree replacement when tree preservation or tree mitigation standards are not met on a particular development site, and to advance the City's goals for the urban forest and intent to achieve equitable distribution of tree-related benefits across the City.

88-424-13-B. Expenditures

Money in the Capital Improvement Sales Tax Fund-Tree Planting may be used only as follows:

1. To plant trees and maintain newly established trees on public property, including within street rights-of-way. Planting trees includes the cost of materials and labor necessary to install and maintain a tree during the warranty period.
2. Expenditures may include but are not limited to labor, materials, maintenance, administration, education, and outreach for both City staff and contracted services.

88-424-13-C. Payment

Payment to the Capital Improvement Sales Tax Fund-Tree Planting may occur through a number of means, including:

1. Payment made in lieu of tree mitigation as part of a permit issued as stated in Section 88-424-10;
2. Payment made in lieu of preservation or planting where site or street characteristics or development requirements make it infeasible to meet the requirements of Section 88-424.
3. Payment of restoration fees for enforcement actions for trees; and
4. Voluntary contribution.

88-424-13-D. Administration of the Capital Improvement Sales Tax Fund-Tree Planting

The Capital Improvement Sales Tax Fund-Tree Planting is administered by the director of parks and recreation, shall be maintained in a dedicated separate account, and is independent of the general fund. Any balance in the Tree Planting Fund will be carried forward into subsequent fiscal years. Funds collected must be used within 15 years of the date payment is received as listed in 88-424-13-B.

Section 2. That Section 88-810, Definitions, is hereby amended by adding and inserting definitions applicable to the new code section set forth in Section 1 as follows:

88-810 - DEFINITIONS

88-810-275 - CANOPY

The combined crowns of all trees on a tract of land.

88-810-351 - COMPACTION

The densification of a fill by mechanical means.

88-810-385 - CONTIGUOUS CANOPY COVER

Trees having crowns that touch or having trunks within 50 feet of another.

88-810-431 - CUTTING

Chopping, shearing, or shredding a tree, beyond removal of the crown, often performed with the intent of destroying the tree to remove roosting habitat of certain species in advance of development. Does not include trimming or pruning.

88-810-513 - DIAMETER BREAST HEIGHT (DBH)

The diameter of a tree measured at a point 4.5 feet above the ground. If a tree splits into multi-trunks, the trunk is measured at its narrowest point below the split.

88-810-523 - DRIP LINE

The area encircling the base of a tree, the minimum extent of which is delineated by a vertical line extending from the outermost tips of the tree branches down to the ground.

88-810-682.1 - GRADING

Any excavating or filling of earth materials or any combination thereof.

88-810-708 - ISA

International Society of Arboriculture

88-810-715 - LAND DISTURBANCE

Any activity that changes the physical conditions of landform, vegetation, and hydrology. Such activities include, but not limited to clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging, and storing of materials.

88-810-885.1 - MITIGATION

The replacement of trees removed during development to lessen the loss of tree canopy cover. Mitigation may be met by planting of trees on-site or by payment to the Capital Improvement Sales Tax Fund-Tree Planting, or a combination thereof.

88-810-935 - NATIVE SPECIES

Any plant occurring naturally in within the region and not introduced by man; indigenous.

88-810-1335 - PROTECTED TREE

A tree intended for preservation, as identified on the approved tree preservation and protection plan.

88-810-1336 - PRUNING

Removal of tree limbs to standards set forth by ANSI A300. At no time shall topping, tipping or flush cutting of trees be deemed a form of “pruning.”

88-810-1478 - SAF

Society of American Foresters.

88-810-2161 - TOPPING

The cutting back of limbs to stubs within the tree’s crown, to such a degree as to remove the normal tree canopy cover and disfigure the tree; or the cutting back of limbs or branches to lateral branches that are less than one-half of the diameter of the limb or branch that is cut. Also referred to as stubbing, dehorning, pollarding, and heading.

88-810-2166 - TREE

Any self-supporting woody perennial plant, usually having a main stem or trunk and several branches, and at maturity normally attaining a trunk diameter greater than 3 inches at DBH and a height of over 10 feet.

88-810-2166.1 - TREE CANOPY COVER

Grouping of trees of one acre or larger in area.

88-810-2166.2 - TREE PRESERVATION AND PROTECTION PLAN

A plan that delineates areas of the site and identifies protected trees to be preserved or be removed. The plan sets forth measures to be taken to ensure protection and survivability of trees to be saved, prior to and during construction.

88-810-2166.3 - TREE PROTECTION

Fencing, barriers, or other measures intended to protect those trees to remain, including soil and root structure below, per the approved tree preservation and protection plan, construction documents, and ANSI A300 Construction Management Standard – Part 5 (2019).

88-810-2166.4 - TREE REMOVAL

Removal of a tree(s), through either direct or indirect actions including, but not limited to, clearing, topping, or cutting, causing irreversible damage to the health of the tree(s).

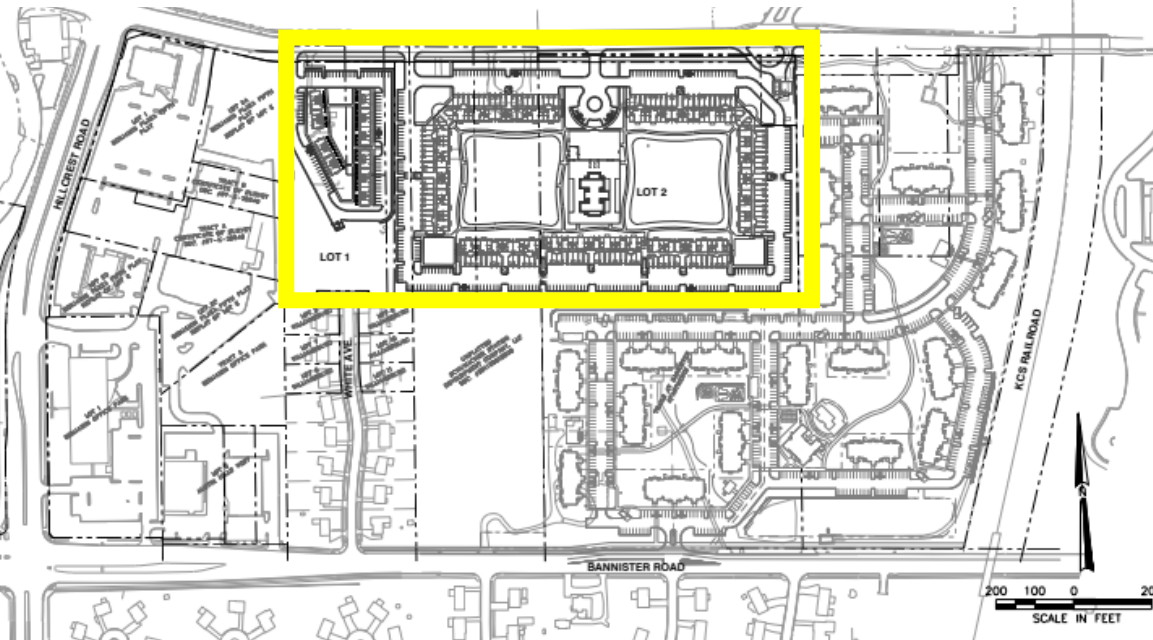
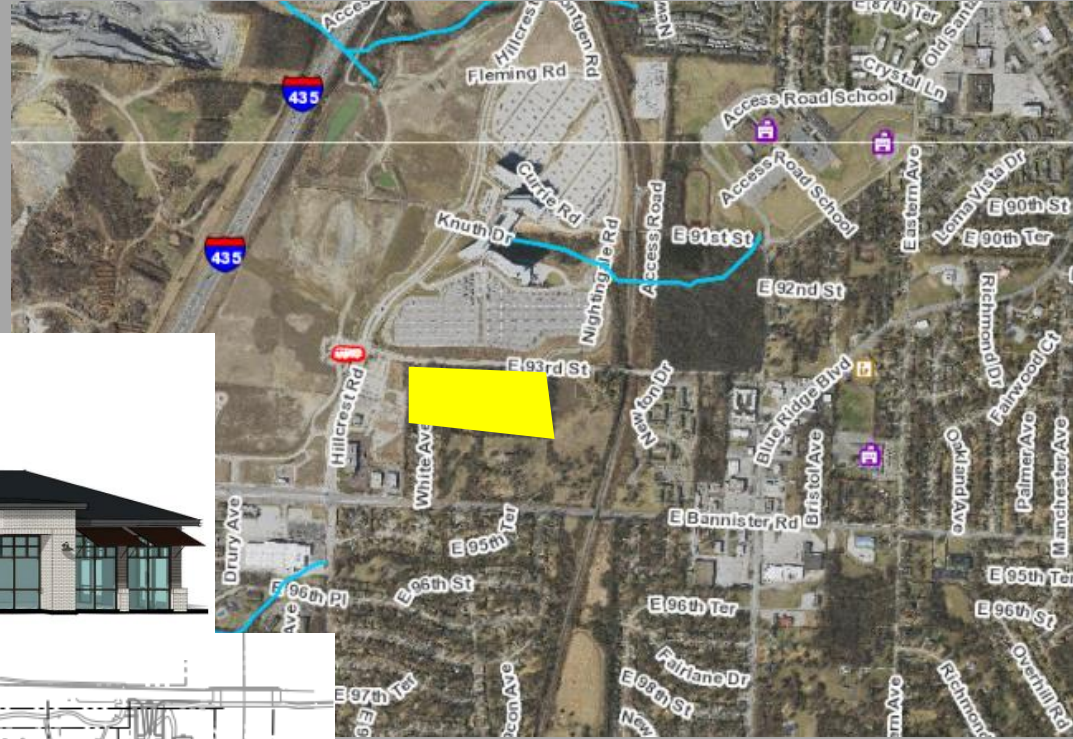
Section 3. That Section 88-425-10-G. related to credits for landscaping requirements from existing vegetation be repealed.

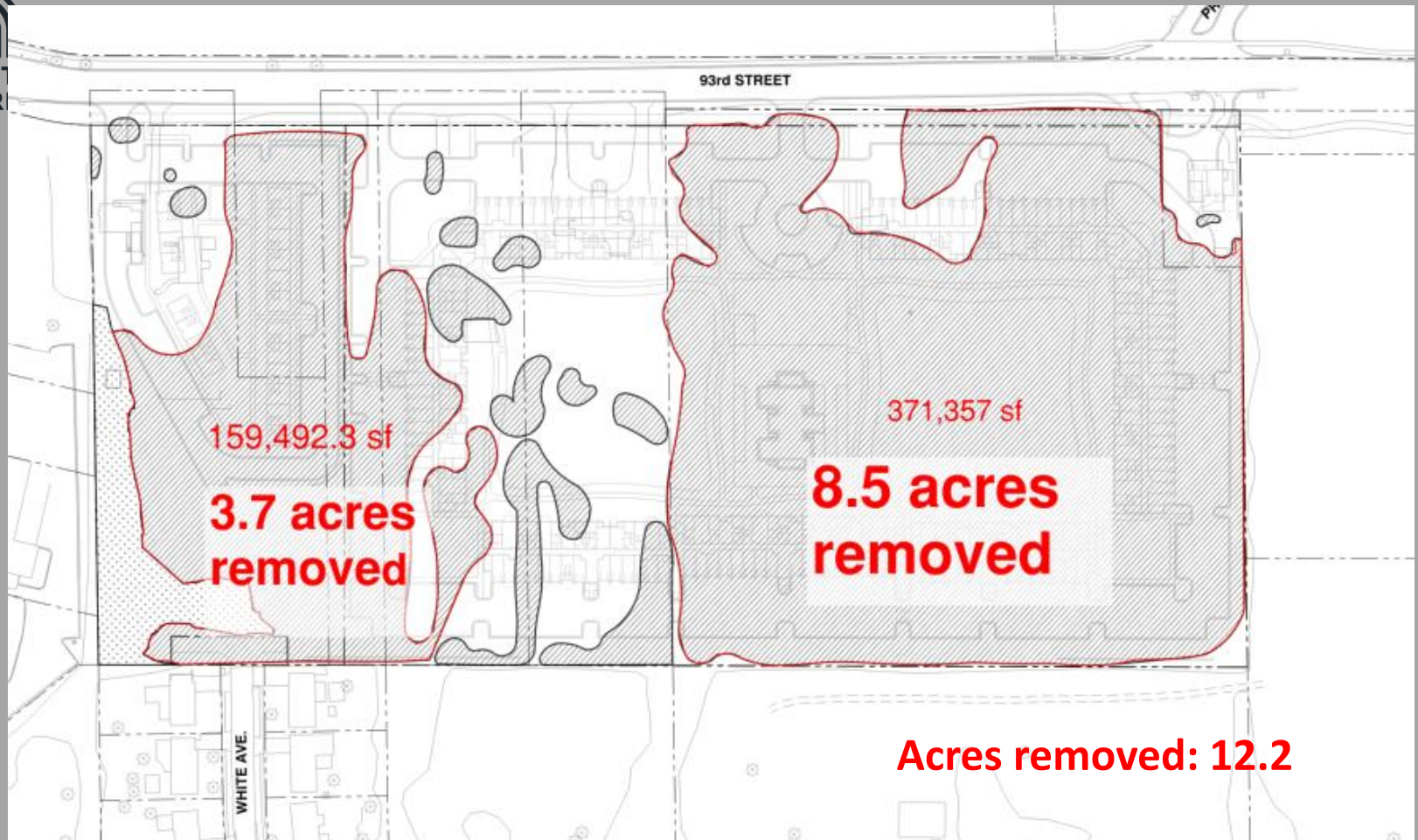
Section 4. That the Council finds and declares that before taking any action on the proposed amendment to Chapter 88 hereinabove, all public notices have been given and hearings have been held as required by law.

Section 5. The City Manager is hereby directed to report back to the Neighborhood Planning and Development Committee one year after the passage of this ordinance to review the impact of this ordinance.

Approved as to form:

Assistant City Attorney





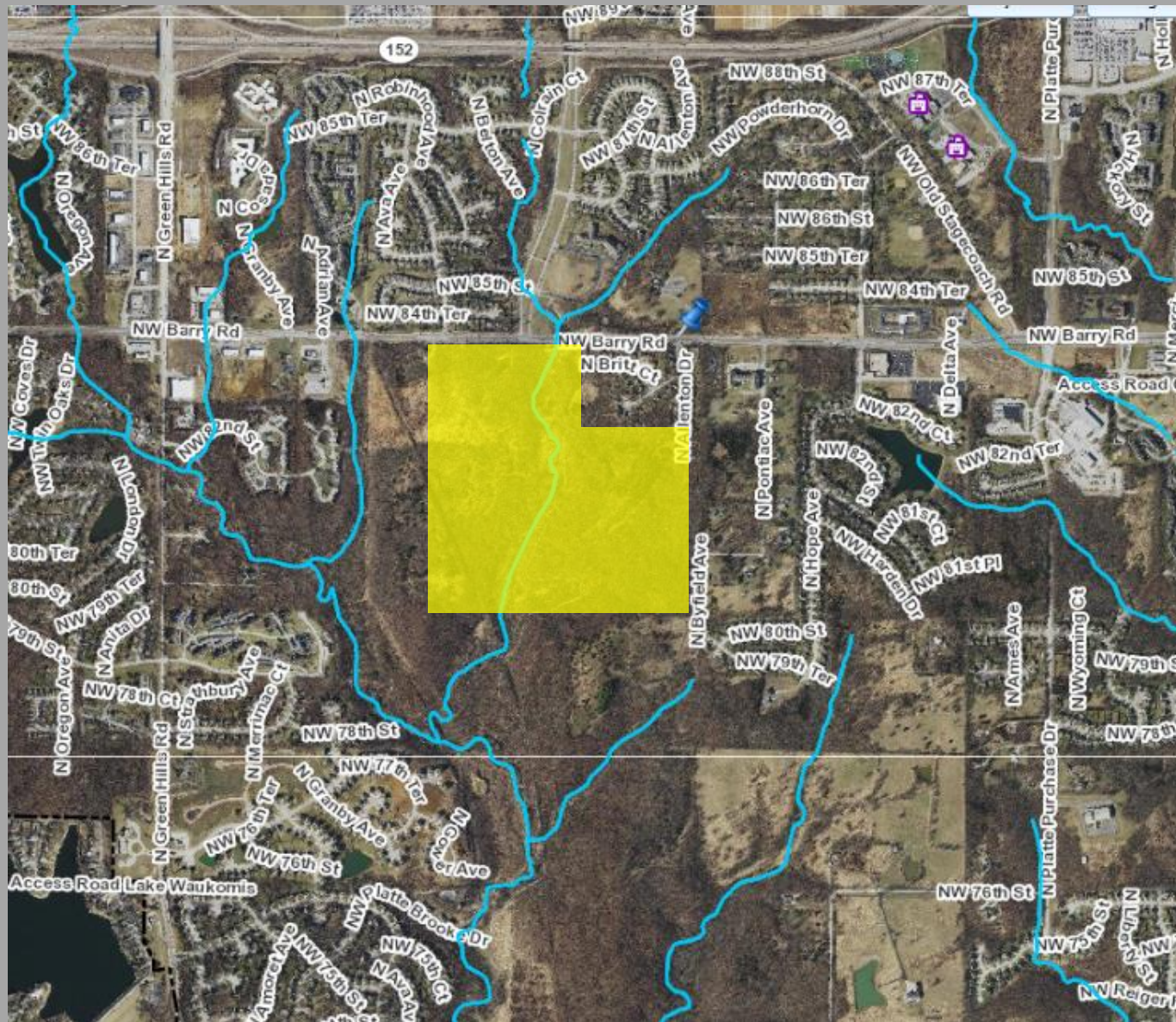
12.2 removed x 0.35 x 300 caliper inches = **1,281 caliper inches or 640 – 2in trees**

12.2 removed x 0.35 x 300 caliper inches x \$285 = **\$365,085**





3519 NW Barry Rd



**63.5 acres of
canopy removed**

**23 acres of stream
buffer offset**

**9.2
acres**

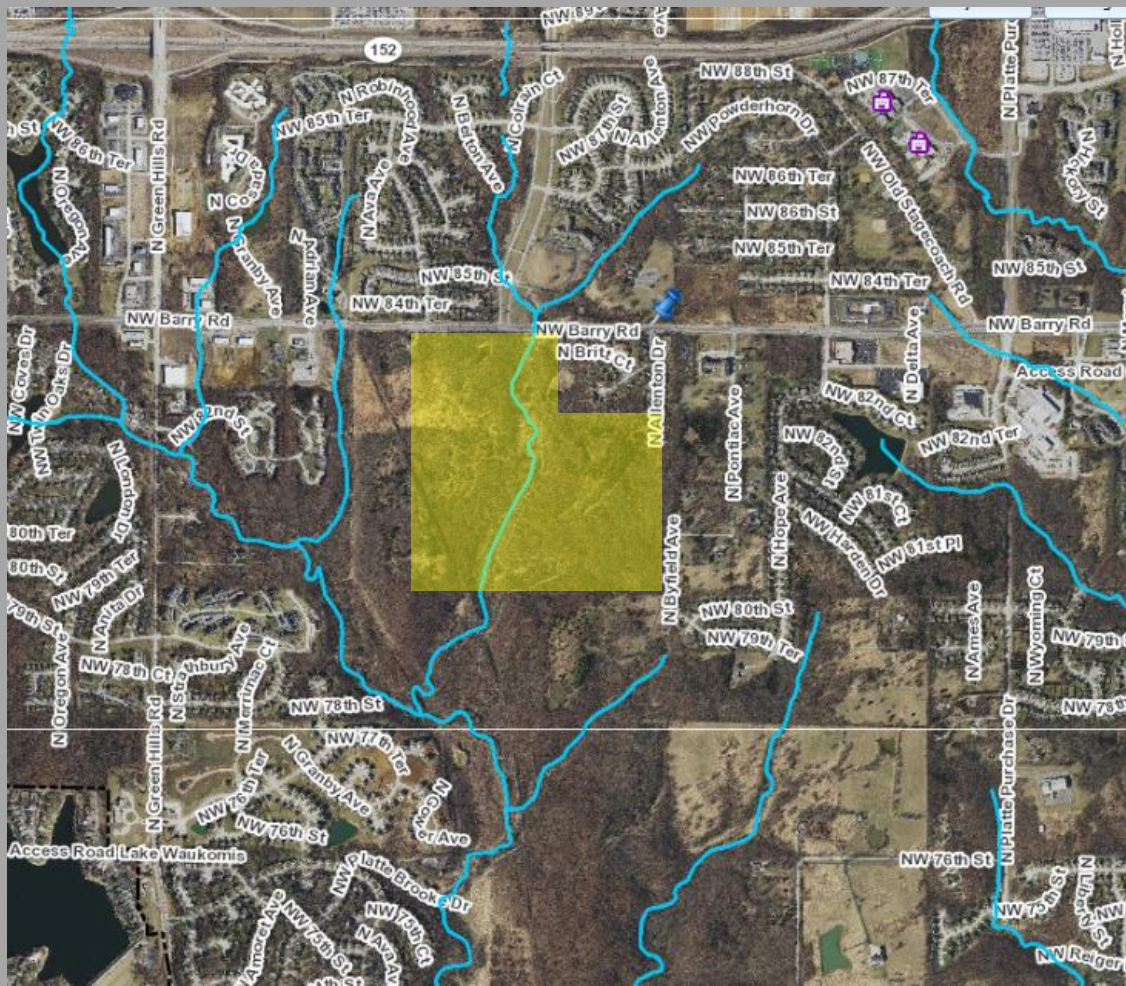
**6.4
acres**

**23
acres**

**9.2
acres**

**38.7
acres**





(63.5 acres removed – 23 acre stream buffer offset) x 0.35 x 300 caliber in. =
4,252.5 caliber inches or 2,126 – 2in trees

(63.5 acres removed – 23 acre stream buffer offset) x 0.35 x 300 caliber in. x \$285=
\$1,211,962

