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Heritage Tree Variance Package

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ITEM FOR ENVIRONMENTAL BOARD AGENDA

BOARD MEETING

DATE REQUESTED: June 15, 2011

PROJECT NAME: Robertson Hill Multifamily Development

**ADDRESS
OF PROPERTY:** 813 East 11th Street

TREE PERMIT: 10597946

NAME OF APPLICANT: Zach Hunter
Bury + Partners
512-328-0011

**CITY ARBORIST
STAFF:** Keith Mars, 974-2755
keith.mars@ci.austin.tx.us

ORDINANCE: Heritage Tree Ordinance

REQUEST: The applicant is appealing the denial of an administrative variance request to remove a 26 inch diameter heritage tree, as allowed under Land Development Code Section 25-8-644.

**STAFF
RECOMMENDATION:** Staff recommends approval based on the condition of the tree and overall tree preservation and replanting.



MEMORANDUM

TO: Dr. Mary Gay Maxwell, Chairperson
Members of the Environmental Board

FROM: Keith Mars, City Arborist Program
Planning and Development Review

DATE: June 15, 2011

SUBJECT: Tree Permit for Robertson Hill Multi-Family
813 East 11th Street

REQUEST: The applicant is appealing the denial of an administrative variance request to remove a heritage tree, as allowed under Land Development Code Section 25-8-644.

Area Description

The subject property is 2.930 acres located just east of IH-35 and East 11th street. The property is zoned commercial services-mixed use- neighborhood conservation combining district- subdistrict 3 (CS-MU-NCCD). The proposed use is a multi-family development with associated parking, utilities, and water quality and detention ponds (Exhibit 1). The project is located in the Waller Creek Watershed and is subject to urban watershed regulations. The subject property is allowed 95 percent impervious cover per zoning regulations.

Tree Evaluation

The subject tree is a 26.25 inch diameter Live Oak (*Quercus fusiformis*). The tree height is 31 feet and the canopy spread is 30 feet (Exhibit 2). Foliage density is sparse as evident in Exhibit 2, which is abnormal for this species. There is also a 52" (h) x 10" (w) wound (Exhibit 3). Probing of this wound suggests decay on the posterior side of the exposed heartwood (Exhibit 3). The decaying heartwood and absence of sapwood has likely resulted in reduced movement of water and solutes, food storage, and mechanical support. The sparse foliage is likely symptomatic of this condition since research suggests there is a functional relationship between leaf area and sapwood. Consequently, reduced sapwood and associated functionality results in reduced leaf area. The condition of the tree is likely exacerbated by the lack of soil moisture and subsequent drought stress. However, it does appear the decay has been walled off from healthy functioning tissue. The condition of the tree has likely resulted in reduced lifespan and vigor though decay does not appear so extensive that the tree is hazardous. Further, the tree could not

be considered diseased beyond rehabilitation considering that there are methods to provide treatment to the tree that would likely result in improved leaf area and functionality, though it would still be impaired from the lack of water conducting sapwood. Further observations include additional wounds, likely a result of branch failure (Exhibit 4), and prior pruning (Exhibit 5). Based on the aforementioned conditions, the subject tree has been rated poor to fair in the City Arborist evaluation (Exhibit 6).

Site Tree Preservation and Mitigation

The proposed plan is to preserve the other heritage tree onsite, a 25" Live Oak (*Quercus fusiformis*) (Exhibit 7). The applicant is also exploring the possibility of transplanting non-protected size Cedar Elms (*Ulmus crassifolia*) currently located within the building footprint to the perimeter of the property. The 25" Live Oak also displays abnormal, sparse foliage density. However, this is likely a result of drought stress rather than the impairments of the tree requested to be removed.

Variance Request

The applicant is appealing the denial of an administrative variance request to remove a heritage tree, as allowed under Land Development Code Section 25-8-644. Though the subject tree is not greater than 30" dbh, the removal request cannot be administratively approved. Staff has denied the administrative variance request since the removal request does not meet the criteria set forth in LDC 25-8-624. Please note that the apparent containment of decay in the subject tree renders the removal request unable to be administratively approved since removal is only allowed to be administratively approved if the tree is diseased and unable to be restored as stated under 25-8-624 (A)(5). Also, though a potential hazard in the future the subject tree does not meet the approval criteria of LDC 25-8-624(A)(3), which allows the removal of a heritage tree if it is an imminent hazard to life or property.

Recommendations

Staff asserts the subject tree should not be preserved due to the aforementioned assessment. However, the request does not meet administrative criteria for removal set forth in LDC 25-8-624. Thus, an appeal to the Environmental Board and Planning Commission was requested. If the Environmental Board recommends and Planning Commission approves removal staff recommends the following Environmental Criteria Manual 3.5.4 compliant mitigation:

- A comprehensive, two-year tree care plan is provided for the 25" Live Oak to remain onsite.
 - A certified arborist performs any necessary pruning for construction.
 - The ½ critical root zone (25' diameter or 491.0 ft²) is to receive a 3" layer of hardwood mulch.
 - If possible, 26 caliper inches of trees are to be planted in TxDOT right-of-way adjacent to the property and upgradient from IH-35. If not possible, then landscape requirement trees are to be increased in diameter to the point that the inches of trees replanted satisfies both landscape and mitigation requirements.
- Based on conceptual plans the applicant has a shortfall of 44 inches of mitigation

inches. Therefore, this condition would result in 44 of the proposed 92 trees to be increased by 1" diameter at the time of planting.

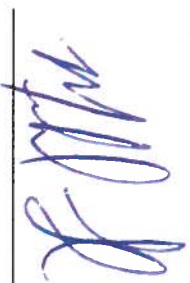
If you need further details, please contact me at 974-2755 or keith.mars@ci.austin.tx.us.

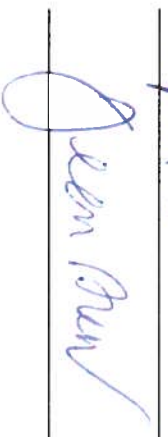


Keith Mars, City Arborist Program
Planning and Development Review

City Arborist:
Michael Embesi

Acting Environmental Officer:
Jean Drew







**Planning and Development Review Department
Staff Recommendations Concerning Heritage Tree Variances**

Application Address: 813 East 11th Street
Size and Species of Tree(s): 26.25" Live Oak (*Quercus fusiformis*)
Reason for Request: The applicant is appealing the denial of an administrative variance request to remove a 26 inch diameter heritage tree, as allowed under Land Development Code Section 25-8-644.

Section 1 – Approval Criteria

- 1) The requirement for which a variance is requested prevents a reasonable access to the property.
No.
- 2) The requirement for which a variance is requested prevents a reasonable use of the property.
No.
- 3) The tree presents an imminent hazard to life or property and the hazard cannot be reasonably mitigated without removing the tree.
No.
- 4) Is the tree dead?
No.
- 5) Is the tree diseased? If so, is restoration to a sound condition practicable or can the disease be transmitted?
No. However, decay is present.
- 6) For a tree located on public property or a public street or easement, the requirement for which a variance is requested prevents:
 - a) the opening of necessary vehicular traffic lanes in a street or ally, or
 - b) the construction of utility or drainage facilities that may not feasibly be rerouted.**NA.**
- 7) The applicant has applied for and been denied a variance, waiver, exemption, modification, or alternative compliance from another City Code provision which would eliminate the need to remove the heritage tree, as required in Section 25-8-646 (*Variance Prerequisite*).
No.
- 8) Removal of the heritage tree is not based on a condition caused by the method chosen by the applicant to develop the property, unless removal of the heritage tree will result in a design

that will allow for the maximum provision of ecological service and historic and cultural value from the trees preserved on the site.

No.

*Do any of these criteria apply? Yes/No [state which # applies]
No. Therefore, findings of fact cannot be met.*

Reviewer Name:

Keith Mars, City Arborist Program

Reviewer Signature:

Keith Mars

Date:

6/7/11

Robertson Hill Multifamily Development
813 East 11th Street
Austin, Travis County, Texas
May 2011

MEMORANDUM

Site Location:

813 East 11th Street (IH-35 and East 11th)
Austin, Travis County, Texas

Zoning:

Commercial Services - Mixed Use - Neighborhood Conservation Combining District -
Subdistrict 3 (CS-MU-NCCD).

Subdivision:

2.930 acres - Being a portion of Lot 4, and all of Lots 5-7, 14-17 Fred Carleton Subdivision of the north part of Outlot No. 1, Division "B", a subdivision in Travis County, Texas according to the map or plat hereof, recorded in Volume Z, Page 608 of the Deed Records of Travis County, Texas and a portion of East 10th Street vacated by ordinance recorded in Volume 11168, Page 1376 and a portion of East 10 ½ Street vacated by ordinance recorded in Volume 11168, Page 1376 of the Real Property Records of Travis County, Texas. And being all of Lot 2 of Robertson Hill Subdivision, of record in Document No. 200500283 of the Official Public Record of Travis County, Texas.

Watershed:

Waller Creek Watershed which is classified as an Urban Watershed.

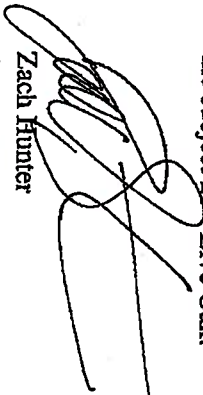
Project Summary:

The project proposes a multi-family development with associated parking, utilities, and water quality and detention pond. The project previously had a site development permit issued March 24, 2008 which is no longer valid.

The site contains two (2) heritage trees (26" Live Oak, 25" Live Oak). The applicant has performed site visits with the City arborist to evaluate the trees onsite and the proposed site plan. The applicant has revised the site plan to preserve the 25" Live Oak on the south end of the site. We are proposing to remove the 26" Live Oak due to its current condition. Based on the meeting with the City Arborist, it was determined that the condition of the tree is average

at best, the form of it is poor and the main central trunk is gone. At the recommendation of the City Arborist, a private arborist was hired to provide a more detailed report of the condition of the tree which has been provided.

Please accept this memorandum, plan exhibits, and tree report as our formal request to remove the subject 26" Live Oak.



Zach Hunter
Associate



Jonathan R. Neslund
Senior Associate/Senior Project Manager

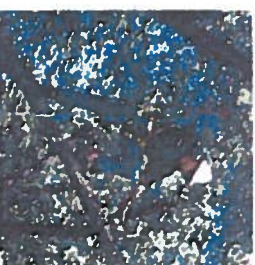
TBPE Registration No. "T-1048"

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DAVEY TREE EXPERTS

9224 Research Blvd.
(512) 451-4986

Austin, TX 78758
Fax: (512) 451-6482



MEMORANDUM

DATE: June 1, 2011

TO: Mr. Jonathan Neslund

FROM: Daniel Hunsicker

RE: 813 E. 11th Street, Austin, TX **Tree # 4279**



Dear Mr. Neslund,
Thanks you for the opportunity to inspect the second section of the above-mentioned property. I noted the larger 28 inch Live oak tree # 4279 has a severe cavity and freeze damage along with signs of drought stress.
See photo's below

Also notice: Die back, Cavity and Thin Canopy





Should you have any questions, please feel free to contact me at 451-4986. Thank you for your time and attention to this matter.
Sincerely,

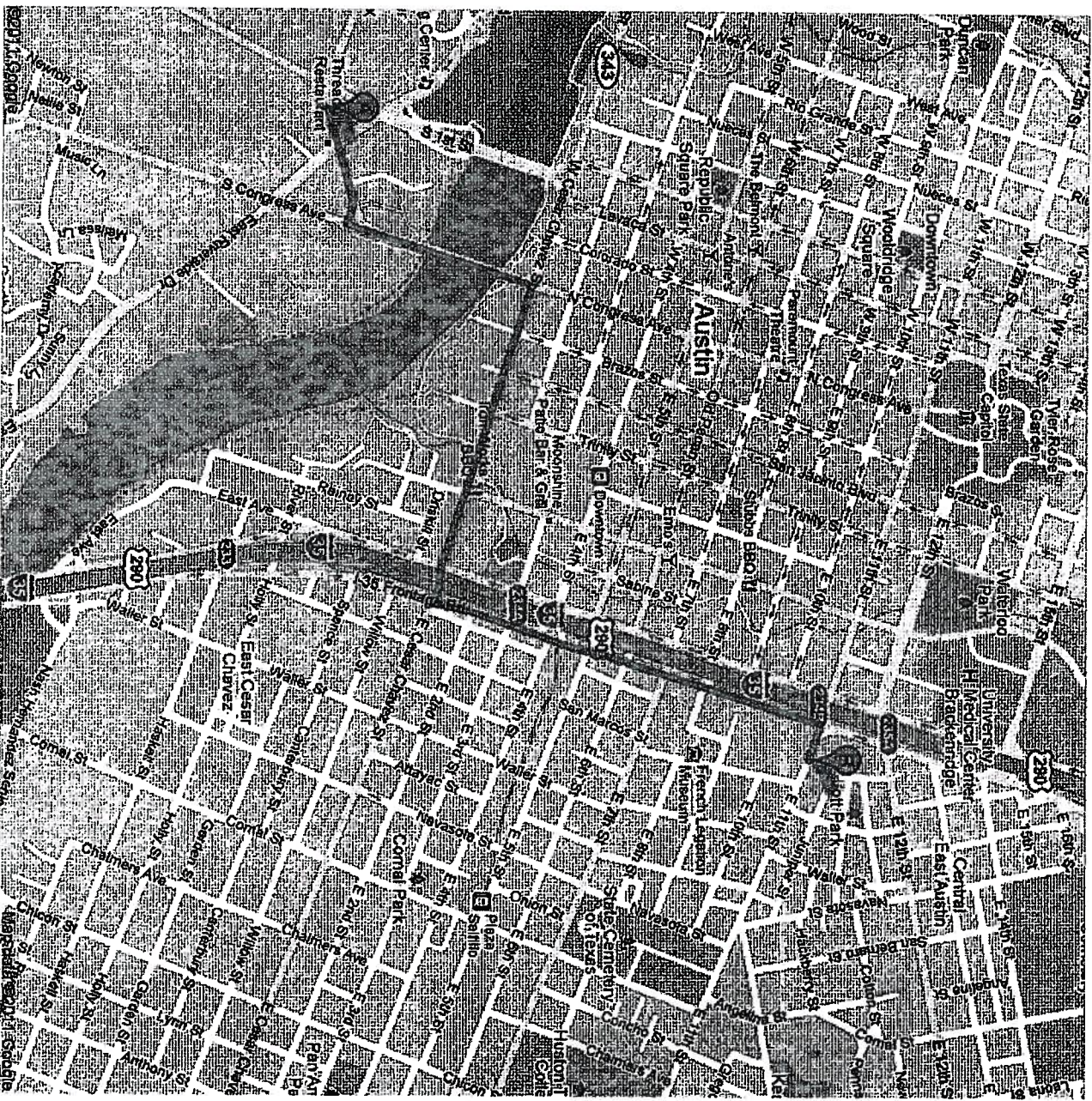
Daniel R. Hunsicker
District Manager
Certified Arborist #TX 0309




Google maps

Directions to E 11th St
1.8 mi - about 6 mins

Save trees. Go green!
Download Google Maps on your
phone at google.com/gmm



 505 Barton Springs Rd, Austin, TX 78704

- | | |
|--|---------------------------|
| 1. Head east on Barton Springs Rd toward W Riverside Dr
About 1 min | go 0.2 mi
total 0.2 mi |
| 2. Turn left onto S Congress Ave
About 1 min | go 0.3 mi
total 0.5 mi |
| 3. Turn right onto E 1st St/E Cesar Chavez St
About 2 mins | go 0.5 mi
total 1.1 mi |
| 4. Turn left onto J-35 Frontage Rd
About 2 mins | go 0.7 mi
total 1.7 mi |
| 5. Turn right onto E 11th St | go 331 ft
total 1.8 mi |
-  E 11th St

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2011 Google

Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left