



Table of Contents for 504 East 8th Street Tree Permit
Heritage Tree Variance Package

The variance package is organized as follows:

Cover Sheet.....	page 1
Staff Memorandum.....	pages 2-3
Staff Findings of Fact.....	pages 4-5
Staff Exhibits.....	11 exhibits
Applicant Memorandum and Documentation	



ITEM FOR ENVIRONMENTAL COMMISSION AGENDA

COMMISSION

DATE REQUESTED: October 7, 2015

**ADDRESS
OF PROPERTY:** 504 EAST 8TH STREET

TREE PERMIT #: ROW ID 11422103

NAME OF APPLICANT: Barton Creek Capital LLC

**CITY ARBORIST
STAFF:** Keith Mars, 512-974-2755
keith.mars@austintexas.gov

ORDINANCE: Heritage Tree Ordinance (LDC 25-8-641)

REQUEST: The applicant is requesting to remove a heritage tree with a stem greater than 30" in diameter.

STAFF

RECOMMENDATION: The request meets the City Arborist approval criteria set forth in LDC 25-8-624(A)(2), thus the variance is recommended.



MEMORANDUM

TO: Dr. Mary Gay Maxwell, Chair
Environmental Commissioners

FROM: Keith Mars, City Arborist Program
Development Services Department

DATE: October 7, 2015

SUBJECT: 504 East 8th Heritage Tree Ordinance Variance

REQUEST: The applicant is requesting to remove a heritage tree with a stem greater than 30 inches as allowed under LDC 25-8-643

Area Description

The subject property is located at 504 East 8th Street (see applicant's memo). The lot size is 0.61 acres and is zoned DMU. The current use is surface parking and the desired use is hotel. There are three Capitol View Corridors that intersect the property. The property is located in the Waller Creek Watershed. There are three heritage Live Oaks onsite and the critical root zone of an offsite heritage Live Oak extends onto the property from the east.

Tree Evaluation

Measurements

The subject tree is a 32" diameter Live Oak (*Quercus fusiformis*).

Canopy Conditions

The canopy architecture displays minor asymmetry (Exhibit 1). Storm damage is evident in the canopy as the main leader has been damaged (Exhibit 2). Extensive epicormics growth is apparent (Exhibits 3 and 4). Epicormic growth is generally associated with the tree's response to stress likely related to the root system (see below).

Trunk

Storm damage is apparent in lower limbs (Exhibit 5). Otherwise, unremarkable.

Root System

Root flare is buried under fill material (Exhibit 6). Critical root zone conditions are characterized by compacted parking areas (Exhibit 7) and cut on the northern half of the critical root zone (Exhibit 8). Girdling roots are present (Exhibit 9). Root decay is present. Extent of root decay is unknown but is a concern.

Overall Condition

There is reason for concern about the structural condition of the tree. There is considerable fill material, compaction, and cut over the entire root system. Decay is present in the roots, but the extent is unknown. Epicormic growth in the canopy is likely a result of the poor rooting conditions. More details on the overall condition can be found in the City Arborist Tree Evaluation (Exhibit 10).

Variance Request

The variance request is to allow removal of a heritage tree with one stem greater than 30 inches as allowed under LDC 25-8-643.

Recommendation

The subject tree has not received care and the root system has been compromised for likely decades. Consequently, the tree is displaying signs of stress and there is considerable concern about the viability of the root system. The tree is not dead, diseased, or an imminent hazard thus requires a Landuse Commission variance. However, the tree is not of sufficient structural or biological condition to warrant preservation or transplanting as it is unlikely to survive code compliant construction impacts due to the already compromised rooting conditions.

Therefore, the City Arborist recommends it is not reasonable to incorporate the tree into the design given the tree condition and intended use of the property. The variance request meets approval criteria for the City Arborist per LDC 25-8-624(A) (2). For the City Arborist determination on reasonable use see Exhibit 11.

Mitigation

The Environmental Criteria Manual standard is 300% mitigation (96 inches of mitigation). However, the suggested mitigation is 150% (48 inches of mitigation) as this is consistent with our practice of reducing mitigation based on tree condition. Staff also recommends avoiding the full critical root zone and canopy of the heritage Live Oak on the adjacent property to the east.

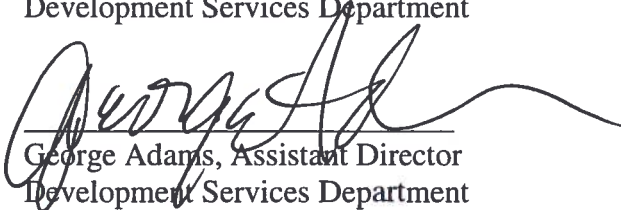
Please contact 512-974-2755 or keith.mars@austintexas.gov if you have questions.



Keith Mars, Environmental Program Coordinator
Development Services Department



Michael Embesi, City Arborist
Development Services Department



George Adams, Assistant Director
Development Services Department



**City Arborist
Development Services Department
Staff Recommendations Concerning Heritage Tree Variances**

Application Address: 1403 East 7th Street

Size and Species of Tree(s): 35.0" diameter Pecan

Reason for Request: The applicant is requesting to remove a heritage tree with a stem greater than 30 inches as allowed under LDC 25-8-643

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.

Yes. Please see Exhibit 11 for the reasonable use determination rationale.

3) The tree presents an imminent hazard to life or property and the hazard cannot be reasonably mitigated without removing the tree.

No. However, there are concerns about tree stability due to root decay.

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.

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 alley, 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. Staff is not aware of a variance, waiver, etc. that would be possible for the intended use of the property nor does staff believe a waiver is warranted due to tree condition.

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.

The method the applicant seeks to develop the property is consistent with the intended uses of DMU zoning.

Name: **Keith Mars, Environmental Program Coordinator**
 City Arborist Program
 Development Services Department

Signature: 

Date: 9/28/15

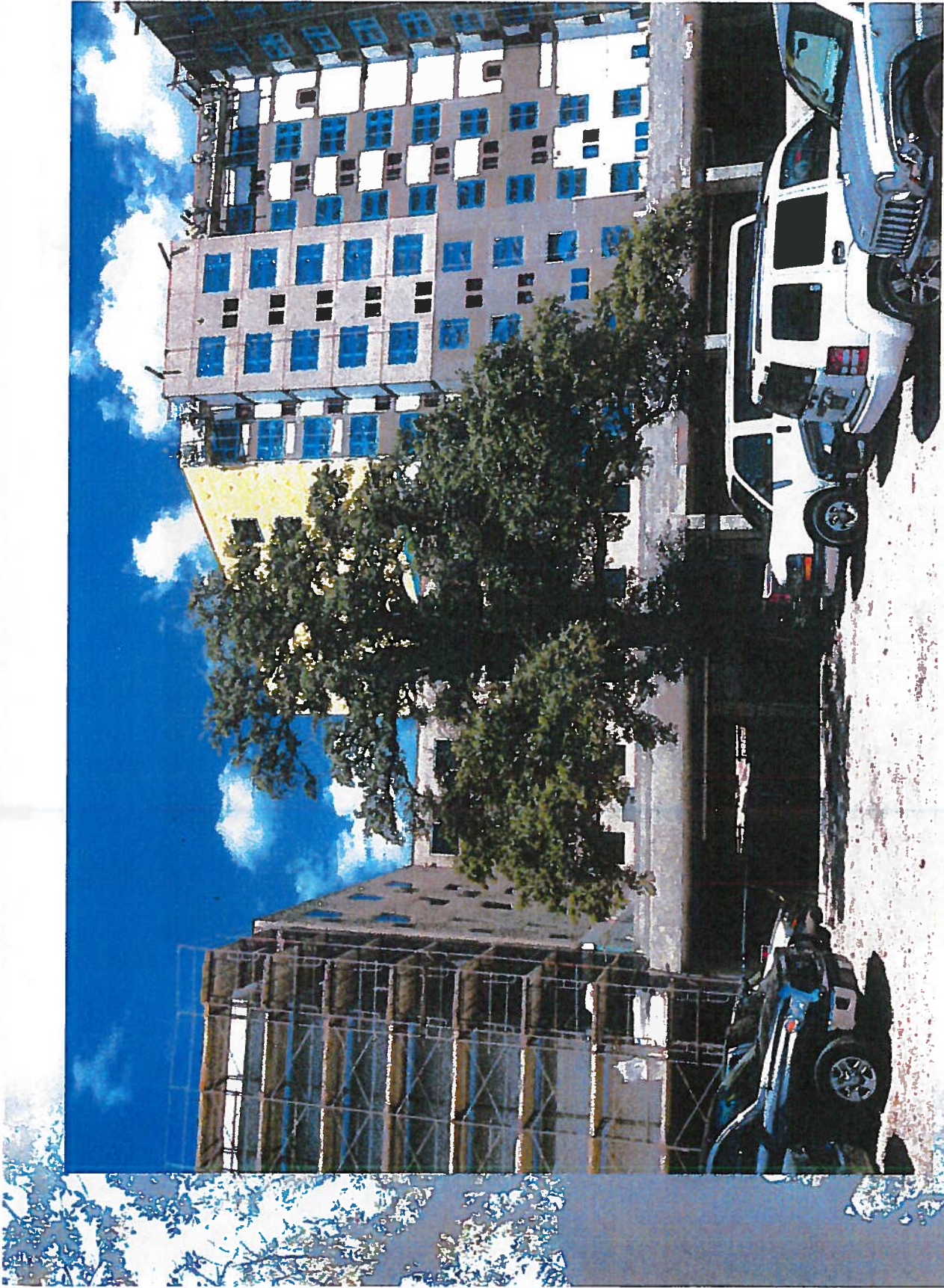


Exhibit 1



The City Arborist Program

Tree Preservation and Replenishment

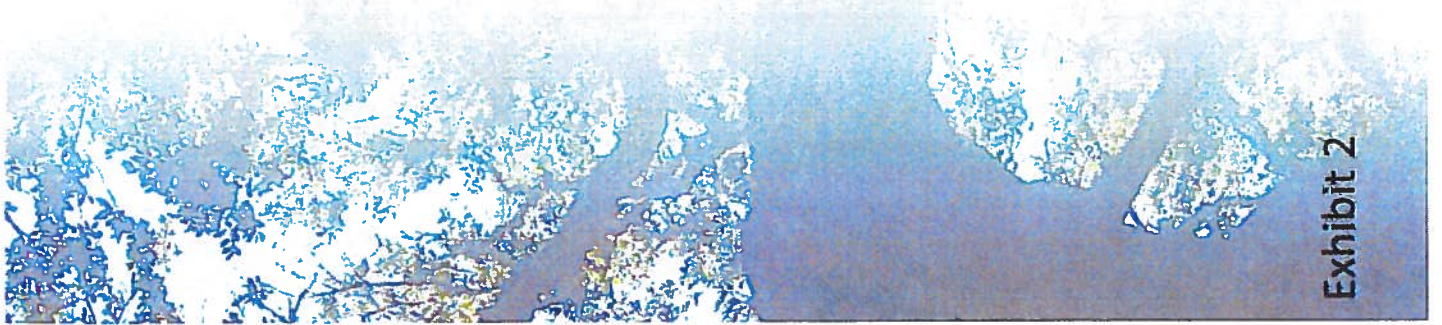


Exhibit 2



The City Arborist Program

Tree Preservation and Replenishment

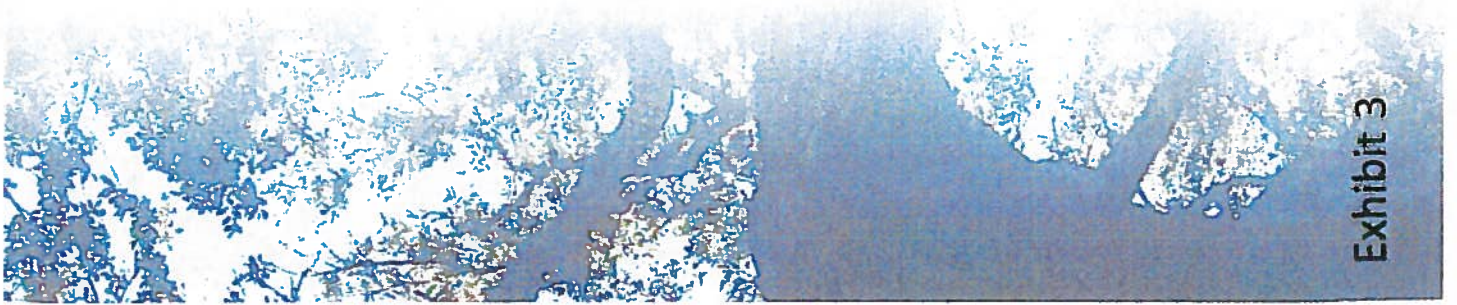


Exhibit 3



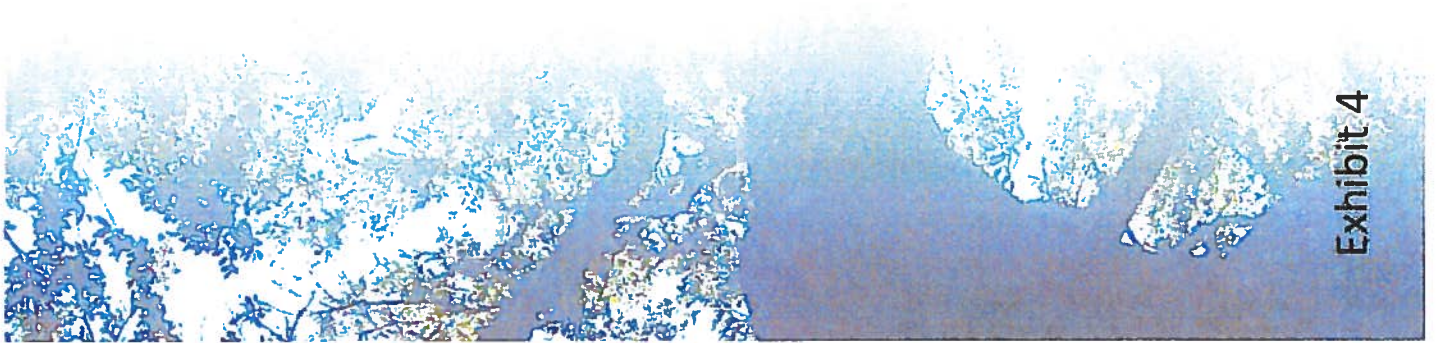


Exhibit 4



The City Arborist Program

Tree Preservation and Replenishment

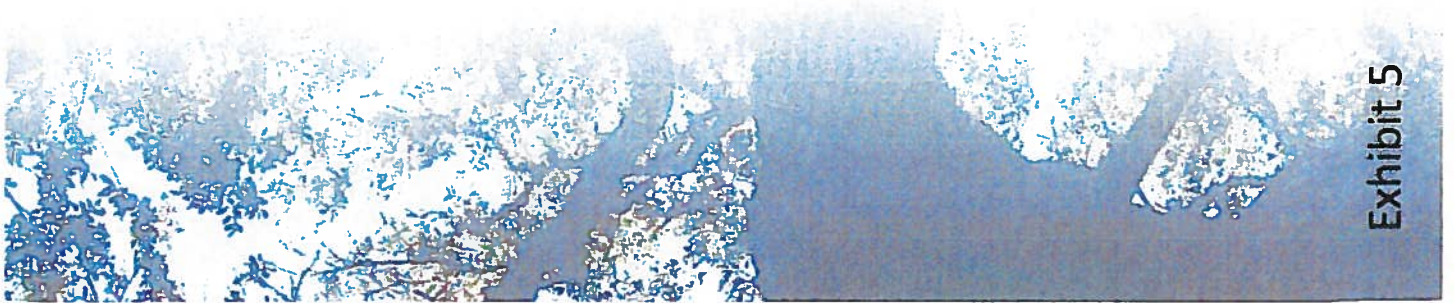


Exhibit 5



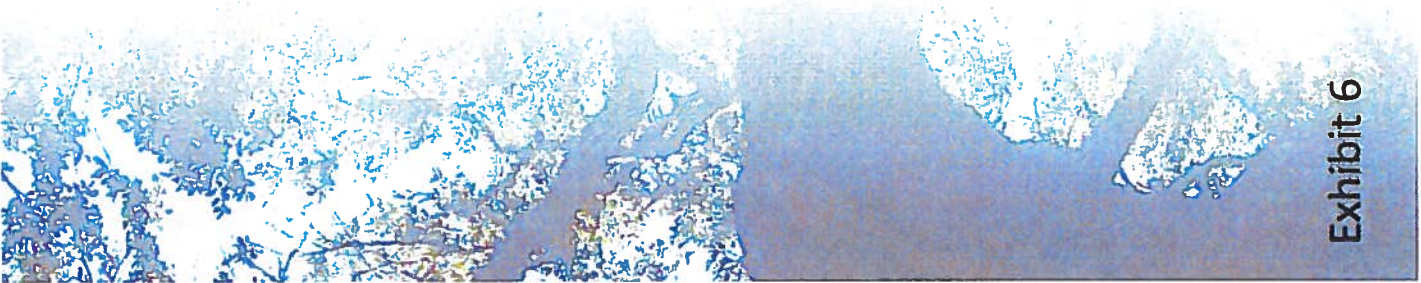


Exhibit 6



Exhibit 7



The City Arborist Program

Tree Preservation and Replenishment



Exhibit 8



Exhibit 9



The City Arborist Program

Tree Preservation and Replenishment

Exhibit #10



CITY ARBORIST TREE EVALUATION

Property address: 504 East 8th Street Austin, TX

Date: 9/22/2015

Evaluator: Keith W. Mars

SIGNATURE: Keith W. Mars

ISA/ASCA Certification #: TX-3677AM

1. TREE CHARACTERISTICS

DBH of each trunk: 34 32" Common & Latin name: Live Oak (Quercus fusiformis)

Location: Private / Public Estimated height & canopy spread (ft): ~91' ~36' spread

Age class: young / mature / over-mature / dead (if dead, there is no need to fill out section 2)

Deadwood: 0% 0-10% 10-25% 25-50% >50%

Form: generally symmetric / minor asymmetry / major asymmetry / stump sprout

Pruning history: crown cleaned / excessively thinned / topped / crown raised
pollarded / crown reduced / utility clearance storm damage cleaning / none

Crown class: dominant / co-dominant / intermediate / suppressed

2. TREE HEALTH

Foliage color: normal / chlorotic / necrotic

Foliage density: normal / sparse

Annual shoot growth: 6" inches

Callus development: Y / N If so, is callusing:

Vigor class: excellent / average / fair / poor

Major pests/diseases: none observed

Epicormics: Y / N

Leaf size: normal / abnormal

Twig dieback: Y / N

excellent / average / fair / poor

3. SITE CONDITIONS

Site character: residence / commercial / industrial / park / open space / natural / other (see below)

Landscape type: parkway / raised bed / container / open / other (see below)

Irrigation: none / adequate / inadequate / excessive / trunk wetted

Dripline paved: 0% 10-25% 25-50% 50-75% 75-100%

Dripline w/ fill soil: 0% 10-25% 25-50% 50-75% 75-100%

Dripline grade lowered: 0% 10-25% 25-50% 50-75% 75-100%

Dripline grade raised: 0% 10-25% 25-50% 50-75% 75-100%

Soil problems: drainage / shallow / compacted / small volume / other (see below)

Obstructions: lights / signage / line of sight / view / overhead lines / traffic / other (see below)

Wind (tree position): single tree / below canopy / above canopy / recently exposed / canopy edge

Other: parking lot

4. TREE DEFECTS – IDENTIFY ALL AREAS AND SEVERITY THAT APPLY TO EACH DEFECT

DEFECT TYPE	DEFECT AREA	DEFECT SEVERITY	NOTES	LEGEND
Poor taper	B, S, L	M	evidence of root decay	AREA T – Trunk(s) R – Root Flare L – Lateral Roots S – Scaffolds B – Branches SEVERITY S – Severe M – Moderate L – Low
Codominants/forks	_____	_____	_____	
Multiple attachments	_____	_____	_____	
Included bark	_____	_____	_____	
Excessive end weight	_____	_____	_____	
Cracks/splits	S	M	main leader loss	
Hangers	_____	_____	_____	
Girdling	R	L	_____	
Wounds	T, S	L	_____	
Decay	T, R, L	M	extent of root decay unknown	
Cavity	_____	_____	_____	
Conks/Mushrooms	_____	_____	_____	
Bleeding	_____	_____	_____	
Loose/cracked bark	_____	_____	_____	
Nesting hole/bee hive	_____	_____	_____	
Deadwood/stubs	S, B	L	_____	
Borers/termites/ants	_____	_____	_____	
Cankers/galls	_____	_____	_____	
Previous failure	S	L	_____	

7. OTHER FEATURES

Lean: $\approx 10^\circ$ degrees from vertical

Decay in plane of lean: Y ☒ N

Lean severity: S / M / ☒ L

Suspect root rot: Y / N

Exposed roots: S / M / ☒ L

Root pruned: 10 feet from trunk

Restricted root area: ☒ S / M / L

unknown
natural or unnatural

Roots exposed: Y / ☒ N

Compounding factors: _____

Mushroom/conk present: Y / ☒ N ID: _____

Undermined: S / M / ☒ L

Root area affected: 30 %

Potential for root failure: S / ☒ M / L

Soil heaving: Y ☒ N

Soil cracking: Y ☒ N

Buttress wounded: ☒ Y / N

6. TARGET AND ABATEMENT

Use under tree: building ☒ parking / traffic / pedestrian / recreation / landscape / hardscape

Occupancy: occasional use / medium, intermittent use / ☒ frequent use Can target be moved: ☒ Y / N

GENERAL TREE CONDITION: EXCELLENT / VERY GOOD / GOOD / ☒ FAIR / POOR / IMMINENT HAZARD

RISK ABATEMENT

Action: prune / remove / ☒ other

Comments: The tree is unlikely to survive construction primarily due to what is likely poor rooting conditions

7. COMMENTS OR OTHER RISK FACTORS

Condition Definitions

Excellent: The tree is nearly perfect in condition, vigor, and form. This rarely used category is generally applicable to small trees or shrubs that have been recently transplanted and are well established. It also applies to large trees that have established themselves successfully in the landscape.

Very Good: Overall, the tree is healthy and satisfactory in condition, vigor, and form. The tree has no major structural problems, no mechanical damage, and may only have insignificant aesthetic, insect, disease, or structure problems.

Good: The tree has no major structural problems, no significant mechanical damage, may have only minor aesthetic insect, disease, or structure problems, yet is in good health.

Fair: The tree may exhibit the following characteristics: minor structural problems and/or mechanical damage, significant damage from non-fatal or disfiguring diseases, minor crown imbalance or thin crown, or stunted growth compared to adjacent trees or shrubs. This condition can also include trees that have been topped, but show reasonable vitality and show no obvious signs of decay.

Poor : The tree appears unhealthy and may have structural defects such as codominant stems, severe included bark, or severe trunk and/or limb decay. A tree in this category may also have severe mechanical damage, crown dieback, or poor vigor threatening its ability to thrive. Trees in poor condition may respond to appropriate maintenance procedures, although these procedures may be cost prohibitive to undertake.

Imminent Hazard: The tree has started to fail or is most likely to occur in the near future, even if there is no significant wind or increased load.

Dead: Tree is biologically dead.



City Arborist Reasonable Use Determination:
Criteria and Application to the Subject Property

1. Has the applicant 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?

Due to the location of the tree on the lot it does not appear a variance, waiver, exemption, modification or alternative compliance could be sought that would preserve the tree. Further, the City Arborist does not recommend preservation of the tree due to its structural condition.

2. Is the removal of the heritage tree based on a condition caused by the method chosen by the applicant to develop the property, and if so, will removal of the heritage tree result in a design that will allow for the maximum provision of ecological service, historic, and cultural value of the trees on the site?

No. Given the DMU zoning and intended use, build out of the entire site is reasonable.

3. Is this the minimum change necessary?

Yes. No other variances are being sought at this time.

4. What is the zoning and allowable impervious cover for the property? Does intensity of development or size of the lot contribute to reasonable use?

The zoning is DMU. Yes, the intensity of development contributes to an issue of reasonable use. However, as previously noted, the structural condition of the tree does not warrant preservation.

5. Is the application to derive reasonable use a result of the actions by the applicant in subdividing the property or adjusting boundary lines (i.e. is this issue self imposed)?

No. The property has not recently been subdivided.

6. Does the proposal mitigate the removal to the maximum extent possible?

Staff has provided mitigation options per the Environmental Criteria Manual.

7. Is there a history of non-compliance with the site?

Exhibit 11

AMANDA records do not indicate a history of non-compliance.

Conclusion: The tree prevents a reasonable use of the property. The City Arborist recommends granting the variance to allow removal of the tree, once mitigation conditions are established and either satisfied or fiscal security posted to ensure performance of the mitigation conditions.

Memo

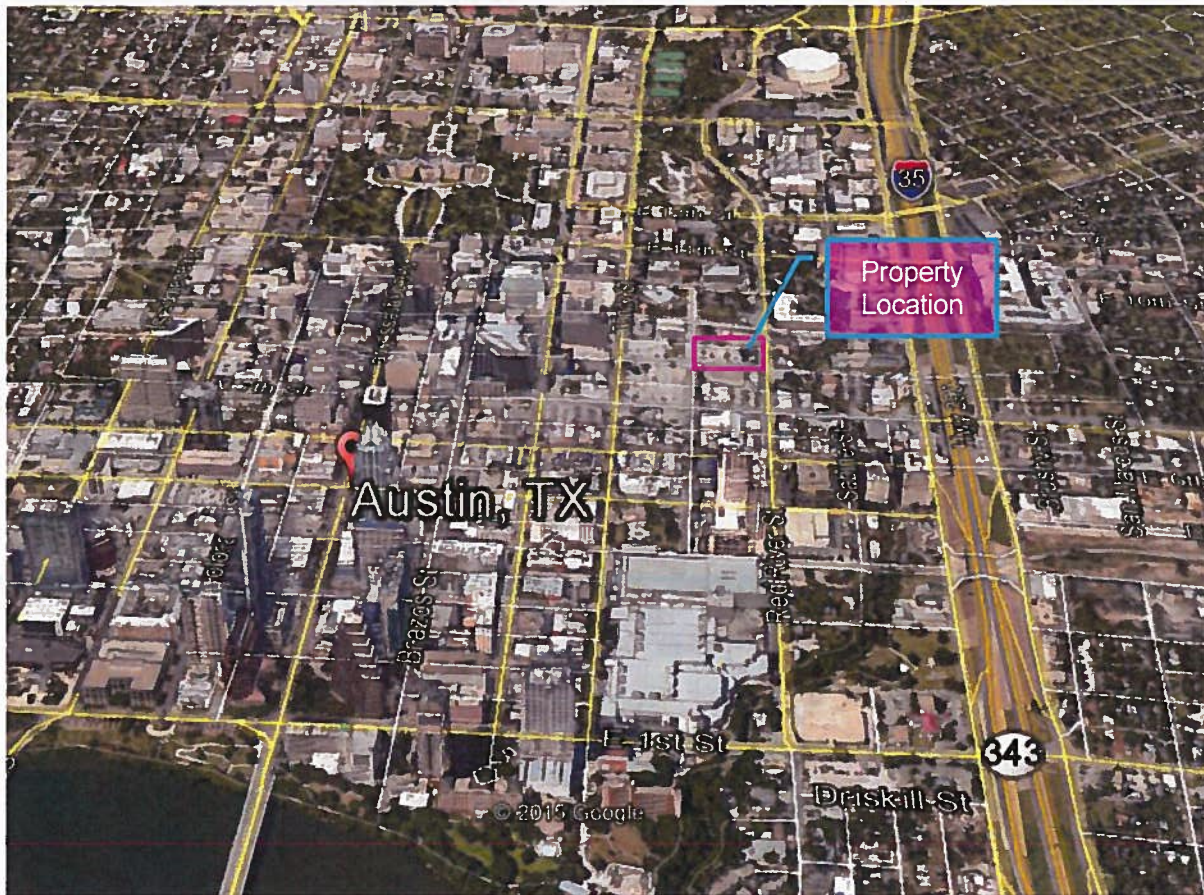
To: Mary Gay Maxwell, PhD – Chair, City of Austin Environmental Commission
Honorable Environmental Commissioners

From: Barton Creek Capital, LLC

Date: September 14, 2015

Re: 504 E. 8th – Land Use Commission Variance Request

SITE: 504 E. 8th, Austin, TX 78701 (Neches & 8th Street).



SITE CONDITIONS: Currently, the entire site is being operated as a surface parking lot. The site consists of gravel, asphalt, and concrete, and has > 95% impervious cover.

There is currently one Live Oak (LO) heritage trees on the site (Exhibit A) in poor health that is being requested for removal – a 34" LO in the center of the North side of the side abutting the alley (Exhibit A). Two other trees in ill health have been requested for removal by an administrative process.



EXHIBIT A: Current Site Aerial with 34" Live Oak Tree Location

CONSTRAINTS: The property consists of 0.61 acres (26,542 square feet) and it is zoned Downtown Mixed Use (DMU) (Exhibit B). It is extremely limited in size for an infill property in the Central Business District.

Three Capitol View Corridors traverse the site (Exhibit C), all impacting what can be built on this important downtown site:

1. Court Building Corridor
2. Longhorn Shores Corridor
3. Waller Creek Plaza Corridor

The adjacent property east of this property has an estimated 40"+ Live Oak tree where by the root zone and canopy extend onto the site. Adequate protection of this tree further limits the area to be developed on the site (Exhibit D).

Given the small size of the site and other constraints, without a variance to remove this tree, a development is highly limited due to the inability to utilize structured parking.

DESIRED REASON: The current intention with the site is to develop a limited service hotel infill project. The proposed hotel development intends to respect the canopy and critical root zone of this tree. This is reflected in our preliminary site rendering and floor plans in EXHIBIT B & C.

While there are three (3) LO trees that are in various states of decay and decline on the site, two trees are being evaluated via an administrative review process based on the very poor conditions of the trees, potential danger to the public, and limitations on the how the site can be developed.

The remaining tree – the 34" Live Oak depicted in Exhibit A and described in detail (with photographs) in Appendix E – is being requested for removal based on tree health issues, pedestrian safety issues, and site constraints.

This tree has been recently evaluated by Pat Wentworth with Austin Tree Specialists. A root collaring was performed on the tree at the request of the City of Austin Arborist, and it is Mr. Wentworth's opinion that this tree exhibits severe decayed roots and will likely fail, and it should be removed before doing so.

Further, due to the poor environment in which this tree is located, the health of the tree, and the significant site constraints, it is apparent that this tree is not a candidate for transplant, and thus it is the Applicant's desire to mitigate for the removal of this sick and decaying tree from the site.

**LAND DEVELOPMENT CODE § 25-8-643 – LAND USE COMMISSION
VARIANCE** - Full tree assessment report provided as Exhibit E to this report

Land Development Code § 25-8-643 – LAND USE COMMISSION VARIANCE.

(A) The Land Use Commission may grant a variance from Section 25-8-641 (Removal Prohibited) to allow removal of a heritage tree that has at least one stem that is 30 inches or larger in diameter measured four and one-half feet above natural grade only after determining, based on the city arborist's recommendation, that the heritage tree meets the criteria in Section 25-8-624(A) (Approval Criteria) [SEE BELOW], and that:

(1) 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 Prerequisites); and

RESPONSE: The Applicant has no other course of action to allow reasonable use of the Property. While Capitol View Corridors blanket the site and significantly restrict the reasonable development of the site, no variances can be pursued to these constraints from the City of Austin.

(2) 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, historic, and cultural value of the trees on the site.

RESPONSE: The requested removal of this tree is not based on a condition caused by the method chosen to develop the property. The tree is in very poor health, can be considered a danger to the general public, and the extremely limited dimensions of the site effectively require the use of the entire property for structured parking to be functional.

Structured parking is the most applicable type of parking for this downtown infill project. This type of parking supports the proposed use for the site, which is in direct alignment with the following policy goals identified in the Imagine Austin Comprehensive Plan:

- LUT P3
- LUT P4
- LUT P7
- LUT P22
- LUT P32
- HN P11
- S P3
- CE P2
- CE P4 (healthy 40+” Live Oak adjacent to site)

Further, the Applicant has voluntarily limited the development on the east side of the Property to preserve an existing 40+” Live Oak (both critical root zone and canopy).

Land Development Code § 25-8-624 – APPROVAL CRITERIA.

(A) The Planning and Development Review Department may approve an application to remove a protected tree only after determining that the tree:

- Prevents a reasonable use of the property;

RESPONSE: The Applicant has no other course of action to allow reasonable use of the Property. The Applicant has voluntarily limited the development on the east side of the Property to preserve an existing 40+” Live Oak (both critical root zone and canopy). Further, while Capitol View Corridors blanket the site and significantly restrict the reasonable development of the site, no variances can be pursued to these constraints from the City of Austin.

Given the small size of the site, without a variance to remove this tree, a development is highly limited due to the inability to utilize structured parking. This type of parking supports the proposed use for the site, which is in direct alignment with the goals of the Imagine Austin Comprehensive Plan – namely promoting development in the central City, in Centers, or along activity corridors where the use of natural resources is more efficient on a per capita basis and sprawl can be avoided.

- Is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree;

RESPONSE: The tree has a 25 to 30 degree lean out of plumb, with the supporting roots on the north side of the tree severed and decaying. Mechanically, out of balance, if left alone as a parking lot tree, this tree would eventually fail and would either cause property damage, personal injury, or both.

As a very poor candidate for transplanting, the best solution for this tree is removal with mitigation.

- is diseased, and:
 - restoration to sound condition is not practicable;

RESPONSE: The presence of excessive epicormics sprouts is a sign of extreme stress. The trunk collar/ root collar has been buried beneath 8-12 inches of fill soil consisting of soil, rocks, bricks, and asphalt has taken a toll on the tree.

EXHIBIT B SITE SURVEY

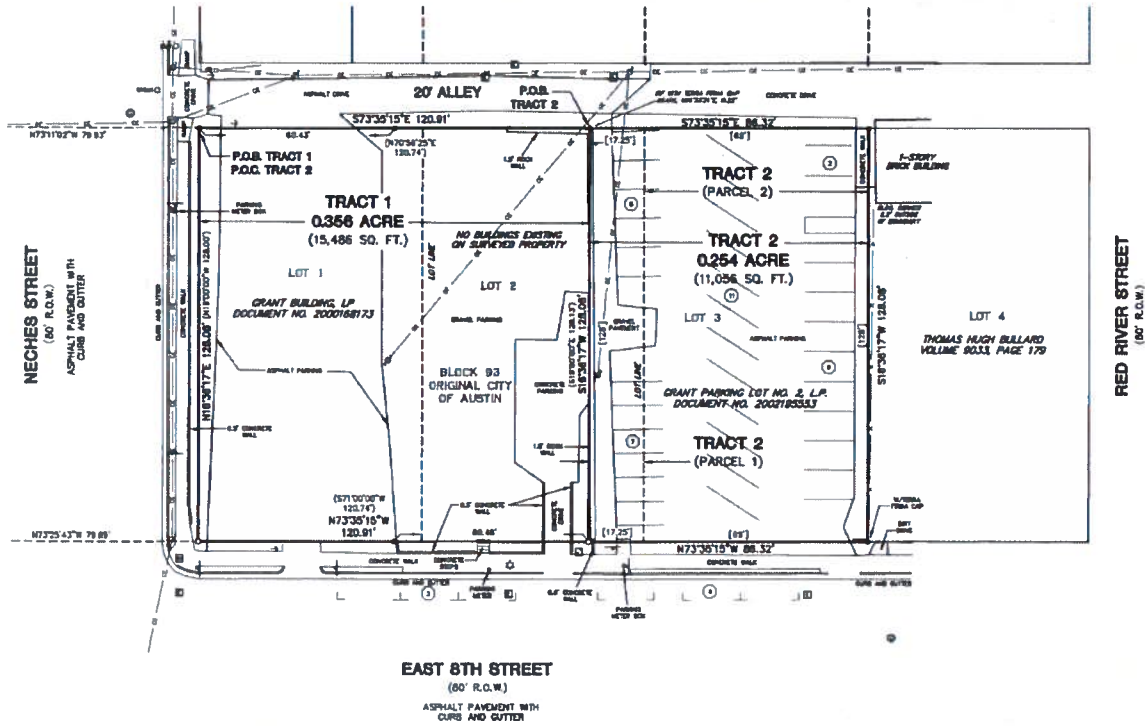


EXHIBIT C CAPITOL VIEW CORRIDORS IMPACTING THE SITE

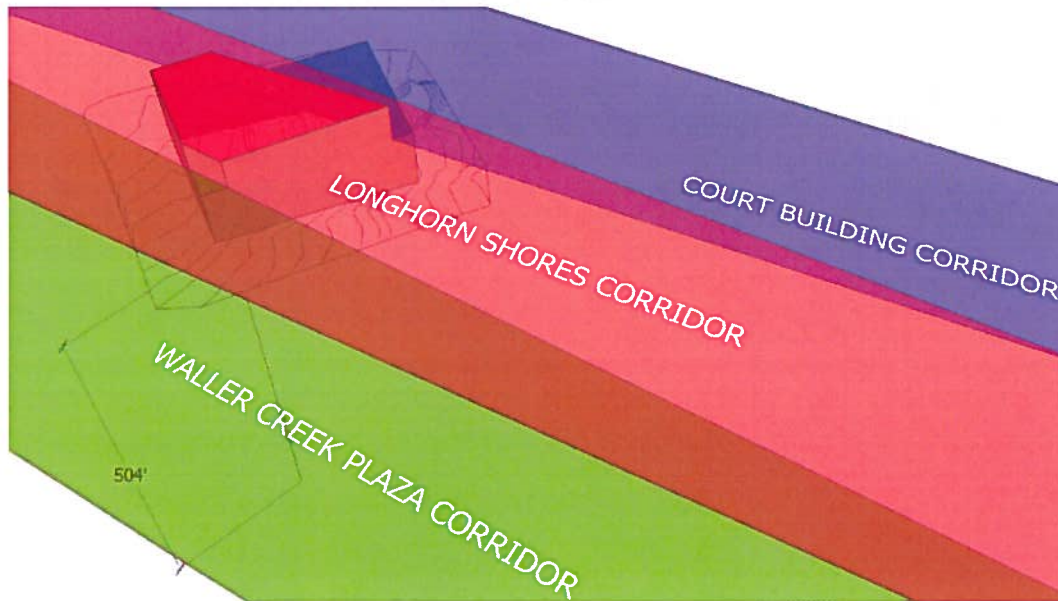


EXHIBIT D
PRELIMINARY FLOOR PLAN

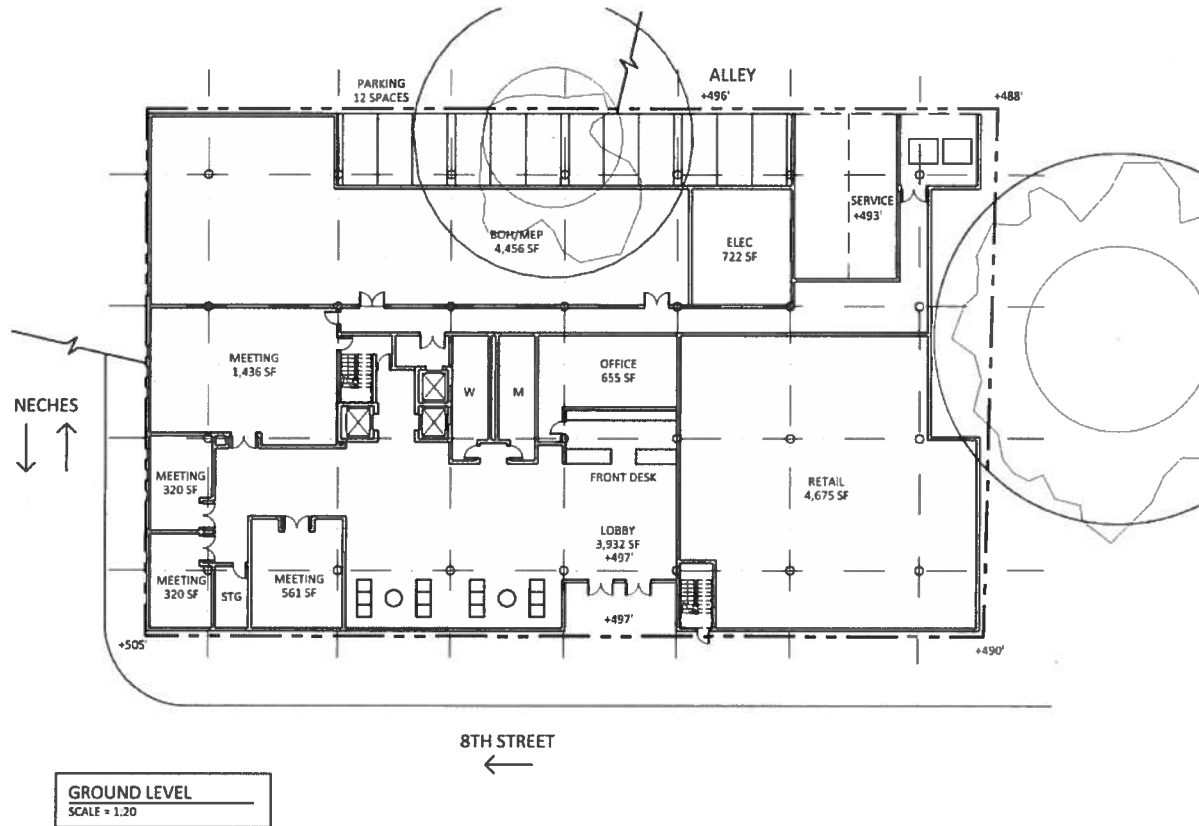


EXHIBIT E
AUSTIN TREE SPECIALISTS – TREE ASSESSMENT REPORT

