

## Memo

**To:** Linda H. Guerrero, Chair, City of Austin Environmental Commission, and Honorable Environmental Commissioners

**From:** Lincoln Ventures LLC

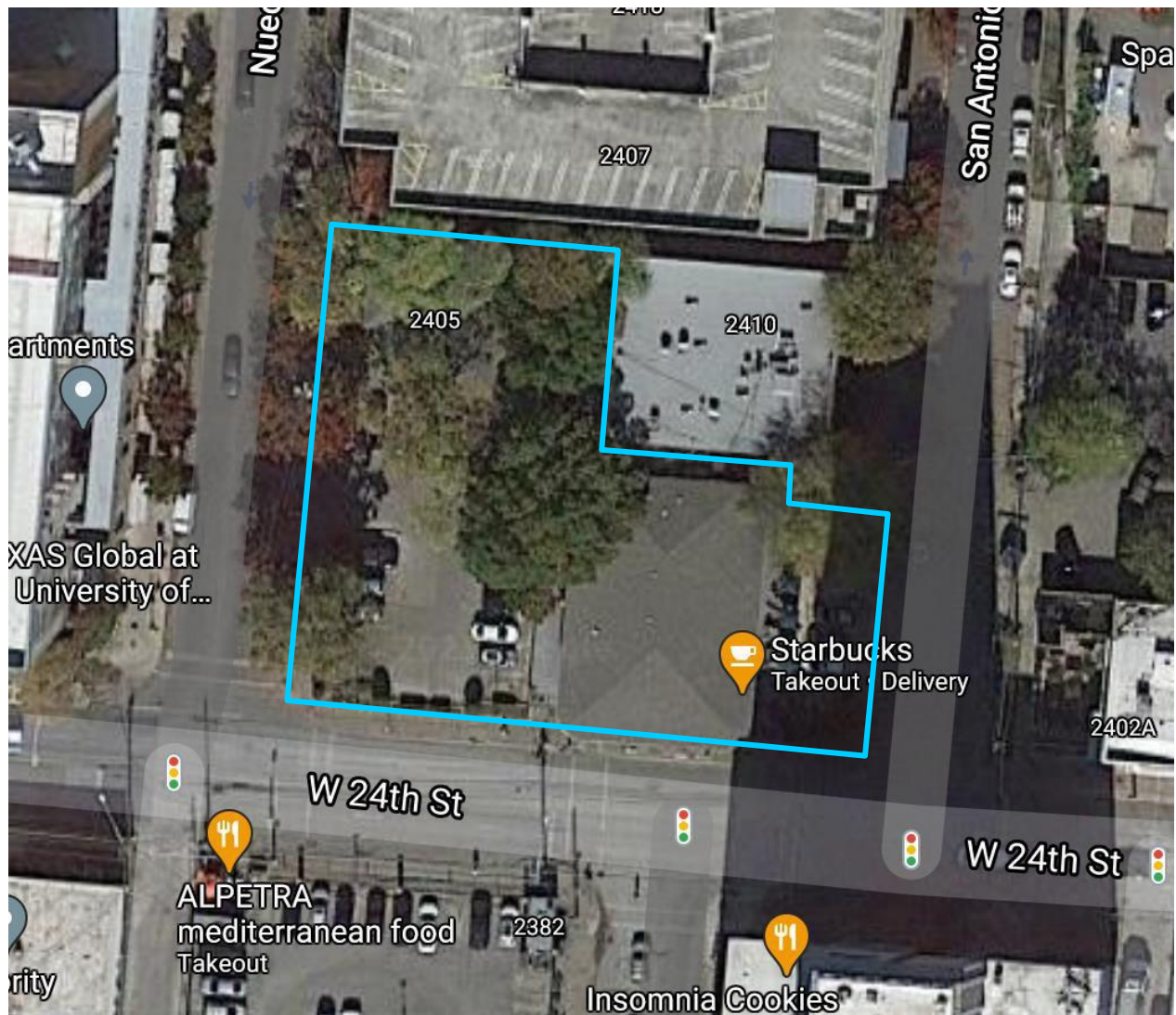
**Date:** March 11, 2021

**Re:** Court of Three Sisters Reasonable Use Memorandum

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### Site:

The 0.43-acre piece of property located at 504 W 24<sup>th</sup> St. and 2405 Nueces Street in Austin, Travis County, Texas 78705 (the "Property").



## SITE CONDITIONS:

Currently, the entire site is being operated as a multi-tenant retail center (largely vacant) with surface parking. The site is currently 80% impervious cover.

## REQUEST:

There are two heritage trees on the site – one (1) 25" Pecan and one (1) 32" Red Oak – that are being requested for removal. Both trees are centrally located on the Property. See Exhibit A for tree locations.

## EXHIBIT A: Site Constraints Exhibit

Tree locations of 25" Pecan (#911) and 32" Red Oak (#913) with 12-foot stepback around site.



## CONSTRAINTS:

The Property consists of approximately 0.43 acres (18,944 SF), is zoned CS-NP (Commercial Services – Neighborhood Plan) and is located in the University Neighborhood Overlay (UNO) in the Inner West Campus subdistrict. The Inner West Campus subdistrict allows for a density premium of between 175 feet to 300 feet so long as 20% of the units (or beds) are reserved as affordable, including 10% that will be reserved for people making a maximum of 60% of the median income and another 10% for those making a maximum of 50% of the median income.

Per § 25-2-758 (B)(1), Building Wall Height, Stepbacks, and Envelope, a 12-foot stepback on West 24<sup>th</sup> Street, Nueces Street and San Antonio Street is required. This stepback impedes the footprint of the site thereby limiting the development and reducing the developable footprint by approximately 20%.

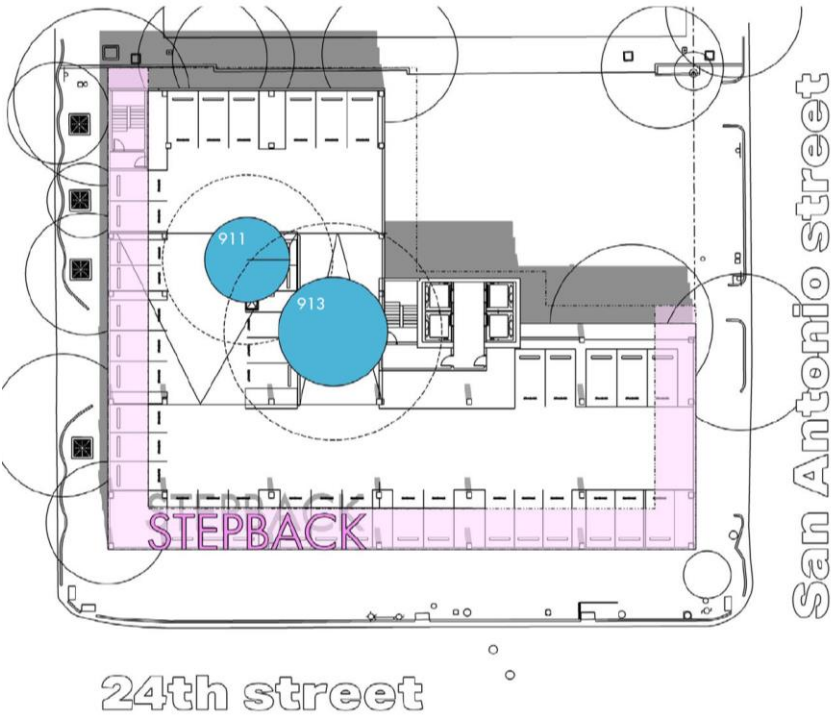
The trees requested for removal on the site are located in the middle of the site. Given their location and existing canopy, the trees impact approximately 25% of the site.



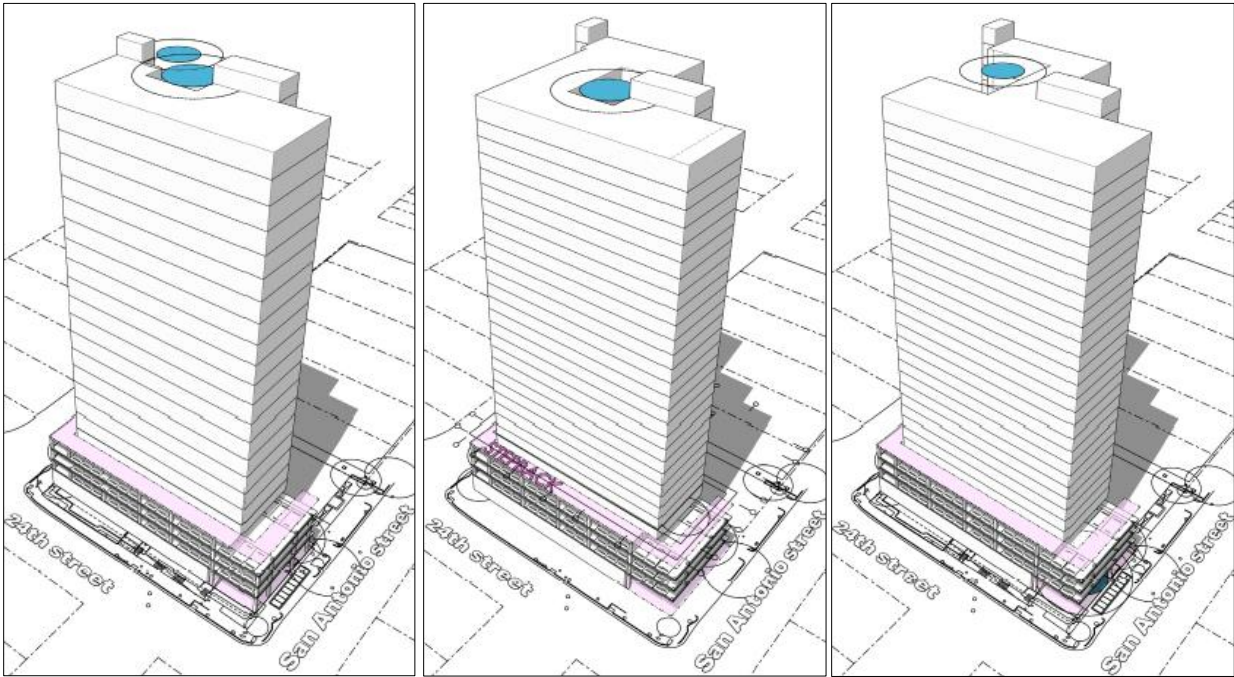
# DRENNER GROUP

The onsite trees are located on the only portion of the site that is wide enough to support a ramp for structured parking, thus severely impacting the reasonable use of the Property for a residential tower. Leaving the trees will prohibit the ability to provide structured parking and results in a 50% reduction in gross square feet of developable area, see Exhibit B below. Further, Exhibit C, below, illustrates different design layouts assuming the trees remain, showing that even if there was a way to address the impact to parking, keeping the trees renders the site unable to provide a working building floorplates or insufficient natural light for the health of the tree.

## EXHIBIT B: Developable Area Impact



## Exhibit C: Considered Building Layouts



Given the (a) stepback constraint; (b) location of the trees; (c) limited acreage of the site; and (d) the tree survey report prepared by Wuest Group, we respectfully request the removal of trees 911 and 913.

## **DESIRED REASONS:**

The current intent is to develop a 307-unit multifamily, student-housing project with 884 beds and 4,000 sq. ft. of ground floor retail. With compliance with the UNO bonus requirements this project would provide 177 on-site affordable beds. Per a report prepared by Tree Mann Solutions on January 1, 2020, there are two (2) heritage trees in fair and poor health located in the center of the Property.

The UNO district was put in place to encourage the development of dense student-oriented housing and to prioritize pedestrian space in a highly urbanized environment. The UNO district promotes street tree plantings for shade and scale, paved street tree zones, tree grates and street furniture in the right of way.

The location of these trees provides a significant impact on the developability of the site and would not allow for the construction of a student housing project in the UNO area where student housing is preferred and encouraged.

A tree evaluation of the 25" Pecan (#911), Exhibit D, was completed by Tree Mann Solutions. The tree is listed in poor condition. The tree has a significantly weak canopy, with the trunk against the building with roots covered by pavement for many years, and there is evidence of significant past failures within the canopy, either for clearance or due to past canopy failures in storms. There is also evidence of over pruning. Because of these reasons, it is a candidate for removal.

## **EXHIBIT D: Pecan #911 – Over Pruning Exhibit**



A tree evaluation of the 32" Red Oak (#913), Exhibit E, was completed by Tree Mann Solutions. The tree is listed in fair condition. The tree has weak unions and is unbalanced to the south, all which could possibly present future structural issues, as well as potential root damage due to extensive impervious coverage over this large tree's critical root zone. Because of these reasons, it is a candidate for removal and replacement with thorough mitigation.



## EXHIBIT E: Red Oak #913 – Weak Unions and Unbalanced



# DRENNER GROUP

Due to the poor environment in which the trees are located, the health of the trees, and the significant site constraints it is the applicants desire to mitigate for the removal of both of these trees from the Property.

As part of the mitigation the applicant proposes a menu approach that includes substantial contributions to the on-site streetscape and other UNO improvements agreed upon with City of Austin Arborists in an effort to increase the long-term health and vitality of the UNO urban forest and to add to the diversity of the streetscape for pedestrians as well as contribution of appropriate fee towards the Urban Forest Replenishment Fund. The cost of these improvements would be equal to the proposed cost for relocating the tree in fair condition and maintaining for 5 years, which was approximately between \$140,000 – \$150,000. This cost is in addition to the tree removal mitigation costs in code which are approximately \$18,000 - \$38,000, depending upon tree health valuation by staff, which we propose be used in on-site streetscape improvements. Therefore, we are proposing to provide an approximate total of \$158,000 - \$188,000 of improvements in lieu of preserving the fair conditioned tree for comprehensive and enhanced viability improvements to the pedestrian streetscape.

Highly urbanized areas like the west campus neighborhood can create difficult environments for street trees to thrive due to soil compaction, small root zones, irregular water and lack of biodiversity. Therefore, urban trees have a much shorter lifespan than trees in their natural setting. Through up-front investment and long-term maintenance, the health and longevity of new trees can be improved. Healthy street trees add immense value to the pedestrian realm through increased shade protection and appropriate human scale.

Although UNO has specific tree and streetscape standards, Building Criteria Manual 12.1.7 (l)(h), these standards may be modified to provide an enhanced pedestrian experience.

Given the timing of the removal request, the applicant is requesting to provide a menu of mitigation options that will enhance street trees both on this Property and in the UNO area. In addition to providing the required street trees along the Property, the ultimate mitigations will be finalized in consort with the City Arborist at the time of site development permit for the Property.

At this preliminary concept stage of design, the project streetscape will yield approximately (14) 5" street trees; (5) on 24th Street, (7) on Nueces Street, (2) on San Antonio Street. Reference Exhibit 'G' COA UNO – MINIMUM STREETSCAPE STANDARDS, attached to this memo.

**\*\*Please note:** the arborist may allow alternative compliance due to an unforeseen constructability issue due to the location of items such as, but not limited to: utilities, loading docks, and entrances into the parking garage.

Secondarily, the design team has worked with the COA Arborists to develop this menu of superior streetscape improvements with an order of magnitude as follows, please reference items 'a' through 'd' below. The design team will continue to be accountable to both COA Arborists and COA Urban Design team members throughout the future Site Development Permit / License Agreement Process to achieve the following improvements in this order (a through d) to the specified amount of money as shown above. The menu will allow elasticity for unforeseen variables that could arrive during the future, detailed design process.

Please reference the menu below, items a through d, plus Exhibits F through K, to see how this menu would apply to the proposed subject site and precedents around town:



# DRENNER GROUP

- a. Provide approximately \$60,000 to plant 14, 5" trees with voluntary continuous planting bed improvements which will provide increased soil volume for root zones, increased stormwater infiltration, increased aeration of roots and under story plantings that create and maintain a healthy Mycorrhizal fungi network, reference Exhibit 'H' and Exhibit 'I' attached to this memo.
- b. Propose planting 14, 5" trees with voluntary soil cells installation, or a combination with continuous planters, with permeable paving at a cost of approximately \$100,000 - \$140,000 which will increase soil volume for roots and increase stormwater infiltration while decreasing compaction over root zones, reference Exhibit 'H' and Exhibit 'J' attached to this memo.
- c. Implement a thorough 5-year tree care and maintenance plan at the cost of approximately \$25,000 to increase tree viability over time for the 14 planted trees (monitor, water, fertilize, prune, etc.).
- d. Provide approximately \$30,000 - \$50,000 in funding for one-time maintenance of street trees in the neighborhood including repair and replacement of damaged tree grates and pruning and fertilizing of trees on adjacent properties. Note: Participation in the UNO program requires the license holder to maintain the trees and grates. When the Property's streetscape was completed, the current maintenance regulations were not in place. Therefore, maintenance was the responsibility of the Public Works Department. Future developments will be under the UNO for streetscape license requirements, therefore future maintenance will be the responsibility of the developer.

With this request, we believe we can contribute to the UNO urban forest, add to the pedestrian comfort, and prevent soil restrictions with the street tree improvements.

**LAND DEVELOPMENT CODE § 25-8-624 – APPROVAL CRITERIA & § 25-8-643 – LAND USE COMMISSION VARIANCE**

**25" Pecan (#911) and 32" Red Oak (#913)**

**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:

(2) prevents a reasonable use of the Property;

**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) (Approved Criteria) 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

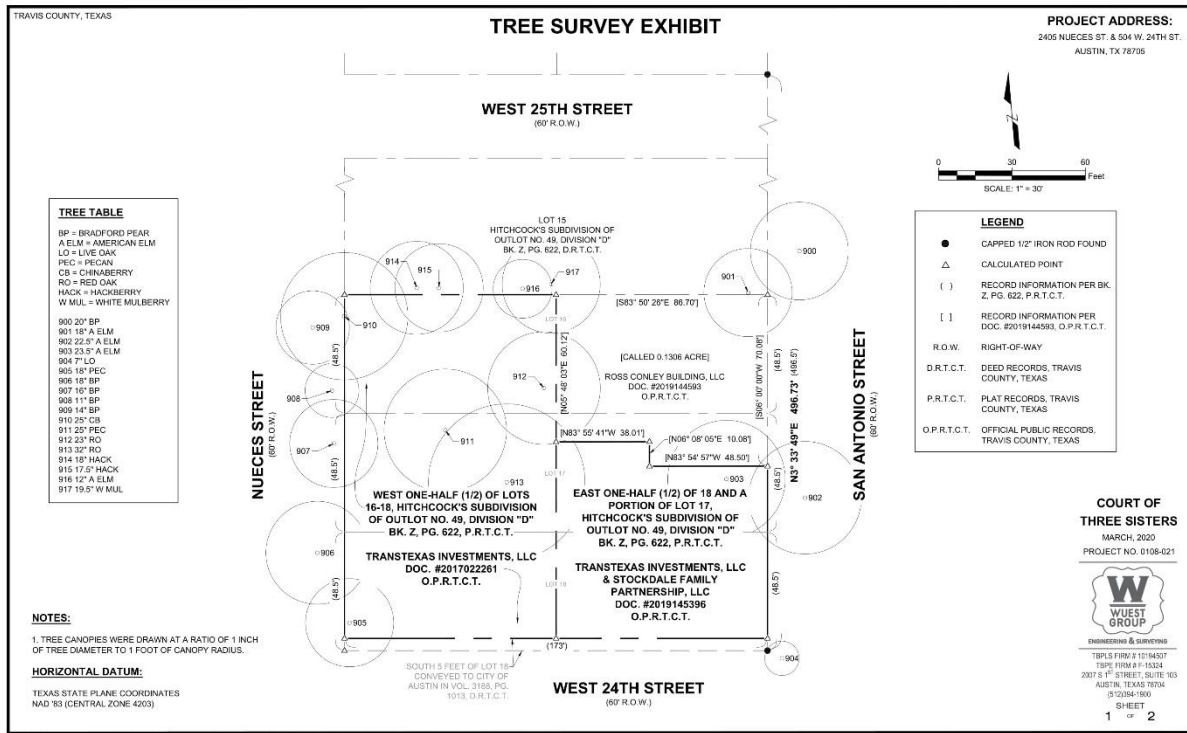
**RESPONSE: The Applicant has no other alternative equivalent compliance available to allow reasonable use of the Property. The required compliance with the UNO regulations, § 25-2-758 (D)(3), and § 25-2-758 (B)(1). No variances can be pursued which would eliminate the removal of the heritage trees.**

(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: We are seeking removal as the building floorplates do not work with the trees in their current location. The requested removal of trees 911 and 913 is not based on a condition caused by the method chosen to develop the Property. The trees are in poor and fair health. The current root zones and canopy would render the Property undevelopable given the limited width of the site and that UNO requires 75% (§ 25-2-758 (D)(3)) of parking to be below-grade.**



## EXHIBIT F: SITE SURVEY



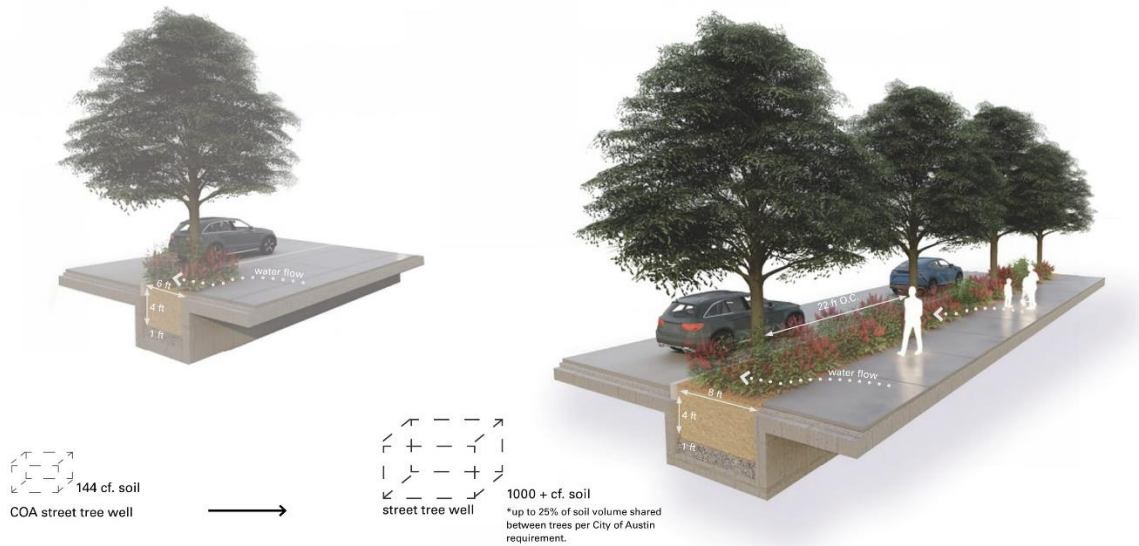
TREE REPORT									
(PEAR TREE MANN SOLUTIONS - 01-27-2020)									
#	Species	DBH (in.)	Std. %	Std. (in.)	Prop. %	Prop. (in.)	Cond.	Notes	
902	American elm	22.5	1.00	22.50	0.28	5.63	Poor	40% potential, 98% impervious, poor structure, 35% deadwood	
903	American elm	23.5	1.00	23.50	0.28	5.68	Poor	40% potential, drive & walk against trunk, poor structure	
905	Pecan	18	0.50	9.00	0.28	4.50	Fair	Abutting sidewalk, 80% impervious, over-pruned	
906	Bradford pear	18	0.00	0.00	0.00	0.00	Poor	Poor structure and vigor, girdling decay	
907	Bradford pear	16	0.00	0.00	0.00	0.00	Poor	Poor structure and vigor, girdling decay	
908	Bradford pear	14	0.00	0.00	0.00	0.00	Poor	Poor structure and vigor, girdling decay	
909	Bradford pear	11	0.00	0.00	0.00	0.00	Poor	Weak upright decay	
910	Chinaberry	25	0.00	0.00	0.00	0.00	Poor	Invasive, Large trunk wound, 15 deg. lean to W	
911	Pecan	25	3.00	75.00	0.75	18.75	Poor	Weak canopy, over pruned, 40% potential, past breaks, trunk against building	
912	Red oak	23	1.00	23.00	0.00	0.00	Critical	Large structural failures and extensive trunk decay	
913	Red oak	32	3.00	96.00	3.00	96.00	Fair	Weak unions, 40% plus impervious cover, up to south	
914	Hackberry	18	0.50	9.00	0.13	2.34	Poor	Weak vigor, 30% potential, Over-pruned	
915	Hackberry	17.5	0.50	8.75	0.00	0.00	Poor	Damaging building, Excessive trunk decay, Poor vigor	
916	American elm	12	0.50	6.00	0.13	1.56	Poor	20% potential, 30% deadwood, Over pruned	
917	White mulberry	19.5	0.00	0.00	0.00	0.00	Poor	Invasive, Bacterial wetwood, 20% potential	

EXHIBIT G: COA UNO – MINIMUM STREETScape STANDARDS





## EXHIBIT H: PROPOSED CONTINUOUS PLANTING BEDS / SOIL CELLS



### Continuous planting beds

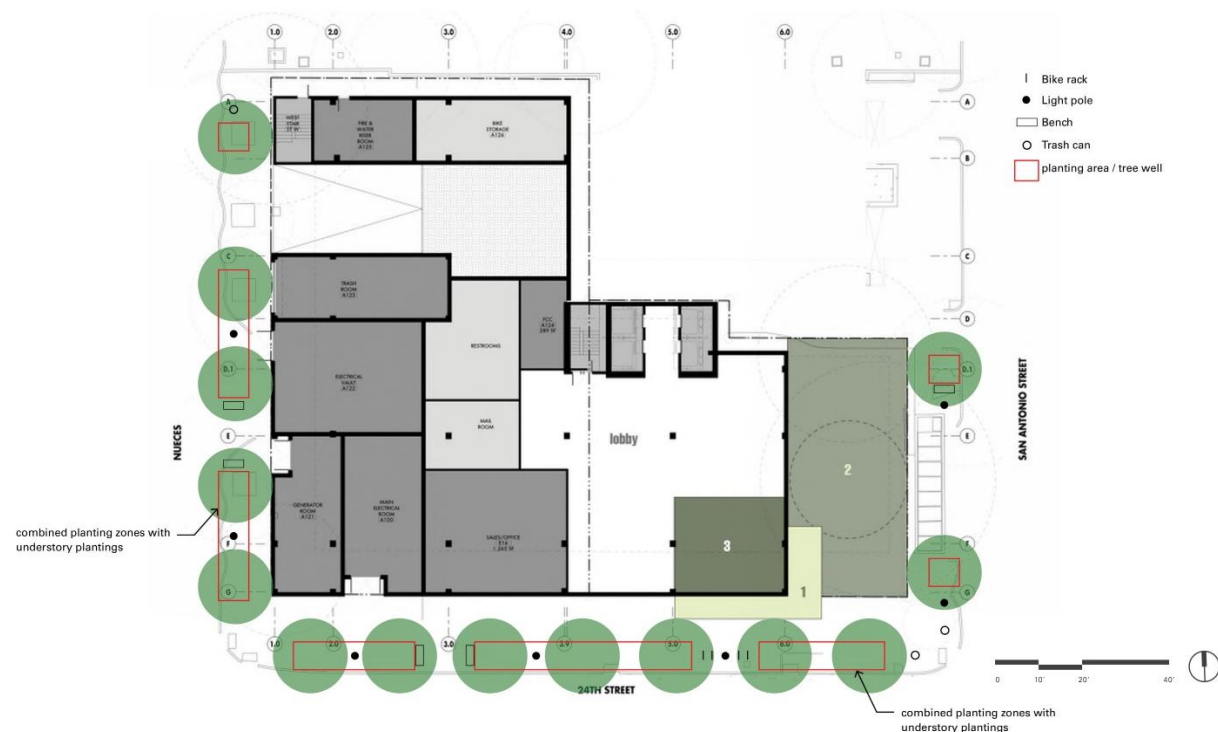
- Increased soil volume for root zones
- Increased stormwater infiltration
- Increased aeration of roots



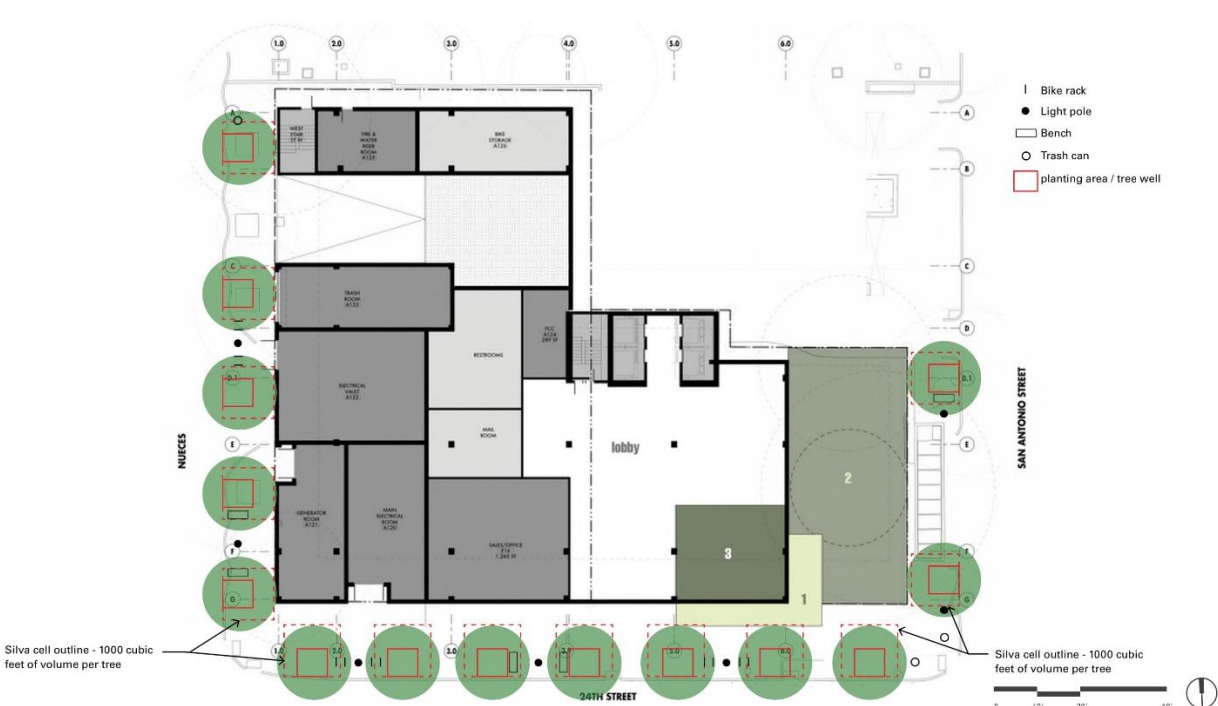
### Silva Cells with permeable paving

- Increased soil volume for roots
- Decreased compaction over root zone
- Increased stormwater infiltration

## EXHIBIT I: COA UNO – STREETSCAPE STANDARDS WITH CONTINUOUS PLANTING BEDS



## EXHIBIT J: COA UNO – STREETSCAPE STANDARDS + SOIL CELLS

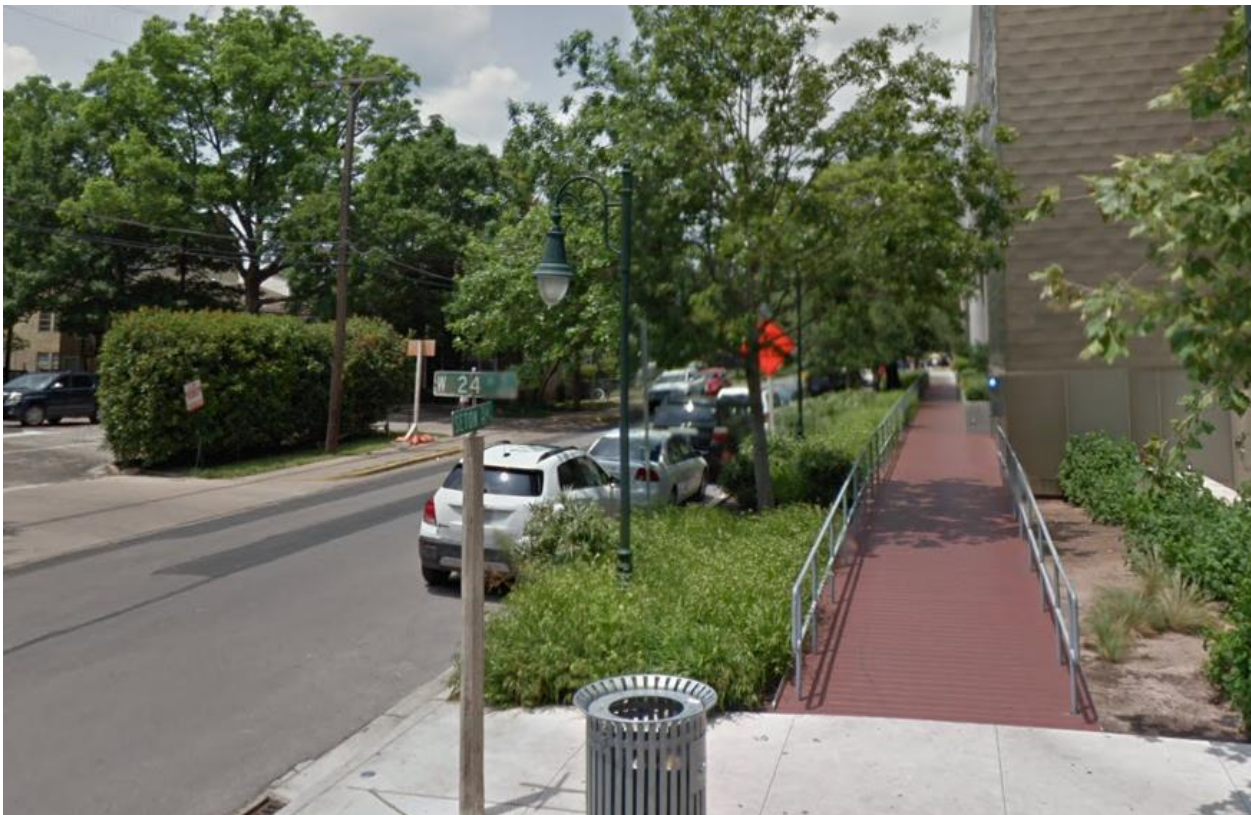




## EXHIBIT K: LOCAL CONTINUOUS PLANTING EXAMPLES



*SXSW Center*



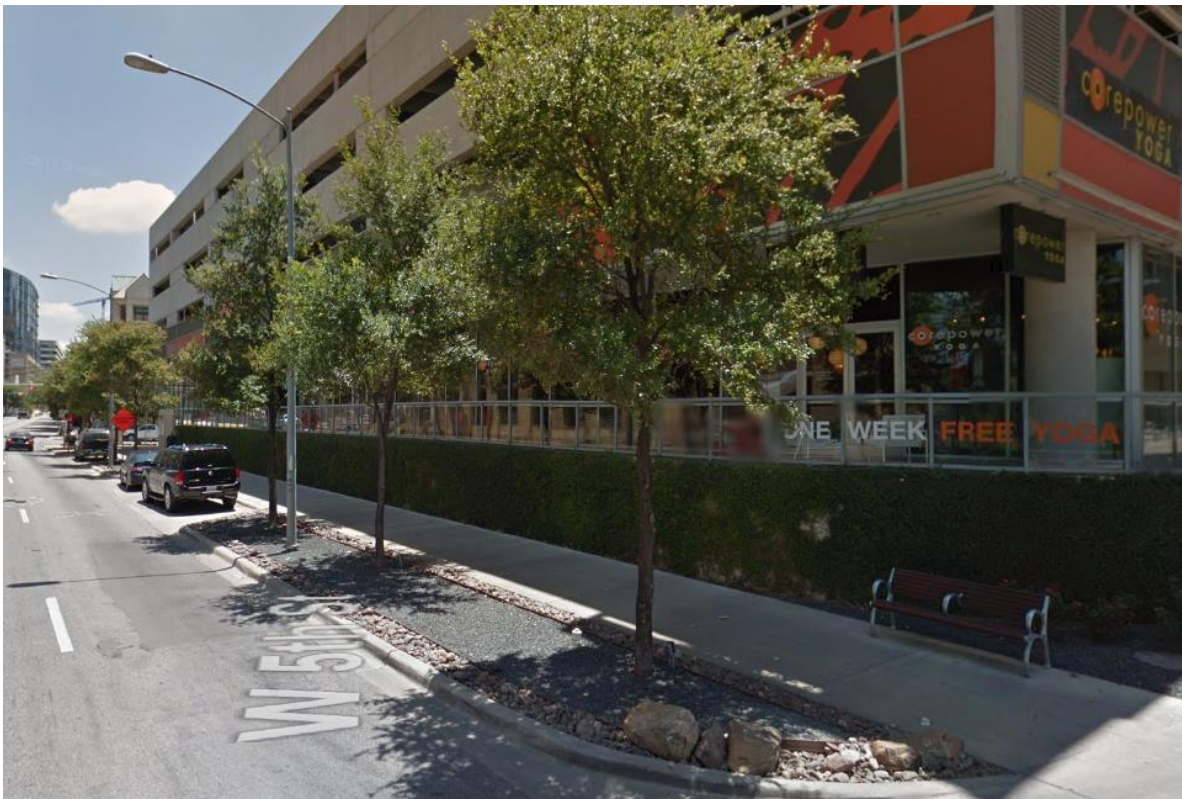
*2400 Nueces Apartments*



## EXHIBIT K: Local Continuous Planting Examples (CONT.)



*Austin City Lofts*



*The Monarch by Windsor*