Item C-33

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Heritage Tree Variance Package

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ITEM FOR PLANNING COMMISSION AGENDA

COMMISSION DATE REQUESTED:	October 27, 2015
ADDRESS OF PROPERTY:	504 EAST 8TH STREET
TREE PERMITS #:	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 two heritage trees with stems 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: Stephen Oliver, Chair
Planning Commissioners

FROM: Keith Mars, City Arborist Program
Development Services Department

DATE: October 27, 2015

SUBJECT: 504 East 8th Heritage Tree Ordinance Variance

REQUEST: The applicant is requesting to remove two heritage trees with stems 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.

32" Live Oak 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).

30.25" Live Oak Evaluation
Measurements
The subject tree is a 30.25" diameter Live Oak (*Quercus fusiformis*).

Canopy Conditions
The canopy architecture displays major asymmetry (Exhibit 11). Canopy dieback is evident in the branches (Exhibit 12) and most growth is in epicormic sprouts (Exhibit 13). Similar to the 32" Live Oak, this growth is likely a stress response related to the root system.

Trunk
Cavity is apparent at the base of the subject tree (Exhibit 14).

Root System
Root decay is apparent at the root flare of the subject tree (Exhibit 15). Fill material and grade cut impact the entire critical root zone (Exhibit 16). Soil heaving is apparent on the west side of the subject tree (Exhibit 17).

Overall Condition
The subject tree is comparatively more stressed than the 32" Live Oak. There is considerable fill material, compaction, and cut over the entire root system. Decay is present in the roots. The dieback in the canopy warrants concern on the biological health of the tree. More details on the overall condition can be found in the City Arborist Tree Evaluation (Exhibit 18).

Variance Request
The variance request is to allow removal of two heritage trees with stems greater than 30 inches as allowed under LDC 25-8-643.

Recommendation
The subject trees have not received care and the root systems have been compromised for likely decades. Consequently, the trees display signs of stress and there is considerable concern about the viability of the root system, particularly the 30.25" Live Oak. The trees are not dead, diseased, or an imminent hazard thus requires a Landuse Commission variance to request removal. However, the trees are 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 trees 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 19.

Mitigation

The Environmental Criteria Manual standard is 300% mitigation (187 inches of mitigation). However, the suggested mitigation is 150% (93 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 Department
Staff Recommendations Concerning Heritage Tree Variances

Application Address: 504 East 8th Street
Size and Species of Tree(s): 32.0" and 30.25" diameter Live Oaks
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 19 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 by 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: 10/13/15

Exhibit 1

The City Arborist Program

Tree Preservation and Replenishment

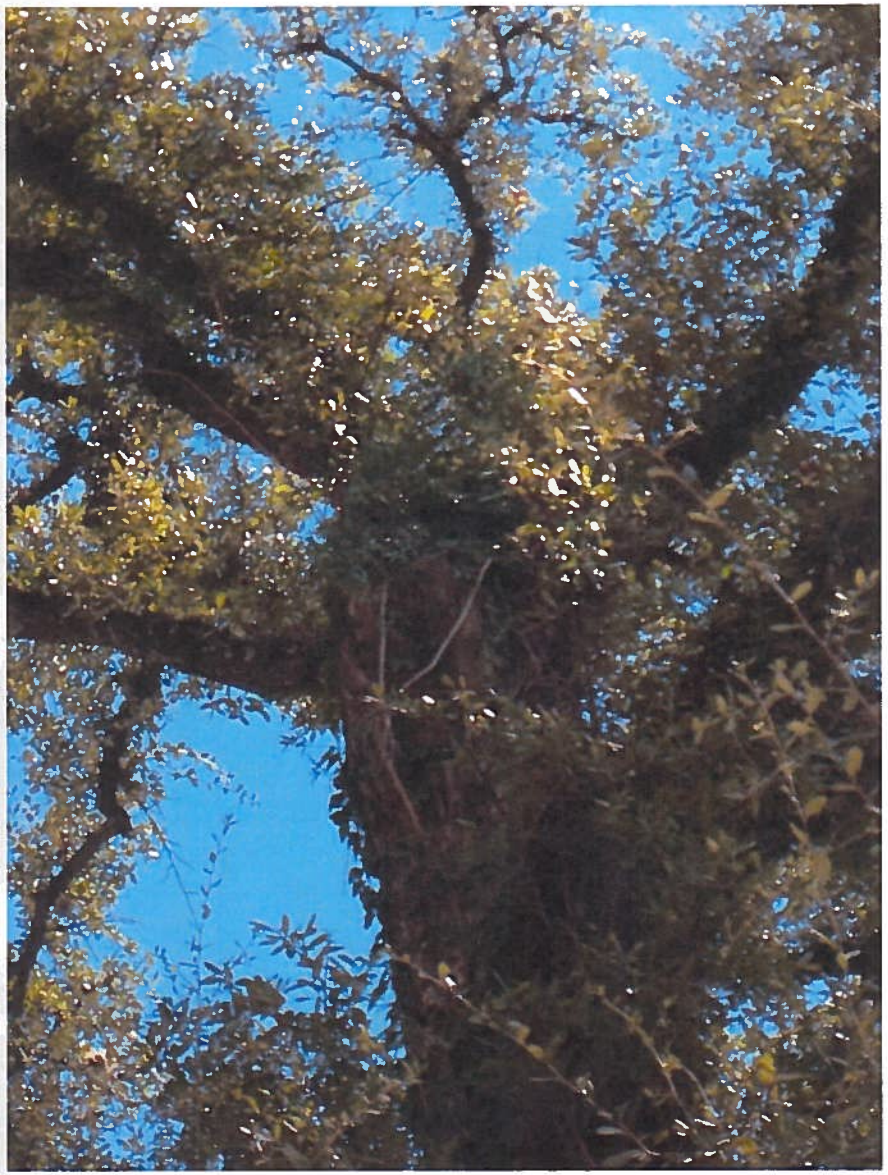


Exhibit 2

The City Arborist Program

Tree Preservation and Replenishment

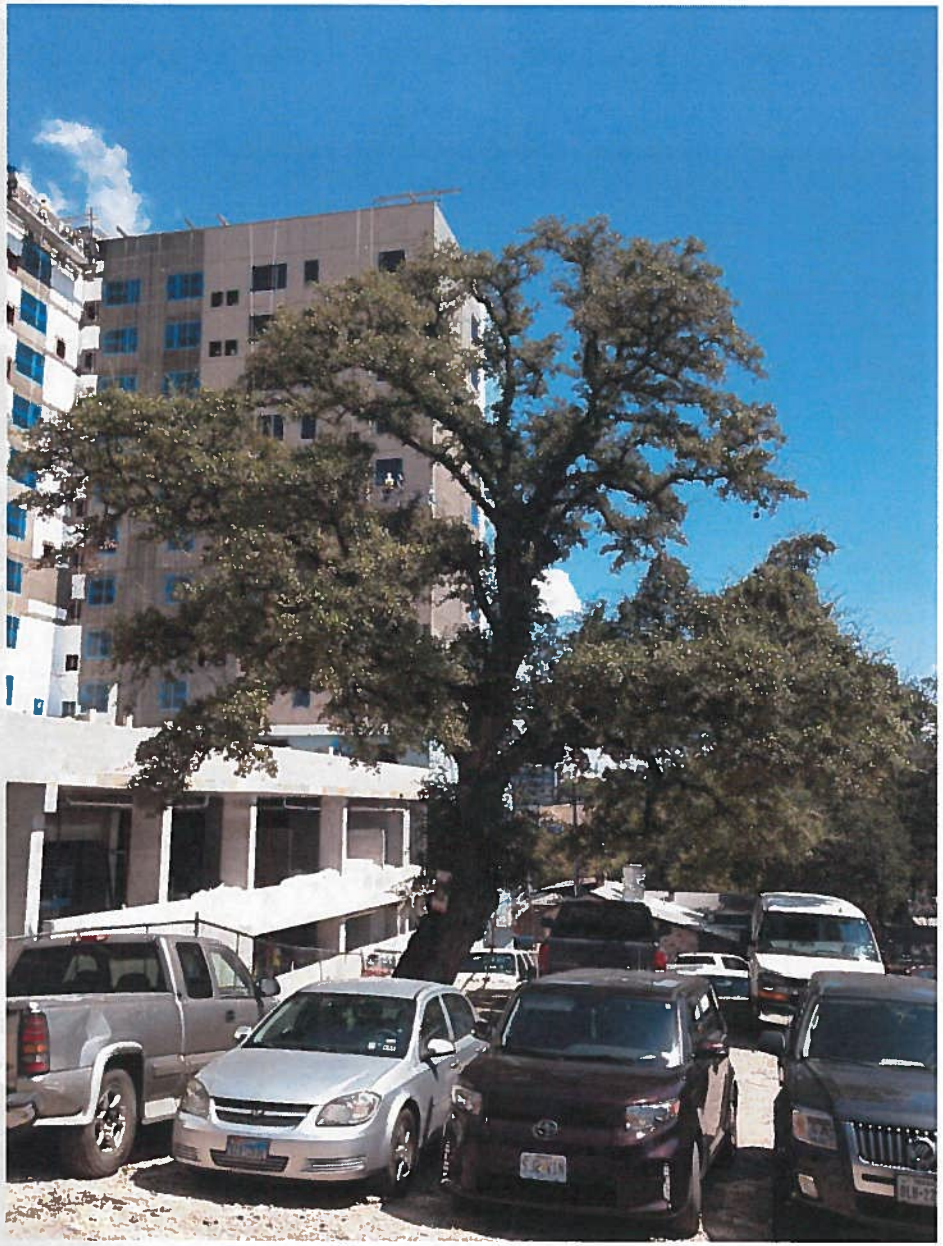


Exhibit 3

The City Arborist Program

Tree Preservation and Replenishment

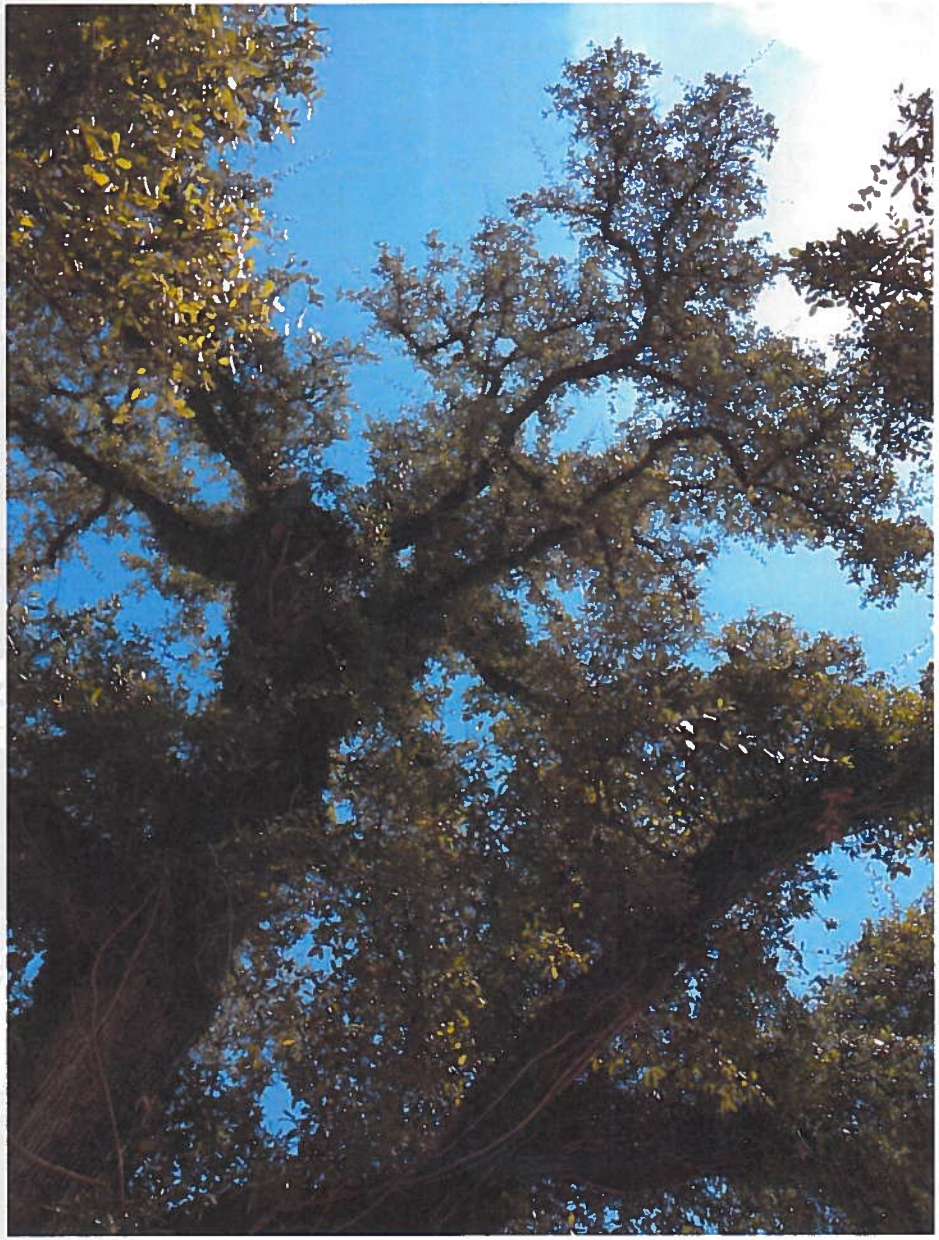


Exhibit 4

The City Arborist Program

Tree Preservation and Replenishment

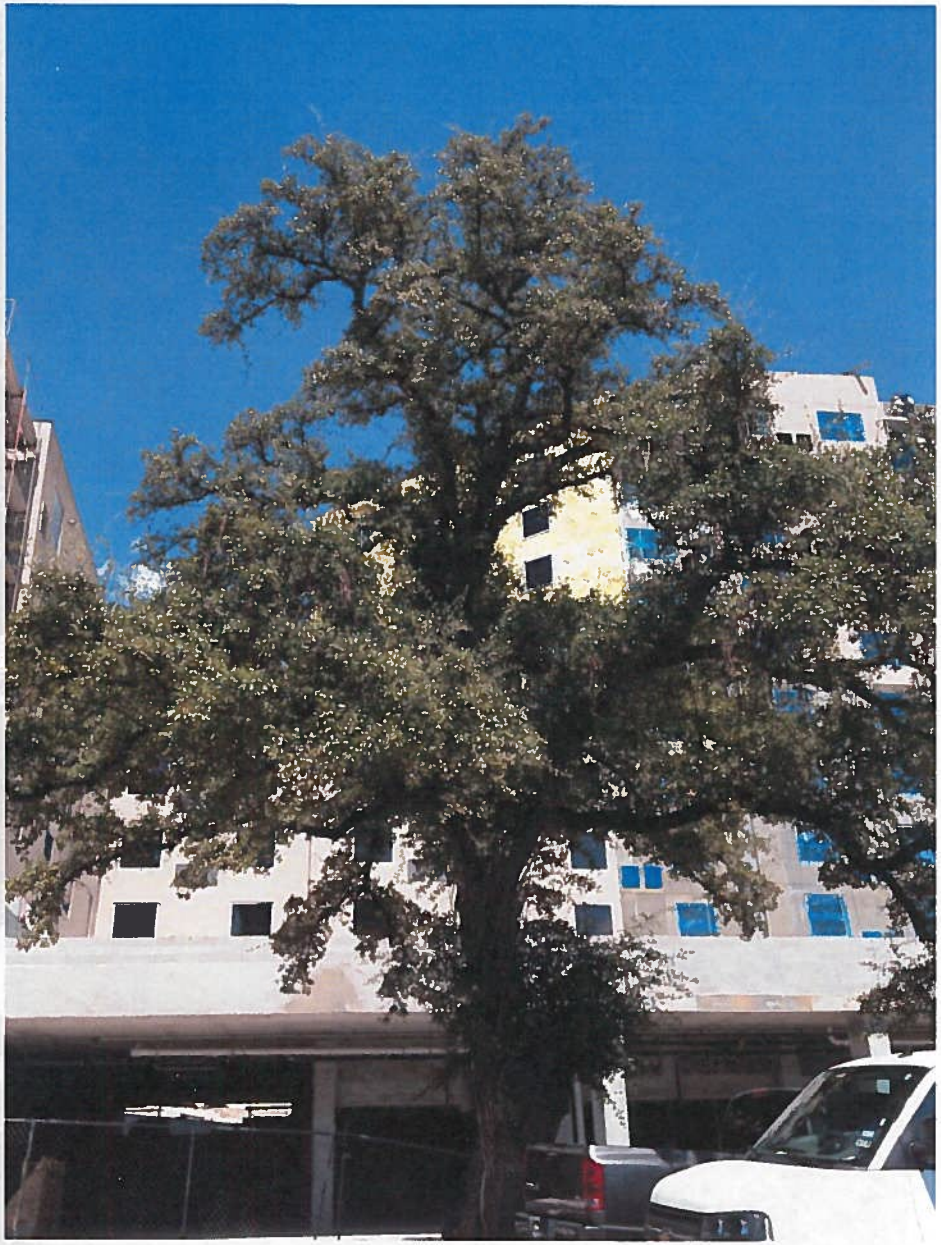


Exhibit 5

The City Arborist Program

Tree Preservation and Replenishment

Exhibit 6

The City Arborist Program

Tree Preservation and Replenishment

Exhibit 7

The City Arborist Program

Tree Preservation and Replenishment

Exhibit 8

The City Arborist Program

Tree Preservation and Replenishment

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 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 **Epicormics:** Y / N
Foliage density: normal / sparse **Leaf size:** normal / abnormal
Annual shoot growth: __6"__inches **Twig dieback:** Y / N
Callus development: Y / N **If so, is callusing:** excellent / average / fair / poor
Vigor class: excellent / average / fair / poor
Major pests/diseases: none observed

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
Poor taper	B, S, L	M	evidence of root decay
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	

LEGEND

AREA
T – Trunk(s)
R – Root Flare
L – Lateral Roots
S – Scaffolds
B – Branches

SEVERITY
S – Severe
M – Moderate
L – Low

7. Other features

Lean: ~10% degrees from vertical — unknown natural or unnatural — **Soil heaving:** Y / (N)
Decay in plane of lean: Y / (N) — **Roots exposed:** Y / (N) — **Soil cracking:** Y / (N)
Lean severity: S / M / (L) — **Compounding factors:** —
Suspect root rot: (Y) / N — **Mushroom/conk present:** Y / (N) ID: _____
Exposed roots: S / M / (L) — **Undermined:** S / M / (L)
Root pruned: 10 feet from trunk — **Root area affected:** 30 % — **Buttress wounded:** (Y) / N
Restricted root area: (S) / M / L — **Potential for root failure:** S / (M) / L

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.

Exhibit 11

The City Arborist Program

Tree Preservation and Replenishment

Exhibit 12

The City Arborist Program

Tree Preservation and Replenishment

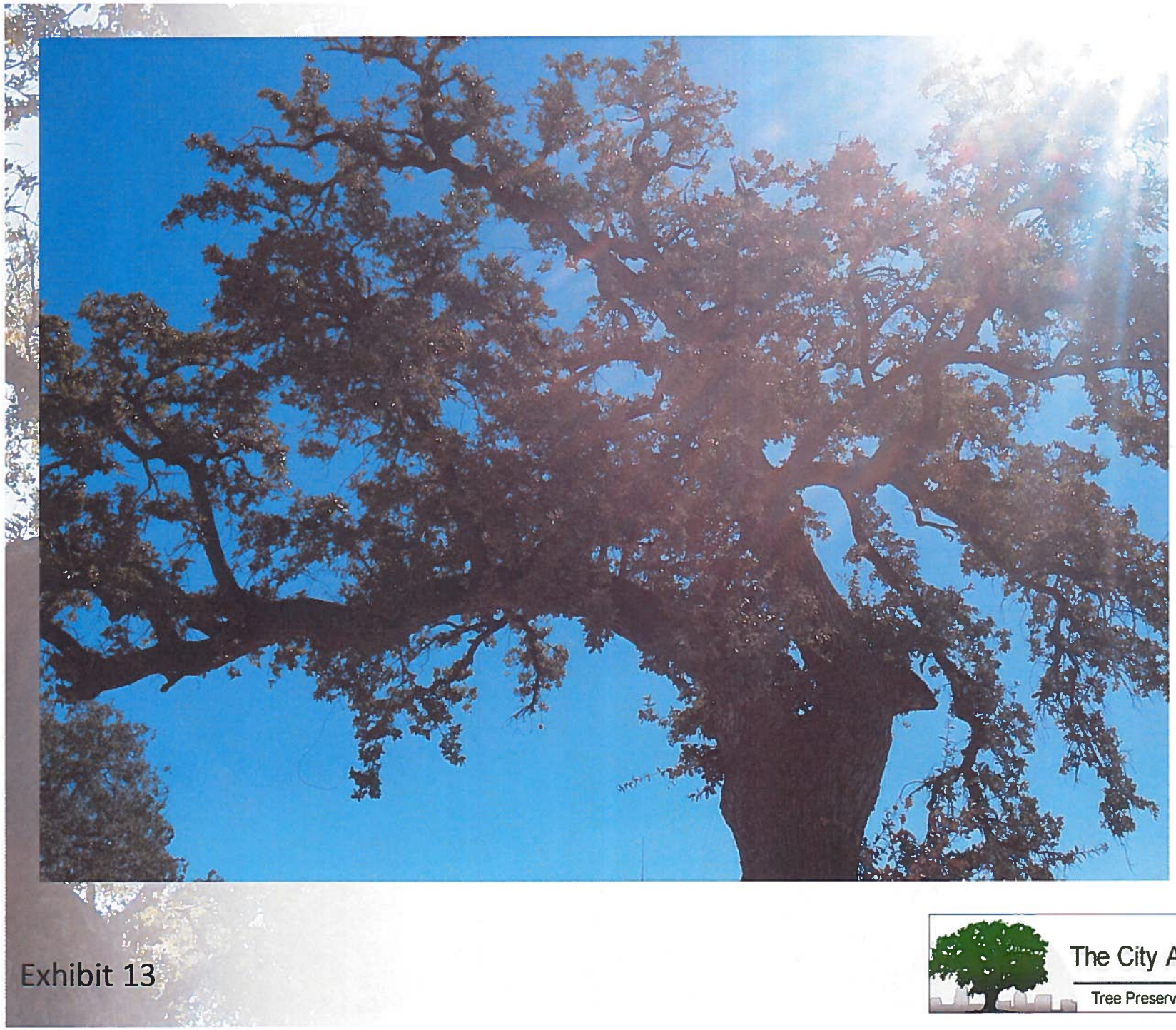


Exhibit 13

The City Arborist Program

Tree Preservation and Replenishment

Exhibit 14

The City Arborist Program

Tree Preservation and Replenishment

Exhibit 15

The City Arborist Program

Tree Preservation and Replenishment

Exhibit 16

The City Arborist Program

Tree Preservation and Replenishment

Exhibit 17

The City Arborist Program

Tree Preservation and Replenishment

Exhibit 18

CITY ARBORIST TREE EVALUATION

Property address: __504 East 8th Street Austin, TX_____
Date: __10/13/2015_____
Evaluator: _____Keith W. Mars_____
SIGNATURE: _____
ISA/ASCA Certification #: __TX-3677AM_____

1. TREE CHARACTERISTICS

DBH of each trunk: __30.25_____ **Common & Latin name:** __Live Oak (*Quercus fusiformis*)_____
Location: Private / Public **Estimated height & canopy spread (ft):** 52' / 42'
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 **Epicormics:** Y / N
Foliage density: normal / sparse **Leaf size:** normal / abnormal
Annual shoot growth: _____inches **Twig dieback:** Y / N
Callus development: Y / N **If so, is callusing:** excellent / average / fair / poor
Vigor class: excellent / average / fair / poor
Major pests/diseases: _____

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

Exhibit 18

Other: _____

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

DEFECT TYPE	DEFECT AREA	DEFECT SEVERITY	NOTES
Poor taper			
Codominants/forks			
Multiple attachments			
Included bark			
Excessive end weight			
Cracks/splits			
Hangers			
Girdling			
Wounds	S, B	M	
Decay	R, L, S, B	S	
Cavity	R	L/M	
Conks/Mushrooms	B	L	
Bleeding			
Loose/cracked bark			
Nesting hole/bee hive			
Deadwood/stubs	S, B	M	canopy retrenchment
Borers/termites/ants	T	L	potential borer activity
Cankers/galls			
Previous failure	S, B	M	

LEGEND

AREA
T – Trunk(s)
R – Root Flare
L – Lateral Roots
S – Scaffolds
B – Branches

SEVERITY
S – Severe
M – Moderate
L – Low

7. OTHER FEATURES

Lean: 5 degrees from vertical natural or unnatural **Soil heaving:** (Y) / N
Decay in plane of lean: Y / N **Roots exposed:** (Y) / N **Soil cracking:** Y / (N)
Lean severity: S / M / L **Compounding factors:** _____
Suspect root rot: (Y) / N **Mushroom/conk present:** Y / (N) ID: _____
Exposed roots: S / M / L **Undermined:** S / M / L
Root pruned: 3 feet from trunk **Root area affected:** 95 % **Buttress wounded:** (Y) / N
Restricted root area: S / M / L **Potential for root failure:** S / M / L

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:** _____

7. COMMENTS OR OTHER RISK FACTORS

_____

Exhibit 10

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.

Exhibit 19

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 trees due to biological and 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 biological and structural condition of the trees do 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.

*This document was created by the City Arborist to assist in determining whether a tree proposed for removal prevents a reasonable use of the property. This is not an official or legally binding document, and the considerations used by the City Arborist are subject to change.

Exhibit 19

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

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

Conclusion: The trees prevent reasonable use of the property due to: (1) the condition of the trees do not warrant preservation and (2) the intended 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.

*This document was created by the City Arborist to assist in determining whether a tree proposed for removal prevents a reasonable use of the property. This is not an official or legally binding document, and the considerations used by the City Arborist are subject to change.

Memo

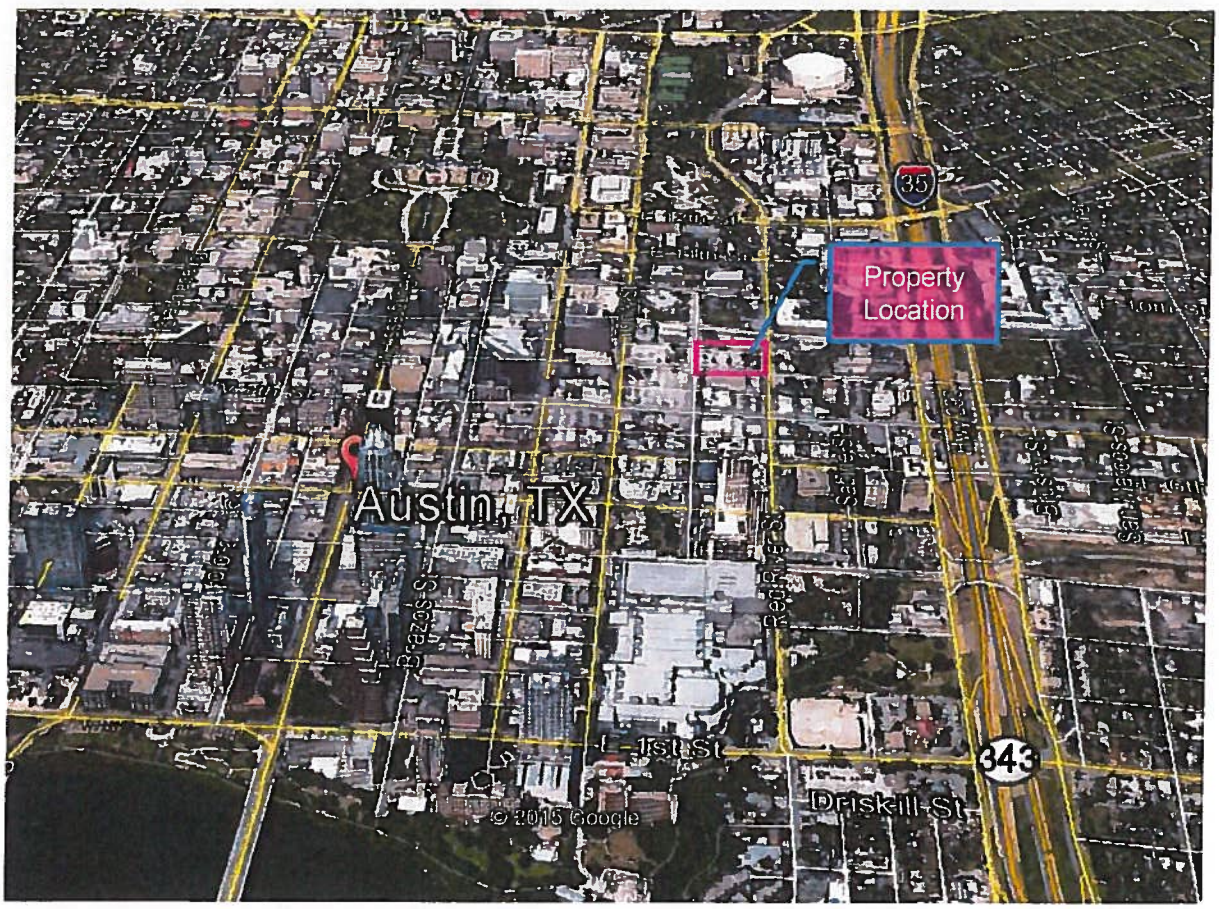
To: Mary Gay Maxwell, PhD – Chair, City of Austin Environmental Commission, and Honorable Environmental Commissioners

From: Barton Creek Capital, LLC

Date: October 10, 2015

Re: Land Use Commission Variance Request

SITE: The site is located on the northeast corner of Neches Street and 8th Street in downtown Austin, Texas. The site is alternately addressed to be 504 E. 8th Street or 508 E. 8th Street in Austin, TX 78701.

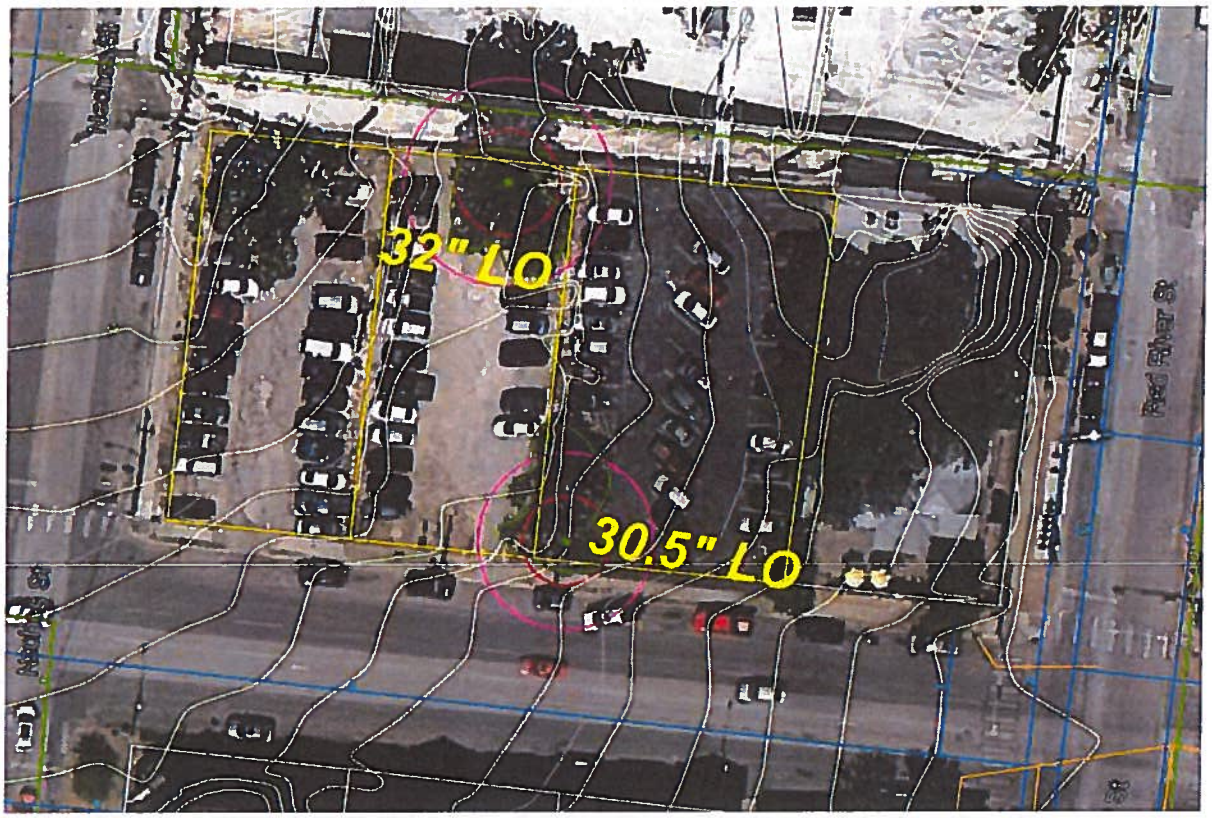


SITE CONDITIONS: Currently, the entire site is being operated as a surface parking lot. The site consists of gravel, asphalt, and concrete, and has > 95% impervious cover.

There are currently two (2) Live Oak (LO) heritage trees on the site (Exhibit A) – both in poor health – that are being requested for removal:

- A 32" LO in the center of the North side of the property abutting the alley; and
- A 30.5" Live Oak in the center of the South side of the property, directly adjacent to 8th Street.

One other tree in ill health has been requested for removal by an administrative process.



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:

- Court Building Corridor
- Longhorn Shores Corridor
- Waller Creek Plaza Corridor

The adjacent property east of this property has an estimated 40"+ Live Oak tree on site, with both the root zone and canopy extending onto this site. Adequate protection of this 40"+ tree could potentially further limit the area to be developed on this site (Exhibit D).

Given the small size of the site and other constraints, without a variance to remove the two trees referenced above, reasonable development on this site is highly limited and becomes impractical due to the presence of capital view corridors and 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 the 40"+ Live Oak on the adjacent property to the east, and is reflected in the preliminary floor plan presented in EXHIBIT D.

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

The first of the two remaining trees – the 32" 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 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.

The second of the two remaining trees – the 30.5" Live Oak depicted in Exhibit A and described in detail (with photographs) in Appendix F – is being requested for removal based on tree health issues, pedestrian safety issues, and site constraints.

This tree was also recently evaluated by Pat Wentworth with Austin Tree Specialists. He has been monitoring the tree for over 4½ years and has observed it steadily declining due to its location and trauma to the root system. It is Mr. Wentworth's opinion that this tree is hazardous given its proximity to the public and heavily trafficked areas, and should be removed.

LAND DEVELOPMENT CODE § 25-8-643 – LAND USE COMMISSION VARIANCE - *Full tree assessment reports provided as Exhibits E and F 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 (32" Live Oak): 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.**
>
> **RESPONSE (30.5" Live Oak): Same as above.**

(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 (32" Live Oak): 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).**
>
> **RESPONSE (30.5" Live Oak): Same as above.**

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 (32" Live Oak): 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.

  RESPONSE (30.5" Live Oak): Same as above.

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

  RESPONSE (32" Live Oak): 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.

  RESPONSE (30.5" Live Oak): The lean on this tree has increased from less than 10° to more than 20° in the past year, very likely from the root system being significantly compromised. Given the proximity to sidewalks, off-street parking areas, on-street parking areas, and traffic on 8th Street, this tree is becoming more hazardous and needs to be removed.

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

  RESPONSE (32" Live Oak): 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.

RESPONSE (30.5" Live Oak): Branch tips can be seen to be dead or dying in full sun (in a year with abundant rainfall), which is a likely indication of roots breaking or being significantly damaged below grade from a change in position. A water line has been installed below grade on the west side of the trunk within approximately 2 feet of the tree, and the curb to the west of the tree has shown cracks and changed in elevation over the years – both showing movement of the root system.

EXHIBIT B

SITE SURVEY

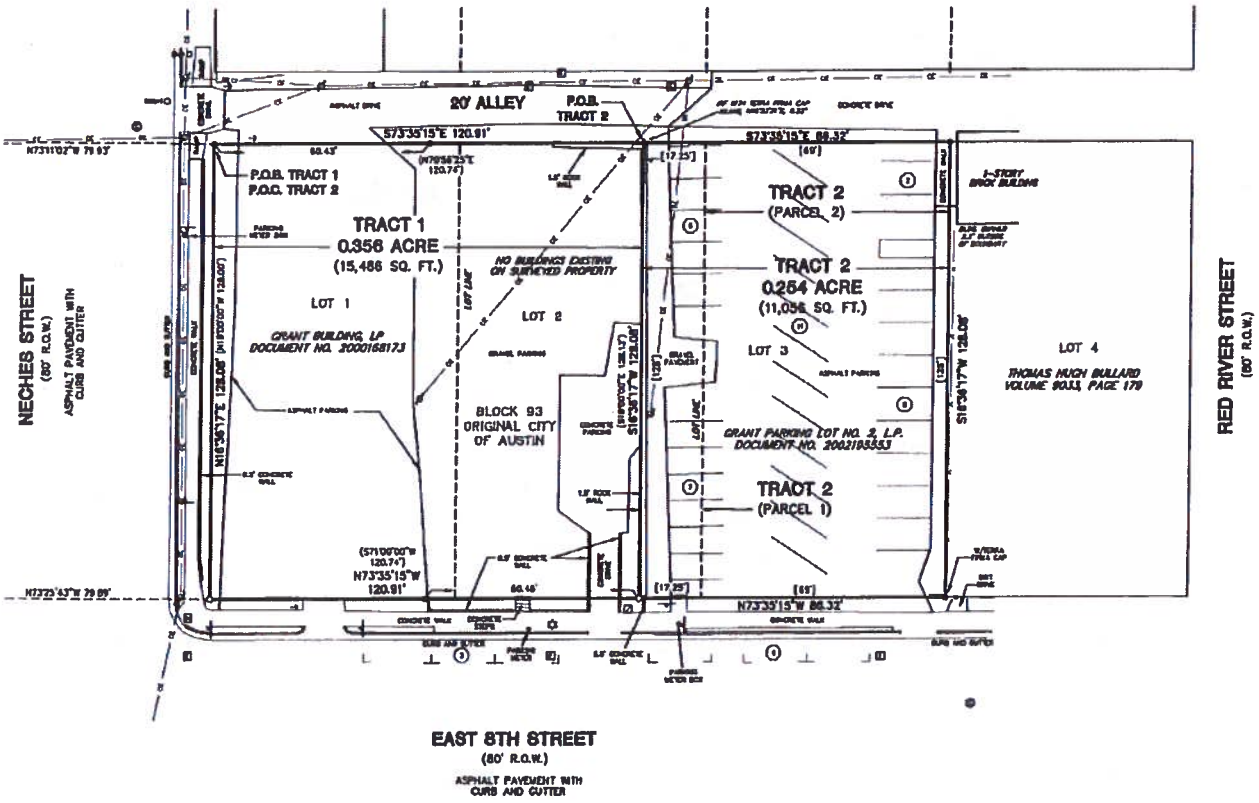


EXHIBIT C

CAPITOL VIEW CORRIDORS IMPACTING THE SITE

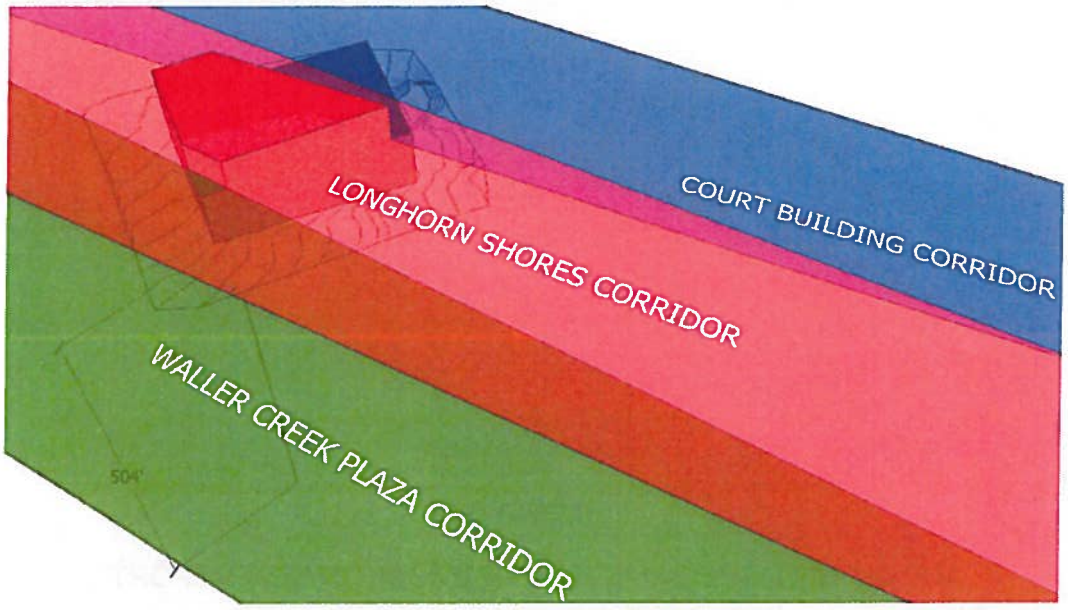


EXHIBIT D

PRELIMINARY FLOOR PLAN

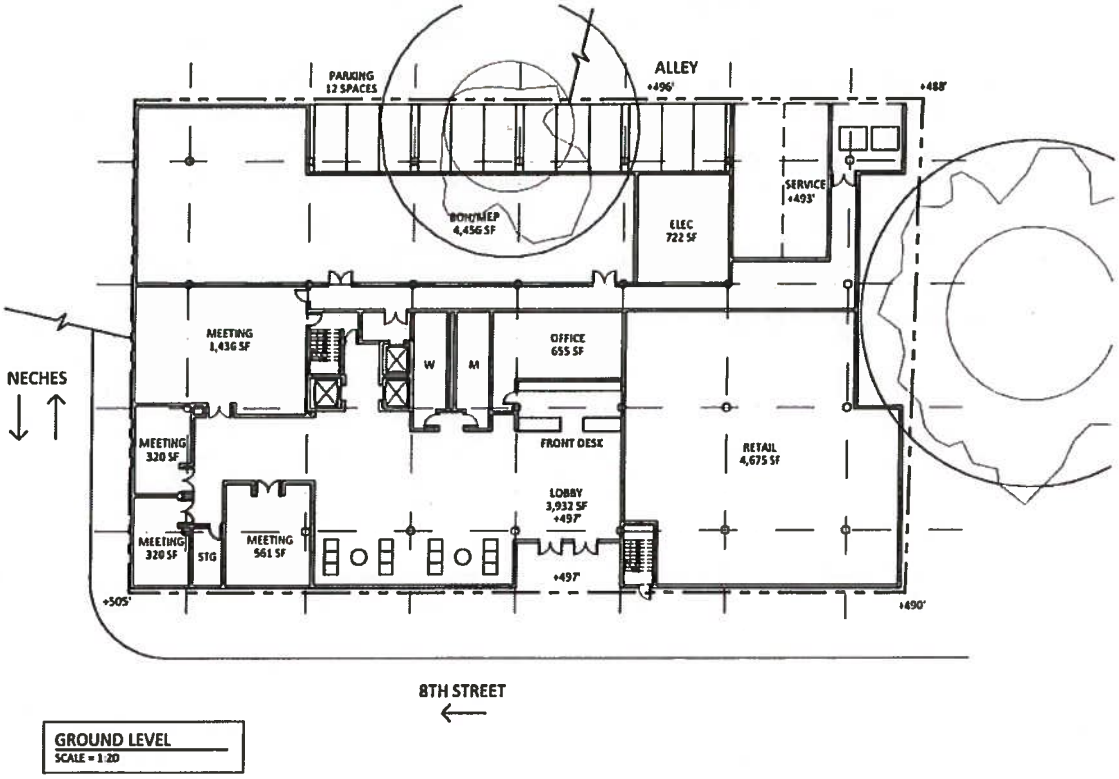


EXHIBIT E

AUSTIN TREE SPECIALISTS – TREE ASSESSMENT REPORT

P.O. Box 50061
Austin, Texas 78763

(512) 291-8844
fax (512) 291-8555
www.austintreespecialists.com

September 10, 2015

Keith Buchanan
Barton Creek Capital
515 Congress Ave., Suite 1515
Austin, Texas78701

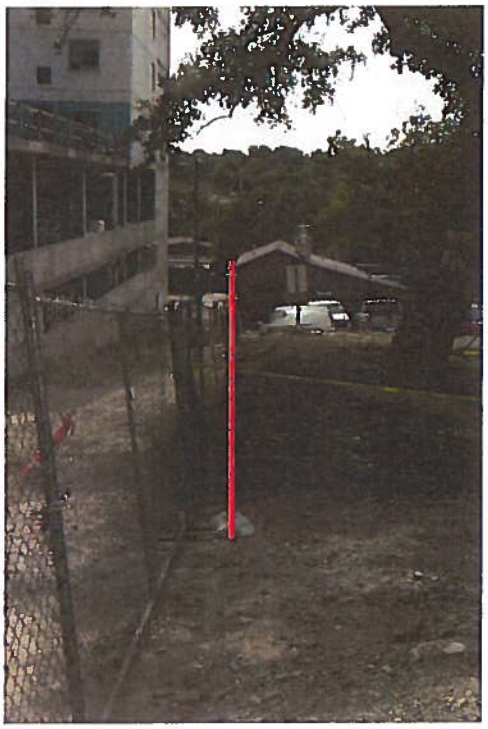
RE: 32-inch live oak at 504 East 8th Street

Dear Sir;

After exploring the condition of the 32-inch live oak at the above address, I found the following concerns.

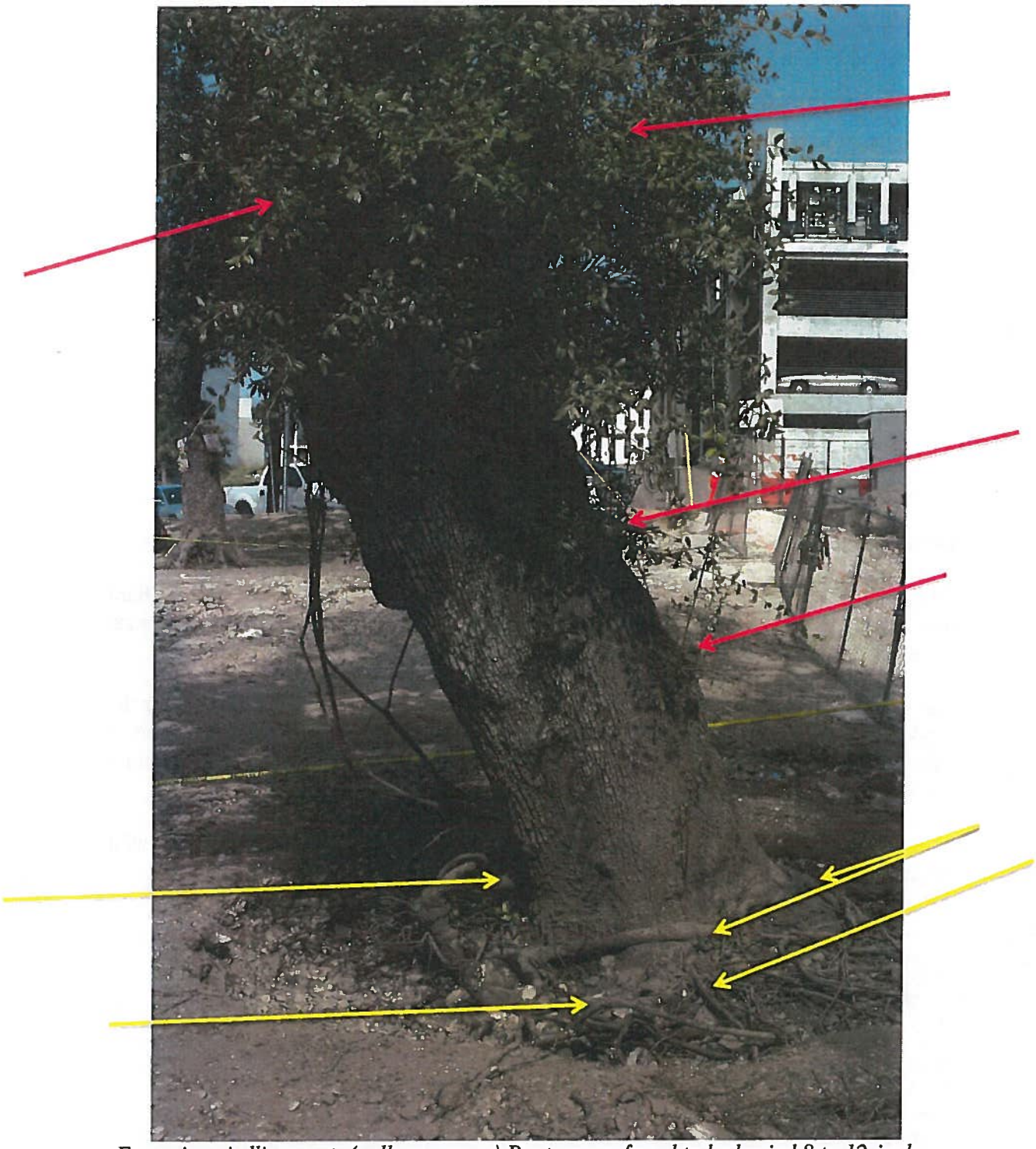
Observations

The tree has a 25 to 30° lean out of plumb



All of the roots on the north side have been cut with several roots well in excess of 2-inches in diameter exposed on the north side of the tree showing signs of decay. View from west side.

View from east side – note excessive girdling roots.



Excessive girdling roots (yellow arrows) Root crown found to be buried 8 to 12-inches below grade with fill consisting of rubble, bricks, excessive soil and asphalt. Also note excessive epicormic sprouting on trunk (red arrows).

Close up of girdling roots

Discussion

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

The most concerning situation perhaps is the lean of 25° to 30° to the south 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 to be worked out by the City and staff.

Sincerely;

Patrick Wentworth
ISA Certified Arborist #TX-0119
American Society of Consulting Arborists
Texas Oak Wilt Certification #TOWC-0001
TDA License #0525651
ISA Texas Chapter's Texas Arborist of the Year 1999
ISA Texas Chapter's Texas Arborist of the Year 2002
Austin Arborist of the Year 2004, Austin Chronicle's Readers' Poll

ROW I.D. _____

Mapsco Pg# _____

Tree Ordinance Review Application

Planning and Development Review Department
One Texas Center, 505 Barton Springs Road, 4th floor, Austin, TX 78704
Phone: (512) 974-1876 Fax: (512) 974-3010
Email: Michael.Embesi@ci.austin.tx.us Website: www.ci.austin.tx.us/trees

Application request* (specify all that apply):

- ☑ Tree removal
- ☐ Development exceeding allowable standards for encroachment in the tree's critical root zone;
- ☐ Removal of more than 30% of a tree's crown.

* Refer to Land Development Code 25-8 (B)(1) and Environmental Criteria Manual (Section 3, App. F). Applicant understands that all impacts may threaten the health of the tree and that approval of this application does not guarantee favorable tree results.

Address and zip code of property: 504 East 8th Street, Austin, 78701

Name of owner or authorized agent: Pat Wentworth / Keith Buchanan

Building permit number (if applicable): _____

Telephone #: 512 474-4000 Fax #: 512-656-8522 E-mail: kbuchanan@bartoncreekcap.com

Tree Species: live oak Tree location on lot: Rear center near alley

Trunk size (in inches) at 4 ½ feet above ground: circumference (around) 100.5" or diameter (across) 32"

General tree condition: ☐ Good / ☐ Fair / ☑ Poor / ☐ Dead

Reason for request: Removal as potential hazard tree

Patrick D Wentworth — Digitally signed by Patrick D Wentworth DN: cn=Patrick D Wentworth, o=Austin Tree Specialists, ou, email=pat-ats@texas.net, c=US Date: 2015.09.15 09:59:01 -05'00' — 9/15/2015

Owner/ Authorized Agent Signature Date

- Proposed development projects should include an aerial drawing that includes the location of the tree and planned improvements (e.g. structure, driveway, utility and irrigation lines).
- This application is reviewed for tree impacts only; not for zoning or other applicable regulations. Payment ($25 check to the City of Austin) must be made prior to City personnel completing this application. No fee is required for dead or diseased trees.

Application Determination – To be completed by City Arborist Program Personnel

☐ Approved ☐ *Approved With Conditions ☐ Denied ☐ Statutory Denial (more information required)

Comments_____

☐ Heritage Tree(s) ☐ A heritage tree variance is required: ☐ Administrative / ☐ Land Use Commission

Conditions of Approval: ☐ None *or* ☐ As described within Arborist Comments (see above); and

☐ Applicant agrees to plant ____ caliper inches of container grown City of Austin Appendix F trees on the lot prior to obtaining a final inspection (if applicable). Trees are to have a minimum 2-inch trunk diameter. Examples include Oaks, Cedar Elm, Bald Cypress, Desert Willow, Mountain Laurel, Texas Persimmon, Mexican Plum, etc.

☐ Prior to development, applicant agrees to supply a root zone mulch layer and maintain tree protection fencing (chain-link, five-foot in height) throughout the project duration. (ECM 3.5.2)

☐ Provide a receipt for remedial tree care and / or any required pruning as performed by a certified arborist.

☐ No impacts are permitted within the tree ½ Critical Root Zone (ECM 3.5.2), including trenching for utilities.

Applicant Signature _____ Date _____ City Arborist Signature _____ Date _____

Post this document on site while any proposed work is in progress.
Conditions for approval of this application must be met within 1 year of the effective date.

TREE RISK EVALUATION FORM

(EXAMPLE)

Property address: 504 EAST 8th ST. **Date:** 9/10/15

Property owner: PLATINUM PARKING **Evaluator:** PATRICK WENTWORTH

SIGNATURE: [signature]

ISA/ASCA Certification #: TX-0119

1. TREE CHARACTERISTICS

DBH of each trunk: 32" **Common & Latin name:** LIVE OAK Quercus fusiformis

Location: Private / Public **Estimated height & canopy spread (ft):** 30' – 25'

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 **Epicormics:** Y / N

Foliage density: normal / sparse **Leaf size:** normal / abnormal

Annual shoot growth: <2 inches **Twig dieback:** Y / N

Callus development: Y / N **If so, is callusing:** excellent / average / fair / poor

Vigor class: excellent / average / fair / poor

Major pests/diseases: _____

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 – NO LANDSCAPE

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

DEFECT TYPE	DEFECT AREA	DEFECT SEVERITY	NOTES
Poor taper			
Codominants/forks			
Multiple attachments			
Included bark			
Excessive end weight			
Cracks/splits			
Hangers			
Girdling	L, R	M	
Wounds			
Decay	L; R	S/M	
Cavity			
Conks/Mushrooms			
Bleeding			
Loose/cracked bark			
Nesting hole/bee hive			
Deadwood/stubs			
Borers/termites/ants			
Cankers/galls			
Previous failure			

LEGEND

AREA
T – Trunk(s)
R – Root Flare
L – Lateral Roots
S – Scaffolds
B – Branches

SEVERITY
S – Severe
M – Moderate
L – Low

7. OTHER FEATURES

Lean: 30 degrees from vertical natural or unnatural **Soil heaving:** Y / N
Decay in plane of lean: Y / N **Roots exposed:** Y / N **Soil cracking:** Y / N
Lean severity: S / M / L **Compounding factors:** 100% COMPACTED RAISED GRADE
Suspect root rot: Y / N **Mushroom/conk present:** Y / N ID: _____
Exposed roots: S / M / L **Undermined:** S / M / L
Root pruned: 6 feet from trunk **Root area affected:** >35 % **Buttress wounded:** Y / N
Restricted root area S / M / L **Potential for root failure:** S / M / L

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

RISK ABATEMENT

Action: prune / remove / other **Comments:** EXCESSIVE EPICORMIC SPROUTS SUGGEST EXTREME STRESS. GIRDLING ROOTS. 8-14 INCHES OF COMPACTED FILL SOIL W/ 100% IMPERVIOUS COVER

7. COMMENTS OR OTHER RISK FACTORS

ROOTS SEVERED ON NORTH SIDE OPPOSITE THE LEAN W/ DECAY PRESENT IN EXPOSED ROOTS 2 to 4 INCHES IN DIAMETER

8. TREE RISK (SEE THE ADDITIONAL RISK ASSESSMENT GUIDELINES)

RATING: **Risk rating** (circle one):
Failure potential: 1 2 3 4 **Size of Part:** 1 2 3 **Target:** 1 2 3 **Other Risk Factors:** 0 1 2
Risk rating: ***Low:*** 3 4 ***Moderate:*** 5 6 ***High:*** 7 8 9 ***Extremely high:*** 10 11 12

EXHIBIT F

AUSTIN TREE SPECIALISTS – TREE ASSESSMENT REPORT

AUSTIN TREE SPECIALISTS

P.O. Box 50061
Austin, Texas 78763

(512) 291-8844
fax (512) 291-8555

August 20, 2015

Keith Buchanan
Barton Creek Capital
515 Congress Ave, Suite 1515
Austin, Texas 78701

Re: 30.5" live oak

Dear Sir;

After looking over the condition of the live oak at 504 East 8th Street (near the Eighth Street side) it is recommended that the tree be removed.

30.5" Live oak with 20° lean to the east

Arrows indicate dead branches in full sunlight indicating root damage

Curbing cracked and lifted on the west side of tree opposite the lean

I have been following the decline of this tree for the last 5+ years. This year, for the first time, it is beginning to show the definitive signs of moving to the east. The lean has increased by 5 to 7 degrees. The curbing on the west side of the tree has lifted as has the paved driveway entrance indicating soil heaving. Branch tips dying in full sunlight indicate root damage.

The likelihood of this tree failing is great. Removal is recommended.

Sincerely;

Patrick Wentworth
ISA Certified Arborist #TX-0119
American Society of Consulting Arborists
Texas Oak Wilt Certification #TOWC-0001
TDA License #0525651
ISA Texas Chapter's Texas Arborist of the Year 1999
ISA Texas Chapter's Texas Arborist of the Year 2002
Austin Arborist of the Year 2004, Austin Chronicle's Readers' Poll
ISA True Professional Award 2010

ROW I.D. _____

Mapsco Pg# _____

Tree Ordinance Review Application

Planning and Development Review Department
One Texas Center, 505 Barton Springs Road, 4th floor, Austin, TX 78704
Phone: (512) 974-1876 Fax: (512) 974-3010
Email: Michael.Embesi@ci.austin.tx.us Website: www.ci.austin.tx.us/trees

Application request* (specify all that apply):

- ☑ Tree removal
- ☐ Development exceeding allowable standards for encroachment in the tree's critical root zone;
- ☐ Removal of more than 30% of a tree's crown.

* Refer to Land Development Code 25-8 (B)(1) and Environmental Criteria Manual (Section 3, App. F). Applicant understands that all impacts may threaten the health of the tree and that approval of this application does not guarantee favorable tree results.

Address and zip code of property: 504 East 8th Street

Name of owner or authorized agent: Pat Wentworth/ Keith Buchanan

Building permit number (if applicable): _____

Telephone #: 6512-291-8844 Fax #: _____ E-mail: pat-ats@texas.net

Tree Species: live oak Tree location on lot: South center near 8th street

Trunk size (in inches) at 4 ½ feet above ground: circumference (around) 95.75" or diameter (across) 30.5"

General tree condition: ☐ Good / ☐ Fair / ☑ Poor / ☐ Dead

Reason for request: Tree falling over, pavement and curbing lifting, branch tips indicate root damage

Patrick D Wentworth — Digitally signed by Patrick D Wentworth DN: cn=Patrick D Wentworth, o=Austin Tree Specialists, ou, email=pat-ats@texas.net, c=US Date: 2015.08.21 15:01:27 -05'00' — 8/20/2015

Owner/ Authorized Agent Signature Date

- Proposed development projects should include an aerial drawing that includes the location of the tree and planned improvements (e.g. structure, driveway, utility and irrigation lines).
- This application is reviewed for tree impacts only; not for zoning or other applicable regulations. Payment (**$25** check to the City of Austin) must be made prior to City personnel completing this application. No fee is required for dead or diseased trees.

Application Determination – To be completed by City Arborist Program Personnel

☐ Approved ☐ *Approved With Conditions ☐ Denied ☐ Statutory Denial (more information required)

Comments_____

☐ Heritage Tree(s) ☐ A heritage tree variance is required: ☐ Administrative / ☐ Land Use Commission

Conditions of Approval: ☐ None *or* ☐ As described within Arborist Comments (see above); and

☐ Applicant agrees to plant ____ caliper inches of container grown City of Austin Appendix F trees on the lot prior to obtaining a final inspection (if applicable). Trees are to have a minimum 2-inch trunk diameter. Examples include Oaks, Cedar Elm, Bald Cypress, Desert Willow, Mountain Laurel, Texas Persimmon, Mexican Plum, etc.

☐ Prior to development, applicant agrees to supply a root zone mulch layer and maintain tree protection fencing (chain-link, five-foot in height) throughout the project duration. (ECM 3.5.2)

☐ Provide a receipt for remedial tree care and / or any required pruning as performed by a certified arborist.

☐ No impacts are permitted within the tree ½ Critical Root Zone (ECM 3.5.2), including trenching for utilities.

Applicant Signature _____ Date _____ City Arborist Signature _____ Date _____

Post this document on site while any proposed work is in progress.
Conditions for approval of this application must be met within 1 year of the effective date.

TREE RISK EVALUATION FORM

(EXAMPLE)

Property address: 504 EAST 8th ST. **Date:** 8/20/15

Property owner: PLATINUM PARKING **Evaluator:** PATRICK WENTWORTH

SIGNATURE: [signature]

ISA/ASCA Certification #: TX-0119

1. TREE CHARACTERISTICS

DBH of each trunk: 30.5 **Common & Latin name:** LIVE OAK Quercus fusiformis

Location: Private / Public **Estimated height & canopy spread (ft):** 32-25

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 **Epicormics:** Y / N

Foliage density: normal / sparse **Leaf size:** normal / abnormal

Annual shoot growth: 0 inches **Twig dieback:** Y / N

Callus development: Y / N **If so, is callusing:** excellent / average / fair / poor

Vigor class: excellent / average / fair / poor

Major pests/diseases: _____

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 TREE

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

DEFECT TYPE	DEFECT AREA	DEFECT SEVERITY	NOTES
Poor taper			
Codominants/forks			
Multiple attachments			
Included bark			
Excessive end weight			
Cracks/splits			
Hangers			
Girdling			
Wounds			
Decay	R/L	M/S	
Cavity			
Conks/Mushrooms			
Bleeding			
Loose/cracked bark			
Nesting hole/bee hive			
Deadwood/stubs			
Borers/termites/ants			
Cankers/galls			
Previous failure			

LEGEND

AREA
T – Trunk(s)
R – Root Flare
L – Lateral Roots
S – Scaffolds
B – Branches

SEVERITY
S – Severe
M – Moderate
L – Low

7. OTHER FEATURES

Lean: 20+ degrees from vertical natural or unnatural **Soil heaving:** Y / N
Decay in plane of lean: Y / N **Roots exposed:** Y / N **Soil cracking:** Y / N
Lean severity: S / M / L **Compounding factors:** UTILITY CUT ON WEST SIDE
Suspect root rot: Y / N **Mushroom/conk present:** Y / N ID: _____
Exposed roots: S / M / L **Undermined:** S / M / L
Root pruned: 2 feet from trunk **Root area affected:** >50 % **Buttress wounded:** Y / N
Restricted root area: S / M / L **Potential for root failure:** S / M / L

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

RISK ABATEMENT

Action: prune / remove / other **Comments:** I HAVE OBSERVED THIS TREE FOR THE LAST 5 YRS. LEAN TO THE EAST IS INCREASING CONCRETE PAVING & CURB NOW CRACKED

7. COMMENTS OR OTHER RISK FACTORS

SOIL HEAVING ON WEST SIDE OPPOSITE THE LEAN

8. TREE RISK (SEE THE ADDITIONAL RISK ASSESSMENT GUIDELINES)

RATING: **Risk rating** (circle one):
Failure potential: 1 2 3 4 **Size of Part:** 1 2 3 **Target:** 1 2 3 **Other Risk Factors:** 0 1 2
Risk rating: ***Low:*** **3 4** ***Moderate:*** **5 6** ***High:*** **7 8 9** ***Extremely high:*** **10 11 12**