



ITEM FOR ENVIRONMENTAL COMMISSION AGENDA

COMMISSION MEETING DATE: April 17, 2019

NAME & NUMBER OF PROJECT: Villas on Rio Grande
SP-2018-0362C.SH

NAME OF APPLICANT OR ORGANIZATION: Jason Rogers
Garrett-Ihnen Civil Engineering

LOCATION: 2111 Rio Grande Street

COUNCIL DISTRICT: District 9

CITY ARBORIST REVIEW STAFF: Jim Dymkowski, Environmental Program Coordinator, DSD,
512-974-2772, jim.dymkowski@austintexas.gov

WATERSHED: Shoal Creek Watershed, Urban Classification, Desired Development Zone

REQUEST: Variance request under 25-8-643 - Land Use Commission Variance is as follows:

Request to vary from 25-8-641 to allow the removal of two heritage trees, each with a single-stem greater than 30" in diameter.

STAFF RECOMMENDATION: Tree #19730 (34 inch Pecan): The request meets the City Arborist approval criteria set forth in LDC 25-8-624(A)(2), thus the variance is recommended.

Tree #19726 (37 inch Pecan): The request does not meet the City Arborist approval criteria set forth in LDC 25-8-624(A)(2), thus the variance is not recommended.



DEVELOPMENT SERVICES DEPARTMENT
City Arborist Recommendations Concerning
Required Findings

Project Name: **Villas on Rio Grande - SP-2018-0362C.SH**
Ordinance Standard: **Heritage Tree Ordinance**
Variance Request: To allow to allow the removal of Tree #19730 (34 inch Pecan), with a single-stem greater than 30" in diameter. 25-8-641

The Land Use Commission may grant a variance from Section 25-8-641 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):

City Arborist Recommendation per 25-8-624(A)

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

(1) prevents reasonable access to the property;

No. The tree does not prevent reasonable access to the property.

(2) prevents a reasonable use of the property;

Yes. It is not reasonable to incorporate this tree into the design. This tree is in poor structural condition and that condition is not recoverable. Given the tree's condition and the proposed use of the project, it is not reasonable to incorporate this tree into the design.

(3) is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree;

No. This tree is not an active hazard, but it is structurally compromised and that structure cannot be corrected. More details on the tree's overall condition can be found in the Arborist Tree Evaluations provided by the applicant.

(4) is dead;

No. The tree is not dead.

(5) is diseased, and:

(a) restoration to sound condition is not practicable; or

Yes. The tree does exhibit the presence of decay that due to its location in the tree at a main branch trunk union restoration to sound condition is not practical.

(b) the disease may be transmitted to other trees and endanger their health; or

Not applicable.

(6) for a tree located on public property or a public street or easement:

(a) prevents the opening of necessary vehicular traffic lanes in a street or alley; or

(b) prevents the construction of utility or drainage facilities that may not feasibly be rerouted.

Not applicable. These criteria are not applicable as the tree is located on private property.

Land Use Commission Findings with Staff Opinion

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*), 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

This is a finding for the Land Use Commission. Staff's opinion is that given the location of the tree there are no variances, waivers, etc. that would eliminate the need to remove the tree. Further, given the tree's structural condition staff does not recommend preservation.

- (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.

This is a finding for the Land Use Commission. Staff's opinion is that removal is not caused by the method chosen by the applicant. Further, the relocation of a non-protected Red oak provides greater ecological services as the subject tree is structurally compromised.

Staff Recommendation: The City Arborist recommends removal of this trees due to long-term structural health concerns and its location within the overall project prevents a reasonable use of the property.

Staff Recommended Conditions:

1. The Environmental Criteria Manual prescribes 300% mitigation. Due to the tree condition it is standard practice per the Environmental Criteria Manual to reduce the mitigation. Consequently, the suggested mitigation rates is 150%. That would equate to 51 inches of mitigation.
2. Project agrees to relocate Tree 19721 a non-protected size 16.5 inch Red oak.



DEVELOPMENT SERVICES DEPARTMENT
City Arborist Recommendations Concerning Required
Findings

Project Name: **Villas on Rio Grande - SP-2018-0362C.SH**
Ordinance Standard: **Heritage Tree Ordinance**
Variance Request: To allow to allow the removal of Tree 19726 (37 inch Pecan), with a single-stem greater than 30" in diameter. 25-8-641

The Land Use Commission may grant a variance from Section 25-8-641 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):

City Arborist Recommendation per 25-8-624(A)

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

(1) prevents reasonable access to the property;

No. The tree does not prevent reasonable access to the property. The project has not had any communication nor provided any additional information to staff during the application process to allow for review of this claim.

(2) prevents a reasonable use of the property;

No. The tree does not prevent reasonable use of the property. The project has not had any communication nor provided any additional information to staff during the application process to allow for review of this claim.

(3) is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree;

No. This tree is not an active hazard.

(4) is dead;

No. The tree is not dead.

(5) is diseased, and:

(a) restoration to sound condition is not practicable; or

Not applicable.

(b) the disease may be transmitted to other trees and endanger their health; or

Not applicable.

(6) for a tree located on public property or a public street or easement:

(a) prevents the opening of necessary vehicular traffic lanes in a street or alley; or

(b) prevents the construction of utility or drainage facilities that may not feasibly be rerouted.

Not applicable. These criteria are not applicable as the tree is located on private property.

Land Use Commission Findings with Staff Opinion

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*), 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

This is a finding for the Land Use Commission. Staff's opinion is that the applicant has not pursued any waivers, variances, etc. that would preserve the tree.

- (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.

This is a finding for the Land Use Commission. Staff's opinion is that design options have not been presented and thus staff cannot determine if removal is based on the method chosen by the applicant.

Staff Recommendation: Staff does not recommend the variance because that the Findings of Fact have been met. Discussions and inspections of this tree by staff and the project's representatives has been ongoing since August of 2018. During this time it has been staff's position that based on the information provided, that the tree did not meet the definition of dead, diseased, or an imminent hazard and would require a commission variance for removal. The applicant contested staff's position and has continued to pursue the removal as dead, diseased, or an imminent hazard. Staff has not been provided with material to review the request as prevention of a reasonable use or access of the property.

Staff Conditions:

No conditions at this time. The City Arborist staff is not recommending this variance.

Community Tree
Reviewer (DSD)

Jim Dymkowski
(*Jim Dymkowski*)

Date 3/28/19

Community Tree
Division Manager
(DSD)

Keith Mars
(*Keith Mars*)

Date 3/28/19

Heritage Tree Ordinance as requested.

Division 3. - Heritage Trees.

§ 25-8-641 - REMOVAL PROHIBITED.

- (A) Removal of a heritage tree is prohibited unless the Planning and Development Review Department has issued a permit for the removal under this division.
- (B) A permit to remove a heritage tree may be issued only if a variance is approved under Section 25-8-642 (*Administrative Variance*) or 25-8-643 (*Land Use Commission Variance*).
- (C) The requirements in this division apply to trees on private and public property. To the extent of conflict with another section of the Code, this division applies.
- (D) A person may, without a variance, remove a damaged heritage tree that is an imminent hazard to life or property if the tree is removed within seven days of being damaged. The director may extend this deadline for widespread and extensive storm damage.

Source: Ord. 20100204-038.

§ 25-8-642 - ADMINISTRATIVE VARIANCE.

- (A) The director of the Planning and Development Review Department may grant a variance from Section 25-8-641 (*Removal Prohibited*) to allow removal of a heritage tree only after determining, based on the city arborist's recommendation, that the heritage tree:
 - (1) is dead;
 - (2) is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree; or
 - (3) is diseased and:
 - (a) restoration to sound condition is not practicable; or
 - (b) the disease may be transmitted to other trees and endanger their health.
- (B) No application fee and no mitigation are required for a variance request under subsection (A).
- (C) The director of the Planning and Development Review Department may grant a variance from Section 25-8-641 (*Removal Prohibited*) to allow removal of a heritage tree that does not have at least one stem that is 30 inches in diameter or larger 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*) 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 Prerequisite*); and

- (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.
- (D) A variance granted under this section:
 - (1) shall be the minimum change necessary;
 - (2) shall require mitigation as a condition of variance approval for variances requested under Subsection (C) of this section; and
 - (3) may not be issued until the applicant has satisfied the mitigation conditions required under this Subsection (D)(2) or posted fiscal security adequate to ensure performance of the mitigation conditions not later than one year after issuance of the variance.
- (E) The director of the Planning and Development Review Department shall prepare written findings to support the grant or denial of a variance request under Subsection (C) of this Section.

Source: Ord. 20100204-038.

§ 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*), 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
 - (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.
- (B) A variance granted under this section:
 - (1) shall be the minimum change necessary;
 - (2) shall require mitigation as a condition of variance approval; and
 - (3) may not be issued until the applicant has satisfied the mitigation conditions required under this Subsection (B)(2) or posted fiscal security adequate to ensure performance of the mitigation conditions not later than one year after issuance of the variance.
- (C) Consideration of a variance under this section requires review by the Environmental Commission.

Source: Ord. 20100204-038; [Ord. No. 20141211-204, Pt. 24, 7-1-15](#); [Ord. No. 20170615-102](#), Pt. 28, 6-15-17.

§ 25-8-644 - APPEAL.

- (A) An applicant may appeal denial of an administrative variance under Section 25-8-642 to the Land Use Commission.
- (B) An appeal under this section requires review by the Environmental Commission.

Source: Ord. 20100204-038; [Ord. No. 20141211-204, Pt. 24, 7-1-15](#); [Ord. No. 20170615-102](#), Pt. 29, 6-15-17.

§ 25-8-645 - APPLICATION FOR VARIANCE.

- (A) For a heritage tree located on public property or a public street or easement, an application requesting a variance to allow removal of the heritage tree may be filed by:
 - (1) a City department, public utility, or political subdivision with the authority to install utility lines or other public facilities in or above the property, street, or easement; or
 - (2) the owner of property adjoining the site of the tree.
- (B) For a heritage tree located on private property, an application requesting a variance to allow removal of the heritage tree may be filed by:
 - (1) the owner of the property on which the tree is located; or
 - (2) the city arborist, if the tree is seriously diseased or is a safety hazard.
- (C) An application requesting a variance to allow removal of a heritage tree must:
 - (1) be filed with the director of the Planning and Development Review Department; and
 - (2) include the fee prescribed by ordinance; and
 - (3) include the information prescribed by the Administrative Criteria Manual.
- (D) The application fee is not required if the application is based solely on the criteria in Subsections 25-8-624(A)(3), (4) or (5).

Source: Ord. 20100204-038.

§ 25-8-646 - VARIANCE PREREQUISITE.

- (A) If a variance, waiver, exemption, modification, or alternative compliance from another City Code provision would eliminate the need for a variance from Section 25-8-641 (*Removal Prohibited*), before requesting a variance to allow removal of a heritage tree on private property the applicant must:
 - (1) request a variance, waiver, exemption, modification or alternative compliance from the Code provisions that would eliminate the need to remove the heritage tree; and
 - (2) obtain a grant or denial of the variance, waiver, exemption, modification or alternative compliance that would eliminate the need to remove the heritage tree.

- (B) The request for a variance to allow removal of a heritage tree may not be considered unless the variance, waiver, exemption, modification or alternative compliance from other City Code provisions is denied.
- (C) The application fee for a variance from another City Code provision required under this section is waived.
- (D) This section does not apply to an application for a variance to remove a heritage tree based on the criteria in Subsections 25-8-624(A)(3), (4) or (5).
- (E) The body considering the variance, waiver, exemption, modification, or alternative compliance will consider the benefit of preserving the heritage tree in determining whether to grant or deny the request for a variance, waiver, exemption, modification or alternative compliance from another City Code provision.
- (F) This subsection does not require an applicant to request a variance, waiver, exemption, modification, or alternative compliance if the director determines that to do so would endanger the public health and safety.

Source: Ord. 20100204-038.

§ 25-8-647 - ACTION ON APPLICATION.

- (A) The director of the Planning and Development Review Department shall take action on a variance request to allow removal of a heritage tree:
 - (1) not later than the 10th working day after the complete application is filed; or
 - (2) if a variance, waiver, exemption, modification, or alternative compliance from another City Code provision is required under Subsection 25-8-646 (*Variance Prerequisite*), not later than the 10th working day after the request is denied.
- (B) If the application is based on a damaged heritage tree constituting an immediate hazard to life or property, the application shall be approved or denied within 24 hours and no application fee is required.
- (C) An application to remove a tree that is not associated with a pending subdivision, site plan, or building permit application submitted to the City is automatically granted if the director does not act on the application before the expiration of the applicable deadline.

Source: Ord. 20100204-038.

§ 25-8-648 - VARIANCE EFFECTIVE DATE AND EXPIRATION.

- (A) Approval of a variance request to allow removal of a heritage tree is effective immediately.
- (B) A variance to allow removal of a heritage tree expires:
 - (1) one year after its effective date, provided that the mitigation conditions in the variance remain in effect until the conditions are met; or
 - (2) for an application that is associated with a pending subdivision, site plan, or building permit submitted to the City, when the development permit expires.

Source: Ord. 20100204-038.

2111 Rio Grande

Applicant's Memorandum and Exhibits

In Support of Heritage Tree Variance

Table of Contents:

Cover Sheet Page 1

Memo describing project and responses to COA code LDC-25-8-643 A& B, 25-8-645 & 25-8-646

Exhibits:

- 1. Neighborhood plan**
- 2. University neighborhood overlay height map**
- 3. Historic Landmark approved plans and City Council ordinance adjusting historic zoning**
- 4. Site plan of project**
- 5. Letter stating owner liability**
- 6. Davey Tree reports #19726 & #19730**
- 7. COA arborist email #19730**
- 8. Davey Tree relocating red oak on site**

Applicant Memo: Project description and response to LDC-25-8-642A, A1 & A2

The subject property is located west of the University of Texas in the City of Austin designated University Neighborhood Overlay District (UNO) and more specifically, in the highest density inner West Campus subdistrict.

The project is located at the southeast corner of 22nd St. and Rio Grande St. It consists of three fully developed legal tracts (611 W. 22nd, 2109 Rio Grande and 2107 Rio Grande). The City has assigned the address of 2111 Rio Grande for the project.

UNO is an integral part of the Central Austin Combined Neighborhood Plan. This city plan was adopted to reduce redevelopment pressure on the more single family residential neighborhood close to the U.T. campus and to redevelop the area west of campus as a high density pedestrian oriented district (see Exhibit 1 NP). Projects in the UNO Inner West Campus have an allowable height of 175 ft. and an impervious cover of 100%. There are additional requirements related to design, streetscape and affordability (see Exhibit #2 UNO map).

This project is unique in that it combines meeting all the UNO requirements with the full restoration of the historic Kenney House at 611 W. 22nd. The restoration of the Kenney House and the modification of the H zoned site area has received approval from the Historic Landmark Commission, Planning Commission and the City Council (see Exhibit #3, City Council ordinance, Historic Landmark Commission plan). The project will convert the restored and modified Kenney House into a coffee shop and office. The balance of the project will be a student housing high rise with a four story below grade parking garage. The student high rise will be located to the south and east of the Kenney House, whose public view from the north and west will be preserved.

UNO requires a License Agreement for the installation of the UNO streetscape along the adjacent public streets. This pedestrian streetscape consists of street trees, pedestrian lighting and street furniture, and must be monitored by the project (see Exhibit #4 Site Plan). The project hired Davey Tree to do a total tree inventory and evaluation. In addition, a complete assessment was done by the City's Tree Department. There are two very old heritage pecan trees that need a variance from the Land Use Commission for removal. The Environmental Commission provides the initial review in that process. Both pecan trees have structural and health issues. Extensive examination has been done by certified arborists. Their reports prompted the owner to seek legal advice because the properties were leased and occupied (see Exhibit #5).

The private arborist reports included tomography of both trees and are attached (see Exhibit #6). Pecan tree #19730 was especially troubling because of its location adjacent to the existing student housing at 2107 Rio Grande. City staff had some initial hesitation about the condition of the tree (see Exhibit #7).

The project contains yard areas along the north and west side of the Kenney House and had always planned to relocate the red oak #19721 to the west side of the Kenney House. Davey Tree has submitted a proposal to do this (see Exhibit #8).

The ultimate decision by the Tree Department was to bring the two pecan trees #19730 and #19726 forward for variance approval by the commission. As demonstrated by the exhibits presented, the preservation of the two old pecans trees prohibits a reasonable use of the property. Due to the below grade parking, reasonable access and utilization of the site is not possible if these two trees remain. The

desire of the applicant is to remove these two pecans and relocate the 16 inch red oak on site, while providing payment of the appropriate fee to the Urban Forest Replenishment Fund.

1

Vision and Goals

Vision

The Central Austin Neighborhood Plan shall preserve the historical character and integrity of single-family neighborhoods. It shall allow multifamily development and redevelopment in appropriate areas to reflect the historical nature and residential character of the neighborhood. The plan will address the needs of a diverse, pedestrian-oriented community and provide safe parks and attractive open spaces. The plan will foster and create compatible density in areas that are appropriate for student housing; new development will be appropriately oriented and scaled relative to its neighborhood in the combined planning area.

Goals

Goal One

Preserve the integrity and character of the single-family neighborhoods.

Goal Two

Preserve the historic character and resources of the Central Austin Combined Neighborhood Planning Area neighborhoods

Goal Three

Allow mixed-use development along the existing commercial corridors that is pedestrian oriented, neighborhood friendly, neighborhood scaled, and serves neighborhood needs.

Goal Four

West Campus should become a dense, vibrant, mixed-use and pedestrian oriented community.

Goal Five

Provide a safe environment and opportunities for all modes of transport.

Goal Six

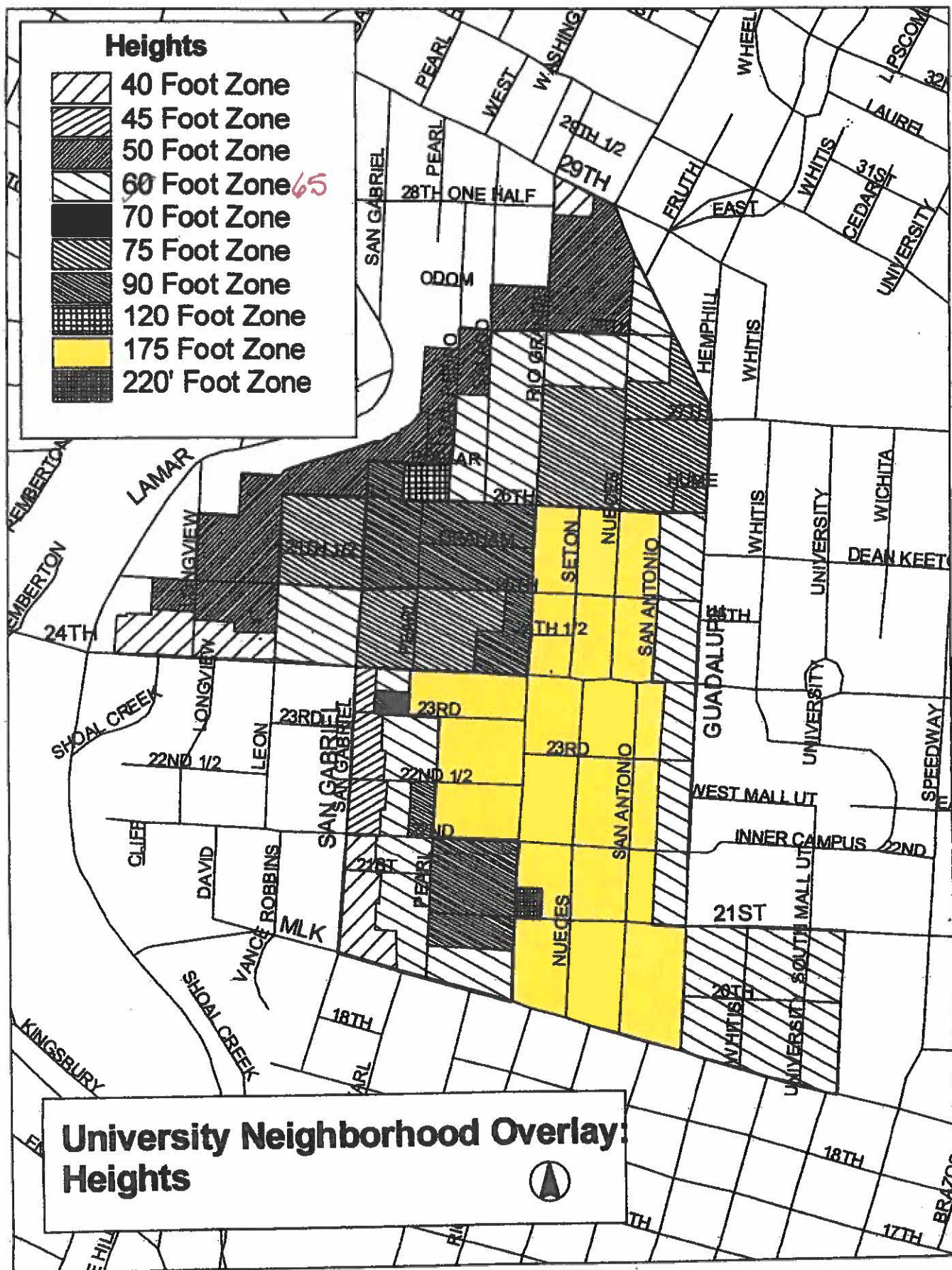
Enhance and preserve existing open space, parks, and the natural environment.

Top Ten Priorities

The top ten priorities for the Central Austin Combined Neighborhood Plan were determined by the results of the Final Survey and the Final Workshop.

1. Rezone multi-family-zoned property that is used as single-family to single-family zoning.
2. The City of Austin should enact an ordinance to create local historic districts to protect and preserve historic neighborhoods through design standards for new construction and significant remodeling projects.
3. Stop the incursion of new commercial and office uses into residential areas.
4. Establish an overlay (University Neighborhood Overlay [UNO]) for the West Campus area that allows denser, pedestrian-oriented commercial and multi-family development.
5. Buffer the predominantly single-family neighborhoods (West University and Shoal Crest) adjoining West Campus by limiting the mass, height, and scale of new multi-family development bordering these neighborhoods.
6. Establish a Neighborhood Conservation Combining District (NCCD) for North University that will foster the preservation of the neighborhood's original development patterns while respecting the different land uses in different parts of the neighborhood.
7. Institute a residential parking permit program throughout the neighborhoods of the combined planning area to address the negative effects of non-resident parking.
8. New houses should be of a similar scale and massing as the existing houses.
9. Identify areas where mixed use would enhance the livability of the neighborhoods and rezone accordingly.
10. New multi-family development outside of West Campus should be compatible with surrounding historic single-family houses by using similar setbacks, roof forms, ridge heights, materials, and colors.

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CLAYTON
& LITTLE

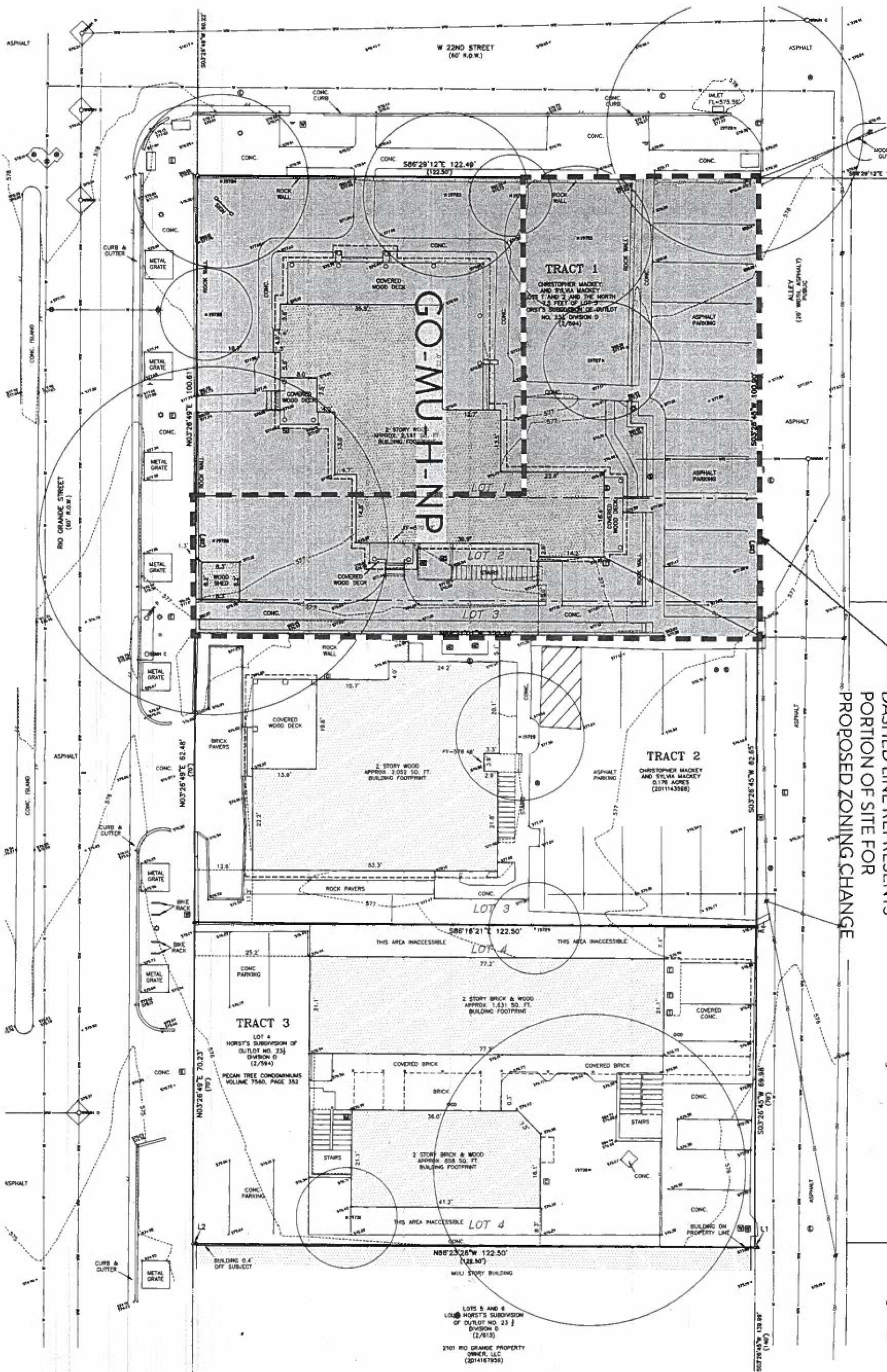
APPROVED
By Andrew Rice at 1:42 pm, Aug 22, 2018

APPROVED BY
HISTORIC LANDMARK COMMISSION
DATE: *Steve Redmond*
BY: *Steve Redmond*
for HLCOM

URVEY & ZONING

611 W. 22ND STREET | HISTORIC LANDMARK SUBMITTAL

PRELIMINARY - NOT FOR CONSTRUCTION | JUNE 08, 2018 | 5 of 11



DASHED LINE REPRESENTS
PORTION OF SITE FOR
PROPOSED ZONING CHANGE

ORDINANCE NO. 20181115-056

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR A PORTION OF THE PROPERTY GENERALLY KNOWN AS KENNEY HOUSE LOCATED AT 611 WEST 22ND STREET FROM GENERAL OFFICE-MIXED USE-HISTORIC LANDMARK (GO-MU-H) COMBINING DISTRICT TO GENERAL OFFICE-MIXED USE (GO-MU) COMBINING DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from general office-mixed use-historic landmark (GO-MU-H) combining district to general office-mixed use (GO-MU) combining district on a portion of the property described in Zoning Case No. C14H-1981-0018, on file at the Planning and Zoning Department, as follows:

0.155 acres (approximately 6,760 square feet), being a portion of Lots 1, 2 and the North 7.5 feet of Lot 3, Louis Horst's Subdivision of Outlot No. 23 ½, Division D, a subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Volume Z, Page 594 and Volume Z, Page 613, of the Deed Records of Travis County, Texas, conveyed to Villa Rio, L.P., in a General Warranty Deed dated May 11, 2018, and recorded in Document No. 2018074775 of the Official Public Records of Travis County, Texas; said 0.155 acres more particularly described in **Exhibit "A"** incorporated into this ordinance,

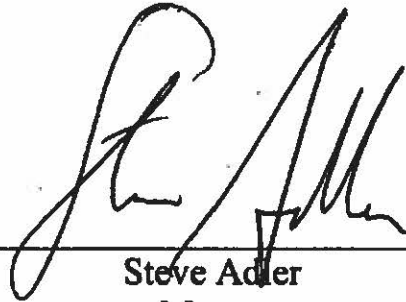
generally known as Kenney House, locally known as 611 West 22nd Street in the City of Austin, Travis County, Texas, generally identified in the map attached as **Exhibit "B"**.

PART 2. This ordinance takes effect on November 26, 2018.

PASSED AND APPROVED

November 15, 2018

§
§
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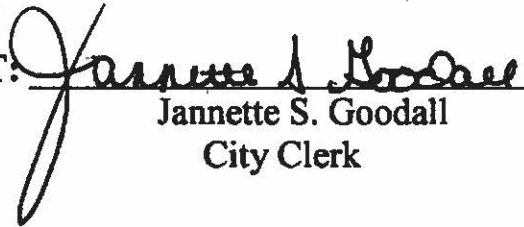
Steve Adler
Mayor

APPROVED:



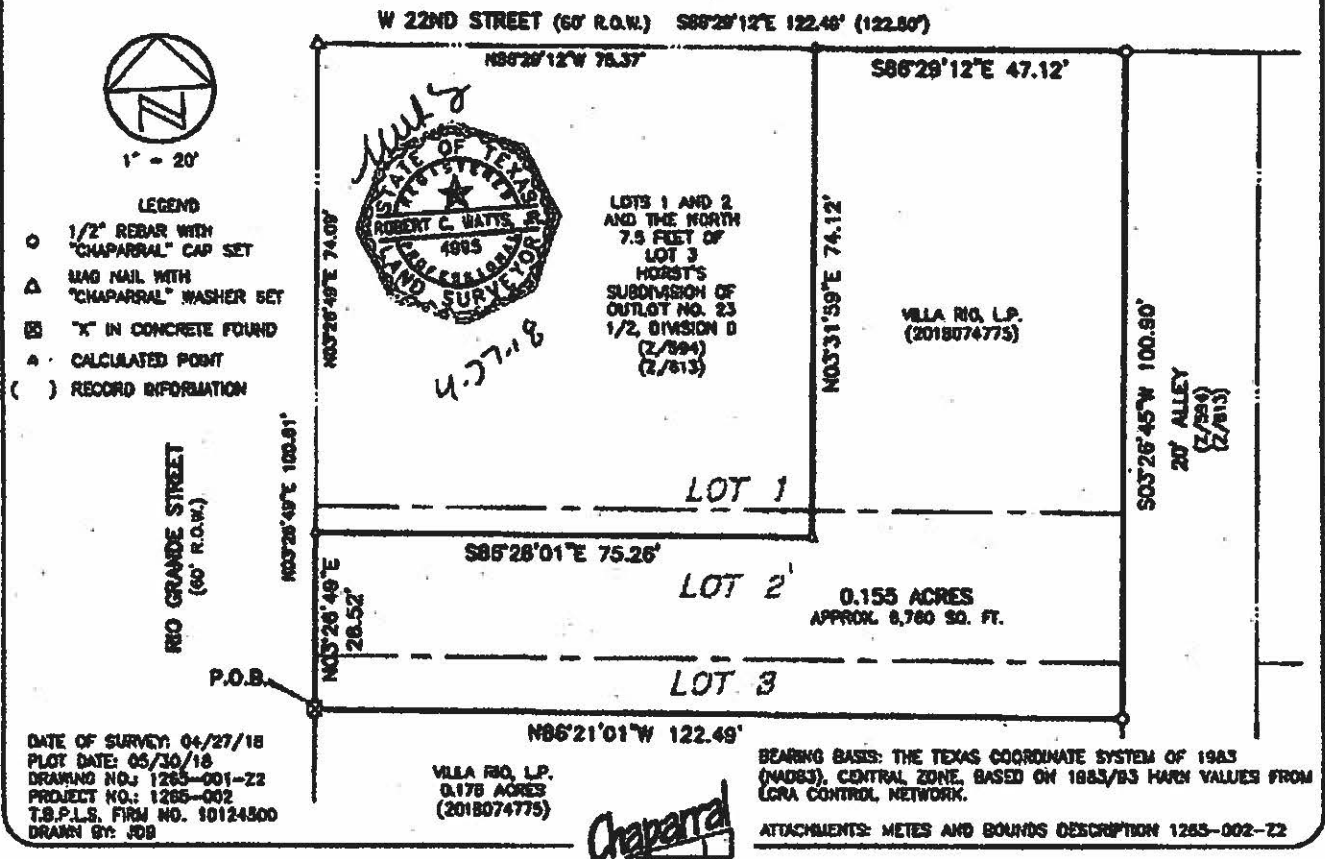
Anne L. Morgan
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk

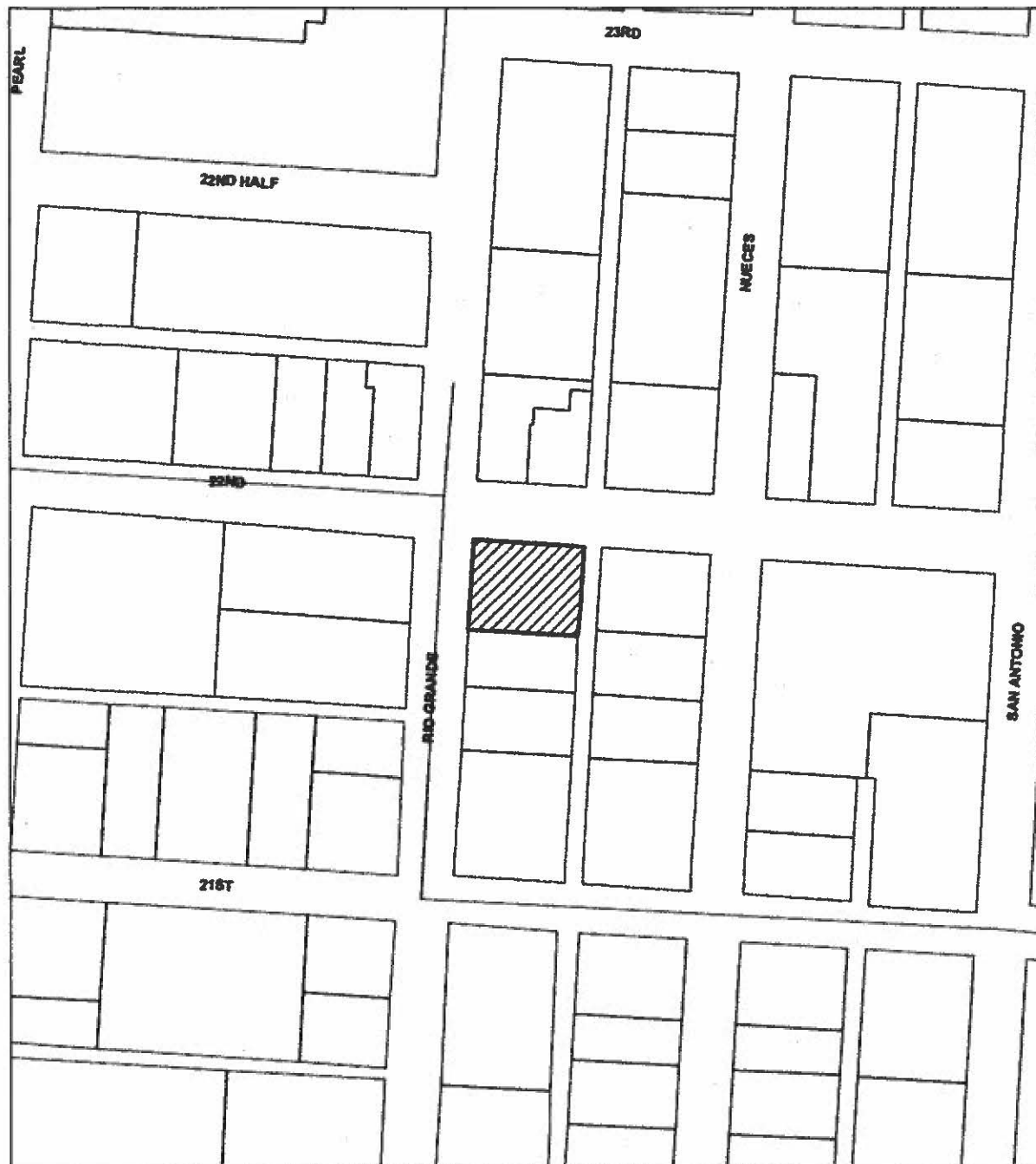
SKETCH TO ACCOMPANY A DESCRIPTION OF 0.155 ACRES (APPROXIMATELY 8,760 SQ. FT.), BEING A PORTION OF LOTS 1, 2 AND THE NORTH 7.5 FEET OF LOT 3, LOUIS HORST'S SUBDIVISION OF OUTLOT NO. 23 1/2, DIVISION D, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 2, PAGE 594 AND VOLUME 2, PAGE 613 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, CONVEYED TO VILLA RIO, L.P., IN A GENERAL WARRANTY DEED DATED MAY 11, 2018 AND RECORDED IN DOCUMENT NO. 2018074775 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.






Field notes for the 0.155 acre section for which the applicant seeks the removal of historic zoning

Exhibit A

LOCATION MAP



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

1" = 141'

NOTIFICATIONS

CASE#: C14H-1981-0018
LOCATION: 611 W 22nd Street

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Exhibit B

City of Austin

P.O. Box 1088, Austin, TX 78767
www.cityofaustin.org/housing

Neighborhood Housing and Community Development Department



September 6, 2018 (Amendment to letter dated August 16, 2018)

S.M.A.R.T. Housing Certification

Villa Rio, LP – Villas In Rio – University Neighborhood Overlay (UNO)
(Project ID 607)

TO WHOM IT MAY CONCERN:

Villa Rio, LP – (development contact: Mike McHone, 512 481 9111 (o), mchone1234@sbcglobal.net) has submitted a S.M.A.R.T. Housing application for the construction of a ~~287 unit/689 bedroom~~ multi-family development at 2107 and 2109 Rio Grande, Austin TX 78705 in the University Overlay District of the West Campus Neighborhood Planning Area. The development also consists of the preservation of the historic Kenney-Lomax house located at 611 W 22nd Street, Austin TX 78705. The planned use of the historic house is retail. The project will be subject to a forty (40) year affordability period after issuance of certificate of occupancy, unless funding requirements are longer. Per the UNO Ordinance, 20140213-056, the applicant has elected to rent by the bedroom. This project is electing to pay the fee-in-lieu versus providing an additional 10% of affordable bedrooms at 50% MFI.

This amendment changes from renting by the unit to by the bedroom and changes the number of units from 29 to 69 bedrooms.

This project is being submitted to have the Historic Zoning removed from the back and east portions of the lot to accommodate the construction of the new building. The City's Historic Preservation Staff supports this change with the conditions. The Historic Landmark Commission is to hear this item at their August 27th meeting.

NHCD certifies that the proposed construction will meet the S.M.A.R.T. Housing standards at the pre-submittal stage. Since 10% of the bedrooms (69) will serve households at or below 60% Median Family Income (MFI), the development will be eligible for 25% waiver of the fees listed in the City of Austin's Land Development Code, Chapter 25-1-704, as amended, with the exception of the Capital Recovery Fees (CRF). This development is not in accordance with the requirements under the Texas Local Government Code, Chapter 395.16(a) and 42 U.S.C. Section 12745 (A)(1) as it relates to how housing qualifies as affordable housing and therefore is not eligible to receive any CRF fee waivers under the S.M.A.R.T. Housing Ordinance due to the project not reserving 20% of the bedrooms for households at or below 50% MFI. The expected fee waivers include, but are not limited to, the following fees:

Capital Recovery Fees
Building Permit
Concrete Permit
Electrical Permit
Mechanical Permit
Plumbing Permit
Site Plan Review

Misc. Site Plan Fee
Construction
Inspection
Subdivision Plan
Review
Misc. Subdivision Fee
Zoning Verification

Land Status
Determination
Building Plan Review
Parkland Dedication
(by separate ordinance)

Prior to issuance of building permits and starting construction, the developer must:

- ◆ Obtain a signed Conditional Approval from the Austin Energy Green Building Program stating that the plans and specifications for the proposed development meet the criteria for a Green Building Rating (Contact Austin Energy Green Building: 512-482-5300 or greenbuilding@austinenrgy.com).
- ◆ Submit plans demonstrating compliance with accessibility and adaptability standards.

Before a Certificate of Occupancy will be granted, the development must:

- ◆ Pass a final inspection and obtain a signed Final Approval from the Green Building Program (Separate from any other inspections required by the City of Austin or Austin Energy)
- ◆ Pass a final inspection to certify that accessibility and adaptability requirements have been met.
- ◆ An administrative hold will be placed on the building permit, until the following items have been completed: 1) fee-in-lieu calculation and the number of affordable bedrooms have been finalized and evidenced through a sealed letter from project architect and/or engineer, 2) the fee-in-lieu has been paid in full to the Neighborhood Housing and Community Development Office and 3) the Restrictive Covenant stating the affordability requirements and terms has been filed for record at the Travis County Clerk Office.

The applicant must demonstrate compliance with S.M.A.R.T. Housing standards after the certificate of occupancy has been issued or repay the City of Austin, in full, fees waived under this S.M.A.R.T. Housing certification.

Please contact me by phone 512.974.3128 or by email at Sandra.harkins@austintexas.gov if you need additional information.

Sincerely,



Sandra Harkins, Project Coordinator
Neighborhood Housing and Community Development

Cc: Rosa Gonzales, AE
Jonathan Orenstein, AWU
Mashell Smith, ORS

Gina Copic, NHCD
Marilyn Lamensdorf, PARD

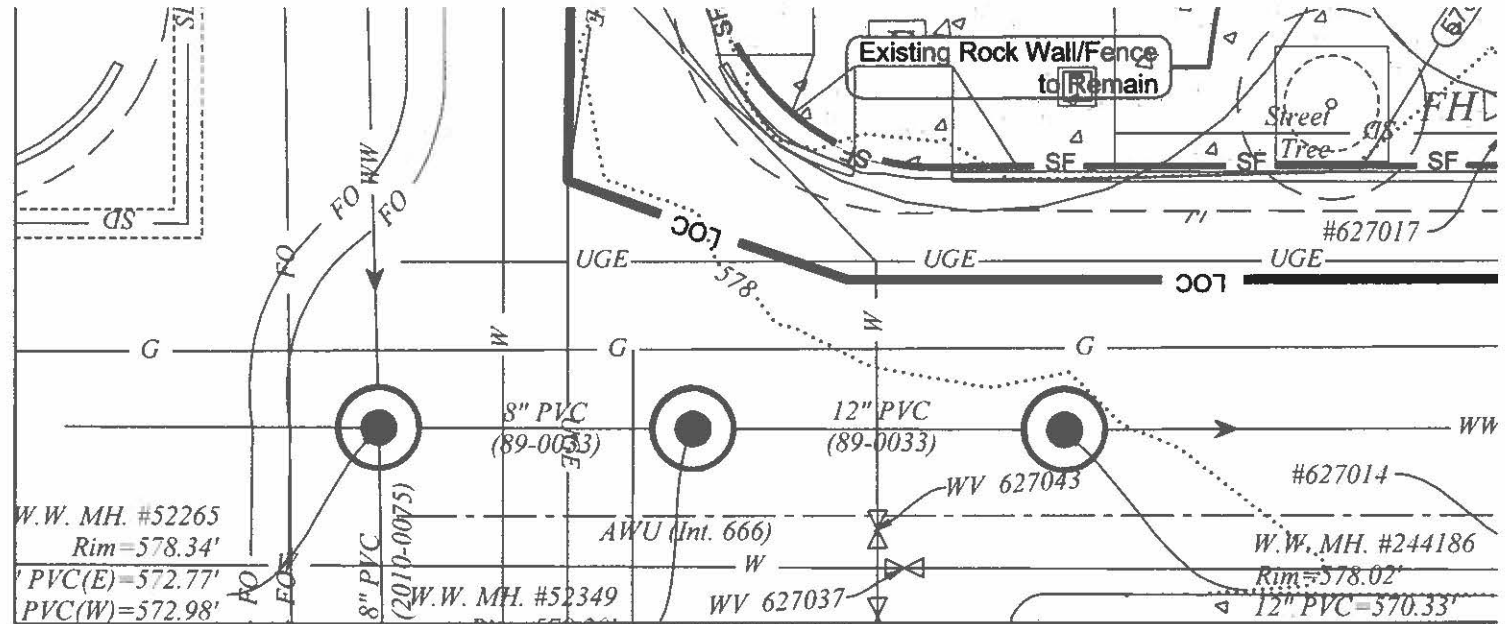
Ellis Morgan, NHCD
Melanie Montez, ORS

University Neighborhood Overlay Density Bonus Program Rental Rates (Effective June 01, 2018)

| Development Incentive Program | Median Family Income Limit | Efficiency/ One Bedroom | Two Bedroom | Three Bedroom | Four Bedroom | Five Bedroom |
|--|----------------------------|----------------------------|-------------|---------------|--------------|--------------|
| UNO - By the Unit (Pre - 2/25/2014) | 50% | \$702 | \$803 | \$903 | \$1,003 | \$1,084 |
| | 65% | \$914 | \$1,043 | \$1,174 | \$1,304 | \$1,408 |
| | 80% | \$1,125 | \$1,285 | \$1,446 | \$1,605 | \$1,735 |

| Development Incentive Program | Median Family Income Limit | Single Occupancy | Double Occupancy |
|--|----------------------------|------------------|------------------|
| UNO - By the Bedroom Opt-In (Pre - 2/25/2014) | 50% | \$603 | \$332/ person |
| | 60% | \$1,023 | \$563/ person |
| UNO - By the Bedroom/ Unit (Post - 2/24/2014) | 50% | \$603 | \$332/ person |
| | 60% | \$806 | \$443/ person |

4



Tree List (Surveyed 04-27-2018)

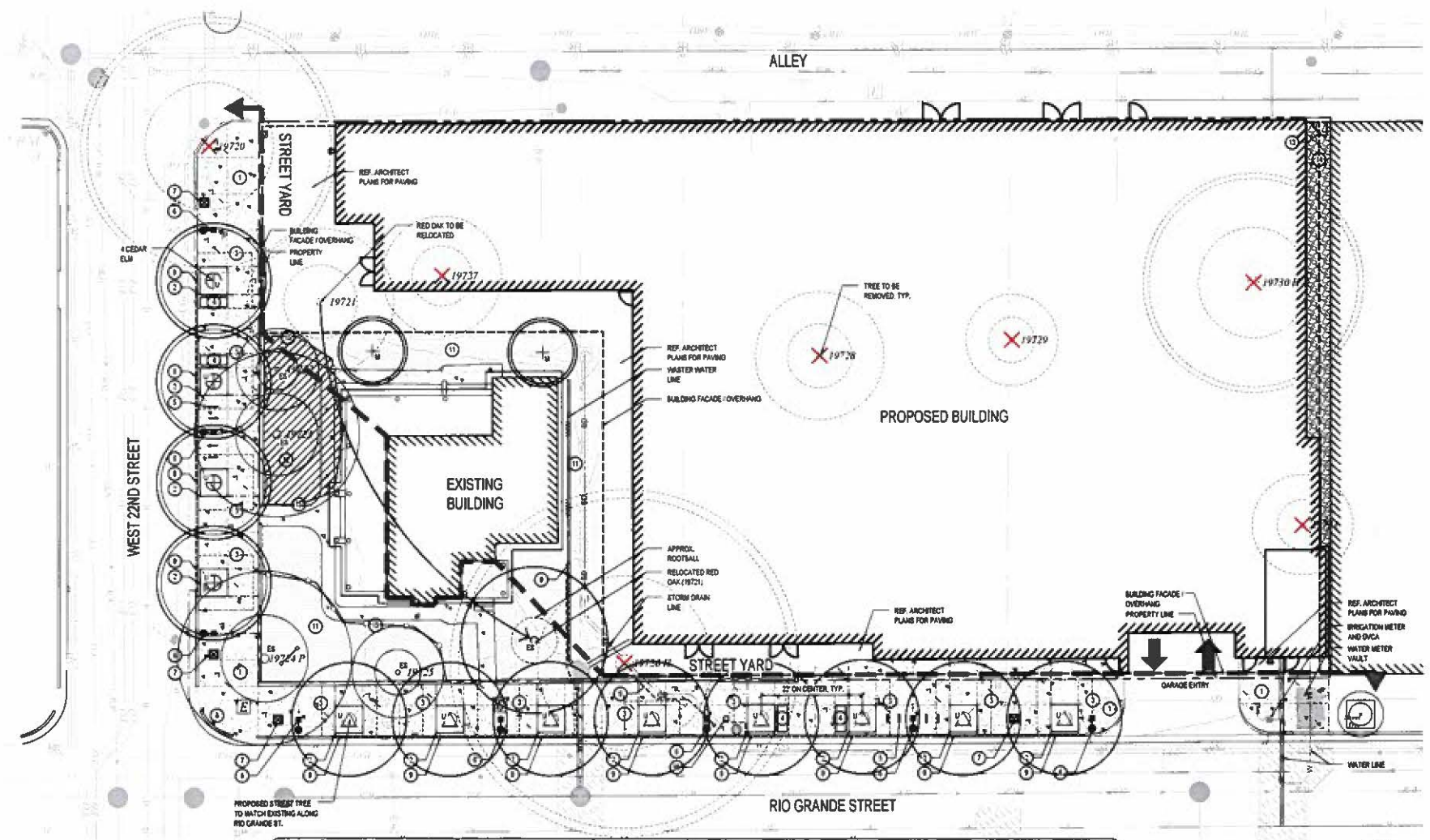
| # | City Code | Type | Trunks | Dia | Caliper Equivalent | Status |
|-----------------|-----------|-----------------|--------|-----|--------------------|--------------|
| 19720 | P R | Sycamore | 1 | 28" | 28 | Removed |
| 19721 | | Red Oak | 1 | 16" | 16 | Transplanted |
| 19722 | | Pecan | 1 | 9" | 9 | |
| 19723 | | Pecan | 1 | 18" | 18 | |
| 19724 | P | Cedar Elm | 1 | 19" | 19 | |
| 19725 | | Unknown | 1 | 10" | 10 | |
| 19726 | H | Pecan | 1 | 38" | 38 | Removed |
| 19727 | | Magnolia | 1 | 13" | 13 | Removed |
| 19728 | | Chinese Parasol | 1 | 14" | 14 | Removed |
| 19729 | | Hackberry | 1 | 10" | 10 | Removed |
| 19730 | H | Pecan | 1 | 34" | 34 | Removed |
| 19731 | | Hackberry | 1 | 11" | 11 | Removed |
| H - Heritage | | | | | | |
| P - Protected | | | | | | |
| M - Multi Truck | | | | | | |
| R - ROW Tree | | | | | | |

Dewatering Procedure

The contractor shall coordinate with the City of Austin for excavation. The excavation shall be achieved through pumping the sediment to the surface. If the excavation has been filled with sediment, this bag shall be discarded. A silt skimmer shall be utilized which will sit atop any access points. If sediment settles to the bottom. A semi-circle of silt

Erosion Notes

1. Silt fence type and installation shall comply with the City of Austin specifications.
2. If Disturbed area is not to be worked on for more than 30 days, the contractor shall revegetate, mulch, tarp or revegetation matting shall be installed.
3. Environmental Inspector has the authority to stop work if project is in-compliance with the City of Austin Regulations.
4. Contractor shall utilize dust control measures per ECM 1.4.5(A), or as directed by the Environmental Inspector.
5. The contractor will clean up spoils that migrate from the excavation area.
6. The contractor shall maintain the dewatering system. When performing, the contractor must immediately notify the Environmental Inspector's direction to ensure adequate system operation at the preconstruction meeting.



KEY NOTES:

- 1. PROPOSED CONCRETE SIDEWALK. REF. CIVIL FOR CONSTRUCTION DETAILS.
- 2. TREE GRATE, IRON SMITH ADA GRATE. EXIST. CAST IRON FINISH. INSTALL PER COA STANDARD.
- 3. STRATAVAULT STRUCTURAL SOIL CELLS.
- 4. BENCH FORMS AND SURFACES, 3 SEAT TECHO RS, DIE-CAST ALUMINUM SEATS, LEGS & FRAME, 3 ARMRESTS TO BE POLISHED ALUMINUM UPPER. SURFACE MOUNT W/ BASE PLATE, OR LANDSCAPE FORMS, PLUMBELL 80" LONG WITH BIRD AND MOOSE ARMS, ALUM FRAME & SLATE, POWDERCOATED SILVER.

- 5. BIKE RACKS, CITY OF AUSTIN, CLASS B, TYPE L REFER TO COA STANDARD DETAIL, 7/06-1.
- 6. PECAN STREET LIGHT POLES, CONTRACTOR TO REUSE EXISTING & PURCHASE FROM AUSTIN ENERGY AND INSTALL.
- 7. TRASH RECEPTACLES, FARMWEATHER, 18-12 W/ SIDE OPENINGS, 35 GALLON LINDER, COLOR: SILVER/BLACK W/ CLEAR COAT. COA STANDARD DETAIL, 4/08-4.13 TRASH, 1 RECYCLING WITH BLUE TOP.
- 8. CURB RAMP, REF. CIVIL.
- 9. ROOT BARRIER, DEEPROOF, 1/8" 48-3. CONTRACTOR TO SUBMIT SHOP DRAWINGS AND SAMPLES FOR REVIEW AND APPROVAL. REFER TO DETAIL, 1/13.
- 10. PARKING METER TO MATCH EXISTING.

- 11. REPAIR ALL TURF GRASS AREAS DISTURBED DURING CONSTRUCTION WITH NEW BERBERA AND 6" DEPTH TOPSOIL. COMPLY WITH COA 881S.
- 12. INNOVATIVE WATER MANAGEMENT AREA.
- 13. 6" TALL AMERSTAR GATE WITH WEYBAG LOCK.
- 14. 6" DEPTH CRUSHED AGGREGATE, 1/2" CLEAN ON TOP OF MICRO FILTER FABRIC.
- 15. TREE PROTECTION, REF. CIVIL.

TREE LEGEND KEY:

- W MITIGATION / REPLACEMENT TREE.
- ES EXISTING STREET YARD TREE.
- U REQUIRED UNO DISTRICT RIGHT OF WAY TREE.

LANDSCAPE CERTIFICATION

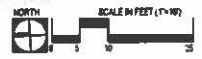
I, MICHAEL R. FISHBAUGH, DO HEREBY CERTIFY THAT THE PLANS FOR THE DEVELOPMENT PROJECT LOCATED AT 2111 RIO GRANDE ST., AUSTIN, TX 78705 SATISFY THE REQUIREMENTS OF THE LDC-2012 OF THE CITY OF AUSTIN LAND DEVELOPMENT CODE, AND ALL AMENDMENTS.

Michael R. Fishbaugh
MICHAEL R. FISHBAUGH
BLU FISH COLLABORATIVE, INC.
DATE 01/08/2019

COA UNO DISTRICT NOTES:

ALL SITE FURNISHINGS INCLUDING PECAN LIGHT POLES, BENCHES, TRASH RECEPTACLES, RECYCLING RECEPTACLES, BIKE RACKS, TREE GRATES, PAVEMENTS, ETC. SHALL BE PER THE CITY OF AUSTIN UNIVERSITY NEIGHBORHOOD OVERLAY DISTRICT REQUIREMENTS.

PRIOR TO CONSTRUCTION CONTRACTOR TO CONTACT THE CITY OF AUSTIN TO COORDINATE THE REMOVAL OF CITY OWNED FEATURES INCLUDING TREES, TREE GRATES, LIGHT POLES, ELECTRIC AND OTHER UTILITIES, TRASH CANS, PARKING METERS, BICYCLE RACKS AND ALL OTHER SITE FURNISHINGS LOCATED ALONG RIO GRANDE ST. AND INSTALLED AS PART OF THE RIO GRANDE CAPITAL IMPROVEMENTS PROJECT. CONTRACTOR TO COORDINATE THIS PROCESS WITH HUMBERTO REY (512-974-7386) AT CITY OF AUSTIN URBAN DESIGN DEPARTMENT.



FILE NUMBER: 2018-0362C-SH
DATE SUBMITTED: 01/08/2019
APPROVED BY: [Signature]
APPROVED BY: [Signature]
DATE OF RELEASE: 01/08/2019
DATE OF RELEASE: 01/08/2019
DATE OF RELEASE: 01/08/2019

LANDSCAPE PLAN

SHEET NO. 32 OF 38

SP-2018-0362C-SH

5



**WEYCER
LAW FIRM**

Attorneys & Counselors at Law

August 21, 2018

Re: Property at 611 W. 22nd St., Austin, Texas.

Dear Mr. Zucker:

I am in receipt of the arborist tree evaluation report for your property at 611 W. 22nd St., Austin, Texas, prepared by Mark Mann of The Davey Tree Expert Company dated June 8, 2018. Within the report, there is a finding by Mr. Mann that you have trees which have been designated in "poor" condition that pose an eminent, "High Extreme" hazard.

Based on the information I have reviewed, I am concerned that you have liability exposure for any injury to person or property. The dangerous condition now presents an unreasonable risk of harm. As the property owner on notice of an unreasonably dangerous condition you now are required to immediately remove the dangerous condition to prevent injury to person or property. Your failure to exercise ordinary care in removing the designated trees to insure your property is safe will subject you to liability under Premises Liability laws of Texas. This duty is not limited to avoiding serious injury to person or property but is also a requirement under your current property insurance policy.

Assuming a person was injured on your property after you have the report in your possession will now be evidence of a conscious disregard for the safety of others on your property. I am of the opinion that the report now places you in a position to potentially face punitive damages for failure to remove the designated trees immediately. I am happy to discuss my legal findings with you. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Mark A. Weycer

Mike McHone

From: Dymkowski, Jim [Jim.Dymkowski@austintexas.gov]
Sent: Monday, September 17, 2018 11:21 AM
To: Mars, Keith; Mike McHone
Subject: RE: Trees; Villas in Rio; 2211 Rio Grande
Attachments: Scanned from OTC05PaintRock.pdf

Good morning Mike,

Thank you for the additional information on the two heritage trees in question. Keith and I have had a chance to look everything over and while we do agree that the trees shown do have some structural and health related issues they do not currently meet the category of dead, diseased beyond repair, or imminent hazard.

This is an issue that is not uncommon for staff. We routinely see trees that do not meet this removal category that are associated with future development. Staff does acknowledge in cases like these, the health and structure issues during the plan review and does support the removal of such trees as they would most likely not survive the development process even with code complaint design. But in these cases, where there are Heritage trees with one stem 30 inches and greater staff is required by code to take these requests forward formally to boards and commissions. In this case, we would also be held to this requirement on these trees.

As recent as the Sept 5th EV commission meeting, staff took such a formal request for a variance for two heritage trees based on condition on the Block 36 site plan SP-2018-0015C. You may wish to look through this back up on line to see how to move forward working with Keith and Patti on your formal requests at the time of site plan submittal.

This email will also serve to close out your predevelopment consultation and address the preservation and removals agreed to in the field along with the mitigation requirements for the remaining non-heritage trees on and adjacent to the site. See attached scan of field notes and the arborist report for the condition of these remaining trees on and adjacent to the site. Trees with average and above rating would be mitigated at 100% of the standard mitigation based on their size. Trees rated fair would be at 50% of the usual mitigation applied based on their size and trees listed as poor would be at 25% of the usual mitigation applied based on their size. For the ROW protected size Sycamore that did not make the tree report for condition or size staff would agree to a 50% mitigation rate for this tree's removal due to needed storm system improvements within W 22nd Street.

Jim Dymkowski, Certified Arborist TX-3344A

Environmental Program Coordinator

City Arborist Program, Community Tree Preservation Division

City of Austin Development Services Department

One Texas Center, 5th Floor

505 Barton Springs Road

Office: 512-974-2772



[Follow us on Facebook at Nature in the City](#)

Mike McHone

From: Sam Massaed [samgmas@me.com]
Sent: Monday, October 08, 2018 6:49 PM
To: Mike Mchone
Cc: mchone5024@gmail.com; Brad Zucker
Subject: Fwd: Trees; Villas in Rio; 2211 Rio Grande

Begin forwarded message:

From: Mark Weycer <mweycer@weycerlawfirm.com>
Date: October 8, 2018 at 4:14:57 PM CDT
To: Brad Zucker <bradzucker@comcast.net>
Subject: RE: Trees; Villas in Rio; 2211 Rio Grande

I have reviewed the information you provided. I am surprised that the city is not taking swifter action to provide you the necessary permit to remove the trees. You still have a duty to attempt to remedy the dangerous condition as the property owner but I also believe that the city's failure to expedite the permission needed to remove the trees has now placed the city on actual notice of the dangerous condition. In the event someone on your property is injured by the dangerous tree condition, it will expose you to liability as well as the city. Let me know if you have any additional questions.

Mark A. Weycer

The Weycer Law Firm, P.C.
4545 Bissonnet, Suite 294
Bellaire, Texas 77401
Tele: (713) 668-4545
Tele: (800) 668-9395
Fax: (713) 668-5115
mweycer@weycerlawfirm.com
weycerlawfirm.com
TxBirthInjuryLawyer.com
Callnowtalknow.com

Celebrating 23years as a firm

From: Brad Zucker <bradzucker@comcast.net>
Sent: Friday, October 5, 2018 3:20 PM
To: Mark Weycer <mweycer@weycerlawfirm.com>
Subject: Fwd: Trees; Villas in Rio; 2211 Rio Grande

Mr. Weycer,

Please see email from Jim Dymkowski below.

6

THE DAVEY TREE EXPERT COMPANY

Villa Rio Tree Evaluations: Pecan Tree 19726



Mann, Mark

2/26/2019

Tree condition rating and assessment of heritage Tree 19726 with additional Level 2 & 3 ISA Risk Assessments due to concerns of hazards.



Tree Evaluations:
Villa Rio, LP
611 W 22nd
Austin, TX 78705

Thank you for the opportunity to serve you on this task. Tree identification, measurement, inspection, and arboriculture consultation were performed by Davey trained arborists who through related training and on-the-job experience are familiar with the techniques and equipment used in such operations.

2/26/2019

To whom it may concern:

Pecan Tree 19726 was evaluated to verify species and size as well as ascertain general health and condition. Below information addresses arborist findings:

| Tree Number | Species | DBH | Condition | Notes |
|-------------|---------|-----|-----------|--------|
| 19726 | Pecan | 37" | Poor | Hazard |

19726 37" Pecan – Poor in condition. This tree is large with a moderately vigorous canopy but has poor structure, over-extended stems, large deadwood aloft, and multiple nearby targets. No true scaffold limbs exist/remain on this tree that was most likely over-pruned significantly at an earlier date many years ago. Tree is overmature for the species/growing location, has poorly balanced canopy, and is exposed to full wind loads.

While attached level 3 tomography scans do not show significant decay within the main stems, there is decay of concern within the main stem of this tree near grade that could pose increased potential for overall tree failure under severe weather conditions.

It's probable-imminent likelihood of failure within the next 3 years and medium-high likelihood of impact to pedestrians or historic inn - with potential for severe injury or death to pedestrians and exorbitant repairs for this historic home- warrant this tree to be **HIGH-EXTREME** risk. Tree size/location and poor scaffold limb structure prevent reliable mitigation options short of removal.

Mitigation recommendation:

- Remove high risk pecan to grade to eliminate hazards to pedestrians, cars, and historic inn. Mitigate to City of Austin standards (with potential reduced/cancelled mitigation due to condition).



Overall, this site has a few nice trees to work with but also contains tree 19726 in which removal is strongly recommended to eliminate risks due to potential hazards and owner's stated low risk tolerance for intended property usage. Trees that are preserved should be protected and cared for following City of Austin standards, specifically p-6 notes, as well as above recommendations. There is one good candidate for relocation should the owner, design team, and city decide upon the feasibility and acceptability of that course.

If you have any questions about tree health and measurement recommendations on this site, please contact me at 512-451-4986 or by email at mark.mann@davey.com. I look forward to being of further service.

Thank you,

Mark Mann

Mark Mann | District Manager
ISA Board Certified Master Arborist TX-3978B, T.R.A.Q.
TDA Applicator License No. 0731374
The Davey Tree Expert Company | South Austin Office 136131
9224 Research Blvd. Austin, TX 78758
P: 512.451.4986 | C: 512.828.1358 | F: 512.451.6482



TREE ASSOCIATES | LLC

telephone: 512.850.8000

133 Arabian Avenue South
Liberty Hill, Texas 78342

August 30, 2018

The Davey Tree Expert Company
Attn: Mark Mann
9224 Research Boulevard
Austin, Texas 78758

RE: Preliminary summary of tomography scans of the pecan at the Star of Texas Inn at 611 West 22nd Street in Austin, Tx.

Mr. Mann,

On Tuesday August 28, 2018 Lee Evans and I conducted 5 tomography scans at on the large pecan at The Texas Starr Inn at 611 West 22nd Street as requested, with scans completed at 42 cm at the base, 295 cm and 545 cm on the west limb, and at 235cm and 645 cm on the east limb.

The scan locations were selected based on features of the tree that would suggest compromised areas or areas that support the canopy, for example: beneath previous large pruning wounds, swelling in the tree, cavities, beneath the conjuncture of two limbs, or beneath borer activity to name a few. Sensor location is based on the shape of the tree at the scan location and positioned in peaks and valleys of the tree.

In tomography scans, a tree species is typically considered structurally compromised when the shell wall at 30% is breached with less sound wood.

Star of Texas Inn Pecan

This is a mature pecan with die back evident in the canopy at the time of my site visit. There is evidence of branch failure in the canopy, and an area on the west stem that appears swollen. Five scans were taken on this tree, one near the base and two on both main leaders. Please see attached supporting scan images.

Scan at 42 cm

This scan was taken near the base. This is a mature pecan tree with two main leaders being supported by the main trunk. There is an area near the center suggesting less sound wood that reaches the shell wall at 30%, with a possible breach around sensor 7 that does not extend the full distance of the shell wall. Ten sensors were used on this scan.

Scan at 295 cm West Limb

There does not appear to be structurally compromised wood within this stem at this scan. Seven sensors were used on this scan. This scan was located beneath a swell and near an old pruning wound.



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Scan at 545 cm West Limb

There does not appear to be structurally compromised wood within this stem at this scan. Six sensors were used on this scan.

Scan at 235 cm East Limb

There does not appear to be structurally compromised wood within this stem at this scan. Six sensors were used on this scan.

Scan at 645 cm East Limb

There does not appear to be structurally compromised wood within this stem at this scan. Six sensors were used on this scan. This scan was located beneath the separation of this limb into two smaller limbs.

Conclusion

Starr of Texas Inn Pecan

The base of this tree does have less sound wood present at the shell wall at 30%. The mass of both the east and west stems appear to be sound. There is some variation in color within the green on the scans on both main limbs, meaning the velocities were slower in some areas of the scans, but not the distinct variation seen at the basal scan.

If you have any questions about the above information, or if you would like further detail, please feel free to contact me on my mobile at 512.775.9182 or via email at Debbie@Treeassociatesllc.com

Kindest Regards,

Debbie Evans
Registered Consulting Arborist: RCA-572
ISA Certified Arborist: TX-3609A
Texas Oak Wilt Certified: TOWC-0149
TDA License: TDA07027016

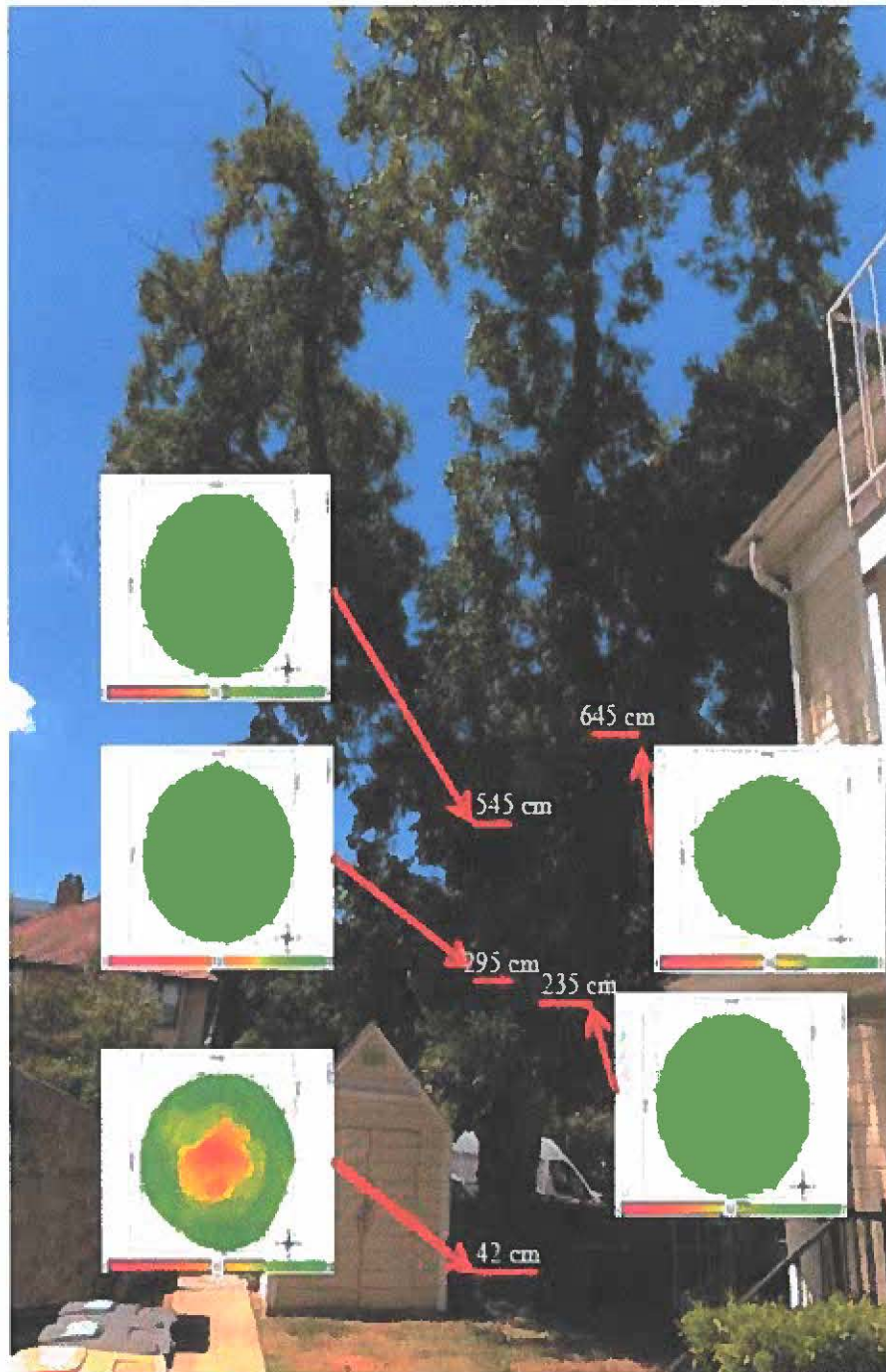


TREE ASSOCIATES | LLC

telephone: 512.850.8000

133 Arabian Avenue South
Liberty Hill, Texas 78342

**SUPPORTING DOCUMENTATION
STAR OF TEXAS INN PECAN**



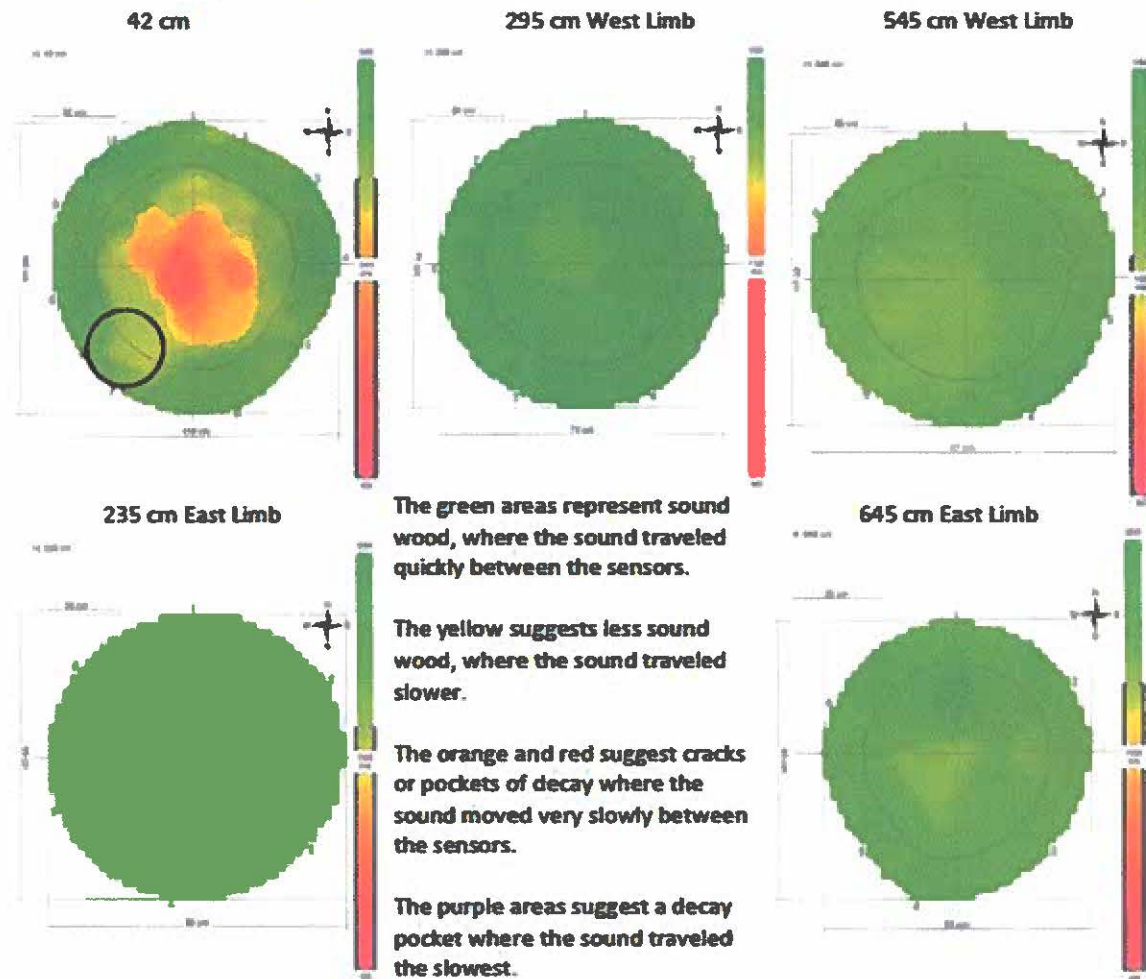


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**SUPPORTING DOCUMENTATION
STAR OF TEXAS INN PECAN**



The thin blue circle within the scan represents the shell wall at 30%.

The white circle indicates an area where the scan is purple, suggesting the presence of a decay pocket.

The black circles indicate areas where the shell wall has been breached by less sound wood or contains a pocket or cavity.



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telephone: 512.850.8000

133 Arabian Avenue South
Liberty Hill, Texas 78342

**SUPPORTING DOCUMENTATION
CERTIFICATE OF PERFORMANCE**

I, Deborah Evans, CERTIFY to the best of my knowledge and belief:

1. That the statements of fact contained in this report are true and correct.
2. That the report analysis, opinions, and conclusions are personal, unbiased professional analysis, opinions, and conclusions derived from current scientific procedures and facts.
3. That I have no present or prospective interest in the vegetation that is the subject of this report and that I have no personal interest or bias with respect to the parties involved.
4. That my compensation is not contingent upon a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
5. That my analysis, opinions, and conclusions were developed with commonly accepted arboricultural practices.
6. That my report is based on the information known to me at this time. If more information is disclosed, I may have further opinions.

I further certify that I am a Registered Consulting Arborist, an ISA Certified Arborist, a Texas Oak Wilt Certified Arborist, a Licensed Texas Department of Agriculture Commercial Pesticide Applicator and a member in good standing with the American Society of Consulting Arborists and the International Society of Arboriculture. I have been involved in the arboriculture field since 2006.



SUPPORTING DOCUMENTATION ASSUMPTIONS AND LIMITING CONDITIONS

- 1. Any legal description provided to the consultant is assumed to be correct. Any titles and ownerships to any property are assumed to be good and marketable. No responsibility is assumed for matters legal in character. Any and all property is evaluated as though free and clear, under responsible ownership and competent management.**
- 2. Care has been taken to obtain all information from reliable sources. All data has been verified insofar as possible; however, the consultant can neither guarantee nor be responsible for the accuracy of information provided by others.**
- 3. The consultant shall not be required to give testimony or attend court by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services as described in the fee schedule and contract of engagement.**
- 4. Loss or alteration of any part of this report invalidates the entire report.**
- 5. Possession of this report or a copy thereof does not imply right of publication or use for any purpose by any other person to whom it is addressed, without the prior expressed written consent of the consultant.**
- 6. Neither all nor any part of the contents of this report, nor copy thereof, shall be conveyed by anyone, including the client, to the public through advertising, public relations, news, sales or other media, without the prior expressed written consent.**
- 7. This report and values expressed herein represent the opinion of the consultant, and the consultant's fee is in no way contingent upon the reporting of a specified value, a stipulated result, the occurrence of a subsequent event, nor upon any finding to be reported.**
- 8. Sketches, diagrams, graphs, and photographs in this report, being intended as visual aids, are not necessarily to scale and should not be construed as engineering or architectural reports or surveys.**
- 9. Unless expressed otherwise: (1) information contained in this report covers only those items that were examined and reflects the condition of those items at the time of inspection; and (2) the inspection is limited to visual examination of accessible items without dissection, excavation, probing, or coring. There is no warranty or guarantee, expressed or implied, that problems or deficiencies of the tree or property in question may not arise in the future.**



TREE ASSOCIATES | LLC

telephone: 512.850.8000

133 Arabian Avenue South
Liberty Hill, Texas 78342

— ARBORIST DISCLOSURE STATEMENT —

Arborist: Deborah Magee Evans

Date: May 24, 2018

Arborists are tree specialists who use their education, knowledge, training and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk of living near trees. Clients may choose to accept or disregard the recommendations of the arborist, or to seek additional advice.

Arborists cannot detect every condition affecting tree health or that could possibly lead to the structural failure of a tree. Trees are living organisms that grow, respond to their environment, mature, decline and fail in ways we do not fully understand. Conditions impacting health and safety are often hidden within trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, remedial treatments, like any medicine, cannot be guaranteed.

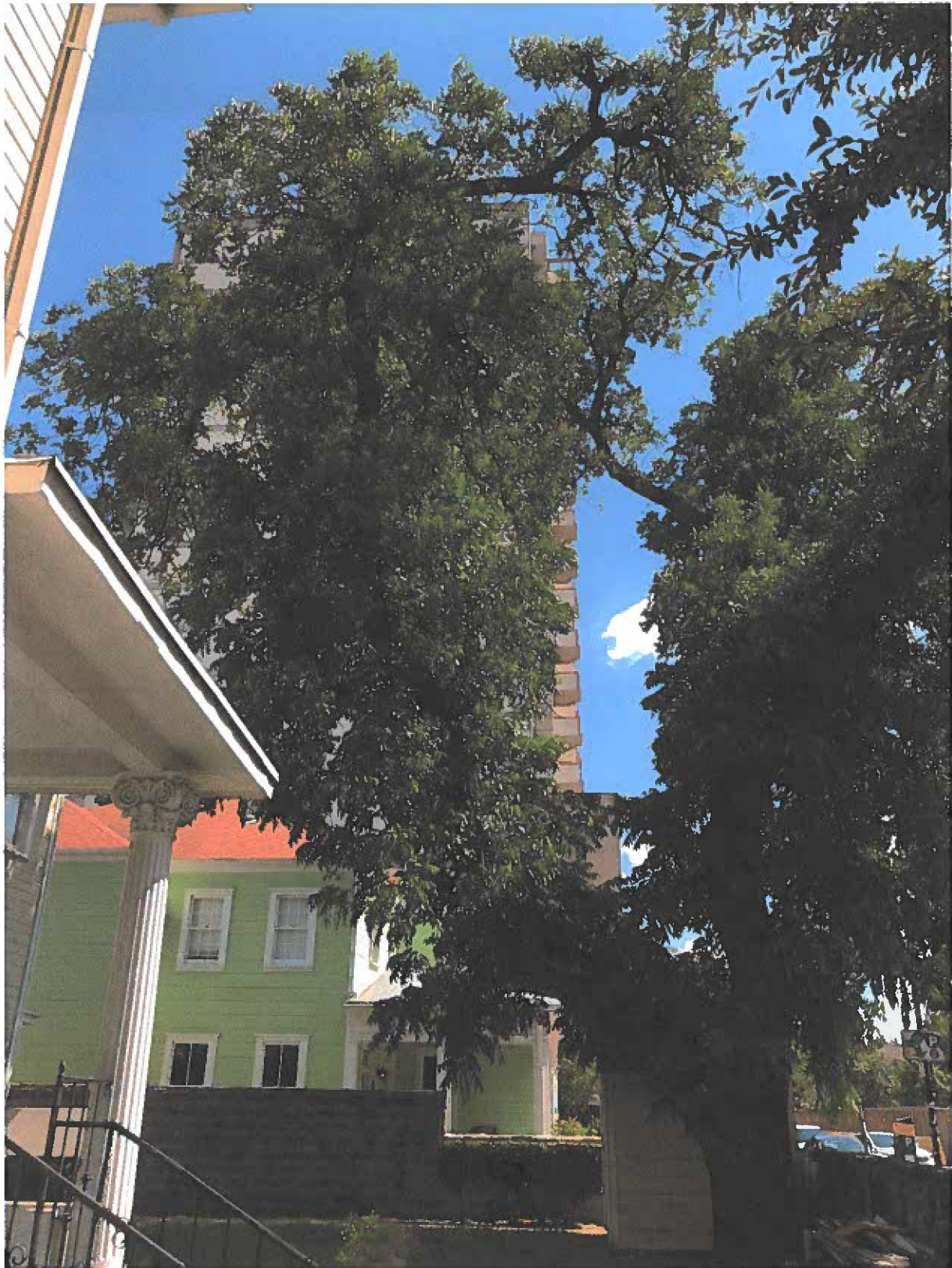
With reference to safety, trees can be managed but they cannot be controlled. To live near trees is to accept some degree of risk. The only way to eliminate all risk associated with trees is to eliminate all trees.

Treatment, pruning and removal of trees may involve considerations beyond the scope of the arborist's services such as property boundaries, property ownership, site lines, disputes between neighbors, and other issues. Arborists cannot take such considerations into account unless complete and accurate information is disclosed to the arborist. An arborist should then be expected to reasonably rely upon the completeness and accuracy of the information provided.

Client hereby releases Consultant from liability and agrees to defend, indemnify and hold Consultant harmless from any and all claims, liabilities, damages or expenses arising, in whole or in part, from the foregoing, including, without limitation, claims of negligence, trespass, and conversion.















THE DAVEY TREE EXPERT COMPANY

Villa Rio Tree Evaluations: Pecan Tree 19730



Mann, Mark

2/26/2019

Tree condition rating and assessment of heritage Tree 19730 with additional Level 2 & 3 ISA Risk Assessments due to concerns of hazards.



Tree Evaluations:
Villa Rio, LP
611 W 22nd
Austin, TX 78705

Thank you for the opportunity to serve you on this task. Tree identification, measurement, inspection, and arboriculture consultation were performed by Davey trained arborists who through related training and on-the-job experience are familiar with the techniques and equipment used in such operations.

2/26/2019

To whom it may concern:

Pecan Tree 19730 was evaluated to verify species and size as well as ascertain general health and condition. Below information addresses arborist findings:

| Tree Number | Species | DBH | Condition | Notes |
|-------------|---------|-----|-----------------|--------|
| 19730 | Pecan | 34" | Poor - Critical | Hazard |

19730 34" Pecan – Poor to critical in condition. This tree is large with a canopy of average vigor and relatively well-balanced structure. However, it has significant decay within the trunk at the main stem union and is adjacent to a residential structure within its dripline. When re-inspected in September, this tree had also defoliated 30-40% or more of its canopy since the initial inspection due to a foliar fungal infestation from this wet spring and its vigor is in decline. As the initial and secondary level 3 tomography scans show, the tree has multiple points with clear decay and compromised structural integrity.

It's probable-imminent likelihood of failure within the next 3 years and medium-high likelihood of impact to pedestrians or residential structure - with potential for severe injury or death to pedestrians and exorbitant repairs for the residence- warrant this tree to be **HIGH-EXTREME** risk. Tree size/location and location of decay prevent reliable mitigation options short of removal.

Mitigation recommendation:

- Remove high – extreme risk pecan to grade to eliminate hazards to pedestrians and residential. Mitigate to City of Austin standards (with potential reduced/cancelled mitigation due to condition).



Overall, this site has a few nice trees to work with but also contains tree 19730 in which removal is strongly recommended for to eliminate risks due to potential hazards and owner's stated low risk tolerance for intended property usage. Trees that are preserved should be protected and cared for following City of Austin standards, specifically p-6 notes, as well as above recommendations. There is one good candidate for relocation should the owner, design team, and city decide upon the feasibility and acceptability of that course.

If you have any questions about tree health and measurement recommendations on this site, please contact me at 512-451-4986 or by email at mark.mann@davey.com. I look forward to being of further service.

Thank you,

Mark Mann

Mark Mann | District Manager
ISA Board Certified Master Arborist TX-3978B, T.R.A.Q.
TDA Applicator License No. 0731374
The Davey Tree Expert Company | South Austin Office 136131
9224 Research Blvd. Austin, TX 78758
P: 512.451.4986 | C: 512.828.1358 | F: 512.451.6482



TREE ASSOCIATES | LLC



telephone: 512.850.8000

133 Arabian Avenue South
Liberty Hill, Texas 78342

May 23, 2018

The Davey Tree Expert Company
Attn: Mark Mann
9224 Research Boulevard
Austin, Texas 78758

RE: Preliminary summary of tomography scans of Tree 19730 near 611 West 22nd Street, Austin, Texas

Mr. Mann,

On Friday, May 18, 2018 Lee Evans and I conducted a tomography scan at 30cm and one at 450 cm in height with the assistance of an aerial lift, on Tree 19730, a pecan (*Carya illinoensis*) with a strong lean to the west and southwest.

At the time of my site visit, the canopy appears to have good vigor and color. There is evidence of previous branch failure, and a cavity on the southwest side of the tree above where we conducted the second scan. Upon inspection of the open cavity there is active rodent nesting, decay, and borer activity.

In tomography scans, a tree species is typically considered structurally compromised when the shell wall at 30% is breached with less sound wood.

Scan at 30 cm

This scan suggests less sound wood in the center, however it is well within the shell wall at 30% and is typical for a tree of this size. The tree at this level is not considered structurally compromised. Please see attached image.

Scan at 450 cm

This scan was taken beneath the open cavity, and above a previous pruning wound. This location was selected as it is already weakened with an open cavity above, and below a pruning wound that shows evidence of borer damage. In addition, this point of the tree is the supporting foundation for the canopy and is the location that this particular tree would most likely fail, as multiple branch unions join at this location.

This scan suggests there is a decay pocket off center with less sound wood breaching the shell wall at 30% to the west and south side of the tree, as well as less sound wood within the shell wall as well. The scan at this level suggests the tree is structurally compromised. Please see attached images.



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telephone: 512.850.8000

133 Arabian Avenue South
Liberty Hill, Texas 78342

Conclusion

The health and vigor of the canopy appears to be in good shape, however the main stem of the tree at 450 cm shows evidence of being structurally compromised. Due to the high number of targets, the severity and consequences of impacts with the targets, the weight of the canopy and the location of the decay pocket and exposed cavity, failure is highly probable.

If you have any questions about the above information, or if you would like further detail, please feel free to contact me on my mobile at 512.775.9182 or via email at Debbie@Treeassociatesllc.com

Kindest Regards,

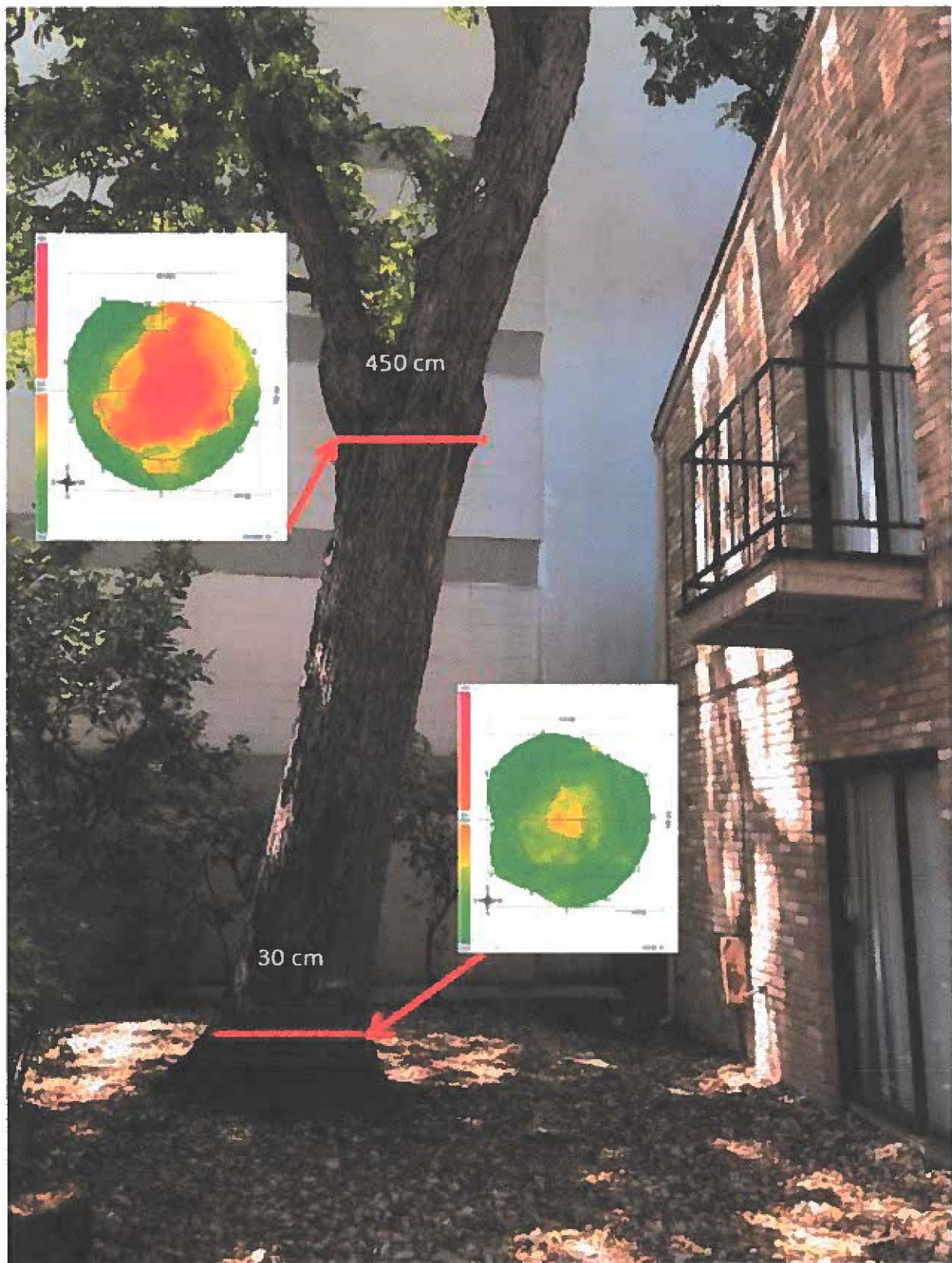
Debbie Evans

Registered Consulting Arborist: RCA-572

ISA Certified Arborist: TX-3609A

Texas Oak Wilt Certified: TOWC-0149

TDA License: TDA07027016



H: 30 cm

30 cm





Image 2. 450 cm scan. This image is taken on the south/southwest side of the tree. The red arrow is pointing to the open cavity while the yellow arrows are pointing to borer damage in an old wound on the tree. In this image you can see where the scan was taken in relation to the cavity, and the old wound.



Image 3. This is the cavity directly above the location of the scan at 450 cm. The red circle indicates the open cavity.



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telephone: 512.850.8000

133 Arabian Avenue South
Liberty Hill, Texas 78342

August 30, 2018

The Davey Tree Expert Company
Attn: Mark Mann
9224 Research Boulevard
Austin, Texas 78758

RE: Preliminary summary of tomography scans of Tree 19730 near 611 West 22nd Street, Austin, Texas

Mr. Mann,

On Tuesday August 28, 2018 Lee Evans and I conducted additional tomography scans at 380cm, 520cm on large north limb and one at 520 cm on the smaller south limb with the assistance of an aerial lift, on Tree 19730, a pecan (*Carya illinoensis*) with a strong lean to the west and southwest. A total of 5 scans were completed on this tree including the scans completed in May at 30 cm and 450 cm.

The scan locations were selected based on features of the tree that would suggest compromised areas or areas that support the canopy, for example: beneath previous large pruning wounds, swelling in the tree, cavities, beneath the juncture of two limbs, or beneath borer activity to name a few. Sensor location is based on the shape of the tree at the scan location and positioned in peaks and valleys of the tree.

In tomography scans, a tree species is typically considered structurally compromised when the shell wall at 30% is breached with less sound wood.

Tree 19730

At the time of my site visit, the canopy appears to have good vigor and color. There is evidence of previous branch failure, and a cavity on the southwest side of the tree. Upon inspection of the open cavity there is active rodent nesting, decay, and borer activity. Five scans were completed on this tree and discussed below with supporting scan images attached.

Scan at 30 cm (May 2018)

This scan suggests less sound wood in the center, however it is within the shell wall at 30% and is typical for a tree of this size. The tree at this level is not considered structurally compromised. Twelve sensors were used in this scan.

Scan at 380 cm South Limb

This scan was taken beneath a previous pruning wound. This location was selected beneath a previous pruning wound with borer activity. The intent was to determine how contained the decay at scan 450 (taken in May) is. This image supports the image taken at 450 cm. The shell wall is breached at 30% between sensors 3 and 4, and 5 thru 9. Ten sensors were used in this scan.



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Liberty Hill, Texas 78342

Scan at 450 cm (May 2018)

This scan was taken beneath the open cavity, and above a previous pruning wound. This location was selected as it is already weakened with an open cavity above, and below a pruning wound that shows evidence of borer damage. In addition, this point of the tree is the supporting foundation for the canopy and is the location that this particular tree would most likely fail, as multiple branch unions join at this location.

This scan suggests there is a decay pocket off center with less sound wood breaching the shell wall at 30% to the west and south side of the tree, as well as less sound wood within the shell wall as well, specifically between sensors 6 and 9. The scan at this level suggests the tree is structurally compromised. Ten sensors were used in this scan.

Scan at 520 cm North Limb

The scan at this level does show less sound wood near the center, however it appears to be contained within the shell wall at 30%. Seven sensors were used in this scan. This scan was located beneath a pruning wound and above another pruning wound.

Scan at 520 cm South Limb

The scan at this level does show less sound wood off center and extending out beyond the shell wall between sensors 6 and 7. Eight sensors were used in this scan.

Conclusion

Tree 19730

The main stem of the tree at 380cm and 450 cm shows evidence of being structurally compromised from the center extending out beyond the shell wall at 30%. There is evidence of less sound wood present in both main limbs, however it is contained within the shell wall at 30% with the exception of the south limb at 520 cm between sensors 7 and 6 where there is an off center area of less sound wood present.

If you have any questions about the above information, or if you would like further detail, please feel free to contact me on my mobile at 512.775.9182 or via email at Debbie@Treeassociatesllc.com

Kindest Regards,

Debbie Evans

Registered Consulting Arborist: RCA-572

ISA Certified Arborist: TX-3609A

Texas Oak Wilt Certified: TOWC-0149

TDA License: TDA07027016



TREE ASSOCIATES | LLC

**SUPPORTING DOCUMENTATION
TREE 19730**



telephone: 512.850.8000

133 Arabian Avenue South
Liberty Hill, Texas 78342





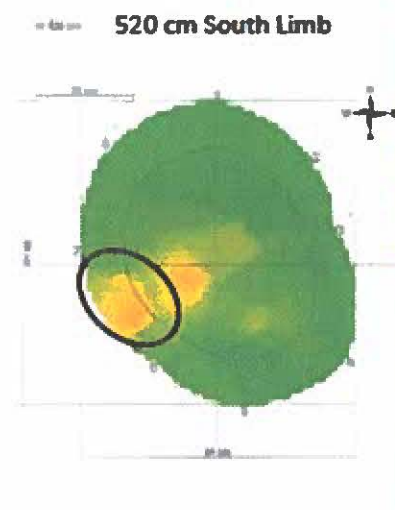
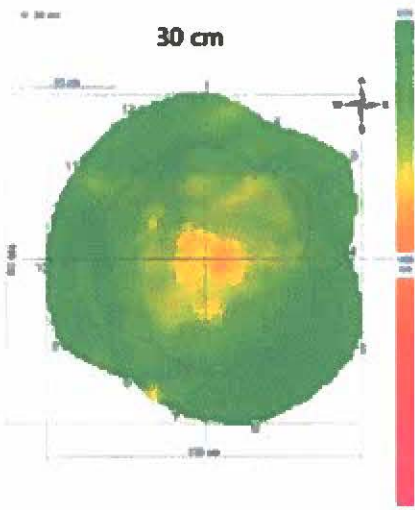
TREE ASSOCIATES | LLC



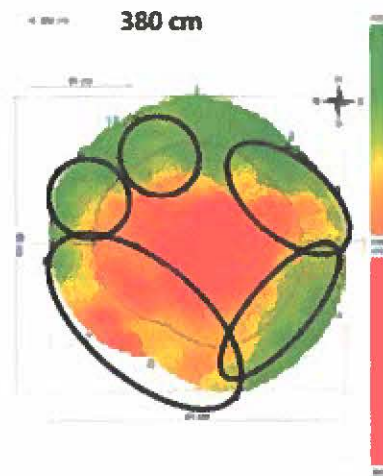
telephone: 512.850.8000

133 Arabian Avenue South
Liberty Hill, Texas 78342

SUPPORTING DOCUMENTATION TREE 19730



The thin blue circle within the scan represents the shell wall at 30%.



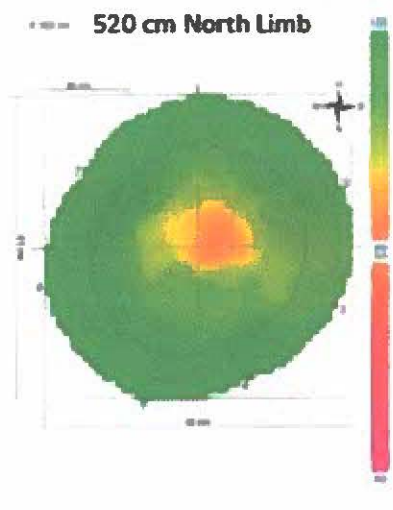
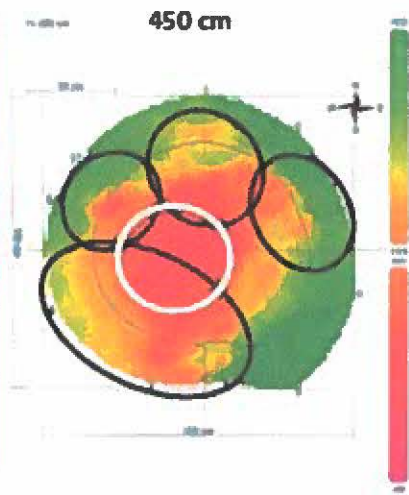
The green areas represent sound wood, where the sound traveled quickly between the sensors.

The yellow suggests less sound wood, where the sound traveled slower.

The orange and red suggest cracks or pockets of decay where the sound moved very slowly between the sensors.

The purple areas suggest a decay pocket where the sound traveled the slowest.

The white circle indicates an area where the scan is purple, suggesting the presence of a decay pocket.



The black circles indicate areas where the shell wall has been breached by less sound wood or contains a pocket or cavity.



TREE ASSOCIATES | LLC

telephone: 512.850.8000

133 Arabian Avenue South
Liberty Hill, Texas 78342

SUPPORTING DOCUMENTATION CERTIFICATE OF PERFORMANCE

I, Deborah Evans, CERTIFY to the best of my knowledge and belief:

1. That the statements of fact contained in this report are true and correct.
2. That the report analysis, opinions, and conclusions are personal, unbiased professional analysis, opinions, and conclusions derived from current scientific procedures and facts.
3. That I have no present or prospective interest in the vegetation that is the subject of this report and that I have no personal interest or bias with respect to the parties involved.
4. That my compensation is not contingent upon a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
5. That my analysis, opinions, and conclusions were developed with commonly accepted arboricultural practices.
6. That my report is based on the information known to me at this time. If more information is disclosed, I may have further opinions.

I further certify that I am a Registered Consulting Arborist, an ISA Certified Arborist, a Texas Oak Wilt Certified Arborist, a Licensed Texas Department of Agriculture Commercial Pesticide Applicator and a member in good standing with the American Society of Consulting Arborists and the International Society of Arboriculture. I have been involved in the arboriculture field since 2006.



SUPPORTING DOCUMENTATION ASSUMPTIONS AND LIMITING CONDITIONS

- 1. Any legal description provided to the consultant is assumed to be correct. Any titles and ownerships to any property are assumed to be good and marketable. No responsibility is assumed for matters legal in character. Any and all property is evaluated as though free and clear, under responsible ownership and competent management.**
- 2. Care has been taken to obtain all information from reliable sources. All data has been verified insofar as possible; however, the consultant can neither guarantee nor be responsible for the accuracy of information provided by others.**
- 3. The consultant shall not be required to give testimony or attend court by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services as described in the fee schedule and contract of engagement.**
- 4. Loss or alteration of any part of this report invalidates the entire report.**
- 5. Possession of this report or a copy thereof does not imply right of publication or use for any purpose by any other person to whom it is addressed, without the prior expressed written consent of the consultant.**
- 6. Neither all nor any part of the contents of this report, nor copy thereof, shall be conveyed by anyone, including the client, to the public through advertising, public relations, news, sales or other media, without the prior expressed written consent.**
- 7. This report and values expressed herein represent the opinion of the consultant, and the consultant's fee is in no way contingent upon the reporting of a specified value, a stipulated result, the occurrence of a subsequent event, nor upon any finding to be reported.**
- 8. Sketches, diagrams, graphs, and photographs in this report, being intended as visual aids, are not necessarily to scale and should not be construed as engineering or architectural reports or surveys.**
- 9. Unless expressed otherwise: (1) information contained in this report covers only those items that were examined and reflects the condition of those items at the time of inspection; and (2) the inspection is limited to visual examination of accessible items without dissection, excavation, probing, or coring. There is no warranty or guarantee, expressed or implied, that problems or deficiencies of the tree or property in question may not arise in the future.**



TREE ASSOCIATES | LLC



telephone: 512.850.8000

133 Arabian Avenue South
Liberty Hill, Texas 78342

— ARBORIST DISCLOSURE STATEMENT —

Arborist: Deborah Magee Evans

Date: May 24, 2018

Arborists are tree specialists who use their education, knowledge, training and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk of living near trees. Clients may choose to accept or disregard the recommendations of the arborist, or to seek additional advice.

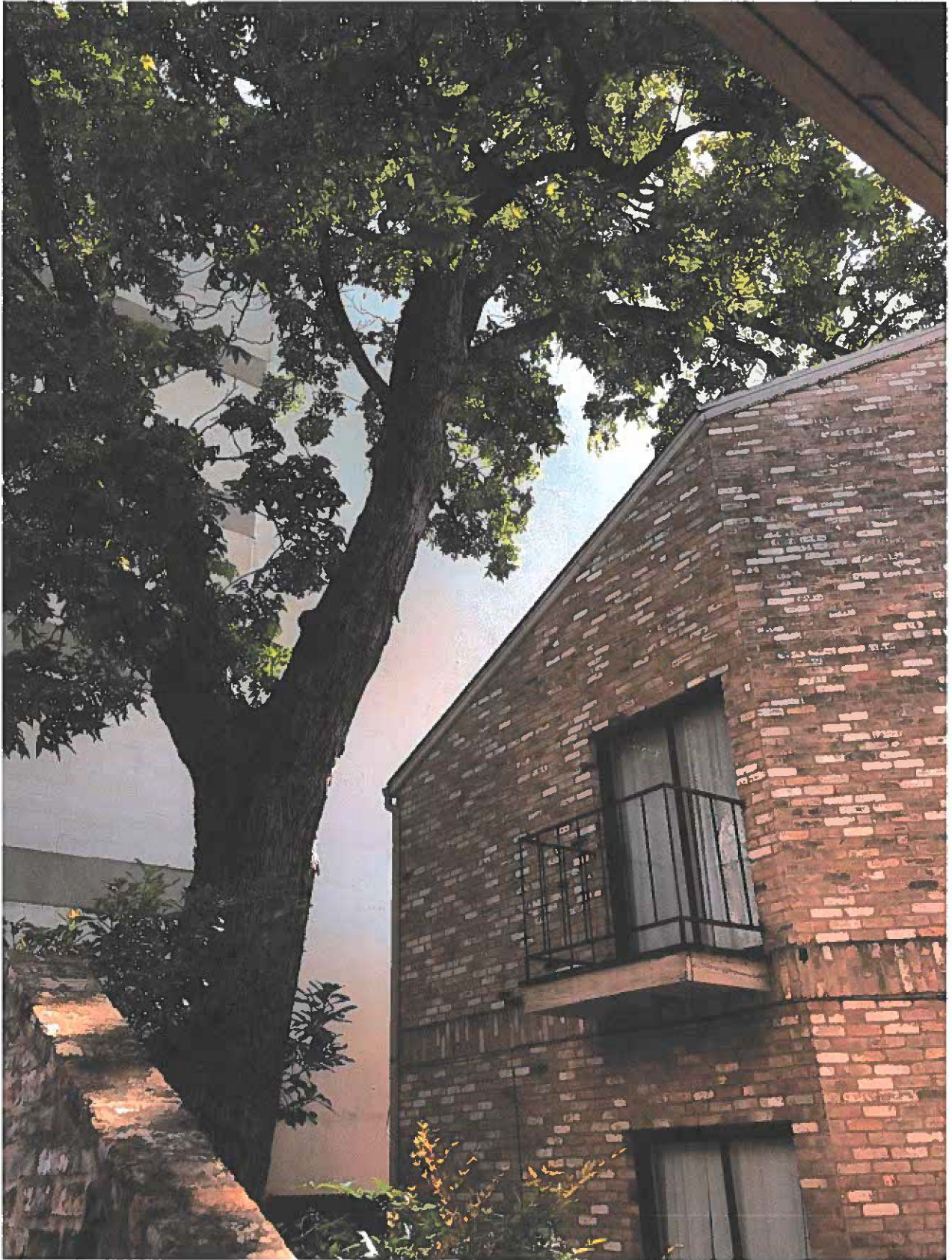
Arborists cannot detect every condition affecting tree health or that could possibly lead to the structural failure of a tree. Trees are living organisms that grow, respond to their environment, mature, decline and fail in ways we do not fully understand. Conditions impacting health and safety are often hidden within trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, remedial treatments, like any medicine, cannot be guaranteed.

With reference to safety, trees can be managed but they cannot be controlled. To live near trees is to accept some degree of risk. The only way to eliminate all risk associated with trees is to eliminate all trees.

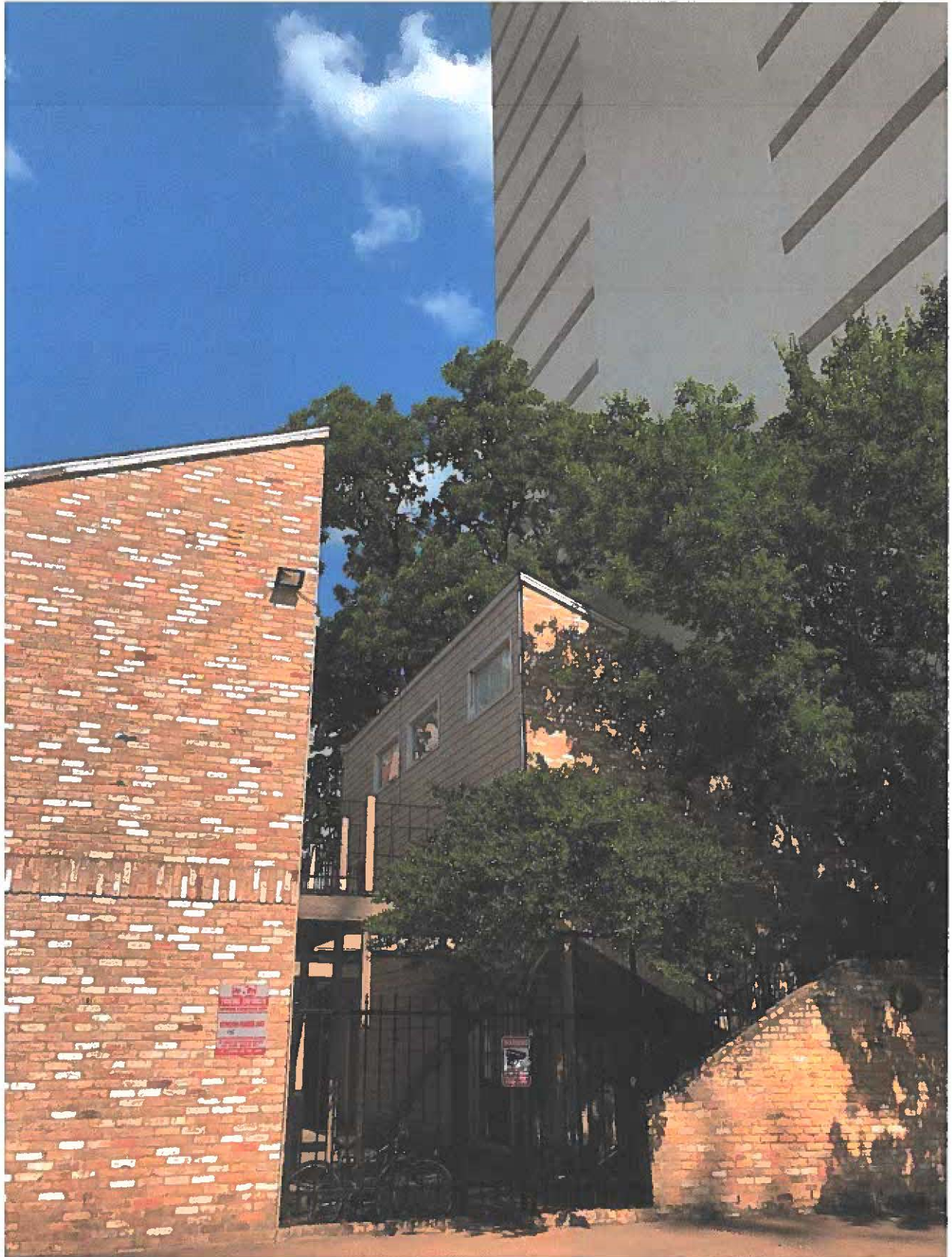
Treatment, pruning and removal of trees may involve considerations beyond the scope of the arborist's services such as property boundaries, property ownership, site lines, disputes between neighbors, and other issues. Arborists cannot take such considerations into account unless complete and accurate information is disclosed to the arborist. An arborist should then be expected to reasonably rely upon the completeness and accuracy of the information provided.

Client hereby releases Consultant from liability and agrees to defend, indemnify and hold Consultant harmless from any and all claims, liabilities, damages or expenses arising, in whole or in part, from the foregoing, including, without limitation, claims of negligence, trespass, and conversion.











7

Mike McHone

From: Mike McHone [mchone1234@sbcglobal.net]
Sent: Monday, March 18, 2019 5:39 PM
To: 'Mike McHone'
Subject: FW: 2111 Rio Grande Tree 19730

----- Original message -----

From: "Dodson, Patti" <Patti.Dodson@austintexas.gov>
Date: 12/14/18 4:57 PM (GMT-06:00)
To: Mike McHone <mchone1234@sbcglobal.net>
Subject: Re: 2111 Rio Grande Tree 19730

Hi Mike,

I do think this could be an administrative variance (#19730 only), but since the site development plans are in right now, our preference is to show it as such on the Landscape Plan (with 0% mitigation) and the removal would be done with approved plans.

Of course the other one (#19726) will need to be presented before both commissions.

Thank you,
Patti

On Dec 14, 2018, at 3:38 PM, Mike McHone <mchone1234@sbcglobal.net> wrote:

Hi Patti,
Any progress on getting the tree as an administrative removal?
Thanks,
Mike

8



| Client | Service Location | 11/21/2018 |
|--|---|---|
| MIKE MCHONE REAL ESTATE PO Box 8142 AUSTIN, TX 78713 | Villa Rio, L.P. Attn: Mike 611 W 22nd St Austin, TX 78705-5115 | Proposal #: 20042039-00002308 Account #: 557667 Home: (000) 554-8440 Work: (000) 481-9111 Email: mchone1234@sbcglobal.net |

| <u>Tree Care</u> | <u>Service Period</u> | <u>Price</u> | <u>Tax</u> | <u>Total</u> |
|---|-----------------------|-------------------|-----------------|-------------------|
| <input type="checkbox"/> Tree Pruning | | \$840.00 | \$69.30 | \$909.30 |
| - Detail prune transplant red oak to remove 1/2" diameter and larger deadwood from canopy. Lightly thin ~15% for improved growing form. - Elevate canopy for ~8'-10' vertical clearance above grade for construction access. - Paint oak wounds and clean up/haul off debris. | | | | |
| | Service Total | \$840.00 | \$69.30 | \$909.30 |
| <u>Landscaping</u> | <u>Service Period</u> | <u>Price</u> | <u>Tax</u> | <u>Total</u> |
| <input type="checkbox"/> Radial Trenching | | \$960.00 | \$79.20 | \$1,039.20 |
| - Soil invigorate transplant red oak root ball to decompact soils and incorporate ~2" depth of organic compost over ~50% root zone area to improve growing environment and stimulate new root growth. | | | | |
| <input type="checkbox"/> Mulching | | \$720.00 | \$59.40 | \$779.40 |
| - Pre-transplanting, mulch root zone of red oak to be transplanted to depth of 3-4". | | | | |
| | Service Total | \$1,680.00 | \$138.60 | \$1,818.60 |
| <u>Fertilization/SoilCare</u> | <u>Service Period</u> | <u>Price</u> | <u>Tax</u> | <u>Total</u> |
| <input type="checkbox"/> Deep Root Fert w/ArborGreenPRO (1yr)(*) | | \$240.00 | \$19.80 | \$259.80 |
| - Pre transplanting, deep root fertilize transplant red oak to improve soil nutrition and stimulate new root growth. | | | | |
| | Service Total | \$240.00 | \$19.80 | \$259.80 |
| Total of All Services | | \$2,760.00 | \$227.70 | \$2,987.70 |

Sales tax will be added per local jurisdiction unless tax exempt form is on file.

(*) Please note these services continue year after year. By signing you agree to the terms appended to this form.

☐ Yes, please schedule the services marked above.

ACCEPTANCE OF PROPOSAL: The above prices and conditions are hereby accepted. You are authorized to do this work as specified. I am familiar with and agree to the terms and conditions appended to this form. All deletions have been noted. I understand that once accepted, this proposal constitutes a binding contract. This proposal may be withdrawn if not accepted within 30 days.

Mark Mann

Mark Mann ISA Board Cert. Master TX-3978B Tree
 Risk Assessor Qual. Texas Oak Wilt Certified
 TXOWQ-144

 Authorizing Signature

 Date

AUTOMATIC RENEWAL OF SERVICES. Evergreen, or automatic renewal, is applicable to those services indicated in the contract. Except in New York, California and Connecticut, by signing, I agree that next year and continuing every year thereafter, the company will automatically perform and I will pay for the services outlined in this contract without the need for further action or confirmation on my part. The company will send me a reminder notification each year which will include any price changes. The company will make suggested service/treatment changes which I can receive by notifying the company to perform these services. If I add, change or cancel any contracted services, it is my responsibility to inform the company of these changes or cancellation in writing prior to the scheduled service being performed.

Client Care Guarantee

We use quality products that are administered by trained personnel. We guarantee to deliver what we have contracted to deliver. If we do not, we will work with you until you are satisfied, or you will not be charged for the disputed item. Our Client Care Guarantee demonstrates our commitment to creating lifelong client relationships.

Tree Care

PRUNING: Performed by trained arborists using industry and Tree Care Industry Association (TCIA) approved methods.

TREE REMOVAL: Removal to within 6" of ground level and cleanup of debris.

STUMP REMOVAL: Mechanical grinding of the visible tree stump to at or just below ground level. Stump area will be backfilled with stump chips and a mound of remaining chips will be left on site unless otherwise stated in the contract. Chip removal, grading and soil backfill are available.

CLEAN-UP: Logs, brush, and leaves, and twigs large enough to rake are removed. Sawdust and other small debris will not be removed.

CABLING/BRACING: Cabling and bracing of trees is intended to reduce damage potential. It does not permanently remedy structural weaknesses, is not a guarantee against failure and requires periodic inspection.

Tree and Shrub Fertilization/SoilCare

Your arborist will assess your property's overall soil conditions either through physical assessment or through soil testing and will recommend a soil management program to help the soil become a better medium to enable healthy plants to thrive or unhealthy plants to regain their vitality. SoilCare programs will include fertilizers, organic humates, fish emulsions and other organic soil conditioners.

Our advanced formula, Arbor Green PRO, works with nature to fertilize without burning delicate roots, building stronger root systems and healthier foliage. It contains no chlorides or nitrates. It is hydraulically injected into the root zone and the nutrients are gradually released over time. Research and experience shows the dramatic benefits Arbor Green PRO provides: greater resistance to insects and diseases, greater tolerance to drought stress, increased vitality, and healthier foliage.

Tree and Shrub Fertilization

Our advanced formula, Arbor Green PRO, works with nature to fertilize without burning delicate roots, building stronger root systems and healthier foliage. It contains no chlorides or nitrates. It is injected into the root zone and the nutrients are gradually released over time. Research and experience shows the dramatic benefits Arbor Green PRO provides: greater resistance to insect and disease, greater tolerance to drought stress, increased vigor, and healthier foliage.

Tree and Shrub Plant Health Care

PRESCRIPTION PEST MANAGEMENT: Customized treatments to manage disease and insect problems specific to plant variety and area conditions. Due to the short term residual of available pesticides, repeat applications may be required.

INSECT MANAGEMENT: Inspection and treatment visits are scheduled at the proper time to achieve management of destructive pests. Pesticides are applied to label specifications.

DISEASE MANAGEMENT: Specific treatments designed to manage particular disease problems. Whether preventative or curative, the material used, the plant variety being treated, and the environmental conditions all dictate what treatment is needed.

EPA approved materials will be applied in accordance with State and Federal regulations.

Lawn Care

FERTILIZER AND MECHANICAL SERVICES: Balanced fertilizer treatments applied throughout the growing season help provide greener turf color and denser root development. To help bring about a better response to these applications, we also provide aeration, lime, overseeding, and lawn renovation.

WEED CONTROL AND PEST MANAGEMENT: Broadleaf weed control is applied either as a broadcast or a spot treatment. Granular weed management may be broadcast. We also offer pre-emergent crabgrass management in the spring and, if needed, a postemergent application later in the year. Our surface insect management is timed to reduce chinch bugs, sod webworms, and billbugs. We also offer a grub management application. Disease management materials and treatments are matched to particular disease problems. This usually requires repeat applications.

Other Terms and Contract Conditions

INSURANCE: Our employees are covered by Worker's Compensation. The company is insured for personal injury and property damage liability. Proof of insurance can be verified by requesting a copy of our Certificate of Insurance.

WORKING WITH LIVING THINGS: As trees and other plant life are living, changing organisms affected by factors beyond our control, no guarantee on tree, plant or general landscape safety, health or condition is expressed or implied and is disclaimed in this contract unless that guarantee is specifically stated in writing by the company. Arborists cannot detect or anticipate every condition or event that could possibly lead to the structural failure of a tree or guarantee that a tree will be healthy or safe under all circumstances. Trees can be managed but not controlled. When elevated risk conditions in trees are observed and identified by our representatives and a contract has been signed to proceed with the remedial work we have recommended, we will make a reasonable effort to proceed with the job promptly. However, we will not assume liability for any accident, damage or injury that may occur on the ground or to any other object or structure prior to us beginning the work. Site inspections do not include internal or structural considerations unless so noted. Unless otherwise specified, tree assessment will not include investigations to determine a tree's structural integrity or stability. We may recommend a Risk Assessment be conducted for an additional charge.

TREE CARE STANDARDS: All work is to be performed in accordance with current American National Standards Institute (ANSI) Standard Practices for Tree Care Operations. **OWNERSHIP OF TREES/PROPERTY:** Acceptance constitutes a representation and warranty that the trees and property referenced in this quote are either owned by the signer or that written permission has been received to work on trees which are not on the signer's property.

TIME & MATERIAL (T&M): Jobs performed on a T&M basis will be billed for the time on the job (not including lunch break), travel to and from the job, and materials used.

BILLING & SALES TAX: All amounts deposited with us will either be credited to your account or applied against any amounts currently due. Our invoices are due net 30 days from invoice date. Services may be delayed or cancelled due to outstanding account balances. Sales tax will be added as per local jurisdiction. Clients claiming any tax exempt status must submit a copy of their official exempt status form including their exemption number in order to waive the sales or capital improvement tax.

PAYMENT: We accept checks and credit cards. Credit card payments may be made online at our web site. Paying by check authorizes us to send the information from your check to your bank for payment.

UNDERGROUND PROPERTY: We are not responsible for any underground property unless we have been informed by you or the appropriate underground location agency.

SCHEDULING: Job scheduling is dependent upon weather conditions and work loads.



| Client | Service Location | 11/21/2018 |
|--|---|---|
| MIKE MCHONE REAL ESTATE PO Box 8142 AUSTIN, TX 78713 | Villa Rio, L.P. Attn: Mike 611 W 22nd St Austin, TX 78705-5115 | Proposal #: 20042039-00002307 Account #: 557667 Home: (000) 554-8440 Work: (000) 481-9111 Email: mchone1234@sbcglobal.net |

| <u>Plant Health Care</u> | <u>Service Period</u> | <u>Price</u> | <u>Tax</u> | <u>Total</u> |
|--|-----------------------|-------------------|-----------------|-------------------|
| <input type="checkbox"/> Dormant Oil Treatment(*) - Dormant oil application to red oak transplant to combat following growing season pest populations and damage (\$180 each x 5 applications). | Winter | \$900.00 | \$74.25 | \$974.25 |
| <input type="checkbox"/> Inspection And Treatment(*) - Early spring foliar fungicide applications to red oak to combat potential foliar fungal infection and damage (5 years applications x \$180 each). | Early Spring | \$900.00 | \$74.25 | \$974.25 |
| <input type="checkbox"/> Inspection And Treatment(*) - Spring foliar fungicide applications to red oak to combat potential foliar fungal infection and damage (5 years applications x \$180 each). | Spring | \$900.00 | \$74.25 | \$974.25 |
| <input type="checkbox"/> Inspection And Treatment(*) - Late spring foliar fungicide applications to red oak to combat potential foliar fungal infection and damage (5 years applications x \$180 each). | Late Spring | \$900.00 | \$74.25 | \$974.25 |
| <input type="checkbox"/> Borer Treatment(*) - Early summer trunk application to transplant red oak to combat possible borer infestations and damage to stressed tree (5 years applications x \$180 each). | Early Summer | \$900.00 | \$74.25 | \$974.25 |
| <input type="checkbox"/> Borer Treatment(*) - Mid summer trunk application to transplant red oak to combat possible borer infestations and damage to stressed tree (5 years applications x \$180 each). | Summer | \$900.00 | \$74.25 | \$974.25 |
| <input type="checkbox"/> Borer Treatment(*) - Late summer trunk application to transplant red oak to combat possible borer infestations and damage to stressed tree (5 years applications x \$180 each). | Late Summer | \$900.00 | \$74.25 | \$974.25 |
| <input type="checkbox"/> Phosphonate Fungicide Treatment (*) - Phosphonate fungicide trunk drench to stimulate natural plant defense mechanisms and promote tree vigor (\$240 each x 5 applications). | Fall | \$1,200.00 | \$99.00 | \$1,299.00 |
| <input type="checkbox"/> Systemic Insecticide Treatment(*) - Systemic insecticide trunk drench to transplant red oak to combat possible obscure scale and other foliage-damaging insect pests infestation and damage (\$180 each x 5 applications). | Early Spring | \$900.00 | \$74.25 | \$974.25 |
| Service Total | | \$8,400.00 | \$693.00 | \$9,093.00 |
| <u>Fertilization/Soil Care</u> | <u>Service Period</u> | <u>Price</u> | <u>Tax</u> | <u>Total</u> |



| Client | Service Location | 11/21/2018 |
|--|---|---|
| MIKE MCHONE REAL ESTATE PO Box 8142 AUSTIN, TX 78713 | Villa Rio, L.P. Attn: Mike 611 W 22nd St Austin, TX 78705-5115 | Proposal #: 20042039-00002307 Account #: 557667 Home: (000) 554-8440 Work: (000) 481-9111 Email: mchone1234@sbcglobal.net |

| | | | | |
|---|--------|------------|---------|------------|
| <input type="checkbox"/> Deep Root Fert w/ArborGreenPRO (1yr)(*) | Spring | \$1,125.00 | \$92.81 | \$1,217.81 |
|---|--------|------------|---------|------------|

Deep root fertilize transplant red oak with Arbor Green Pro to provide nutrients for increased resistance towards insects and diseases while promoting overall appearance and health (5 applications at \$225 each annually).

Service Total **\$1,125.00** **\$92.81** **\$1,217.81**

Total of All Services **\$9,525.00** **\$785.81** **\$10,310.81**

Sales tax will be added per local jurisdiction unless tax exempt form is on file.

(*) Please note these services continue year after year. By signing you agree to the terms appended to this form.

☐ Yes, please schedule the services marked above.

ACCEPTANCE OF PROPOSAL: The above prices and conditions are hereby accepted. You are authorized to do this work as specified. I am familiar with and agree to the terms and conditions appended to this form. All deletions have been noted. I understand that once accepted, this proposal constitutes a binding contract. This proposal may be withdrawn if not accepted within 30 days.

Mark Mann

Mark Mann ISA Board Cert. Master TX-3978B Tree
Risk Assessor Qual. Texas Oak Wilt Certified
TXOWQ-144

Authorizing Signature

Date