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Memo

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

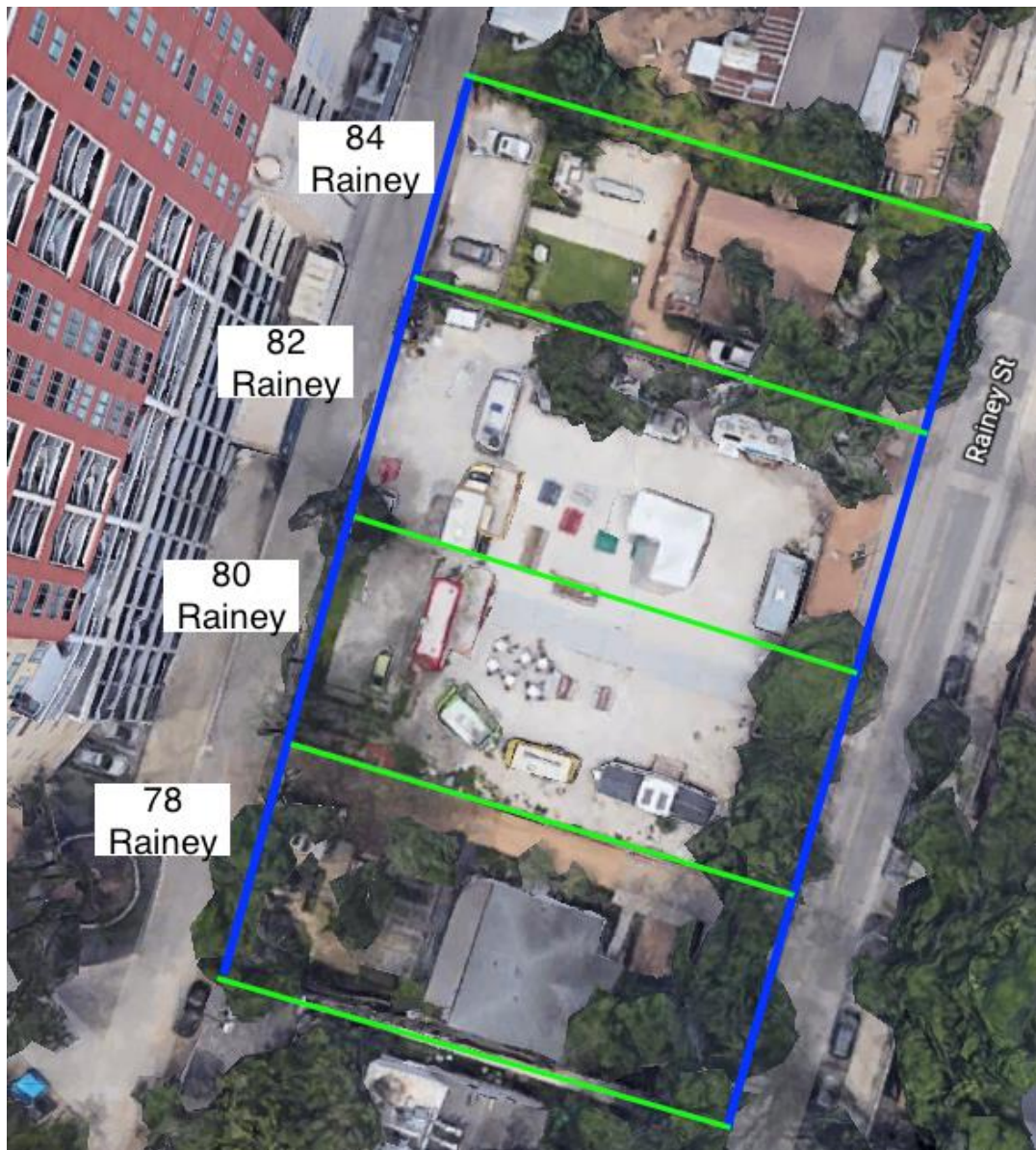
From: Amanda Swor, Director of Entitlements and Policy

Date: November 12, 2021

Re: 80 Rainey Reasonable Use Memorandum

Site:

The 0.66-acre, 4 parcel property located at 78-84 Rainey Street, in Austin, Travis County, Texas 78701 (collectively, the "Property").



SITE CONDITIONS:

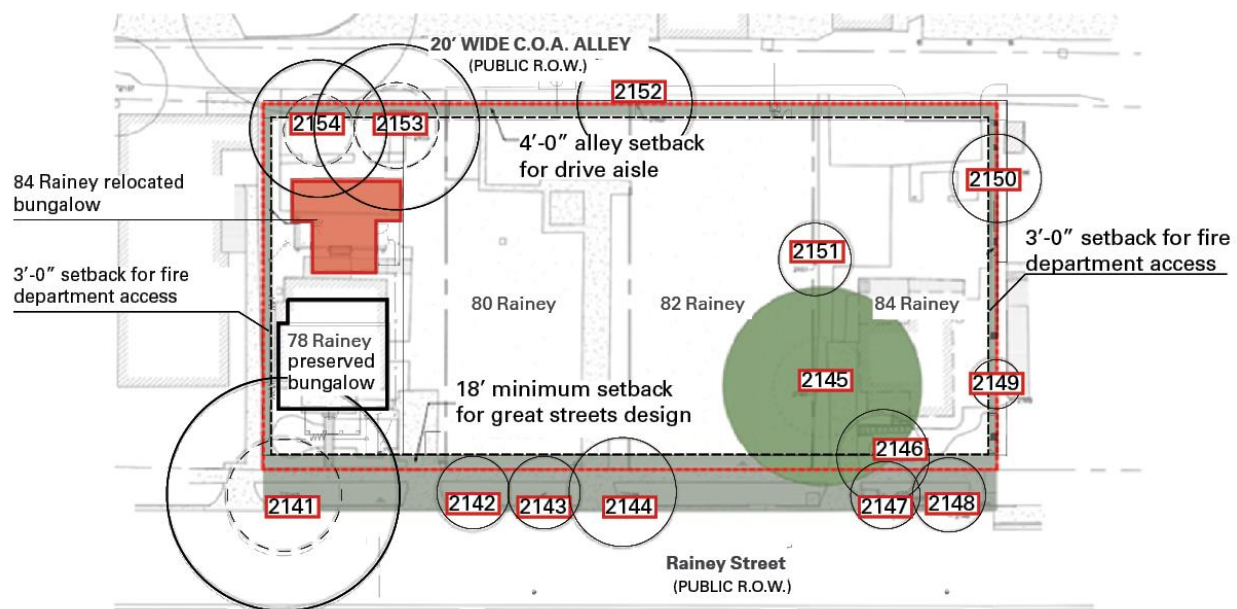
Currently, the Property is being operated as follows: 1) 78 Rainey – Reina Cocktail Bar, 2) 80 Rainey – Food Truck Lot, 3) 82 Rainey – Food Truck Lot, and 4) 84 Rainey – General Office.

REQUEST:

There is one (1) heritage tree with a single stem over 30" in diameter, a 32.5" Pecan (Tree # 2145), that is being requested for removal. The tree is centrally located at the Property. See Exhibit A for the tree location.

EXHIBIT A: Site Constraints Exhibit

The tree location of 32.5" Pecan (Tree # 2145) combined with: (i) 18'-0" – minimum setback for Great Streets Master Plan Design along Rainey Street, (ii) 3' setback from fire department access at 78 Rainey Street, (iii) 4'-0" Alley Setback for Drive Aisle, not including additionally requested alley easement by City of Austin, (iv) 3'-0" Setback for Fire Department Access and (v) preservation of the Rainey Street Bungalow at 78 Rainey Street.



CONSTRAINTS:

The Property consists of approximately 0.66 acres, or approximately 28,750 SF, is zoned CBD (Central Business District), and is located in the Rainey Street Subdistrict of the Downtown Austin Plan. The Rainey Street Subdistrict regulations (§25-2-739) create a maximum building height of forty (40) feet and a floor-to-area ration of 8:1 for residential or mixed-use buildings that do not both: (a) provide at least five (5%) percent of the dwelling units to persons whose household income is eighty percent (80%) or below the median family income (MFI) in the Austin metropolitan area, as further set forth in (§25-2-739(c)(4)) and (b) participate in the Downtown Density Bonus Program, as further set forth in (§25-2-739(c)(5)).

As a requirement of the Downtown Density Bonus Program, the Great Streets Master Plan is triggered,

requiring the Property to have a setback of not less than 18 feet along Rainey Street. This setback impedes the footprint of the site thereby limiting the development and reducing the developable footprint.

The tree requested for removal (Tree #2145) on the site is located at the middle third of the site. Given its location and existing canopy, the tree impacts approximately 11% of the site.

While this site is only requesting removal of one heritage tree the site is inhabited by several other healthier more vibrant trees that will be preserved onsite namely (a) 37.5" Heritage Pecan located in the Right of Way (Tree # 2141), (b) 26.5" Heritage Pecan (Tree # 2153), and (c) 22" Protected Pecan (Tree # 2154). The trees being preserved onsite, in addition to the area of the two preserved bungalows, encompass 18.5% of the site (this calculation accounts for overlap of preserved tree canopy and bungalow area footprint).

Tree #2145 is located on the portion of the site required to stack the residential tower. Stacking of the residential tower to the north is necessary to preserve the three trees mentioned above as well as the bungalow at 78 Rainey Street. Leaving tree #2145 will prohibit the ability to provide structured parking and results in a 14% reduction in gross square feet of developable area, as set forth on Exhibit B below. Further, Exhibit C below, illustrates different design layouts assuming the trees remain. Showing that even if there was a way to address the impact to parking, keeping the tree renders the site unable to construct a structure with workable building floorplates and provide sufficient natural light for the health of the tree.

EXHIBIT B: Developable Area Impact

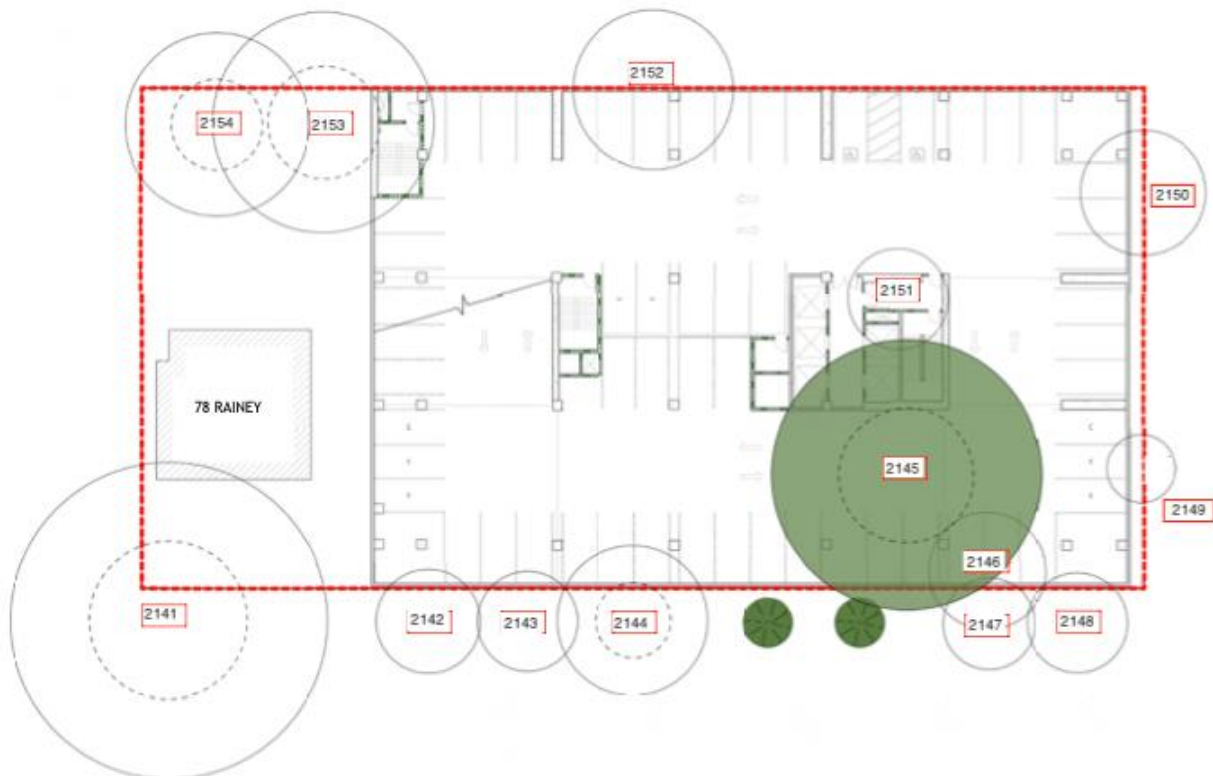


Exhibit C: Considered Building Layouts



Given the (a) stepback constraint; (b) location of the trees; (c) limited acreage of the site; (d) preservation of other existing trees and (e) the tree survey report prepared by Wuest Group, we respectfully request the removal of Tree No. 2145.

DESIRED REASONS:

The current intent is to develop an approx. 640-unit multifamily project and 13,580 square feet of retail. With compliance with the Rainey Street Subdistrict regulations this project would provide a minimum of 9,979 square feet of on-site affordable units with on-site additional affordability to be included.

The Rainey Street Subdistrict, in conjunction with the Central Business District and Waterfront Overlay Combining District, was put in place to encourage: (a) the preservation of trees and unique historic character of the area, (b) a strong mixed income residential component within the development, (c) a pedestrian friendly environment, (d) the use of green building techniques, and (e) the use of urban design criteria that are typically included in the City's performance based economic incentive policies.

The location of Tree #2145 provides a significant impact on the developability of the site and would not allow for reasonable use of the site to construct a multifamily housing project in the Rainey Street Subdistrict where increased affordable housing is preferred and encouraged within close proximity to transit.

Two (2) tree assessments were conducted on Tree #2145. First, a tree evaluation of the 32.5" Pecan (#2145), Exhibit D, was completed by Mark Mann of Tree Man Solutions on May 6, 2021. The tree is listed as large and a poor preservation candidate. The report reflects that the tree does not look good from the outside and there are multiple past failure points and burls/wounded closure areas that indicate signs of significant damage within the main stems. Because of these reasons, it is not a great tree to transplant or

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design around. Second, a level 3 tree assessment of Tree #2145 was completed by Michael Embesi of Bartlett Tree Experts on July 29, 2021. Per this assessment, the tree is listed in good health, but the tree's structure and form are listed as fair. Further, the assessment sets forth that the tree has several observed wounds and decay in the canopy indicating a possible presence of decay. As a result, cabling and/or bracing and reduction pruning may be appropriate to reduce the risk of limb failure. See Exhibit E for 27" longitudinal crack.

An onsite tree visit was conducted with Naomi Rotramel on April 13, 2021. A tree report issued on May 6, 2021, sites that the tree is in fair condition as well.

EXHIBIT D: Pecan (#2145 / 5001) – Past Failure Points Exhibit



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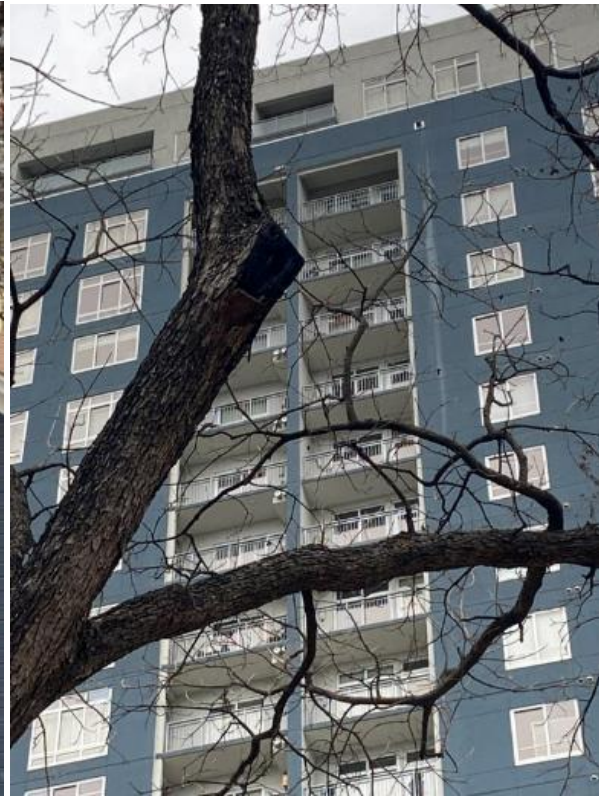


Exhibit E: Longitudinal Crack



Transplant Feasibility:

Attached as Appendix A is a summary provided by Bartlett Tree Experts of the pruning that would need to occur in the event a transplant is sought.

Mitigation Efforts

As part of the mitigation the applicant proposes a menu approach that includes substantial contributions to the on-site streetscape and tree care maintenance agreed upon with City of Austin Arborists in an effort to increase the long-term health and vitality of the Rainey Street urban forest and to add to the diversity of the streetscape for pedestrians as well as contribution of appropriate fee towards the Urban Forest Replenishment Fund. The cost of these improvements would be equal to the proposed cost for relocating Tree #2145 and maintaining for 5 years, which is approximately between \$150,000 – \$170,000. This cost is in addition to the tree removal mitigation costs in code which are approximately \$21,000 (depending upon tree health valuation by staff), which we propose be used in on-site streetscape improvements. Therefore, we are proposing to provide an approximate total of \$171,000 - \$191,000 of improvements in lieu of preserving Tree #2145 for comprehensive and enhanced viability improvements to the pedestrian streetscape and paseo.

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

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

At this preliminary concept stage of design, the project streetscape will yield approximately eight (8) new street trees on Rainey Street. Reference Exhibit 'G' COA GREAT STREETS STREETSCAPE STANDARDS, attached to this memo.

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

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

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

- a. Provide approximately \$70,000 - \$75,000 to plant eight (8), 5" trees with voluntary continuous planting bed improvements along the pedestrian zone which will provide increased soil volume for root zones, increased stormwater infiltration, increased aeration of roots and under story plantings that create and maintain a healthy Mycorrhizal fungi network, reference Exhibit 'H' and Exhibit 'I' attached to this memo.
- b. Propose planting eight (8), 5" trees (with a minimum of 1,000 cubic feet of soil per tree (up to 25% shared between trees), and a combination with continuous planters, possible permeable paving at a cost of approximately \$80,000 - \$90,000 which will increase soil volume for roots and increase stormwater infiltration while decreasing compaction over root zones, reference Exhibit 'H' and Exhibit 'J' attached to this memo.
- c. Implement a thorough 5-year tree care and maintenance plan at the cost of approximately \$13,600 to increase tree viability over time for the eight (8) planted trees (monitor, water, fertilize, prune, etc.).
- d. Implement a 5-year tree care plan for the three (3) preserved Protected and Heritage trees at the cost of approximately \$12,900 to increase tree viability through construction and post-construction (monitor, water, fertilize, etc.).

With this request, we believe we can contribute to the Rainey Street Subdistrict urban forest, preserve and enhance the existing bungalow site's canopy, add to the pedestrian comfort, and prevent soil restrictions with the street tree improvements.

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

32.5" Pecan (# 2145 / 5001)

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

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

(2) prevents a reasonable use of the Property;

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

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

(1) the applicant has applied for and been denied a variance, waiver, exemption modification, or alternative compliance from another City Code provision which would eliminate the need to remove the heritage tree, as required in Section 25-8-646 (Variance Prerequisites); and

RESPONSE: The Applicant has no other alternative equivalent compliance available to allow reasonable use of the Property because of the required compliance with the Great Streets Master Plan sidewalk requirements, alley setbacks and preservation of (a) 37.5" Pecan (Tree # 2141 / 5001), (b) 26.5" Pecan (Tree # 2153 / 5007), and (c) 22" Pecan (Tree # 2154 / 5008), and the bungalow at 78 Rainey Street. No variances can be pursued which would eliminate the removal of the heritage trees.

(2) Removal of the heritage tree is not based on a condition caused by the method chosen by the applicant to develop the property, unless removal of the heritage tree will result in a design that will allow for the maximum provision of ecological service, historic, and cultural value of the trees on the site.

RESPONSE: We are seeking removal as the building floorplates do not work with the tree in its current location. The requested removal of tree (#2145) is not based on a condition caused by the method chosen to develop the Property. The tree is in fair health with several previous failures and over-pruning. The current root zones and canopy would render the Property undevelopable given the limited depth of the site.

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EXHIBIT F: SITE SURVEY

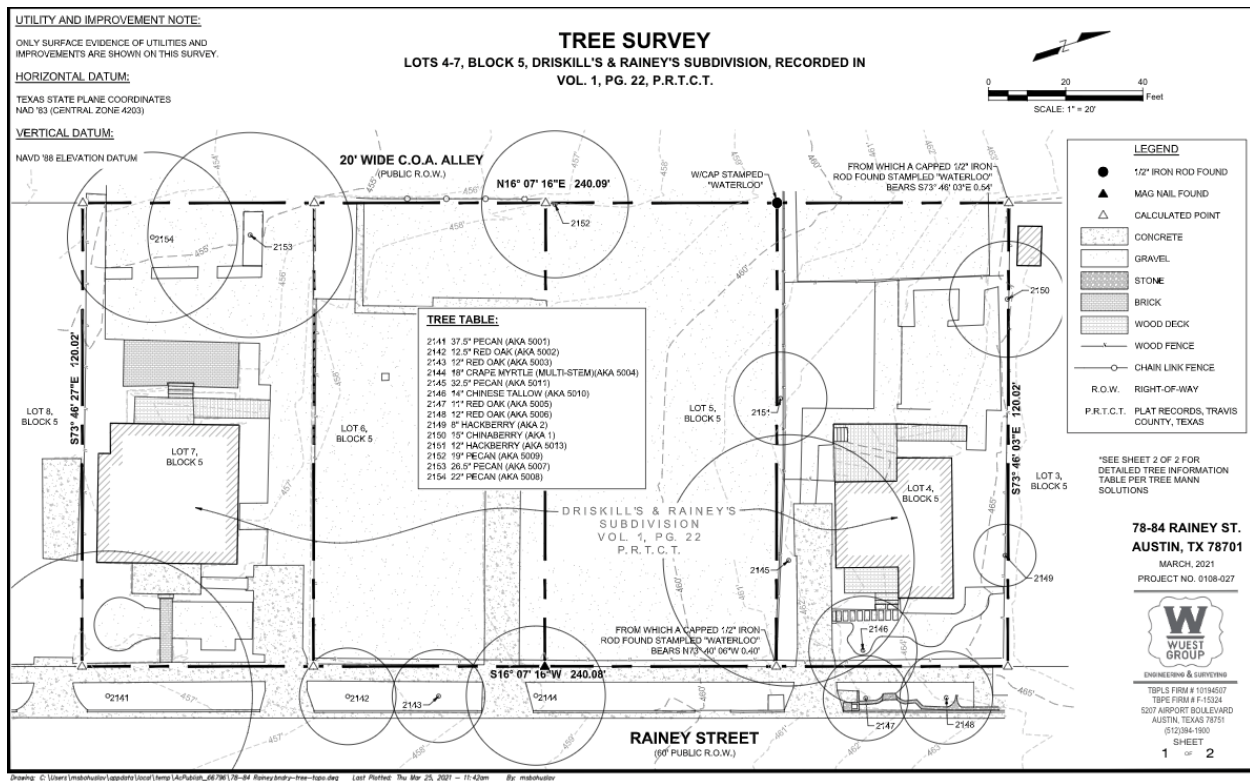
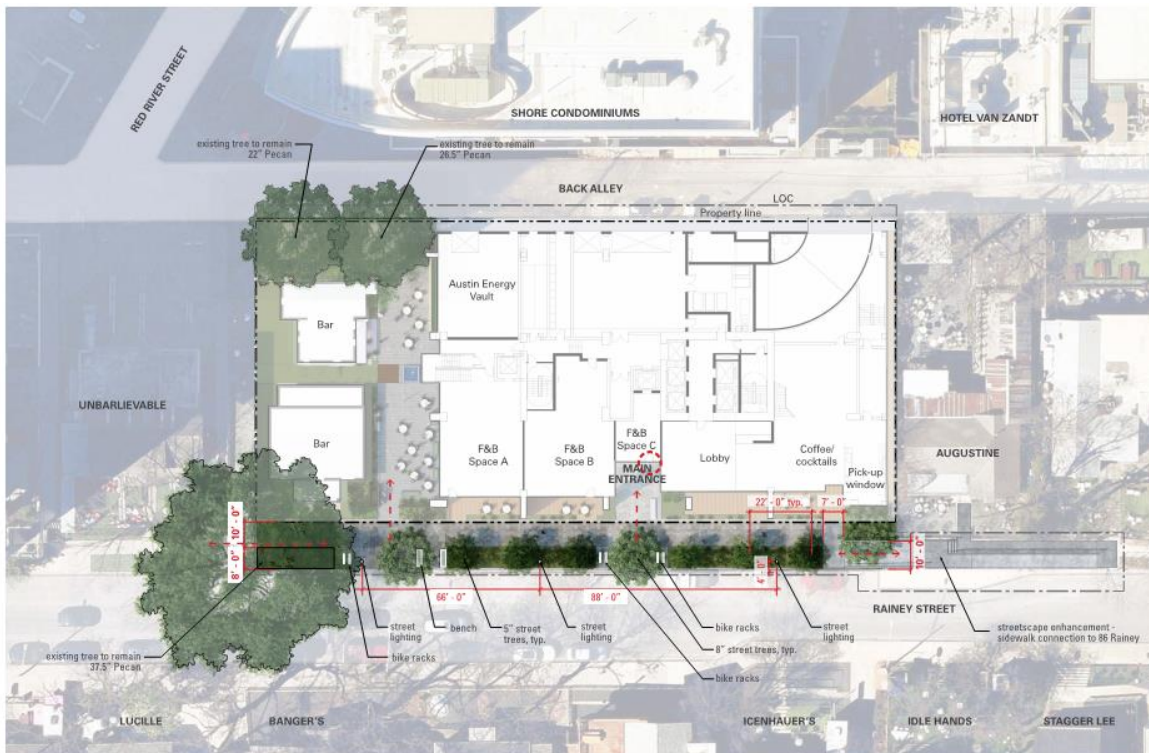


EXHIBIT G: COA – GREAT STREETS STANDARDS



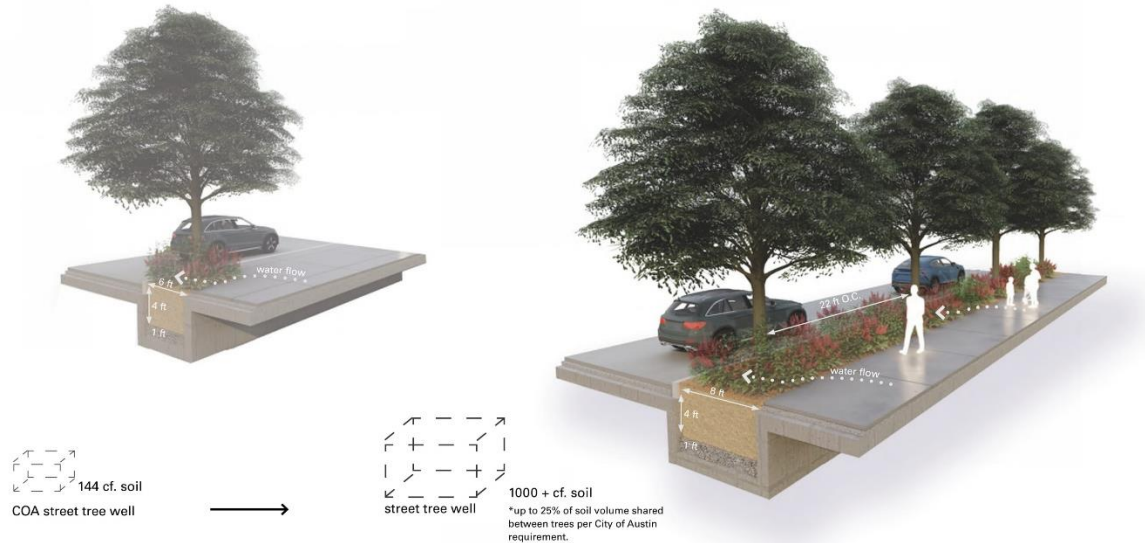
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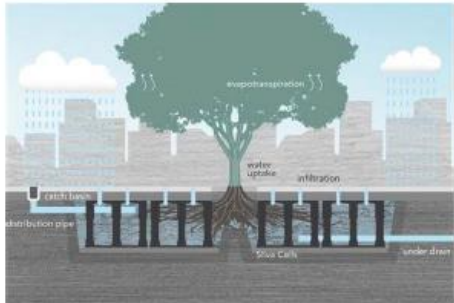
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EXHIBIT H: PROPOSED CONTINUOUS PLANTING BEDS / SOIL CELLS (as needed to achieve 1000cf soil volume per tree goal)



Continuous planting beds

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



Silva Cells with permeable paving

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

EXHIBIT I: COA – GREAT STREETS STANDARDS WITH CONTINUOUS PLANTING BEDS



EXHIBIT J: COA – GREAT STREETS STANDARDS + SOIL CELLS



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EXHIBIT K: LOCAL CONTINUOUS PLANTING EXAMPLES



SXSW Center



2400 Nueces Apartments

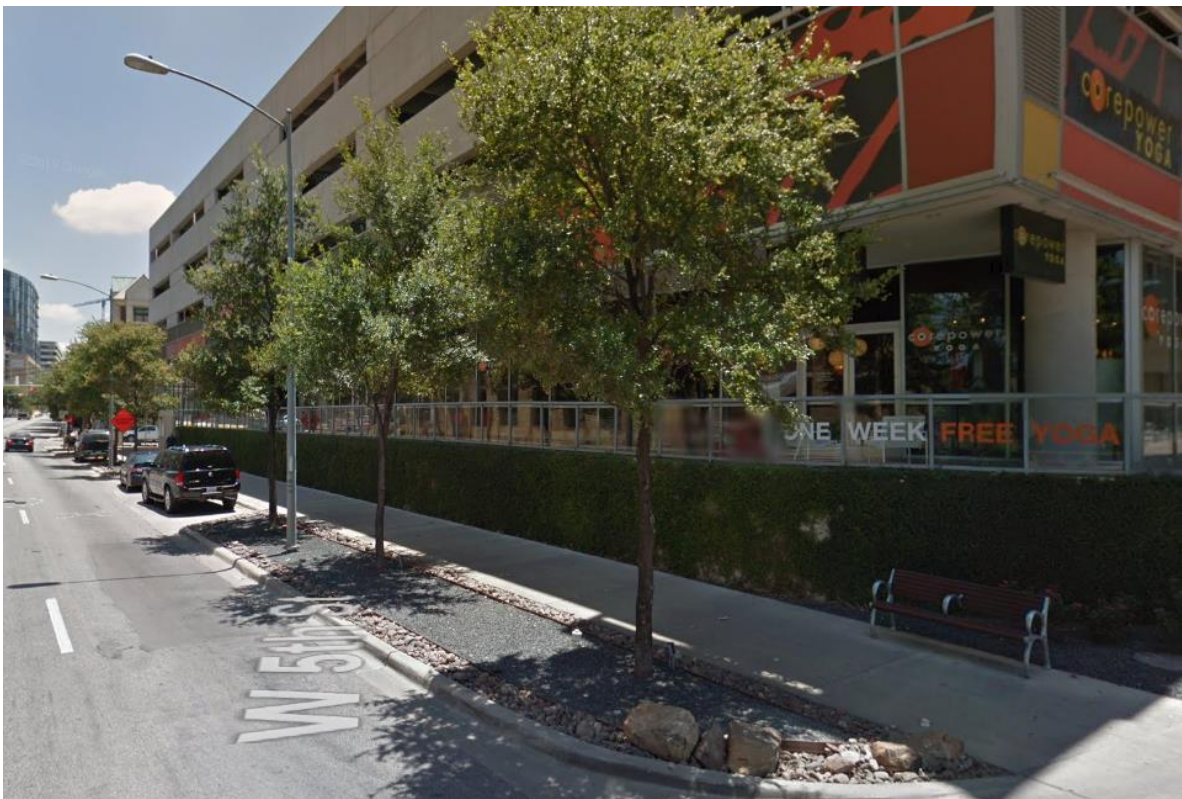
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EXHIBIT K: LOCAL CONTINUOUS PLANTING EXAMPLES (CONT.)



Austin City Lofts



The Monarch by Windsor

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Appendix A



Potential Site of Pruning Cuts to Reduce the Risk of Branch Failure and Facilitate Transplanting

Heritage Pecan
84 Rainey Street



Stem A

Stem B

Reduce lower limb that is over the structure.

Consider installing cables between codominant stems (A + B) to reduce the risk of stem failure

Approximate pruning cut locations marked with red arrows.

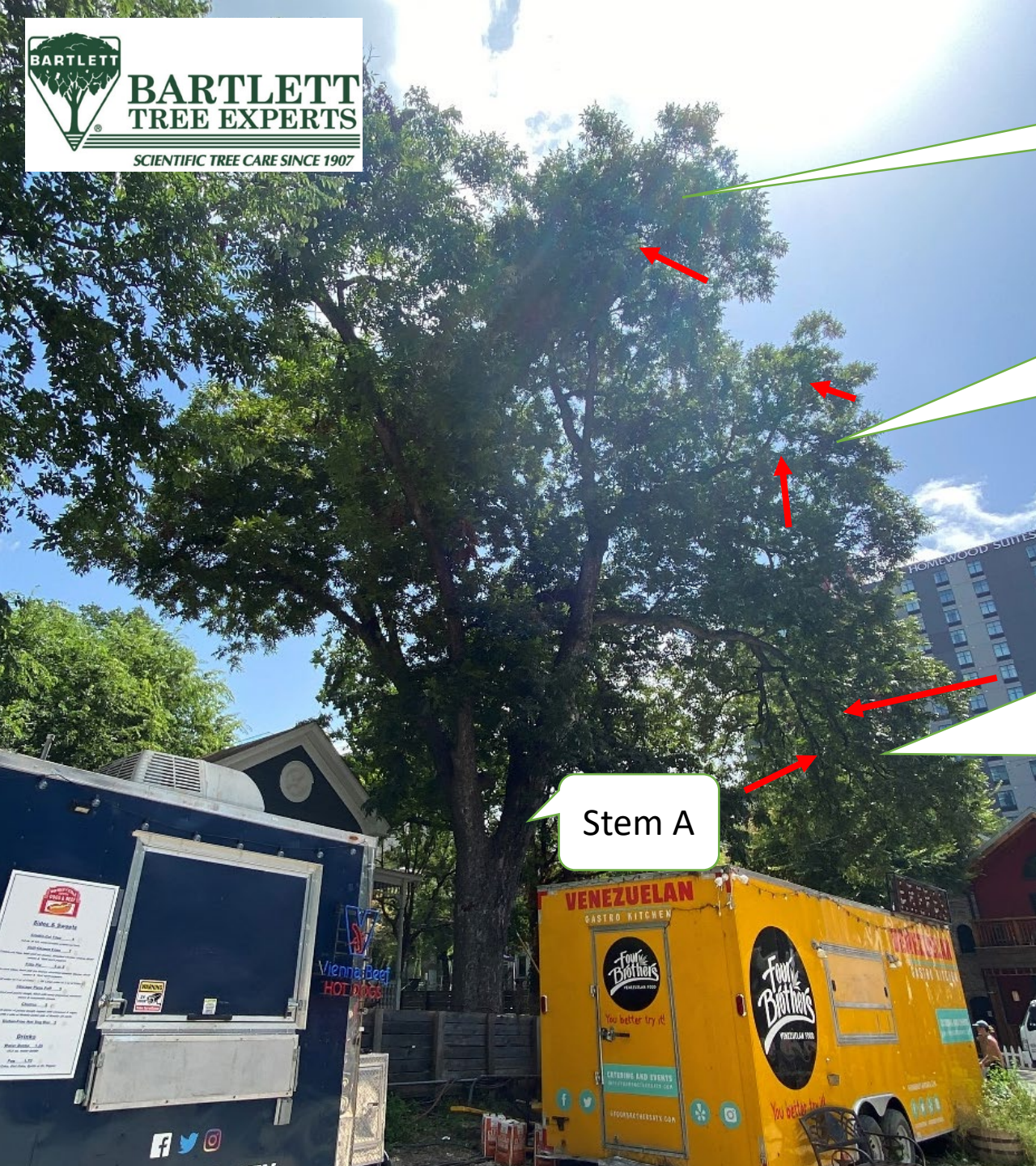
Potential Site of Pruning Cuts to Reduce the Risk of Branch Failure and Facilitate Transplanting. Images and Recommendations for Demonstration Purposes Only.

Stem A

Reduce over-extended lower limb that is oriented toward Rainey Street.

Approximate pruning cut locations marked with red arrow.

Potential Site of Pruning Cuts to Reduce the Risk of Branch Failure and Facilitate Transplanting. Images and Recommendations for Demonstration Purposes Only.



Stem A

Reduce upper limb of codominant stem.

Reduce over-extended upper limb that is oriented toward Rainey Street.

Reduce over-extended lower limb that is oriented toward Rainey Street. (Same two pruning cuts that are marked in previous slide).

Approximate pruning cut locations marked with red arrows.

Potential Site of Pruning Cuts to Reduce the Risk of Branch Failure and Facilitate Transplanting. Images and Recommendations for Demonstration Purposes Only.

Reduce scaffold limb that was stub cut to appropriate union.

Approximate pruning cut locations marked with red arrows.

Potential Site of Pruning Cuts to Reduce the Risk of Branch Failure and Facilitate Transplanting. Images and Recommendations for Demonstration Purposes Only.

