



**Development** CITY OF AUSTIN  
SERVICES DEPARTMENT

*Building a Better and Safer Austin Together*

# **1609 Nueces St: Heritage Tree Variance Appeal**

August 17, 2022

Naomi Rotramel, City Arborist  
Development Services Department

# ITEM FOR ENVIRONMENTAL COMMISSION

<b>COMMISSION MEETING DATE:</b>	August 17 <sup>th</sup> , 2022
<b>NAME &amp; NUMBER OF PROJECT:</b>	1609 Nueces St. 2022-018844 TP
<b>NAME OF APPLICANT OR ORGANIZATION:</b>	Ronald Rodriguez
<b>LOCATION:</b>	1609 Nueces St.
<b>COUNCIL DISTRICT:</b>	District 9
<b>CITY ARBORIST:</b>	NAOMI ROTRAMEL NAOMI.ROTRAMEL@AUSTINTEXAS.GOV
<b>ORDINANCE:</b>	Heritage Tree Ordinance - LDC 25-8-643- Land Commission Variance
<b>REQUEST:</b>	The applicant is appealing the City Arborist denial of application. The applicant is requesting the removal of a Heritage Tree with a single stem 30 inches in diameter or larger.
<b>STAFF RECOMMENDATION:</b>	The request does not meet the City Arborist approval criteria in LDC 25-8-624(A)(1)(2)(3). The variance is not recommended.

# 2022-018844 TP- 1609 Nueces St.

- Case Description
- Case Timeline
- Staff Findings
  - Condition of Heritage Tree
  - Staff Measurements
- Variance Request
- Staff Recommendation

# Case Description

- The applicant is requesting the removal of a Heritage Pecan.
- This case is an appeal of the City Arborist's determination to deny an administrative variance for the removal of a Heritage tree at 1609 Nueces St.
- The site is zoned GO (General Office) and is in District 9.

# Case Timeline

- Feb. 10<sup>th</sup>, 2022 - A Tree Ordinance Review Application (TORA) was submitted to the Development Services Department's online application portal. Trunk diameter was listed as 24" on the application.
- Feb. 2022: Google street view



# Case Timeline (cont.)

- Feb 11<sup>th</sup>, 2022 – Application passed completeness check.
- Feb 28<sup>th</sup>, 2022 – Application was denied on the 10<sup>th</sup> working day (excluding President’s Day). City Arborist staff found that there was insufficient information provided to qualify this heritage tree for removal under Dead, Diseased, or Imminent Hazard Criteria in LDC 25-8-624. City Arborist staff notified applicant the application was denied and if the applicant would like to continue with application, a comprehensive narrative report from a qualified arborist was needed.
- June 13, 2022 – Applicant contacts staff regarding review timeline.
- June 13, 2022 – Staff responds to applicant the review deadlines are consistent with how the City counts review days.

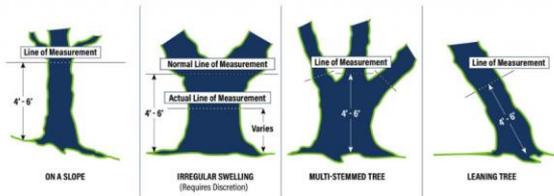
# Case Timeline (cont.)

- June 24, 2022 – Staff receives a Service Estimate Client Service Form dated 6/22/22 from an arborist company.
  - The service estimate lists the tree diameter at 29”. The client service form did not provide sufficient evidence to determine the health of the tree or risk.

# Staff Findings

- August 9 & 10th, 2022 – City Arborist and Board Certified Master Arborist staff visited site to confirm condition and measurement.
- Tree is determined to be in fair condition.
- Guide to measuring trees is located in the Environmental Criteria Manual [3.3.2](#).

Use a flexible tape measure to measure the circumference (around the tree) from 4.5 feet above the ground. Divide the circumference by 3.14 to get the diameter.



Staff photo

# Staff Findings (cont.)

- Staff determined the tree is 30-30.5 inches in diameter with an inch of bark removed.



# Staff Measurements

- Measurement 1 @ 4.5' (standard DBH) above grade: 30.5 inches diameter



# Staff Measurements (cont.)

- Measurement 2 @ 3.6' above grade: 29.5"



# Staff Measurements (cont.)

- Measurement 3 @ 3' above grade: 30.3"



# Bark Removal Depth



# Variance Request

- The applicant is appealing the City Arborist's denial of application as allowed by LDC 25-8-644. The applicant requests removal of a Pecan with a stem 30 inches in diameter or greater as allowed under LDC 25-8-643.

§ 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.

# Staff Recommendation

- The City Arborist does not recommend removal.
- The request does not meet Code criteria as dead, diseased, or imminent hazard and the applicant has not 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*).



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