

**BEFORE THE PLANNING AND ZONING COMMISSION
CITY OF BAY ST. LOUIS, MISSISSIPPI**

IN RE:

Appeal of Tree Removal Permit Denial

Property: 115 Demontluzin Avenue

Bay St. Louis, Mississippi 39520

Application No. APP-1377

Project No. 2026-90

FORMAL APPEAL PURSUANT TO SEC. 22-94

Filed by:

Amanda P. Traxler MSB#102218

Coastal Law Group PLLC

114 Main Street Suite 106

Bay St. Louis, MS 39520



Date of Denial: February 11, 2026

Date of Appeal: 2/24/26

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FORMAL APPEAL

COMES NOW the Applicants, Laurie Norman and Kevin Kernion, pursuant to Sec. 22-94 of the City of Bay St. Louis Tree Preservation Ordinance, and hereby appeal the denial of Tree Removal Permit Application No. APP-1377 (Project No. 2026-90).

This appeal is timely filed within fifteen (15) days of the denial.

The denial is appealed on procedural and substantive grounds as set forth below.

I. PROCEDURAL DEFECT – FAILURE TO COMPLY WITH SEVEN-DAY DEADLINE (SEC. 22-116(b))

The application was submitted through the City's MGO Connect system on January 28, 2026. All requested supporting documentation was uploaded on January 29, 2026, rendering the application complete as of that date.

Sec. 22-116(b) requires that a permit be issued or denied within seven (7) working days of a complete submittal and further provides that if no decision is issued within that timeframe, the permit 'shall be considered approved.'

No approval or denial was issued within the statutory seven-working-day period. The denial was issued on February 11, 2026 — after the ordinance-mandated decision window had elapsed.

The word 'shall' in the ordinance is mandatory, not discretionary. When the City fails to issue a decision within seven working days, the permit is automatically approved under the plain language of the ordinance. This procedural violation alone requires reversal of the denial.

II. PROCEDURAL DEFECT – FAILURE TO COMPLY WITH SEC. 22-92 TREE PROTECTION ADVISOR REQUIREMENT

Sec. 22-92. Creation of tree protection advisor

(a) The position of tree protection advisor is hereby created, who shall direct, regulate and control the care and necessary removal of all trees existing now and hereafter in the city.

(b) The tree protection advisor shall be an arborist or horticulturist. The arborist/horticulturist shall take active steps to process and render decisions granting or denying applications for permits under this article.

Sec. 22-116(b) further provides:

'No building permit shall be issued until the tree site plan has been reviewed and approved in writing by the tree protection advisor...'

The Record Demonstrates Non-Compliance:

- The denial was issued by Anne Dauphin through the Planning & Zoning Administrator
- No Tree Protection Advisor is identified in the record
- No credentials of any reviewer are provided
- No arborist or horticulturist license number is referenced

- No documentation that a qualified Tree Protection Advisor conducted the review

The ordinance does not authorize unqualified individuals to render tree removal decisions. The requirement that the Tree Protection Advisor be a licensed arborist or horticulturist exists because tree disease, structural defects, and hazard assessment require specialized expertise. The City cannot delegate this authority to individuals who lack the required qualifications.

The City has provided no evidence that a licensed arborist or horticulturist reviewed this application or rendered the decision. This violation of Sec. 22-92(b) independently requires reversal of the denial.

III. SUBSTANTIVE CONFLICT WITH LICENSED ARBORIST AND HORTICULTURIST FINDINGS

The denial conflicts with the findings and written recommendation of **David Garitty**, who holds the following qualifications:

- ISA Certified Arborist (International Society of Arboriculture)
- Louisiana State Licensed Arborist
- Louisiana State Licensed Horticulturist
- State of Mississippi Licensed Arborist
- Over 30 years of experience evaluating Live Oaks along the Mississippi Gulf Coast

Mr. Garitty possesses both arborist and horticulturist credentials, qualifying him under both categories specified in Sec. 22-92(b). His Louisiana State Licensed Horticulturist credential demonstrates specialized expertise in plant disease diagnosis, including fungal infections such as wood decay fungi.

Mr. Garitty documented the following conditions for both subject Live Oak trees:

- Active disease (wood decay fungi)
- Basal decay
- Codominant stem / included bark structural defects
- Hazardous condition
- Direct target zone exposure to occupied structures
- Professional recommendation for removal with no mitigation recommended

The denial asserts that the trees may be pruned or rebalanced to mitigate risk. This conclusion is not supported by any licensed arborist or horticulturist evaluation in the record and does not address the documented presence of disease, basal decay, or structural defects.

Notably, the subject trees have received maintenance pruning during the period of ownership. Despite that prior pruning, the condition of the trees has continued to deteriorate — demonstrating that pruning has not arrested the underlying disease or decay progression. The denial does not explain how additional pruning would remediate internal decay, correct

codominant stem structure, or reduce the hazard identified by Mr. Garitty when prior pruning has already failed to do so.

Attached for the Commission's reference is a Technical Rebuttal Memorandum (**Exhibit B**) addressing why pruning or rebalancing does not mitigate disease, basal decay, or codominant structural defects in mature Live Oak trees, consistent with accepted arboricultural standards.

Supplemental Documentation (February 21, 2026):

Subsequent to the original application, Applicants documented the full extent of basal decay, caused by wood decay fungi, on the 43-inch DBH Live Oak through detailed photography and circumferential measurement. The basal decay spans approximately 88 inches around the trunk circumference. Given the total trunk circumference is 135 inches, this represents approximately 65% circumferential decay at the critical load-bearing zone where the trunk meets the root system.

According to generally accepted arboricultural standards and ISA Best Management Practices, trees exhibiting greater than 50% circumferential basal decay are typically classified as high-risk hazards where removal is the recommended course of action. The extent of decay documented in the supplemental photographs substantially exceeds that threshold.

Additionally, progressive dieback is visible in the upper canopy (deadwood), indicating the decay is systemic and affecting the tree's vascular function throughout. The combination of extensive basal decay, loss of structural cross-section at the critical stress point, and canopy dieback documents a tree in advanced decline with severely compromised structural integrity.

Pruning, as suggested by the City, does not address decay at the trunk base. The structural failure mechanism is internal rot at the foundation of the tree, not branch weight in the canopy.

Applicants have requested supplemental analysis from the arborist regarding these measurements and their impact on the original hazard assessment and removal recommendation. These supplemental photographs are included as **Exhibit H**.

IV. ABSENCE OF DOCUMENTED PROFESSIONAL REBUTTAL

Based on the MGO Connect portal and the materials provided with the denial, a comment was posted stating that the trees 'have some damage from previous hurricanes, but mostly the trees have not had any maintenance pruning in many years' and that they 'can be rebalanced and pruned to mitigate any potential problems.'

However, the record does not identify:

- The qualifications of the individual rendering the determination
- Whether a licensed arborist or horticulturist conducted a professional evaluation in connection with the denial
- Any inspection report, supporting photographs, or professional credentials
- **Written findings addressing the documented disease and structural defects**

The denial does not reference any professional arborist or horticulturist evaluation rebutting the findings contained in the Applicant's submitted arborist report.

V. SITE-SPECIFIC FAILURE HISTORY AND FORESEEABLE RISK

Photographic evidence submitted with the application documents the recent failure of a nearby Live Oak exhibiting codominant stem structure and basal decay. That failure resulted in property damage and occurred in the absence of extreme weather conditions on December 2, 2025.

The structural characteristics observed in the failed tree are materially consistent with those documented by Mr. Garitty in the subject trees.

This site-specific failure history is directly relevant under Sec. 22-118(11), which requires consideration of whether the continued presence of a tree is likely to cause danger to persons or property. The prior failure demonstrates that structurally compromised Live Oaks in this immediate environment present a real and foreseeable risk of failure, not a speculative concern.

VI. PRESERVATION OF ADMINISTRATIVE RECORD

This appeal is submitted to formally place into the City's administrative record the documented presence of disease, structural decay, and hazardous conditions identified by an ISA Certified Arborist and Louisiana State Licensed Horticulturist.

The professional evaluation concludes that continued retention of the subject trees presents a foreseeable and ongoing risk of structural failure with direct target exposure to occupied structures.

This filing ensures that the licensed professional findings of disease, structural decay, and foreseeable failure risk were presented to the City prior to any additional deterioration or structural event and are fully incorporated into the official record considered by the Commission.

REQUESTED RELIEF

WHEREFORE, the Applicant respectfully requests that the Planning and Zoning Commission:

- Reverse the denial of Application APP-1377
- Recognize the procedural noncompliance with Sec. 22-116(b) seven-day deadline requirement
- Recognize the procedural noncompliance with Sec. 22-92(b) Tree Protection Advisor requirement
- Grant the requested tree removal permit consistent with the submitted professional arborist and horticulturist evaluation

Submitted by:
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Coastal Law Group PLLC
114 Main Street Suite 106
Bay St. Louis, MS 39520
228-731-1668
amanda@coastallawgroup.net
www.coastallawgroup.net

Date: 2/24/26

EXHIBITS AND ATTACHMENTS

The following documents are submitted in support of this appeal and incorporated into the administrative record:

- **Exhibit A** – Arborist Evaluation Report – David Garitty, ISA Certified Arborist, MS Licensed Arborist, LA Licensed Arborist, LA Licensed Horticulturist (January 23, 2026)
- **Exhibit B** – Technical Rebuttal Memorandum (Pruning vs. Disease and Structural Decay)
- **Exhibit C** – Arborist Credentials and Professional Resume (David Garitty CV)
- **Exhibit D** – Photographic Evidence of Subject Trees (January 15, 2026)
- **Exhibit E** – Photographic Evidence of Prior Live Oak Failure (December 2-3, 2025)
- **Exhibit F** – Procedural History and Timeline
- **Exhibit G** – Site Map – Tree Locations and Property Layout
- **Exhibit H** – Supplemental Photographic Evidence pf 43” DBH Live Oak – Basal Decay (February 21, 2026)

EXHIBIT A

ARBORIST EVALUATION REPORT

David Garitty

Garitty Tree Care, L.L.C.

ISA Certified Arborist

Louisiana State Licensed Arborist

Louisiana State Licensed Horticulturist

State of Mississippi Licensed Arborist

Evaluation Date: January 12, 2026

Report Date: January 23, 2026

RE: (2) Live Oak Trees at 115 Demontluzin Avenue

Professional Recommendation: Removal

Garitty

TREE CARE

4875 1195

January 23, 2026

Mr. Kevin Kernion
Ms. Laurie Norman
115 Demontluzin Avenue
Bay St. Louis, MS 39520

RE: (2) Live Oak Trees - Evaluation

Dear Mr. Kernion and Ms. Norman:

On January 12, 2026; you hired me to evaluate (2) Live Oak Trees existing on your property at 115 Demontluzin Avenue, Bay St. Louis, MS 39520. You provided me with (38) photographs of (2) existing Live Oak Trees dated January 15, 2026 and (32) photographs dated December 3, 2025 of a failed Live Oak Tree (12-2-25) in the rear of your property.

I photographically inspected the 43" DBH and the 25" DBH Live Oak Trees located on your property. Both Trees are a continual part of the indigenous Live Oak Tree Hammock along the Mississippi Gulf Coast and have survived several hurricanes over the last 60 years. Both Live Oak Trees appear to be in fair to poor condition exhibiting codominant stem/included bark and the disease, wood decay fungi, at the base of the trunk/root flares. Codominant stem/included bark is a structural defect that predisposes the tree/trunk/branch to failure, while the disease, wood decay fungi, weakens the load bearing structural wood reducing resistance to upper tree weight and wind events.

Upon reviewing photographs of the Live Oak Tree that failed in the rear of your property on December 2, 2025; it was evident that the Live Oak Tree failed due to codominant stem/included bark and the disease, wood decay fungi, at the base of tree.

Live Oaks that are long lived beyond 80 years do not exhibit codominant stem/included bark and the disease, wood decay fungi, at the base/root flares.

In my professional opinion, I consider both existing Live Oak Trees on your property hazardous and because of the target zone, I recommend removing the (2) Trees as soon as possible.

Due to the fair to poor condition, codominant stem/included bark, the disease (wood decay fungi) and negative value (cost of removing trees) of the (2) Live Oak Trees, mitigation requirements do not apply.

If I can be of further assistance, please do not hesitate to call, text or email.

Sincerely,

David Garitty
Garitty Tree Care

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EXHIBIT B

TECHNICAL REBUTTAL MEMORANDUM

Pruning vs. Disease and Structural Decay

PURPOSE

To address the assertion that pruning or rebalancing would mitigate the hazard posed by the subject Live Oak trees.

SUMMARY

1. Pruning does not remediate internal wood decay.

Wood decay fungi degrade structural lignin and cellulose within the trunk and root flare. ANSI A300 recognizes pruning as a canopy management practice; it does not restore compromised structural wood or reverse internal decay.

2. Pruning does not correct codominant stems or included bark.

Included bark is a structural defect formed during growth. ISA Tree Risk Assessment principles recognize codominant stems with included bark as elevated failure points. Pruning does not eliminate the inherent structural weakness at the union.

3. Basal decay compromises anchorage and stability.

Decay at the trunk base and root flare reduces anchoring strength and increases whole-tree failure potential, particularly during wind events. Load reduction does not restore structural fiber strength in decayed tissue.

4. Industry standards do not support pruning as mitigation for decay.

ANSI A300 and ISA guidance identify pruning as maintenance or load-reduction practice. They do not support pruning as a curative or corrective treatment for advanced decay or structural defects.

5. Documented prior failure supports elevated risk.

A nearby Live Oak failed due to codominant structure and basal decay without severe weather, demonstrating site-specific failure conditions consistent with the evaluating arborist's findings.

6. The evaluating arborist explicitly recommended against mitigation.

The ISA Certified Arborist and Louisiana State Licensed Horticulturist concluded that pruning or rebalancing would not sufficiently mitigate the documented disease and structural defects and recommended removal.

CONCLUSION

The assertion that pruning would mitigate the documented hazards is inconsistent with accepted arboricultural standards and does not address the disease, decay, and structural compromise identified in the arborist's evaluation.

The City's record should reflect that removal was recommended by a qualified professional possessing both arborist and horticulturist credentials and that the documented hazard conditions were brought to the City's attention through this proceeding.

EXHIBIT C

ARBORIST CREDENTIALS

Professional Resume and Curriculum Vitae

David Thomas Garitty

President, Garitty Tree Care, L.L.C.

Licenses and Certifications:

International Society of Arboriculture Certified Arborist

Louisiana State Licensed Arborist

Louisiana State Licensed Horticulturist

State of Mississippi Licensed Arborist

Experience:


30+ Years Evaluating Live Oaks

Mississippi Gulf Coast Specialist

Post-Hurricane Katrina Tree Assessment Consultant

DAVID THOMAS GARITTY

525 Calhoun Street



EXPERIENCE:

2008 – Present Garitty Tree Care, L.L.C.
President
New Orleans, LA
La Jolla, CA

1996 – 2008 **Vice-President**, Bayou Tree Service, Inc. New Orleans, LA
Duties: Responsible for sales, marketing and developing accounts at the federal, state and municipal level, while cultivating commercial and residential accounts.

Areas of competence:

Personnel Management
Diagnosis and Problem Solving
Public Relations and Communications

1992 – 1995 **General Manager**, Bayou Tree Service, Inc., New Orleans LA

1984 – 1991 **Sales Consultant**, Bayou Tree Service, Inc., New Orleans LA

1980 – 1983 **Foreman**, Bayou Tree Service, Inc., New Orleans, LA

EDUCATION:

American Society of Consulting Arborists
Arboricultural Consulting Academy
March 9-12, 1999

The National Arbor Day Foundation
Trees, People and the Law National Conference
October 5-7, 1998

American Society of Consulting Arborists
The Tree Appraisal Workshop
July 22-23, 1993

Louisiana State University
Baton Rouge, Louisiana
BS – General Studies (Zoology and Latin)
Graduated: 1990

Jesuit High School
New Orleans, Louisiana
Graduated: 1978

SPEAKING ENGAGEMENTS:

- 2007 Speaker: University of New Orleans, Urban Planning Graduate School
Topic: "Tree Restoration After Katrina at Tulane University and University of New Orleans"
- 2006 Speaker: Land Trust for the Mississippi Coastal Plain
Topic: "Tree Preservation After Hurricane Katrina"
- 2003 Speaker: Biloxi Botany Guild
Topic: "Ohr-O'Keefe Museum of Art Tree Management Strategic Plan's"
- 2001 Speaker: Lakeview Botany Guild
Topic: "Trees for the New Orleans Landscape"
- 2000 Speaker: University of New Orleans, Urban Planning Graduate School
Topic: "Transplanting Large Trees During Urban Development"
- 1998 Speaker: University of New Orleans, Urban Planning Graduate School
Topic: "Tree Preservation in the Urban Environment"
- 1997 Speaker: Louisiana Urban Forestry Council, Annual Conference
Topic: "Guidelines for the Appraisal of Trees"
- 1997 Speaker: Louisiana Urban Forestry Council Hurricanes & The Urban Forest Conference
Topic: "Hurricane Preparation: An Arborist's Perspective"
- 1994 Speaker: Association of Zoological Horticulture Annual Conference
Topic: "Tree Preservation During Construction"
- 1992 Speaker: New Orleans Botanical Garden's Symposium
Topic: "Recommended Trees for the New Orleans Landscape"

MEMBERSHIPS AND LICENSES:

International Society of Arboriculture
International Society of Arboriculture Certified Arborist
Louisiana State Licensed Arborist
Louisiana State Licensed Horticulturalist
State of Mississippi Licensed Arborist
Board of Directors – Louisiana Arborist Association
Association of Zoological Horticulture
New Orleans Horticulture Society
American Society of Consulting Arborists
National Arborist Association
Society of American Foresters
American Forests
The National Arbor Day Foundation

Tree Climbers International

PERSONAL HISTORY:

I am one of eight children born into the family of Earl and Joan Garitty on February 29, 1960 in New Orleans, Louisiana. I am in excellent health and enjoy sports, outdoor activities, preserving/renovating historical sites, and reading.

**David T. Garitty
Vita
Valuations and Appraisals**

- 1990 Meyer, River Ridge, LA Conservation Appraisal
- 1990 Slemmer, Jefferson, LA, Conservation Appraisal
- 1991 Danzler, Mandeville, LA Conservation Appraisal
- 1991 Hall, New Orleans, LA, Defense
- 1991 Pepper and Associates, New Orleans, LA, Conservation Appraisal
- 1992 Badon, New Orleans, LA, Conservation Appraisal
- 1992 City of Baton Rouge, Baton Rouge, LA Consultant to Greg Jones, ASLA
- 1992 Curry, Metairie, LA Conservation Appraisal
- 1992 Martinez, Metairie, LA Conservation Appraisal
- 1992 Pitard, Metairie, LA Conservation Appraisal
- 1992 St Bernard Parish Water & Sewage Commission, Chalmette, LA, Conservation Appraisal
- 1993 Besthoff, III, New Orleans, LA, Conservation Appraisal
- 1993 Desbon, Jr., New Orleans, LA Conservation Appraisal
- 1993 Dysart, St. Bernard Parish, LA, Plaintiff
- 1993 Haydel, Metairie, LA, Conservation Appraisal
- 1993 Holiday Inn, Gretna, LA, Consultant to Doug Mouton, AIA
- 1993 Hollahan, Jr., New Orleans, LA, Conservation Appraisal
- 1993 Kendrick, Metairie, LA, Conservation Appraisal
- 1993 State Farm Insurance Companies, Avondale, LA, Insurance
- 1993 Schwegmann Giant Super Market, Marrero, LA, Consultant to John Desmond, AIA
- 1993 The Audubon Institute, New Orleans, LA, Consultant to Director of Horticulture
- 1993 Waring, Metairie, LA, Conservation Appraisal
- 1993 Wechem, Harahn, LA, Consultant to Doug Mouton, AIA
- 1994 Clarke, Kenner, LA, Conservation Appraisal
- 1994 Nelson, New Orleans, LA Conservation Appraisal
- 1994 Jefferson Parish, River Ridge, LA, Consultant to Mike Evans
- 1994 Rose, Metairie, LA, Conservation Appraisal
- 1994 Wilson, Metairie, LA, Conservation Appraisal
- 1995 Dellfey, Jr., Belle Chasse, LA, Conservation Appraisal
- 1995 Ingram, Conservation Appraisal, LaCombe, LA, Plaintiff
- 1995 Lakewood Country Club, New Orleans, LA, Conservation Appraisal
- 1995 Mackie, New Orleans, LA Conservation Appraisal
- 1995 New Orleans Country Club, New Orleans LA, Conservation Appraisal
- 1995 New Orleans Country Club, New Orleans LA, Tree Inventory
- 1995 O'Keefe, III, Jefferson, LA, Defense

- 1995 The Audubon Institute, Conservation Appraisal, New Orleans, LA, Defense
- 1995 Urann, New Orleans, LA Conservation Appraisal
- 1995 Urban Systems, Inc. New Orleans, LA, Consultant to Marcia Stevens, ASLA
- 1996 Hartman, St. Tammany Parish, LA, Conservation Appraisal
- 1996 Hearin, New Orleans, LA, Conservation Appraisal
- 1996 Jubin, New Orleans, LA Conservation Appraisal
- 1996 Murov, New Orleans, LA, Defense
- 1996 New Orleans Country Club, New Orleans, LA, Conservation Appraisal
- 1996 St. Paul Fire & Marine Insurance Company, Metairie, LA, Insurance
- 1996 Trotter, Metairie, LA Conservation Appraisal
- 1996 University of New Orleans Research Park, New Orleans, LA, Consultant to Gus Cantrell
- 1996 Whitney National Bank, Belle Chasse, LA, Consultant to Anthony Taffaro, AIA
- 1997 Bethancourt, New Orleans, LA, Defense
- 1997 Entergy Corporation, St. Rose, LA, Conservation Appraisal
- 1997 Garrett, New Orleans, LA, Conservation Appraisal
- 1997 New Orleans Country Club, New Orleans, LA, Conservation Appraisal
- 1997 Schmidt, Gretna, LA, Plaintiff
- 1997 Whitney National Bank, Baton Rouge, LA, Consultant to Jennifer D. Gregoire, AIA
- 1997 Whitney National Bank, Morgan City, LA, Consultant to Michael Pou
- 1998 Barnett, New Orleans, LA, Plaintiff
- 1998 Porteous, New Orleans, LA, Defense
- 1998 Richards, New Orleans, LA, Conservation Appraisal
- 1998 State Farm Insurance Companies, New Orleans, LA, Insurance
- 1999 Dreher, New Orleans, LA, Conservation Appraisal
- 1999 University of New Orleans Wellness Ctr, New Orleans, LA, Consultant to Brian Sublette
- 1999 Tulane University, New Orleans, LA, Consultant to Tom Armitage
- 1999 Senules, Mandeville, LA, Conservation Appraisal
- 1999 Eblen, Diamondhead, MS, Conservation Appraisal
- 1999 Dominican Sisters, New Orleans, LA, Conservation Appraisal
- 1999 Dillard University, New Orleans, LA, Consultant to Sam Timpa
- 2000 City of New Orleans, New Orleans, LA, Defense
- 2000 University of New Orleans Research Park, New Orleans, LA, Consultant to Gus Cantrell
- 2000 Senules, Mandeville, LA, Plaintiff
- 2001 Sewerage and Water Board of New Orleans, LA, Consultant to Harold Gorman
- 2001 Marchand, Bogalusa, LA, Plaintiff
- 2001 Canizaro, Metairie, LA, Consultant to Sawyer/Berson
- 2001 West Feliciana Parish Governmental Center Complex, St. Francisville, LA, Consultant to Holly Smith Architects
- 2001 New Orleans Sculpture Garden, New Orleans, LA, Consultant to Sawyer/Berson
- 2002 Ohr-O'Keefe Museum, Biloxi, MS, Consultant to Guild Hardy, Gehry Partners and Cashio Cochran
- 2002 Hall, Metairie, LA, Consultant to Hopkins AIA

2002 Teske, Metairie, LA, Defense
2002 Metairie Country Club, Consultant to Tom Hamrick
2003 Manresa House of Retreats, Convent, LA, Conservation Appraisal
2003 Castellon, Metairie, LA, Conservation Appraisal
2003 Ohr-O'Keefe Museum, Gehry Partners
2003 Audubon Nature Institute, Golf Course
2003 New Orleans Country Club, Golf Course, Weed Design
2003 Whitney National Bank, New Orleans, LA, Consultant to Doug Kohnke
2003 New Orleans Adolescent Hospital, New Orleans, CA, Consultant to Dr. Earl Hedrick & Mr. Timothy Joder
2004 Ohr-O'Keefe Museum, Biloxi, MS, Consultant to Guild Hardy & Gehry Partners
2004 Wal-Mart, Tchoupitoulas St. New Orleans, LA, Duplantis Engineers, Conservation Appraisal
2005 Downtown Development District, New Orleans, LA, Post Katrina Tree Assessment, Consultant to LeDerick Blackburn
2005 Beau Rivage, Biloxi, MS, Consultant to Director of Horticulture, Conservation Appraisal
2006 Jackson Barracks, New Orleans, LA, Consultant to Colonel Doug Mouton, Post Katrina Tree Assessment
2007 Perez, Belle Chasse, LA, Conservation Appraisal
2008 - Present Beau Rivage, Biloxi, MS, Consultant to Director of Horticulture
2011 University of California, San Diego, CA, University House - Chancellor's House Project, Consultant to Assistant Vice Chancellor Resource Management and Planning
2013 New Orleans Country Club, New Orleans, LA, Consultant to Mathis, Brierre Architects and Robert Crifasi
2013 Stuart R. Bradley School, New Orleans, LA, Consultant to Landis Construction
2014 Wisteria Cottage, La Jolla Historical Society, La Jolla, CA, Conservation Appraisal

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EXHIBIT D

PHOTOGRAPHIC EVIDENCE

Subject Trees — Key Images

115 Demontluzin Avenue
Bay St. Louis, Mississippi 39520

Documentation Date: January 15, 2026

(Complete set of 38 photos previously submitted with application)

Trees Documented:

(1) Live Oak — 43-inch DBH

(1) Live Oak — 25-inch DBH

Key Photos Selected to Show:

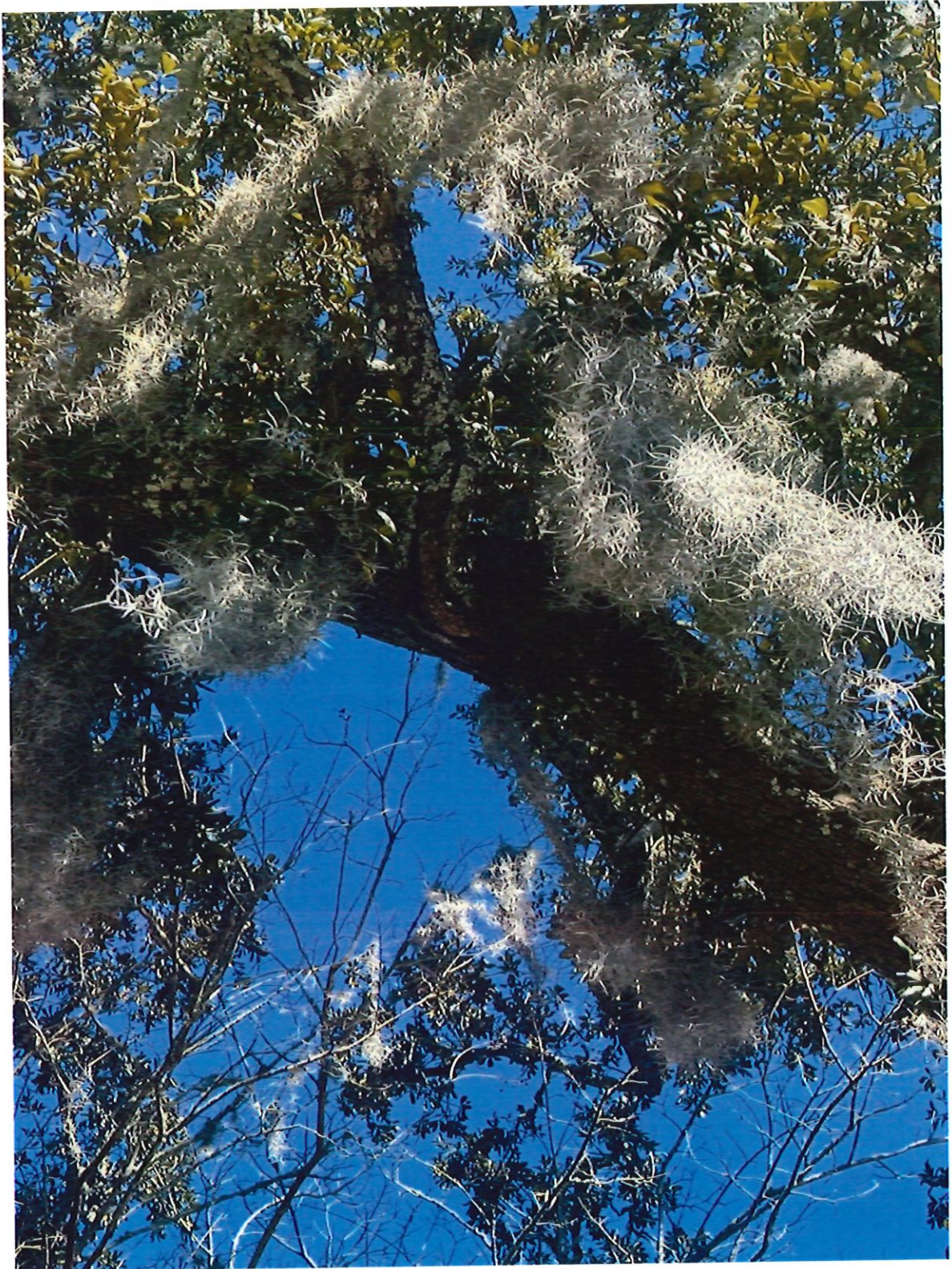
Codominant Stem Structure / Included Bark

Basal Decay at Trunk/Root Flare

Target Zone Exposure to Occupied Structure

Overall Condition

A. Live Oak — 43-inch DBH















B. Live Oak — 25-inch DBH





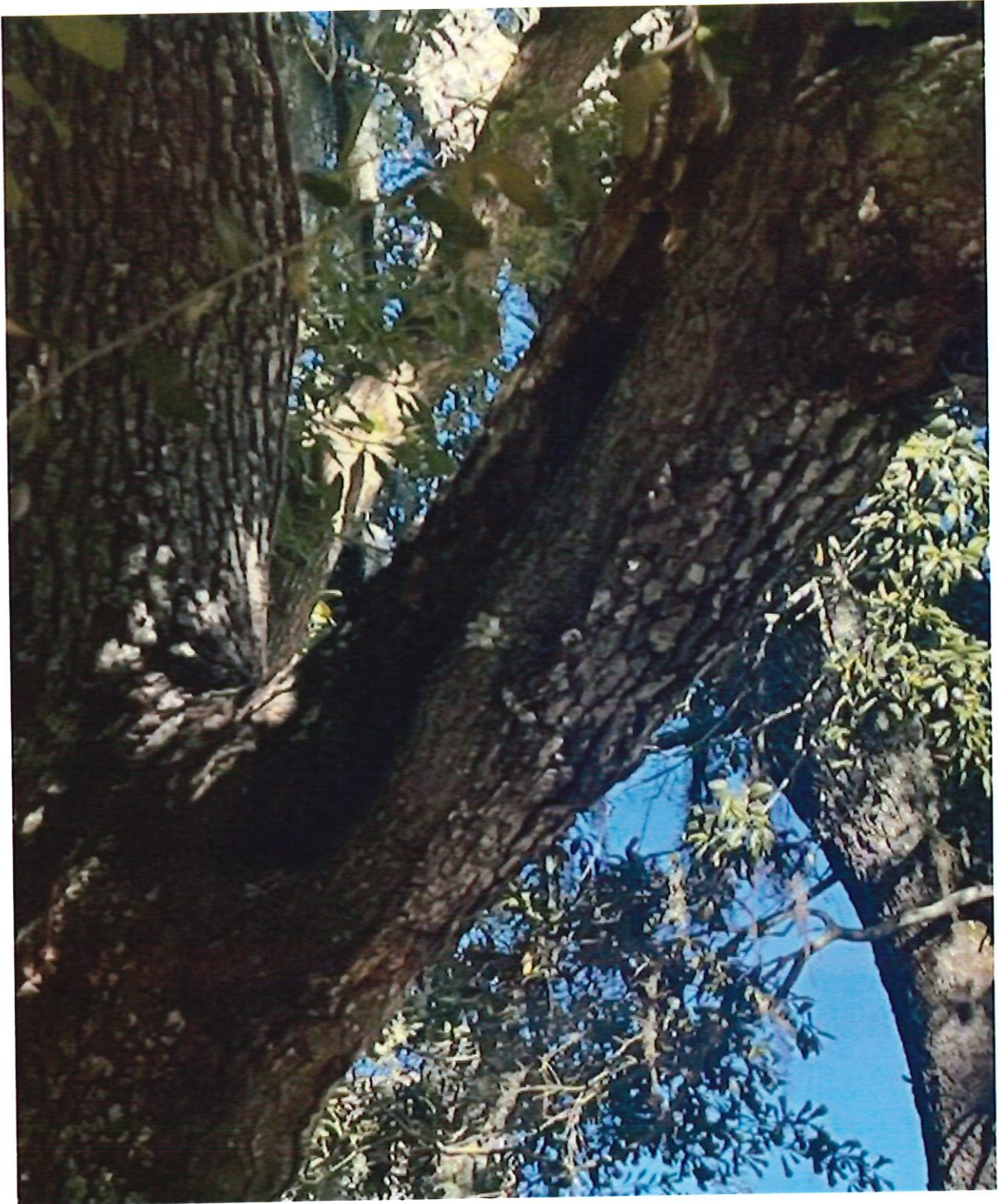


EXHIBIT E

PHOTOGRAPHIC EVIDENCE

Prior Live Oak Failure — Key Images

115 Demontluzin Avenue
Bay St. Louis, Mississippi 39520

Failure Date: December 2, 2025

Documentation Date: December 3, 2025

(Complete set of 32 photos previously submitted with application)

Key Photos Selected to Show:

Failed Tree — Overall View
Codominant Stem Structure at Failure Point
Basal Decay at Base of Failed Tree
Property Damage Resulting from Failure

Site-Specific Evidence of Elevated Failure Risk

Relevant Under Sec. 22-118(11):

*Whether the continued presence of the tree or trees
is likely to cause danger to a person or property*









EXHIBIT F

STATEMENT OF PROCEDURAL HISTORY AND MATERIAL FACTS

Property: 115 Demontluzin Avenue, Bay St. Louis, Mississippi

Application No. APP-1377 | Project No. 2026-90

PROCEDURAL HISTORY

| No. | Date / Time | Event |
|-----|--|---|
| 1 | December 2, 2025 | <p>Prior Live Oak Failure</p> <p>A mature Live Oak tree on the property failed, resulting in documented property damage. Photographic evidence shows internal decay and structural compromise consistent with codominant stem structure and basal decay — the same conditions documented by the arborist in the subject trees. The failure occurred without severe weather, demonstrating site-specific elevated risk.</p> |
| 2 | January 28, 2026 | <p>Application Submitted</p> <p>Tree Removal Permit Application (APP-1377) submitted through MGO Connect portal for removal of two (2) Live Oak trees at 115 Demontluzin Avenue.</p> |
| 3 | January 29, 2026 10:53 a.m. | <p>Documentation Requested</p> <p>Anne Dauphin (Planning & Zoning Clerk) posted comment requesting supporting documentation.</p> |
| 4 | January 29, 2026 11:00 a.m. (same day) | <p>Application Complete</p> <p>Applicant uploaded all requested documentation:</p> <ul style="list-style-type: none"> • ISA Certified Arborist evaluation (David Garitty, January 23, 2026) • Arborist credentials (CV) • Photographic documentation • Site location map <p>Application complete as of January 29, 2026.</p> |
| 5 | Jan 29 – Feb 9, 2026 | <p>Statutory Seven-Working-Day Review Period</p> |

| No. | Date / Time | Event |
|-----|---------------------------------|---|
| | | <p>Sec. 22-116(b): 'A permit shall be issued or denied within seven working days of submittal. If the applicant is not notified of approval or disapproval within seven working days, such plans shall be considered approved.'</p> <p>Seven-working-day deadline: February 9, 2026</p> <p>No approval or denial issued within statutory timeframe.</p> |
| 6 | February 10, 2026 9:42 a.m. | <p>Applicant Follow-up Inquiry</p> <p>Applicant posted comment noting seven-working-day period had elapsed and requesting clarification regarding application status.</p> |
| 7 | February 10, 2026 10:20 a.m. | <p>Denial Comment Posted</p> <p>Anne Dauphin (Planning & Zoning Clerk) posted comment:</p> <p><i>'The 2 trees in question do have some damage from previous hurricanes, but mostly the trees have not had any maintenance pruning in many years. They can be rebalanced and pruned to mitigate potential problems. These trees do not need to be cut down.'</i></p> <p>No inspection notes, arborist credentials, horticulture credentials, or professional findings provided.</p> <p>No Tree Protection Advisor identified.</p> |
| 8 | February 10, 2026 4:09 p.m. | <p>Applicant Response</p> <p>Applicant respectfully requested clarification regarding application of Sec. 22-116(b) 'considered approved' provision.</p> |
| 9 | February 11, 2026 3:24 p.m. | <p>Formal Denial Issued</p> <p>Drew Boxx (Planning & Building Inspector) posted comment confirming denial stating:</p> <p><i>'Your application to remove the trees has been denied. For an explanation please read Ms. Dauphin's Message. Removal of trees without city approval will be a code violation.'</i></p> <p>Denial issued after expiration of seven-working-day deadline.</p> |

SUMMARY OF MATERIAL FACTS

1. Procedural Violations:

- **Application complete:** January 29, 2026
- **Seven-working-day deadline:** February 9, 2026
- **Denial issued:** February 11, 2026 (after deadline)
- **No Tree Protection Advisor identified in record**

2. Credential Disparity:

- **Applicant's arborist:** David Garitty — ISA Certified Arborist, LA Licensed Arborist, LA Licensed Horticulturist, MS Licensed Arborist, 30+ years experience
- **City's reviewer:** Anne Dauphin (Planning & Zoning Clerk) — no arborist or horticulture credentials provided

3. Technical Findings Not Addressed:

- Denial did not address documented wood decay fungi
- Denial did not address documented basal decay
- Denial did not address codominant stem structural defects
- Denial did not address hazard assessment or target zone exposure
- No professional arborist or horticulturist evaluation provided to rebut submitted findings

4. Site-Specific Failure History:

- Prior Live Oak failure on property (December 2, 2025)
- Failed tree exhibited identical conditions to subject trees
- Failure occurred without severe weather

5. Pruning History:

- Subject trees received prior maintenance pruning
- Condition continued to deteriorate despite prior pruning

CONCLUSION:

The record demonstrates three independent procedural violations and substantive deficiencies:

- (1) Seven-day deadline missed — permit should be automatically approved under Sec. 22-116(b)
- (2) No qualified Tree Protection Advisor identified — violation of Sec. 22-92(b)
- (3) No professional arborist or horticulturist evaluation provided to rebut licensed professional findings documenting disease, decay, and structural defects

###

EXHIBIT G

SITE MAP

Tree Locations and Property Layout

115 Demontluzin Avenue
Bay St. Louis, Mississippi 39520

Site Map Shows:

43" DBH Diseased Live Oak (Subject Tree)

25" DBH Diseased Live Oak (Subject Tree)

Failed Live Oak #1 (Prior to July 2022)

Failed Live Oak #2 (December 2, 2025)

Purpose:

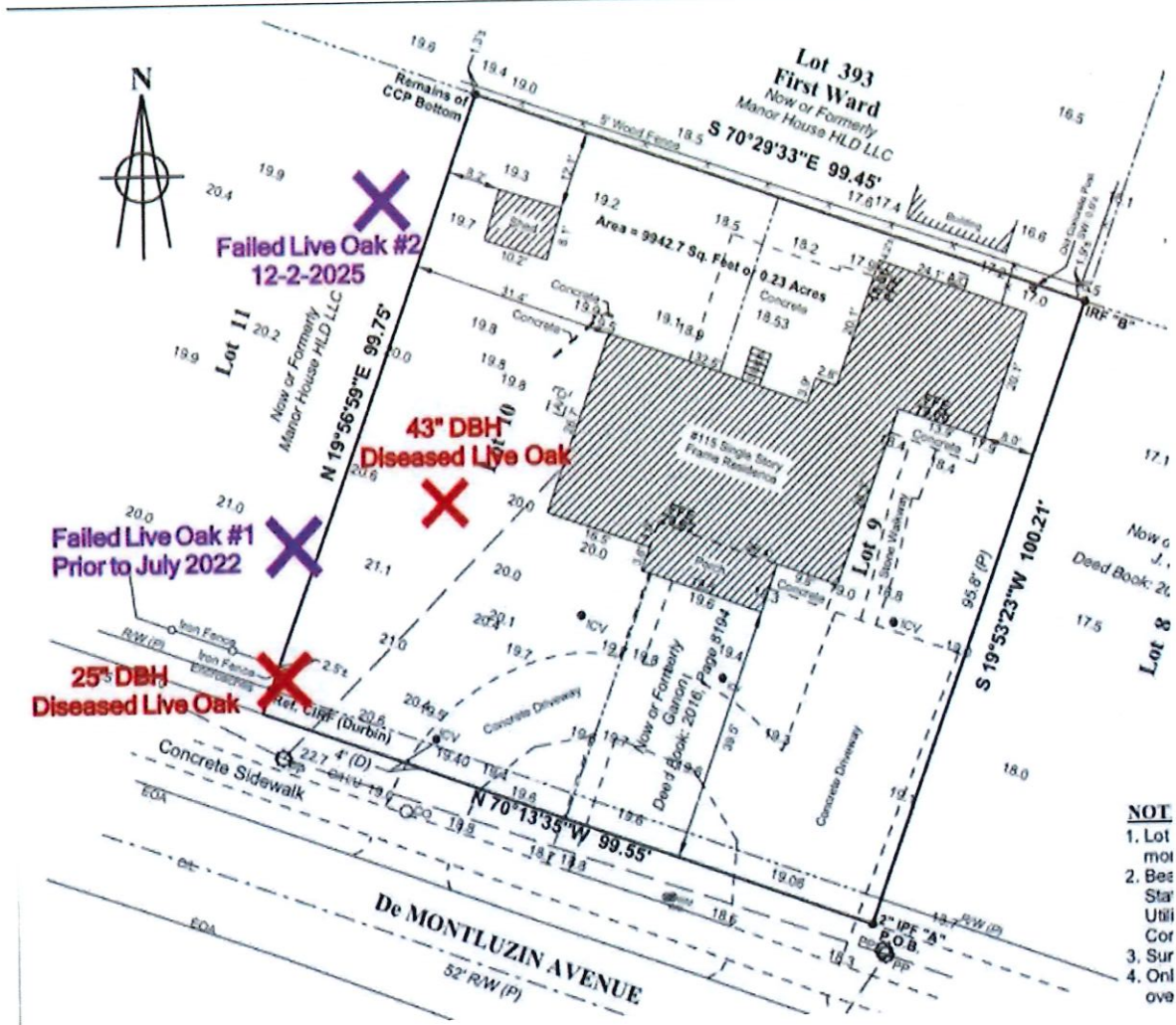
Demonstrates Spatial Relationship Between:
Subject Trees (Current Application)
Failed Trees (Prior Failures with Identical Conditions)
Occupied Structures (Target Zone Exposure)
Property Boundaries and Site Features

Site-Specific Evidence of Elevated Failure Risk

Relevant Under Sec. 22-118:

- (1) The condition of the tree proposed to be removed with respect to disease, danger of falling, proximity to existing or proposed structures*

- (11) Whether the continued presence of the tree or trees is likely to cause danger to a person or property*



###

EXHIBIT H

SUPPLEMENTAL PHOTOGRAPHIC EVIDENCE

43" DBH Live Oak - Basal Decay Documentation

February 21, 2026

CRITICAL FINDING

Extensive basal decay spanning approximately **88 inches** of trunk circumference
(65% of total 135-inch circumference)

Supplemental Documentation Includes:

Photo(s): South Side Basal Decay (Measured)

Approximately 38-inch span of advanced decay and cavitation

Photo(s): North Side Basal Decay (Measured)

Approximately 44-inch span of deep structural decay with tape measure documentation

Photo: Upper Canopy Dieback

Dead scaffold branch indicating systemic vascular dysfunction

Technical Summary:

South side decay: 38 inches

North side decay: 44 inches

Total circumferential decay: **88 inches**

Total trunk circumference: 135 inches

Percentage compromised: **65%**

Relevance:

*According to generally accepted arboricultural standards
and ISA Best Management Practices,
trees exhibiting greater than 50% circumferential basal decay
are typically classified as high-risk hazards
where removal is the recommended course of action.*

At 65%, This Tree Substantially Exceeds the Hazard Threshold

Note:

Pruning, as suggested by the City, does not address decay at the trunk base.
The structural failure mechanism is internal rot at the foundation of the tree,
not branch weight in the canopy.

65% OF TRUNK CIRCUMFERENCE HAS EXTENSIVE BASAL DECAY

SOUTH SIDE BASAL DECAY – approximately 38 inches span (measured)









NORTH SIDE BASAL DECAY – approximately 44 inches span (measured)





ADDITIONAL FIND – Dead Scaffold Branch in upper canopy - evidence of systemic decline



65% OF TRUNK CIRCUMFERENCE HAS EXTENSIVE BASAL DECAY

SOUTH SIDE BASAL DECAY – approximately 38 inches span (measured)









NORTH SIDE BASAL DECAY – approximately 44 inches span (measured)





ADDITIONAL FIND – Dead Scaffold Branch in upper canopy - evidence of systemic decline

