


FORMAL APPEAL LETTER

Application APP-1377 | Project #2026-90
Planning & Zoning Commission

Kevin Kernion and Laurie Norman

115 Demontluzin Avenue
Bay St. Louis, MS 39520



Date: 2/24/26

Re: Appeal of Tree Removal Permit Denial

Application: APP-1377

Project: 2026-90

Dear Members of the Planning and Zoning Commission,

This letter is submitted as a formal appeal of the denial issued for the tree removal permit application concerning 115 Demontluzin Avenue, Bay St. Louis, Mississippi, pursuant to Sec. 22-94 of the City of Bay St. Louis Tree Preservation Ordinance.

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

Under Sec. 22-116(b) of the Tree Preservation Ordinance, a permit is required to be issued or denied within seven working days of submittal. The ordinance further provides that if the applicant is not notified of approval or disapproval within that timeframe, the permit is considered approved.

The ordinance provides that a permit must be issued or denied within seven working days of a complete submittal. No decision was issued within that statutory period. The subsequent denial was issued after the ordinance-mandated decision window had elapsed.

In addition to this procedural defect, the denial conflicts with the findings and written recommendation of an Certified Arborist and Certified Horticulturist with extensive experience evaluating Live Oaks in coastal environments, including along the Mississippi Gulf Coast. The evaluating professional 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, and a professional recommendation for removal of both trees, with no mitigation recommended.

In addition, photographs submitted with the application document the recent failure of a nearby Live Oak exhibiting codominant stem structure and basal decay. That failure resulted in property damage and occurred without severe weather conditions. The structural characteristics observed in the failed tree are consistent with those documented by the evaluating arborist in the subject trees. This site-specific history further supports the professional conclusion that the current trees present an elevated and foreseeable failure risk.

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

The denial further does not explain how pruning would remediate internal decay, correct codominant stem structure, or reduce the hazard identified by the evaluating arborist.

Based on the MGO Connect portal and the materials provided with the denial, notes were included; however, the record does not identify the author of those notes, the qualifications of the individual making the determination, or whether a licensed arborist conducted a professional evaluation in connection with the denial. No inspection report, supporting photographs, professional credentials, or written findings addressing the documented disease and structural defects were provided. The denial does not reference any professional arborist evaluation rebutting the findings contained in the applicant's submitted arborist report.

The applicant further notes that the subject trees have received maintenance pruning during the period of ownership. Despite prior pruning, the condition of the trees has continued to

deteriorate. This history further supports the arborist's conclusion that pruning does not mitigate the underlying disease, decay, or structural defects present.

Attached for the Commission's reference is a Technical Rebuttal Memorandum 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.

The subject trees have been evaluated by a qualified professional and identified as hazardous due to documented disease, decay, and structural defects, with direct target exposure to occupied structures. This appeal is submitted to formally place these conditions into the City's record and to ensure the City's record reflects that continued retention of the subject trees, contrary to the evaluating arborist's findings, presents an ongoing and foreseeable risk to persons and property.

For these reasons, we respectfully request that the Planning and Zoning Commission review this appeal, consider the procedural requirements of the ordinance, and evaluate the application in light of the professional arborist evaluation, the absence of a documented inspection supporting the denial, and the documented safety concerns for our property and most importantly, our family and friends.

Thank you for your time and consideration.

Respectfully submitted,

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