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**CITY OF ARNOLD PLANNING COMMISSION  
SEPTEMBER 11, 2018 MEETING**

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**TO:** PLANNING COMMISSION  
**FROM:** CHRISTIE HULL-BETTALE- EIT, COMMUNITY DEVELOPMENT  
ENGINEER  
**SUBJECT:** 2018-30 1535 BIG BILL ROAD, REQUEST FOR A VARIANCE TO  
SECTION 405.565 REPLACEMENT REQUIREMENTS. TREE PRESERVATION  
**DATE:** SEPTEMBER 5, 2018  
**CC:**

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**REQUEST**

Eric Hummel, with Fivestar Auto Body project at 1535 Big Bill Road, requests a variance to a portion of the Tree Preservation Ordinance. His written request, response and information are attached.

**ANALYSIS**

The Fivestar Auto Body project is in the completion stage. Having the original non-conforming mobile homes and property that was disgraceful; then transitioning through the development process, which at times made of a challenging path, now the final project transformation is coming to fruition. With that said, Mr. Hummel comes forth with a request to finalize the finishing touches on the site.

In staff's recollection, this is the first project for the tree preservation ordinance adopted in 5/1/2014. Generally speaking, the ordinance requires 35% of existing tree mass to be conserved and maintained, for parcels of land with 3 or more acres. The Fivestar parcel is a consolidation of multiple lots totaling 3.13 acres.

Up to now, the Fivestar plan has followed the Tree Preservation Program requirements including survey of trees, marking, identifying, and protection during construction. After further consideration of the tree masses that are identified to be preserved; it has come to light for Eric that the resulting image as planned by the Tree Preservation, doesn't coordinate with his Vision and expectation for his finished site. The ultimate desire is to preserve, plant and "create a healthy, maintainable and appealing tree (and landscape) plan with an emphasis on accommodating buffer zones".

The variance request is for relief from Section 405.565: Replacement Requirements.

**"Section 405.565 Replacement Requirements.**

[Ord. No. 14.478 (Bill No. 2580) §6, 5-1-2014]

Any tree with a DBH of five (5) inches or more for deciduous trees, or five (5) feet or more in height for evergreens, to be removed from the required thirty-five percent (35%) preserved area shall be replaced DBH for DBH with deciduous trees and height for height with evergreens of the tree removed. The minimum size of the replacement tree is six (6) inch DBH for deciduous trees or six (6) feet in height for evergreens. The replacement trees do not count towards the landscape requirements provided for in the City of Arnold Zoning Code.”

Included in Mr Hummel’s presentation is a personal written request, an arborist’s letter identifying the trees that will be removed and why removal is preferred or necessary. Also included, is an updated landscape plan. He will be removing some of the trees in the preservation area and replacing some. But, due to lot size and constraints, he is requesting not to replace all according to the precise word of the code. As a side note, the updated plan does not include the necessary conifer species as a buffer zone. 100% conifer is required; and the applicant is aware this is the case.

Any variances to the Tree Preservation Ordinance must address the following criteria:

- 1.** The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which is located. **The granting of the variance does not appear to be detrimental to the public safety, health or welfare. In addition, it will not be injurious to surrounding neighboring properties, as some of the existing trees and plantings are diseased, dying or invasive. In fact their removal will improve safety, health and welfare.**
- 2.** The conditions upon which the request for a variance is based are unique to the property to which the variance is sought, and are not applicable generally to other property. **The conditions are unique to the property since, originally 6 parcels of land needed to be consolidated into a form of useful space to comply with the City’s Comprehensive plan and applicant’s desire for commercial zoning in this area.**
- 3.** Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of these regulations are carried out. **The need for lot consolidation to create a useful parcel to accommodate a commercial development and the resulting unique shape, contributes as a hardship.**

## **RECOMMENDATION**

Staff recommends the Planning Commission approve the requested variance based on the below findings and condition:

### **Findings:**

- 1.** The granting of the variance does not appear to be detrimental to the public safety, health or welfare. In addition, it will not be injurious to surrounding neighboring properties, as some of the existing trees and plantings are diseased, dying or invasive. In fact their removal will improve safety, health and welfare.

2. The conditions are unique to the property since, originally 6 parcels of land needed to be consolidated into a form of useful space to comply with the City's Comprehensive plan and applicant's desire for commercial zoning in this area.

3. The need for lot consolidation to create a useful parcel to accommodate a commercial development and the resulting unique shape, contributes as a hardship.

**Condition:**

1. The plan must comply with the remainder of the Tree Preservation regulation, including Protection Measures after Construction and the Tree Preservation Easement.
2. The approval of this Tree Preservation Variance does not negate the requirement for the required 15' buffer , parallel to all sides of property adjacent to Residential.



Eric Hummel  
Five Star Auto Body  
1756 Jeffco Blvd.  
Arnold, MO 63010

8/21/2018

Dear Christie Hull Bettale:

I would like to formally appeal the Tree Preservation Ordinance that was passed for the 3.13 acres I am currently developing. Please see the criteria responses below. I strongly believe the preservation ordinance does not fit either the parcel of land developed or work as intended to help preserve trees and help in the development process.

My request will be to release me of all restrictions of the existing plan and let myself, my landscaper and arborist come up with a new plan that will accommodate all parties. I would like to create a healthy, maintainable and appealing tree plan with an emphasis on accommodating buffer zones. I have a proven track record for improving properties I have owned in the Arnold Community and I would like the Planning Commission to trust my intentions are good in the development of my property. I have provided a recent tree report and recommendation by my Landscaping Contractor and licensed Arborist. In the Planning Commission meeting I will present and alternate plan with design and images to support new plan. I will also provide pictures of all remaining trees that are recommended for removal to help justify the recommendation.

Article IV: Tree Preservation Program:

<https://www.ecode360.com/30917261>

Section 405.600 Variances.

[Ord. No. 14.478 (Bill No. 2580) §13, 5-1-2014]

A.

Appeals to the Tree Preservation Ordinance must be made in writing to the Planning Commission outlining their reason for appeal that addresses the following criteria:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which is located.

I confirm that a variance will not be detrimental to public safety, health, or welfare to other property or improvements in the neighborhood.

2. The conditions upon which the request for a variance is based are unique to the property to which the variance is sought and are not applicable generally to other property.

I strongly feel that this property is not a good candidate for the restrictions of the tree preservation program and should be considered unique because of the original tract conditions. The 3.13 acre site was originally 6 different parcels of land that were consolidated into two lots. One lot zoned C4 and the other R4. It was apparent that there was very little consideration for trees or landscaping in any of these parcels at any time.

In attached satellite image I have divided up the tract into areas and color coded to illustrate the original conditions upon purchase of property. The trailer park (in white) had zero landscaping with a couple of trees that had to be removed for development. The Area behind trailer park was a fill site (in red). It was a combination of wild growth, rock, concrete, boulders and asphalt. Parcel 6 is the area to the West and right on image (outlined in blue). This area is closest to residential and had the densest vegetation of entire property. Although dense, it was all wild growth and low-quality trees that were not only interlocking and leaning but invaded with vines and honeysuckle. This dense area was also full of trash that I have removed. Many trees in this parcel had to be removed to accommodate the fenced in parking area of development. After removal of the majority it has allowed a clear vision of what trees are left under original preservation plan. Unfortunately, they are unhealthy and unsightly and still invaded. Most remaining trees are leaning or split trunked and foliage is thin. The last area I would like to discuss is the strip of trees along west fence line (outlined in green). These trees are only adjacent to commercial parcels, they do not appear to be healthy or a good representation of new commercial development. They visually hide the new property from viewing on 141 when heading south. The new facility is amazing and a very presentable building. It is a shame not to show it off inviting future interest in area by developers. This strip of trees is also located in and out of my property line and I am not even certain which are my responsibility. Although they were noted and included in original tree preservation plan, in person you can see they are intertwined with the old wire fence line.

3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of these regulations are carried out.

There are definite hardships under current regulations of the trees preservation plan because of the physical condition of the remaining trees, the ground vegetation throughout the trees that I must try to remove and maintain without harming existing and the massive number of new trees that I must plant in areas that are not ideal for planting. I have been told by my landscaper that just stripping the vegetation and brining in dirt, regrading for grass will most likely kill off the unhealthy remaining trees. This would of course cause even further delay to a healthy buffer zone that provides screening because the trees will not just quickly die, one maybe next year, one 2 years later, etc.

Not grading and seeding would leave buffer zone ground wild and invasive. I would just have someone use a weed trimmer to maintain but my hopes were to have nice grass and trees with mulch rings and grass I can cut with a lawn mower. The tree preservation plan has so many replacement trees that are required to be placed on a site and development that will not accommodate them. The slopes of the majority of road frontage and area along east of property are not ideal areas for massive quantities of trees. A couple strategically placed yes but not an abundance. The back, north end of property has an elongated retention basin that I must have the ability to maintain with equipment like skid steers. I find it hard to try to plant along the edge of this basin and be able to maintain the rain garden. The neighboring wood line is all wild growth and in poor condition. There are visible vines throughout and other invasive vegetation that would invade and shadow the trees even if I tried to plant here.

I plan on bringing photos to Commision Meeting to help justify these explanations and I appreciate your consideration of my request.

Sincerely,

Eric Hummel  
Owner



**RED** – Fill Area, boulders, rock, concrete, asphalt,  
**BLUE** – Wild Growth Area  
**GREEN** – Undesirable trees on property line, ownership undetermined.





August 22, 2018

Five Star Auto Body  
1756 Jeffco Blvd  
Arnold, MO 63010

A site visit was conducted on Monday, August 20th, 2018 to the property located at 1535 Big Bill Rd, Arnold MO to review property for proposed landscape installation. Upon inspection of existing trees, the following has been noted and identified. See description, recommendations, location and notes as per supplied blue prints.

A - Front right portion of property Eastern corner, along neighboring Sohn Property (1521 Big Bill Rd) fence line:

\* Trees labeled 108-113.

Recommend removal of trees. Contributing factors for recommendation, noticeable grade change, excess soil added to base portions of trees and compaction of root systems, several trees are in a declined condition with severe crown die back. Remaining American elm trees show possible signs of Dutch elm disease. A separate plan will be supplied to enhance future landscape with the installation of adequate varieties and plantings to better suit site and location.

B – Right side, (East) of property and building adjacent to ABT Properties, LLC (Wired Electric):

Sycamore tree labeled 114 to remain. No physical signs of decline or defect has been identified. Recommendation is to remove extensive vines and vegetation from trunk and lower portion of crown. Remove dead limbs and branches measuring two inches in diameter and larger.

\* Trees labeled 115-125.

Recommend removal of trees. Contributing factors, several trees are in a declined or severe declining condition, Dutch Elm disease and Borer activity identified. Additional notes: included bark, trunk fractures and extensive vine growth has been identified. A separate plan will be supplied to enhance future landscape with the installation of adequate varieties and plantings to better suit site and location.

C – Right (East) side of proposed fenced in parking area, adjacent to ABT Properties LLC (Wired Electric).

\* Trees labeled 126,127,128,130,137,138,139,168,169,170 &171.



Recommend removal of trees. Contributing factors, several trees are in a declined or declining condition with severe crown die back. Limited space and growth area due to installation of white vinyl fencing and pose the potential for damage to root systems and/or fence upon installation.

D - Left side (west) of proposed fenced parking area on right side of property.

\* Trees labeled 177,179,180,181,194,195,196,197, & 200.

Recommend removal of trees. The contributing factors: Several trees are in a declined or declining condition, Elm species are highly susceptible to disease, extensive vine on tree trunks and canopies, limited space and growth area due to installation of white vinyl fencing, pose the potential for damage to root systems and/or fence upon installation. As per supplied landscape plan a recommendation has been given to eliminate the installation of Emerald green arborvitae along left and back side of parking area do to a low survival rate. A separate plan will be supplied to enhance future landscape with the installation of adequate varieties and plantings to better suit site and location.

E – East side of Northern storm water retention basin. Adjacent to property 2039 Bender Ln.

Upon review of area, the following has been noted with the following recommendations. Removal of disease susceptible trees, small understory trees, honeysuckle, vines and vegetation.

Recommend removal of the following trees: American elm (3), Sassafras (3) Boxelder (1) and understory growth, honeysuckle, vines and vegetation.

Contributing factors, Elm trees are highly susceptible to disease, small understory trees show significant signs of tropism, minor to moderate signs of grade change has occurred to trunk bases with possible root compaction. A second recommendation has been given to retain the Northern red oak in same location, pruning to remove deadwood and invasive vine growth to encourage a healthier and more vigorous tree. As per supplied landscape plan, a recommendation has been given to eliminate the installation of Emerald green arborvitae due to low survival rate. A separate plan will be supplied to enhance future landscape with the installation of adequate varieties and plantings to better suit site and location.

F - Rear portion of storm water retention basin. Adjacent to property 2025 Bender Ln.

Upon review of area, the following has been noted with the following recommendations. All trees to remain on site to help aid in maintaining stability of retention basin and the suppression of future erosion issues. More importantly will be the maintenance and healthy turf growth around the rain gardens. As per supplied landscape plan, our recommendation is to eliminate the installation of Emerald green arborvitae has been given due to limited space for planting and low survival rate.

Respectfully submitted,

Chris Frank

Certified Arborist MW 5909A