

June 15, 2021

Mr. Jesús Murillo
Senior Planner
City of Scottsdale
Planning and Development Services
7447 E. Indian School Road, Ste. 105
Scottsdale, AZ 85251

Re: Arcadia at Silverleaf (Parcel T7)
Sissoo Tree Removal & Replacement Project Narrative – Resubmittal

Mr. Murillo: Thank you for your continued interaction with DC Ranch Association, Inc. (DCRA) staff and our third-party Landscape Architect firm, CollectiV. Also, thank you for your letter dated March 26, 2021, in response to our original project submittal dated February 16, 2021. As a result, we better understand the City's processes and requirements as it relates to obtaining approval for a Sissoo Tree Removal & Replacement Project in the Arcadia at Silverleaf neighborhood of DC Ranch.

The scope of this proposed project entails removing 670 street lined Sissoo Trees located on owner lots in the DC Ranch Parcel T7, Arcadia at Silverleaf neighborhood (Arcadia), and replacing each one that is removed with a 48" box Chinese Elm (hereinafter referred to as Evergreen Elm). Please refer to the exhibits provided that clearly illustrate the anticipated changes, as well as reinforce our communication efforts with the neighborhood.

As you may know, DCRA is responsible for community governance of roughly 2,600 homes represented by 25 different neighborhoods. These 25 neighborhoods (including Arcadia) are subject to governing documents established for DCRA who serves as the "Master Association." A set of operational standards, maintenance responsibilities, and obligations are managed by an Executive Director who reports to a seven-member volunteer board elected by the membership. DCRA is required to perform various maintenance duties and tasks for Arcadia that are established by the Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel T7, filed with the County of Maricopa at 20050156458, recorded on 02/07/2005 (and provided herewith). One of those maintenance duties and tasks is to maintain all street lined Sissoo Trees, most of which are located on owner lots.

In Arcadia, which is composed of 123 homes situated within the T7 Parcel, there are 917 Sissoo Trees (670 street lined on owner's property and 247 common area).

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It is commonly known that Sissoo Trees have aggressive root structures. When these trees were planted as part of the neighborhood's development, starting roughly in 2005, no root mitigating measures were applied during the planting process by the developer (DMB). DCRA is not the first community to identify this concern and want to do something about it. Communities such as AZ Traditions, Coronado Ranch, Cortessa, Desert Place at Morrison Ranch, The Estates at Ridgeview, Fulton Ranch, and Stetson Ranch have completed Sissoo Tree removal projects, replacing the Sissoo Trees with an alternate tree species.

It is important to note that the developer was responsible for planting the street lined trees, not the owners, nor DCRA. Now, more than 15 years later, while the trees have created an attractive street lined appearance, the neighborhood has sustained, and will continue to sustain root damage to common area roads, sidewalks, utility infrastructure, city infrastructure, hardscapes, curbs, decorative walls on commonly maintained areas, and private property. As evidence of this, a December 2021 road-maintenance project required patching at roughly 100 locations due mostly to Sissoo Tree root caused damage. This project entailed the removal of existing asphalt, Sissoo Tree root removal, and then the replacement of the asphalt. There are many more areas of road that will require patching in the future as the trees continue to grow and the roots structures continue to expand.

In 2015, DCRA conducted a neighborhood meeting to inform Arcadia owners of the concerns the Sissoo Tree root structure presents. This was the first time the discussion took place at the neighborhood level. In 2017, DCRA arranged to have a certified arborist (SiteWorks) visit Arcadia for the purpose of providing an opinion on how best to contend with the tree's aggressive root structure. SiteWorks ISA Board Certified Master Arborist Dennis Lynch, in a report to DCRA dated December 16, 2017, wrote "...my opinion is that the removal of the subject tree may be the best option."

As DCRA continued to study the situation, additional arborist opinions were sought. In support of the foregoing, in a February 2019 report, BrightView Tree Care Services ISA Board Certified Master Arborist Alec Edwards wrote "It is my opinion that aside from the caveats, removal and replacement of the Sissoos over time is the best option for the community." Further, in a February 2019 report, AAA Landscape's ISA Board Certified Arborist Shannon Scott wrote "Because this species has taught us so much about their invasive and damaging root issues, we have learned to locate them as far from hardscape features as is practical to minimize the damage potential." These reports have been provided for your review with our prior submittal package. Most recently, a report from Aqua Trac System's Jim Kauth, co-authored by Certified Arborist Jonathon Manning, dated June 1, 2021, provides the following statement "We would recommend removing the Dalbergia Sissoo from the streetscapes in Arcadia for the reasons that we have previously stated. The mitigation of root damage by cutting or root barriers, if even possible, will be costly, indefinite, and not guarantee success. The cost of removal at this point will be high, but less than waiting later as the trees will continue to grow and become more expensive to remove and the damage more extensive to repair." A copy of this opinion letter is provided.

DCRA has worked closely with its legal counsel to confirm its understanding that, pursuant to the Arcadia CC&Rs at Paragraph 8, regardless of ownership, all Sissoo Trees that are located between the outside edge of the private street improvements and the sidewalks located along the perimeter of the Lots must be maintained and irrigated by the Association. The cost of such maintenance and irrigation shall be levied against all the Lots in Arcadia as a Neighborhood Assessment.

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There is certainty of risk that the Association could be held liable if the Sissoo Trees cause actual damage to an Owner's property. Additionally, for those Sissoo Trees that are not within the boundaries of a Lot, an Owner could also assert claims against the Association for trespass and/or nuisance if the impacted Owner can show their property was damaged because of the root growth.

On March 19, 2019, a neighborhood meeting was conducted to help educate Arcadia owners on the latest information we had regarding the Sissoo Trees, to review potential options, and to address concerns. At that meeting, options were presented for consideration, which were 1) keep the trees as is and deal with the damage and accept the risks, 2) apply remedial measures to address root damage, and 3) adopt a multi-year tree replacement plan. A month later, a Neighborhood Committee was elected by Arcadia (and approved by the DCRA Board) to work towards a reasonable solution with a DCRA project team (which included board members and landscape architect Jim Smith from CollectiV). Over the next year, surveys were conducted, resident emails answered, and meetings were held. The DCRA objective when approving the Neighborhood Committee was that the committee would reach a consensus (and recommendation) regarding the fate of the street lined Sissoo Trees. Fifteen tree species were considered by the committee, including desert trees.

In 2020, the DCRA Board set a June 1 date by which the committee would make its recommendation regarding the Sissoo Trees. That day came and went; a month later the committee disbanded due to internal disputes among its members.

About the same time, a public document folder was created for Arcadia members so that important documents, management updates, survey data, and neighborhood meetings regarding the situation could be reviewed. It remains updated with the latest information we have on the subject matter.

In early 2020, DCRA also decided to formally disclose the situation to all prospective Arcadia owners via the title process. In July 2020, a 10-page document titled *Arcadia Sissoo Tree Key Questions and Answers Summary* was created and disseminated to the Arcadia Owners. This document was provided to you with our original submittal package.

At its October 5, 2020, regularly scheduled board meeting the DCRA Board adopted the following resolution:

BE IT THEREFORE RESOLVED, after consideration of the feedback received by the former Arcadia Neighborhood Committee and Arcadia residents, as well as the recommendation of the Association's landscape and arborist experts and legal counsel, that the Street Trees shall be removed and replaced. The Association will work with its Community Management to execute the removal and replacement project and all related costs shall be assessed to the Arcadia Neighborhood as a Neighborhood Expense pursuant to the Ranch CC&Rs and Arcadia CC&Rs.

Following the adoption of the foregoing resolution, DCRA surveyed the Arcadia neighborhood to ascertain its preference on a replacement tree species. In November 2020, five tree species, paired down from the original 15 were presented in an initial survey, they were: Live Oak, Tipu, Red Push Pistache, Evergreen Elm, and Fan Tex Ash. These five tree species selections were based on character, size, growth habit, shade quality, lifespan, availability, and future maintenance. The two most preferred trees were then surveyed in December 2020, they were: Evergreen Elm and Fan Tex Ash.

The results from the second and final December 2020 survey showed that the Evergreen Elm was the most popular tree species from among the two surveyed. The Board selected the Evergreen Elm based on all available data, including arborists input, internal staff, and the survey results from the residents.

On a parallel track with the replacement tree species selection process, the following project plan was approved by the DCRA Board.

1. Engage landscape architect services – The Board approved a contract with CollectiV. *(complete)*
2. Replacement tree species selection process – Based in part on the survey data from the November and December surveys, the Board selected the Evergreen Elm as the replacement tree species for street lined trees located on owners' lots. *(complete)*
3. Secure Covenant Commission approval for replacement tree species – Written approval from the Covenant Commission was secured. *(complete)*
4. Begin street repair and patching where needed per the reserve plan – Roughly 100 road patches were completed in January/February due mostly to Sissoo Tree roots. *(complete)*
5. Begin City of Scottsdale approval process. *(underway)*
6. Establish tree purchase options/contract grow – Pending City approval of the project, we will work with CollectiV to secure a purchase arrangement for 670 48" box Evergreen Elm trees needed to replace street lined trees.
7. Landscape architect to develop project specifications – This work can begin late spring/early summer. CollectiV, per its proposal, will provide this service, working closely with our project team. The specifications will establish the project's scope and will be used for bidding, planning, and management purposes.
8. Establish mapping plan for tree replacement – Working with CollectiV, per its proposal, the Project Team will focus its efforts on the project mapping model, which lays out the order in which the project is implemented. *(complete)*
9. Rebid project costs – After aligning the project specifications with the project mapping model, we will competitively bid the work, which will be a sealed-bid process. The Board could consider this matter mid-summer 2021.
10. Determine project related lot assessment – Subsequent to the Board's approval of the project proposal, the per unit costs will be determined and the assessment levied against owners will either be in one lump sum or spread over the course of the project.
11. Schedule pre-project neighborhood meeting – With all project related elements assembled, conduct a neighborhood meeting in the fall to communicate the plan and gain feedback.
12. Begin tree replacement work – Assuming the forgoing deliverables meet their respective time targets, work could begin in October 2021.

From a public input perspective, several neighborhood meetings have been conducted and those presentations accompany this submittal. Also, this link provides access to a public folder that all Arcadia owners have access to, as well as the title companies that transact business in DC Ranch.



[Arcadia Communications Public Folder Chronological 06.07.21](#)

As suggested in your March 26, 2021, response, DCRA conducted another neighborhood meeting to 1) provide a historical perspective, 2) discuss the proposed Sissoo Tree removal project, and 3) hear comments (pros and cons) regarding the initiative. The PowerPoint presentation is provided for your review. At this meeting, which spanned more than three hours, the following concerns were discussed.

- a. Consider alternatives to the tree removal request (maintenance plan), and other cost-effective measures.
 - i. Root maintenance is not feasible for Sissoo Trees. We have consulted with numerous experts who opine that while measures can be taken on a reactionary basis to address root damage when it appears, doing so could present severe risk to the trees themselves (up to and including killing the tree). It is not reasonable to proactively address related root damage that cannot be seen above ground. These roots can travel very far from the tree.
 - ii. Not replacing all the trees (e.g., every other one).
 - iii. Root pruning where practical (not a standard practice).
 - iv. The use of root barriers where practical (we are attempting to try these on select common area trees, only on one side).
 - v. Using chemical compositions to potentially control root growth (we have conducted research to no avail).
 - vi. Utilizing a radar device that identifies underground roots (this was researched and due to the scale and scope the 670 trees present, this option is not a reasonable one).
 - vii. Owners accepting liability (indemnification to DCRA) for the trees, rather than exposing the community at large (we pitched this idea to the owners several times via community conversations and the owners are not in favor of this option).
- b. Environmental impacts and disturbance of established and mature trees.
 - i. The plan is to remove and replace each street tree (1 for 1).
 - ii. Common area trees will remain untouched.
 - iii. Sissoo Trees are creating environmental damage to common area and private property – they also compete for water resources.
 - iv. This project will be thoughtfully carried out – focusing on the long-term view/impact.
 - v. The work plan is to divide the neighborhood into 13 phases (will have a minimal impact on wildlife) – two to three years to complete.
 - vi. Each phase will need to be fully complete before moving onto the next phase.
 - vii. The plan is to recycle the Sissoo Tree wood.
 - viii. The Covenant Commission-approved tree (Evergreen Elm) will serve as a suitable replacement tree that will lesson environmental impacts.
- c. Authority of the DCRA to remove the trees.
 - i. Owners knowingly bought into a deed restricted community, where elected board members govern.
 - ii. It is a fact that deed restricted communities enhance real estate values.

- iii. The Supplementary Declaration for Arcadia provides the following language:
 - 8.b. Street Trees: Declarant intends to install (or to cause homebuilders or other third parties to install) trees and irrigation facilities serving such trees in the areas located between the outside edge of the private street improvements and the sidewalks located along the perimeter of the lots.
 - iv. The Declarant grants to the Association a perpetual, non-exclusive easement over each of the lots ...for the installation, maintenance, and irrigation.
 - v. A 2018 legal opinion from Attorney Alexis Firehawk confirms the foregoing as authority to remove and replace the street trees located on owner lots.
- d. Financial responsibility for the residents is too great.
 - i. The Neighborhood's Supplementary Declaration provides that all expenses associated with the maintenance of the street trees is a common expense shared by all neighborhood owners (Section 8.b).
 - ii. 2021-2023 – Remove all street lined trees (670) at an estimated cost of \$3,000 per location and replace with 48" box Evergreen Elm.
 - iii. The cost includes new irrigation with fertilization capabilities.
 - iv. The total cost is estimated at \$2 million (shared proportionately by 123 owners).
 - v. A one-time assessment of \$16,260 (could be discounted), or three annual payments of \$5,420.
 - vi. If the trees are not removed, street repairs, damage to personal property (homes/improvements), common area, and utilities will continue indefinitely (difficult to quantify cost) - \$90,000 in street repair was spent in 2020.
 - vii. \$28,000 will be spent on root barriers in park areas in 2021.
- e. Litigation between residents and DCRA.
 - i. Sissoo Tree related liability concerns must be appreciated and understood.
 - ii. Litigation will not resolve the concern, so long as the Sissoo Trees remain on owner lots.
 - iii. Could be costly to all involved, especially Arcadia owners.
 - iv. Maintenance is not the issue at this point in the process because - Sissoo Trees should have never been used for street trees.
 - v. No root barriers were installed when the trees were planted to help mitigate the damage they are now causing.
 - vi. There were two law firms threatening litigation, now there is only one; one was dropped.

You will find after reviewing the accompanying material, countless hours have been spent by DCRA board members, staff, committee members, and Arcadia owners alike, to understand all the impacts (pros and cons) the street lined Sissoo Trees present, and to consider the appropriate measures that result in "doing the right thing."

There have been robust communications over this time from DCRA to the Arcadia owners in the form of updates, surveys, meetings, individual emails, expert consultations, and evaluations.

As provided in the DCRA Amended and Restated Declaration of Covenants, Conditions and Restrictions filed with the County of Maricopa at 99-0673267 recorded on 07/16/1999, at section 6.1: *The Association is the entity responsible for management, maintenance, operations, and control of the Area of Ranch Responsibility. The Association also is the primary entity responsible for enforcement of the Ranch Governing Documents. The Association shall perform its functions in accordance with the Ranch Governing Documents and the laws of the State of Arizona.*

This proposed project has been thoughtfully evaluated and the DCRA Board has conformed with its legal duties in every regard throughout the contemplation process. The DCRA Board has acted 1) in good faith, 2) with a duty of loyalty to the community, 3) in alignment with what a reasonable person would do with the information on hand, and merely wishes to exercise due care by resolving a real concern that will not go away if nothing is done.

The replacement/installation of Evergreen Elms will allow the tree lined neighborhood to continue its presence within DC Ranch. By replacing the Sissoo Trees with Elm Trees, the community will diminish the adverse effects of the Sissoo's invasive damaging roots on streets, underground, and above ground utilities.

Our plan is to remove all 670 street lined Sissoo Trees located on owner lots and replace them with 48" box Evergreen Elms (one for one) at locations in proximity to their original locations; a root mitigation plan will then be maintained for Sissoo Tree stumps (below ground level) and sprouts. These landscape changes are not in conflict with the T-7 final plat as shown in Attachment D received from staff. Further, we are not changing the land planning associated with the DC Ranch Generalized Design Concept (GDC) for the Town Center. We are continuing to meet the concepts it created (reference attachment C received from staff.) In general, the GDC is not applicable to the landscape update. This portion of DC Ranch falls within the Village Character theme of Planning Units III, IV, and V, and which specifically allows for taller non-native species. The change from the Sissoo street tree to the Elm street tree in the Village Character section of DC Ranch does not change the way the neighborhood meets the landscape philosophy and intent. The look of the neighborhood will be virtually indiscernible as viewed from those inside and outside. Over time it will read as a green tree lined street as it does today.

The proposed Elm Trees (*Ulmus Parviflora*) are selected from the DC Ranch Covenant Commission approved plant list for the Town Center/Village Character portion of the community (see attached approved tree list). The tree spacing on the streets will match or closely match the existing spacing which over time has proven successful based on the existing shade coverage created by the trees. These trees were selected to compliment the character of the neighborhood and its unique placement within DC Ranch. Additionally, the new trees will, over time, reduce the heat island by regaining the canopy coverage without damaging roots of the currently installed trees. Because the site was previously developed, indigenous landscape was utilized around the perimeter of the site to blend with the adjacent wash and streetscape. Industry standards along with City of Scottsdale guidelines for new developments are typically in the 15-gallon to 36" box size. We will far exceed that with 48" box trees.

The existing irrigation system that waters the trees and landscape today will be replaced with a new efficient drip system, including fertilization capabilities to aid in the trees' growth. The long-term watering requirements will be the same as the current needs of the existing Sissoo Trees and understory. The existing water meters will be re-used, therefore no changes in demand beyond what is provided are anticipated.

The proposed project has been thoughtfully planned and it is divided into 13 phases. The plan is to complete each phase before moving onto the next one, ensuring the work will not be disruptive to the entire neighborhood at any one time.

Revisions to the February 16, 2021, submittal are woven into this second submittal response. The intention of this document is to repackage the original submittal considering the points of concern provided in your March 26, 2021, letter.

In addition to the foregoing, there are many points of concern that you listed which do not appear to apply to this project. They are:

1. The design character of any area should be enhanced and strengthened by new development.
 - Building design should consider the distinctive qualities and character of the surrounding context and, as appropriate, incorporate those qualities in its design. **Not Applicable**
2. Building design should be sensitive to the evolving context of an area over time. **Not Applicable**
3. Development, through appropriate siting and orientation of buildings, should recognize and preserve established major vistas, as well as protect natural features such as:
 - Scenic views of the Sonoran Desert and mountains. **Not Applicable**
 - Archaeological and historical resources. **Not Applicable**
4. Development should be sensitive to existing topography and landscaping.
 - A design should respond to the unique terrain of the site by blending with the natural shape and texture of the land while minimizing disturbances to the natural environment. **Not Applicable**
5. Development should protect the character of the Sonoran Desert by preserving and restoring natural habitats and ecological processes. **Not Applicable**
6. Developments should integrate alternative modes of transportation, including bicycles and bus access, within the pedestrian network that encourage social contact and interaction within the community.
 - Design elements should be included to reflect a human scale, such as the use of shelter and shade, for the pedestrian and a variety of building masses. **Not Applicable**
7. Buildings should be designed with a logical hierarchy of masses.
 - To control the visual impact of a building's height and size. **Not Applicable**
 - To highlight important building volumes and features, such as the building entry. **Not Applicable**
8. The design of the built environment should respond to the desert environment.
 - Interior spaces should be extended into the outdoors both physically and visually when appropriate. **Not Applicable**

- Materials with colors and coarse textures associated with this region should be utilized. **Not Applicable**
 - A variety of textures and natural materials should be used to provide visual interest and richness, particularly at the pedestrian level. **Not Applicable**
 - Materials should be used honestly and reflect their inherent qualities. **Not Applicable**
 - Features such as shade structures, deep roof overhangs, and recessed windows should be incorporated. **Not Applicable**
 - Water features should be placed in locations with high pedestrian activity. **Not Applicable**
9. The extent and quality of lighting should be integrally designed as part of the built environment.
- A balance should occur between the ambient light levels and designated focal lighting needs. **Not Applicable**
 - Lighting should be designed to minimize glare and invasive overflow, to conserve energy, and to reflect the character of the area. **Not Applicable**
10. Signage should consider the distinctive qualities and character of the surrounding context in terms of size, color, location, and illumination.
- Signage should be designed to be complementary to the architecture, landscaping, and design theme for the site, with due consideration for visibility and legibility. **Not Applicable**

These final comments are intended to address a few remaining concerns that you raised.

- Provide a graphic identifying and confirming any proposed tree plantings near street intersections the safety triangle and sight distance must be shown on the plans; tree canopies must be trimmed to 7 feet if within these areas (DSPM Section 5-3.123; Figure 5-3.27; DSPM Section 5-3.123; Figures 5-3.25 and 5-3.26). The plans have been updated to show the SVT 's per the DSPM Guidelines. Please refer to the revised landscape plans now showing these sight distance lines.
- Acknowledge that any trees planted in the sight distance triangles noted above must have canopies trimmed to seven (7) feet high. Once the new trees are planted, they will be maintained to conform to the foregoing requirement.
- Address whether the proposal will modify any existing lighting improvements. Our proposal will not impact, or effect any change, to existing lighting, where applicable.

We ask for your approval and support to move forward with our work in a timely manner. Based on our outreach, thorough process, and extensive planning, we additionally ask that you consider this submittal for staff approval. We look forward to working with the City of Scottsdale, and more specifically your department, to secure the necessary approval to proceed. We look forward to hearing from you in this regard.

If you require any further information or documentation as part of your consideration process, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren Shaw". The signature is stylized with a large, sweeping initial 'D' and a cursive 'Shaw'.

Darren Shaw
Executive Director

cc: DCRA Board of Directors