



Department of CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: treeappeal@atlantaga.gov

TREE CONSERVATION COMMISSION APPEAL FORM

Appeal of Decision of Administrative Official Regarding Trees

Date filed:	11/19/19 <i>Fdey</i>	Appeal Number: (Office use only)	2019-09905
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Description of Property			
Street Address:	4 Muscogee Avenue	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
Land Lot: (if available)		County:	Fulton
District: (if available)	17th	Council District: (if available)	NPU: (if available) B

Appellant(s) information List all appellants with name, address and phone number (attach page as needed)			
Appellant 1:	Frank A. Thomas, Jr. (CITIZEN OF ATLANTA)		
Address:	4 Muscogee Avenue	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
City:	Atlanta	Zip:	30305
Email:	Frankathomasjr@aol.com	Phone:	404.231.9111
Appellant 2:			
Address:		<input type="checkbox"/> NE <input type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
City:		Zip:	
Email:		Phone:	

Property Owner Information (if known)			
Owner Name:	Frank A. Thomas, Jr.		
Owner Address:	4 Muscogee Avenue	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
Owner Email:	Frankathomasjr@aol.com	Owner Phone:	404.231.9111

All documents submitted will be available to the members of the Commission prior to the presentation of your case. If applicable, please attach supporting reports or affidavits from licensed professionals (e.g.: independent arborists, structural engineers, etc.). If the appellant is **not the owner** of the property, please complete Attachment 2. If an **attorney is filing** or testifying on behalf of the appellant, please complete Attachment 3.

<p>NOTE: If you are appealing assessment of a fine or fee, please include amount:</p> <p>a) Fine \$ _____</p> <p>b) Fee \$ _____ (Illegal recompense)</p>	<p>1. What is the basis of your appeal? Check all that apply.</p> <p><input type="checkbox"/> Appeal of facts asserted in notice of illegal destruction of trees.</p> <p><input type="checkbox"/> Appeal of facts asserted in notice of illegal removal of trees.</p> <p><input type="checkbox"/> Appeal of fines for unpermitted removal or destruction of trees.</p> <p><input type="checkbox"/> Appeal of recompense fees.</p> <p><input type="checkbox"/> Request to permit tree(s) as dead, dying or hazardous was denied.</p> <p><input type="checkbox"/> Plan to remove tree(s) in association with construction was denied.</p> <p><input type="checkbox"/> Plan to remove tree(s) in association with landscaping plan was denied.</p> <p><input type="checkbox"/> Appeal of Preliminary Approval to remove trees (must complete Attachment 1).</p> <p><input checked="" type="checkbox"/> Other: <u>Wrong cultivar was installed</u></p>
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Tel: 404.330.6874
Email: trecappeal@atlantaga.gov

<p>2. Have you obtained the relevant permits for your proposed project? Building permit, land disturbance permit, variance permit, etc.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA</p>
<p>3. What is the specific decision (and date of the decision if known) of the City Arborist you are appealing? Preliminary denial issued Sept. 13, 2019 determined subject tree was not dead or dying.</p> <p>Appeal is based on subject tree being wrong cultivar for application. I am willing to replace the cultivar with a growth pattern more suitable for street scape.</p>	
<p>4. What decision(s) do you want the Tree Conservation Commission to make? Allow removal of a Hornbeam and replace with another hornbeam cultivar with growth pattern more suitable for streetscape.</p>	
<p>5. If there are other responsible parties (e.g. tree company, builder, landscape company, other) please provide contact information below. Please attach copies of any relevant invoices, cancelled checks, etc. Tree company for removal will be Gunnison Tree Company (404.351.8929 Atten: Jonathan Potts) with installation by VIRIDIS Landscape Company. Atten: David Dempsey, 404.495.0300.</p>	
<p>6. Briefly summarize the proposed activities on the property. remove existing "Hornbeam Fastigiata" and replace with Hornbeam "Frans Fontaine."</p>	
<p>7. Please provide justification if you are claiming economic hardship in your ability to pay \$75 filing fee or fines/recompense. Provide a signed affidavit if you are asking for consideration based on income and assets or nonprofit status. If pertinent, provide a copy of your development impact fee waiver. N/A</p>	
<p>8. Please provide complete written explanation if not covered in responses to questions above. (Attach additional pages as needed.) See attached:</p> <ol style="list-style-type: none"> 1. Landscape Plan. 2. Invoice from Gunnison Tree Company for recent trimming. 3. An information sheet for European Hornbeam "Frans Fontaine" reflecting characteristics. 4. Letter in support of appeal. 	

I hereby swear that all statements herein and attached herein are true and correct to the best of my knowledge and belief.



Appellant or Agent for Appellant

November 18, 2019

Date

Note: If appellant is an agent of the property owner, please complete Attachment 2.
If appellant is an attorney, please complete Attachment 3.

FRANK THOMAS
4 Muscogee Avenue NW
Atlanta, Georgia 30305-3541
frankathomasjr@aol.com
404.231.9111

November 18, 2019

*Ms. Kathryn Evans
Administrative Analyst
City of Atlanta Dept. of Planning
Arborist Division
Tree Conservation Commission
55 Trinity Avenue, Suite 3800
Atlanta, GA 30303*

Re: Remove and Replace Hornbeam at 4 Muscogee Ave.

Dear Ms. Evans:

*This is a request to **remove and replace** a tree in front of my townhome located at 4 Muscogee Avenue NW.*

When the current tree was installed, it was intended to be the columnar and pyramidal version of European Hornbeam. This was chosen for its columnar, vertical growth pattern as appropriate for an urban townhouse application.

*Now that the tree is growing, it is apparent I installed the wrong cultivar. I did not realize the Hornbeam has more than one cultivar and expected mine to be of the columnar version. It is not. It has a projected spread of **25-30-foot at maturity**.*

*I would like to remove the existing tree and replace the Fastigiata (Carpus Betulus Fastigiata) with a **European Hornbeam "Frans Fontaine"** which has a narrow **8-10-foot** spread at maturity.*

At my townhouse the columnar was desired because it would not interfere with powerlines or intrude on the adjacent courtyard. Allowed to mature, the existing tree will be the wrong scale for the site.

This Summer, I hired Gunnison Tree Service (\$540 invoice enclosed) to prune the tree into a more vertical form. I was advised by Jonathon Potts, the Arborist overseeing the prunin, that it would have to be done every 2 years to maintain a vertical form. And that the utility company pruning would likely result in an undesirable form.

It is an economic hardship to continue paying \$50-plus, when a replace tree would solve the problem.

I have located a 3-inch balled and burlapped "Frans Fontaine" at Moons Nursey, Watkinsville GA.

I am willing to post a bond to ensure my replacement with a minimum 3" diameter within six months.

I care deeply about the beautiful canopy in our City and do not want it diminished.

Enclosed are printouts of the characteristics of each tree.

*I respectfully ask permission to **remove** and **replace** with the correct Hornbeam that will enhance the area. I will appreciate your favorable consideration of this request.*

Sincerely yours,



Frank Thomas



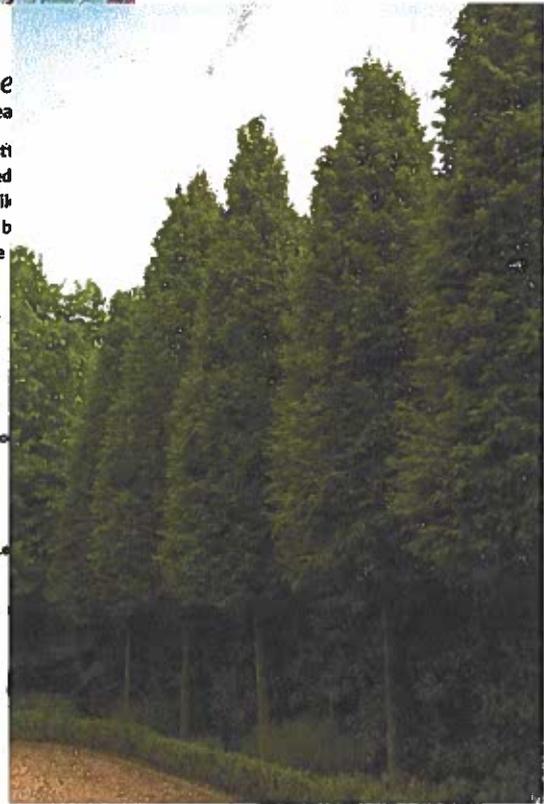
My Majestic
01582 843881



**Carpinus be
10120 - Hornbea**

A very tidy and flat
ideal for restricted
meters wide. Unlike
attractive lateral b
Slow to moderate

- Recommended for
- Avenue
 - Lg Garden/Park
 - Small Garden
 - Ornamental Wood
 - Street
 - Exposed



"Frans Fontaine"

Plant Type

Tree/Shrub

Ornamental Flower

No

Flower Colour

(Insignificant)

Intolerant of

(not specified)

Season of Interest

Autumn

Summer Foliage colour

Mid Green

Soil Types Tolerated

All;Chalk;Clay;Damp;Dry;Loam;Sandy;Well drained

All prices shown are Ex VAT. Additional discounts may apply. [View details](#)

Stock Availability, Size and Pricing.

Batch No	Height (cm)	Girth (cm)	Pot Size (L)	Shape	Ready Date	Qty	Location	List Price (Each)
167509	350-400	-	120	Fth	Now	1	Y30	£251.35
169082	450-500	16-18	200	Std	Now	2	L01	£308.33
169083	400-450	14-16	130	Fth	Now	17	L02	£308.33
170723	450-500	16-18	150	Std	15/08/2019	20	L05	£342.60
168685	600-700	20-25	200	Std	Now	1	Y30	£474.15
170289	500-600	18-20	200	Std	15/08/2019	20	Y36	£508.83
168709	500-600	25-30	280	Std	Now	1	Y30	£521.25
169166	500-600	20-25	300	Std	Now	15	L06	£530.91
167384	500-600	30-35	230	Std	Now	1	Y30	£610.43
168676	700-800	-	380	Fth	Now	2	Y19	£618.64
170467	600-700	30-35	1050	Std	15/09/2019	15	K07	£880.40
169167	600-700	30-35	390	Std	Now	12	K02	£880.44
167586	500-600	35-40	330	Fth	Now	10	X71	£919.97
167700	600-700	30-35	480	HS	Now	6	X68	£962.70
168635	600-700	30-35	480	Std	Now	1	X68	£991.58
169822	500-600	30-35	850	3QS	Now	5	Y18	£1035.18
169182	600-700	30-35	680	Std	Now	18	K04	£1059.02



GUNNISON TREE SPECIALIST
 460 East Paces Ferry Road, NE
 Atlanta, GA 30305

INVOICE

Rep	51519
Jp	8/14/2019
Terms	
Due on receipt	

Bill To
Frank Thomas 4 Muscogee Ave NW Atlanta, GA 30305

Jobsite Location

P.O. No.	Customer Phone #
	1-404-231-9111

GTS recycles 100% of the green waste produced at your job site.

Item	Description	Amount
PRUNE	Jonathan and customer onsite to work with crew Detail prune Hornbeam tree front yard at sidewalk	540.00
CREW	4 MAN CREW/ CHIPPER/CHIP TRUCK/ DUMP TRUCK Pole Pruner	

<i>Pay your bills online at: http://www.gunnisonree.com</i>	Total	\$540.00
	Payments Applied	\$0.00
	Balance Due	\$540.00

* All major credit cards accepted *

MATT CATHELL - CEO • OFFICE: 404-351-8929 • FAX: 404-351-8902 • EMAIL: DAWN@GUNNISONREE.COM

Details Specs Reviews Q&A Blog Posts

Why it rocks:

Frans Fontaine Hornbeam has noteworthy features from its sleek, columnar form to its rich, dark green spring to summer foliage which turn a pleasing golden yellow in the fall.

Where to put it:

Frans Fontaine Hornbeam will need enough space for the tree to fully develop. This is one of the top selections for a street tree.

What it needs:

Frans Fontaine Hornbeam prefers full to partial sun and well-drained soil.

"Frans Fontaine"

Specs

Botanical Name	Carpinus betulus 'Frans Fontaine'
Hardiness Zone	4
Tree Type	Shade, Ornamental & Flowering
Size Range	Small Tree (15-25 feet)
Mature Height	30'
Mature Spread	10'
Shape	Narrow/Columnar
Foliage Color	Dark Green
Fall Color	Yellow/Gold
Flower Color	No
Decorative Fruit	None
Landscape Uses	Shade, Ornamental/Flowering
Growth Rate	Slow to Moderate
Plant Tolerance	Very Adaptable
Standout Feature	Eastern U.S.A. Native, Outstanding Fall color, Shade

Upright Hornbeam ***Carpinus betulus 'Fastigiata'***

Size: 30-40' height by 20-30' spread

Habit: Tightly pyramidal tree

Leaf Color:

Simple green leaves in summer

Golden-yellow in fall

Hardiness: USDA Zone: 3b-9

Landscape Use:

Specimen or focal point tree

Effective year-round screen

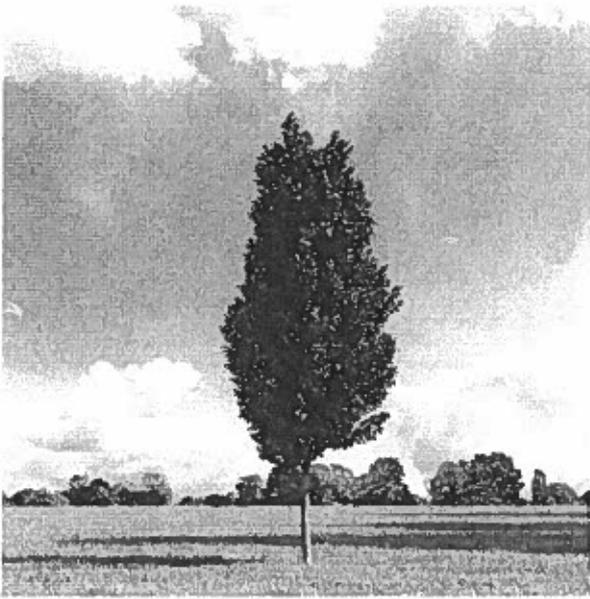
Good street tree



MOON'S
TREE FARM, INC.

gallery/Fgallery2-2.jpg

Current tree
20-30' spread



MOON
NURSERY
Watkinsville GA

Carpinus B Frans Fontaine 3 in.

77748-030

Form

Tree ▼

Package

Balled & Burlapped ▼

Size

3 in. ▼

[Reset](#)

Not in stock at your selected location. Call branch for availability and pricing at [770-242-0607](tel:770-242-0607)

3"
B+B

Specifications



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TREE CONSERVATION COMMISSION APPEAL FORM
Appeal of Decision of Administrative Official Regarding Trees

Date filed:	11/24/19	Appeal Number: (Office use only)	2019 10015
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Description of Property			
Street Address:	2018 Hollywood Rd	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
Land Lot: (if available)	2081	County:	Fulton
District:(if available)		Council District: (if available)	NPU: (if available)

Appellant(s) information List all appellants with name, address and phone number (attach page as needed)			
Appellant 1:	Wendy Hogg		
Address:	2125 Bolton Road	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
City:	Atlanta	Zip:	30318
Email:	wendyhogg996@gmail.com	Phone:	770-312-1495
Appellant 2:			
Address:		<input type="checkbox"/> NE <input type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
City:		Zip:	
Email:		Phone:	
Property Owner Information (if known)			
Owner Name:	Brock Built		
Owner Address:		<input type="checkbox"/> NE <input type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
Owner Email:		Owner Phone:	

All documents submitted will be available to the members of the Commission prior to the presentation of your case. If applicable, please attach supporting reports or affidavits from licensed professionals (e.g.: independent arborists, structural engineers, etc.). If the appellant is **not the owner** of the property, please complete Attachment 2. If an **attorney is filing** or testifying on behalf of the appellant, please complete Attachment 3.

<p>NOTE: If you are appealing assessment of a fine or fee, please include amount:</p> <p>a) Fine \$ _____</p> <p>b) Fee \$ _____ (Illegal recompense)</p>	<p>1. What is the basis of your appeal? Check all that apply.</p> <p><input type="checkbox"/> Appeal of facts asserted in notice of illegal destruction of trees.</p> <p><input type="checkbox"/> Appeal of facts asserted in notice of illegal removal of trees.</p> <p><input type="checkbox"/> Appeal of fines for unpermitted removal or destruction of trees.</p> <p><input type="checkbox"/> Appeal of recompense fees.</p> <p><input type="checkbox"/> Request to permit tree(s) as dead, dying or hazardous was denied.</p> <p><input type="checkbox"/> Plan to remove tree(s) in association with construction was denied.</p> <p><input type="checkbox"/> Plan to remove tree(s) in association with landscaping plan was denied.</p> <p><input type="checkbox"/> Appeal of Preliminary Approval to remove trees (must complete Attachment 1).</p> <p><input type="checkbox"/> Other: _____</p>
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2. Have you obtained the relevant permits for your proposed project? Building permit, land disturbance permit, variance permit, etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
3. What is the specific decision (and date of the decision if known) of the City Arborist you are appealing?	
4. What decision(s) do you want the Tree Conservation Commission to make?	
5. If there are other responsible parties (e.g. tree company, builder, landscape company, other) please provide contact information below. Please attach copies of any relevant invoices, cancelled checks, etc.	
6. Briefly summarize the proposed activities on the property.	
7. Please provide justification if you are claiming economic hardship in your ability to pay \$75 filing fee or fines/recompense. Provide a signed affidavit if you are asking for consideration based on income and assets or nonprofit status. If pertinent, provide a copy of your development impact fee waiver.	
8. Please provide complete written explanation if not covered in responses to questions above. (Attach additional pages as needed.)	

I hereby swear that all statements herein and attached herein are true and correct to the best of my knowledge and belief.

Appellant or Agent for Appellant

Date

Note: If appellant is an agent of the property owner, please complete Attachment 2.
If appellant is an attorney, please complete Attachment 3.



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**TREE CONSERVATION COMMISSION
SUPPLEMENTAL FORM FOR APPEALS OF PRELIMINARY APPROVAL
ATTACHMENT 1**

Note: Form is required only for appeals of Preliminary Approval by City Arborist

Date filed:		Appeal Number: (Office use only)	2019-
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Appeal information:
Please state how you contend Preliminary Approval of the Tree Protection Plan does not comply with the City of Atlanta Tree Protection Ordinance. Ordinance available on the City of Atlanta Arborist Division webpage. Please include a general statement here and address specific issues below or on attached pages(s).

See Attached

ISSUE/CONCERN #1
Brief statement of Issue 1: <p style="text-align: center; color: red; font-size: 24px;">See Attached</p>
Tree of concern. (Please list tree ID or species/DBH). <p style="text-align: center; color: red; font-size: 18px;"><i>See Attached</i></p>
List applicable section(s) of ordinance:
ISSUE/CONCERN #2
Brief statement of Issue 2: <p style="text-align: center; color: red; font-size: 24px;">See Attached</p>
Tree of concern. (Please list tree ID or species/DBH). <p style="text-align: center; color: red; font-size: 18px;"><i>See Attached</i></p>
List applicable section(s) of ordinance:



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ISSUE/CONCERN #3
Brief statement of Issue 3: <p style="text-align: center;">See Attached</p>
Tree of concern. (Please list tree ID or species/DBH). <p style="text-align: center;">See Attached</p>
List applicable section(s) of ordinance:
ISSUE/CONCERN #4
Brief statement of Issue 3: <p style="text-align: center;">See Attached</p>
Tree of concern. (Please list tree ID or species/DBH). <p style="text-align: center;">See Attached</p>
List applicable section(s) of ordinance: <p style="text-align: center;">See Attached</p>



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**TREE CONSERVATION COMMISSION
AUTHORIZATION BY PROPERTY OWNER
ATTACHMENT 2**

Note: Required only if the appellant is not the owner of the subject property and is filing on behalf of the owner. Form must be notarized.

I, Wendy Hogg, (Property Owner) swear I am the owner of the property at 2125 Bolton Road NW Atlanta GA 30318 (Property Address), as shown in the records of Fulton County, Georgia which is the subject matter of the attached appeal. I authorize the person named below to act as appellant in the pursuit of this appeal.

Wendy Hogg

Appellant 1: _____
Address: 2125 Bolton Road NE NW SE SW
Email: wendyhogg996@gmail.com Phone: 770-312-1495

Signature of Property Owner

11.26.19
Date

Personally appeared before me,
Hilisha Wilkins (Print Name),

who swears the information contained in this authorization is true and correct to the best of his/her knowledge or belief.

Notary Public

November 26, 2019
Date



Appeal information:

Please state how you contend Preliminary Approval of the Tree Protection Plan does not comply with the City of Atlanta Tree Protection Ordinance. Ordinance available on the City of Atlanta Arborist Division webpage.

The planned development violates various sections of the Atlanta City Tree Ordinance noted below:

ISSUE/CONCERN #1

The planned development violates section 158-104 of the Atlanta City Tree Ordinance that states: "...damage to trees be minimized to the greatest degree possible..."

The developer has designed without feasible plans for existing trees. They are planning to cut 100% of the trees along the northern fence line.

Trees of concern. (Please list tree ID or species/DBH).

4910 – 44' Red Oak

4911 – 51" Water Oak

Plus 5022 to 5040 - Various species

ISSUE/CONCERN #2

The planned development violates section **158-103** of the Atlanta City Tree Ordinance that states:“(a) Minimal impact on trees; replacement trees. Each applicant for a permit to remove, destroy or injure trees shall, to the maximum extent feasible, minimize the impact on the trees on the site.”

The plan maximizes rather than minimizes tree loss. Calculating **ONLY** the trees located **within their property line**, based on the total DBH of all trees, they are planning on removing 79% of the total trees including a high value tree stand that include a 160+ year old oak.

It is worth noting that they are claiming to be saving trees **OUTSIDE** their property line

The planned development also violates section 158-104 -1 of the Atlanta City Tree Ordinance by not identifying that five trees are part of a tree stand that has at least one tree estimated to be 160-250 years old.

Tree of concern. (Please list tree ID or species/DBH).

Tree stand

2034 – 36" Water Oak

4908 – 34" Sweet Gum

4944 – 30" Yellow Poplar

5048 – 24" Oak

5053 – 25" Oak

Plus more

ISSUE/CONCERN #3

The planned development violates section **158-28** of the Atlanta City Tree Ordinance that states:

It is the policy of the city that there shall be no net loss of trees within the boundaries of the city. The purpose of this article is to establish the standards necessary to assure that this policy will be realized and that the city will continue to enjoy the benefits provided by its urban forest. The provisions of this article are enacted to: (1) Establish and maintain the maximum amount of tree cover on public and private lands in the city by prohibiting the destruction and removal of trees except in accordance with the standards set forth in this article; (2) Maintain trees in the city in a healthy and nonhazardous condition through professionally accepted arboricultural practices; (3) Establish and revise as necessary standards for the planting and maintenance of trees so as to improve the economic base of the city by improving property values, to enhance the visual quality of the city and its neighborhoods and to improve public health by lessening air pollution and the incidence of flooding; (4) Minimize hazards and damage to streets and sidewalks and lessen public rights-of-way maintenance costs; (5) Provide for the designation of historic and specimen trees; and (6) Promote efficient and cost-effective management of the urban forest through the development of a comprehensive long-range urban forest master plan. (7) Provide latitude in the interpretation and application of city administrative rules, standards and guidelines when reasonable and necessary to minimize the destruction of trees. (Code 1977, § 10-2033; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03)

The plan violates number (3) by devaluing the surrounding properties (see attached the list of adjoining residents and/or facing houses opposed to cutting the trees). The plan violates number (5) by eliminating all the specimen trees on the site. The plan violates number (6) by eliminating the urban forest. The plan violates number (7) by eliminating almost 80% of their tree coverage.

ISSUE/CONCERN #4

The planned development violates section **158-102** of the Atlanta City Tree Ordinance that states:

“Criteria for removal, destruction or injury

b. The tree is located in that portion of the setback or required yard area of the lot that must be used for vehicular ingress and egress or for the installation of utilities that cannot be accomplished in a manner allowing preservation of the tree;”

This large site has a great deal of flexibility for designing ingress and egress – tree preservation was not considered in the design of ingress and egress. They have plenty of open space with the existing building pads and driveways that they chose not to use.

Tree of concern. (Please list tree ID or species/DBH).

4910 – 44’ Red Oak

4911 – 51” Water Oak

2034 – 36” Water Oak

4908 – 34” Sweet Gum

4944 – 30” Yellow Poplar

5048 – 24” Oak

5053 – 25” Oak

4944 – 30” Yellow Poplar

Plus more



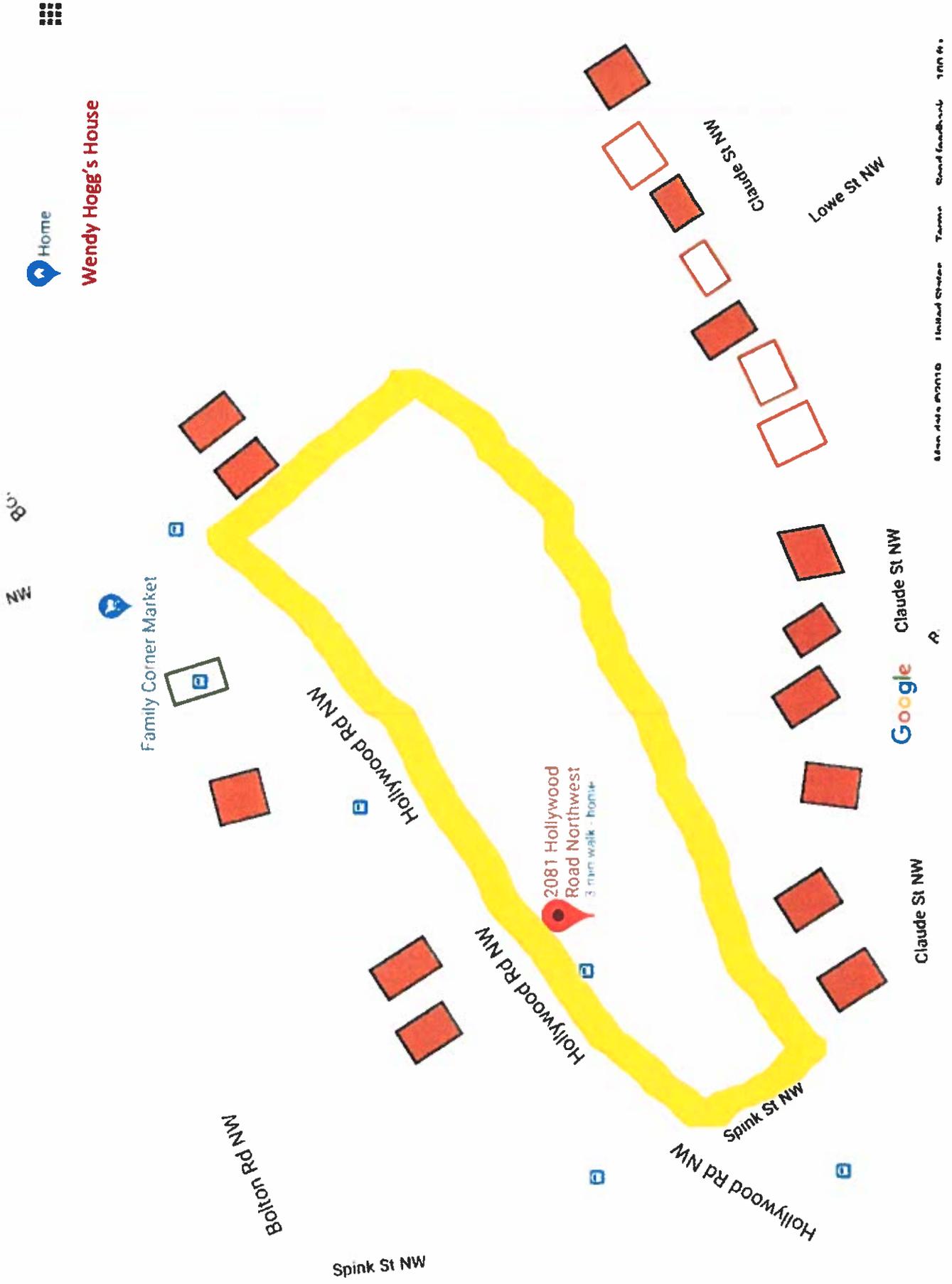
Residents opposed to cutting the trees



Residents not home



Wishes to stay neutral



List of birds on 2081 Hollywood Road

Mocking bird
Cardinals.
Downy woodpecker.
Chickadees.
Cooper's hawk

Brown Myotis Bats
Barred Owl
Pileated woodpecker (?)
Sparrows

The birds of THE ABBEY

Red-tailed Hawk
Red-bellied Woodpecker
Downy Woodpecker
EASTERN PHOENIX
Blue Jay
Fish Crow
CAROLINA CHICKADEE
Tufted Titmouse
CAROLINA WREN
Wood Thrush
AMERICAN ROBIN
Yellow-rumped Warbler
White-throated Sparrow
Northern Cardinal
EASTERN TOWHEE
AMERICAN GOLDFINCH
BROWN THRASHER
Blue-gray Gnatcatcher
Yellow-billed Cuckoo
Scarlet Tanager

2018 Hollywood Road
TREE AREAL

NAME

ADDRESS

EMAIL

JO LIE ROGERS	2489 CLAUDE ST.	wlliebrs@phoo.com
Devlin Shepard	2436 Claude St.	Devlin.shepherd4@gmail.com
Hugo Cornejo	2455 Claude St	Hugopalma09@gmail.com
Emily Babinat	2459 Claude	404-7967-8336
Jake Desmond	2447 Claude	jakebrsmand@gmail.com
Charlin Lohr	2435 Claude St NW	Charlinlorz22@gmail.com

Noel Hart Noelstephmusic@gmail.com

770-317-5184 2117 Hollywood Rd NW
Atlanta GA 30318

Arnold Albino 603.960.6000

2088 Hollywood Rd NW Atlanta GA 30318

CAREN AVILA-CAMERON 2024 Hollywood Rd NW Atlanta GA 30318
KAREN AVILA-CAMERON 2024 Hollywood Rd NW Atlanta GA 30318

Kristen Lanier 2429 Claude Street GA 30318

Katya Jones 2425 Claude St. kateest@gmail.com

GINA RAGSDALE CAMARDELLA - 2127 BOLTON RD ATL 30318. agentgina@hotmail.com

Julie Laurent 2419 Claude Street Atlanta GA 30318
WeddingFoodsInstitute.com

Mohammed Talam - Corner Market - Wants to start a business



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Date filed:	11/26/19	Appeal Number: (Office use only)	2019-10024
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Description of Property			
Street Address:	2081 Hollywood Rd	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
Land Lot: (if available)		County:	Fulton
District: (if available)		Council District: (if available)	9
		NPU: (if available)	

Appellant(s) Information List all appellants with name, address and phone number (attach page as needed)			
Appellant 1:	John Noel		
Address:	2113 Hollywood Road	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
City:	Atlanta	Zip:	30318
Email:	rilmanjohn@aol.com	Phone:	404-520-5205
Appellant 2:			
Address:		<input type="checkbox"/> NE <input type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
City:		Zip:	
Email:		Phone:	
Property Owner Information (if known)			
Owner Name:	C. Ponder (from sign), West Hollywood Townhomes (from tree plan filing), or West Hollywood Dvlpmnt LLC		
Owner Address:	1110 Northchase Parkway, Suite 150, Marietta, GA, 30087	<input type="checkbox"/> NE <input type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
Owner Email:	unknown	Owner Phone:	unknown

All documents submitted will be available to the members of the Commission prior to the presentation of your case. If applicable, please attach supporting reports or affidavits from licensed professionals (e.g.: independent arborists, structural engineers, etc.). If the appellant is **not the owner** of the property, please complete Attachment 2. If an **attorney is filing** or testifying on behalf of the appellant, please complete Attachment 3.

<p>NOTE: If you are appealing assessment of a fine or fee, please include amount:</p> <p>a) Fine \$ _____</p> <p>b) Fee \$ _____ (Illegal recompense)</p>	<p>1. What is the basis of your appeal? Check all that apply.</p> <p><input type="checkbox"/> Appeal of facts asserted in notice of illegal destruction of trees.</p> <p><input type="checkbox"/> Appeal of facts asserted in notice of illegal removal of trees.</p> <p><input type="checkbox"/> Appeal of fines for unpermitted removal or destruction of trees.</p> <p><input type="checkbox"/> Appeal of recompense fees.</p> <p><input type="checkbox"/> Request to permit tree(s) as dead, dying or hazardous was denied.</p> <p><input type="checkbox"/> Plan to remove tree(s) in association with construction was denied.</p> <p><input type="checkbox"/> Plan to remove tree(s) in association with landscaping plan was denied.</p> <p><input checked="" type="checkbox"/> Appeal of Preliminary Approval to remove trees (must complete Attachment 1).</p> <p><input type="checkbox"/> Other: _____</p>
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Department of
CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: trccappeal@atlantaga.gov

2. Have you obtained the relevant permits for your proposed project? Building permit, land disturbance permit, variance permit, etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
3. What is the specific decision (and date of the decision if known) of the City Arborist you are appealing? Tree Plan for Brock Built Homes, 2081 Hollywood Road, date decision unknown, appeal deadline 11/27/19	
4. What decision(s) do you want the Tree Conservation Commission to make? Preservation of maximum amount of tree canopy.	
5. If there are other responsible parties (e.g. tree company, builder, landscape company, other) please provide contact information below. Please attach copies of any relevant invoices, cancelled checks, etc. None	
6. Briefly summarize the proposed activities on the property.	
7. Please provide justification if you are claiming economic hardship in your ability to pay \$75 filing fee or fines/recompense. Provide a signed affidavit if you are asking for consideration based on income and assets or nonprofit status. If pertinent, provide a copy of your development impact fee waiver.	
8. Please provide complete written explanation if not covered in responses to questions above. (Attach additional pages as needed.) See below	

I hereby swear that all statements herein and attached herein are true and correct to the best of my knowledge and belief.

John Noel

11/26/19

Appellant or Agent for Appellant

Date

Note: If appellant is an agent of the property owner, please complete Attachment 2.
If appellant is an attorney, please complete Attachment 3.



Department of
CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: trecappeal@atlantaga.gov

**TREE CONSERVATION COMMISSION
SUPPLEMENTAL FORM FOR APPEALS OF PRELIMINARY APPROVAL
ATTACHMENT 1**

Note: Form is required only for appeals of Preliminary Approval by City Arborist

Date filed:	11/26/19	Appeal Number. (Office use only)	
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Appeal Information:
Please state how you contend Preliminary Approval of the Tree Protection Plan does not comply with the City of Atlanta Tree Protection Ordinance. Ordinance available on the City of Atlanta Arborist Division webpage. Please include a general statement here and address specific issues below or on attached pages(s).

See Attached

ISSUE/CONCERN #1
Brief statement of Issue 1: <p style="text-align: center; color: red; font-size: 1.2em;">See Attached</p>
Tree of concern. (Please list tree ID or species/DBH). <p style="text-align: center; color: red;">See Attached</p>
List applicable section(s) of ordinance:
ISSUE/CONCERN #2
Brief statement of Issue 2: <p style="text-align: center; color: red; font-size: 1.2em;">See Attached</p>
Tree of concern. (Please list tree ID or species/DBH). <p style="text-align: center; color: red;">See Attached</p>
List applicable section(s) of ordinance:



Department of
CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: treeappeal@atlantaga.gov

ISSUE/CONCERN #3
Brief statement of Issue 3: <p style="text-align: center;">See Attached</p>
Tree of concern. (Please list tree ID or species/DBH). <p style="text-align: center;">See Attached</p>
List applicable section(s) of ordinance:
ISSUE/CONCERN #4
Brief statement of Issue 3: <p style="text-align: center;">See Attached</p>
Tree of concern. (Please list tree ID or species/DBH). <p style="text-align: center;">See Attached</p>
List applicable section(s) of ordinance: <p style="text-align: center;">See Attached</p>

Appeal for Tree Removal

Applicant: C. Ponder, 2081 Hollywood

(AKA may be: West Hollywood Townhomes or West Hollywood Development, Inc.)

Filed: 11/26/19

Appellant:

John Noel, Property Owner

2113 Hollywood Road, Atlanta, GA 30318

404-520-5205 cell

rilmanjohn@aol.com

Appeal information:

Please state how you contend Preliminary Approval of the Tree Protection Plan does not comply with the City of Atlanta Tree Protection Ordinance. Ordinance available on the City of Atlanta Arborist Division webpage.

I believe the City Ordinances are violated in several respects. Most noteworthy is a total omission or consideration of trees within my property but near the development. Additionally all trees on or near my property line are entirely removed. Other points will be raised within.

ISSUE/CONCERN #1

The tree plan put before the City by the developer (Applicant) notes trees on the northern end of their adjoining properties (Southern boundary of development). Interestingly it fails to note a single tree on my western or southern property. All of my trees' root zones will be impacted by this development. The size and root zone of these trees makes the proposed development, on its eastern side (my western) untenable, without prematurely killing my trees and adversely effecting my property, preventing (at a minimum) proper screening.

This is a violation of section 158-104 (a)

Trees Threatened (within my property):

#1 – 121" Hardwood in Front yard (5ft to western property line)

#2 – 112" Hardwood in Back yard (approx. 35ft to western property line)

#3 – 124" Hardwood in Back yard (approx. 29ft to western property line)

#4 – 45" Hardwood in Back yard (30 ft to southern property line)

ISSUE/CONCERN #2

Violates section 158-104 "damage to trees be minimized to the greatest degree possible", and section **158-103**: "(a) Each applicant for a permit to remove, destroy or injure trees shall, to the maximum extent feasible, minimize the impact on the trees on the site."

When taken in context with the total destruction of all trees on the northern perimeter along with the destruction of all trees on the western perimeter, and nearly all trees on the eastern perimeter and finally, destruction of all trees in the middle of the property, one could only conclude that this is not minimization of tree impact. To the contrary, this is maximization of tree impact, which runs counter to the stated intent of the ordinance. This is essentially a clearcut. Made more incredible by the fact that the property was (roughly) 90% open/developed and built on. It's almost as if the developer in conjunction with the City has willfully flouted the wording of the Code.

Amongst others, in the center portion of the property trees are needlessly being cut where as sufficient housing (in quantities that exceed this development potential) once stood with the existing tree canopy.

Trees Threatened:

2972, 2964

ISSUE/CONCERN #3

Violates section **158-28**: “the city will continue to enjoy the benefits provided by its urban forest. . . (1) Establish and maintain the maximum amount of tree cover on public and private lands in the city by prohibiting the destruction and removal of trees except in accordance with the standards set forth in this article; . . improve the economic base of the city by improving property values, to enhance the visual quality of the city and its neighborhoods and to improve public health by lessening air pollution and the incidence of flooding;”

I'm hard pressed to believe that destruction of this tree canopy will not increase runoff of the abutting stream and impact downstream property. The visual appeal of asphalt and the side of a dense townhome development doesn't enhance the visual quality for this property owner. Complete and total destruction of trees on the Northern and Western boundaries of the property (Streetsides) will do nothing to improve the appearance from the street where before large and small trees now stand. The air quality effects of tree canopy loss are negative and the urban heat island effect further negatively impacts air pollution and Climate Change. Further property values (in the same city) of well treed areas tend to be higher than those in areas devoid or with less tree canopy.

ISSUE/CONCERN #4

The planned development violates section **158-105** of the Atlanta City Tree Ordinance:

“Site plan required. (a) General requirements. The site plan shall include a tree survey identifying the size, species and location of all trees having a diameter at breast height (DBH) of six inches or greater. Such site plan shall contain topographic information at two-foot contour intervals and shall show all existing and proposed buildings and structures, driveways and parking areas, drainage structures, water detention areas, utilities, construction material staging grounds and all areas of required cut and fill.”

Site plan contains information that does not match on site conditions re: trees, tree size, tree location, boundary trees and includes outright omissions.

Minor example: Site plan lists a tree as a 42" oak but it is actually a 46.5" oak.

4915 - 46" oak (Correction needed)

ISSUE/CONCERN #5

The planned development violates section **158-105** of the Atlanta City Tree Ordinance that states: "(b) Boundary trees. Boundary trees shall be included in the site plan. The on-site portion of the root save area of a boundary tree shall be enclosed in a tree protection fence according to established arboricultural standards. In consultation with the owner or owner's representative of a boundary tree, the city arborist may prescribe and the applicant shall institute additional protective measures to limit impact on the tree during construction, including but not limited to watering regimes, root treatments, mulching, deadwood removal and protective pruning."

No communication has been made with me (the owner of record) regarding the boundary trees. No protective measures have been undertaken and in fact all trees are slated for removal. Including a beautiful large shade tree (4911) that depreciates the value of my property and increases my energy consumption (not helpful to lessening air pollution) with full sun exposure to my home. (See 158-28): "(3) Establish and revise as necessary standards for the planting and maintenance of trees so as to improve the economic base of the city by improving property values, to enhance the visual quality of the city and its neighborhoods and to improve public health by lessening air pollution and the incidence of flooding."

Tree of concern. (Please list tree ID or species/DBH).

4911, 5021, 5022, 5023, #1 DDH, 5025, 5026, 5027, 5028, 5029, 5030, 5031, 5032, 5033, 5034, 4910, 4909, 5036, 5037,

ISSUE/CONCERN #6

The planned development violates section **158-28** of the Atlanta City Tree Ordinance that states:

"It is the policy of the city that there shall be no net loss of trees within the boundaries of the city. The purpose of this article is to establish the standards necessary to assure that this policy will be realized and that the city will continue to enjoy the benefits provided by its urban forest. The provisions of this article are enacted to: (1) Establish and maintain the maximum amount of tree cover on public and private lands in the city by prohibiting the destruction and removal of trees except in accordance with the standards set forth in this article; (2) Maintain trees in the city in a healthy and nonhazardous condition through professionally accepted arboricultural practices; (3) Establish and revise as necessary standards for the planting and maintenance of trees so as to improve the economic base of the city by improving property values, to enhance the visual quality of the city and its neighborhoods and to improve public health by lessening air pollution and the incidence of flooding; (4) Minimize hazards and damage to streets and sidewalks and lessen public rights-of-way maintenance costs; (5) Provide for the designation of historic and specimen trees; and (6) Promote efficient and cost-effective management of the urban forest through the development of a comprehensive long-range urban forest master plan. (7) Provide latitude in the interpretation and application of city administrative rules, standards and guidelines when reasonable and necessary to minimize the destruction of trees." (Code 1977, § 10-2033; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03)

The plan violates the intent and purpose of the tree ordinance, violating both the spirit and letter of the law. Example: Tree destruction totals (by the Applicant's own numbers): 1,436 inches VS tree plantings 363.5, a 75% reduction in DBH, ignoring the multiplier effect of larger tree canopies.

ISSUE/CONCERN #7

The applicant violates Sec. 158-102. Criteria for removal, destruction or injury.

“(a) No permit shall be issued for the removal, destruction, or injury of any living and nonhazardous tree unless: (1) A tree replacement plan meeting the requirements of section 158-103 has been approved; (2) All other requirements of this article are met; and (3) One of the following conditions exists: a. The tree is located within the buildable area of the lot and the applicant has been granted a building, landscaping, or other permit to make improvements otherwise permissible under all applicable ordinances of the city; b. The tree is located in that portion of the setback or required yard area of the lot that must be used for vehicular ingress and egress or for the installation of utilities that cannot be accomplished in a manner allowing preservation of the tree;”

The lots were already developed decades ago on the existing building footprints (housing many more families than this plan envisions) and cover a vast area of developable land. The applicant (and the city in its approval) are in violation of Section “b” and possibly “a”.

ISSUE/CONCERN #8

The applicant may be out of conformity with the August 2019 City Council Resolution regarding trees.

Name of Applicant

C. POWDERHORN

City Arborist has given preliminary approval to remove trees marked with an orange 'X' from this property

2081 HOLLYWOOD

PEAK TREE BEN

Deadline for Appeal is 5 p.m. on

11/22/19

Tree Removal

Notice of Preliminary Approval at This Site

Notwithstanding to whom preliminary approval was given to remove and when such filing was made, the City of Atlanta, Georgia, shall have the right to require the applicant to file a petition with the City of Atlanta, Georgia, for a final order of removal of the trees and such order to the City of Atlanta, Georgia.

 CITY OF ATLANTA

Contact the Atlanta Office for more information at
404-330-6874
atlantatreecommission.com



Department of
CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: treeappeal@atlantaga.gov

TREE CONSERVATION COMMISSION APPEAL FORM
Appeal of Decision of Administrative Official Regarding Trees

Date filed:		Appeal Number: (Office use only)	2019-10016
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Description of Property			
Street Address:	505 Ethel St. Atlanta, GA 30318	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
Land Lot: (if available)		County: Fulton	
District: (if available)		Council District: (if available)	NPU: (if available)

Appellant(s) Information List all appellants with name, address and phone number (attach page as needed)			
Appellant 1:	Mark Fagiola, Belmonte Fine Homes LLC		
Address:	2694 Lower Roswell Rd.	<input type="checkbox"/> NE <input type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
City:	Maritza Gbr	Zip: 30068	
Email:	belmontehomes@yahoo.com	Phone:	770-318-7283
Appellant 2:	Ruma Akter		
Address:	505 Ethel St.	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
City:	Atlanta	Zip: 30318	
Email:	msk2339@yahoo.com	Phone:	404-457-5209
Property Owner Information (if known)			
Owner Name:	Ruma Akter		
Owner Address:	505 Ethel St Atlanta	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
Owner Email:	msk2339@yahoo.com	Owner Phone:	404-457-5209

All documents submitted will be available to the members of the Commission prior to the presentation of your case. If applicable, please attach supporting reports or affidavits from licensed professionals (e.g.: independent arborists, structural engineers, etc.). If the appellant is **not the owner** of the property, please complete Attachment 2. If an **attorney is filing** or testifying on behalf of the appellant, please complete Attachment 3.

<p>NOTE: If you are appealing assessment of a fine or fee, please include amount:</p> <p>a) Fine \$ <u>3,500.00</u></p> <p>b) Fee \$ <u>2,230.00</u> (Illegal recompense)</p>	<p>1. What is the basis of your appeal? Check all that apply.</p> <p><input checked="" type="checkbox"/> Appeal of facts asserted in notice of illegal destruction of trees.</p> <p><input checked="" type="checkbox"/> Appeal of facts asserted in notice of illegal removal of trees.</p> <p><input checked="" type="checkbox"/> Appeal of fines for unpermitted removal or destruction of trees.</p> <p><input checked="" type="checkbox"/> Appeal of recompense fees.</p> <p><input type="checkbox"/> Request to permit tree(s) as dead, dying or hazardous was denied.</p> <p><input type="checkbox"/> Plan to remove tree(s) in association with construction was denied.</p> <p><input type="checkbox"/> Plan to remove tree(s) in association with landscaping plan was denied.</p> <p><input type="checkbox"/> Appeal of Preliminary Approval to remove trees (must complete Attachment 1).</p> <p><input type="checkbox"/> Other: _____</p>
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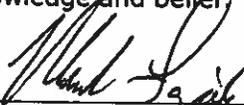


Department of
CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: treeappeal@atlantaga.gov

2. Have you obtained the relevant permits for your proposed project? Building permit, land disturbance permit, variance permit, etc.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
3. What is the specific decision (and date of the decision if known) of the City Arborist you are appealing? <i>See attached Letter and invoice dated 11/15/19.</i>	
4. What decision(s) do you want the Tree Conservation Commission to make? <i>We would like the commission to remove or reduce the Illegal Recompense and Penalty imposed on 505 Ethel St.</i>	
5. If there are other responsible parties (e.g. tree company, builder, landscape company, other) please provide contact information below. Please attach copies of any relevant invoices, cancelled checks, etc. <i>Tree removal and tree pruning was requested by the owner. Owner paid the tree company directly. Builder into attached.</i>	
6. Briefly summarize the proposed activities on the property. We have a permit to demo a back deck and patio slab and to add a two story addition on to an existing Duplex. Trees were marked to be removed on the approved demo plan and designated DDH:	
7. Please provide justification if you are claiming economic hardship in your ability to pay \$75 filing fee or fines/recompense. Provide a signed affidavit if you are asking for consideration based on income and assets or nonprofit status. If pertinent, provide a copy of your development impact fee waiver. <i>N/A</i>	
8. Please provide complete written explanation if not covered in responses to questions above. (Attach additional pages as needed.) <i>See attached</i>	

I hereby swear that all statements herein and attached herein are true and correct to the best of my knowledge and belief.



Appellant or Agent for Appellant

11-25-19

Date

Note: If appellant is an agent of the property owner, please complete Attachment 2.
If appellant is an attorney, please complete Attachment 3.

Belmonte Fine Homes

PO Box 723487 Atlanta, GA 31139
Mark Fagiola (770) 318-7283
Fax: (770)805-0840
belmontehomes@yahoo.com

Question #8.
Appeal request.

Ruma Akter, the owner, would like to request the Tree commission to consider removing or reducing the Illegal Recompense and penalty imposed on 505 Ethel St. Atlanta.

History & explanation of events:

Owner applied for a demo & remodeling permit on 10/19/18. An orange sign tree posting was made at the property to let the neighbors know that trees would be removed from the property. The owner to the right agreed with the removal of the trees between the two houses. He also agreed that the front tree was in need of serious pruning in order to remove overgrown branches that were compromising the power lines and hanging over his roof.

In April 2019, The builder Belmonte Fine homes was asked to do the project and they hired Patrick Hand with Integrated Land Design to finish the permitting process. On April 22, 2019 the builder called the city Arborist and asked what was needed to complete permitting. They said a more complete site plan with all their requirements.

The owner and Builder meet a private arborist named Ed Macie at the site on May 5, 2019. He determined that three of the four trees in question were DDH and gave us a letter that Patrick submitted to the city for review with the revised site plans. This was sometime in late June. (Copy of DDH Letter & site plans attached). The plans were reviewed and approved and stamped by all departments, including the Arborist department. The demo and construction permit was issued on August 19 , 2019. We scheduled a site meeting and meet with the site inspector. We installed the tree save and silt fence and the owner had a tree company remove the DDH trees and prune the front tree. Arborist, Ed Macie was present on the day of the tree removal.

Our argument is that we thought we were doing everything by the book. The approved and Arborist department stamped site plans, clearly show the trees were to be removed and designated DDH. The Arborist department had about two months to review our revised site plan and Ed Macie's letter and only made some tree save changes. They never requested that we revise the demo plans to remove the tree removal and DDH lettering. They never said that they did not visit the site. When the permit was issued with the demo plan shown we assumed that this allowed us to remove the trees. Per tree Ordinance section 158-106 Preconstruction conference is not needed. Per section 158-101 (b) we made application for and received a approved permit. Per section 158-101 (1) All requirements were meet and trees were shown on the site plan as required. DDH trees are not subject to the notice of preliminary approval of subsection 158-101 (d) nor the posting requirements of subsection 158-101(e) . They are not subject to recompense formulas of 158-103 (b) . We feel the Arborist department dropped the ball when they allowed our permit to be approved without the removal or revision of the demo plan. Any reasonable person seeing the permitted set of plans would conclude that it was approved to remove the trees in question. We also feel there was a misunderstanding by us of any missed requirements.

In regard to the over pruned front tree. It's a Bradford pear and I have researched pruning techniques and it is recommended that the limbs be cut back to the main trunk. I believe this tree will survive this pruning and Ed Macie can prescribe treatment to help. Based on the aforementioned statements we would like you to reconsider the Arborist conclusions.

Owner Ruma Akter Date 11-20-19
Print name Ruma Akter

Contractor Mark Fagiola Date 11-20-19
Print name: Mark Fagiola Belmonte Fine Homes



CITY OF ATLANTA

Keisha Lance Bottoms
Mayor

**OFFICE OF BUILDINGS
ARBORIST DIVISION
55 TRINITY AVENUE, S.W., SUITE 3800
ATLANTA, GEORGIA 30303-0309
Tel: 404.330.6874
Fax: 404.658.6977**

Tim Keane
Commissioner

Greg Pace
Director, Office of Buildings

David Zapanick
Arboricultural Manager

11/15/2019

Mark Fagiola
505 Ethel St NW
Atlanta, GA 30318

We are writing to notify you that you have been assessed cash recompense of \$5,730.00 for illegal removal and/or destruction of 4 trees at 505 Ethel St NW Atlanta, GA 30318. A Hold has been placed on permitting associated with this address and will only be lifted when the fine has been resolved.

A payment voucher is enclosed. Please forward a check, with a phone number, payable to the City of Atlanta in the amount of \$5,730.00 to address below. A receipt will be returned to you by mail. You may pay in person by presenting the enclosed voucher at the cashier's window on the first floor of City Hall, at 55 Trinity Ave, SW. Or, you may pay online with a credit card on the Accela Citizen website at <https://aca3.acrel.com/atlanta/ga>. Search Permits under the Buildings section, enter 505 Ethel only; click Search; then click BA-201909697. On the next page click Payments, select Fees from drop-down menu and select Pay Fees. Click on Continue Application and follow remainder of the directions.

Planting of replacement trees may reduce the cash recompense requirement. If you intend to exercise this option, please submit a proposed planting plan to the Arborist Division, indicating the number of proposed tree (s), their size, species, and location on a site plan. If your planting plan is approved by the City arborist, the voucher will be adjusted.

If you have evidence or information that fines/fees have been issued in error, you may appeal within 15 days of receipt of this letter. The appeal form is available at www.AtlantaTreeCommission.com. If you need assistance, please contact Kathy Evans at 404.330.6235 or kaevans@atlantaga.gov.
Regards.

Andrew Bedson
Arborist
City Of Atlanta
Department of City Planning
Office of Buildings
Arborist Division
55 Trinity Avenue, S.W., Suite 3800
TEL: 404-330-6601
EMAIL: jbedson@atlantaga.gov

David Zapanick
Arboricultural Manager
City of Atlanta
Department of City Planning
Office of Buildings
Arborist Division
55 Trinity Ave, S.W., Suite 3800
TEL: 404-865-8489
EMAIL: dzapanick@atlantaga.gov

INVOICE



CITY OF ATLANTA
55 TRINITY AVE SW

Application: **BA-201909697**
Application Type: Building/Arborist/Illegal Activity/NA
Address: 505 ETHEL ST NW
ATLANTA, GA 30318

Applicant Name: Mark Fagiola
Phone: 770-318-7283
E-mail: belmontehomes@yahoo.com

<u>Description</u>	<u>Amount Due</u>	<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Account Number</u>
ILLEGAL RECOMPENSE	\$2,230.00	11/15/2019	1052572	7701 250101 3710001
PENALTY (known trees)	\$3,500.00	11/15/2019	1052572	7701 250101 3710000000
Sub Total				
	\$5,730.00			

Owner Info:

Work Description: Multiple trees found to be removed or destroyed on site at time of Tree Protection Fence inspection. Trees were shown on plans as DDH per arborist report without permit being granted by arborist division. Initial application was returned as no plans were attached to determine what trees were to be inspected.

Trees removed were 16" 14" and 12" hackberry at right of house and new construction, 19" hardwood at front was topped in violation of the tree ordinance.

No trees remain on the site

Related CAPS:

Total Fees: \$5,730.00



CITY OF ATLANTA BUILDING PERMIT

55 TRINITY AVENUE, S.W. SUITE 3900 - ATLANTA, GEORGIA 30303
OFFICE OF BUILDINGS : (404) 330-6150 INSPECTIONS: (404) 658-6800

AUG 19 2019

PERMIT NUMBER: **BB-201807704**

DATE ISSUED: **August 19, 2019**

PROJECT ADDRESS: 505 ETHEL ST NW	PARCEL NUMBER: 17 01490002021
PROJECT NAME: 505 ETHEL DUPLEX- ADDITION- CO	ZONING: R-5
BUILDING NAME: SINGLE FAMILY RESIDENCE	TOTAL CONSTRUCTION COST: \$300,000.00
PROJECT OCCUPANCY GROUP: IBC Group R-3 Single Family or Duplex Residence/Child Care 5 or less/Congregate Living Less than 16	TOTAL DWELLING UNITS: 2
TYPE OF CONSTRUCTION: IBC- TYPE V-B CONST	SPACE FLOOR AREA: 3114
SPRINKLER TYPE:	
SCOPE: R2 Duplex Building - Building/Residential/Addition/NA - REAR TWO STORY ADDITION TO EXISTING 1 Story DUPLEX, REAR DECK ,INTERIOR AND EXTERIOR PAINTING.	
OWNER: AKTER RUMA	CONTRACTOR: SPARTA, INC 2927 Orchard Knob Rd Atlanta, GA 30339 404-867-1855
	LICENSE #: RBQA001551

The issuance of this permit shall not prevent the building official from thereafter requiring the correction of errors in the plans and specifications or from preventing building operations being carried on thereunder when in violation of the Building Code or of any other ordinance of the City of Atlanta. Except as otherwise stated, a permit for construction under which no work is commenced within six months after issuance, or where the work commenced is suspended or abandoned for six months, shall expire, and fees paid shall be forfeited. Demolition Permits are limited to 60 days.

The recipient of the building permit shall post a copy of same on a sign not less than six square feet with the words "Notice of Issuance of Building Permit" in letters not less than four inches high in a conspicuous place on the affected property so that the sign and permit can be easily viewed from the public street on which the property fronts. Said sign shall be posted no later than 24 hours after the issuance of the building permit and shall not be removed for 30 days. The recipient of the building permit shall also file a notarized affidavit with the Clerk of Council certifying under penalty of perjury the date on which the sign required in the above paragraph was posted.

Ordinance 00-O-1664/Z-00-88 Jan 25, 2001

I, the applicant, acknowledge that all statements for this permit are true to the best of my knowledge, and that the work to be done thereon is authorized by the owner.

Patrick Harjo

ROD

8-19-19

Applicant's Name _____ Applicant's Signature _____ Date _____

INSPECTION TYPE	PASS	FAIL	PASS	FAIL	PASS	FAIL
FOOTING						
FRAMING						
INSULATION						
ELECTRICAL (Rough)						
ELECTRICAL (Final)						
MECHANICAL (Rough)						
MECHANICAL (Final)						
PLUMBING (Rough)						
PLUMBING (Final)						
SPRINKLER (Rough)						
SPRINKLER (Final)						
ARBORIST (Final)						
SITE & GRADING DEVELOPMENT (Final)						
BUILDING FINAL:						

100 Footing
 120 Memo sheet Friday
 130 Deck
 170 Insulation
 180 Framing

Chip Owen Inspector
 404-823-3240

Edward A. Macie
Consulting Arborist and Urban Forester

June 4, 2019

Mr. Mark Fagiola
Belmonte Fine Homes
PO Box 723487
Atlanta, GA 31139

Subject: Tree Evaluation 505 Ethel Street NE, Atlanta GA

Dear Mark,

Per your request I conducted an inspection of trees located on the subject property to evaluate their condition. All of these trees are located near the east property line between 505 and 501 Ethel.

1. The first is a 16-inch diameter hackberry in poor and declining condition, and should be considered DDH. This tree has a measured 19-degree lean to the north and approximately a 50-percent crown dieback. This dieback is a combination of dead and broken (storm damaged) branches.

2, 3. Two additional hackberries, 14-inch and 12-inch diameters respectively, are volunteers, located between the structures at 505 and 510 Ethel. These trees are within 32 and 36 inches of the structural foundation of the house at 505 Ethel, and 55 and 61 inches from the structural foundation of the house at 501 Ethel.

I am recommending the removal of all three of these trees, given either their condition or location.

Please feel free to call if you need any additional information.

Sincerely,

/s/ Edward A. Macie

Edward A. Macie, BS. MS.
Consulting Arborist and Urban Forester

ISA Certified Arborist SO-6988A
Tree Risk Assessment Qualified (TRAQ)

510 - K East, Ponce de Leon, Decatur, GA 30030
Tel. 404.316.3546
Ed@EdMacie.com
ISA Certified Arborist SO-6988A - Tree Risk Assessment Qualified





CITY OF ATLANTA
BUILDING PERMIT
 55 TRINITY AVENUE, S.W. SUITE 3900 - ATLANTA, GEORGIA 30303
 OFFICE OF BUILDINGS : (404) 330-6150 INSPECTIONS: (404) 658-6800

AUG 19 2019

PERMIT NUMBER: BB-201807704

DATE ISSUED: August 19, 2019

PROJECT ADDRESS: 505 ETHEL ST NW	PARCEL NUMBER: 17 01490002021
PROJECT NAME: 505 ETHEL DUPLEX- ADDITION- CO	ZONING: R-5
BUILDING NAME: SINGLE FAMILY RESIDENCE	TOTAL CONSTRUCTION COST: \$300,000.00
PROJECT OCCUPANCY GROUP: IBC Group R-3 Single Family or Duplex Residence/Child Care 5 or less/Congregate Living Less than 16	TOTAL DWELLING UNITS: 2
TYPE OF CONSTRUCTION: IBC- TYPE V-B CONST	SPACE FLOOR AREA: 3114
SPRINKLER TYPE:	
SCOPE: R2 Duplex Building - Building/Residential/Addition/NA - REAR TWO STORY ADDITION TO EXISTING 1 Story DUPLEX, REAR DECK, INTERIOR AND EXTERIOR PAINTING.	
OWNER: AKTER RUMA	CONTRACTOR: SPARTA, INC 2927 Orchard Knob Rd Atlanta, GA 30339 404-867-1855
	LICENSE #: RBQA001551

The issuance of this permit shall not prevent the building official from thereafter requiring the correction of errors in the plans and specifications or from preventing building operations being carried on thereunder when in violation of the Building Code or of any other ordinance of the City of Atlanta. Except as otherwise stated, a permit for construction under which no work is commenced within six months after issuance, or where the work commenced is suspended or abandoned for six months, shall expire, and fees paid shall be forfeited. Demolition Permits are limited to 60 days. The recipient of the building permit shall post a copy of same on a sign not less than six square feet with the words "Notice of Issuance of Building Permit" in letters not less than four inches high in a conspicuous place on the affected property so that the sign and permit can be easily viewed from the public street on which the property fronts. Said sign shall be posted no later than 24 hours after the issuance of the building permit and shall not be removed for 30 days. The recipient of the building permit shall also file a notarized affidavit with the Clerk of Council certifying under penalty of perjury the date on which the sign required in the above paragraph was posted.

I, the applicant, acknowledge that all statements for this permit are true to the best of my knowledge, and that the work to be done thereon is authorized by the owner.

Ordinance 00-O-1664/Z-00-88 Jan 25, 2001

Patrick Harbo
 Applicant's Name

RL
 Applicant's Signature

8-19-19
 Date

INSPECTION TYPE	PASS	FAIL	PASS	FAIL	PASS	FAIL
FOOTING						
FRAMING						
INSULATION						
ELECTRICAL (Rough)						
ELECTRICAL (Final)						
MECHANICAL (Rough)						
MECHANICAL (Final)						
PLUMBING (Rough)						
PLUMBING (Final)						
SPRINKLER (Rough)						
SPRINKLER (Final)						
ARBORIST (Final)						
SITE & GRADING DEVELOPMENT (Final)						
BUILDING FINAL:						

100 Footing
120 More slab Friday
130 Deck
170 Insulation
180 Framing

Chip Owen Inspector
404-823-3240

(Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2003-113, § 2, 12-10-03; Ord. No. 2007-32(07-O-0362), § 8, 6-12-07; Ord. No. 2008-64(08-O-1260), § 1, 7-30-08; Ord. No. 2008-77(08-O-1716), § 12, 10-14-08)
Secs. 158-67--158-100. Reserved.

DIVISION 3. REMOVAL AND RELOCATION

Sec. 158-101. Permit to remove, destroy, or injure.

- (a) *Required.* No person shall directly or indirectly remove or destroy [or injure] any tree located on public property that is subject to the provisions of this article, or any tree having a diameter at breast height (DBH) of six inches or more which is located on private property subject to the provisions of this article, without obtaining a permit as provided in this section.
- (b) *Permits for construction, renovation, demolition.* Permits to remove, destroy, or injure trees for construction, renovation or demolition shall be obtained by making application in a form prescribed by the city to the director of the bureau of buildings.
- (c) *Other permits.* Permits to remove, destroy, or injure trees for safety, landscaping, silvicultural or other purposes shall be obtained by making application to the city arborist. All permits shall be posted for public inspection on site.
- (1) Applications to remove dead, dying, diseased, or hazardous trees may be made by phone, fax, mail, or other means. Each application shall include the address of the property and the owner's name, phone, and fax number. If applicable, it shall also include the name, phone, and fax number of the tree service proposing to do the work. Each tree shall be identified as to its species, its diameter within two inches of the actual diameter, location and identifying characteristics or added markings. Permits to remove dead, dying, diseased, or hazardous trees shall be approved at the determination of the city arborist. Such permits are not subject to the notice of preliminary approval of subsection 158-101(d), the posting requirements of subsection 158-101(e), the standards for tree replacement or afforestation of subsection 158-103(1), the recompense formulas of subsection 158-103(b), or to public appeal. Applicants may appeal a notice of denial to the tree conservation commission as provided in this article. The permit shall be valid for six months from the date of its issuance, though the city arborist may extend the expiration date of the permit by no more than six additional months based upon extenuating circumstances, as determined by the city arborist.
- (2) Applications to remove, destroy, or injure trees for landscaping improvements or other purposes shall be accompanied by a tree replacement plan meeting all of the requirements of section 158-103. The work prescribed by an approved tree replacement plan shall be completed within one calendar year. Replacement tree plantings shall be inspected by the city arborist and verified by the dated signature of the city arborist on the approved plan. Applications to remove, destroy, or injure trees for landscaping and other purposes shall be subject to the notice of preliminary approval of subsection 158-101(d), the posting requirements of subsection 158-101(e), the standards for tree replacement or afforestation of subsection 158-103(a), and the recompense formulas of subsection 158-103(b). Applicants may appeal a notice of denial to the tree conservation commission as provided in this article.
- (3) Applications to remove, destroy, or injure trees for thinning or other silvicultural prescription for forest stand improvement shall be approved at the determination of the city arborist, with or without requirement for tree replacement. Each application shall include a silvicultural prescription that is prepared by a private arborist. Payment of recompense for tree(s)

RenderedImage.JPG

From: Belmonte Homes (belmontehomes@yahoo.com)

To: belmontehomes@yahoo.com

Date: Wednesday, November 20, 2019, 09:44 PM EST

Tree # 1, 16" Highberry



Mark Fagiola
Cell: (770) 318-7283
Fax: (770) 805-0840
belmontehomes@yahoo.com
P.O. Box 723487
Atlanta, GA 31139

CONFIDENTIALITY NOTICE: The contents of this email message and any attachments are intended solely for the addressee(s) and may contain confidential and/or privileged information and may be legally protected from disclosure. If you are not the intended recipient of this message or their agent, or if this message has been addressed to you in error, please immediately alert the sender by reply email and then delete this message and any attachments. If you are not the intended recipient, you are hereby notified that any use, dissemination, copying, or storage of this message or its attachments is strictly prohibited.

Sent from my iPhone

#2, #3



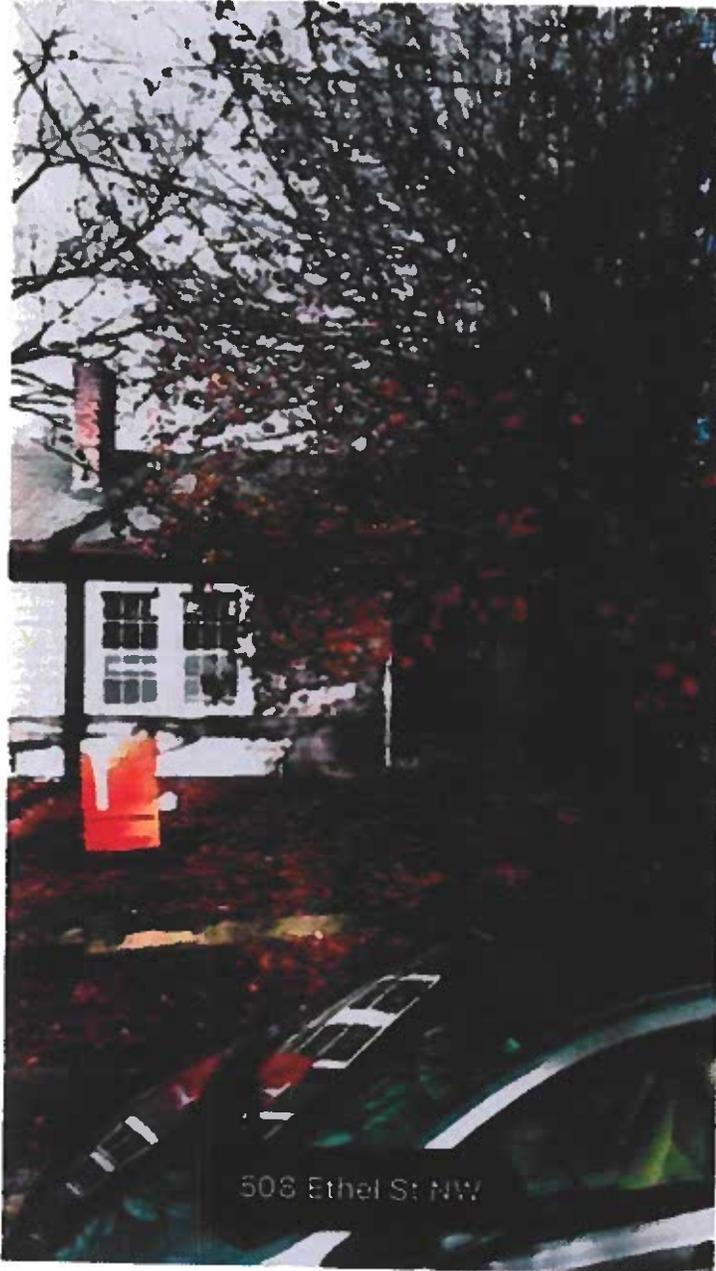
IMG_7568.PNG

From: Belmonte Homes (belmontehomes@yahoo.com)

To: belmontehomes@yahoo.com

Date: Wednesday, November 20, 2019, 09:33 PM EST

sign posting 2018
Tree #4 pruned Bradford Pear, Front yard



Pruned Tree Front yard, notice Elec. line in branch





Department of
CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: treeappeal@atlantaga.gov

**TREE CONSERVATION COMMISSION
AUTHORIZATION BY PROPERTY OWNER
ATTACHMENT 2**

Note: Required only if the appellant is not the owner of the subject property and is filing on behalf of the owner. Form must be notarized.

I, Ruma Akter, (Property Owner) swear I am the owner of the property at 505 Ethel St. Atlanta (Property Address), as shown in the records of Fulton County, Georgia which is the subject matter of the attached appeal. I authorize the person named below to act as appellant in the pursuit of this appeal.

Appellant 1: Mark Fagola Belmonte Fine Homes LLC
Address: 2624 Lane Road Pl. Marietta Ga NE NW SE SW
Email: belmontehomes@yahoo.com Phone: 770-317-7283

* RLIMA AKTER

Signature of Property Owner

Date

11-25-19

Personally appeared before me,

Ruma Akter

(Print Name),

who swears the information contained in this authorization is true and correct to the best of his/her knowledge or belief.

[Signature]

Notary Public

November 25, 2019

Date





Department of
CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: treeappeal@atlantaga.gov

TREE CONSERVATION COMMISSION APPEAL FORM
Appeal of Decision of Administrative Official Regarding Trees

Date filed:	12/10/2019	Appeal Number: (Office use only)	
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Description of Property					
Street Address:	1464 NORTHWEST DRIVE /LD-201900010			<input type="checkbox"/> NE <input type="checkbox"/> NW <input type="checkbox"/> SE <input checked="" type="checkbox"/> SW	
Land Lot: (if available)	258	County:	Fulton		
District: (if available)	17	Council District: (if available)	9	NPU: (if available)	G

Appellant(s) information <small>List all appellants with name, address and phone number (attach page as needed)</small>			
Appellant 1:	Brock Built Homes, LLC c/o Giacomina Roberts & Daughdrill, LLC		
Address:	1110 Northchase Pkwy, Suite 150		<input type="checkbox"/> NE <input type="checkbox"/> NW <input checked="" type="checkbox"/> SE <input type="checkbox"/> SW
City:	Marietta, Georgia	Zip:	30067
Email:	bdaughdrill@grdlegal.com	Phone:	
Appellant 2:			
Address:			<input type="checkbox"/> NE <input type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW
City:		Zip:	
Email:		Phone:	
Property Owner Information (if known)			
Owner Name:	Park at Monroe, LLC		
Owner Address:	1110 Northchase Pkwy, Suite 150		<input type="checkbox"/> NE <input type="checkbox"/> NW <input checked="" type="checkbox"/> SE <input type="checkbox"/> SW
Owner Email:	adambrock@brockbuilt.com	Owner Phone:	404-557-2523

All documents submitted will be available to the members of the Commission prior to the presentation of your case. If applicable, please attach supporting reports or affidavits from licensed professionals (e.g.: independent arborists, structural engineers, etc.). If the appellant is **not the owner** of the property, please complete Attachment 2. If an **attorney is filing** or testifying on behalf of the appellant, please complete Attachment 3.

<p>NOTE: If you are appealing assessment of a fine or fee, please include amount:</p> <p>a) Fine \$ _____</p> <p>b) Fee \$ _____ (Illegal recompense)</p>	<p>1. What is the basis of your appeal? Check all that apply.</p> <p><input type="checkbox"/> Appeal of facts asserted in notice of illegal destruction of trees.</p> <p><input type="checkbox"/> Appeal of facts asserted in notice of illegal removal of trees.</p> <p><input type="checkbox"/> Appeal of fines for unpermitted removal or destruction of trees.</p> <p><input checked="" type="checkbox"/> Appeal of recompense fees.</p> <p><input type="checkbox"/> Request to permit tree(s) as dead, dying or hazardous was denied.</p> <p><input type="checkbox"/> Plan to remove tree(s) in association with construction was denied.</p> <p><input type="checkbox"/> Plan to remove tree(s) in association with landscaping plan was denied.</p> <p><input type="checkbox"/> Appeal of Preliminary Approval to remove trees (must complete Attachment 1).</p> <p><input type="checkbox"/> Other: _____</p>
---	--



Department of
CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: treeappeal@atlantaga.gov

<p>2. Have you obtained the relevant permits for your proposed project? Building permit, land disturbance permit, variance permit, etc.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
<p>3. What is the specific decision (and date of the decision if known) of the City Arborist you are appealing? On December 5, 2019, at 4:39 p.m. City Arborist David Zapanick emailed the City's rejection of BBH's most current plan showing the limits of the disturbance area necessary to construct the proposed infrastructure on the Park at Monroe subdivision and confirm, by email dated 12/5/19 at 6:10 p.m. that this decision was the final decision to which the appeal process applied</p>	
<p>4. What decision(s) do you want the Tree Conservation Commission to make? Reverse the erroneous decision by the City Arborist that disregards the limits of the excavation on site necessary to construct the various infrastructure components including the depth of certain sanitary sewer and water lines and the topographic changes which must be made to prevent such lines, based on fall, from coming out of the ground such that the Arborist failed to apply or properly apply the statutory limit on recompense in infrastructure areas set forth in 158-103 .</p>	
<p>5. If there are other responsible parties (e.g. tree company, builder, landscape company, other) please provide contact information below. Please attach copies of any relevant invoices, cancelled checks, etc. N/A</p>	
<p>6. Briefly summarize the proposed activities on the property. Development of a town-home community of approximately 40 units on 4.5 acres with attendant storm water detention (underground and above ground) water line installation, sanitary sewer installation; storm sewer installation, roads, driveways, topographic changes to accommodate the construction and installation of same and attendant laterals all connected to and part of the overall infrastructure related to the project</p>	
<p>7. Please provide justification if you are claiming economic hardship in your ability to pay \$75 filing fee or fines/recompense. Provide a signed affidavit if you are asking for consideration based on income and assets or nonprofit status. If pertinent, provide a copy of your development impact fee waiver. N/A</p>	
<p>8. Please provide complete written explanation if not covered in responses to questions above. (Attach additional pages as needed.) See Attached for additional statement</p>	

I hereby swear that all statements herein and attached herein are true and correct to the best of my knowledge and belief.



Appellant or Agent for Appellant
CA-100 No 205760

12/10/2019

Date

Note: If appellant is an agent of the property owner, please complete Attachment 2.
If appellant is an attorney, please complete Attachment 3.



Department of
CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: treeappeal@atlantaga.gov

**TREE CONSERVATION COMMISSION
SUPPLEMENTAL FORM FOR APPEALS OF PRELIMINARY APPROVAL
ATTACHMENT 1**

Note: Form is required **only** for appeals of Preliminary Approval by City Arborist

Date filed:		Appeal Number: (Office use only)	
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Appeal information:

Please state how you contend Preliminary Approval of the Tree Protection Plan does not comply with the City of Atlanta Tree Protection Ordinance. Ordinance available on the City of Atlanta Arborist Division webpage. Please include a general statement here and address specific issues below or on attached pages(s).

*The arborist misapplied the limit on recompense for areas involved in the construction of infrastructure
See Attached*

ISSUE/CONCERN #1

Brief statement of Issue 1:

Arborist misapplied the limit on recompense set forth in COA §158-103(L)(6) as further described in the attached.

Tree of concern. (Please list tree ID or species/DBH).

Numerous

List applicable section(s) of ordinance:

§ 158-103

ISSUE/CONCERN #2

Brief statement of Issue 2:

Tree of concern. (Please list tree ID or species/DBH).

List applicable section(s) of ordinance:



Department of
CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: treeappeal@atlantaga.gov

ISSUE/CONCERN #3

Brief statement of Issue 3:

Tree of concern. (Please list tree ID or species/DBH).

List applicable section(s) of ordinance:

ISSUE/CONCERN #4

Brief statement of Issue 3:

Tree of concern. (Please list tree ID or species/DBH).

List applicable section(s) of ordinance:



Department of
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55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: treeappeal@atlantaga.gov

**TREE CONSERVATION COMMISSION
AUTHORIZATION BY PROPERTY OWNER
ATTACHMENT 2**

Note: Required only if the appellant is not the owner of the subject property and is filing on behalf of the owner. Form must be notarized.

I, Park at Monroe, LLC, (Property Owner) swear I am the owner of the property at 1464 Northwest Drive (Property Address), as shown in the records of Fulton County, Georgia which is the subject matter of the attached appeal. I authorize the person named below to act as appellant in the pursuit of this appeal.

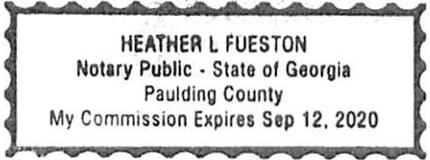
Appellant 1: Brock Built Homes c/o Brian E. Daughdrill
Address: 945 E Paces Ferry Rd NE, Ste 2450 NE NW SE SW
Email: bdaughdrill@godlged.com Phone: 404 924 2850

[Signature]
Signature of Property Owner MGR. Date 12/10/19

Personally appeared before me,
Steve Brock (Print Name),

who swears the information contained in this authorization is true and correct to the best of his/her knowledge or belief.

[Signature]
Notary Public



12/10/19
Date



Department of
CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: trecappeal@atlantaga.gov

**TREE CONSERVATION COMMISSION
AUTHORIZATION OF ATTORNEY
ATTACHMENT 3**

Note: Attachment 3 is required only if an attorney is filing an appeal on behalf of the owner of the subject property.

I swear, as an attorney at law, that I have been authorized by the owner of (subject property address) 1464 Northwest Drive Atlanta to file the attached.

Please complete the below information:			
Name:	BRIAN E DAUGHDRILL		
Address:	945 E. PACES FERRY RD NE Ste 2750	<input type="checkbox"/> NE <input type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
City:	Atlanta	State:	GA Zip: 30326
Email:	bdaughdrill@grdlegal.com	Phone:	404 924-2854



Signature of Attorney

12.10.19

Date

**SUPPLEMENTAL STATEMENT IN SUPPORT OF
APPEAL OF BROCK BUILT HOMES, LLC &
PARK AT MONROE, LLC
FOR PROPERTY OWNED BY PARK AT MONROE, LLC**

APPEAL:

This appeal challenges an erroneous application of law and facts by the City Arborist to calculate the recompense due on the development of real property located at 1464 Northwest Drive, Atlanta, Fulton County, Georgia.

Brock Built Homes, LLC is the developer and the Property is owned by Park at Monroe, LLC. The project contemplates 40-Townhome units being constructed on 4.5 acres (the "Project") with all the attendant infrastructure required for the project including roads, drives, sanitary sewers, storm sewers, water lines, utilities, underground detention and above ground detention all of which constitutes "infrastructure" for the Project. These points are not credibly disputed

Under City of Atlanta Code ("CoAC") § 158-103, recompense for trees removed per a development plan are calculated subject to certain limitations, including, as relevant here, Under s158-103(c)(6), there is an express limit of \$5,000 per acre for trees:

... removed in the required construction of streets and related infrastructure in new subdivisions or other planned developments, a maximum shall be set on recompense at \$5,000.00 per acre, pro rated.

The term "infrastructure" is not a defined term within the ordinance; thus, Georgia law imputes its "ordinary meaning." See O.C.G.A. § 1-3-1 mandating that:

(b) In all interpretations of statutes, the ordinary signification shall be applied to all words, except words of art or words connected with a particular trade or subject matter, which shall have the signification attached to them by experts in such trade or with reference to such subject matter.

Thus, Georgia Courts consistently have followed this rule, confirmed again in June of this year in the case of UHS of Anchor, L.P. v. Dep't of Cmty. Health, 351 Ga. App. 29, 33 (2019); see also Fed. Deposit Ins. Corp. v. Loudermilk, 305 Ga. 558 (2019)(holding that, in construing statutes, courts apply "[t]he common and customary usages of the words," which, in cases like this one, include "the usual and customary meaning of ... term[s] as used in a legal context")(citing Zaldivar, 297 Ga. at 591).

Under the "common" usage of the term, it is defined, in the online Free Dictionary, as:

The basic facilities, services, and installations needed for the functioning of a community or society, such as transportation and communications systems, water and power lines, and public institutions. . .

Wikipedia quotes Dictionary.com and then elaborates and defines “infrastructure” as:

...the fundamental facilities and systems serving a country, city, or other area, including the services and facilities necessary for its economy to function. **Infrastructure is composed of public and private physical improvements such as roads, railways, bridges, tunnels, water supply, sewers, electrical grids, and telecommunications (including Internet connectivity and broadband speeds).** In general, it has also been defined as "the physical components of interrelated systems providing commodities and services essential to enable, sustain, or enhance societal living conditions".

Thus, under the ordinary usage of the terms, each connected component to any of the required systems on the Project constitute “infrastructure.” (Of Note: the ordinance does not restrict infrastructure to *public* infrastructure – a point explained below regarding ordinances in derogation of the common law).

Here, an example of what the City *considers* as “required” for a new development can be found in list of the improvements that must be made and shown on a preliminary plat.¹ See CoAC § 15-07.003(p) requiring that there be:

Construction plans; signed and sealed by a registered professional engineer licensed to practice in the State of Georgia, consisting of the following:

- a. Plans, profiles, and cross sections of proposed **streets, cul-de-sacs, sidewalks and similar paved surfaces** with all appropriate details.
- b. **Plans, profiles, and details of all proposed sanitary and storm sewers.**
- c. **Plans and details of any proposed storm water management facilities.**
- d. Hydraulics of storm sewers, including capacities of intakes, pipe capacities, gutter spreads and velocities of flows, and capabilities of downstream creeks, conduits, and structures receiving storm runoff from proposed subdivision activities.

Similarly, “construction” is not a defined term. “Construction” is defined by the Oxford

¹ It’s worth noting, the subdivision ordinance, CoAC§15-06.001(s) *expressly* includes, as “infrastructure”

Green Infrastructure: An interconnected natural system and/or engineered system that use plants and soil to slow, filter, and infiltrate stormwater runoff close to its source in a way that strengthens and mimics natural functions and processes.

Dictionary as:

the building of something, typically a large structure.

"there was a skyscraper under construction"

synonyms:

building · erection · putting up · setting up · raising · establishment · assembly · manufacture · fabrication · forming · fashioning · contriving · creation · making

These terms, combined, thus mandate that, for trees required to be removed for the construction of such infrastructure, the maximum recompense is \$5,000 *per acre*. The City Arborist does not deny the applicability of this ordinance nor deny that infrastructure is being installed, rather they seem to argue about the limits of what must be removed and what components comprise "infrastructure." As set forth above, all connected systems, including roads, water, utilities, sanitary sewer, storm sewers and detention and water quality facilities constitute "infrastructure."

Critically, statutes or ordinances that restrict a property owner's right "to freely use his property for any lawful purpose are in derogation of the common law, they must be strictly construed and never extended beyond their plain and explicit terms." City of Dunwoody v. Discovery Practice Mgmt., Inc., 338 Ga. App. 135 (2016)(citing Haralson County v. Taylor Junkyard of Bremen, Inc., 291 Ga. 321, 323–324 (2012); Cherokee County v. Martin, 253 Ga. App. 395 (2002)). Here, the tree ordinance is in derogation of the common law of the Project owner's right to freely use its property – accordingly, the City nor the City Arborist may *read into the ordinance* restrictions which are not expressly stated. Infrastructure is not limited to "public" infrastructure, it is unlimited and applies to *all* infrastructure related to the development including all of the above systems and components. The City *could have* restricted this exemption to *just* streets, but chose not to and, indeed, used the broader term "infrastructure" where it could simply have said, "the trees required to be removed for streets." Period. That is not, however, what the ordinance says.

Thus, the City Arborist clearly erred in interpreting "infrastructure" *narrowly* in favor of the City instead of *broadly* in favor of the Project owner. And the City Arborist erred in calculating what is required to be *removed* to permit such "required construction." Sanitary sewer is at least 12' deep in places on the Project. Construction of such lines requires an excavation *more than* 12' deep to permit a suitable aggregate bed to be installed around the line and a working ditch that is approximately 6' *wide*. OSHA standards require the ditch to be cut back on a slope of 1/1. Thus, the ditch which must be cut for that depth is approximately 30' wide (12' slope, 6-foot ditch, 12' slope). But that still does not end the area "required" for such construction. The soil removed from such site *must* be stored somewhere – something that the Tree Ordinance recognizes adversely affects trees if it is deposited on their root systems adjacent to the ditch. If it isn't deposited adjacent to the ditch, it must be trucked away from the ditch and trucked back in. Such a loaded dump truck is going to roll and compact the soil where it operates and it

has to avoid the sides of the sloped ditch to avoid causing them to bulge into the ditch. At a minimum, that is a travel path of another 15 feet on top of the original 30' for the ditch.

Then, the topography of the Project is such that lines would actually come out of the ground were the lot not filled. So where lines would come out of the ground, construction of the infrastructure *requires* fill be installed. Once again, where fill must be installed, tree roots cannot be protected and the necessary compaction required for the project precludes those trees from being saved.

The same rules apply for storm sewers, water lines and other underground utilities which cannot all be stacked on top of each other in the same location. Underground detention, a requirement of the CoAC, *similarly* is "infrastructure." Each component of that must be excavated for, constructed and re-filled.

Finally, each sidewalk, driveway and road in the development must be graded, compacted, and built. Where, as here, there is topography to contend with, slopes to such surfaces must be established and maintained, further widening the impact of that infrastructure.

Here, the Project's civil engineer reviewed the Code and what portions of the property *must* be disturbed (and trees removed or considered damaged beyond salvage) and determined that approximately 3.77 acres of the 4.5 acre site was *required* to construct infrastructure such that it was subject to the exception of \$5,000 per such acre for a total of \$18,880.00. The remaining recompense area tree removal recompense was calculated under the normal formula and recompense was calculated at \$24,360.00. See 11/1/19 Revision to C-14 Tree Removal Plan. The total recompense should be \$43,240.00, not the nearly \$140,000 in recompense that the City Arborist seeks to impose. Reversal of that decision is appropriate.



Brian E. Daughdrill
Counsel for the Appellants



Department of
CITY PLANNING

Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: treeappeal@atlantaga.gov

TREE CONSERVATION COMMISSION APPEAL FORM
Appeal of Decision of Administrative Official Regarding Trees

Date filed:	11.13.2019	Appeal Number: (Office use only)	
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Description of Property			
Street Address:	4715 MILLBROOK DRIVE, ATLANTA, GA 30327	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
Land Lot: (if available)		County:	FULTON
District: (if available)		Council District: (if available)	NPU: (if available)

Appellant(s) information List all appellants with name, address and phone number (attach page as needed)			
Appellant 1:	CHRIS BARADEL		
Address:	4715 MILLBROOK DRIVE	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
City:	ATLANTA	Zip:	30327
Email:	CHRISBARADEL@YAHOO.COM	Phone:	404-217-8829
Appellant 2:	LESLEY BARADEL		
Address:	4715 MILLBROOK DRIVE	<input type="checkbox"/> NE <input type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
City:	ATLANTA	Zip:	30327
Email:	LESBARADEL@GMAIL.COM	Phone:	404-664-4344
Property Owner Information (if known)			
Owner Name:	CHRIS BARADEL		
Owner Address:	4715 MILLBROOK DRIVE	<input type="checkbox"/> NE <input checked="" type="checkbox"/> NW <input type="checkbox"/> SE <input type="checkbox"/> SW	
Owner Email:	CHRISBARADEL@YAHOO.COM	Owner Phone:	404-217-8829

All documents submitted will be available to the members of the Commission prior to the presentation of your case. If applicable, please attach supporting reports or affidavits from licensed professionals (e.g.: independent arborists, structural engineers, etc.). If the appellant is **not the owner** of the property, please complete Attachment 2. If an **attorney is filing** or testifying on behalf of the appellant, please complete Attachment 3.

<p>NOTE: If you are appealing assessment of a fine or fee, please include amount:</p> <p>a) Fine \$ 2000 _____</p> <p>b) Fee \$ 1570 _____ (Illegal recompense)</p>	<p>1. What is the basis of your appeal? Check all that apply.</p> <p><input type="checkbox"/> Appeal of facts asserted in notice of illegal destruction of trees.</p> <p><input type="checkbox"/> Appeal of facts asserted in notice of illegal removal of trees.</p> <p><input checked="" type="checkbox"/> Appeal of fines for unpermitted removal or destruction of trees.</p> <p><input checked="" type="checkbox"/> Appeal of recompense fees.</p> <p><input type="checkbox"/> Request to permit tree(s) as dead, dying or hazardous was denied.</p> <p><input type="checkbox"/> Plan to remove tree(s) in association with construction was denied.</p> <p><input type="checkbox"/> Plan to remove tree(s) in association with landscaping plan was denied.</p> <p><input type="checkbox"/> Appeal of Preliminary Approval to remove trees (must complete Attachment 1).</p> <p><input checked="" type="checkbox"/> Other: <u>ONLY APPEALING REMOVAL OF 2 CREPE & MYRTLES</u></p>
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Department of
CITY PLANNING

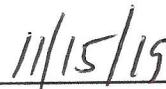
Office of Buildings – Arborist Division
55 Trinity Avenue, Suite 3800
Atlanta, Georgia 30303
Tel: 404.330.6874
Email: treeappeal@atlantaga.gov

2. Have you obtained the relevant permits for your proposed project? Building permit, land disturbance permit, variance permit, etc.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
3. What is the specific decision (and date of the decision if known) of the City Arborist you are appealing? WE APPEALING DECISION OF UNPERMITTED REMOVAL OF TREES AND ILLEGAL RECOMPENSE FEES.	
4. What decision(s) do you want the Tree Conservation Commission to make? ELIMINATE OR REDUCE FINES FOR UNPERMITTED REMOVAL OF TREES AND ILLEGAL RECOMPENSE FEES.	
5. If there are other responsible parties (e.g. tree company, builder, landscape company, other) please provide contact information below. Please attach copies of any relevant invoices, cancelled checks, etc. PARTIES INVOLVED IN TREE ASSESSMENT: HRH TREES, LLC., HEIDI HARRINGTON, ISA CERTIFIED ARBORIST, SAF CERTIFIED FORESTER. P: 404-444-5824 PARTIES INVOLVED IN SURVEYING PROPERTY: ADAM AND LEE SURVEYING, DANIEL JACKSON, P: 770-554-8995, (SEE ATTACHED INVOICE)	
6. Briefly summarize the proposed activities on the property. Please see attached document.	
7. Please provide justification if you are claiming economic hardship in your ability to pay \$75 filing fee or fines/recompense. Provide a signed affidavit if you are asking for consideration based on income and assets or nonprofit status. If pertinent, provide a copy of your development impact fee waiver.	
8. Please provide complete written explanation if not covered in responses to questions above. (Attach additional pages as needed.)	

I hereby swear that all statements herein and attached herein are true and correct to the best of my knowledge and belief.



Appellant or Agent for Appellant



Date

Note: If appellant is an agent of the property owner, please complete Attachment 2.
If appellant is an attorney, please complete Attachment 3.

TREE CONSERVATION COMMISSION APPEAL FORM

Property Owner: Baradel

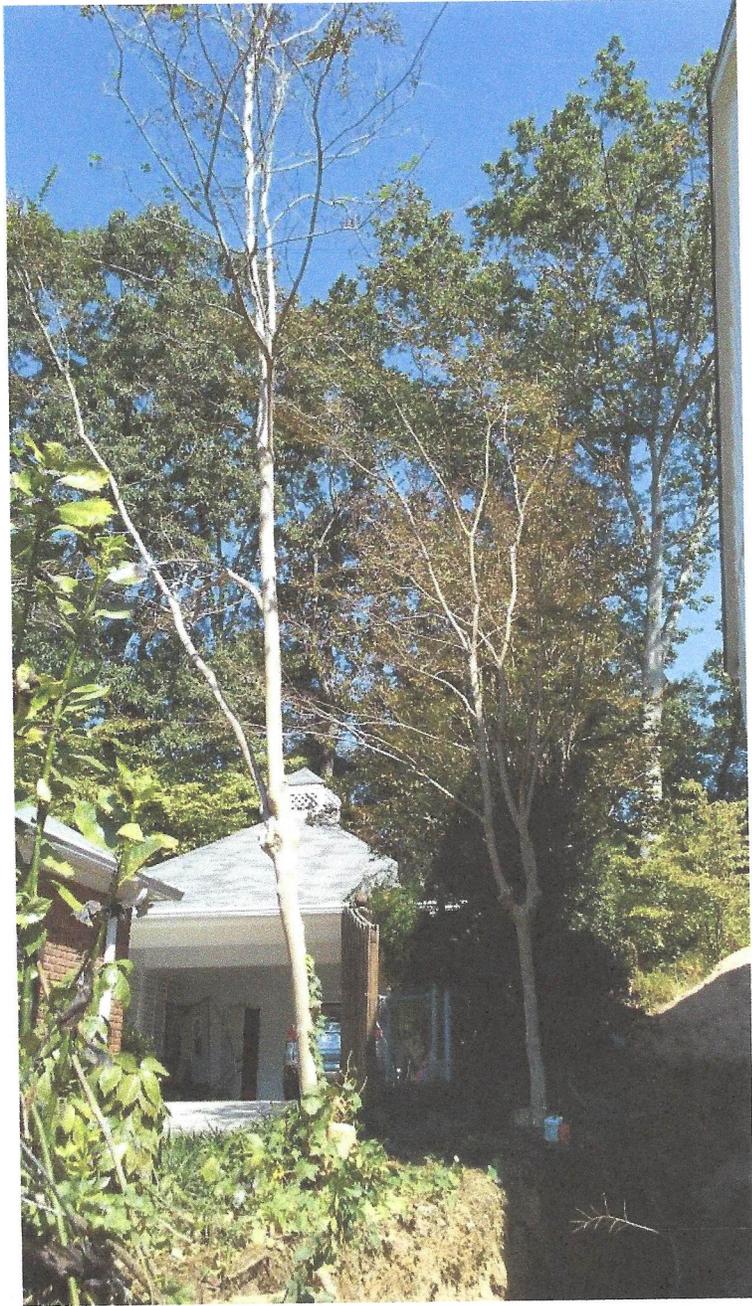
Property: 4175 Millbrook Drive, Atlanta, 30327

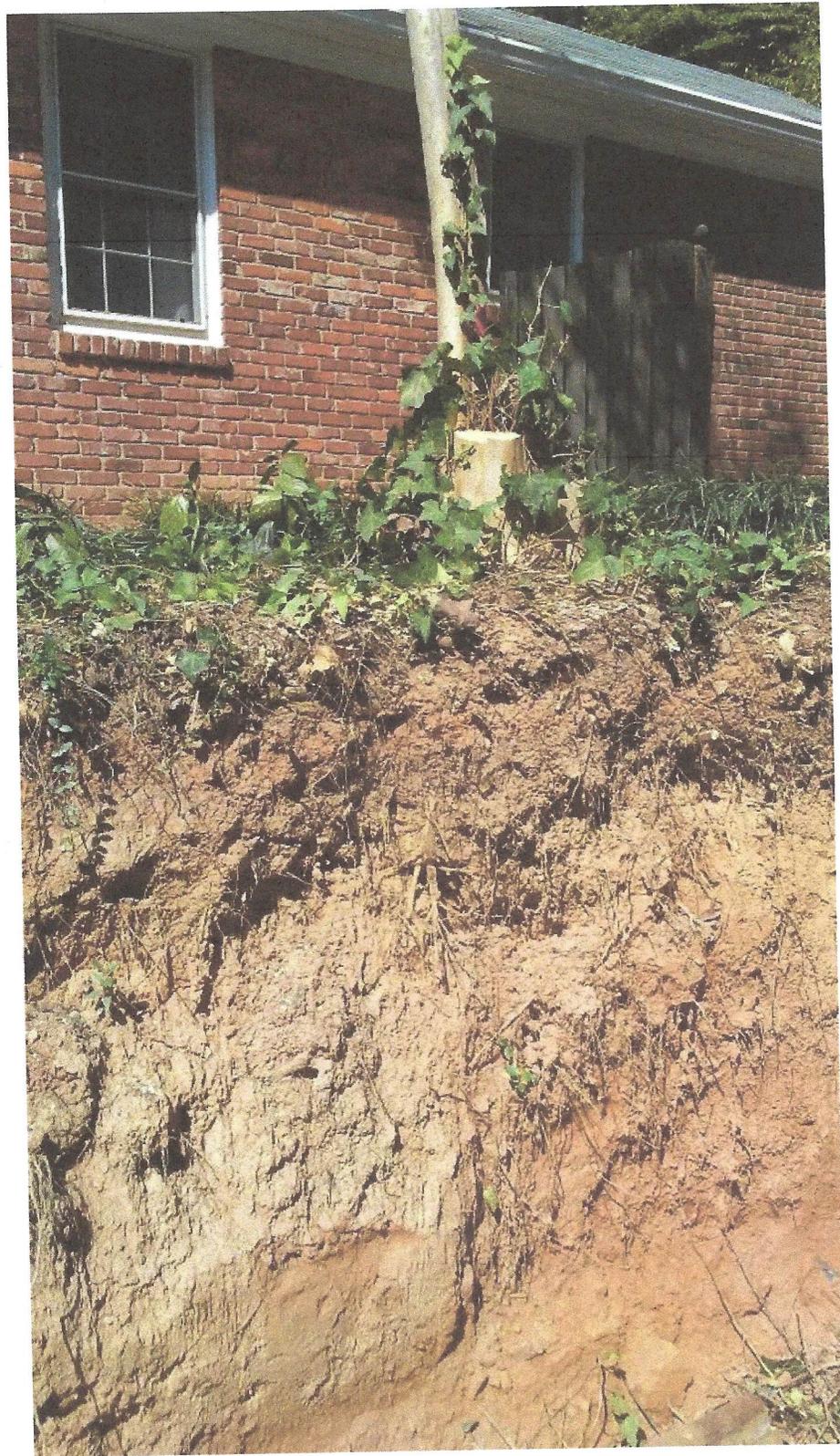
- The original site plan for our new build that was submitted to the city arborist department with the construction permit was approved by Monique Humphrey in the city arborist department without two Crape Myrtles on the plan. (See Site Plan #1).
 - We did not identify the Crape Myrtles on the site plan because none of our professional arborist, our surveying company, or our builder identified that this species of tree as one that would need to be included on the survey.
 - In early 2019, when Jason _____ from the city arborist department walked our property to approve which trees we could take down, he also did not identify the Crape Myrtles as trees that needed to be on the survey.

- In late June, after a complaint from our neighbor, we were contacted by Jason Ernst who then told us that the Crape Myrtles needed to be on the site plan because their DBH, when combining multiples trunks of the tree, were greater than 6" in diameter.

- As a result of this revised guidance from Jason Ernst, we paid our survey company \$650 to re-survey the area and put the Crape Myrtles on our plan (See Site Plan #2 for pictures and survey). Our professional arborist wrote a tree prescription for us on July 2, 2019 (see attached), and Site Plan #2 was later submitted with the pool permit and approved by the city.

- Per the tree prescription provided by our arborist, we pruned the trees so that the largest trunk was left on each tree. The largest trunk on each tree was less than 6" DBH. We needed to prune the trees for two reasons:
 - The tree branches were touching the house and coming in the windows.
 - We were building a retaining wall to prevent soil erosion on the side of the house where the Crape Myrtles were located.







- Ultimately, after even pruning, we realized that the limited space in the area where the retaining wall needed to be built was too small for us to retain the Crape Myrtles and physically fit the machinery and forming structures for the retaining wall.





Photo: A 2' Footer is needed on each side of the retaining wall. The other side of the wall (not shown in the picture) looks the same. We were unable to dig further back due to the driveway of neighboring property. This is a very tight space for machinery.

- To make sure we were in compliance with the city ordinances, I called the Monique Humphrey at the City arborist department to explain what we were doing and why. I told Monique that we had pruned the Crape Myrtles according to the tree prescription, explained why we pruned the trees, and advised her that the current DBH was less than 6" DBH. At this time, she advised us that we could take down the trees because the DBH of the trunks was less than 6" DBH.
- After the Crape Myrtles were removed, our neighbor called the city arborist again. Jason Ernst inspected our property and levied the fine.
- We feel the fine is improper in this instance because we spoke with the city arborist department before we removed the trees and were advised that taking the trees down was in compliance with the regulations as the DBH was less than 6". Furthermore, we are planning on planting several 4-foot diameter screening Cypress trees where the Crape Myrtles previously stood, and as part of any settlement with the city regarding this fine we would be willing to warrant that those trees will be planted as replacements for the Crape Myrtles.

Site Plan # 1

FOR OFFICIAL USE ONLY

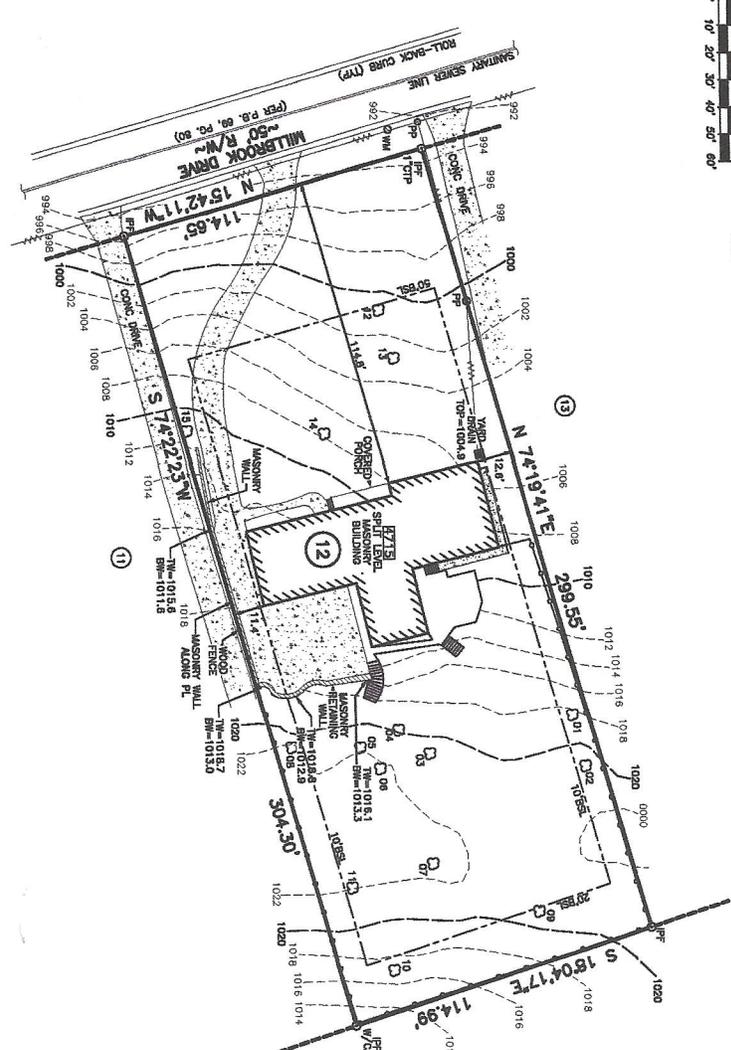
SCALE : 1" = 30'

- ZONING PER: COUNTY OF ATLANTA, GEORGIA ZONED R-3 (SINGLE-FAMILY RESIDENTIAL DISTRICT)
- (1) Front yard: There shall be a front yard having a depth of not less than 50 feet.
 - (2) Side yard: There shall be two side yards, one on each side of the front building, each having a width of not less than 10 feet.
 - (3) Rear yard: There shall be a rear yard of not less than 50 feet.
 - (4) Accessory structures: Accessory structures other than detached garages shall be permitted in the rear or side yard of the lot so as not to project the buildings over of the main structure within the boundaries of the rear or side yard. (See Section 15-28-005(b)).
 - (5) Maximum floor area ratio: The maximum floor area ratio within this district shall not exceed 0.40.
 - (6) Maximum lot coverage: Maximum lot coverage within this district shall not exceed 40 percent of total lot area.

AREA
0.795 ACRES
34,651 SQ. FEET

- LEGEND
- R/W RIGHT-OF-WAY
 - A/C ADJOINING OWNERSHIP
 - B/L BUILDING SETBACK LINE
 - S/L SETBACK LINE
 - CONC CONC
 - TOP TOP
 - CHMP CHMP
 - 1/2" REBAR W/ CAP
 - PROPRY LINE
 - PROPRY POLE
 - PLAY BOX
 - FACE OF REMAINING
 - P.O.C. POINT OF COMMENCEMENT
 - RES. RES
 - WATER METER
 - OVERHEAD UTILITY LINES

THREE INCH	THREE INCH	THREE INCH
01	20'	OK
02	25'	OK
03	30'	OK
04	35'	OK
05	40'	OK
06	45'	OK
07	50'	OK
08	55'	OK
09	60'	OK
10	65'	OK
11	70'	OK
12	75'	OK
13	80'	OK
14	85'	OK
15	90'	OK



IF YOU DIG DEEPER...
CALL US FIRST!
811
IT'S THE LAW
THREE WORKING DAYS BEFORE YOU DIG

NOTES:
FIELD INFORMATION FOR THIS SURVEY WAS OBTAINED WITH A 5 SECOND THEODOLITE AND AN ELECTRONIC DISTANCE METER.
THE FIELD DATA UPON WHICH THIS MAP IS BASED WAS OBTAINED ON 11/20/17. THE PRECISION OF ONE FOOT IN 50,312 FEET AND AN ANGULAR ERROR OF 0.41 SECONDS.
THIS SURVEY WAS PERFORMED IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT OF 1992 (P.L. 102-584) AND AS ADVISED BY THE SURVEYING BOARD OF GEORGIA.
THIS MAP OR PLAN HAS BEEN OBTAINED FOR EXAMINATION BY THE BOARD OF SURVEYING AND MAPPING AND IS CORRECT IN ACCORDANCE WITH THE ACT.
ALL POINTS LABELED AS SET OR FOUND (S) OR (F) ARE 1/2" REBAR RODS.
UNLESS OTHERWISE NOTED.
INFORMATION REGARDING THE REPORTED PRESENCE, SIZE, LOCATION AND DEPTH OF UTILITY LINES IS THE RESPONSIBILITY OF THE CLIENT. THERE IS NO CERTAINTY OF THE ACCURACY OF THIS INFORMATION AND IT SHALL BE CONSIDERED IN THAT LIGHT BY THOSE USING THIS DRAWING.
THE LOCATION AND ARRANGEMENT OF THE UNDERGROUND UTILITIES AND STRUCTURES NOT SHOWN MAY BE ENCOUNTERED AND THE OWNER, HIS EMPLOYEES, HIS CONSULTANTS, AND HIS CONTRACTORS SHALL BE RESPONSIBLE FOR THE CORRECTION OR SUPERVISION OF THIS INFORMATION SHOWN HEREON.
UNLESS STATED OTHERWISE HEREON, ONLY EVIDENCE OF EXISTENCE OR STRUCTURE, THROUGH EVIDENCE, IS ASSUMED BY THE SURVEYOR. THE SURVEYOR ASSUMES NO LIABILITY FOR LOSS OF OR DAMAGE TO PROPERTY OR PERSONS OR OTHERS CAUSED BY THE FAILURE OF OR DISREGARD FOR LOSS RELATING TO THE EXISTENCE OF ANY UTILITIES OR STRUCTURES NOT SHOWN HEREON.
UNLESS STATED OTHERWISE HEREON, THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF AN ASSESSMENT OF TITLE, NO LIABILITY IS ASSUMED BY THE SURVEYOR FOR LOSS RELATING TO THE EXISTENCE OF ANY UTILITIES OR STRUCTURES NOT SHOWN HEREON.
THE PLAT OF SURVEY LIES NO WARRANTY OR GUARANTEE AS TO THE EXISTENCE OF ANY EXISTENTS OF ANY TYPE, NO ASSESSMENT ON TITLE SEARCH WAS PERFORMED TO DISCOVERED THE EXISTENCE OF ANY EXISTENTS OF POSSESSION, IF ANY, THAT ARE USABLE FROM DEEDS, INSTRUMENTS, RECORDS, OR RECORDS, NO WARRANTY OR GUARANTEE IS MADE AS TO THE EXISTENCE OF ANY EXISTENTS OF POSSESSION, IF ANY, WHICH MIGHT IMPACT ON THE USE OF THE PROPERTY.
PROMISES WERE NOT LOCATED, NO LIABILITY IS ASSUMED BY THE SURVEYOR FOR LOSS RELATING TO THE EXISTENCE OF ANY EXISTENTS OF POSSESSION, IF ANY, WHICH MIGHT IMPACT ON THE USE OF THE PROPERTY.
REPRODUCTION OF THIS SECTION ARE NOT VALID UNLESS SIGNED, DATED, AND SEALED WITH A SURVEYOR'S SEAL.

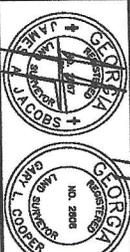
FLOOD HAZARD STATEMENT:
THIS PROPERTY DOES NOT LIE WITHIN THE FEDERAL FLOOD HAZARD AREA AS PER FEMA MAP NO. 13121C 0144F. DATE OF REVISION IS 02/22/17. THIS IS A CORRECT REPRESENTATION OF THE LAND PLANNED AND HAS BEEN PREPARED IN COMPLIANCE WITH THE REQUIREMENTS OF THE LAW.
THIS SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE FORMER HEILED WISCONSIN REGION IN ORDER TO MANAGE THOSE SWAMP AREAS.

REVISIONS

NO.	DATE	DESCRIPTION
1	11/20/17	ISSUED FOR PERMITS

PROJECT DESCRIPTION:
TOPOGRAPHIC SURVEY FOR
LESLIE BARDELL
4715 MILLBROOK DRIVE N.W., ATLANTA, GEORGIA
COUNTY: FULTON DISTRICT: 177H
LAND USE: 137

ADAM & LEE LAND SURVEYING
5640 GA. HWY. 20 S.
LOGANVILLE, GA. 30052 (770)554-8995
www.adamandlee.com
TAX-(770)554-9194



DATE OF PLAN PREPARATION: 11/20/17 BY: JMW
DATE OF FIELD SURVEY: 8/27/17 BY: BS
DEED NO.: 131-26-054
SCALE: 1" = 30'
SHEET # 1 OF 1
17166

Site Plan #2

FOR OFFICIAL USE ONLY

- ZONING PER:
CITY OF ATLANTA, GEORGIA
ZONED R-3 (SINGLE-FAMILY RESIDENTIAL DISTRICT)
- (1) Front yard: There shall be a front yard having a depth of not less than 50 feet.
 - (2) Side yard: There shall be two side yards, one on each side of the lot from 10 feet, each having a depth of not less than 5 feet.
 - (3) Rear yard: There shall be a rear yard of not less than 50 feet.
 - (4) Accessory structures: Accessory structures other than swimming pools, hot tubs, spas, saunas, and sheds shall be permitted, shall be placed to the rear or side of the main structure within the setback line of the main structure. For fences, see section 18-28-000(5).
 - (5) Maximum floor area ratio: The maximum floor area ratio within this district shall not exceed 0.40.
 - (6) Maximum lot coverage: Maximum lot coverage within this district shall not exceed 40 percent of total lot area.

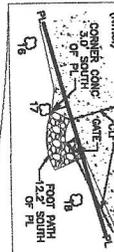
SCALE: 1" = 30'
0" 10' 20' 30' 40' 50' 60'

AREA
0.795 ACRES
34,651 SQ. FEET

NOTE: CONTOURS OF THIS PARCEL NOT SHOWN FOR THIS REASON. THIS REASON ADJACENT'S GARBAGE AND OVERHANG ARE LOCATED IN THE ZONE OF FRESHEN BOUND LINE.

LEGEND

01	RIGHT-OF-WAY
02	ADVANCING OWNERSHIP
03	CONCRETE
04	CONCRETE
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07	CONCRETE
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99	CONCRETE
100	CONCRETE



FLOOD HAZARD STATEMENT:
THIS SURVEY WAS CONDUCTED WITHIN THE 1% ANNUAL FLOOD (100-YEAR FLOOD) FEDERAL FLOOD HAZARD AREA AS SHOWN ON THE FLOOD INSURANCE RATE MAP (FIRM) DATED SEPTEMBER 18, 2013 IN MY OPINION THIS IS A CORRECT REPRESENTATION OF THE LAND AND CONTAINS WITH THE NECESSARY ACCURACY AND RECOMMENDATIONS OF THE LAW. I AM NOT PROVIDING FOR THE DESIGN OF THE STRUCTURE OR THE FOUNDATION THEREON, NO EXPENSE OR IMPLIED WARRANTIES WITH RESPECT TO BE MADE TO ANY PERSON OR ENTITY OTHER THAN THOSE SHOWN HEREON.

NOTES:
FIELD INFORMATION FOR THIS SURVEY WAS OBTAINED FROM THE PROPERTY OWNER AND THE SURVEYOR'S FIELD NOTES. THE SURVEYOR HAS REVIEWED THE FIELD NOTES AND FOUND THEM TO BE ACCURATE AND COMPLETE. THE SURVEYOR HAS REVIEWED THE FIELD NOTES AND FOUND THEM TO BE ACCURATE AND COMPLETE. THE SURVEYOR HAS REVIEWED THE FIELD NOTES AND FOUND THEM TO BE ACCURATE AND COMPLETE.

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LOGANVILLE, GA. 30052 (770)554-8995
www.adamandlee.com

REVISIONS

ADDED WATER LINE & SEWER	01/17/2019	DWJ
ADDED WATER LINE & SEWER	05/17/2019	DWJ
ADDED WATER LINE & SEWER	06/20/2019	DWJ
CORRECTED FENCE LOCATION	11/10/2019	DWJ

PROJECT DESCRIPTION:
TOPOGRAPHIC SURVEY FOR
LESLEY BARADEL
4715 MILLBROOK DRIVE N.W., ATLANTA, GEORGIA

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HRH Trees, LLC

1125 Oak Brook Way, Atlanta, Georgia 30319
404-444-5824 heidi@hrhtrees.com

July 2, 2019

Lesley and Chris Baradel
4715 Millbrook Drive, NW
Atlanta, GA 30327

RE: Arborist Prescription for 2 crape myrtles at 4715 Millbrook Drive, NW, Atlanta 30327

Dear Mr. and Mrs. Baradel:

Thank you for asking HRH Trees, LLC to provide a tree prescription for two crape myrtles on the left boundary line of your property. Originally these trees were to be destroyed with the construction plans, but the decision was made to revise the plans to save these two trees. The following information is intended to reduce construction stress and preserve these two crape myrtles.

Arborist Prescriptions:

In order to best acclimate these two trees to the anticipated stress from construction activities near the trees, the following recommendations are being made.

1. Root prune any impacted or damaged roots back to the soil line.
2. Cover immediately with soil or mulch to prevent drying out of the remaining roots.
3. Prune vegetative growth (above ground) by eliminating all trunks except for the largest trunk on each of the trees.
4. Apply a root invigoration treatment to help stimulate new roots and reduce stress.

If you need further assistance with any of the above, please do not hesitate to contact HRH Trees, LLC.

Sincerely,

Heidi R. Harrington

Heidi Rieckermann Harrington
ISA Certified Arborist (NY-1074A)
SAF Certified Forester (2756)
HRH Trees, LLC
heidi@hrhtrees.com
404-444-5824

Cooper Ventures Inc

d/b/a Adam & Lee Land Surveying
d/b/a/ APlus Surveying
5640 Ga Hwy 20 S.
Loganville, GA 30052

Invoice

Date	Invoice #
6/27/2019	29664

Bill To
Lesley Baradel 4715 Millbrook Dr. N.W. Atlanta, Ga. 30327

PAID
07/17/2019

P.O. No.	Project
17166	4715 Millbrook Dr

Quantity	Description	Rate	Amount
	Additional Location - Trees and North Adjoiner Edge of Concrete, foot path, garage & fence Check #1529	650.00	650.00
Total			\$650.00

CITY OF ATLANTA



OFFICE OF MUNICIPAL CLERK

STATE OF GEORGIA

COUNTY OF FULTON



CITY OF ATLANTA

I, **Foris Webb III.**, do hereby certify that I am the duly appointed **Municipal Clerk** of the City of Atlanta, Georgia, and as such am in charge of keeping the Minutes of the City Council of the said City of Atlanta. I further certify that the attached is a true and correct copy of **Article II – Tree Protection** as taken from the 1995 Code of Ordinances of the City of Atlanta, Georgia, **ADOPTED** by Council December 5, 1995 and **APPROVED** by the Mayor December 11, 1995, as amended; from time to time.

all as the same appears from the original, which is of record and on file in my said office.

GIVEN under my hand and seal of office this 26th day of June, 2019.

Municipal Clerk

Certification completed by eoj

ARTICLE II. - TREE PROTECTION^[2]

Footnotes:

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Cross reference— Environment, ch. 74.

DIVISION 1. - GENERALLY

Sec. 158-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person seeking approval to take action under this article.

Boundary tree means a tree on adjacent property whose root save area intrudes across the property line of the site under consideration.

Buildable area means that area of the lot available for the construction of a dwelling and permissible accessory uses after having provided the required front, side, rear and any other special yards required by part 15 or part 16 of the city code.

City shall mean City of Atlanta.

City arboricultural standards means the arboricultural specifications and standards of practice, prepared by the city forester and city arborist and approved by the tree conservation commission, which are adopted pursuant to this article.

City arborist shall mean an agent of the department of city planning responsible for administering this article regarding private property, or an agent of the department of parks and recreation responsible for administering this article regarding public property.

City forester means an agent of the department of parks and recreation responsible for preparing and regularly maintaining the arboricultural specifications and standards of practice, for preparing and administering the master plan and for regulating and conserving trees on public land.

Cover area means that area which falls within the drip line of any tree.

Critical root zone shall mean root save area, as defined below.

Destroy means any intentional or negligent act or lack of protection that is more likely than not to cause a tree to die within a period of five years, as determined by the city forester or city arborist. Such acts include, but are not limited to: performing grade changes (including lowering or filling the grade) that affect more than 20 percent of the root save area; trenching of roots; cutting, girdling or inflicting other severe mechanical injury to the trunk, roots or other vital sections of the tree; removing in excess of 20 percent of the live crown of the tree; inflicting damage upon the root system of a tree by the application of toxic substances, including solvents, oils, gasoline and diesel fuel; causing damage by the operation of heavy machinery; causing damage by the storage of materials; and/or deliberately or negligently burning or setting fire to a tree. In addition, topping, tipping, or any similar improper pruning practices will automatically be deemed as destruction of a tree.

Diameter at breast height (DBH) means the diameter of the main stem of a tree or the combined diameters of a multi-stemmed tree as measured 4.5 feet above the natural grade at the base. The top diameter of a stump less than 4.5 feet tall shall be considered the "DBH" of an illegally destroyed tree for the purpose of calculating recompense.

Disease means any fungal, bacterial, or viral infection that will result in the death of the tree, as determined by the city forester or city arborist. Disease shall also mean any fungal, bacterial or viral infection that has progressed to the point where treatment will not prevent the death of the tree, as

determined by the city forester or city arborist. In order for the city forester or city arborist to deem that a tree has a disease, the person requesting such determination must present a lab report identifying and presenting the etiology (the cause and origin) of the fungal, bacterial or viral infection.

Established recompense value means the dollar value to the city of a tree on private or public property used for the purpose of calculating cash recompense for removal or destruction. The established recompense value as of January 2003 is \$100.00 per tree and \$30.00 per diameter inch. This figure shall be evaluated and adjusted periodically by amendment to this ordinance, as proposed by the tree conservation commission in consultation with the city arborist.

Fair or better condition means that the tree has a relatively sound and solid root, trunk, and canopy structure, no major insect infestation or other pathological problem, and a life expectancy greater than 15 years as determined by the city arborist or city forester.

Flush cutting means the removal of limbs by cutting immediately adjacent to the trunk, destroying the protective branch collar and exposing the trunk to decay organisms.

Fully stocked means a site occupied by trees at a density of 1,000 inches DBH/acre (e.g., 40 trees averaging 25 inches DBH on a one-acre site).

Hardship means a unique or otherwise special existing condition that is not addressed by the ordinance.

Hazard tree means a tree with uncorrectable defects severe enough to pose present danger to people or buildings under normal conditions, as determined by the city arborist or city forester.

Heat island means a ground area covered by an impervious surface that retains solar or other heat energy and thereby contributes to an increase in the average temperature of the ecosystem. An external heat island is one situated outside a site, including but not limited to public streets. An internal heat island is one situated within a site, including but not limited to patios, driveways and other vehicular maneuvering and/or parking areas. Recreational areas including but not limited to swimming pools and game courts are excluded from this definition.

Historic tree means a tree that has been designated by the tree conservation commission, upon application by the city arborist or any other interested person, to be of notable historic value and interest because of its age, size or historic association, in accordance with the city arboricultural specifications and standards of practice. Such designation may occur only by resolution of the commission, and the city arborist shall maintain and file with the municipal clerk a complete listing of the location of each historic tree.

Illegally removed tree means any tree that is removed or destroyed without a permit.

Impacted tree means a tree that will suffer injury or destruction of more than 20 percent but not more than 33 percent of its root save area.

Incursion means any occasion of prohibited activity within an area protected by a tree protection fence.

Injure means any intentional or negligent act, including various tree climbing practices, spiking, trimming, flush cutting, incursion into a designated root save area, and the use of climbing spurs or gaffs on trees not subject to removal that exposes the cambium of a tree to insects or decay organisms.

Live stake means a dormant cutting installed as a component of a City of Atlanta stream bank erosion control or stabilization, or of a City of Atlanta stream or wetland restoration project, that is of at least three-quarters inches in diameter and at least 24 inches in length and cut from a live tree species that will readily sprout roots and grow when driven into the soil. Live stakes include, but are not limited to the following species: *Salix x cottetii* (Banker's Willow), *Salix exigua* (Sandbar Willow), *Salix nigra* (Black Willow), and *Salix purpurea* (Streamco Willow).

Lost tree means any tree whose root save area will suffer injury or destruction in excess of 33 percent or is otherwise not protected according to the provisions of this article.

Master plan means the comprehensive urban forest master plan.

Mid-canopy tree means a tree that normally attains a DBH of ten—25 inches and a height of 30—60 feet at maturity. Examples include Southern sugar maple, "October Glory" Red maple, River birch, Deodar cedar, Persimmon, Gingko, American holly, Foster holly, Eastern Red cedar, Blackgum, Sourwood, Chinese pistache, Nuttall oak, Chinese elm, European hornbeam.

New lot of record means a tract of land that has been newly subdivided and so recorded as a separate property of record with the county land registrars office.

Pine means only a member of the genus *Pinus*, and does not include other needled trees commonly known as cedar, fir, spruce, hemlock, or any other members of the family Pinaceae.

Private arborist means any person who is not employed by the City of Atlanta, and who is a Georgia Registered Forester, or at a minimum, certified by the International Society of Arboriculture (ISA) as an arborist and a member in good standing of the ISA.

Private arborist report means a typed report that is submitted and signed by a private arborist, as defined above, and that at a minimum clearly states the arborist's name, contact information and qualifications, and identifies the site address and each individual tree to be considered by the city forester or city arborist.

Private property tree means for purposes of this article, where reference is made to a tree being on "private property", the tree shall be deemed to be on private property where more than 50 percent of the flair of the tree, where the tree interfaces with the earth, is located on private property.

Protective pruning means pruning to elevate branches/limbs that are likely to be damaged by construction activities. Pruning must not exceed 20 percent of the live crown. Protective pruning is not an ISA term.

Pruning means that definition of the term as set forth in both the most recent International Society of Arboricultural pruning standards and guidelines and American National Safety Institute 300.33. At no time shall trimming, topping, tipping or flush cutting of trees be deemed a form of "pruning."

Public property tree means for purposes of this article, where reference is made to a tree being on "public property", the tree shall be deemed to be on public property where at least 50 percent of the flair of the tree, where the tree interfaces with the earth, is located on public property.

Public utility means any publicly, privately or cooperatively owned line, facility or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, steam, clay, waste, storm water not connected with highway drainage and other similar services and commodities, including publicly-owned fire and police and traffic signals and lighting systems, which directly or indirectly service the public or any part thereof.

Overstory tree means a tree that normally attains a DBH in excess of 25 inches and a height in excess of 60 feet at maturity. Examples include Red maple, Pecan, Hickory, American beech, ash sp., Tulip poplar, Southern magnolia, White oak, Water oak, Southern red oak, Shumard oak, Baldcypress, elm sp.

Required yard area means the open space on a lot not occupied by a structure.

Root save area means the area surrounding a tree that is essential to that tree's health and survival. For a free-standing tree with no apparent root restrictions the root save area shall consist of a circle having a radius of one foot for each one inch of diameter at breast height of the tree. Adjustments to the root save area may be made by the city arborist if justified by specific documented site conditions.

Sampling means the employment of recognized statistical survey methods to count and measure existing trees on a site.

Saved tree means any tree that is to be protected and not destroyed or injured during construction as required by this article.

Silvicultural prescription means any typed site or individual tree prescription developed by a private arborist, as defined above, that is aimed at preserving a tree. Prescriptions must include without limitation: the private arborist's name, signature, and contact information; the site address and individually

identified trees at issue; a harvesting or stand improvement plan, soil and foliar analysis/treatment, schedule of treatment, fertilizer application, soil amendments, pesticide application with a copy of the pesticide labeling, and pruning. Trimming, topping, tipping or flush cutting of trees will not be accepted as a part of any silvicultural prescription.

Specimen tree means a tree that meets the following criteria:

- (1) Large hardwoods (eg. oaks, elms, poplars, etc.) and softwoods (eg. pine sp.) in fair or better condition with a DBH equal to or greater than 30 inches;
- (2) Smaller understory trees (dogwoods, redbuds, sourwoods, persimmons, etc.) in fair or better condition with a DBH equal to or greater than ten inches; and
- (3) Lesser-sized trees of rare species, exceptional aesthetic quality, or historical significance as designated by the tree conservation commission.

Spiking means the use of metal spurs or gaffs to climb live trees for any purpose other than tree removal or human rescue.

Severe mechanical injury means a wound or combination of wounds, measured at its or their widest extent, that expose or destroy the cambium layer of 30 percent or more of the circumference of the tree, measured at the top of the wounded area.

Structural root plate means the zone of rapid root taper that provides the tree stability against windthrow. The radius of the root plate is proportional to the stem diameter (DBH) of a tree. The table below provides examples of root plate radii for upright trees without restricted roots.

DBH (inches)	8	16	32	48
Root plate (feet)	5.5	8	10.5	12

Subdivision means a tract of land that has been newly subdivided in accordance with the Subdivision Ordinance and so recorded as a separate property of record with the county land registrars office.

Tipping means the cutting of a lateral limb in such manner as to leave a prominent stub extending beyond a branch node or the trunk.

Topping means the cutting of a leader trunk in such manner as to leave a prominent stub extending beyond the node (crotch) of another leader trunk or major branch that may become a leader trunk.

Tree means any self-supporting woody, perennial plant that has a trunk diameter of two inches or more when measured at a point six inches above ground level and which normally attains an overall height of at least ten feet at maturity, usually with one main stem or trunk and many branches.

Tree conservation commission means the commission established pursuant to section 158-61.

Tree replacement plan means a drawing which depicts the location, size and species of existing and replacement trees on the lot for which a permit is sought, and a table detailing, by species and DBH, the existing trees to be saved, lost or destroyed, and, by species and caliper, the replacement trees to be planted.

Tree structure means branch and trunk architecture that result in a canopy structure that resists failure.

Trimming means cutting a stem to an indiscriminate length, as determined by the city forester or city arborist. While trimming is unacceptable, pruning- the act of cutting stems at nodes- is permissible.

Understory tree means a tree that normally attains a DBH of less than ten inches and a height of less than 30 feet at maturity. Examples include Trident maple, Serviceberry, American hornbeam, Redbud, Fringetree, Dogwood, Smoketree, Burford holly, Nellie R. Stevens holly, treeform Crape myrtle, Little gem magnolia, Golden raintree, cherry sp.

Vacant lot means a property of record that has not had a structure on it in the past five years.

(Code 1977, § 10-2035; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2006-04, § 5, 2-14-06; Ord. No. 2007-32(07-O-0362), § 1, 6-12-07; Ord. No. 2009-13 (09-O-0399), § 1, 3-24-09; Ord. No. 2013-27(13-O-1088), § 4, 6-26-13; Ord. No. 2017-14(17-O-1157), § 6, 4-26-17)

Cross reference— Definitions generally, § 1-2.

Sec. 158-27. - Authority.

This article is enacted pursuant to the city's planning authority granted by the constitution of the state, including but not limited to Ga. Const. Art. IX, § II, ¶¶ 3 and 4; the city's general police power; appendix I of the City Charter, paragraphs 15, 21, 25, 30, 31, 47 and 57; and all other state and local laws applicable to this article.

(Code 1977, § 10-2032; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03)

Sec. 158-28. - Policy, purpose and intent.

It is the policy of the city that there shall be no net loss of trees within the boundaries of the city. The purpose of this article is to establish the standards necessary to assure that this policy will be realized and that the city will continue to enjoy the benefits provided by its urban forest. The provisions of this article are enacted to:

- (1) Establish and maintain the maximum amount of tree cover on public and private lands in the city by prohibiting the destruction and removal of trees except in accordance with the standards set forth in this article;
- (2) Maintain trees in the city in a healthy and nonhazardous condition through professionally accepted arboricultural practices;
- (3) Establish and revise as necessary standards for the planting and maintenance of trees so as to improve the economic base of the city by improving property values, to enhance the visual quality of the city and its neighborhoods and to improve public health by lessening air pollution and the incidence of flooding;
- (4) Minimize hazards and damage to streets and sidewalks and lessen public rights-of-way maintenance costs;
- (5) Provide for the designation of historic and specimen trees; and
- (6) Promote efficient and cost-effective management of the urban forest through the development of a comprehensive long-range urban forest master plan.
- (7) Provide latitude in the interpretation and application of city administrative rules, standards and guidelines when reasonable and necessary to minimize the destruction of trees.

(Code 1977, § 10-2033; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03)

Sec. 158-29. - Scope.

The terms and provisions of this article shall apply to all private property and all public property subject to city regulation, including all public school property, public housing property, parks, rights-of-way, and easements granted to other private or public entities, including public utilities, except where superseded by franchise agreements.

(Code 1977, § 10-2034; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2007-32(07-O-0362), § 19, 6-12-07)

Sec. 158-30. - Parking lot requirements.

The owner of any surface parking lot that is being built and/or resurfaced, and that will have a total of 30 or more parking spaces, whether primary or accessory in use, and whether commercial or noncommercial, must present a plan to the city arborist for approval, indicating that the parking lot will meet the minimum barrier curb and landscaping requirements as follows:

- (1) Barrier curbs shall be installed around the perimeter of the parking lot and around landscaped areas that are required in this article, except where the perimeter abuts an adjacent building or structure and at points of ingress and egress into the facility, so as to prevent encroachment of vehicles onto adjacent property, rights-of-way and landscaped areas.
- (2) Barrier curbs shall be a minimum of six inches in height and a minimum of eight inches in width and permanent in nature. Barrier curbs shall be concrete or stone. Such curbs shall be securely installed and maintained in good condition.
- (3) Where the end of a parking space abuts a landscaped area, barrier curbs may be placed in the parking space at a maximum of two feet from the end of the parking space. This two-foot wide area may have the pavement removed and be developed as part of the required landscaped area.
- (4) Surface parking lots shall have a minimum landscaped area equal to at least ten percent of the paved area within such lot. In no case shall a parking lot owner be required to provide landscaped areas that exceeds ten percent of the paved area. The director of the bureau of buildings, in consultation with the city arborist, shall have the authority to grant a variance from the requirements of this subsection if: the parking lot existed prior to 1977; and the director of the bureau of buildings finds that the applicant's circumstances meet the requirements set forth in subsection 158-30(15); and the director of the bureau of buildings finds that it is impossible to achieve the minimum landscaping requirement. For surface parking lots with fewer than 30 spaces, this variance may reduce or completely eliminate the amount of landscaped area required. For surface parking lots with 30 or greater spaces, this variance may reduce the landscaping requirement, but in no event shall the parking lot be permitted to have landscaped area that is less than ten percent of the paved area.
- (5) A minimum of one tree per eight parking spaces shall be included in the required landscaped areas. For the purpose of satisfying this requirement, existing trees that are two and one-half inches or more in caliper as measured at a height of 36 inches above ground level shall be considered to be equivalent to one or more newly planted trees on the basis of one tree for each two and one-half inches of caliper.
- (6) In addition to trees, ground cover shall also be provided in order to protect tree roots and to prevent erosion. Ground cover shall consist of shrubs, liriop, pine bark mulch and other similar landscaping materials.
- (7) Shrubs shall be maintained at a maximum height of two and one-half feet, except where such shrubs are screening the parking surface from an adjacent residential use.
- (8) If landscaped areas are in the interior of a parking lot they shall be a minimum of six feet in width and six feet in length with a minimum area of 36 square feet.

- (9) Continuous landscaped buffer strips shall be constructed along sidewalks and public rights-of-way where surface parking lots are adjacent to such sidewalks or public rights-of-way except at points of ingress and egress into the facility. Such landscaped buffer strips shall be a minimum of five feet in width and shall contain, in addition to ground cover, trees planted a maximum of 42½ feet on center along the entire length.
- (10) Newly planted trees shall be a minimum of two and one-half inches in caliper as measured at a height six inches above ground level, shall be a minimum of ten feet in height, shall have a 40-foot minimum mature height and shall be drought-tolerant. Trees shall be planted at a minimum of 30 inches from any barrier curb so as to prevent injury to trees from vehicle bumpers.
- (11) Where landscaped area is located adjacent to vehicle overhangs, the trees shall be planted in line with the side stripes between parking spaces in order to avoid injury to trees by vehicle bumpers.
- (12) All landscaped areas, including trees located in the public right-of-way that are counted in the fulfillment of this requirement, shall be properly maintained in accordance with approved landscape plans. If a tree or any plant material dies, it shall be replaced within six months so as to meet all requirements of this section and to allow for planting in the appropriate planting season.
- (13) If it is determined by the city arborist that implementation of these regulations will result in the loss of parking spaces in existing lots, the director of the bureau of traffic and transportation may increase the allowable percentage of compact car spaces from 25 percent up to 35 percent so as to minimize the loss of parking spaces, but only with the approval of the city arborist.
- (14) Notwithstanding subsection (13) of this section, existing parking lots shall not be required to reduce the number of parking spaces by more than three percent as a result of implementing these landscaping regulations.
- (15) Upon written application by any person subject to the provisions of this section, the director of the bureau of buildings is hereby authorized to grant administrative variances to the requirements of this section only upon making all of the following findings:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, subsurface conditions, overhead structures or the existence of sufficient trees in the public right-of-way within ten feet of the property line.
 - b. Such conditions are peculiar to the particular piece of property involved; and
 - c. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this article and of part 16 of this Code.

(Code 1977, § 10-2038; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2007-32(07-O-0362), § 2, 6-12-07)

Sec. 158-31. - Easements to plant trees on private property.

The mayor is hereby authorized to enter into agreements with the owners of private property located within the city for the purpose of acquiring easements to plant trees on such property, in consideration for which such private property owner shall acquire ownership of such trees as the city may plant. Provided, however, that any such agreement shall limit the duration of the easement to a time period of two years and shall limit the property interest acquired by the city to that distance sufficient to allow the planting of trees, in no case to exceed a maximum of a 15-foot setback from the property line or right-of-way held by the city. Provided further, that under such agreement the private property owner shall agree to maintain the trees planted thereon and shall also agree to hold the city harmless for any liability attributable to the planting or presence of the trees on the private property.

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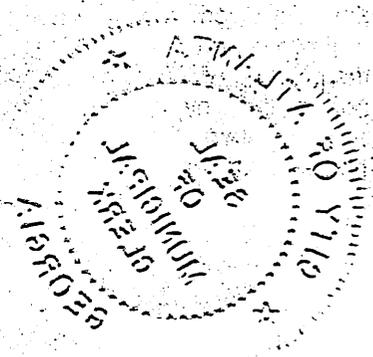
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(Code 1977, § 10-2043; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03)

Sec. 158-32. - Conservation easements and fee simple donations.

The mayor is hereby authorized, but is not required to accept conservation easements created pursuant to the provisions of the Georgia Uniform Conservation Easement Act, O.C.G.A. § 44-10-1 et seq., as amended from time to time, or any successor provision of law, the purpose of which easements are to preserve land in its natural scenic landscape or in a forest use. Such easements must be perpetual in duration and shall contain such other terms and provisions as the mayor or her/his designee shall deem appropriate. In addition, the mayor is authorized, but not required, to accept fee simple donations of land, the purpose of which is to preserve the land in its natural scenic landscape or in a forest use. Such donation shall contain the terms and provisions deemed appropriate by the mayor or her/his designee.

(Code 1977, § 10-2044; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2007-32(07-O-0362), § 3, 6-12-07)

Sec. 158-33. - Enforcement.

The bureau of parks and the bureau of buildings shall be charged with the enforcement of this article. The city forester and the city arborist have police power to do all acts necessary to ensure that the provisions of this article are not violated, including, but not limited to, the issuance of citations for the violation of any provision of this article. In instances in which an individual or firm is found cutting or otherwise destroying a tree without a permit to do so in their possession, the Atlanta Police Department shall require such person or persons to cease such operations until a permit is obtained.

(Code 1977, § 10-2045; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03)

Sec. 158-34. - Penalties.

- (a) *Legal.* Any person violating any of the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-8 of the Atlanta Code of Ordinances. The tree conservation commission shall have the authority to determine when a person has violated any of the provisions of this article and shall have the authority to impose and enforce the fines described herein. Where the tree conservation commission is able to determine the exact number of trees upon which a tree protection ordinance violation occurred, a fine imposed for the first violation shall be no less than \$500.00, and the fine imposed for each subsequent violation shall be \$1,000.00. Each tree upon which a violation occurred shall be deemed a separate violation of the tree protection ordinance. Where the tree conservation commission is unable to determine the exact number of trees upon which a tree protection ordinance violation occurred, the commission shall assume a density of 1,000 inches DBH of trees per acre, and specifically shall assume that the lot contains 60 trees of 16.67 inches DBH per acre, and shall impose a fine of \$60,000.00 per acre of land where the offense(s) occurred. Where the subject property is smaller than one acre, the fine shall be pro rated. Each day's continuance of a violation may be considered a separate offense. The owner of any building, structure or site, or part thereof, where anything in violation of this article exists, and any architect, builder, contractor or agent of the owner, or any tenant who commits or assists in the commission of any violation of this article shall be guilty of a separate offense.
- (b) In addition to paying the penalties set forth in subsection (a) above, any tree of six inches or larger DBH except pines, or any pine tree of 12 inches DBH or larger, that is removed or destroyed in violation of this article shall be replaced or recompensed by the violator, as set forth in section 158-103.
- (c) *Tree protection.* Fences surrounding root save areas must be erected before the commencement of any land disturbance, demolition or construction. Fences must comply with City of Atlanta

arboricultural standards. More substantial wood or steel fencing may be required by the arborist on commercial or other heavy construction sites or upon multiple violations. No activity, including construction material storage, shall occur in areas protected by tree fences. Tree protection fences must remain in place and upright until such time as final landscaping of a site requires their removal. The arborist may assess recompense against the violator if, in the arborist's opinion, the incursion has converted trees from the status of saved trees to the status of injured, lost, or destroyed trees, as set forth in this section above.

- (d) *Additional actions and penalties.* In addition to all other actions and penalties authorized in this section, the city attorney is authorized to institute injunctive, abatement or any other appropriate judicial or administrative actions or proceedings to prevent, enjoin, abate, or remove any violations of this section.

(Code 1977, § 10-2046; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2006-04, § 3, 2-14-06; Ord. No. 2007-32(07-O-0362), § 4, 6-12-07)

Secs. 158-35—158-60. - Reserved.

DIVISION 2. - TREE CONSERVATION COMMISSION³

Footnotes:

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Charter reference— Boards and commissions, § 3-401.

Cross reference— Boards, councils, commissions and authorities, § 2-1851 et seq.

Sec. 158-61. - Establishment; appointment of members.

There is established a tree conservation commission of the city, referred to in this article as the commission. The commission shall consist of 15 members, eight of which shall be appointed by the mayor and seven by the council. All members shall be confirmed by the city council. Each of the members shall contain specialized knowledge about trees, the Tree Protection Ordinance, and/or the impact of construction activities on trees. The membership shall consist of the following:

- (1) One member shall be appointed by the mayor who is a registered landscape architect.
- (2) One member shall be appointed by the mayor who is either a botanist, forester, horticulturist or nursery worker.
- (3) One member shall be appointed by the mayor who is a registered architect.
- (4) One member shall be appointed by the mayor who is a member of an environmental organization.
- (5) One member shall be appointed by the mayor who is a real estate professional.
- (6) One member shall be appointed by the mayor who is a private arborist.
- (7) Two members shall be lay citizens appointed by the mayor interested in environmental protection.
- (8) One member shall be appointed by the council who is a residential builder.
- (9) One member shall be appointed by the council who is a residential developer.
- (10) One member shall be appointed by the council who is a commercial or industrial developer.

- (11) Three members shall be citizens appointed by the paired districts in consultation with the at-large council member.
- (12) One member shall be an urban planner or an environmental resource planner appointed by the president of council.

(Code 1977, § 10-2041(a); Ord. No. 1998-65, § 1, 9-23-98; Ord. No. 2000-17, § 1, 3-29-00; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2007-32(07-O-0362), § 5, 6-12-07)

Sec. 158-62. - Terms; vacancies; compensation.

- (a) The initial tree conservation commission membership shall contain three members appointed for a term of one year and four members appointed for a term of two years. Thereafter, all subsequent appointments shall be for a term of two years. Members of the tree conservation commission may be appointed for consecutive terms consistent with general laws regulating service on city boards and commissions. The mayor may recommend removal and replacement of a member of the commission for nonperformance of duty. Each member shall receive a \$75.00 per month honorarium, but only if the member attends at least two of the hearings and/or business meetings (or at least one of each) per month. The commission shall select from its members a chairperson to serve for a one-year term.
- (b) The council shall appoint seven of the 15 tree conservation commission members as described in subsection 158-61. With regard to the citizens appointed by the paired districts, pursuant to subsection 158-61(11), the council shall appoint the three members in the following manner:
 - (1) Districts 1, 2, 3 and 4 and at-large post 1.
 - (2) Districts 5, 6, 7 and 8 and at-large post 2.
 - (3) Districts 9, 10, 11 and 12 and at-large post 3.
- (c) In the event that an appointment to fill vacancies by the mayor or council is not made within 60 days of the mayor's or council's request, the president of council can proceed to nominate a person for the position, and the nomination shall be forwarded to the committee on council.
- (d) If a tree conservation commission board position becomes vacant and a member is not appointed pursuant to section 158-61 within six months, the tree conservation commission, by a majority vote of the remaining members, may temporarily appoint someone to the missing category until such time that a permanent board member is appointed as described in section 158-61. The person appointed by the tree conservation commission need not meet the specific requirements of the vacant position, but must contain specialized knowledge about trees, the tree protection ordinance, and/or the impact of construction activities on trees.
- (e) The executive branch shall provide such staff as is required for the efficient operation of the board.

(Code 1977, § 10-2041(b); Ord. No. 2000-17, § 2, 3-29-00; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2007-32(07-O-0362), § 6, 6-12-07)

Sec. 158-63. - Functions; powers; duties.

The functions, powers and duties of the tree conservation commission shall be as follows:

- (1) Assisting the city arborist in establishing and maintaining a record of historic trees, specimen trees and other unique environmentally significant trees within the city.
- (2) Hearing and deciding appeals of decisions of administrative officials as provided in section 158-65.

- (3) Establishing educational and other programs to encourage proper management and maintenance of trees on private property in the city.
- (4) Reviewing and approving the city arboricultural specifications and standards of practice promulgated by the city arborist and city forester and required pursuant to this article.
- (5) Providing consultation and assistance to the city forester in the preparation of the master plan required pursuant to this article.

(Code 1977, § 10-2041(c); Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03)

Sec. 158-64. - Meetings; clerk; court reporter; rules of procedure.

The tree conservation commission shall establish a regular meeting schedule, and all meetings of the commission shall be open to the public. The commission shall have a clerk, designated by the commissioner of the department of planning, development and neighborhood conservation, who shall be a full-time employee of the department. The clerk shall serve as secretary to the commission and shall be responsible for the clerical administration of the appeals process, including the creation and maintenance of files in appeals cases, the filing of documents submitted by the parties to an appeal, and the maintenance of evidence submitted in connection with appeals cases. The clerk shall also direct and supervise the giving of notices required by the commission and by this article in connection with appeals, and shall certify, when necessary, the actions of the commission in such matters. The clerk shall also be responsible for the maintenance and preservation of all records of the commission. The meetings of the tree conservation commission shall be recorded by a court reporter contracted for by the city and paid for by the city from the proceeds of the tree trust fund. The commission shall adopt rules of procedure for the conduct of meetings, hearings and attendance requirements for members.

(Code 1977, § 10-2041(d); Ord. No. 2000-21, § I, 4-12-00; Ord. No. 2000-26, § II, 5-23-00; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2003-113, § 1, 12-10-03)

Sec. 158-65. - Appeals.

(a) *Appeals from the decisions of administrative officials.*

(1) *Who may appeal.*

- a. For a decision by a city administrative official based on the tree protection ordinance regarding tree(s) on private property, an appeal may be made by any person who is aggrieved by the decision and who resides or owns property or a business either within 500 feet or within the NPU of the property on which the tree(s) at issue are located, except that appeals may not be made for decisions made by the city arborist pursuant to subsection 158-101(h) of this article. The appeal may be made only if the appellant is able to identify on the notice of appeal (as described in subsection 158-65(3)c.) the specific section of the tree protection ordinance that the appellant believes was misinterpreted or misapplied by the city administrative official, and the way in which the appellant believes the section should be interpreted or applied; and/or any facts material to the city administrative official's decision that the appellant believes were misinterpreted or misunderstood.
- b. For a decision by a city administrative official based on the tree protection ordinance regarding tree(s) on public property, an appeal may be made by any citizen of Atlanta, any owner of property or a business in Atlanta, and/or any civic association in the neighborhood planning unit in which the tree(s) at issue are located, who is aggrieved by the decision, except that appeals may not be made for decisions made by the city arborist

pursuant to subsection 158-101(h) of this article. The appeal may be made only if the appellant is able to identify on the notice of appeal (as described in subsection 158-65(3)c. the specific section of the tree protection ordinance that the appellant believes was misinterpreted or misapplied by the city administrative official, and the way in which the appellant believes the section should be interpreted or applied; and/or any facts material to the city administrative official's decision that the appellant believes were misinterpreted or misunderstood.

(2) *Timing of appeal.*

- a. Appeals regarding tree(s) on private property must be filed within five calendar days of the city arborist's preliminary decision regarding the tree(s) at issue. At the time that a permit application is filed with the city arborist regarding tree(s) on private property, the city arborist shall pre-post the property on which the tree(s) are located for a minimum of ten calendar days prior to making a preliminary decision. The pre-posting shall indicate to the public that a permit application has been filed. If and when the city arborist grants preliminary approval of the permit application, s/he shall post the property for five working days with a final posting, indicating to the public that preliminary approval has been granted.
- b. Appeals regarding tree(s) on public property must be filed within 15 calendar days of the city arborist's preliminary decision regarding the tree(s) at issue.

(3) *Appeal requirements.*

- a. All appeals must be filed with the clerk of the tree conservation commission.
- b. An appeal shall not be deemed filed until the clerk receives a completed notice of appeal, along with either a \$75.00 administrative fee used to help defray the administrative costs of the appeal or a hardship letter. The hardship letter must explain in detail why the appellant is unable to pay the fee and must be signed by the appellant. At its earliest convenience, but in no event later than at the appeal hearing, the tree conservation commission shall determine whether to waive the \$75.00 fee.
- c. The notice of appeal shall state at a minimum: the name, address, phone number, and email address (if any) of the appellant, and whether the appellant is an Atlanta citizen; if the tree(s) at issue are located on public property and the appellant is not an Atlanta citizen, whether the appellant owns property or a business in Atlanta, and if so, the address; if the tree(s) at issue are located on public property, whether the appellant is a civic association in the neighborhood planning unit in which the tree(s) at issue are located; if the tree(s) at issue are located on private property, whether the appellant owns and/or resides on property or owns a business on property located within 500 feet from the property on which the tree(s) at issue are located; the date of the decision being appealed; the name of the person(s) who filed the permit application about which the appeal is made; the address of the subject property; the specific section of the tree protection ordinance that the appellant believes was misinterpreted or misapplied by the city administrative official, and the way in which the appellant believes the section should be interpreted or applied; and any facts material to the city administrative official's decision that the appellant believes were misinterpreted or misunderstood.
- d. An appeal may challenge the decisions regarding one property only.

(4) *After the appeal is filed.*

- a. Once an appeal is filed, any activity authorized by the decision appealed shall be stayed automatically. Despite the authorization given by the decision appealed, no permits shall be issued, no trees cut, nor earth disturbed.
- b. The tree conservation commission shall fix a reasonable time for the hearing of the appeal and shall give public notice thereof as well as prompt notice in writing to the parties in interest. Public notice shall be given by the clerk of the tree conservation commission in

such a manner as shall be provided for in the rules for appeals adopted by the tree conservation commission, but in no event shall such notice be given less than 15 calendar days before the date of the hearing.

- c. At least two weeks prior to the appeal hearing, each party shall submit to the clerk of the tree conservation commission and the other parties in interest a written summary of their argument and a copy of all documentary evidence supporting their argument. This requirement shall apply to any property owner or resident, on which the subject tree(s) is located, that is not a party to the appeal, and any other person wishing to present evidence at the hearing. The parties shall submit to the tree conservation commission and the other parties in interest all rebuttal arguments and rebuttal documentary evidence at least one week prior to the hearing. Submissions of new evidence at the appeal hearing will not be accepted or considered by the tree conservation commission unless a showing can be made and the tree conservation commission finds that the evidence was not available one week prior to the hearing.

(5) *The appeal hearing.*

- a. At the hearing, any party may appear in person or by an agent or by an attorney.
- b. At least three members of the tree conservation commission must preside over each hearing. The decision on any appeal shall be determined by a majority vote of the tree conservation commission members present and voting on the particular appeal.
- c. The tree conservation commission shall decide the appeal within a reasonable time. All appeals to the tree conservation commission must be concluded or resolved within two months of the initial hearing. If the appeal is not concluded or resolved within that time, the tree conservation commission will issue an "appeal approved" or "appeal denied" final ruling no later than the two month deadline.

(6) *Tree conservation commission's ruling.*

- a. The tree conservation commission shall sustain an appeal upon an express finding that the administrative official's action was based upon an erroneous finding of a material fact or upon an erroneous application of law. If no such finding is made, the tree conservation commission shall deny the appeal. The tree conservation commission shall have the authority to reverse, affirm, wholly or partly, or modify the administrative official's decision being appealed, and to that end shall have all of the powers of the administrative official. These powers shall include, where applicable, the power to direct the issuance of a permit, provided that all requirements imposed by this article and all other applicable laws are met.
- b. In the event that the tree conservation commission rules that recompense and/or a fine should be assessed, but also finds that the amount of recompense owed or fine assessed cannot be paid as a result of financial hardship, the commission shall have the authority to reduce the fine or recompense. The commission shall create written guidelines by which to determine whether and to what extent financial hardship exists. These guidelines shall include a requirement that the person requesting a finding of financial hardship make a written request and provide documentary evidence of such hardship. The specific documents to be provided shall be determined by the commission and listed in the guidelines. The commission shall apply these guidelines consistently any time that a hardship request is made. Where the commission finds, based upon the hardship request, the supporting documentation, and the guidelines, that a financial hardship exists, the commission shall have the authority to reduce or completely eliminate the amount of recompense and/or fine owed, as long as said decision is consistent with the guidelines. The commission shall issue a written decision regarding the financial hardship request and shall provide in writing the basis for that decision.
- c. Any person desiring to appeal a decision of the tree conservation commission under subsection 158-65(b) shall notify the clerk of the commission, in writing, of such intent within six working days of the date of the written decision of the commission. Barring such

notice of intent, the stay on the activity that was the basis for the decision appealed shall be lifted, within the constraints imposed by the commission's ruling.

- (b) *Appeals from decisions of the tree conservation commission.* Any person aggrieved by a decision of the tree conservation commission, or any city official, bureau, office, department or board affected by such decision, may appeal such decision through a writ of certiorari to the Superior Court of Fulton County, pursuant to the procedures set forth by Georgia law. The filing of an appeal in the superior court from any decision of the commission shall not ipso facto act as a supersedes, but the city shall abide by any supersedes granted by Fulton County Superior Court.
- (c) *Fivolous appeals.* An appeal may be dismissed as frivolous by a vote of the commission in advance of the time that would be set for hearing. In such instances, the members of the commission may be polled without meeting. An appeal is frivolous if it clearly appears from the face of the notice of the appeal and the justification set forth, that no facts could be brought forth at a hearing that could sustain such an appeal as a matter of law. In the event that an appeal is dismissed as frivolous, all parties shall be notified in writing by the clerk, and the clerk shall also give immediate notice by telephone, e-mail, or facsimile transmission to the appellant, advising the appellant of his or her right to appeal. Any person desiring to appeal a decision of the commission under subsection 158-65(c) shall notify the clerk of the commission in writing of such intent within three working days of the written decision of the commission. Barring such notice of intent the stay on the activity appealed from shall be lifted.
- (d) *Appeals of cash recompense.* An appeal whose sole purpose is to request an adjustment in cash recompense shall not prohibit the issuance of the arborist's final approval of a plan if the appellant submits with the appeal, a bank certified check, or a money order payable to the City of Atlanta in the amount of the calculated recompense that occasions the appeal. The check or money order shall be retained by the clerk of the tree conservation commission until such time as the appeal is decided. If recompense relief is granted and the arborist has receipt of recompense paid to the City of Atlanta in the recompense amount determined by the appeal, the clerk shall surrender the check or money order to the appellant.

(Code 1977, § 10-2039; Ord. No. 2000-21, § II, 4-12-00; Ord. No. 2000-26, § III, 5-23-00; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2007-32(07-O-0362), § 7, 6-12-07; Ord. No. 2008-25(08-O-0486), § 1, 4-28-08)

Sec. 158-66. - Tree trust fund.

- (a) *Establishment and administration.* The tree conservation commission shall establish a tree trust fund for the protection, maintenance, and regeneration of the trees and other forest resources of Atlanta. During any given fiscal year, five percent of the funds received by the tree trust fund during the immediately preceding fiscal year or \$100,000.00, whichever is greater, shall be placed into a tree trust fund education outreach account ("education account"), and such monies shall be used for educational materials, educational programs, and educational outreach. Any amount not utilized in the given fiscal year shall remain in the account to be utilized in future years. A maximum of \$60,000.00 per year of the fund may be used to pay for the annual salary and benefits of a Tree Commission administrative analyst whose primary responsibility shall be education. In the event that the cost of the salary and benefits exceeds \$60,000.00, the remainder of the cost shall be paid for from the education account. A maximum of \$50,000.00 per year of the fund may be used for costs arising directly from administering and enforcing the tree protection ordinance that would not have arisen in the absence of the tree protection ordinance, including but not limited to the cost of posting trees to be removed, the cost of advertising tree commission hearings, and the cost of court reporter services at tree commission hearings. The honoraria for tree conservation commission members, as described in subsection 158-62(a), may also be paid from the fund.

A maximum of \$75,000.00 per year of the fund may be used to pay for the annual salary and benefits of an office of parks arborist senior position. The person in this position shall act as a project manager for the various projects on city-owned property being paid for by the tree fund, namely new tree

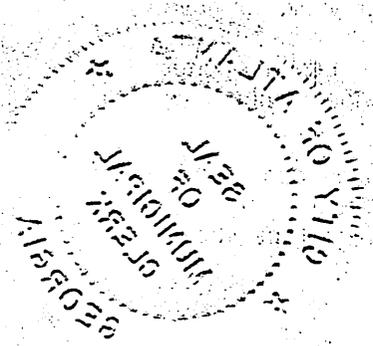
It is hereby certified that the within and foregoing is a true and correct copy of the original as the same appears in the records of the Department of the Interior.

In testimony whereof, the Director of the Bureau of Land Management has hereunto set his hand and the seal of the Department of the Interior at Washington, D.C., this 10th day of August, 1950.

Director, Bureau of Land Management
Department of the Interior
Washington, D.C.

Approved: _____
Special Agent in Charge, Bureau of Land Management

Approved: _____
Assistant Secretary, Department of the Interior



plantings, tree maintenance work, removal of invasive species, and fulfillment of ongoing tree maintenance work orders. The position may also be utilized to prepare for future projects that are paid for by the Tree Fund, such as preparation of RFP's, evaluation of proposals, and performance of research regarding the same. The specific responsibilities of this position shall be determined by the Commissioner of the Department of Parks and Recreation or her/his designee, after consultation with the Tree Conservation Commission.

A maximum of \$110,000.00 per year of the fund may be used to fund the annual salary and benefits of the two arborist positions. In the event that the costs of the salary and benefits positions exceeds \$110,000.00, the remainder of the cost shall be assumed by the general fund budget in the department of city planning.

A maximum of \$200,000.00 per year of the fund may be used to pay for the annual salary and benefits of an office of parks tree trimming crew. The tree trimming crew shall be comprised of one forestry crew supervisor, one tree trimmer senior, and one tree trimmer. The members of this crew will be responsible for providing services that maintain and enhance the health of the city's tree canopy, including trimming, pruning, and limbing trees that are located in city-owned parks and rights-of-way.

- (b) *Procurement of forested property.* As set forth in subsection 158-66(a) above, "protection, maintenance, and regeneration of the trees and other forest resources of Atlanta" shall include procurement of privately-owned forested property. The tree trust fund may be utilized to purchase forested property provided that the following minimum criteria are satisfied:
- (1) The property must contain one or more of the following, as determined by or at the direction of the department of parks and recreation commissioner and the department of city planning commissioner: i) 80 percent or more canopy cover; ii) minimum forestation standards of 1,000 DBH inches; and/or iii) 50 mature trees per acre.
 - (2) The purchase of the forested property must be authorized by a duly-enacted city ordinance, and said ordinance shall include the following:
 - a. The property must explicitly be dedicated and preserved in perpetuity as forested land;
 - b. The property must be available for public use without cost (subject to Atlanta's park rules and other applicable city ordinances);
 - c. Use of the property must be restricted to passive recreational activities with minimal environmental impact, as determined and established in writing by the department of parks and recreation commissioner based on the characteristics of the property; and
 - d. The department of parks and recreation commissioner shall provide a property maintenance plan as an attachment to the ordinance. The plan will describe the types of maintenance that may be needed at the property, will estimate the property's annual maintenance cost, and will identify the source of funding for the estimated annual maintenance cost. To the extent that the commissioner identifies the tree trust fund as the source of maintenance funding, any specific allocation of maintenance dollars from the tree trust fund shall be authorized as a separate procurement or expenditure, in a manner consistent with applicable city ordinances.
 - (3) The department of parks and recreation commissioner and the department of city planning commissioner shall jointly develop a written list of factors and a process for evaluating parcels that may be suitable for acquisition as forested property. An ordinance authorizing procurement of forested property, as described in subsection 158-66(b)(2) above, shall include as attachments an affidavit from each of the two commissioners providing her/his recommendation regarding the procurement based upon these factors.
 - (4) The department of parks commissioner and the department of city planning commissioner shall jointly provide a report to the community development/human resources committee each time a privately-owned afforested property procured by the city, which shall include the amount appropriated from the tree recompense fund and the acreage of the property.

- (c) *Recompense for illegal removal or destruction.* Developers, builders, contractors, homeowners and others who violate the criteria for removal or destruction of section 158-102 shall contribute to the fund the replacement value of the trees illegally removed or destroyed according to the recompense formulas of section 158-34.
- (d) *Recompense for permitted removal or destruction.* Developers, builders, contractors, homeowners and others who are unable to meet the standards for tree replacement and afforestation of section 158-103 shall contribute to the fund the replacement value of the trees removed in excess of the trees replaced in the course of new construction, landscaping, or other permitted activities according to the recompense formulas of subsections 158-103 (b) and (c).
- (e) (*Reserved.*)

(Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2003-113, § 2, 12-10-03; Ord. No. 2007-32(07-O-0362), § 8, 6-12-07; Ord. No. 2008-64(08-O-1260), § 1, 7-30-08; Ord. No. 2008-77(08-O-1716), § 12, 10-14-08; Ord. No. 2011-31(11-O-0901), § 1, 7-14-11; Ord. No. 2013-27(13-O-1088), § 4, 6-26-13; Ord. No. 2016-42(16-O-1353), §§ 1, 2, 11-30-16; Ord. No. 2017-14(17-O-1157), § 6, 4-26-17)

Secs. 158-67—158-100. - Reserved.

DIVISION 3. - REMOVAL AND RELOCATION

Sec. 158-101. - Permit to remove, destroy, or injure.

- (a) *Required.* No person shall directly or indirectly remove or destroy [or injure] any tree located on public property that is subject to the provisions of this article, or any tree having a diameter at breast height (DBH) of six inches or more which is located on private property subject to the provisions of this article, without obtaining a permit as provided in this section.
- (b) *Permits for construction, renovation, demolition.* Permits to remove, destroy, or injure trees for construction, renovation or demolition shall be obtained by making application in a form prescribed by the city to the director of the bureau of buildings.
- (c) *Other permits.* Permits to remove, destroy, or injure trees for safety, landscaping, silvicultural or other purposes shall be obtained by making application to the city arborist. All permits shall be posted for public inspection on site.
 - (1) Applications to remove dead, dying, diseased, or hazardous trees may be made by phone, fax, mail, or other means. Each application shall include the address of the property and the owner's name, phone, and fax number. If applicable, it shall also include the name, phone, and fax number of the tree service proposing to do the work. Each tree shall be identified as to its species, its diameter within two inches of the actual diameter, location and identifying characteristics or added markings. Permits to remove dead, dying, diseased, or hazardous trees shall be approved at the determination of the city arborist. Such permits are not subject to the notice of preliminary approval of subsection 158-101(d), the posting requirements of subsection 158-101(e), the standards for tree replacement or afforestation of subsection 158-103(1), the recompense formulas of subsection 158-103(b), or to public appeal. Applicants may appeal a notice of denial to the tree conservation commission as provided in this article. The permit shall be valid for six months from the date of its issuance, though the city arborist may extend the expiration date of the permit by no more than six additional months based upon extenuating circumstances, as determined by the city arborist.
 - (2) Applications to remove, destroy, or injure trees for landscaping improvements or other purposes shall be accompanied by a tree replacement plan meeting all of the requirements of section 158-103. The work prescribed by an approved tree replacement plan shall be completed within one calendar year. Replacement tree plantings shall be inspected by the city arborist and

verified by the dated signature of the city arborist on the approved plan. Applications to remove, destroy, or injure trees for landscaping and other purposes shall be subject to the notice of preliminary approval of subsection 158-101(d), the posting requirements of subsection 158-101(e), the standards for tree replacement or afforestation of subsection 158-103(a), and the recompense formulas of subsection 158-103(b). Applicants may appeal a notice of denial to the tree conservation commission as provided in this article.

- (3) Applications to remove, destroy, or injure trees for thinning or other silvicultural prescription for forest stand improvement shall be approved at the determination of the city arborist, with or without requirement for tree replacement. Each application shall include a silvicultural prescription that is prepared by a private arborist. Payment of recompense for tree(s) on private property, and tree replacement for tree(s) on public property, is required for trees included in any silvicultural prescription that includes timber harvesting or stand improvement, except in cases where the intended harvesting or stand improvement is to reduce or prevent the spread of pests or disease. Applications to remove, destroy, or injure trees for silvicultural purposes shall be subject to the notice of preliminary approval of subsection 158-101(d), the posting requirements of subsection 158-101(e), the standards for tree replacement or afforestation of subsection 158-103(a), if applicable, and the recompense formulas of subsection 158-103(b). Applicants may appeal a notice of denial to the tree conservation commission as provided in this article.
- (d) *Application review; notice of preliminary approval or denial of permit to remove, destroy, or injure trees.* Upon receipt of a complete application by the city to remove, destroy, or injure trees for construction, renovation, demolition, landscaping, silviculture, or other non-safety related purposes, the city arborist shall review the application pursuant to the requirements of this article. The city arborist shall either give a notice of preliminary approval of the application if the application meets the requirements of this article, or shall give a notice of denial of the application if the application fails to meet the requirements of this article. The city arborist shall submit copies of such notices promptly to the clerk. The city arborist may impose conditions to the issuance of the permit consistent with this article. An applicant may submit a new application at any time after a notice of denial of an application under this chapter. An applicant may appeal the notice of denial to the tree conservation commission as provided in this article. Any person aggrieved by the notice of preliminary approval may also appeal to the tree conservation commission.
- (e) *Posting.*
 - (1) For trees located on private property, two postings shall be required. The first posting shall remain for a minimum of ten calendar days and shall notify the public that an application to remove the designated tree(s) was filed with the city. The city will not accept any appeals filed within this ten day notice period. The second posting, providing notice of preliminary approval, shall be made if and when the city issues preliminary approval of the application to remove the designated tree(s) from private property. This second posting shall not begin until after the first posting is removed. The second posting shall remain in place for five business days, during which time the city will accept appeals.
 - (2) For trees located on public property, only one posting shall be required. The posting shall indicate the issuance of a notice of preliminary approval of the designated public property tree(s), and shall remain in place for 15 calendar days, during which time the city will accept appeals.
 - (3) Immediately after an applicant receives preliminary approval for removal of a tree on public or private property, s/he shall mark all trees to be removed, destroyed, or injured.
 - (4) The notice of preliminary approval for both public and private property trees, shall be posted in the office of the city arborist that is ruling on the removal permit (either the office of planning or the office of parks), on the City of Atlanta website (www.atlantaga.gov), and in a prominent manner upon the property affected so that it may be seen and read by passers-by. The notice of preliminary approval shall inform any reader that an appeal may be filed with the clerk of the tree conservation commission, and shall indicate the deadline by which the appeal must be

filed. The notice shall further indicate that the failure to appeal within the designated time period will result in the issuance of the removal permit without further right of appeal. If the notice of preliminary approval is not [posted as required by this section, no permit shall be issued. The commission] may provide further additional rules regarding the manner and method of posting to the extent that such rule is consistent with the requirements of this section.

- (f) *Time limits.* For tree(s) on public property, if no appeal is filed within 15 calendar days from the date of posting of a notice of preliminary approval upon the affected property, then the permit shall be issued in accordance with the terms of said notice of preliminary approval. For tree(s) on private property, if no appeal is filed within five working days from the date of posting of a notice of preliminary approval upon the affected property, then the permit shall be issued in accordance with the terms of said notice of preliminary approval. In the event that an appeal is filed within 15 calendar days for tree(s) on public property, or five working days for tree(s) on private property, from the date of posting of a notice of preliminary approval upon the affected property, no permit shall be issued until the sixth business day after the date of the tree conservation commission's written decision on the appeal, or until the appeal is voluntarily dismissed, whichever is earlier. At that time, the stay shall expire, unless a notice of intent to appeal the tree conservation commission's decision (if any) to the superior court is filed with the clerk of the tree conservation commission pursuant to subsection 158-65(a).
- (g) *Finality.* Once a permit has been issued in accordance with the procedures set forth in this section there can be no further appeal of the arborist's decision, except as provided in subsection 158-65(b) of this article pertaining to appeals to superior court.
- (h) *Minor amendments.* After the time for appeals has expired with respect to any notice of preliminary approval, the city arborist may approve minor amendments to the permit without there being any new right of appeal from such approval, provided that the arborist, in connection with such approval, shall certify in writing to the following, which certification shall be attached to the permitted amendments:
 - (1) That the amendments do not alter or amend any rulings of the tree conservation commission made in connection with the particular case; and
 - (2) That the amendments do not affect any trees on the property in question which are eligible under this article to be designated historic or specimen trees; and
 - (3) That the amendments in the aggregate do not increase by more than ten percent either the total number or the total DBH of the trees permitted for removal or destruction.
- (i) *Permit for tree removal based upon location to house.* The provisions set forth in subsections 158-101(b) through 158-101(h) shall not apply to permits issued pursuant to this subsection 158-101(i). The provisions provided below in this subsection shall pertain to this subsection 158-101(i) only. The city arborist may issue a permit to remove any tree located on private property within five feet of the structural foundation of an existing single family residential dwelling structure or duplex located on property subject to the provisions of this article, subject to the following:
 - (1) The owner of the property on which the subject tree is located has submitted an application to the city arborist in a form prescribed by the city arborist.
 - (2) The application is not for the removal of a boundary tree unless the adjoining property owner is a co-applicant for the permit.
 - (3) The application is not for the removal of a right-of-way tree or any other public tree. For the purpose of this section a right-of-way tree is a tree deemed by the arborist to have majority of its root system in the public right-of-way.
 - (4) There has been no removal of a tree pursuant to this subsection 158-101(i) for five years from the date of an application previously approved pursuant to this subsection, unless the tree(s) previously permitted and removed was leaning by greater than 20 degrees, as measured at breast height of the tree, toward an existing single family residential dwelling structure or duplex located on the subject property. The five year time period between a previously approved application and a new application shall apply to the property and shall not be affected by any

change of ownership or reconfiguration of the property boundaries. Any property which is combined with any part of any other property which has already removed a tree pursuant to this subsection within the five-year time period shall not be eligible for removal under this subsection. In the event that a lot with reconfigured property lines has received more than one approval under this subsection, the latest approved application shall be considered for deciding when a new application may be received.

- (5) No lot of record which is not developed with a single family residential structure or duplex within its property lines shall be granted a permit to remove a tree pursuant to this subsection regardless of whether the zoning of the property will only allow the development of single family residences or duplexes on the property.
 - (6) When determining the distance of the tree from the structure, the tree shall be measured at the base of the tree, where the trunk of the tree meets the ground, on the side of the tree that is closest to the structure at issue.
 - (7) When determining the location of the foundation of the structure at issue, any portion of the structure constructed on piers or pilings shall not be deemed to be part of the foundation.
 - (8) No posting of the property is required prior to the issuance of a permit.
 - (9) Only the property owner shall have appeal rights associated with the permit. such appeal rights shall be as set forth in section 158-65 of this article.
 - (10) Where a permit is issued, the property owner shall not be required to replace the tree or pay recompense, except that where removal of the tree will result in the loss of ten percent or more of the tree canopy on the subject property, as determined by the city arborist, issuance of the permit shall be contingent upon the property owner's planting a replacement tree(s) on the subject property pursuant to the criteria set forth in this article.
 - (11) Where a tree is removed without a permit, recompense and fines shall be calculated and owed as prescribed throughout the tree protection ordinance, even if the property would have been eligible for a tree removal permit pursuant to this subsection 158-101(i).
 - (12) The city arborist shall not issue a permit if the tree at issue is located on property that was the subject of a violation of the tree protection ordinance within one year of the filing of the permit application.
- (j) *Permit for tree removal based upon compliance with federal consent decrees.* The provisions set forth in subsections 158-101(b) through 158-101(i) shall not apply to permits issued pursuant to this subsection 158-101(j). The provisions provided below in this subsection shall pertain to this subsection 158-101(j) only.
- (1) The city arborist in the department of city planning may issue a permit to the department of watershed management to remove, destroy, or injure any private property tree, including without limitation trees located on city easements over private property, when such removal, destruction, or injury is performed as a result of the City of Atlanta's compliance with the CSO Consent Decree entered in Civil Action No. 1:95-CV-2550-TWT (U.S. District Court, Northern District of Georgia), and/or with the First Amended Consent Decree entered in Civil Action No. 1:98-CV-1956-TWT (U.S. District Court, Northern District of Georgia) (for purposes of this subsection (j), collectively the "decrees" or the "consent decrees"), provided that the following requirements are met:
 - a. The city's department of watershed management has submitted an application to the city arborist in the department of city planning in a form prescribed by said city arborist.
 - b. For trees located within a city easement that are not boundary trees, the department of watershed management may destroy, remove and/or injure trees as prescribed in section 158-103(c)(6) of this tree protection ordinance, except that the number of trees to be destroyed, removed and/or injured may be determined by acre rather than by tree per tree or sampling techniques, and except that specimen trees need not be identified. A maximum shall be set on recompense at \$5,000.00 per acre, prorated. A site plan drawn to

scale shall be required for these trees showing locations impacted by acre, but not showing individually impacted trees. No survey shall be required. For purposes of this section 158-101(j), the city shall be deemed to have an easement on land above city sewer lines.

- c. The department of watershed management shall submit a site plan that meets the standards set forth in 158-105 of the tree protection ordinance for: 1) destruction or removal of or injury to a boundary tree located on a city easement whose subject boundary abuts private property or public property; or 2) destruction or removal of or injury to a boundary tree whose structural root plate extends from private property or public property into the city easement; and 3) destruction or removal of or injury to all other private property trees. This site plan must include each tree's critical root zone, structural root plate, whether it's a boundary tree, silvicultural prescriptions to be used if applicable, and the construction methodology to be utilized by location. It shall also provide a calculation of the percentage of impact on each tree that is not removed. A survey shall be required showing all impacted trees falling within this category, though the survey may be performed by GPS coordinates, via a sketch describing each tree and showing its DBH. The sketch need not be performed by a registered surveyor or landscape architect. The application shall include recompense calculations, and proposed plantings of new trees. The city shall give recompense credit to the department of watershed management for newly planted trees only if the replanting requirements set forth in the tree protection ordinance are met (other than those requirements set forth in subsections 158-101(b) through 158-101(i)), but shall not give any recompense credit for new trees planted within the city's easement. The department of watershed management shall not be required to replant trees within a city easement.
 - d. Except for trees located within a city easement that are not boundary trees, the department of watershed management's site plan must designate all specimen trees. The department of city planning 's city arborist may discuss with the department of watershed management alternative routes for the work to be performed that may allow the specimen tree to survive, though the city arborist may not deny the removal/destruction application in the event that the department of watershed management does not agree upon an alternative route.
 - e. In the event that a public property tree, as defined in section 158-26 above, is located in part on a city easement or other private property, the permitting decision shall be made by the city arborist in the department of parks and recreation.
- (2) The city arborist in the department of parks, recreation, and cultural affairs may issue a permit to the department of watershed management to remove, destroy, and/or injure any public property tree, including without limitation trees located on city parks, streets, sidewalks, and other property owned by the City of Atlanta, when such removal, destruction, or injury is performed as a result of the City of Atlanta's compliance with the consent decrees, provided that the following requirements are met:
- a. The city's department of watershed management has submitted an application to the city arborist in the department of parks, recreation, and cultural affairs in a form prescribed by said city arborist, provided that applications may be made by projects, as defined in the consent decrees. Applications may be made on a quarterly basis provided that the application for each tree to be removed is submitted and approved prior to the tree's removal.
 - b. For destruction or removal of or injury to a public property tree, the department of watershed management shall submit a site plan drawn to scale that meets the standards set forth in 158-105 of the tree protection ordinance. This site plan must include each tree's critical root zone, structural root plate, size, species, silvicultural prescriptions to be used if applicable, and the construction methodology to be utilized by location. It shall also provide a calculation of the percentage of impact on each tree that is not removed. A survey shall be required showing all impacted trees falling within this category, though the survey may be performed by GPS coordinates, via a sketch describing each tree and showing its DBH.

The sketch need not be performed by a registered surveyor or landscape architect. The application shall include tree DBH inches removed, and proposed plantings of new trees.

- c. The department of watershed management's site plan for public property trees must designate all specimen trees. The office of parks' city arborist may discuss with the department of watershed management alternative routes for the work to be performed that may allow the specimen tree to survive, though the city arborist may not deny the removal/destruction application in the event that the department of watershed management does not agree upon an alternative route.
- d. In the event that a private property tree, as defined in section 158-26 above, is located in part on city-owned property, the permitting decision shall be made by the city arborist in the department of city planning .
- e. The department of watershed management must replace all public property trees that it destroys, removes, or injures on public property owned by the City of Atlanta, such that the DBH of the replacement trees is equal to or greater than the cumulative DBH of the trees removed, destroyed, and/or injured. The city shall give credit to the department of watershed management for newly planted trees only if the replanting requirements set forth in the tree protection ordinance are met (other than those requirements set forth in subsections 158-101(b) through 158-101(i)), with the following exceptions:
 - i. The replacement trees need not be located within the same NPU district or within one mile of the NPU boundary from which the tree was removed, destroyed or injured, as prescribed by section 158-103. For purposes of this section, the city arborist shall consider the entire city for purposes of eligible areas for replanting.
 - ii. The city arborist in the department of parks, recreation, and cultural affairs need not approve a tree replacement plan prior to issuing a tree removal permit, provided that:
 - (a) The commissioner of the department of watershed management or her/his designee, working in good faith cooperation with the director of the office of parks or her/his designee, is unable to identify locations in which to plant the requisite number of replacement trees at the time of granting the tree removal permit.
 - (b) The director of the office of parks, or her/his designee, calculates the number of caliper inches of trees that must be replanted in order to satisfy the tree protection ordinance's inch per inch replacement requirement. S/he shall communicate that number in writing to the commissioner of the department of watershed management or her/his designee.
 - (c) The department of watershed management agrees to plant, at its own expense, the requisite number of trees, as calculated by caliper inch, within the time frame described in the immediately following subsection (d). It shall be the responsibility of the department of watershed management to identify potential sites for replanting, but upon request, the director of the office of parks, or her/his designee, shall make a good faith attempt to assist the department of watershed management with this task. The exact location of the replacement trees, the type of trees, and the size of each tree must be approved by the director of the office of parks or her/his designee prior to the trees being planted. The director of the office of parks shall forward this replanting information to the impacted councilmember for review. The department of watershed management shall guarantee the life of each replacement tree for two years from the time of planting.
 - (d) The commissioner of the department of watershed management and the commissioner of the department of parks, recreation, and cultural affairs enter a letter of understanding that accompanies each decree tree removal permit (as defined below). The letter of understanding must set forth those replacement inches for which locations have already been identified, and additionally the

number of caliper inches that the department of watershed management must and agrees to plant by a date certain but for which locations have not yet been located. The date certain shall be no greater than one year after the effective date of the decree tree removal permit, except that under extenuating circumstances, the commissioner or her/his designee may approve an extension. The letter of understanding shall also include the requirements set forth in subsection (c) immediately preceding this subsection (d).

- (e) The department of watershed management prepares an annual report showing, for each project for which a letter of understanding was executed, the number of trees planted, the size by caliper inch of each tree planted, the type of each tree planted, the approximate date of planting, and the remaining balance of trees for each application. This report shall be submitted to the director of the office of parks by no later than May 1 of each year.
- iii. The city arborist need not require the replacement trees to meet the descriptions set forth in section 158-103, but rather may give replacement tree credit as follows:
 - (a) For replacement trees that meet the requirements of section 158-103, the replacement credit shall be the DBH of the replacement tree.
 - (b) The department of watershed management may plant understory trees on public property for the purpose of restoring stream banks or other environmentally sensitive areas. The replacement credit shall be the DBH of the replacement tree.
 - (c) The department of watershed management may be given replacement credit for planting a live stake on public property for the purpose of stream bank erosion control, stream bank stabilization, or stream or wetland restoration. The replacement credit shall be the DBH of the live stake, except that a live stake with a DBH that is less than one caliper inch shall be credited as one caliper inch.
 - (d) The department of watershed management may be given replacement credit for removal of invasive species from trees on public property where the species threatens the life of the tree. The replacement credit shall be the DBH of the tree saved.
- (3) The following provisions shall apply to the issuance of tree removal permits by the city arborist in the department of city planning and in the department of parks, recreation, and cultural affairs, where the removal or destruction of a tree is performed as a result of City of Atlanta compliance with the consent decrees ("decree tree removal permit"):
 - a. Sections 158-101(j)(1) and (2) above notwithstanding, no city arborist shall require the department of watershed management, as part of its decree tree removal permit application, to produce evidence of consent by a private property owner regarding removal or destruction of a tree that impacts said private property owner's property. Impact of tree removal from privately owned property will be addressed directly by the department of watershed management.
 - b. No posting of the property is required prior to the issuance of a decree tree removal permit.
 - c. There is no appeal right associated with a decree tree removal permit. The tree conservation commission shall not have the authority to hear or in any other way consider an appeal regarding the granting or denial of such permit.
 - d. The department of watershed management may not remove, destroy, or injure any private property tree or public property tree in order to comply with the consent decrees prior to being issued a decree tree removal permit by the city arborist in the department of city planning , or in the department of parks, recreation, and cultural affairs respectively.
 - e. Where a tree is removed, destroyed, or injured without a decree tree removal permit during work related to the decrees, the department of watershed management must report the

removal, destruction, or injury to a city arborist by the close of the following business day. In such instance, the appropriate city arborist shall calculate the recompense due and/or tree replacement required. Where a city arborist learns of a decree-related tree removal or destruction caused and not timely reported by the department of watershed management or its contractor/subcontractor, the appropriate city arborist shall issue penalties pursuant to section 158-34 above, and shall also require that recompense be paid and/or replacement be performed.

(Code 1977, § 10-2037(a)—(c); Ord. No. 2000-4, 1-27-00; Ord. No. 2000-21, §§ III, IV, 4-12-00; Ord. No. 2000-26, § IV, V, 5-23-00; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2006-04, § 4, 2-14-06; Ord. No. 2007-32(07-O-0362), §§ 9—11, 19, 6-12-07; Ord. No. 2007-38(07-O-1101), § 1, 6-26-07; Ord. No. 2008-25(08-O-0486), § 2, 4-28-08; Ord. No. 2009-13 (09-O-0399), § 2, 3-24-09; Ord. No. 2013-27(13-O-1088), § 4, 6-26-13; Ord. No. 2017-14(17-O-1157), § 6, 4-26-17)

Sec. 158-102. - Criteria for removal, destruction or injury.

- (a) No permit shall be issued for the removal, destruction, or injury of any living and non-hazardous tree unless:
- (1) A tree replacement plan meeting the requirements of section 158-103 has been approved;
 - (2) All other requirements of this article are met; and
 - (3) One of the following conditions exists:
 - a. The tree is located within the buildable area of the lot and the applicant has been granted a building, landscaping, or other permit to make improvements otherwise permissible under all applicable ordinances of the city;
 - b. The tree is located in that portion of the setback or required yard area of the lot that must be used for vehicular ingress and egress or for the installation of utilities that cannot be accomplished in a manner allowing preservation of the tree;
 - c. The tree is diseased or injured to the extent that death is imminent within two years, or is in imminent danger of falling, or is so close to existing or proposed buildings so as to endanger them, or physically interferes with utility services in a manner that cannot be corrected by anything less than destruction or removal of the tree, or creates unsafe vehicular visual clearance, or is otherwise deemed a hazard by the city arborist or city forester;
 - d. The tree removal qualifies for a permit pursuant to section 158-101(i) or section 158-101(j).
- (b) The following species of trees, if 12 inches or smaller DBH and located on private property, are exempt from the posting, replacement, and recompense portions of this article, and from section 158-102(a)(3) of this article whereby a property owner may remove the tree located on her/his property without posting, replacing the tree or paying recompense: Mimosa - Albizia julibrissin; Tree of heaven - Ailanthus altissima; White mulberry - Morus alba; Paper mulberry - Broussonetia papyrifera; Chinaberry - Melia azederach; Princess tree - Paulownia tomentosa; Carolina cherry laurel - Prunus caroliniana; Bradford Pear - Pyrus calleryana; Leyland cypress -x Cupressocyparis leylandii. Where such species of tree is larger than 12 inches DBH and located on private property, the property owner need not post the tree, and need only replace the tree or pay recompense if the tree cover on the lot from which the tree is removed is less than the minimum tree cover per zoning district, as set forth in section 158-103(g). Removal of trees of one of the above-listed species, where the tree is six inches DBH or larger, requires the homeowner to apply for and receive a permit from the office of buildings, and said application must include:
- (1) At least two pictures of the tree at issue that identify the species of tree; and

- (2) A site plan showing the appropriate zoning information of the property; and
- (3) A tree survey including but not limited to location, quantity, types and DBH, prepared by ISA certified arborists or landscape architects.

(Code 1977, § 10-2037(d); Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2006-04, § 1, 2-14-06; Ord. No. 2007-32(07-O-0362), §§ 10, 18, 6-12-07; Ord. No. 2009-13 (09-O-0399), § 3, 3-24-09)

Sec. 158-103. - Standards for tree replacement and afforestation.

(a) *Minimal impact on trees; replacement trees.* Each applicant for a permit to remove, destroy or injure trees shall, to the maximum extent feasible, minimize the impact on the trees on the site. The applicant shall plant replacement trees on site that equal the total number of trees being removed, destroyed, or injured, provided that where the removed, destroyed or injured trees were located on public property, the cumulative DBH of the replacement trees shall be equal to or greater than the cumulative DBH of the trees removed, destroyed and/or injured. Where construction of improvements or existing dense tree cover precludes the planting of the total number of replacement trees required on the site, the city arborist may approve a plan which results in the planting of the number of trees on the site which can reasonably be expected to be accommodated in a manner which will allow mature growth of the replacement trees. The remainder of the total number of trees may be planted in a local park, on public lands, or along right-of-ways, subject to approval of the City of Atlanta Parks Department, provided such plantings are within the same NPU district or within one mile of the NPU boundary.

- (1) Where appropriate site conditions exist, replacement trees shall be overstory or mid-canopy species. Understory trees shall be permitted where site conditions do not allow the planting of overstory or mid-canopy trees. Overstory trees shall be planted at a minimum 35 feet on center. Mid-canopy trees shall be planted at a minimum 25 feet on center. Understory trees shall be planted at a minimum 15 feet on center. Certain columnar species used primarily for screening may be accepted for partial recompense in accord with the planting distance established for understory trees.
- (2) The following species of trees may not be used as replacement trees: Mimosa - Albizia julibrissin; Tree of heaven - Ailanthus altissima; White mulberry - Morus alba; Paper mulberry - Broussonetia papyrifera; Chinaberry - Melia azederach; Princess tree - Paulownia tomentosa; Carolina cherry laurel - Prunus caroliniana; Bradford Pear - Pyrus calleryana; Leyland cypress - x Cupressocyparis leylandii. In addition, no recompense credit shall be provided for the planting of said species of trees.

(b) *Recompense.* The difference between the number of trees removed, destroyed or injured (Nrem) and the number of trees replaced (Nrep) on a site times the established recompense value shall be calculated as partial recompense to the tree trust fund. In addition, the difference between the total diameter at breast height of the trees removed or destroyed (TDBHrem) and the total caliper inches of the trees replaced on site (TCIrep), as indicated on the approved tree replacement plan, shall be calculated as partial recompense to the tree trust fund. Total recompense(R) shall be calculated according to the formula

$$R = \$100.00 (Nrem - Nrep) + \$30.00 (TDBHrem - TCIrep), C \geq 0$$

(c) *Limits and adjustments.*

- (1) For recompense purposes of this section, all trees except pines with a minimum DBH of six inches shall be included in the formula. Pines with a minimum DBH of 12 inches shall be included in the formula.
- (2) For new subdivisions, new lots of record, and vacant lots, a maximum shall be set on recompense at a pro rated per acre basis by zoning classification as tabulated below, provided

that no less than the specified minimum of existing trees, by total DBH inches, are retained on a site. Credit based on the established recompense value formula will be given for trees planted. This credit may be subtracted from maximum recompense per acre, provided trees are spaced at no more than one tree per 400 square feet.

Table 158-103

Zoning	Minimum Trees Retained (Total DBH Inches)	Maximum Recompense Per Acre
R-1	45%	\$10,000.00
R-2	40%	\$10,000.00
R-2A	40%	\$7,500.00
R-3, R-3A	35%	\$7,500.00
R-4, R-4A, R-G, R-LC	30%	\$5,000.00
RG-4, RG-5	10%/20%*	\$10,000.00
R-4B	10%/20%*	\$5,000.00
R-5	10%/30%*	\$5,000.00
O & I, C (1-5), I (1&2)	10%	\$10,000.00
PD, PD-H, PD-MU, PD-OC, PD-BP, SPI Districts, Landmark Districts, and other special zoning categories**	Treat according to underlying zoning categories	Treat according to underlying zoning categories

*Vacant lots shall be based upon the lower Minimum Trees Retained total DBH inches, new subdivisions and new lots of record shall be based upon the higher Minimum Trees Retained total DBH inches.

**Where an underlying zoning category does not apply, the Minimum Trees Retained (MTR) for planned developments shall be derived by multiplying the required percentage of the site required to be retained in pervious area by a factor of .60 which will establish the Minimum Trees Retained percentage (MTR%). This amount shall be calculated according to the formula:

$$\text{Required Pervious Area (K)} \times .60 = \text{MTR\%}$$

Maximum Recompense Per Acre = \$10,000.00

- (3) Provided that no less than the specified minimum of existing trees, by total DBH, are retained on a site in accordance with Table 158-103 then the maximum recompense per acre may be further reduced by the replanting of new trees. Adjusted maximum recompense per acre (AMRPA) shall be calculated according to the formula:

Reduction from MRPA = \$100.00 (Nrep) + \$30.00 (TCIrep)

AMRPA = MRPA - Reduction from MRPA

- (4) For sales housing units which have a pro-forma sales price equal to or less than 1.5 times median family income as defined by the United States Department of Housing and Urban Development, the percent of minimum trees retained may be reduced to 50 percent of the above percentage values in order to qualify for maximum recompense per acre.
- (5) For sales housing units which have a pro-forma sales price greater than one and one-half times median family income but not exceeding two and one-half times median family income as defined by the United States Department of Housing and Urban Development, the percent of minimum trees retained may be reduced to 75 percent of the above percentage values in order to qualify for maximum recompense per acre.
- (6) For trees removed in the required construction of streets and related infrastructure in new subdivisions or other planned developments, a maximum shall be set on recompense at \$5,000.00 per acre, pro rated. Credit based on the established recompense value formula shall be given for trees planted. This credit may be subtracted from maximum recompense per acre, provided trees are spaced at no more than one tree per 400 square feet. For infrastructure development that requires disturbance of one acre or more, a recognized sampling technique performed and certified by a registered forester may be substituted for an actual count of the trees to be removed. All specimen trees must be identified by species and location regardless of the counting procedure adopted.
- (7) Conservation easements [and fee simple donations] (section 158-32) that result in the preservation of wooded lands, or newly created wooded parkland afforested to 100 inches DBH per acre, and that are perpetual in duration shall receive a credit of \$20,000.00 per acre, pro rated, against recompense fees. Natural water detention areas established in lieu of the construction of detention ponds shall qualify as conservation easements if so deeded as a conservation easement. In addition, a fee simple donation of land that is afforested to 100 inches DBH per acre, and that is accepted by the city, will receive a credit of \$20,000.00 per acre, pro rated, against recompense fees, but only if the city dedicates the land for a use that will preserve the land in its natural scenic landscape or in a forest use.
- (8) For rental housing units that have at least 20 percent of the total number of residential units constructed being within the ability to pay of those households whose annual incomes do not exceed 60 percent of the median family income for the Atlanta metropolitan statistical area, the percent of minimum trees retained may be reduced to 50 percent of the above percentage values in order to qualify for maximum recompense per acre.
- (d) An impacted tree will not be considered destroyed and will not be charged recompense only if all the following are met:
- (1) Tree save fencing is established and maintained to protect at least 67 percent of the root save area, and the structural root plate is not disturbed.
- (2) An ISA certified arborist or registered forester is retained to prescribe and monitor the implementation of measures to maximize the survival and protection of the tree, including but not limited to root pruning, canopy pruning, mulching, watering, fertilization, and enhanced protective fencing.
- (3) The prescription of the retained arborist is approved by the city arborist or city forester in advance of construction.

- (4) A report on the effectiveness of the prescribed measures is submitted by the retained arborist to the city arborist or city forester prior to issuance of a certificate of occupancy.
- (e) A lost tree shall be charged recompense regardless of whether or not it is removed from the site.
- (f) The city arborist shall prepare a quarterly report to be presented to the tree conservation commission. The report shall include the total number and DBH of trees removed and/or the total number and DBH of trees replanted during the preceding quarter in each of the following categories: maximum recompense per acre, dead/dying/diseased/hazardous removal, landscaping permit, silvicultural removal, buildable area removal, parking lots, illegal removal, off-site planting, or any other permit or penalty category not listed. The report shall also include acreage, total number of trees and total DBH for any newly created conservation easements or newly created parklands.
- (g) *Minimum tree cover.* In any request for a permit for construction in which no trees are proposed to be removed, or in cases where trees are being removed but the total tree cover on the lot is less than the minimum tree cover per zoning district, the city arborist shall require an afforestation standard such that the minimum tree cover per zoning district is satisfied, provided that all such trees so planted can reasonably be expected to be accommodated in a manner which will allow mature growth of the new trees.

Tree replacements per zoning district and the minimum required tree coverage (TDBH + TCI) on a site, regardless of any loss of trees, are as follows:

R-5, R-4-A and R-4-B districts: 35 inches per acre

R-3, R-3-A and R-4 districts: 40 inches per acre

R-2 and R-2-A districts: 100 inches per acre

R-1 districts: 150 inches per acre

RG, PD and all other districts: 90 inches per acre

Replacement trees shall be a minimum of two and one-half inches in caliper. Regardless of caliper or diameter at breast height, replacement trees shall not subsequently be removed or destroyed without a permit from the city arborist.

- (h) *Planting priority.* The location of tree plantings required by this section normally shall be prioritized as follows:
- (1) *Heat islands.* Streets and other external heat islands shall be shaded by new or existing trees at a spacing not to exceed 35 feet on center on average, with a minimum of two trees per lot when feasible. Street trees shall be planted as close to the street as is practicable. Internal heat islands shall be shaded at a minimum rate of one tree per 750 square feet of heat island area.
 - (2) *Soil stabilization.* Replacement trees shall next be planted on steep slopes and other erodible areas and on the banks of wetlands and waterways.
 - (3) Following satisfaction of priorities (1) and (2), the applicant shall have discretion to satisfy additional tree planting requirements either by planting on the subject site, on another location approved by the city arborist, or by contributing the appropriate amount to the tree trust fund.

(Code 1977, § 10-2037(e); Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2004-02, 1-12-04; Ord. No. 2006-04, §§ 2, 6, 2-14-06; Ord. No. 2007-32(07-O-0362), §§ 9, 10, 12, 6-12-07)

Sec. 158-104. - Protection of trees.

- (a) The city arborist shall require that improvements be located so as to result the protection of the trees on the site. It is the specific intent of this section to require that damage to trees located within

the setback and required yard areas and to trees located on abutting properties owned by others be minimized to the greatest degree possible under the particular circumstances, as determined by the city arborist according to the following guidelines:

- (1) On lots and subdivisions of one acre or more, the applicant shall identify environmentally sensitive areas as part of the site plan required in section 158-105 below. Such areas shall include wetlands, floodplains, permanent and intermittent streams, stands of trees and other significant aspects of the natural environment on site. Limits of disturbance to these areas shall be established and detailed on the site plan. In order to protect the more environmentally sensitive areas, development shall be confined to the portion of the lot required for the intended construction.
- (2) On lots and subdivisions of less than one acre, root save areas shall be established in the setback and required yard areas to preserve trees in those areas. Grading, trenching, or other land disturbance in these areas shall be limited to necessary hydrologic and erosion control measures and access corridors to streets, utility connections, or other features required by code. In order to protect the trees in the setback and required yard areas, building shall be confined to the portion of the lot required for the intended construction.
- (3) A maximum of ten percent of the trees in a designated wetland or 100-year floodplain may be approved for removal or destruction.

(Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2006-04, § 3, 2-14-06; Ord. No. 2007-32(07-O-0362), § 13, 6-12-07)

Sec. 158-105. - Site plan required.

- (a) *General requirements.* The site plan shall include a tree survey identifying the size, species and location of all trees having a diameter at breast height (DBH) of six inches or greater. Such site plan shall contain topographic information at two-foot contour intervals and shall show all existing and proposed buildings and structures, driveways and parking areas, drainage structures, water detention areas, utilities, construction material staging grounds and all areas of required cut and fill. Single family lots of record may be exempt from the requirement of the topographic survey provided that no grading or cut or fill or other changes in topography will occur. Such plan shall denote each tree to be saved, lost or destroyed, the percentage of root save area that will be impacted, the required tree protection fences for trees to be saved, and the proposed tree replacement plan. The proposed tree replacement plan shall set forth the manner in which the newly planted trees will be watered, for example, manually, drip irrigation, Gator bags, etc. In addition, the proposed tree replacement plan shall have attached a copy of a paid maintenance contract if applicable. Pines of less than 12 inches DBH are exempted from being denoted on the tree survey. A construction limit line shall be delineated on each site plan submitted for a building permit. Within the construction limit line, the tree replacement requirements of this article shall be shown. Outside this limit line, no tree survey shall be required, and the applicant shall be required to leave undisturbed all areas of trees.
- (b) *Boundary trees.* Boundary trees shall be included in the site plan. The on-site portion of the root save area of a boundary tree shall be enclosed in a tree protection fence according to established arboricultural standards. In consultation with the owner or owner's representative of a boundary tree, the city arborist may prescribe and the applicant shall institute additional protective measures to limit impact on the tree during construction, including but not limited to watering regimes, root treatments, mulching, deadwood removal and protective pruning.

(Code 1977, § 10-2037(g); Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2006-04, § 4, 2-14-06; Ord. No. 2007-32(07-O-0362), § 14, 6-12-07)

Sec. 158-106. - Preconstruction conference.

Upon approval of any permit for grading, demolition or construction, no work shall commence, no grading shall be undertaken and no trees shall be removed prior to a preconstruction conference on the site between the city arborist and the applicant or their designees. The city arborist shall inspect the site to assure the accuracy of permit application data and shall inspect tree protection fences and other protective devices which have been installed to protect trees. After the inspection is complete, the city arborist shall notify the director, and thereupon demolition, grading and construction may proceed. It is further provided that for any permit for an addition to a one-family or two-family residence, the city arborist may rely on data submitted in the application and certified by the applicant for the building permit in lieu of a preconstruction conference on the site.

(Code 1977, § 10-2037(h); Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03)

Sec. 158-107. - Certificates of occupancy.

No certificate of occupancy shall be issued by the director, bureau of buildings with respect to any permit unless and until the city arborist shall have inspected such site and confirmed that all replacement trees have been planted in accordance with this article.

(Code 1977, § 10-2037(i); Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03)

Sec. 158-108. - Maintenance of trees.

The owner shall be responsible for maintaining the health of all replacement trees for a period of two years from the date of planting. The owner shall replace any tree which dies during this time period. Subsequent applicants for a building permit entailing no additional loss of trees on a site that has been certified as compliant by the city arborist and which has maintained that compliance shall not be required to provide additional tree replacement except as required by subsequent law.

(Code 1977, § 10-2037(j); Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2007-32(07-O-0362), § 15, 6-12-07)

Sec. 158-109. - Exemptions.

The following are exempted from the terms of this article:

- (1) When the parks arboricultural manager or city arborist finds any tree to present hazard or danger to the health, safety and welfare of the public, such tree may be removed immediately by the owner or the owner's agent upon verbal authorization by the parks arboricultural manager or city arborist. Any property owner or resident who reasonably believes and can demonstrate that a tree on her/his property presents imminent hazard or danger to the health, safety and welfare of the public, may contact the city arborist or her/his designee by phone to inform the city arborist of the emergency. Based upon the information provided by phone, the city arborist or her/his designee may give verbal approval of the tree's removal. Within five working days of said approval, the owner, resident, or her/his agent must provide to the department of city planning's arborist division photos of the tree at issue along with a tree removal application. Failure to follow these procedures may result in an assessment of recompense and fines. In addition, should the photos and application, and any other information obtained by the city arborist, cause the city arborist to find that the tree did not present imminent hazard or danger, the city arborist shall assess recompense and may impose a fine. Should the emergency be identified by the property owner or resident during non-working hours, s/he may remove the tree immediately, but must contact the city arborist or her/his designee during the

next working day to discuss the emergency, and must submit the information described above within five working days of the tree's removal. The owner and/or resident may be subject to recompense and fines under the circumstances described above in this subsection. No permit is required.

- (2) During the period of any emergency, such as a tornado, ice storm, flood or an other act of nature, the requirements of this article may be waived by the mayor and the mayor's designee.
- (3) All licensed plant or tree nurseries and tree farms shall be exempt from the terms and provisions of this article only in relation to those trees which are planted and are being grown for sale or intended sale to the general public in the ordinary course of business, or for some public purpose. All licensed tree museums or public botanical gardens which employ a full-time arborist or horticulturist, and which are located upon property owned by the city and leased to such tree museums or botanical gardens and are growing for display to the public in furtherance of the museums and botanical gardens, or for some other public purpose.

(Code 1977, § 10-2040; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2007-32(07-O-0362), § 16, 6-12-07; Ord. No. 2017-14(17-O-1157), § 6, 4-26-17)

Sec. 158-110. - Dead or diseased trees; nuisances.

The provisions of this section shall apply to all property in the city, as follows:

- (1) *Generally.* Any dead or diseased tree or part of a tree is a nuisance when, by reason of such condition, natural forces may, more readily than if such tree or part thereof were live or not diseased, fell or blow such tree or part thereof onto public ways or public property, off of the property of the owner of such tree, and thereby imperil life or property or impede traffic. When a dead or diseased tree which is alleged to constitute a nuisance is brought to the attention of the parks arboricultural manager or city arborist, the parks arboricultural manager or city arborist, in their discretion, may submit through the director, bureau of parks a written opinion to the director, bureau of buildings. Upon receiving a written opinion from the director, bureau of parks that any tree or part thereof is a nuisance as defined in this section, the director, bureau of buildings shall commence nuisance abatement proceedings.
- (2) *Notice to owner to remedy conditions; failure to comply.* The director, bureau of buildings shall give written notice to the owner or the person in possession, charge or control of the property where a tree nuisance as defined in this section exists, stating that in the city arborist's opinion the tree or part of a tree does constitute a nuisance that shall be removed, and requesting that such removal be done within a reasonable time to be specified in such notice. In no event shall such reasonable time exceed ten working days. Such notice shall further state that unless the tree or part thereof is voluntarily removed within the time specified, the director may cause summons to be issued requiring the party notified to appear in the municipal court to have there determined whether the tree or part of a tree involved constitute a nuisance and should be abated. If the tree is not removed within the time specified by the director, the director may cause the owner of such tree, or the person in possession, charge or control thereof, to be summoned to appear before the judge of the municipal court to determine whether or not the tree or part of a tree involved constitutes a nuisance.
- (3) *Hearing; failure to comply with order to abate.* If upon such a hearing as provided for before the judge of the municipal court, the judge shall find that the tree or part of a tree constitutes a nuisance and orders the defendant to abate the same within a specified time, then each ten days that the conditions adjudicated to be a nuisance by the judge are maintained subsequent to the expiration of the time fixed in the judgment of the judge the same to be abated shall constitute an offense.
- (4) *Emergencies.* Such nuisance trees pose immediate hazards and, because of the imminence of danger, are too great a risk to leave standing while standard procedures for giving notice take place. In such cases where danger to the public is imminent, the director of the office of parks

shall have the right, but not the obligation, to enter the property and abate the nuisance, and the reasonable costs of such work, as documented by the office of parks, shall be reimbursed by the department of city planning . The department of city planning shall have the authority to obtain reimbursement from the property owner.

(Code 1977, § 10-2042; Ord. No. 2001-102, § 2, 12-11-01; Ord. No. 2003-03, §§ 1, 2, 1-13-03; Ord. No. 2007-32(07-O-0362), § 17, 6-12-07; Ord. No. 2017-14(17-O-1157), § 6, 4-26-17)

vljackson

Job : Microsoft PowerPoint - B. Martin

Host : COU-MJ03UDT5

Date : 2019/06/21

Time : 10:16

City of Atlanta

Code Enforcement Training Academy

Atlanta



Georgia

This is to certify that

Benjamin Martin

Has successfully completed the prescribed Course of Instruction
for the Code Enforcement Training Academy conducted by the

Code Enforcement Commission

and is entitled to this

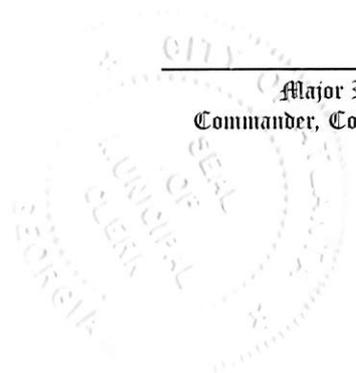
Certificate

In Testimony Whereof, we have signed and sealed with the Seal of the City of Atlanta
this twenty fifth day of June, 2019

Major Richard Mason
Commander, Code Enforcement Section

Council Member Joyce Sheperd
Chair Code Enforcement Commission

Christopher T. Portis
Chief Judge, City of Atlanta Municipal Court



Return Recorded Document to:
Morris, Manning & Martin LLP
990 Hammond Drive
Suite 300
Atlanta, GA 30328, USA
Attn: Vanessa Goggans, Esq.

File #: A6683

TAX PARCEL NUMBERS:

Lot 1: 17 025200200187	Lot 7: 17 025200200104	Lot 13: 17 025200200146
Lot 2: 17 025200200179	Lot 8: 17 025200200096	Lot 14: 17 025200200054
Lot 3: 17 025200200161	Lot 9: 17 025200200088	Lot 15: 17 025200200047
Lot 4: 17 025200200153	Lot 10: 17 025200200070	Lot 16: 17 025200200039
Lot 5: 17 025200200120	Lot 11: 17 025200200062	Lot 17: 17 025200200021
Lot 6: 17 025200200112	Lot 12: 17 025200200138	Lot 18: 17 025200200013

STATE OF GEORGIA
COUNTY OF FULTON

LIMITED WARRANTY DEED

THIS INDENTURE made effective as of the 1st day of May, in the year 2019, between

**RIVERSIDE STATION, LLC,
A GEORGIA LIMITED LIABILITY COMPANY**

as party or parties of the first part, hereinafter called "Grantor", and

**WEST HOLLYWOOD DEVELOPMENT LLC,
A GEORGIA LIMITED LIABILITY COMPANY**

as party or parties of the second part, hereinafter called "Grantee" (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other good and valuable consideration in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee, to-wit:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 252 AND 253 OF THE 17TH DISTRICT, CITY OF ATLANTA, FULTON COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee, IN FEE SIMPLE, forever.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons owning or claiming by, through or under Grantor, but not otherwise, subject only to those matters described on Exhibit "B" attached hereto and incorporated herein by this reference (the "Permitted Exceptions").

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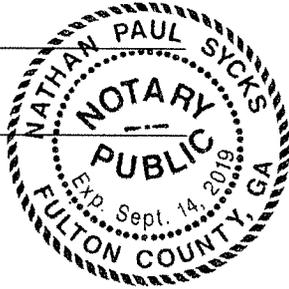
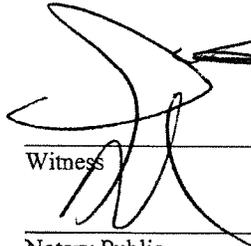
IN WITNESS WHEREOF, the Grantor has signed this Limited Warranty Deed under seal effective as of the day and year first above written.

Signed, sealed and delivered in the presence of:

GRANTOR:

RIVERSIDE STATION, LLC,
a Georgia limited liability company

Witness _____
Notary Public _____



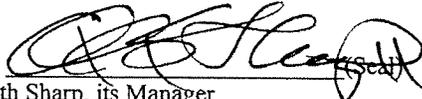
By:  _____ (Seal)
Keith Sharp, its Manager

Exhibit "A"

(LEGAL DESCRIPTION)

All that tract or parcel of land lying and being in Land Lots 252 and 253 of the 17th District of Fulton County, Georgia, being Lots 1-18, Hidden Valley Quadraplexs a/k/a Hidden Valley Quadraplexes, as shown on plat recorded in Plat Book 128, page 40, Fulton County, Georgia records, which said plat is incorporated herein by this reference and made a part of this description.

Tax Parcel IDs:

Lot 1: 17 025200200187

Lot 2: 17 025200200179

Lot 3: 17 025200200161

Lot 4: 17 025200200153

Lot 5: 17 025200200120

Lot 6: 17 025200200112

Lot 7: 17 025200200104 – Being the same property as that conveyed in Quitclaim Deed recorded in Deed Book 46397, Page39, Fulton County, Georgia records.

Lot 8: 17 025200200096 – Being the same property as that conveyed in Warranty Deed recorded in Deed Book 48904, Page551, Fulton County, Georgia records.

Lot 9: 17 025200200088 – Being the same property as that conveyed in Warranty Deed recorded in Deed Book 48904, Page551, Fulton County, Georgia records.

Lot 10: 17 025200200070

Lot 11: 17 025200200062

Lot 12: 17 025200200138

Lot 13: 17 025200200146

Lot 14: 17 025200200054

Lot 15: 17 025200200047

Lot 16: 17 025200200039

Lot 17: 17 025200200021

Lot 18: 17 025200200013

Exhibit "B"

(PERMITTED EXCEPTIONS)

1. General or special taxes and assessments required to be paid in the year 2019 and subsequent years, not yet due and payable.
2. Rights of tenants in possession under unrecorded leases.
3. Declaration of Covenants, Conditions and Restrictions recorded in Deed Book 8330, Page 233, Fulton County, Georgia Records, but omitting any covenant, condition or restriction, if any, based on race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that the covenant, condition or restriction (a) is exempt under Title 42 of the United States Code, or (b) relates to handicap, but does not discriminate against handicapped persons.
4. Easement from J.E. Tatum dated March 19, 1964 filed and recorded in Deed Book 4211, page 476, Fulton County records.
5. Easement from Robert J. Shaw dated July 8, 1965 filed and recorded in Deed Book 4476, page 131, Fulton County records.
6. Easement from B.E. Freeman dated July 2, 1965 filed and recorded in Deed Book 4476, page 141, Fulton County records.
7. Easement from W.D. Stone dated January 20, 1966 filed and recorded in Deed Book 4558, page 186, Fulton County records.
8. Easement from W.D. Stone dated January 24, 1968 filed and recorded in Deed Book 4877, page 39, Fulton County records.

Note: Georgia Power Company claims no further interest in the above mentioned documents except the right to operate, maintain, rebuild and renew its existing facilities, under all terms and conditions of its easement, within its presently maintained right of way.

9. Easement from B.E. Freeman dated January 28, 1964 filed and recorded in Deed Book 4195, page 555, Fulton County records.
10. Easement from William A. Stone and Steven G. Cline dated January 28, 1964 filed and recorded in Deed Book 4195, page 556, Fulton County records.
11. Easement from J.E. Tatum dated January 28, 1964 filed and recorded in Deed Book 4195, page 557, Fulton County records.
12. Easement from B.E. Freeman dated January 28, 1964 filed and recorded in Deed Book 4195, page 566, Fulton County records.

Note: Georgia Power Company must retain all the rights acquired under the above mentioned documents for the purpose of constructing, operating and maintaining its electric transmission facilities within a right of way over a portion of Land Lots 252 and 253 of the 17th District, City of Atlanta of Fulton County, Georgia as shown on Plat of Survey for Brock Built Homes, dated April 2, 2019, as prepared by Greg Alan Karel, Southeastern Engineering, Inc., Marietta, Georgia Registered Land Surveyor No. 3317.

13. Easement in favor of Cable Television Service Agreement to Authorize Cable Partners, L.P., recorded in Deed Book 14448, page 83, Fulton County records.

14. Any and all matters as disclosed by plat of survey recorded in Plat Book 128, page 40, Fulton County records.
15. ALTA/NSPS Land Title Survey for First American Title Insurance Company, Main Street Partner Group, LLC, JEM Investment Group Hapeville Fund I, LLC, West Hollywood Development LLC, Morris, Manning & Martin, LLP, Dogwood Title & Abstract Company, Chicago Title Insurance Company, LOT SP I LLC, and Isosceles Holdings, Inc by Greg Alan Karel, GRLS No. 3317 for Southeastern Engineering, Inc., dated April 2, 2019, last revised April 15, 2019, being Project No. 1068-18-147, shows the following:
 - a. Possible overlap of the northwesterly boundary line shared with property described in Deed Book 42359, Page 311, Fulton County, Georgia records.

Return Recorded Document to:
Morris, Manning & Martin LLP
990 Hammond Drive
Suite 300
Atlanta, GA 30328, USA
Attn: Vanessa Goggans, Esq.

File #: A6683

TAX PARCEL NUMBERS:

Lot 1: 17 025200200187	Lot 7: 17 025200200104	Lot 13: 17 025200200146
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Lot 6: 17 025200200112	Lot 12: 17 025200200138	Lot 18: 17 025200200013

STATE OF GEORGIA
COUNTY OF FULTON

QUITCLAIM DEED

THIS INDENTURE, made the 15th day of May, 2019, between

**RIVERSIDE STATION, LLC,
A GEORGIA LIMITED LIABILITY COMPANY**

as party or parties of the first part, hereinafter called "Grantor", and

**WEST HOLLYWOOD DEVELOPMENT LLC,
A GEORGIA LIMITED LIABILITY COMPANY**

as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of one dollar (\$1.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby remise, convey and forever QUITCLAIM unto the said grantee,

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 252 AND 253 OF THE 17TH DISTRICT, CITY OF ATLANTA, FULTON COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE.

Subject to all easements and restrictive covenants of record.

TO HAVE AND TO HOLD the said described premises to grantee, so that neither grantor nor any person or persons claiming under grantor shall at any time, by any means or ways, have, claim or demand any right or title to said premises or appurtenances, or any rights thereof.

[Signatures on following page]

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year first above written.

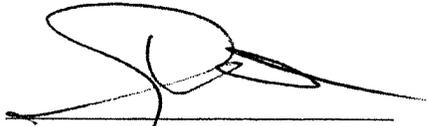
Signed, sealed and delivered in the presence of:

RIVERSIDE STATION, LLC,

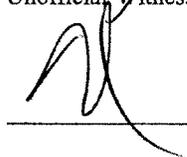
a Georgia limited liability company

By:  (Seal)

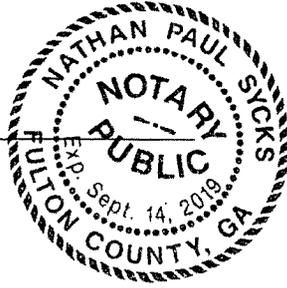
Keith Sharp, its Manager



Unofficial Witness



Notary Public



My Commission expires: _____

[Notary Seal]

Exhibit "A"

(LEGAL DESCRIPTION)

ALL THAT TRACT or parcel of land lying and being in Land Lots 252 and 253 of the 17th District, City of Atlanta, Fulton County, Georgia and being more particularly described as follows:

BEGINNING at a point on the northerly right-of-way of Hollywood Road (40 foot right-of-way) and the easterly right-of-way of Spink Street (40 foot right-of-way); THENCE continuing along said northerly right-of-way along a curve to the right an arc length of 267.60 feet (said curve having a radius of 727.14 feet and a chord bearing of NORTH 47 DEGREES 21 MINUTES 32 SECONDS EAST and a chord distance of 266.09 feet) to a point; THENCE NORTH 57 DEGREES 54 MINUTES 07 SECONDS EAST a distance of 138.70 feet to a point; THENCE along a curve to the left an arc length of 78.96 feet (said curve having a radius of 475.34 feet and a chord bearing of NORTH 53 DEGREES 08 MINUTES 36 SECONDS EAST and a chord distance of 78.87 feet) to a point; THENCE NORTH 48 DEGREES 23 MINUTES 05 SECONDS EAST a distance of 72.23 feet to a point; THENCE along a curve to the left an arc length of 141.22 feet (said curve having a radius of 877.81 feet and a chord bearing of NORTH 43 DEGREES 46 MINUTES 34 SECONDS EAST and a chord distance of 141.07 feet) to a #4 rebar set; THENCE leaving said right-of way SOUTH 39 DEGREES 17 MINUTES 58 SECONDS EAST a distance of 232.49 feet to a #4 rebar found; THENCE NORTH 34 DEGREES 05 MINUTES 58 SECONDS EAST a distance of 50.73 feet to a #4 rebar found; THENCE SOUTH 39 DEGREES 04 MINUTES 24 SECONDS EAST a distance of 137.80 feet to a #4 rebar set; THENCE SOUTH 56 DEGREES 27 MINUTES 46 SECONDS WEST a distance of 113.35 feet to a #4 rebar set; THENCE NORTH 38 DEGREES 06 MINUTES 13 SECONDS WEST a distance of 64.28 feet to a #4 rebar found; THENCE SOUTH 52 DEGREES 59 MINUTES 18 SECONDS WEST a distance of 53.19 feet to a 1 inch crimp top pipe found; THENCE SOUTH 53 DEGREES 03 MINUTES 41 SECONDS WEST a distance of 53.16 feet to a #5 Rebar found; THENCE SOUTH 61 DEGREES 35 MINUTES 17 SECONDS WEST a distance of 51.43 feet to a 1 inch crimp top pipe found; THENCE SOUTH 60 DEGREES 56 MINUTES 17 SECONDS WEST a distance of 53.98 feet to a #4 rebar found; THENCE SOUTH 66 DEGREES 24 MINUTES 26 SECONDS WEST a distance of 50.85 feet to a #4 rebar set; THENCE SOUTH 69 DEGREES 30 MINUTES 17 SECONDS WEST a distance of 59.94 feet to a #4 rebar set; THENCE SOUTH 69 DEGREES 30 MINUTES 17 SECONDS WEST a distance of 41.75 feet to a #4 rebar found; THENCE SOUTH 64 DEGREES 10 MINUTES 54 SECONDS WEST a distance of 49.74 feet to a #4 rebar set; THENCE SOUTH 73 DEGREES 59 MINUTES 37 SECONDS WEST a distance of 77.69 feet to a #4 rebar set; THENCE SOUTH 73 DEGREES 59 MINUTES 37 SECONDS WEST a distance of 27.16 feet to a 1 inch open top pipe found; THENCE NORTH 34 DEGREES 31 MINUTES 27 SECONDS WEST a distance of 2.97 feet to a 1/2 inch open top pipe found; THENCE SOUTH 56 DEGREES 53 MINUTES 02 SECONDS WEST a distance of 50.23 feet to a 1 inch open top pipe found; THENCE SOUTH 56 DEGREES 56 MINUTES 45 SECONDS WEST a distance of 49.67 feet to a point; THENCE SOUTH 61 DEGREES 17 MINUTES 32 SECONDS WEST a distance of 42.63 feet to a #4 rebar set; THENCE NORTH 34 DEGREES 37 MINUTES 32 SECONDS WEST a distance of 121.04 feet to a point and the **POINT OF BEGINNING**.

Said parcel contains 161,209 Square Feet or 3.70 Acres.

**STATEMENT OF LEGAL AND CONSTITUTIONAL OBJECTIONS
of**

Brock Built Homes, LLC

Developer

and

West Hollywood Development, LLC

Owner

“Appellees”

of

2081 Hollywood Road, NW

Atlanta, Georgia

In Opposition to Appeal Nos. 2019-10015 & 2019-10021
Appealing the Preliminary Approval of the City Arborist for the above property

I. INTRODUCTION

West Hollywood Development, LLC (“WHD”), the owner of the property that is being developed by Brock Built Homes, LLC) which is the subject matter of the appeal regarding the City’s Preliminary Approval of a tree removal plan. Brock Built Homes, LLC (“Brock Built” and collectively with WHD, the “Developer”) is an award-winning Metro-Atlanta developer and homebuilder, a valued participant and leading developer in the decades-long urban redevelopment and revitalization efforts in and around Atlanta’s Westside. Most recently, in November of 2019, Brock Built was honored with 12 OBIE awards, including a **gold award for best landscape design**, and several awards in the Urban Redevelopment/Revitalization category. Brock Built’s nearby West Highlands community even won the Atlanta Homebuilder’s Association special award for Community of the Year in 2019. Brock Built is committed to providing badly-needed quality housing stock in Atlanta *and* planting and maintaining trees to improve the value and quality of their communities. Brock Built has taken, and continues to take, the same approach of commitment to excellence, community growth and development, and environmental enrichment in the West Hollywood Townhomes development (the “Development”).

The property to which the Preliminary Approval pertains (the “Property”) was previously developed for multi-family and contained several dilapidated apartment buildings, crumbling asphalt drives, and minimal landscaping that has been unmaintained and overgrown with weeds and invasive species for years. The Property is zoned **MRC-2-C**, indeed, it was the City itself which put that zoning category on the Property. A copy of the Zoning Map is attached and filed herewith. The **MRC-2-C** zoning category, COA Code § 16-34.002, contemplates the purposes of such a category and provides, among other purposes, that:

2. Encourage infill and rehabilitation development within traditionally commercial areas that include proportionately significant residential uses;
3. Encourage the development of multi-family housing within commercial areas;

....

Under the **MRC-2** zoning category (§ 16-34.004), the City contemplates, “[m]edium density residential and commercial uses along corridors. A certified copy of the Zoning Ordinance is filed herewith. The development is compliant with the City-imposed zoning category and this Commission is not the place to debate the zoning, overall density or development requirements. The Developer has fully complied with, and even exceeded, all the requirements of the City of Atlanta’s Zoning Ordinance, Comprehensive Plan, and Tree Protection Ordinances (the “Ordinance”), engaged a well-reputed and experienced engineering and design firm to create, analyze, and review the Development’s landscaping and the tree replacement plan that the City Arborist approved after diligent review and appropriate scrutiny (the “Plan”). That plan has further been reviewed by an independent Arborist who has *also* confirmed the accuracy of the plan and the measurements therein.

Appellants, however earnest they are, are not experienced developers, arborist or engineers and are not legally qualified to make the unsubstantiated comments that they have made in support of the Appeal. They do not appear to recognize that the Plan provides for the planting of 122 trees, **over 50% MORE** trees than will be removed in the buildable area, and specifically improves the Property in many of the other areas of concern to appellants.

For example, the Plan provides for at least 25 trees along Appellant Noel's property line, including 5, fast-growing overstory willow and oak trees that will create broad canopies for energy savings and air quality improvement, as well as 6 ornamental or screening trees closer to the street to provide aesthetic appeal and further *increase* the value of nearby property. The Plan provides for 14, fast growing American Elm trees (which typically reach heights of 80 feet with 60 foot canopies) to replace the Water Oaks (which, while tall in stature, are weak and prone to disease and pests), and again *increase* the number of large and valuable trees on the interior of the Property. Overall the Plan provides for the removal of the fewest possible trees (many of which are in poor health or invasive and *all of which* will be replaced by trees of equivalent or higher quality) under the circumstances, and Appellants have failed to state any material facts that the city arborist misinterpreted or misunderstood in giving the Preliminary Approval. Indeed, it is *Appellants* who misunderstand or misinterpret the Plan, the city arborist's scrutiny and evaluation of the Plan, and the valuable improvement the Plan will bring to the Property and the neighborhood.

II. STANDING

Appellants failed to aver facts necessary to establish their standing to appeal the Preliminary Approval. Ordinance section 158 – 65 (a) (1) mandates:

For a decision by a city administrative official based on the tree protection ordinance regarding tree(s) on private property, an appeal may be made by any person who is aggrieved by the decision and who resides or owns property or a business either within 500 feet or within the NPU of the property on which the tree(s) at issue are located, except that appeals may not be made for decisions made by the city arborist pursuant to subsection 158-101(h) of this article. The appeal may be made only if the appellant is able to identify on the notice of appeal (as described in subsection 158-65(3)c.) the specific section of the tree protection ordinance that the appellant believes was misinterpreted or misapplied by the city administrative official, and the way in which the appellant believes the section should be interpreted or applied; and/or any facts material to the city administrative official's decision that the appellant believes were misinterpreted or misunderstood.

The issue of standing is a jurisdictional prerequisite for the appeal to proceed. Ordinance section 158-65(3)c. further explains that the appellant "shall state at a minimum: ... whether the appellant owns and/or resides on property or owns a business on property located within 500 feet from the property on which the tree(s) at issue are located..." Appellants failed to identify the necessary facts to establish standing, including, but not limited to, the proximity of their property to the Property, their ownership thereof, and whether and, most critically, how Appellants, specifically, are "specially aggrieved" by the City Arborist's decision.

III. LEGAL AND CONSTITUTIONAL OBJECTIONS

A. The Plan fully complies with or exceeds all the Ordinance’s requirements, and the city arborist properly interpreted the ordinance and understood the material facts such that there is no legal error nor erroneous application of facts.

The Plan complies with, and in one of the most important measures, even exceeds, the requirements of the Ordinance. The Developer employed multiple licensed engineers and arborists to create, perform all preliminary work, and review and analyze the Plan before approval. Notably, the Plan provides for the planting of 122 trees¹, to replace the 78 tree removals necessary for the Development, increasing the total number of trees on the Property by over 50%. Thus, the Plan not only achieves the primary policy consideration driving the technical provisions of the Ordinance, which technical requirements the Developers have fully satisfied and the city arborist has fully reviewed and analyzed as compliant, “that there shall be no net loss of trees,” but in fact bolsters that goal *significantly*. In addition to actually increasing the number of trees on the Property and the City of Atlanta, the Plan meets all other technical criteria provided in the Ordinance under §§ 158-102 and 105: includes all the required information such as identifying limits of disturbance and protection fencing; meets all notification and timeline requirements; and provides the specifications of replanting and maintenance procedures in detail.

The Development will replace a predominantly fallow property, blighted by dilapidated apartment buildings and crumbling drives, with affordable, quality, mid-density (zoning compliant) housing units. Such ambitious projects necessarily entail extensive construction and rehabilitation of the property, such that aggressive and pro-active replanting, rather than futile attempts to preserve aging and often hazardous or invasive vegetation, is the only feasible, course of action *and* the course of action most beneficial to the community in the long term. Again, the Plan replaces the existing trees plus a 50% increase, provides energy savings and air quality improvement with broad canopies, aesthetic improvement with ornamental trees, and privacy with screening trees.

B. Appellants do not identify any manner in which the city arborist misinterpreted or misapplied sections of the Ordinance, nor do they identify any material facts they believe the city arborist misinterpreted or misapplied, and Appellants themselves misstate nearly every provision of the Ordinance they cite.

Appellants failed to provide any material facts supporting mistakes or misapplications by the city arborist beyond generalized, conclusory statements that the Plan “violates” the Appellants’ reading of the Ordinance. Appellants have not provided the analysis, review, or evaluation by an arborist or engineer or indeed any professional with applicable experience or knowledge. They appear to consider *only* the most generalized aspects of their interpretation of the Ordinance fail to apply or apprehend the collective import and interaction of the zoning, comprehensive plan and Tree Ordinance.

¹ Approximately half of the trees are overstory or mid story trees, and ornamental understory and screening trees are planted primarily streetside, along the drive, or where spacing requirements dictate such.

Appellant Noel alleges, but does not support, that *he* owns trees being removed or affected. This is an unsubstantiated allegation. In contrast, you have both the recorded deeds of Appellee (filed herewith) reflecting the same boundaries shown on the *sealed* survey wherein a professional surveyor has confirmed, over his license, that the boundaries are accurate. There is no evidence to contradict that, including the most basic evidence – a survey, much less Appellant’s deed. Appellant makes allegations about “border trees” rather than “boundary trees” (defined under the Ordinance (§ 158-26) as “a tree on adjacent property whose root save area intrudes across the property line of the site under consideration”). Neither appellant provides *any* professional or credentialed analysis, survey, or other document *evidencing* their allegations or to contradict the findings of the City Arborist, the Developer’s Engineer or the independent arborist hired by the Developer to re-review the Plan for compliance under § 158-103 (a). For example, Appellant Noel mentions the DBH reduction without understanding that the replacement trees and recompense are already *statutorily determined* as sufficient for the offset against any removed trees.

The Appellants also misstate the provision and application of the Ordinance throughout their lists of concerns. They consistently profess “violation,” on matters which are plainly discretionary calls without adducing any evidence that the determinations made by the Arborist were well within the discretion granted their office.

C. Legal and Constitutional Objections

Should the Tree Conservation Commission not simply deny the appeal for any of the foregoing reasons, Appellees BBH and WHD aver that its property will be directly and adversely affected and harmed by the grant of the appeal. Accordingly, on behalf of Appellees, it is submitted that the City of Atlanta Tree Protection Ordinance, copies of which are being filed into the record, to the extent they are ignored or interpreted to grant or sustain the Appeal, despite the Plan’s clear compliance with all applicable laws, purposes, and policies, and the professional evidence tendered in support, as they have been amended from time to time, such ordinances are unconstitutional as a taking of private property, a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority under the specific constitutional provisions later set forth herein.

A recommendation or vote to grant or affirm the appeal will constitute an arbitrary and unreasonable use of the zoning and police powers of the City of Atlanta and be a gross abuse of discretion because there is no evidence in support of such decision and because such decision bears no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm to Appellees. A denial of the Application would constitute a taking of the Appellees’ private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Failure to refuse the Appeal would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Appellees and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

Thank you for your immediate attention.

Sincerely,

**GIACOMA ROBERTS
& DAUGHDRILL, LLC**

Brian E. Daughdrill

BED/lsc

ZONING ORDINANCE CITY OF ATLANTA, GEORGIA OFFICIAL ZONING MAP

SHEET 115 OF 129 SHEETS

ORDINANCE Z-78-5

LAND LOTS _____

DISTRICT _____

COUNTY _____

CERTIFICATION

THIS SHEET 115 OF 129 SHEETS, IS HEREBY CERTIFIED AS INCLUDED IN THE OFFICIAL ZONING MAPS, ON FILE IN THE DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT, BUREAU OF PLANNING, AND FORMING A PART OF THE CITY OF ATLANTA ZONING ORDINANCE ADOPTED BY CITY COUNCIL ON DECEMBER 15, 1980 AND APPROVED BY THE MAYOR ON DECEMBER 19, 1980, AS AMENDED

DIRECTOR, BUREAU OF PLANNING
CITY OF ATLANTA, GEORGIA

DATE

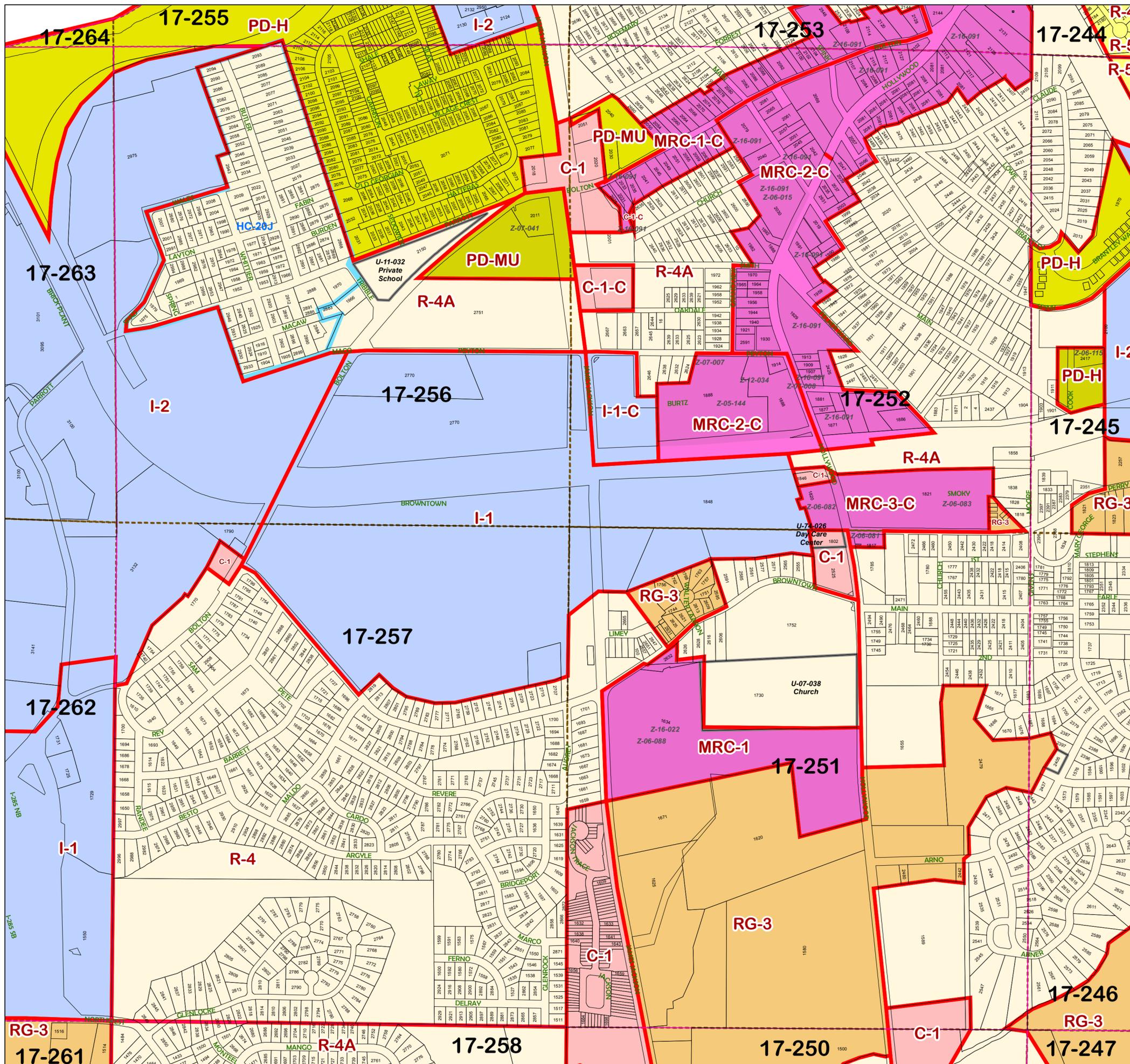
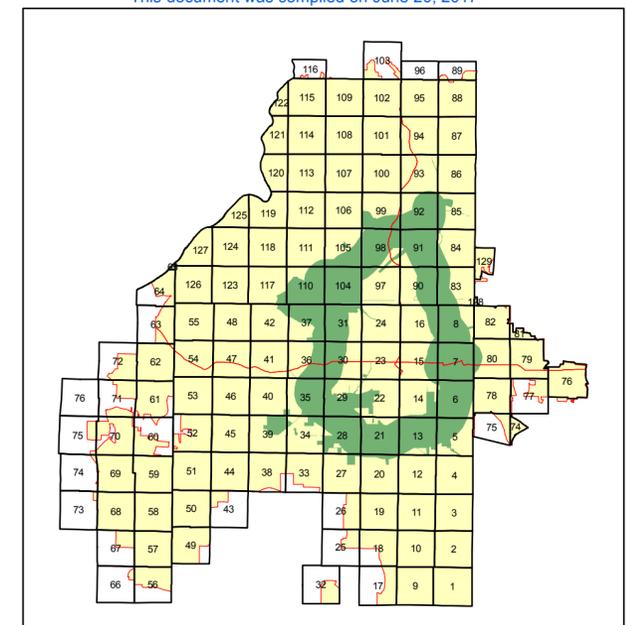
MUNICIPAL CLERK, CMC
CITY OF ATLANTA, GA

DATE

Legend

- Tax Parcels
- Zoning District Outline
- OVERLAY DISTRICTS**
- Beltline
- SPI Sign Overlay Districts
- All Others
- Human Service Facilities
- Special Use Permits
- LBS/HBS
- Base Zoning**
- SPI - Special Public Interest
- Industrial
- Historic & Cultural;
- Live-Work
- QOL Multi-Family;
- QOL Mixed Use
- Commercial
- Neighborhood Commercial;
- Residential - Single Family
- Office Institutional
- Planned Development
- Residential - Duplex
- Residential - Multi-Family
- Residential - Limited Commercial

This document was compiled on June 20, 2017



PARCEL BOUNDARIES SHOWN ARE SUPPLIED BY THE FULTON OR DEKALB COUNTY TAX ASSESSOR. THESE BOUNDARIES MAY NOT REPRESENT THE BOUNDARIES RECOGNIZED BY THE CITY OF ATLANTA FOR THE PURPOSES OF ISSUING BUILDING PERMITS.