



BOARD OF ZONING APPEALS FEBRUARY 18, 2021

ALPHARETTA CITY HALL
COUNCIL CHAMBERS
2 PARK PLAZA
5:30 PM

- I. **CALL TO ORDER**
- II. **ROLL CALL**
- III. **ADOPTION OF RULES AND PROCEDURES**
- IV. **PUBLIC HEARING**
 - A. **PH-21-01 Youth Ministry Resources, Inc. - Appeal to Administrative Determination**
Consideration of an appeal to an administrative determination related to a condition of zoning on the adjacent property (100 North Main Street) and related to off-site tree encroachment. Youth Ministry Resources, Inc. (Larry Donoho) is requesting consideration of an appeal to an administrative determination related to a condition of zoning on the adjacent property (100 North Main Street) and related to off-site tree encroachment. The City's Community Development Director has determined that said condition of zoning has not been violated. The appellant argues that the condition of zoning has been violated due to the City's miscalculation of the critical root zones (CRZ) of certain boundary trees. The subject property is located at 31 Church Street.
 - B. **PH-21-02 Youth Ministry Resources, Inc. - Appeal to Administrative Determination**
Consideration of an appeal to an administrative determination related to a Violation Notice, dated November 20, 2020. The notice cites violations of Unified Development Code (UDC) Subsections 3.2.1(B)(4) and 3.2.8(D)(4) and is related to a concrete driveway that impacts the critical root zones (CRZ) and structural root plates of several boundary trees on the subject property and the adjacent property to the north. Youth Ministry Resources, Inc. (Larry Donoho) is requesting consideration of an appeal to an administrative determination related to a condition of zoning on the adjacent property (100 North Main Street) and related to off-site tree encroachment. The City's Community Development Director has determined that said condition of zoning has not been violated. The appellant argues that the condition of zoning has been violated due to the City's miscalculation of the critical root zones (CRZ) of certain boundary trees. The subject property is located at 31 Church Street.
- V. **ADJOURNMENT**

**RULES OF PROCEDURE
FOR QUASI-JUDICIAL HEARINGS HELD BY THE BOARD OF APPEALS**

WHEREAS, Article V, Section 5.6.1, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA, established the Board of Appeals;

WHEREAS, Article V, Section 5.6.2, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA, provided generally for proceedings of the Board of Appeals;

WHEREAS, Article V, Section 5.6.3, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA, vested the Board of Appeals with certain powers and duties;

WHEREAS, in pertinent part, Article V, Section 5.6.3, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA, specifically provides for the “[p]owers and duties of the [B]oard of [A]ppeals” as follows:

The Board of Appeals shall have the following duties:

A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Director in the enforcement of this Ordinance, except as otherwise expressly provided for herein.

...

C. To decide on other matters where a decision of the Board of Appeals may be specifically required by the provisions of this Ordinance.

...

WHEREAS, Article IV, Section 4.5, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA, further provides for the types of appeals that will be heard by the Board of Appeals;

WHEREAS, in pertinent part, Article IV, Section 4.5.1, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA, specifically provides for the Board of Appeals to hear the following types of matters:

A. All requests from relief from the imposition of the regulations and requirements of this Ordinance on a property or development activity, or from an interpretation of the meaning of words or the boundaries of zoning districts, or from an administrative decision of the Director, shall be taken as an appeal to the Board of Appeals, except as otherwise provided in this Section.

WHEREAS, in pertinent part, Article IV, Section 4.5.5, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA, also specifically provides for the Board of Appeals to hear the following types of matters:

A. The Board of Appeals, upon appeal of an aggrieved party or at the request of the Director, shall interpret the use of words or phrases within the context of the intent of this Ordinance, the boundaries of the various zoning districts where uncertainty exists, and such other provisions of this Ordinance as may require clarification or extension. The Board of Appeals shall also hear and decide appeals from any order, determination, decision or other action by the Director where a misinterpretation of the requirements or other provisions of this Ordinance is alleged, except for appeals of administrative decisions denying design approval of signs reviewed by the Director for compliance with the design standards set forth in the Design Review Board Ordinance.

WHEREAS, Article V, Section 5.6, and Article IV, Section 4.5, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA, are silent as to any specific rules of procedure by which the Board of Appeals shall conduct the hearings specified therein, including, but not limited to: the order of presentation or the manner and nature in which evidence may be presented and witnesses called;

WHEREAS, pursuant to Article V, Section 5.6, and Article IV, Section 4.5, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA, the Board of Appeals is nevertheless required to hold certain hearings, which necessarily requires the Board of Appeals to adopt rules of procedure to govern the conduct of those hearings where no other provision is specifically set forth in the Ordinances cited herein;

WHEREAS, Article V, Section 5.6.3-C, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA, authorizes the Board of Appeals “[t]o decide on other matters where a decision of the Board of Appeals may be specifically required by the provisions of this Ordinance;

WHEREAS, the Board of Appeals, having given due consideration to the implications involved, has decided to adopt the following Rules of Procedure that will govern the conduct of its hearings wherein the Board of Appeals sits in a quasi-judicial capacity.

NOW, THEREFORE, UPON MOTION DULY SECONDED AND APPROVED BY A MAJORITY OF THE BOARD OF APPEALS, THE FOLLOWING RULES OF PROCEDURE ARE HEREBY ADOPTED:

SECTION 1. INCORPORATION OF RECITALS. The above preamble is incorporated verbatim here.

SECTION 2. APPLICABILITY. These Rules of Procedure shall apply to any quasi-judicial hearing held by the Board of Appeals pursuant to Article IV, Sections 4.5.1 or 4.5.5 and Article V, Sections 5.6.3-A & C, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA.

SECTION 3. INTRODUCTION AND GENERAL PROVISIONS.

1. The Chairperson of the Board of Appeals or his/her designee will explain the procedures set forth herein at the outset of the hearing.
2. The Chairperson of the Board of Appeals or his/her designee shall be the Presiding Officer of the hearing. Unless otherwise stated herein, all questions or comments shall be directed to the Presiding Officer. The Presiding Officer, at any time, may consult with the attorney for the Board of Appeals as needed.
3. Any objections or other issues raised shall be ruled upon by the Presiding Officer, after consultation with the attorney for the Board of Appeals, and such ruling is final for purposes of the hearing, unless the Board, by a majority following a duly seconded motion, votes to override the Presiding Officer's ruling.
4. Parties appearing before the Board of Appeals at any hearing are not required to be represented by an attorney, but may do so if they choose.
5. The Board of Appeals and the Presiding Office or his/her designee are not required to apply formal rules of evidence pursuant to the Official Code of Georgia Annotated, but may use such rules of evidence as a guide. For example, the Presiding Officer is authorized to not accept written letters, affidavits, statements, or other documentary evidence that would otherwise be considered generally as "hearsay." This means that if the person who wrote the letter, affidavit, or statement, or prepared the document generally, is not at the hearing to testify, the document may not be considered by the Board of Appeals except for in extremely limited circumstances. The party introducing such evidence generally must have the maker of the written statements and/or documents present.
6. The Presiding Officer shall, at all times, maintain order and decorum in the proceeding and may enlist the help of a representative from the City of Alpharetta Police Department to assist in this endeavor, or may take such other and further action as is reasonable and necessary under the circumstances to maintain order and decorum in the proceeding, including, but not limited to, exclusion of a person or persons and adjourning the proceedings or continuing them to another time.
7. The Presiding Officer or his/her designee will, at the appropriate times as set forth below, request the identification of any presenters, speakers, or witnesses, and administer the following oath to each such person: **"Do you solemnly swear (or affirm) that the testimony you are about to give on the issue pending before this Board of Appeals shall be the whole truth and nothing but the truth?"**
8. As provided for in Article V, Section 5.6.1(A), "All meetings of the Board of Appeals shall be open to the public." This means that the hearings conducted pursuant to the instant Rules of Procedure shall be open to the public. The final decision of the Board of Appeals shall also be voted on in public.
9. No public comment shall be allowed during a hearing conducted hereunder.

10. The Presiding Officer, however, shall have the discretion to allow any person or persons appearing before the Board of Appeals at any hearing to appear through the use of videoconference provided that the person or persons so appearing can be physically seen through such videoconference (i.e., with camera turned on) and such videoconference allows for two-way communication.
11. The Board of Appeals shall make arrangements for a court reporter to take down any hearing held pursuant to these Rules of Procedure with the cost for the court reporter's services being apportioned between the Parties who may desire to obtain a copy of the transcript.

SECTION 4. PARTIES DEFINED.

1. "Appellant" shall mean and refer to the party or its representative who initiated the appeal.
2. "Appellee" shall mean and refer to the party or its representative who took the action or made the decision from which the appeal is taken (e.g., the City, or its agents and employees, including, but not limited to the Director).

SECTION 5. BURDEN OF PROOF. The Appellee shall have the burden of proving, by a preponderance of the evidence, the validity and correctness of the action taken or decision made from which an appeal is taken by the Appellant.

SECTION 6. ORDER OF PRESENTATION.

1. Opening Statements.
 - A. The Appellee shall have the option to make an opening statement.
 - B. The Appellant shall then have the option to make an opening statement as well.
2. Presentation of Evidence and Witnesses.
 - A. Following any opening statements, the Appellee shall present his or her case-in-chief first. This presentation shall proceed in the following manner:
 - i. Documentary evidence shall be presented to the Presiding Officer for distribution;
 - ii. Witnesses may be called and their testimony may be elicited through questioning or presented in narrative form;
 - iii. After a witness has testified, the Appellant shall have the opportunity to ask questions of the witness;
 - iv. Once the Appellant has had the opportunity to ask questions of the witness, the Appellee may ask additional questions of the witness on matters not covered during the witness' initial testimony elicited by the Appellee. For

example, the Appellee may ask additional questions related to the witness' testimony during the Appellant's questioning;

- v. Once the Appellee has had the opportunity to ask additional questions of the witness, the Appellant may ask additional questions of the witness on matters not covered by the witness during either his or her initial testimony, or initial questioning by the Appellant. For example, the Appellant may ask additional questions related to the witness' testimony during the Appellee's additional questioning;
- vi. Once the witness has been testified pursuant to the provisions of subparagraphs (ii)-(v) above, the Board may ask questions of the witness;
- vii. The procedures contained under subparagraphs (ii)-(vi) are to be repeated for each witness presented;
- viii. The introduction of documentary evidence and presentation of witness testimony shall be cumulative and may be used in tandem, such as: a document may be presented on its own or during a witness' testimony as may be appropriate under the circumstances.

B. Once the Appellee has presented his or her case-in-chief, the Appellant shall present his or her case-in-chief. This presentation shall proceed in the following manner:

- i. Documentary evidence shall be presented to the Presiding Officer for distribution;
- ii. Witnesses may be called and their testimony may be elicited through questioning or presented in narrative form;
- iii. After a witness has testified, the Appellee shall have the opportunity to ask questions of the witness;
- iv. Once the Appellee has had the opportunity to ask questions of the witness, the Appellant may ask additional questions of the witness on matters not covered during the witness' initial testimony elicited by the Appellant. For example, the Appellant may ask additional questions related to the witness' testimony during the Appellee's questioning;
- v. Once the Appellant has had the opportunity to ask additional questions of the witness, the Appellee may ask additional questions of the witness on matters not covered by the witness during either his or her initial testimony, or initial questioning by the Appellee. For example, the Appellee may ask additional questions related to the witness' testimony during the Appellant's additional questioning;
- vi. Once the witness has been testified pursuant to the provisions of subparagraphs (ii)-(v) above, the Board may ask questions of the witness;

- vii. The procedures contained under subparagraphs (ii)-(vi) are to be repeated for each witness presented;
- viii. The introduction of documentary evidence and presentation of witness testimony shall be cumulative and may be used in tandem, such as: a document may be presented on its own or during a witness' testimony as may be appropriate under the circumstances.

3. Brief Rebuttal.

- A. Following the presentation of the Appellant's case-in-chief, the Appellee may make a brief rebuttal of matters not covered already during the Appellee's case-in-chief. The purpose of this brief rebuttal is to address points made during the Appellant's case-in-chief that were not already covered by the Appellee during its case-in-chief. New evidence and testimony may be presented during this brief rebuttal, and the order of presentation shall proceed in accordance with the procedures used for the introduction of evidence or testimony by witnesses as specified in Section 2-A above.
- B. Following the presentation of the Appellee's brief rebuttal, the Appellant may make a brief rebuttal also on matters not covered already during either the Appellee's case-in-chief, or the Appellant's case-in-chief. The purpose of this brief rebuttal is to address points made during the Appellee's brief rebuttal that were not already covered by the Appellant's case-in-chief. New evidence and testimony may be presented during this brief rebuttal, and the order of presentation shall proceed in accordance with the procedures used for the introduction of evidence or testimony by witnesses as specified in Section 2-B above.

4. Closing Statements.

- A. The Appellee shall have the right to make a closing statement. In so doing, the Appellee may choose to split its closing statement into two parts (e.g., before and after any closing statement by the Appellant) or defer entirely until after the Appellant's closing statement.
- B. The Appellant shall have the right to make a closing statement.

SECTION 4. HEARING CONCLUDED

- 1. The Presiding Officer announces that the hearing is closed.
- 2. If so desired, the Board of Appeals may then deliberate jointly, or take the matter under advisement. To that end, nothing contained herein shall require joint deliberations.
- 3. The Board of Appeals may also continue or postpone any deliberations or vote on any decision to a date certain by a duly seconded motion and vote of the majority.

4. Any vote on a decision by the Board of Appeals shall be in a public session and recorded pursuant to Article V, Section 5.6.2, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA.
5. At the appropriate time, the Presiding Officer shall call for a motion and vote on by the Board of Appeals on its decision as may be appropriate or required under the circumstances of a particular hearing as specified in the applicable Section of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA.
6. Pursuant to Article V, Section 5.6.2, of THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA, "... On all appeals, applications and matters brought before the Board of Appeals, the Secretary shall inform in writing all of the parties in interest of its decision."
7. In all circumstances, however, the Board of Appeals shall render a decision on the matter considered within 30 days of the hearing, even though the parties may be informed of the decision in writing later.

SECTION 5. MISCELLANEOUS PROVISIONS

1. **Recording.** The secretary or his or her designee is hereby directed to record these Rules of Procedure in the official minutes of the Board of Appeals.
2. **Severability.**
 - A. It is hereby declared to be the intention of the Board of Appeals that all sections, paragraphs, sentences, clauses, and phrases of these Rules of Procedure are and were, upon their enactment, believed by the Board of Appeals to be fully valid, enforceable and constitutional.
 - B. It is hereby declared to be the intention of the Board of Appeals that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause, or phrase of these Rules of Procedure are severable from every other section, paragraph, sentence, clause, or phrase of these Rules of Procedure. It is hereby further declared to be the intention of the Board of Appeals that, to the greatest extent allowed by law, no section, paragraph, sentence, clause, or phrase of these Rules of Procedure is mutually dependent upon any other section, paragraph, sentence, clause, or phrase of these Rules of Procedure.
 - C. In the event that any section, paragraph, sentence, clause, or phrase of these Rules of Procedure shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Appeals that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional, or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of these Rules of Procedure and that, to the greatest extent allowed by law, all remaining sections, paragraphs, sentences, clauses, or phrases of these Rules of Procedure shall remain valid, constitutional, enforceable, and of full force and effect.

3. **Authorization for Execution.** The Chairperson is hereby authorized to sign these Rules of Procedure, the secretary or his or her designee is authorized to attest the Chairperson's signature, and the attorney for the Board of Appeals is authorized to indicate whether he approves as to form by signing these Rules of Procedure below.
4. **Repeal of Conflicting Provision.** Except as otherwise provided herein, all Rules of Procedure that may have been adopted by the Board of Appeals previously that are in conflict with these Rules of Procedure are hereby repealed.
5. **Relationship to Ordinances.** These Rules of Procedure shall be supplemental and cumulative of, and shall be read and construed in harmony with the Ordinances that call for the hearings to which these Rules of Procedure apply.
6. **Effective Date.** These Rule of Procedure shall become effective immediately upon their adoption by the Board of Appeals.

SO ADOPTED this 18th day of February, 2021.

MARC GELBER,
Chairman, Board of Appeals

ATTEST:

ELICIA TAYLOR,
Serving as Secretary to the
Board of Appeals by Designation

(seal)

APPROVED AS TO FORM:

WARREN TILLERY,
Attorney for the Board of Appeals

STEVEN L. JONES



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Friday, February 12, 2021

VIA EMAIL: etaylor@alpharetta.ga.us.

Ms. Elicia ("Elle") Taylor
Planning and Zoning Coordinator
Community Development Department
The City of Alpharetta, Georgia
City Hall
2 Park Plaza
Alpharetta, Georgia 30009

RE: PH-21-01 Youth Ministry Resources, Inc. – Appeal to Administrative Determination; Consideration of an appeal to an administrative determination related to a condition of zoning on the adjacent property (100 North Main Street) and related to off-street encroachment.

Dear Ms. Taylor:

This letter serves as the response of the office of the City Attorney of the City of Alpharetta, Georgia (the "City") to the "Notice of Appeal and Reservation of Constitutional and Other Legal Rights for Appeal of Administrative Decision" (the "Notice of Appeal") of Youth Ministry Resources, Inc., ("YMR" or the "Appellant") filed by and through its counsel. This letter is being directed to your attention because of your service as the de facto clerk of the Board of Zoning Appeals (the "BZA") with respect to this appeal.

The factual background for this appeal is detailed in the Staff Report (the "Staff Report") of the Staff ("Staff") of the City's Community Development Department ("Department") which is attached hereto as Exhibit "A" and incorporated herein by this reference. The City Attorney's office stands behind the Staff Report; for that reason, this letter merely seeks to correct legal misconceptions that may result based on the arguments set forth in the Notice of Appeal.

The BZA, along with its other responsibilities, sits in review of the decisions and determinations of Director (the "Director") of the Department. *E.g.*, UDC § 5.6.3. In pursuit of that function, the BZA's review of the Director's decision is limited to determining whether the decision was supported by "any evidence" and whether it was within the Director's discretionary powers under the UDC to make that decision, and to assess whether the decision was arbitrary or capricious. *See e.g., New Image Towing and Recovery, Inc.*, 351 Ga. App. at 343, 347, 830 S.E.2d at 808, 811 (citing *City of Atlanta Bd. of Zoning Adjustments v. Midtown North, Ltd.*, 257 Ga. 496,

499, 360 S.E.2d 569, 572 (1987)). In making this inquiry, the BZA may review the record (i.e., information and documentation) that was before the Director when she made the decision that is the subject of the Notice of Appeal. *See e.g.*, UDC § 4.5.1(B). The BZA may not consider evidence or testimony outside the record, in other words, evidence or testimony that was not before the Director when she made the decision now appealed.

Because the Director was the factfinder regarding this issue and, in doing so, weighed the evidence and judged the credibility of the arborists and other evidence before her, the BZA “must view the evidence in the light most favorable to the [Director’s] decision and must affirm the decision if there is any evidence to support it, even when the party challenging the [Director’s] conclusions presented evidence [to her] . . . that conflicted with those conclusions” so long as that decision was within the Director’s discretionary power and neither arbitrary nor capricious. *E.g.*, *Fulton County v. Berry*, 354 Ga. App. 841, 841 S.E.2d 744 (2020) (quoting *DeKalb County v. Bull*, 295 Ga. App. 551, 672 S.E.2d 500 (2009)).

Finally, the Notice of Appeal raises and purports to reserve a host of constitutional arguments regarding the Director’s decision. YMR, however, failed to raise these to the Director before she rendered her decision. As a result, they are waived and may not be considered by the BZA. *E.g.*, *York v. Athens College of Ministry, Inc.*, 348 Ga. App. 58, 821 S.E.2d 120 (2018). The BZA, therefore, should disregard the constitutional claims raised by the Notice of Appeal as it is without legal authority to consider them.

The Director weighed the evidence in the record before her and applied that evidence to the zoning condition at issue. As the Staff Report shows and as will be shown at the hearing before the BZA on this matter, the Director’s decision was supported by evidence, within the bounds of the discretion conferred upon her by the UDC, and neither arbitrary nor capricious. The Director’s decision should be affirmed by the BZA.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven L. Jones", written over a horizontal line.

Steven L. Jones

SLJ

Enclosure

cc: Counsel for BZA (Mr. Tillery, esquire, of SMITH WELCH WEBB & WHITE, LLC)
Counsel for YMR (Messrs. Howell and Kline, esquires, of MILES HANSFORD & TALLANT, LLC)



EXHIBIT "A"

BOARD OF ZONING APPEALS MEETING STAFF REPORT

SUBMITTING DEPARTMENT: COMMUNITY DEVELOPMENT

SUBMITTED BY: KATHI COOK

DRAFTED BY: MICHAEL WOODMAN

I. AGENDA ITEM TITLE: PH-21-01 YOUTH MINISTRY RESOURCES, INC. – APPEAL TO ADMINISTRATIVE DETERMINATION

BOARD OF ZONING APPEALS: FEBRUARY 18, 2021

II. REPORT IN BRIEF:

Youth Ministry Resources, Inc. (Larry Donoho) is requesting consideration of an appeal to an administrative determination related to a condition of zoning on the adjacent property (100 North Main Street) and related to off-site tree encroachment. The City's Community Development Director has determined that said condition of zoning has not been violated. The appellant argues that the condition of zoning has been violated due to the City's miscalculation of the critical root zones (CRZ) of certain boundary trees. The subject property is located at 31 Church Street.

DISCUSSION

The appeal to administrative determination is related to a condition of zoning associated with the neighboring property (100 North Main Street) and related to off-site tree encroachment. The appellant asserts that a parking structure proposed at 100 North Main Street will encroach more than twenty percent (20%) on the critical root zones (CRZ) of certain off-site boundary trees and in violation of the condition of zoning. However, the City's Community Development Director has determined that the condition of zoning has not been violated. The subject property is located at 31 Church Street.

100 North Main Street was approved on December 16, 2019 for a rezoning and variance to allow for the construction of a three (3) story, 28,100 square foot office building in the City's Downtown. In conjunction with this public hearing request, the applicant provided a tree survey and assessment performed by a certified arborist. The assessment identified tree #341 as three (3) trees with three (3) co-dominant leaders (an Oak adjacent to 2 Sweetgums) and tree #342 as two (2) trees with two (2) co-dominate leaders. Tree #341 and #342 are identified in the report as being in poor condition and potentially hazardous. The City Arborist field-verified the report's findings and agreed with the applicant's arborist assessment. City Council placed twenty (20) conditions of zoning on the property, including condition #15 below addressing off-site tree encroachment.

15. Off-site tree encroachment shall be limited to no more than 20% on the CRZ and shall require notification to property owner.

Unified Development Code (UDC) Subsection 3.2.2 Definitions, defines Critical Root Zone (CRZ) as, "The minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The Critical Root Zone will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and three-tenths times the

EXHIBIT "A"

number of inches of the trunk diameter. EXAMPLE: The CRZ radius of a twenty (20) inch diameter tree is twenty-six (26) feet."

The City Arborist and Director of Community Development have determined that tree #341 and #342, located along the appellant's northern property line, are multiple trees with multiple root systems and therefore, have multiple smaller CRZs. As shown in the attached exhibits, the City Arborist employed The Pith Test to determine if the trees are individual or multiple trees. The test is regularly used by certified arborists and detailed in the American Forests Champion Trees Measuring Guidelines Handbook. The appellant disputes the City Arborist's determination based upon their tree report, prepared by Green Prism Consulting, dated October 21, 2020. The report states that tree #341 and #342 are single trees with multiple stems and therefore, should have a single larger CRZ. According to the appellant's arborist, the trees were determined to be one tree based on a resistograph showing fusion with shared rings and observance of a single point of origin at the ground level. The City Arborist disputes the results of the resistograph because it was taken at five-inches (5") and eight-inches (8") above ground level and not at ground level. The appellant concludes that the parking structure proposed at 100 North Main Street would encroach on tree #341 and #342 more than the maximum 20% allowed by zoning condition #15 due to those trees having a larger, individual CRZs.

III. ATTACHMENTS:

- Exhibits



CITY COUNCIL AGENDA ACTION SUMMARY

Public Hearing Date: December 16, 2019

Z-19-03/V-19-16 100 North Main Street

Consideration of a request for a rezoning of 0.92 acres from C-1 (Neighborhood Commercial) to DT-MU (Downtown Mixed Use) to allow for the construction of a 28,100 square foot office building and structured parking. A variance is requested to increase the maximum building footprint from 10,000 square feet to 11,534 square feet. The subject property is located at 100 North Main Street on the west side of North Main Street at the intersection with Cumming Street.

Motion: Approve with Conditions, Richard
Second: Binder
Approve: 7-0

❖ Council Member Richard offered a motion to approve Z-19-03/V-19-

16 100 North Main Street subject to the following conditions:

1. The site, consisting of approximately 0.92 acres, shall be zoned DT-MU and developed substantially similar to site plan submitted by AEC, revised 12/10/2019, except for modifications required to comply with the conditions below. Uses shall be limited to office, retail and restaurant.
2. Maximum building height shall be no greater than 3 stories and 46'.
3. Minimum building setback on North Main Street shall be 15' and shall include a minimum 5' landscape strip located outside of any easements building set back on North Main Street to accommodate moving the building 5' closer to North Main Street and 5' further from Violet Garden Walk, including an additional 5' area for planting along Violet Garden Walk. Minimum building setback on Violet Garden Walk shall be 20', as measured from the existing right-of-way.
4. Maximum building footprint shall not exceed 11,534 square feet.
5. Architecture and materials shall be developed similar to the submitted renderings, except for modifications required to comply with these conditions and in compliance with the Alpharetta Downtown Code, subject to approval by the DRB. Openings in parking deck walls shall be decorative screens similar to Teasley Place mixed-use development.
6. Parking deck shall be screened with a mix of landscape materials of varying heights, with final approval by DRB.
7. Decorative lighting and trees shall be placed on the upper level of the parking deck, as depicted on submitted renderings.
8. In conjunction with a Development Agreement, the developer shall set aside 5,141 square feet (0.118 acres) of land to accommodate future right-of-way for the Cumming Street extension, as depicted on the site plan prepared by AEC, revised 10/23/2019.
9. Access to the parking deck from North Main Street shall be closed off to vehicular traffic at such time that the Cumming Street extension is completed. Additional useable space, as a result of closing off the North Main Street access, may only be added to the building if parking requirements have been met. Access shall be constructed from new roadway.
10. Final streetscape shall include decorative pedestrian lighting, as approved by Staff.
11. Street trees shall be required within the planter along North Main Street (as approved by GDOT) and Violet Garden Walk, as well as behind the sidewalks
as a continuation of what has been previously planted or designed in the Downtown and outside of any utility easements, as approved by Staff. In lieu of tree grates, the soil area around street trees shall

be planted with evergreen ornamental grasses, groundcovers and/or shrubs.

12. Amenity space shall be developed on the building rooftop and limited to use by the occupants, invitees and guests of the development. Landscape improvements to the existing tree area shall be a park-like setting with heavy decorative landscape, hardscape, walls and seating. The landscape shall include plant selections promoting the historic district. Developer shall remove exotic and invasive trees and shrubs within the area called out as amenity space at the rear of the property, as approved by Staff. Occupiable vertical structures are prohibited, and rooftop space shall not be rented out for commercial use.
13. Foundation plantings, consisting of shrubs, vines and/or grasses, shall be required in front of the building and along North Main Street, Cumming Street and Violet Garden Walk.
14. Developer shall save: Tree #339 (28" Pecan). The City Arborist may approve up to a 20% encroachment into the CRZ of trees with additional tree care to offset the encroachment, as approved by Staff.
15. Off-site tree encroachment shall be limited to no more than 20% on the CRZ and shall require notification to property owner.
16. Decorative paver aprons shall be required at permanent project driveways, as approved by Staff.
17. New utilities shall be placed underground.
18. 10' sidewalk on Violet Garden Walk shall be reduced to 5' with the remaining 5' added to the landscape area.
19. Lower level parking deck shall be limited by a gated system controlled and regulated by the applicant and signage posted stating no public parking.
20. Developer shall screen car head lights with sufficient parking deck wall height and landscaping.

- The motion received a second from Council Member Binder
- The motion was approved unanimously (7-0)

Final Conditions:

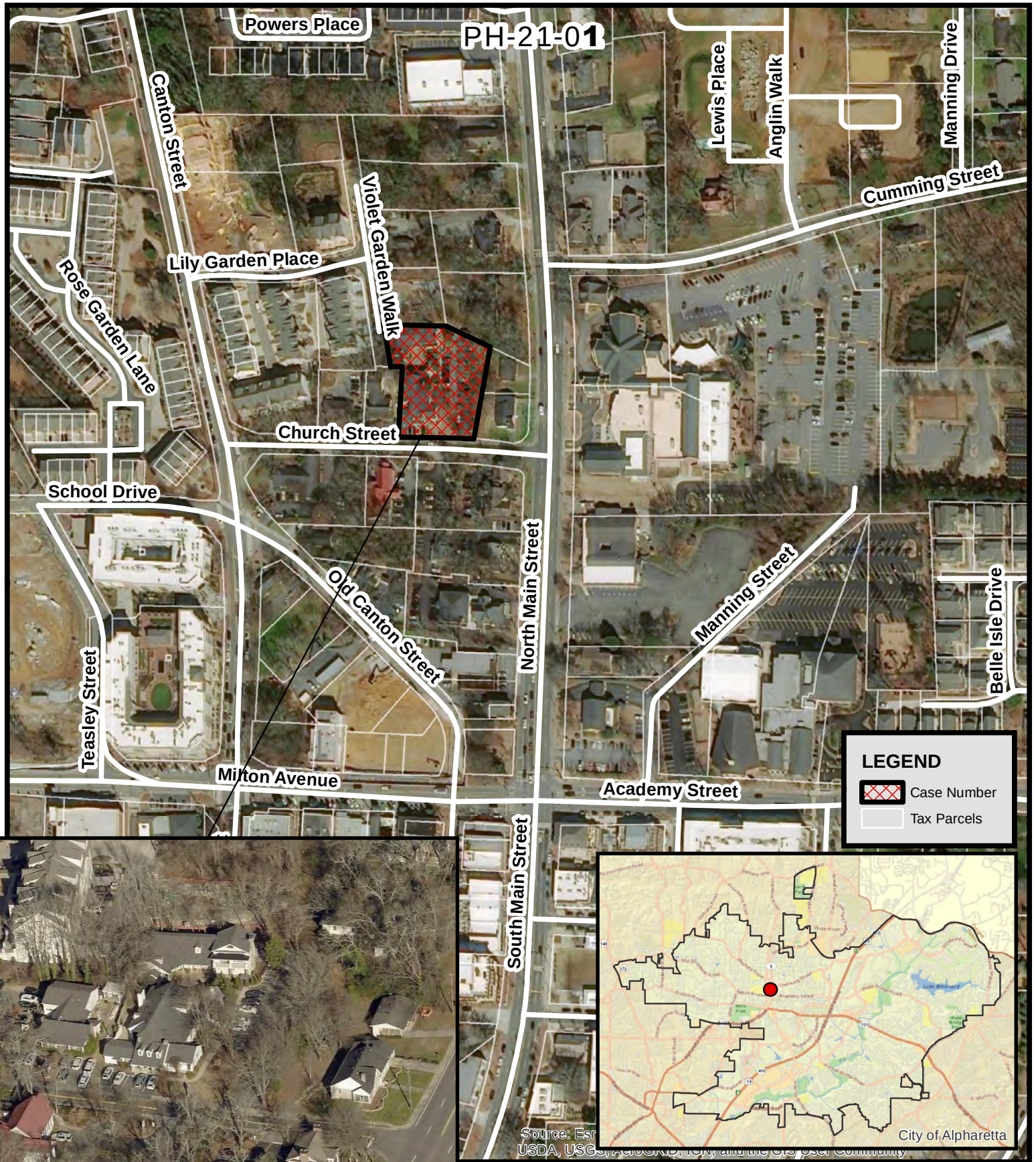
1. The site, consisting of approximately 0.92 acres, shall be zoned DT-MU and developed substantially similar to site plan submitted by AEC, revised

12/10/2019, except for modifications required to comply with the conditions below. Uses shall be limited to office, retail and restaurant.

2. Maximum building height shall be no greater than 3 stories and 46'.
3. Minimum building setback on North Main Street shall be 15' and shall include a minimum 5' landscape strip located outside of any easements building set back on North Main Street to accommodate moving the building 5' closer to North Main Street and 5' further from Violet Garden Walk, including an additional 5' area for planting along Violet Garden Walk. Minimum building setback on Violet Garden Walk shall be 20', as measured from the existing right-of-way.
4. Maximum building footprint shall not exceed 11,534 square feet.
5. Architecture and materials shall be developed similar to the submitted renderings, except for modifications required to comply with these conditions and in compliance with the Alpharetta Downtown Code, subject to approval by the DRB. Openings in parking deck walls shall be decorative screens similar to Teasley Place mixed-use development.
6. Parking deck shall be screened with a mix of landscape materials of varying heights, with final approval by DRB.
7. Decorative lighting and trees shall be placed on the upper level of the parking deck, as depicted on submitted renderings.
8. In conjunction with a Development Agreement, the developer shall set aside 5,141 square feet (0.118 acres) of land to accommodate future right-of-way for the Cumming Street extension, as depicted on the site plan prepared by AEC, revised 10/23/2019.
9. Access to the parking deck from North Main Street shall be closed off to vehicular traffic at such time that the Cumming Street extension is completed. Additional useable space, as a result of closing off the North Main Street access, may only be added to the building if parking requirements have been met. Access shall be constructed from new roadway.
10. Final streetscape shall include decorative pedestrian lighting, as approved by Staff.
11. Street trees shall be required within the planter along North Main Street (as approved by GDOT) and Violet Garden Walk, as well as behind the sidewalks as a continuation of what has been previously planted or designed in the Downtown and outside of any utility easements, as approved by Staff. In lieu of tree grates, the soil area around street trees shall be planted with evergreen ornamental grasses, groundcovers and/or shrubs.
12. Amenity space shall be developed on the building rooftop and limited to use by the occupants, invitees and guests of the development. Landscape improvements to the existing tree area shall be a park-like setting with heavy decorative landscape, hardscape, walls and seating. The landscape shall include plant selections promoting the historic district. Developer shall remove exotic and invasive trees and shrubs within the area called out as amenity space at the rear

of the property, as approved by Staff. Occupiable vertical structures are prohibited, and rooftop space shall not be rented out for commercial use.

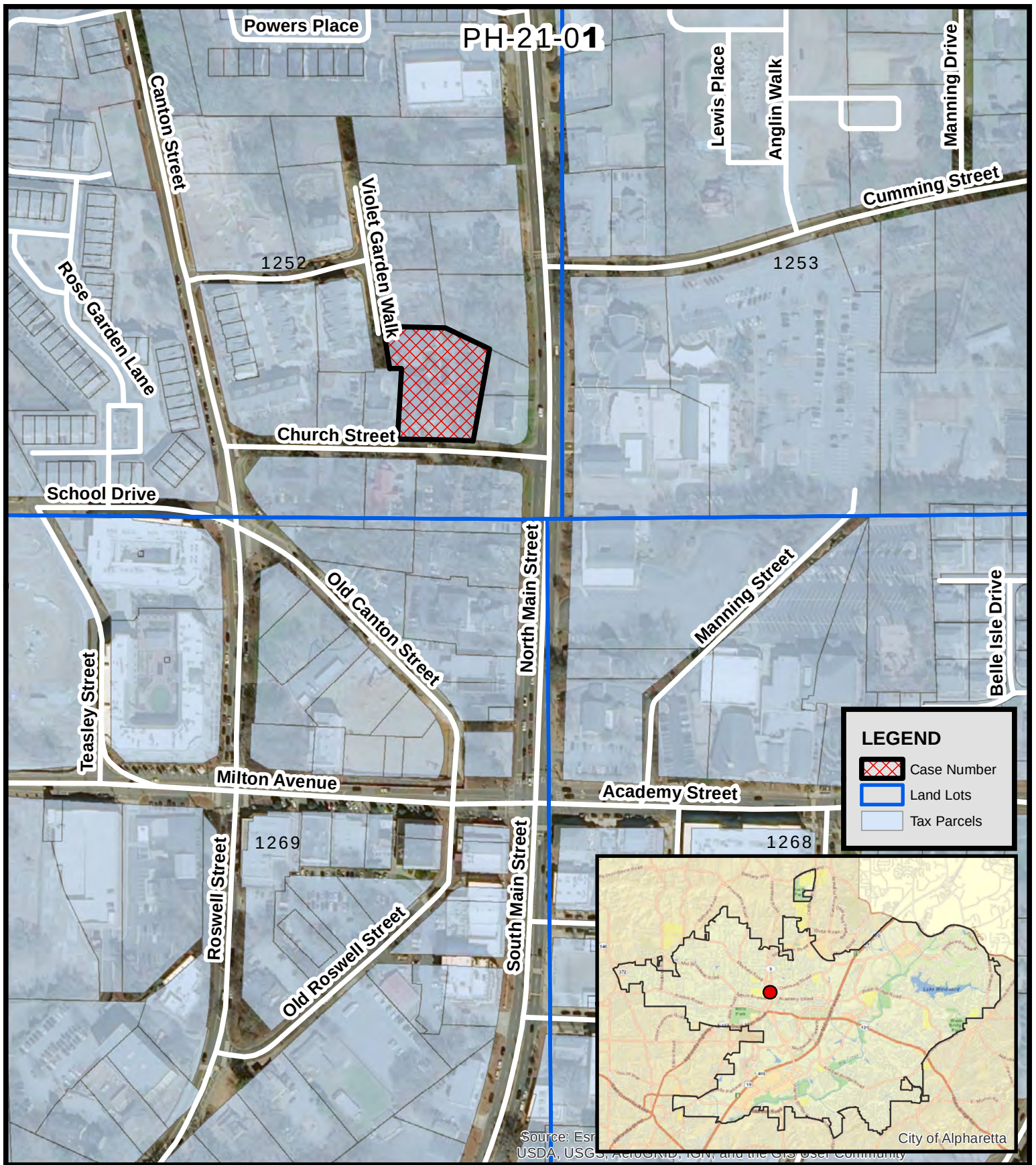
13. Foundation plantings, consisting of shrubs, vines and/or grasses, shall be required in front of the building and along North Main Street, Cumming Street and Violet Garden Walk.
14. Developer shall save: Tree #339 (28" Pecan). The City Arborist may approve up to a 20% encroachment into the CRZ of trees with additional tree care to offset the encroachment, as approved by Staff.
15. Off-site tree encroachment shall be limited to no more than 20% on the CRZ and shall require notification to property owner.
16. Decorative paver aprons shall be required at permanent project driveways, as approved by Staff.
17. New utilities shall be placed underground.
18. 10' sidewalk on Violet Garden Walk shall be reduced to 5' with the remaining 5' added to the landscape area.
19. Lower level parking deck shall be limited by a gated system controlled and regulated by the applicant and signage posted stating no public parking.
20. Developer shall screen car head lights with sufficient parking deck wall height and landscaping. 5.



Aerial Map
Youth Ministry Services
31 Church Street

PH-21-01
D/LL: 2/2/1252
BZA Date: 2/18/21

Location Map Provided by:
Community Development - GIS



Location Map
Youth Ministry Services
31 Church Street

PH-21-01
D/LL: 2/2/1252
BZA Date: 2/18/21

Location Map Provided by:
Community Development - GIS



Jonah B. Howell
jhowell@mhtlegal.com

November 20, 2020

VIA ELECTRONIC MAIL TO: kcook@alpharetta.ga.us
AND CERTIFIED MAIL #9414 7266 9904 2148 1840 67

Kathi Cook
Community Development Director, City of Alpharetta
2 Park Plaza
Alpharetta, Georgia 30009

Re: Appellant(s): Youth Ministry Resources, Inc., via Lanny Donoho

**Subject Property: 31 Church Street, Alpharetta, Georgia 30009 Fulton
County Tax Parcel: 22 482212521003**

Application: Appeal of Administrative Determination

**Notice of Appeal and Reservation of Constitutional and Other Legal Rights for Appeal of
Administrative Decision**

This statement is intended to comply with the application procedures established by the City of Alpharetta, Georgia, for submittal of applications for Appeal of Administrative Decisions as required by the City of Alpharetta Unified Development Code (the “UDC”) and other City of Alpharetta Ordinances and Standards and is intended to preserve all constitutional, statutory and common law protections available to **Youth Ministry Resources, Inc., via Lanny Donoho** (the “Appellants”). This Notice of Appeal constitutes a timely application to appeal an administrative decision (the “Application”). The Appellants have provided all required information, and have submitted the appropriate application fees. The Application meets all judicial and statutory requirements for approval.

Standard of Review

The City of Alpharetta UDC § 4.5 grants the City of Alpharetta Board of Appeals (the “BOA”) the power to hear and decide appeals from any order, determination, decision or other action by the Director where a misinterpretation of the requirements or other provisions of this Ordinance is alleged.

Statement of Facts

Youth Ministry Resources, Inc. is the owner of the Subject Property. Mr. Donoho has long objected to the location of the parking structure scheduled to be constructed at 100 North Main Street. He has voiced his objection thereto on numerous occasions, including but not limited to email correspondence and public hearings. Mr. Donoho's objection is not to the development itself. Rather, he simply requests a fifteen (15) foot setback between the structure and the Subject Property. At one public hearing in connection with the development of 100 North Main Street, the developer's counsel, Mr. Rolader affirmatively represented to Mr. Donoho, in the presence of the Mayor and Council, the development would be located at least fifteen (15) feet from the common boundary line of 100 North Main Street and 31 Church Street – an agreeable and satisfactory distance from the southern boundary of 100 North Main Street. Those records and transcripts speak for themselves, and there is little to be gained by going into great detail about said proceedings.

However, following the public meetings, Mr. Donoho met and communicated with various City representatives to express his concern about the location of the parking deck due to its probable impact on certain trees which are situated, at least in part, on the Subject Property. One of the most recent meetings, was with the City's arborist. During said meeting, the City's arborist indicated to Mr. Donoho that the City, based upon the arborist's conclusions, correctly treated tree #341 as two different trees. As such, the critical root zone ("CRZ"), as calculated by the City, is much smaller than it would be if in fact tree 341 were considered one tree. After Mr. Donoho inquired further, the City's arborist unambiguously indicated to Mr. Donoho that the City would have no choice other than to reconsider its position with regard to the identification of tree #341 and its CRZ if Mr. Donoho could "scientifically" prove the tree is in fact one tree. Mr. Donoho did exactly that.

The Appellant sought an administrative decision in regards to an independent tree report which Mr. Donoho had conducted. Accordingly, Appellant, through its undersigned counsel, sent the report and a cover letter to Community Development Director Kathi Cook on October 29, 2020.

On November 6, 2020, Director Cook made the following determinations:

Your letter seeks to assert a violation of the condition number 15 (the "Condition of Approval") imposed by the City Council with respect to its approval of Z-19-03/V-19-16 (100 North Main Street). The Condition of Approval reads as follows: "Off-site tree encroachment shall be limited to no more than 20% of the CRZ and shall require notification to property owner." After reviewing your letter, the report attached to that letter, and the City's file regarding this matter, I have determined that the Condition of Approval has not been violated.

The Appellant hereby appeals said decisions by Director Cook on November 6, 2020.

Legal Analysis

A. Appeal of Administrative Decision.

i. Due to the City's Miscalculation of the CRZ for Trees #341 and #342, the Parking Structure Will Encroach More Than Twenty Percent in Violation of the Zoning Conditions for 100 N Main Street.

Alpharetta Unified Development Code § 3.2 defines CRZ as, "The minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival." Zoning condition #15 for Z-19-03/V-19-16 (100 North Main Street) states that, "Off-site tree encroachment shall be limited to no more than 20% on the CRZ and shall require notification to property owner."

The proposed parking structure, as depicted on the site plan included along with the application for Z-19-03/V-19-16, encroaches more than 20% on the CRZ for trees #341 and #342 which are located along the boundary line of Appellant's property. Even further, the site plan included along with the application for Z-19-03/V-19-16 fails to depict any sort of encroachment on the CRZ for trees #341 and #342 by the parking structure, despite the parking structure's close proximity to these trees. Although this encroachment is in direct violation of zoning condition #15, the Director has nonetheless determined that, "that the Condition of Approval has not been violated."

This determination is based, at least in part, on the City's conclusion that trees #341 and #342 are each multiple trees rather than each being one tree with each having a single root system. In prior conversations and correspondences with the Director, it was stated that due to the fact that the City concluded that trees #341 and #342 were each multiple trees, their respective CRZs were smaller than if they each were one single tree.

To refute this conclusion, Appellant had an independent tree report conducted for trees #341 and #342 which has been provided to the City previously in the letter dated October 29, 2020. Importantly, this report directly contradicts the City's conclusion that tree #341 and #342 are each multiple trees. Rather, Appellant's report concludes that both tree #341 and tree #342 are each single trees with multiple stems. Thus, the CRZ for these two trees should be much larger than what the City currently has calculated. At a minimum, a recalculation of the CRZ for trees #341 and #342 should be conducted in order to properly evaluate the encroachment by the proposed parking structure.

For these reasons, the Director's determination that zoning condition #15 for Z-19-03/V-19-16 has not been violated is clearly erroneous and must be reversed.

B. Reservation of Rights and Claims.

A refusal by the City of Alpharetta to comply with the zoning conditions for 100 North Main Street, will impose a disproportionate hardship on the Appellant without benefiting any surrounding property owners.

A refusal by the City of Alpharetta to comply with the zoning conditions for 100 North Main Street, will be unconstitutional in that it will constitute a taking of the Appellant's property rights without first paying fair, adequate, and just compensation for such rights in violation of Article I, Section III, Paragraph I of the Georgia Constitution of 1983, as amended, and the Fifth and Fourteenth Amendments to the Constitution of the United States.

A refusal to comply with the zoning conditions for 100 North Main Street will constitute an arbitrary and capricious act by the City of Alpharetta without any basis for such, and will constitute an abuse of discretion in violation of Article I, Section I, Paragraph I of the Georgia Constitution of 1983, as amended and the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States.

A refusal by the City of Alpharetta to comply with the zoning conditions for 100 North Main Street will be unconstitutional and will discriminate in an arbitrary, capricious and unreasonable manner between the Appellant and the owners of similarly situated properties in violation of Article I, Section I, Paragraph II of the Georgia Constitution of 1983, as amended and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Furthermore, this Reservation also constitutes an Ante Litem Notice pursuant to O.C.G.A. § 36-11-1, which places the City of Alpharetta and all other agents of the City on notice of the Appellants' intent to seek monetary damages and attorney's fees against the City of Alpharetta for any rezoning action, zoning condition, illegal impact fee and any other unlawful restrictions and exactions.

Finally, the Appellants assert that the UDC, Future Development Map and Comprehensive Plan were not adopted in compliance with the laws or constitutions of the State of Georgia or of the United States, and a denial of the Appellant's request based upon provisions illegally adopted will deprive the Appellants of due process under the law.

By filing this Reservation, the Appellant reserves all rights and remedies available to it under the United States Constitution, the Georgia Constitution, all applicable federal, state, and local laws and ordinances, and in equity.

Each of the named applications, permits, and documents referenced herein are incorporated with this appeal.

Notice of Appeal of Administrative Decision November 20, 2020

Kathi Cook

November 20, 2020

Page 5 of 5

This Reservation forms an integral part of the Administrative Appeal, and we ask that the City of Alpharetta include this Reservation with the Appellant's other documents. The Appellant reserves the right to amend and supplement this Reservation at any time.

Sincerely,



Jonah B. Howell

JBH/klk

cc: C. Sam Thomas, Esq. (via email cst@boviskyle.com)
Steven Jones, Esq. (via email sjones@boviskyle.com)
Michael Woodman (via email mwoodman@alpharetta.ga.us)
David Shostak (via email dshostak@alpharetta.ga.us)

EXHIBIT A

31 Church Street and 100 N Main Street. Determination of one or two trees following the method found in the American Forests Champion Trees Measuring Guidelines Handbook. This is the method I have consistently used when determining if a tree is one tree or multiple trees as the Arborist Technician and the City Arborist for the City of Alpharetta. The below information can be found on page 13 along with diagrams detailing the method.

Is It one tree or more? — the Pith test

How can we tell if we are measuring a single tree or multiple trees where two or more trunks are fused? With species such as the eastern cottonwood, silver maple and many others, multiple trunks can be more the rule than the exception. Here is our solution for this problem:

The Pith Test

We follow the central pith lines down the trunk(s):

1. If the pith lines intersect above ground level, we have one tree.
2. If the pith lines at ground level are separated, we have more than one tree.

The images on the next few pages are of the trees in question that show the pith lines in red as determined by the American Forests method and the approximate ground line in yellow.

I also look at the split/included bark and determine if it goes all the way to the ground

EXHIBIT A

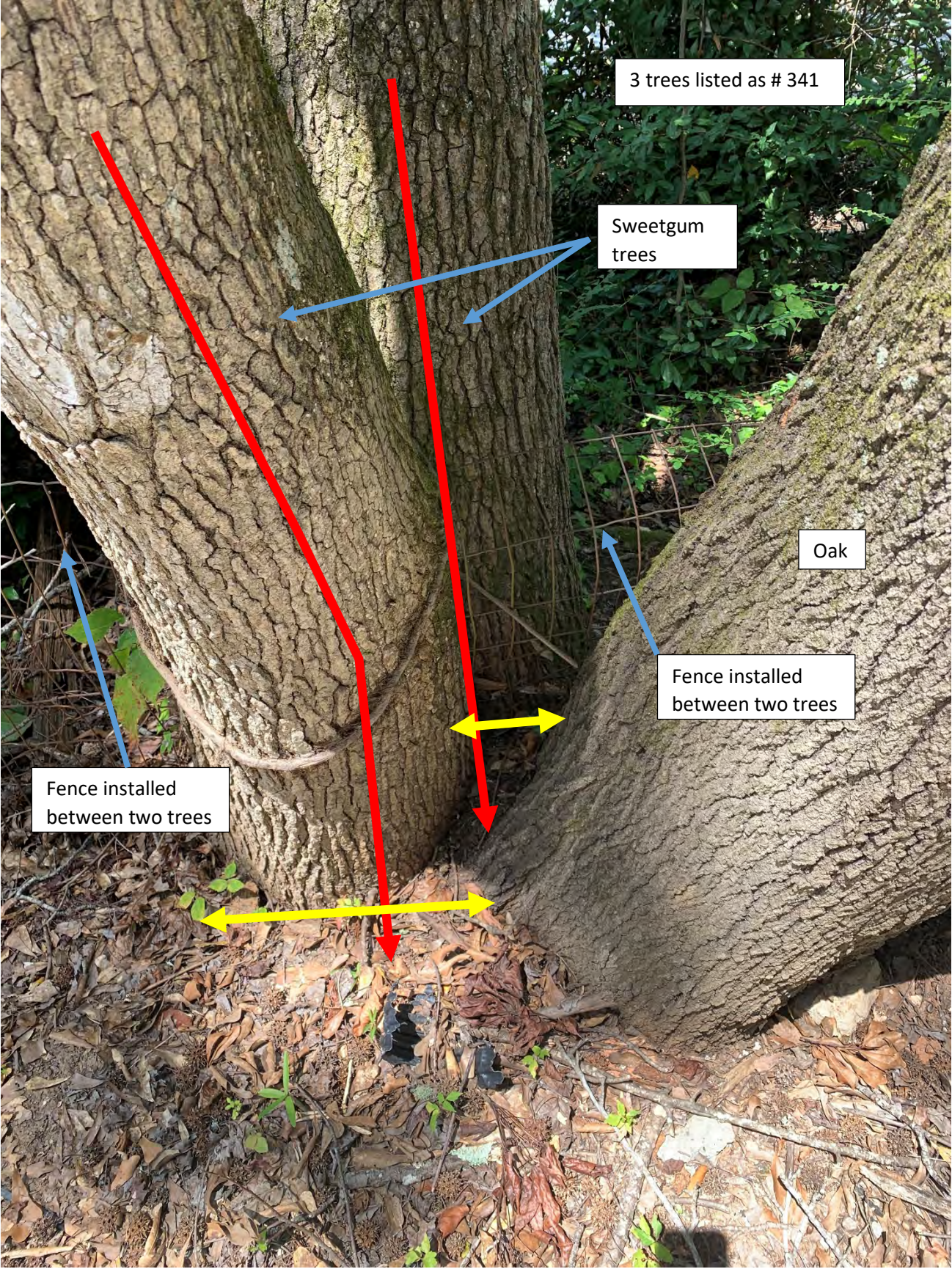


EXHIBIT A

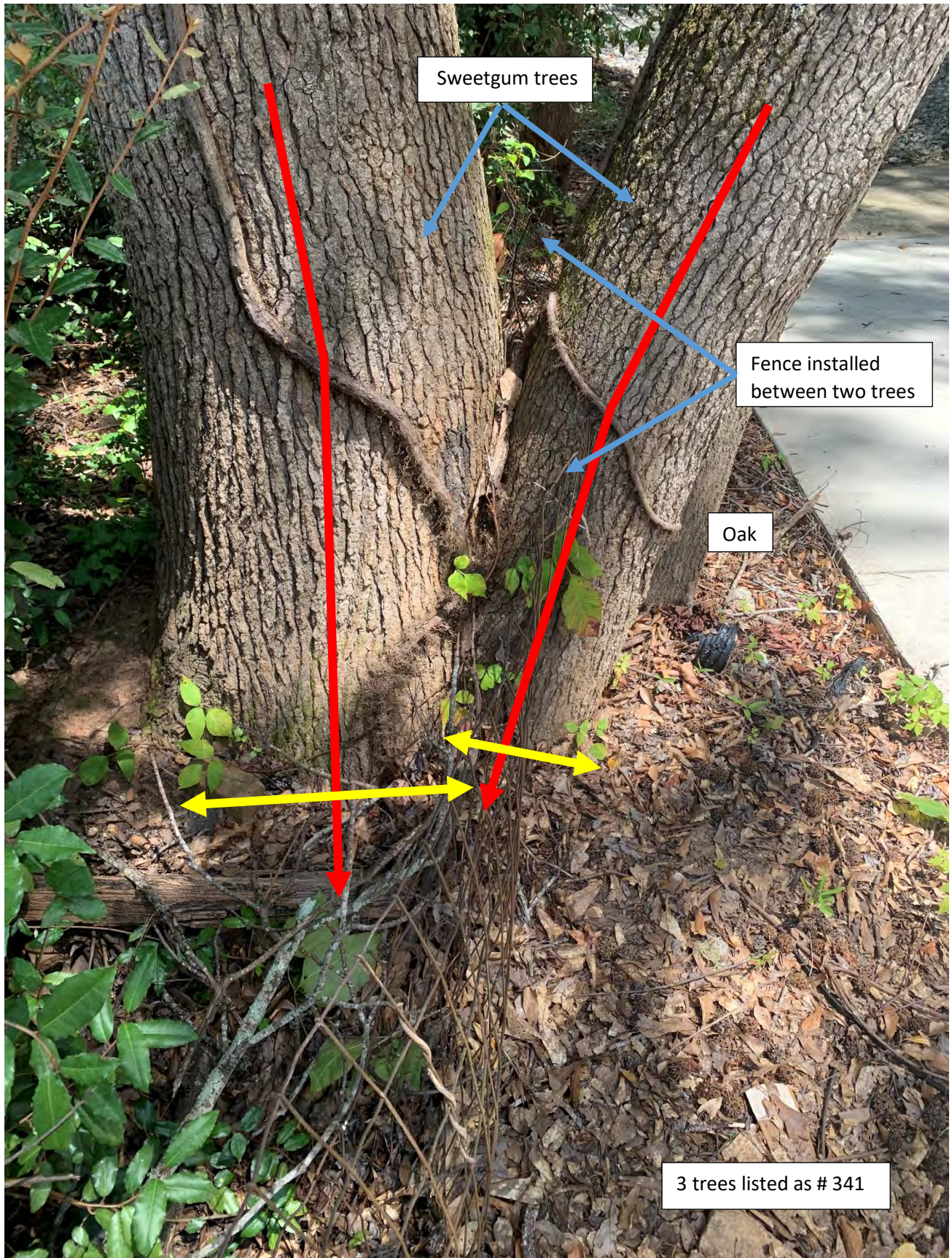


EXHIBIT A

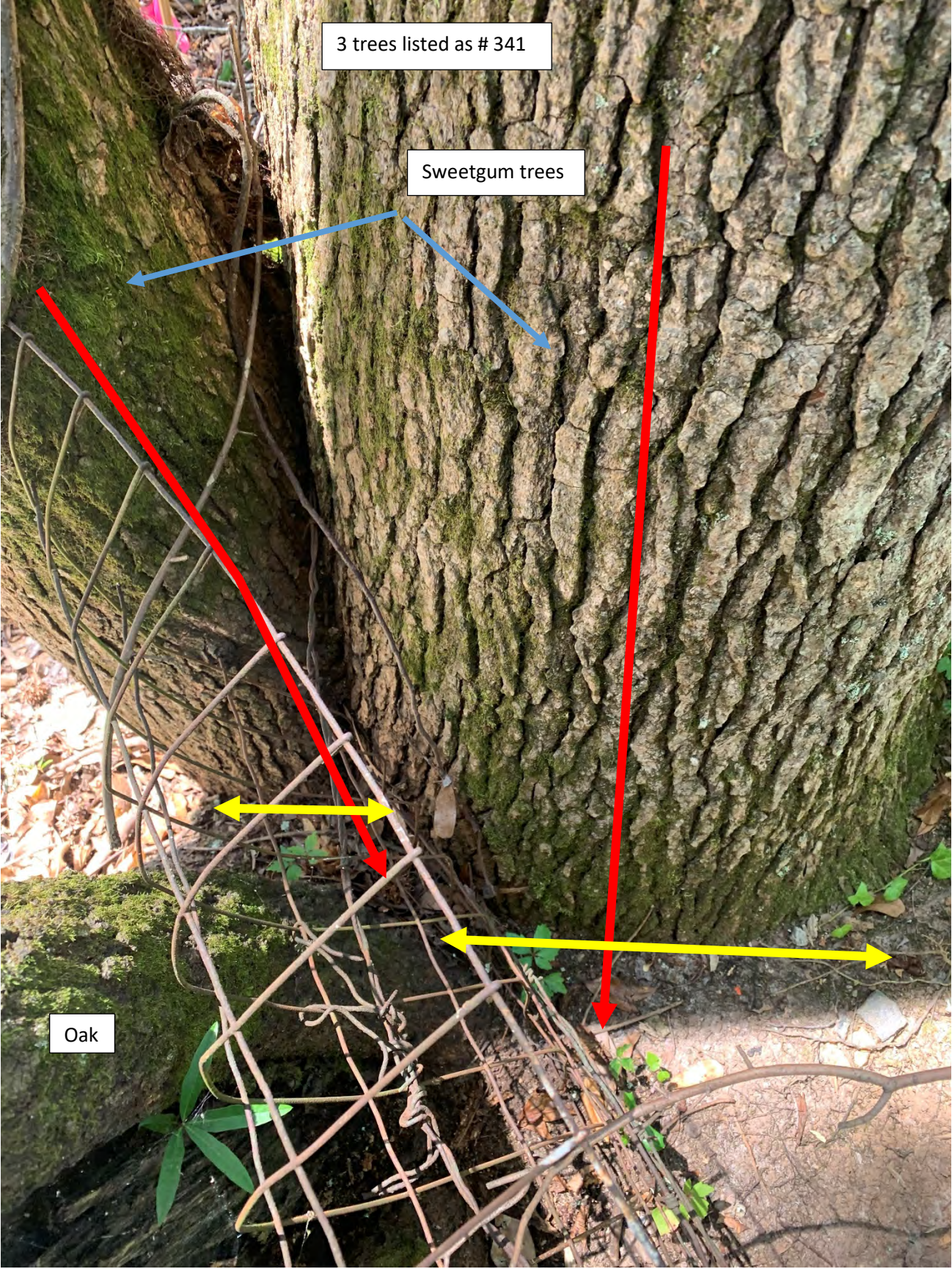


EXHIBIT A



EXHIBIT A





David I. Shostak, MS, ISA, RF(AL)

Education:

- Doctorate Level Research and Studies in resource management, ecology, best management practices (BMPs), stormwater, and watershed studies, University of Missouri - Columbia, Department of Forestry, 2002 - 2004
- M.S., Forestry - Auburn University, School of Forestry and Wildlife Sciences, August 2004
- B.S., Dual Degree Program Environmental & Forest Biology and Resource Management, SUNY College of Environmental Science and Forestry, May 1995
- A.S., Liberal Arts and Science, Math and Science, Nassau Community College May 1992

Experience:

Mr. Shostak is the Principal Scientist and co-owner of KADAS, INC, offering a wide range of environmental services including stormwater, arboriculture, forestry, ecology, municipal, training, and project and contract management. Mr. Shostak has over 25 years of professional experience within the public and private sectors. He is also currently the City Arborist and was previously the Stormwater/Arborist Technician for the City of Alpharetta, Georgia. Previously, he worked as an Environmental Scientist for an Engineering and Consulting Firm in Panama City Beach, Florida, a Consulting Forester, in Columbia, Missouri, and a Forester for the United States Military Academy, West Point, New York.

Mr. Shostak has many years of experience in reviewing and overseeing the implementation of tree protection and landscaping plans, tree risk assessment and management, as well as land protection, damage, and reclamation. As a consulting Arborist and the City Arborist for the City of Alpharetta Mr. Shostak has developed and reviewed many tree protection and tree planting plans. He is also often called upon to investigate tree and limb failures and determine forensically what happened and why. He is also responsible for identifying how to protect trees during construction and how to mitigate for damage to the trees or their rooting zones during construction and how to care for the newly planted trees to increase their chances of survival. Mr. Shostak oversees all of the private development projects from initial site clearing and tree removal to final planting and project completion as the City Arborist and takes care of trees on private development sites for outside of Alpharetta from beginning to end as a consultant with KADAS, Inc. Mr. Shostak has also assisted many of his private clients in assessing their trees for structural and biological health and providing them with care plans. He also performs inspections, rehabilitation, and stabilization services of detention and retention ponds and other common properties for HOAs. While at The United States Military Academy Mr. Shostak worked closely with the Integrated Training Area Management Team and the Land Rehabilitation and Management Program. This program worked to rehabilitate forest roads and forested areas damaged by military training and/or forest fires. Additionally, Mr. Shostak also assisted in overseeing the timber harvesting program which included the initial layout and rehabilitation of the skid trails after the harvest.

Select Legal Project Experience:

- Personal injury and damage assessment for Downey & Cleveland LLP (Harris, et al. v Smith et al)
- Personal injury and negligence tree assessment. For Mr. and Mrs Esquilin and Hornsby Law Group (Towanda Esquilin and Ralph Esquilin v Highgrove Partners, LLC, et al)
- Timber trespass from residential property and appraisal valuation. For Ronald and Martha Johnson and Stack & Associates, P.C. (Ronald Johnson and Martha Johnson v. Prather Logging, LLC., and Bobby Prather, Individually and as owner of Prather Logging, LLC)
- Tree evaluation for property damage to neighboring property. For Simon Bloom and Jon Schwartz Attorney at Law (Simon H. Bloom v. Emanuele Massetti and Alice Favero)
- Land damage and stabilization assessment from timber trespass. For The Cincinnati Insurance Company and Scofield Timber Company, Inc. (R&B Mountain, LLC, v. Scofield Timber Company, Inc.; Virginia D. Palmer; Beaver Logging, Inc., and Brown Logging, Inc.)
- Damage appraisal and assessment of mountain laurels. Big Canoe, Georgia. For Big Canoe POA and NowackHoward, LLC.

(Coleman v. Big Canoe)

- Timber trespass from commercial property and appraisal valuation. Johns Creek, Georgia. For William L. Colvin, P.C.
- Automobile damaged tree on residential property and appraisal valuation. Holly Springs, Georgia. For Am Fam Insurance.
- Personal injury and negligence tree assessment on private rental property. Decatur, Georgia. For Morgan and Morgan, P.A. (Broughton, Demetress vs. Valley Vista Properties LLC.)
- Forensic assessment of root damage during construction on private property. Brookhaven, Georgia. For Builder.
- Timber trespass from residential property and appraisal valuation. White, Georgia. For Owner.
- Forensic assessment of two fallen pines wrongful death. Cherokee County, GA. For deceased's family.
- Assessment/Expert Witness encroachment into Critical Root Zone of Specimen Trees, Sandy Springs, Georgia, For Builder.
- Forensic assessment of poisoned tree, Cherokee County, Georgia. For Owner
- Forensic assessment and stabilization and environmental permitting review of accident site, wrongful death involving trees, Etowah County, Alabama, For William L. Colvin, P.C. (CHARLES THRASHER, Individually and As the Administrator of the Estate of STACEY THRASHER; on behalf of his Minor children BRADLEY THRASHER and ALISHA THRASHER and his adult child, ASHLEY THRASHER v. All Terrain Siteworks, Inc.)

Licenses and Affiliations:

Alabama Registered Forester (License #1994), International Society of Arboriculture Certified Arborist (#SO-5867A), NC Qualified BMP Inspection and Maintenance Professional Trained, FL Dept. of Environmental Protection Qualified Stormwater Management Inspector (#10516), GA Soil and Water Conservation Commission Level 1B Certified Inspector (#19632 Exp), Society of American Foresters (Chapter Chair 2009), AL State Board of Registered Foresters, Georgia Tree Council Formerly - Georgia Urban Forest Council (Board Member 2017-2020, President Elect 2021), Eagle Scout (1989)

Select Publications, Technical Reports, and Presentations:

- South Carolina Forestry Commission, South Carolina Planning Commissioner's Educational Webinar Session Two – Identifying Trees for Conservation Early in the Planning Process, Virtual Presentation, November 12, 2020.
- Georgia Arborist Association, Requirements for Writing a Tree Prescription for an Municipality. Virtual Presentation November 10, 2020.
- Tennessee Public Works Magazine, The Wrong Tree in the Wrong Place, Let Me Show You What's Not Working. May/June 2020 Vol. 38 No. 1
- Georgia Tree Council, First Quarterly Program: Back to Basics - Wrong Tree Wrong Place Presentation. Macon, Georgia February 12, 2020
- City of Alpharetta, Georgia, 2017 Arborist Guidance Document, A reference guide for property owners, developers, and designers.
- City of Alpharetta, Georgia, 2016-2017 Tree Conservation, Landscape, and Buffer Requirements. Tree Ordinance update.
- City of Alpharetta Pre Construction Class, Tree and Landscaping issues related to site development. Presented monthly, ongoing.
- Georgia Urban Forest Council, Continuing the Conversation: Trees as Green Stormwater Infrastructure, Trees and Stormwater, Presentation and Panel Discussion, Alpharetta, Georgia, August 18, 2016
- Half Moon Seminars, Maintaining Wet and Dry Detention Ponds, Georgia Stormwater Management Presentation, Atlanta Georgia, April 15, 2010
- City of Alpharetta, Georgia, 2007, Stormwater BMPs Inspection and Maintenance Program Brochure for HOAs
- City of Alpharetta, Georgia, 2007, Comprehensive Stormwater Inspection and Maintenance Policy
- City of Alpharetta, Georgia, 2007, Comprehensive Stormwater Inspection and Maintenance Guidance Document

EXHIBIT C



Commercial Real Estate Services, LLC

August 12, 2020

Mr. Lanny Donoho
31 Church Street
Alpharetta, Georgia 30009

Dear Mr. Donoho:

As a representative of the ownership of 100 North Main Street, we are informing you of our impending office development project along our common property line. Although we have been trying to work through a solution to the existing trees and your drainage issues on our common property line, we have reached a point where we need to move forward with our project.

We are now moving forward with preparing our construction documents and will be obtaining the proper permits from the City of Alpharetta and impacting the trees along your property line up to as much as 20% as per our approved zoning plan. The Hazard Trees identified by our independent arborist and confirmed by the City Arborist are not subject to the 20% impact limit. We are offering to remove all of the impacted trees as a part of our construction as a courtesy, but if you choose to let the trees remain, you will assume full responsibility for the long-term care of the trees, future removal of dead and dying trees, and will have the financial responsibility for any damage fallen trees or limbs will have on our building and property.

Please let us know by 5 PM Monday, August 17, 2020 if you would like the impacted trees removed. We will keep you informed of our impending construction schedule, as necessary.

Sincerely,

A handwritten signature in blue ink, appearing to read "Zac Antonio". The signature is fluid and cursive, with the first letter "Z" being particularly large and stylized. Below the signature, the name "Zac Antonio" is printed in a black, sans-serif font.

Cc: Eric Graves, Stephanie Cooper, Thomas Vandervort

From: [Cook, Kathi](#)
To: [Taylor, Elicia](#)
Subject: Fwd: 100 North Main Street Design and Tree Designation
Date: Friday, February 12, 2021 9:55:44 AM

Sent from my iPhone

Begin forwarded message:

From: "Cook, Kathi" <Kcook@alpharetta.ga.us>
Date: November 6, 2020 at 11:04:00 AM EST
Subject: RE: 100 North Main Street Design and Tree Designation

Mr. Howell,

We have reviewed your October 29, 2020 letter and tree report. Your letter seeks to assert a violation of the condition number 15 (the "Condition of Approval") imposed by the City Council with respect to its approval of Z-19-03/V-19-16 (100 North Main Street). The Condition of Approval reads as follows: "Off-site tree encroachment shall be limited to no more than 20% of the CRZ and shall require notification to property owner." After reviewing your letter, the report attached to that letter, and the City's file regarding this matter, I have determined that the Condition of Approval has not been violated.

Based on my determination, there are no issues for discussion and, therefore, no need for the meeting requested in your letter. If your letter seeks a different or further determinations, please let me know.

Respectfully,

Kathi Cook
Director, Community Development
City of Alpharetta
2 Park Plaza
Alpharetta, GA 30009
E: kcook@alpharetta.ga.us
O: 678.297.6073

From: Jonah Howell <jhowell@mhtlegal.com>
Sent: Thursday, October 29, 2020 4:59 PM
To: Cook, Kathi <Kcook@alpharetta.ga.us>; Woodman, Michael <mwoodman@alpharetta.ga.us>; Thomas, Sam (Attorney) <cst@boviskyle.com>; Sjones@boviskyle.com; Shostak, David <dshostak@alpharetta.ga.us>
Cc: Cameron Kline <ckline@mhtlegal.com>

Subject: 100 North Main Street Design and Tree Designation

All,

Please see the attached correspondence. I look forward to working with you all.

Thank you,

Jonah B. Howell



202 Tribble Gap Road | Suite 200 | Cumming, Georgia 30040

Phone: 770-781-4100 | Fax: 770-781-9191

jhowell@mhtlegal.com | www.mhtlegal.com

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Jonah B. Howell
jhowell@mhtlegal.com

October 29, 2020

**VIA ELECTRONIC MAIL TO: Kcook@alpharetta.ga.us; Mwoodman@alpharetta.ga.us;
Cst@boviskyle.com; Sjones@boviskyle.com; Dshostak@alpharetta.ga.us**

**RE: Proposed Development at 100 North Main Street, Alpharetta, Georgia 30009,
a/k/a Tax Map Parcel No. 22 482212520328; Site Plans; Tree Identification**

To Whom It May Concern:

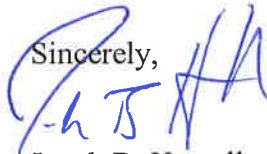
I have not written to each recipient of this correspondence in connection with this matter, however, I, along with the rest of the law firm of Miles, Hansford & Tallant, LLC, have the privilege to represent Youth Ministry Resources, Inc. ("Youth Ministry Resources"), and Lanny Donoho ("Mr. Donoho") in connection with the above referenced matter. To that end, please direct all correspondence pertaining to the matters contemplated herein, particularly that pertaining to the development of 100 North Main St., Alpharetta, Fulton County, Georgia 30009 and that parcel of real property belonging to Youth Ministry Resources, which is commonly referred to as 31 Church St., Alpharetta, Fulton County, Georgia 30009. My reason for writing is to convey my clients' concerns about the manner in which the critical root zone for certain trees was calculated. Specifically, accompanying this letter is a report which is the result of a study my client commissioned in connection with certain trees which have been the focus of much debate between the City and Mr. Donoho. Ultimately, I am writing to request a time during which I, along with Mr. Donoho, can meet with the appropriate City officials, employees, and representatives, including the City's attorney, and the developer of 100 N. Main St. to discuss the issues and seek an amicable resolution to this matter.

For the purpose of providing the City with an understanding as to why Mr. Donoho commissioned a study for the trees in question, I understand the following facts to be true. Mr. Donoho has long objected to the location of the development of the parking structure at 100 N. Main, and he voiced his objection thereto on numerous occasions, including but not limited to email correspondence and public hearings. Mr. Donoho's objection is not to the development itself. In fact, he simply requests a fifteen (15) foot setback between the structure and the Youth Ministry Resources property. At one public hearing in connection with the development of 100 North Main Street, the developer's counsel, Mr. Rolader affirmatively represented to Mr. Donoho, in the presence of the Mayor and Council, the development would be located at least fifteen (15) feet from the common boundary line of 100 N. Main Street and 31 Church Street – an agreeable and satisfactory distance from the southern boundary of 100 N. Main Street. Those records and transcripts speak for themselves, and there is little to be gained by going into great detail about said proceedings.

However, following the public meetings, Mr. Donoho met and communicated with a few different City representatives to express his concern about the location of the parking deck due to its probable impact on certain trees which are situated, at least in part, on Youth Ministry Resources's property. One of the most recent meetings, was with the City's arborist. During said meeting, the City's arborist indicated to Mr. Donoho that the City, based upon the arborist's conclusions, correctly treated tree 341 as two different trees. As such, the critical root zone, as calculated by the City, is much smaller than it would be if in fact tree 341 were considered one tree. After Mr. Donoho inquired further, the City's arborist unambiguously indicated to Mr. Donoho that the City would have no choice other than to reconsider its position with regard to the identification of tree 341 and its critical root zone if Mr. Donoho could "scientifically" prove the tree is in fact one tree. Mr. Donoho did exactly that.

As you will see in the attached report, tree 341 is in fact one tree. The critical root zone for said tree is far larger than that contemplated by the City thus far as a result. Therefore, the City and the Developer are faced with the dilemma of a development plan which necessarily requires encroaching upon more than 20% of tree 341's critical root zone as said root zone is properly calculated. Of course, such an encroachment violates the zoning conditions for the development. Perhaps, in light of this discovery which is consistent with Mr. Donoho's position throughout the course of the application, re-zoning, and development processes, all involved stand to benefit greatly from a meeting to discuss the proper location of the proposed parking structure. Such a meeting would prevent unnecessarily adversarial interactions in the future and provide an opportunity to resolve this matter once and for all.

Thank for your time and attention to this matter. I look forward to your response in the near future.

Sincerely,

Jonah B. Howell

JBH/kd
enclosures



Site Assessment

Donoho 2020 #342 and #341 / 21 Oct 2020

Complete

Document Number	Donoho 2020 #342 and #341
Prepared for	Donoho
Prepared by	Green Prism Consulting P.O. Box 297 Gainesville GA 30503 Odis Sisk ISA Certified Arborist # SO-4211AUT Odis@greenprismconsulting.com 678-617-1223
Conducted on	21st Oct, 2020 11:38 AM EDT
Client Information	Lanny Donoho 31 Church St Alpharetta GA 30009 404-271-9964 Donoho7@mac.com

Table of Contents

Site and Tree Information	3
Conservation Suitability Worksheet	7
Relative Tolerance of Selected Species to Development Impacts	8
Tree, Plant or Areas	9
Individual Tree, Plant or Area	9
Individual Tree, Plant or Area 1	9
Individual Tree, Plant or Area 2	14
Site / Tree Care Recommendations	19
Planning Phase	19
Design Phase	21
Phase 1	21
Phase 2	23
Phase 3	23
Planting / Landscaping	24
Timelines	25
Assessment Conclusion	26
Definitions, References and Consulting Agreement	27
Appendix	29

Site and Tree Information

Reason for Site Visit

Preliminary site visit for data and information collection.

Case in litigation

Property Division

Basic Information

Green Prism Consulting was contracted to assess 2 separate multi-stem trees. The trees are located approximately 15' apart. Tree # 341: 34" DBH and #342: 24.5" are both American Sweetgum (*Liquidambar styraciflua*). The goal is to determine if each multi-stem tree is one tree or multiple trees growing together.

The trees are located in a row between two properties. The South Side is 1 residential property. The North Side is 1 unpaved lot. The North Side lot is covered with gravel. In the near future the North Side property will be developed. The proposed structure will be a 2 story parking garage. Typical parking structures have a floor-to-floor height from the ground to the second level of approximately 10.5-11.5 ft. The average height with walls would be 25' from ground level to the top.

Site Map and Photos



Photo 1



Photo 2



Photo 3



Photo 4

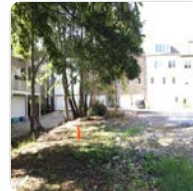


Photo 5



Photo 6

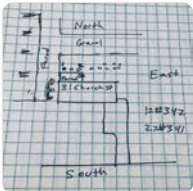


Photo 7

Tree Ordinance Mandates

Tree Location Requires Adherence to Tree Protection Ordinance

Type of Assessment

ANSI A300: The performance parameters established by the industry consensus as a rule for the measure of extent, quality, quantity, value, or weight used to write specifications. ANSI A300: is work specifications, training materials, quality protocols, and regulations for the management of trees, shrubs, palms, and other woody landscape plants.

Tree Report Sent by Appellant 10.29.20

Levels of Tree Risk Assessment

Level 1: Limited Visual Tree Risk Assessment - Tree(s), targets, and unique conditions of concern (if any) to be considered. The perspective of the assessment (one-sided, ground-based, ground-based, vehicular, Satellite, or Aerial) shall be specified.

Level 2: Basic Tree Risk Assessment - Assessments should consider defects and conditions that affect tree, failure, tree species failure profiles, loads on the tree or tree parts, growth that has occurred in response to loads, and site factors that may affect the potential for failure and impact. Common hand tools should be used in assessment at the discretion of the assessor, to meet the objectives. Common hand tools: Mallet - for sounding wood. Binoculars, digging tools, soil moisture meter, soil compaction meter.

Level 3: Advanced Tree Risk Assessment - Shall be conducted in conjunction with Level 1 or 2 assessment. Shall use assessment tools or techniques not included in Level 1 or 2 assessment. Level 3 tools should be used in assessment at the discretion of the assessor, to meet the objectives. Advanced Techniques / Tools: Aerial Assessment branch or stem defects, Resistance Drilling to determine the extent of interior wood decay, Identification of wood decay causing organisms, Lean or trunk-movement, Sub-surface root and / or soil assessment, Traffic analysis, Tree or site history related to defects.

Level 3 Assessment on #341 and #342

Site Character

Residence Single-Family

Residence Multi-Family

Construction Site (Pre-Construction)

Recent site modification with multiple townhomes being built on West Side of #342. Site Hydrology modified. Excess moisture and runoff reported by client. Run off overwhelming storm drain.

Tree Report Sent by Appellant 10.29.20

Landscape Type	Privacy Control Tree Island Tree / Plant Island (Volunteer / Native Stand Establishment) Screening Objectional Views Erosion Control Softening Architecture
Targets - people, property or activities that could be injured, damaged, or disrupted by tree failure.	Occupied Structure Residential Resident Parking Non-Resident Parking Utilities Above Ground Natural Area Maintained Exceeds Property Line Boundaries Work / Construction Zone
Main Target Occupancy Rate Parking structure proposed for site. High Occupancy Rate Trees are in close proximity to 31 Church St. Residence.	Frequent - target zone is occupied for a large portion of the day or week.
Growth Obstructions	Curb / Pavement Structure for occupation Drive Way
Topography Sloped West to East with Drains located on North Side of 31 Church St.	Mild Slope
Site Changes Soil Hydrology change with more water moving from West to East. Water moving from new pavement and townhome parking area. Water moving at a rate that overwhelms the storm drain. Dirt removed from root flare of tree #341 and #342 in 2020 with AirSpade. Tool that uses pressurized air to remove soil without damaging tree roots.	Grade Change Increase Fill Dirt Changed Soil Hydrology: changes have been made that affect water flow in or out of the site. Future Site Modification

Soil Conditions

Shallow: rooting depth limited by one or more factors including high water table, rock ledges, compacted layers or underground structures

Clay

Conservation Suitability Worksheet

Root Cut / Drill Distance from Trunk (1-15 possible)

1-1.5' per 1" DBH

10.5

Alpharetta Critical Root Zone is 1.3' x DBH".

Health of Tree (1-15)

Good - Canopy Density 40-70% Moderate

10.5

Defects (1-15)

Moderate Risk

10.5

Construction Tolerance of Species (1-15)

Poor / Moderate

7

Age (Relative to Typical Lifespan) (1-10)

Semi-Mature (1/3-1/2 typical lifespan)

7.5

Location of Construction Activity (1-10)

Inside CRZ

Category Rating: 6

Structural Critical Root Zone (Corder 1996) Distance to minimize catastrophic tree failure

#341: 34" DBH = 10'

#342: 24.5" DBH = 10'

Alpharetta Critical Root Zone (CRZ) 1.3 ft x inches DBH

#341: 34" DBH = 44.2 ft.

#342: 24.5" DBH = 31.85 ft.

Structural Root Plate (SRP) .5' x inch DBH

#341: 34" DBH = 17 ft.

#342: 24.5" DBH = 12.25

Soil Quality Tolerance (1-10)

Poorly-drained, Low organic matter and /
or Wet or dry site, heavy clay

3.25

Species Desirability (1-10)

Medium

5

Suitability Ratings Total

Above 80 = Good: Good health and structural stability and have potential for longevity at the site

60-79 = Moderate: Fair health and/or structural defects that may be abated with treatment. Trees in this category require more intense management and monitoring, and may have shorter life-span.

Less than 59 = Poor: Poor health or have significant defects in structure that cannot be abated with treatment. These trees can be expected to decline regardless of management.

Suitability Rating Total: 60.25

Categories completed with construction occurring inside the Critical Root Zone but not exceeding the Alpharetta: Tree Conservation, Landscape and Buffer Requirements Ordinance (Article 3 Section 3.2.)

Section B #5: If encroachment is allowed(no greater than 20%) within the CRZ of trees to be conserved provide the encroachment on the Tree Protection Sheets.

Relative Tolerance of Selected Species to Development Impacts

Tree Species / Scientific Name / Tolerance (P=Poor, M=Moderate, G=Good)

Sweetgum / Liquidambar styraciflua / P-G

Tree, Plant or Areas

Individual Tree, Plant or Area

Individual Tree, Plant or Area 1

Tree #, Tree Species , Diameter and Location / Area

#342
Sweetgum
Left side of drive
Left stem diameter: 12.5"
Right stem diameter: 12"
Total diameter at 4.5': 24.5"
Canopy Width from Center:
31 Church St. South: 8'
Future Construction Site North: 10'
Total: 18'
Tree #342 is 1 tree with multiple trunks and one root system.

Photos and Media



Photo 8



Photo 9

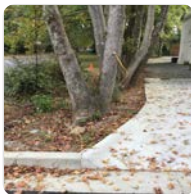


Photo 10



Photo 11

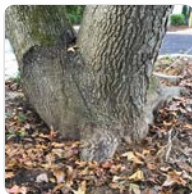


Photo 12

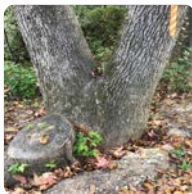


Photo 13



Photo 14



Photo 15

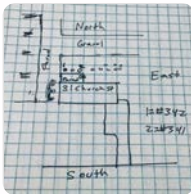


Photo 16

Aerial Utilities

Tri-plex Service Line

Telecommunications Line

Any Tree Parts within 10' of Utility

Canopy Issues / Damage

No Observable Issues

Issues / Damage

Co-Dominant Stems

Object Attached to Tree

Tree had 3 stems originating close to ground level. 6" stem removed before assessment.
Old fence grown into tree close to ground level. Fence engulfed with no signs of tree stress associated with foreign object.

Tree Report Sent by Appellant 10.29.20

Issues / Damage / Encroachment (Root Area)

Pavement

Visible Construction Encroachment Inside CRZ

Driveway on 31 Church St or South Side.
Pavement on West Side from development.



Photo 17



Photo 18

Vigor

Average

Growth Internodes more than 6"

Baseline Assessment

Average Condition for Canopy [Structure /Health] *Combine with other sections in Recommendations

.75-.90 Average - Good Good branch habit, minor dieback, with some signs of previous pruning. Codominant stem formation may be present. Minor corrections required. Imperfect canopy density in few parts of the tree, 10% or less, lacking natural symmetry. Less than half normal growth rate and minor deficiency in leaf development. Few pest issues or damage, that are controllable. Normal branch and stem development with healthy growth.

80%

Average Condition for Trunk / Root Flare [Structure and Health] *Combine with other sections in Recommendations

.50-75 Fair Evidence of trunk damage or cavities with decay or defects present. Less than 30% of bark sections missing on trunk. Codominant stems are present. Obvious signs of pest problems contributing to lesser condition. Some decay areas found in main stem and branches.

70%

Average Condition for Roots and Root Area [Structure /Health] * Combine with other sections in Recommendations

.50-.75 Fair Root plate reveals previous damage or disturbance. Damaged or dysfunctional roots may be visible around main stem. Obvious signs of pest problems contributing to lesser condition.

75%

*Combined Rating from Tree Defects [Canopy, Trunk and Roots]

.75-.90 Good // Life Expectancy = Typical for Species

Condition at time of assessment: Combined Rating from tree defects categories: 75%

Tree Report Sent by Appellant 10.29.20

Recommendations (Pruning)	All pruning should be performed or supervised by ISA Certified Arborist. Pruning should be performed by trained and knowledgeable Arborist. All trees should be pruned without the use of tree climbing spikes.
	Crown Clean: Selective removal of dead, diseased, detached, cracked, and broken branches. Cleaning for mature trees does not remove live branches unnecessarily. This is usually specified by smallest branch and larger to remove in diameter.
	Crown Clean: 1.5 - 2" Diameter and Larger
	Restructure: Removal of live branches and stems to influence the orientation, spacing, growth rate, strength of attachment, and ultimate size of branches and stems. Structural pruning is used on young and medium-aged trees to help engineer a sustainable trunk and branch arrangement.
	Pruning Not Recommended During Periods of Pest Activity
Mitigation Timeline	(Pruning) Low-Priority Tree - Should be retained, monitored or mitigated when budget, schedule or pruning cycle allows.
Assessment Period	Annual
	2021

Tree Report Sent by Appellant 10.29.20

Irrigation

During the Construction phase, in the absence of adequate rainfall trees (# ____, ____, etc.) Shall be irrigated at the edge of the SRP / TPZ. Watering shall be provided as a slow long deep watering by an above-ground irrigation system consisting of soaker hoses, drip irrigation, or a bubbler system. Water should be provided at a minimum of the equivalent to 1" of rainfall per week.

Temporary irrigation shall be considered before, during, and after excavation and trenching within the Tree Preservation Zone to mitigate stress from water loss.

Irrigation method and schedules should consider soil profile and conditions, topography, climate, time of year, species, extent of root loss and tree health.

Installation of irrigation systems shall be designed and installed to provide water to remaining roots within the Tree Protection Zone.

Monitor Soil Moisture Level

Tree #342 and #341

Pest / Pathogen Management

During the Construction phase, a wood borer preventative treatment program shall be performed during the months of (X and X) during (Year). Starting again in March, May, July, and September in (Year) and again in (Year). This program will lower the risk of opportunistic insects infesting and killing the tree.

Preventative Pest / Pathogen Management Recommended

Topical Application for Insect Deterrent

Boring Insect Management

Monitor for Pest Activity (Quarterly)

March

May

July

September

2021

2022

Insect Management: March, May, July and September for minimum of 2 years after construction ends.

Root Area and Soil Recommendations

At the Pre-Construction phase, mulch shall be applied to the entire critical root zone of specimen trees, where sparse and no natural leaf litter or duff exists with 2-4 inches of clean organic, non-synthetic, wood chip mulch. This mulch shall be free of debris, insects, and pests. Mulch shall not touch the trunk of the tree.

During the Construction phase, fertilization using nutrients and minerals per the recommendations of a soil test shall be spread, at the recommended rates, within the SRP / TPZ of this tree during late winter or early spring (Year and Year).

Monitor Soil Moisture (add supplemental water when needed)

Remove Foreign Debris from Critical Root Zone

Remove Fill Dirt From SCRZ

Remove Fill Dirt to Expose Root Flare
Taper Soil Profile Transition

Establish and Maintain Tree Protection Zone for CRZ

Limit Herbicide Use

Sensitive Area

Advanced Inspection and Recommendations

Decay Analysis Resistograph Basal

#342

25" at drilling location

8" from ground level

South Side Resistograph Picture 1

North Side Resistograph Picture 2

No indicators that would signify that the two stems are two individual trees. Growth rings indicate simultaneously growth. Low forking commonly occurs with naturally grown trees. Tree #342 is one tree with 3 original stems originating close to ground level.

Tree Report Sent by Appellant 10.29.20



Photo 19



Photo 20



Photo 21



Photo 22

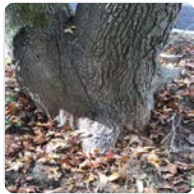


Photo 23



Photo 24



Photo 25

Individual Tree, Plant or Area 2

Tree #, Tree Species , Diameter and Location / Area

#341

Sweet Gum

Left stem 22"

Right stem 12"

Total tree diameter: 34" DBH

Trees indicated in picture 1 and 2 in red were not included in measurements. The 16" Water Oak in red is of different species and not attached to #341.

Canopy Width from Center:

31 Church St. South: 8'

Future Construction Site North: 19'

Total: 27'

Tree #341 is 1 tree with multiple trunks and one root system.

Photos and Media



Photo 26



Photo 27

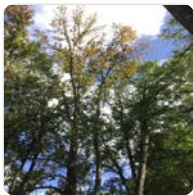


Photo 28



Photo 29



Photo 30

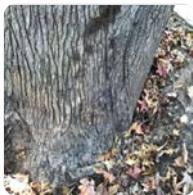


Photo 31



Photo 32



Photo 33

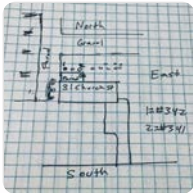


Photo 34

Aerial Utilities

Tri-plex Service Line

Telecommunications Line

Any Tree Parts within 10' of Utility

Tree Report Sent by Appellant 10.29.20

Canopy Issues / Damage	No Observable Issues
Issues / Damage Low forking tree at 24" from ground level. Old fence in lower union and stem. Tree grown around obstacle with no signs of stress associated with foreign body.	Co-Dominant Stems
Issues / Damage / Encroachment (Root Area)	Pavement Plant / Tree located on property division line.
Average Condition for Canopy [Structure /Health] *Combine with other sections in Recommendations 80%	.75-.90 Average - Good Good branch habit, minor dieback, with some signs of previous pruning. Codominant stem formation may be present. Minor corrections required. Imperfect canopy density in few parts of the tree, 10% or less, lacking natural symmetry. Less than half normal growth rate and minor deficiency in leaf development. Few pest issues or damage, that are controllable. Normal branch and stem development with healthy growth.
Average Condition for Trunk / Root Flare [Structure and Health] *Combine with other sections in Recommendations 80%	.75-.90 Good Minor trunk defects from previous injury, with good closure; less than 25% or bark section missing. Few pest issues or damage, controllable.
Average Condition for Roots and Root Area [Structure /Health] * Combine with other sections in Recommendations 75%	.50-.75 Fair Root plate reveals previous damage or disturbance. Damaged or dysfunctional roots may be visible around main stem. Obvious signs of pest problems contributing to lesser condition.
*Combined Rating from Tree Defects [Canopy, Trunk and Roots] Condition at time of assessment. Combined Rating from Tree Defects: 78.3%	.75-.90 Good // Life Expectancy = Typical for Species

Tree Report Sent by Appellant 10.29.20

Recommendations (Pruning)	All pruning should be performed or supervised by ISA Certified Arborist. Pruning should be performed by trained and knowledgeable Arborist. All trees should be pruned without the use of tree climbing spikes.
	Crown Clean: Selective removal of dead, diseased, detached, cracked, and broken branches. Cleaning for mature trees does not remove live branches unnecessarily. This is usually specified by smallest branch and larger to remove in diameter.
	Crown Clean: 1.5 - 2" Diameter and Larger
	Restructure: Removal of live branches and stems to influence the orientation, spacing, growth rate, strength of attachment, and ultimate size of branches and stems. Structural pruning is used on young and medium-aged trees to help engineer a sustainable trunk and branch arrangement.
	Reduce Canopy: Selectively removal of branches and stems to decrease the height and/or spread of a tree or shrub.
	Reduce Canopy: 1-3' from Tip to Cut
Mitigation Timeline	Pruning Not Recommended During Periods of Pest Activity
	(Pruning) Low-Priority Tree - Should be retained, monitored or mitigated when budget, schedule or pruning cycle allows.

Tree Report Sent by Appellant 10.29.20

Irrigation

During the Construction phase, in the absence of adequate rainfall trees (# ____, ____, etc.) Shall be irrigated at the edge of the SRP / TPZ. Watering shall be provided as a slow long deep watering by an above-ground irrigation system consisting of soaker hoses, drip irrigation, or a bubbler system. Water should be provided at a minimum of the equivalent to 1" of rainfall per week.

Temporary irrigation shall be considered before, during, an after excavation and trenching within the Tree Preservation Zone to mitigate stress from water loss.

Irrigation method and schedules should consider soil profile and conditions, topography, climate, time of year, species, extent of root loss and tree health.

Pooling of Water in Low Areas

Prevent irrigation system from spraying of plant foliage or tree bark.

Installation of irrigation systems shall be designed and installed to provide water to remaining roots within the Tree Protection Zone.

Tree #341 and #342

Pest / Pathogen Management

Preventative Pest / Pathogen Management Recommended

During the Construction phase, a wood borer preventative treatment program shall be performed during the months of (X and X) during (Year). Starting again in March, May, July, and September in (Year) and again in (Year). This program will lower the risk of opportunistic insects infesting and killing the tree.

Topical Application for Insect Deterrent

Boring Insect Management

Monitor for Pest Activity

2021

2022

Pest management and monitoring during construction and for a minimum of 2 years after completion.

Root Area and Soil Recommendations

At the Pre-Construction phase, mulch shall be applied to the entire critical root zone of specimen trees, where sparse and no natural leaf litter or duff exists with 2-4 inches of clean organic, non-synthetic, wood chip mulch. This mulch shall be free of debris, insects, and pests. Mulch shall not touch the trunk of the tree.

Remove Fill Dirt to Expose Root Flare

Establish and Maintain Tree Protection Zone for CRZ

Advanced Inspection and Recommendations

Decay Analysis Resistograph Basal

#341
31.5" at drilling location.
5" from ground level
South Side Resistograph
No indicators that would signify that the two stems are two individual trees. Growth rings indicate simultaneously growth. The area of union is present in the Resistograph results. The area indicted mechanical connection. Low forking commonly occurs with naturally grown trees. Tree #341 is one tree with 2 stems originating close to ground level.



Photo 35



Photo 36



Photo 37



Photo 38



Photo 39

Site / Tree Care Recommendations

Planning Phase

Phase of Development Process	Planning Phase includes initial site evaluation where trees on the existing site are surveyed, located, and evaluated for their health, longevity, and benefits to the site. This information is used in deciding which trees are best candidates for conservation, and should be reviewed before decisions on site design are considered.
Site Specifications	Grading and storage of soil Construction access, including entry and exit Vehicle parking - construction vehicle and worker Space for operation and maintenance of construction equipment Utility and drainage corridors including storm water management systems Grade changes and excavations Above-ground vertical space for aerial equipment activity Space for temporary construction buildings (office, tool storage, supply storage) Intrusion into undisturbed areas by the future landscape Washout area for concrete trucks Tree Protection Zone fencing Sediment Control (silt) barriers

Tree Report Sent by Appellant 10.29.20

Plan Specifications

Prevent the following injuries' from occurring:

Root cutting or damage - Inside CRZ (CRZ) Recommended distance of preservation zone associated with prevention of tree stress or general decline. Industry Recommended Critical Root Zone to Minimize Tree Damage $(1-2.5 \times \text{DBH (in")} = \text{CRZ in ft. (Radius)})$

Root cutting or damage - Inside SCRZ (SCRZ) Recommended distance of preservation zone associated with prevention of rapid decline or tree failure. Industry Recommended Structural Critical Rooting Zone in ft. (Radius)

Excavation equipment cutting roots during grade changes, utility installation, or other activities.

Trenching for electrical, gas, water, sewer, landscape irrigation or other utilities.

Trees adjacent to the site that may be impacted by the construction or site modification included in site evaluation.

Tree Protection Zone

At the Construction phase, the required protection fencing per the approved plans shall be installed. This area shall be off-limits to all construction activities, equipment, material storage, sanitation facilities, pedestrian traffic, etc. unless approved by the City or Representative.

Tree Protection Zone (TPZ) fencing should be installed around the perimeter of the TPZ.

4' Tall : High Visibility Fence Required

Tree Protection Signage (TPS): All sections of fencing should be clearly marked with signs stating that the area is a Tree Protection Zone. Signs should contain contact information for the contractor and/or the arborist and clearly state any consequences that are associated with violations.

Trees to be retained identified

Tree and root protection zones identified and marked

Chain-Link Fence Required

Tree Report Sent by Appellant 10.29.20

Structural Critical Root Zone (Coder 1996) Distance to minimize catastrophic tree failure

#341: 34" DBH = 10'

#342: 24.5" DBH = 10'

Alpharetta Critical Root Zone (CRZ) 1.3 ft x inches DBH

#341: 34" DBH = 44.2 ft.

#342: 24.5" DBH = 31.85 ft.

Structural Root Plate (SRP) .5' x inch DBH

#341: 34" DBH = 17 ft.

#342: 24.5" DBH = 12.25

Design Phase

Phase of Development Process

Design Phase is to review the trees found to be worthy of conservation on the site and determine how they can be incorporated into the new site design and shown on the plans.

Root Management Practices and Root Pruning Objectives

The extent and method of root pruning or cutting shall be based on the objectives, species tolerance, environmental factors, timing, age, health, lean, and structural condition of tree(s).

Root pruning and cutting objectives shall be established.

Selective root pruning or non-selective root pruning shall be specified where needed to meet the objective. When root removal is unavoidable, selective pruning shall be the preferred method.

When establishing objectives, potential for tree decline or destabilization shall be considered.

Tools and equipment shall be specified

Roots should be excavated by pressurized air to prevent root damage and cleanly cut with a sharp clean saw where needed. Machine excavation can break roots causing easier pathways for pathogen transmission and decreased wound closure.

Phase 1

Phase of Development Process

Construction Phase is to verify that all the tree protection is in place and followed during the construction work.

Tree Report Sent by Appellant 10.29.20

Demolition / Monitoring	At the Pre-Construction phase, during the demolition of structures within the critical root zones of trees to be preserved the Project Certified Arborist shall be on-site to observe and direct the demolition as needed. All roots 1/2" in diameter or greater encountered along the limits of grading shall be clean cut in order to promote callous growth and properly seal over. All cuts shall be made with a clean pruning saw or bypass pruning loppers. All root pruning operations shall be under the direction or supervision of the Project Certified Arborist. In the event of damage to barriers or trees, the damage should be reported, documented, and corrective measures specified and implemented as required in the scope of work. Grading and demolition plans details all relevant site features.
Assessment Period	Multiple Assessments Required
Irrigation	Monitor Soil Moisture Level
Irrigation per tree specifics earlier in report.	
Canopy Pruning	At the Pre-Construction phase or within 2 weeks start of construction the canopies of all trees with limbs overhanging the construction shall be pruned. The canopy shall be raised, as needed, to provide clearance for the construction of buildings and construction equipment to work without damaging the limbs of trees to be preserved. In addition, deadwood pruning of branches 2 inches and larger throughout the canopy shall be completed. All pruning operations shall be under the direction or supervision of the Project Certified Arborist following ANSI A300 Pruning Standards, ANSI Z133, and ISA Best Management Practices.

Tree Report Sent by Appellant 10.29.20

Weed / Vegetation Control	At the Construction phase, weeds and undesirable woody vegetation found within the structural root plate (SRP = X feet from the tree) and those growing up the trunk of the tree shall be mechanically removed. Vines shall be removed from the tree by making two cuts on the vine, one at ground level and one at three feet above. The cut section shall be carefully removed so as to not damage the trunk of the tree. Freestanding weeds shall be removed by cutting at ground level or pulling. Weed control shall take place at the same time as the canopy pruning. Clearing of vegetation within the Tree Protection Zone shall be performed manually Herbicides should not be utilized on site to control vegetation.
Selective Root Pruning	Roots should be exposed using the least injurious excavation method prior to pruning. A pruning cut that removes a root at its point of origin should not cut into the trunk or parent root. Smaller pruning cuts shall be preferred. The final cut should result in a flat surface with adjacent bark firmly attached.
Root Area and Soil Recommendations	At the Pre-Construction phase, mulch shall be applied to the entire critical root zone of specimen trees, where sparse and no natural leaf litter or duff exists with 2-4 inches of clean organic, non-synthetic, wood chip mulch. This mulch shall be free of debris, insects, and pests. Mulch shall not touch the trunk of the tree.
Phase 2	
Phase 3	
Phase of Development Process	Post-Construction Post-Construction Phase is to recognize that trees may change as their sites change and to ensure that any specifications for continuing care and monitoring of the conserved trees are acknowledged and followed.

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Assessment Period	Spring
	Fall
	1 Year After Completion of Construction
	2 Years After Completion of Construction
Root Area and Soil Recommendations	Use Caution when planting in Critical Root Zone
Pest / Pathogen Management	Preventative Pest / Pathogen Management Recommended
	Topical Application for Insect Deterrent
	Boring Insect Management
	Monitor for Pest Activity
Monitor and Management recommended for 2 years after construction.	
Planting / Landscaping	
Pre Planting Meeting	Landscape Phase is to ensure that all the tree protection practices followed throughout the construction process are followed during the installation of landscape features, irrigation, and plants, or amended to maintain appropriate tree protection while allowing for defined landscaping activities.
Limited Root space area for replanting.	

Timelines

Timeline (Historical)

2002

Assessment Conclusion

Conclusion / Summary

Both tree #341 and #342 are 1 tree with multiple trunks. The trees would be classified as low forking trees or multiple trunks. These trees have one root system, not multiple trees that have grown together. This growth habit occurs when the original stem of the tree was not pruned when young, damaged, broken, or browsed by animals. This is a common occurrence in forest grown trees. Each tree was tested at the origin point of the second stems (close to ground level) and fusion with shared rings were found (See Resistograph). A single origin point at ground level was observed on both #341 and #342.

Tree #341 originated as 1 tree and has always been one tree. Both stems belong to the same tree and root system. Tree #342 originated as 1 tree and has always been one tree. Both stems belong to the same tree and root system.

Definitions, References and Consulting Agreement

Definitions

Codominant Stems- forked branches nearly the same size in diameter, arising from a common junction and lacking a normal branch union.

Resistance- Recording Drill (Resistograph)- a device consisting of a specialized micro-drill bit that drills into trees and graphs resistance to penetration; used to detect internal differences in wood, such a decay or cracks.

References

ANSI A300 Tree, Shrub, and Other Woody Plant Management - Standard Practices

ANSI Z133 for Arboricultural Operations - Safety Requirements

ANSI Z60.1-2004 Nursery Stock

29 CFR 1910.296 - Telecommunications

29 CFR 1910.269 - Electric power generation, transmission and distribution

29 CFR 1919. 331-335 - Electric safety-related work practices

Multi-trunk Trees, Woody Vines, and Other Forms
By Edward Forrest Frank, December 2007

Limitations and Consulting Agreement

Assumptions & Limiting Conditions

1. Consultant assumes that any legal description provided to Consultant is correct and that title to property is good and marketable. Consultant assumes no responsibility for legal matters. Consultant assumes all property appraised or evaluated is free and clear, and is under responsible ownership and competent management.
2. Consultant assumes that the property and its use do not violate applicable codes, ordinances, statutes or regulations.
3. Although Consultant has taken care to obtain all information from reliable sources and to verify the data insofar as possible, Consultant does not guarantee and is not responsible for the accuracy of information provided by others.
4. Client may not require Consultant to testify or attend court by reason of any report unless mutually satisfactory contractual arrangements are made, including payment of an additional fee for such Services.
5. Unless otherwise required by law, possession of this report does not imply right of publication or use for any purpose by any person other than the person to whom it is addressed, without the prior express written consent of the Consultant.
6. Unless otherwise required by law, no part of this report shall be conveyed by any person, including the Client, the public through advertising, public relations, news, sales or other media without the Consultant's prior express written consent.
7. This report and any values expressed herein represent the opinion of the Consultant, and the Consultant's fee is in

Tree Report Sent by Appellant 10.29.20

no way contingent upon the reporting of a specific value, a stipulated result, the occurrence of a subsequent event or upon any finding to be reported.

8. Sketches, drawings and photographs in this report, being intended as visual aids, are not necessarily to scale and should not be construed as engineering or architectural reports or surveys. The reproduction of any information generated by architects, engineers or other consultants and any sketches, drawings or photographs is for the express purpose of coordination and ease of reference only. Inclusion of such information on any drawings or other documents does not constitute a representation by Consultant as to the sufficiency or accuracy of the information.

9. Unless otherwise agreed, (1) information contained in this report covers only the items examined and reflects the condition of the those items at the time of inspection; and (2) the inspection is limited to visual examination of accessible items without dissection, excavation, probing, climbing, or coring. Consultant makes no warranty or guarantee, express or implied that the problems or deficiencies of the plans or property in question may not arise in the future.

10. Loss or alteration of any part of this Agreement invalidates the entire report.

11. Procedures or recommendations are not to be considered a guarantee for tree survival or failure prevention of individual tree components or tree in whole. All Plant Health Care procedures are performed to applicable Tree Care Standards. All recommendations are derived from applicable Tree Care Standards and Research.

Certification of Performance

I, Odis Sisk, certify that:

1. I have personally inspected the trees and property referred to in this report and have stated my findings accurately.

2. I have no current or prospective interest in the tree or the property that is the subject of this report and have no personal interest or bias with respect to the parties involved.

3. The analysis, opinions and conclusions stated herein are my own and are based on current scientific procedures and facts.

4. My analysis, opinions, and conclusions were developed and this report has been prepared according to commonly accepted arboricultural practices.

5. No one provided significant professional assistance to me, except as indicated within the report.

My compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other reporting party nor upon the results of the assessment, the attainment of stipulated results, or the occurrence of any subsequent events.

6. Procedures or recommendations are not to be considered a guarantee for tree survival or failure prevention of individual tree components or tree in whole. All Plant Health Care procedures are performed to applicable Tree Care Standards. All recommendations are derived from applicable Tree Care Standards and Research.

I further certify that I am a member in good standing of the International Society of Arboriculture.

Odis Sisk

ISA Certified Arborist SO-4211 AUT

Green Prism Consulting

678-617-1223

odis@greenprismconsulting.com

Appendix



Photo 1



Photo 2



Photo 3



Photo 4

Tree Report Sent by Appellant 10.29.20



Photo 5

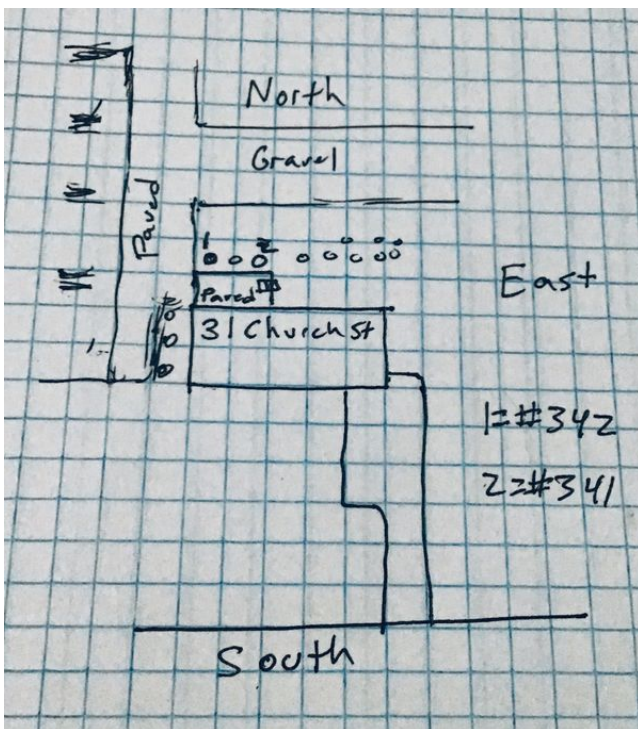


Photo 7



Photo 6



Photo 8

Tree Report Sent by Appellant 10.29.20



Photo 9



Photo 10



Photo 11



Photo 12

Tree Report Sent by Appellant 10.29.20



Photo 13



Photo 14



Photo 15

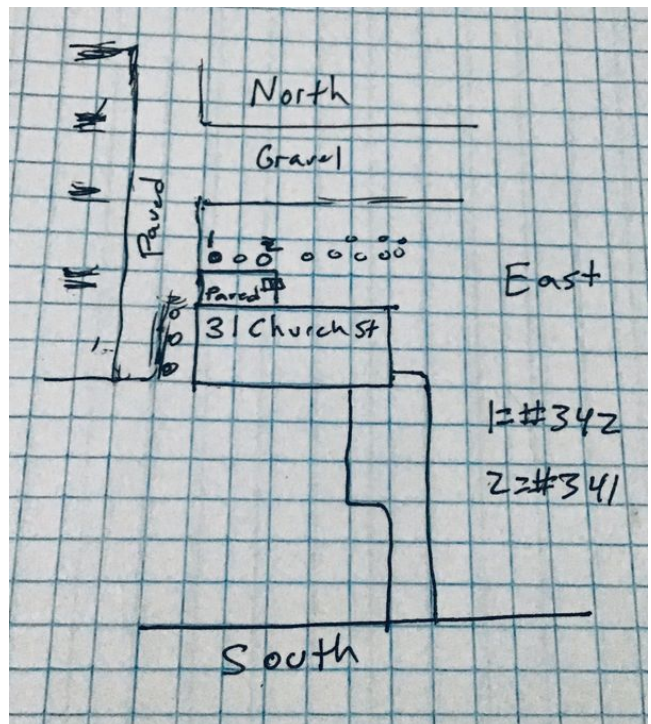


Photo 16

Tree Report Sent by Appellant 10.29.20



Photo 17



Photo 18



Photo 19

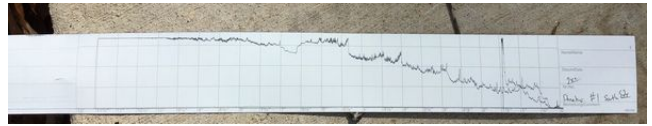


Photo 20

Tree Report Sent by Appellant 10.29.20



Photo 21



Photo 22



Photo 23



Photo 24

Tree Report Sent by Appellant 10.29.20

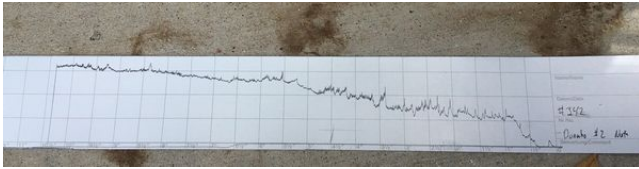


Photo 25



Photo 27



Photo 26



Photo 28

Tree Report Sent by Appellant 10.29.20



Photo 29



Photo 30



Photo 31



Photo 32

Tree Report Sent by Appellant 10.29.20



Photo 33



Photo 35

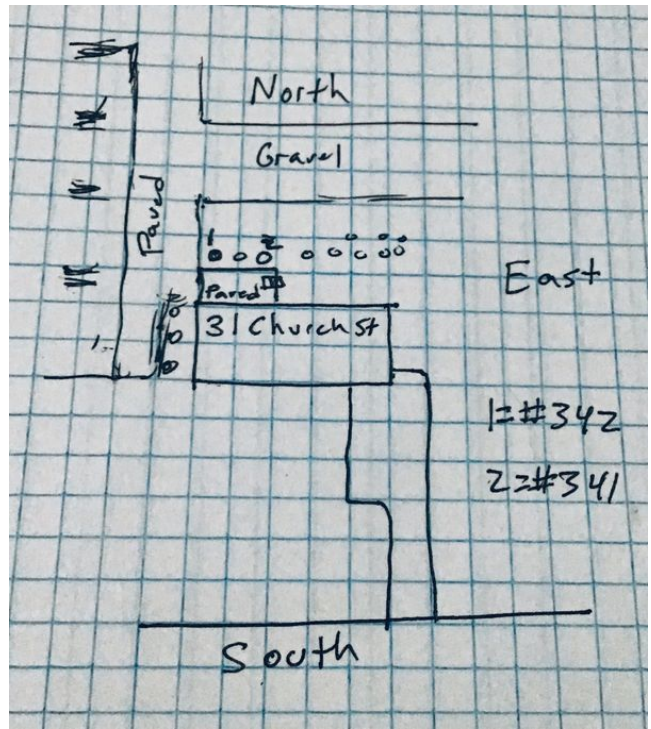
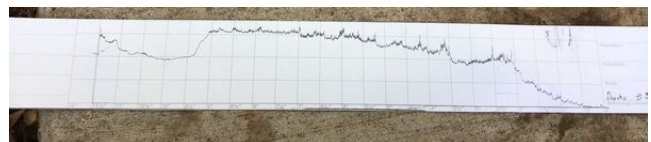


Photo 34



Photo 36



Tree Report Sent by Appellant 10.29.20



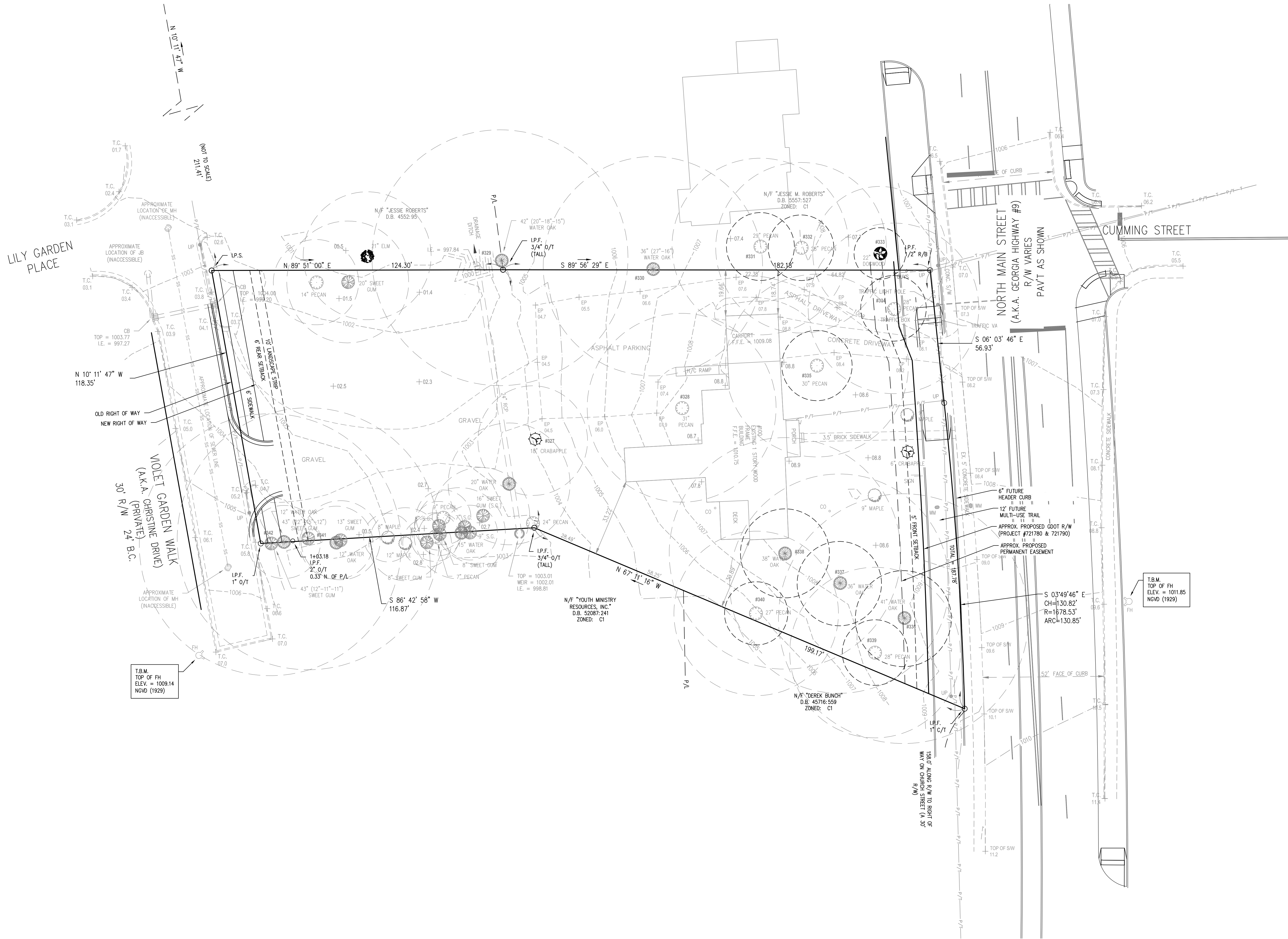
Photo 38

Photo 37



Photo 39

Tree Report Sent by Appellant 10.29.20



TREES TO BE REMOVED BY GDOT PROJECT

IMPACTS TO STRUCTURAL ROOT PLATE

- # 333 22" DOGWOOD
- # 334 28" PECAN
- # 336 41" WATER OAK
- # 339 28" PECAN
- # 6" CRABAPPLE
- # 9" MAPLE

TREES IMPACTED BY GDOT PROJECT

- # 337 36" WATER OAK (16% CRZ IMPACT)
- # 335 30" PECAN (7% CRZ IMPACT)

PROJECT INFORMATION

PROJECT NO.: 18-4233.10

DATE: 10-18-18, REV. 9-4-19

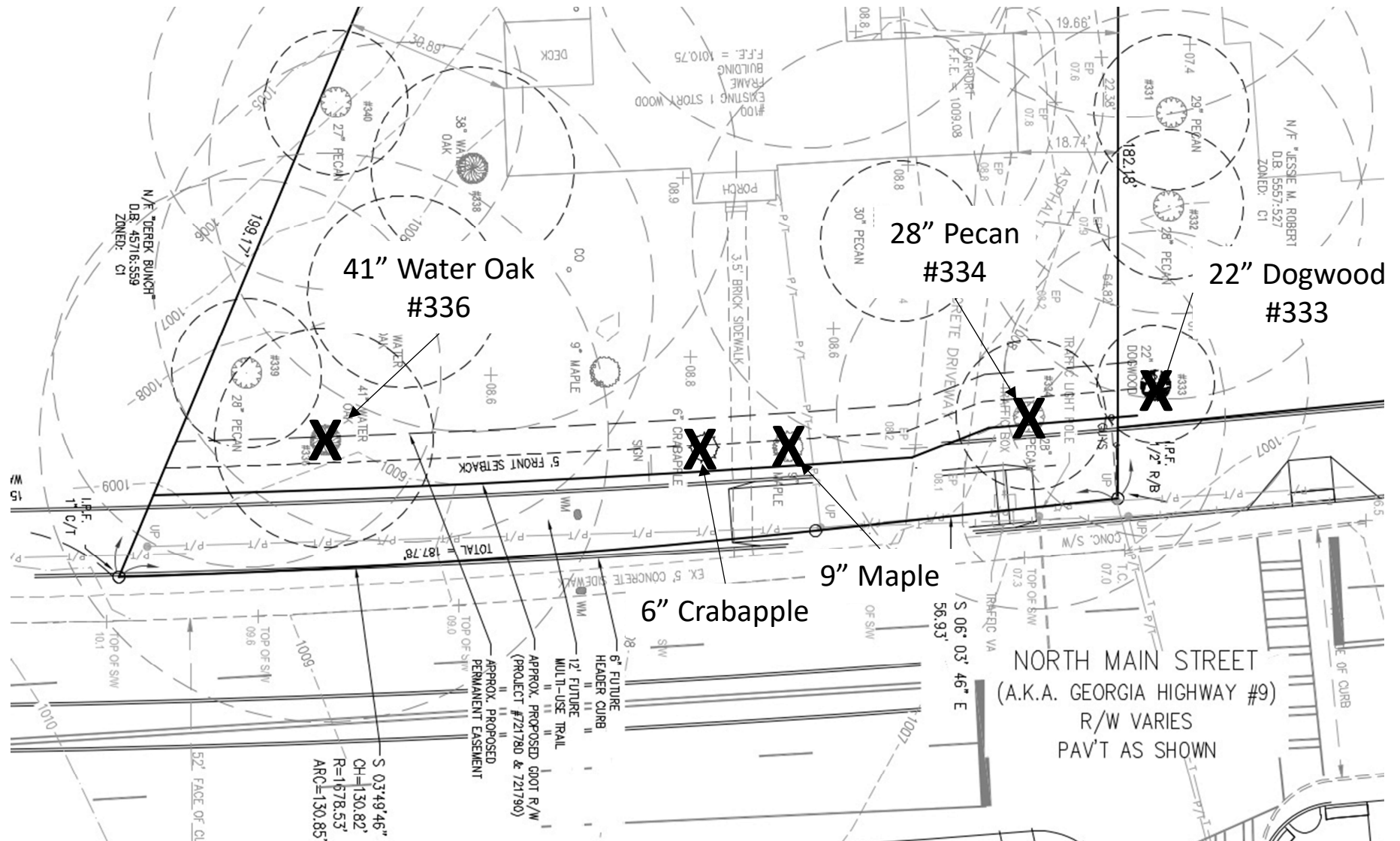
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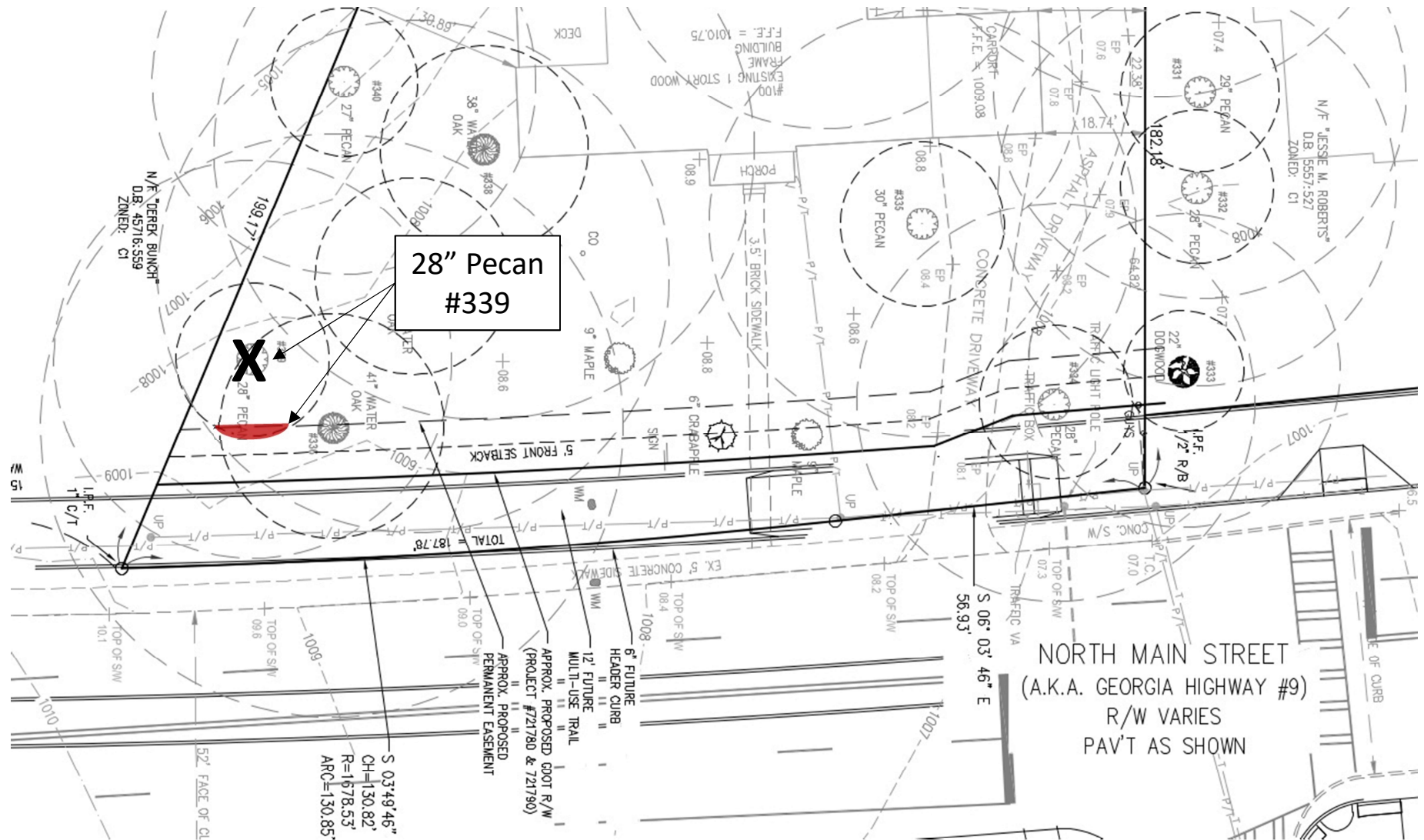
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EXHIBIT "A"

Trees within the GDOT ROW & Easement Areas to be Removed



Trees with Structural Root Plates located within the GDOT Right of Way and Easements



Structural Root Plate

Trees with Critical Root Zones located within the GDOT Right of Way and Easements





Photo 5



Photo 6

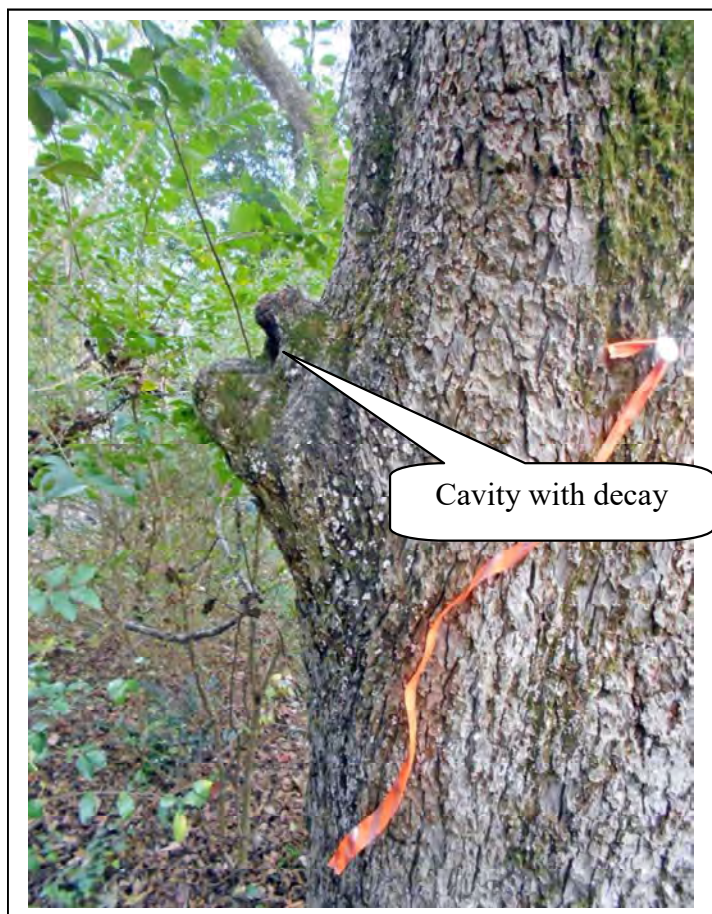


Photo 7



Photo 8

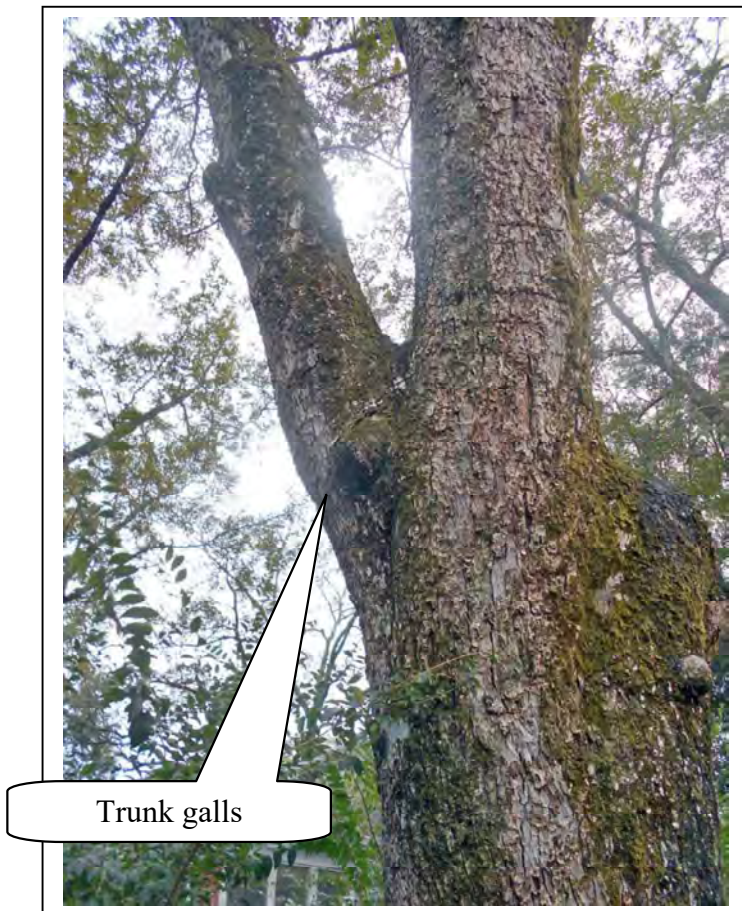


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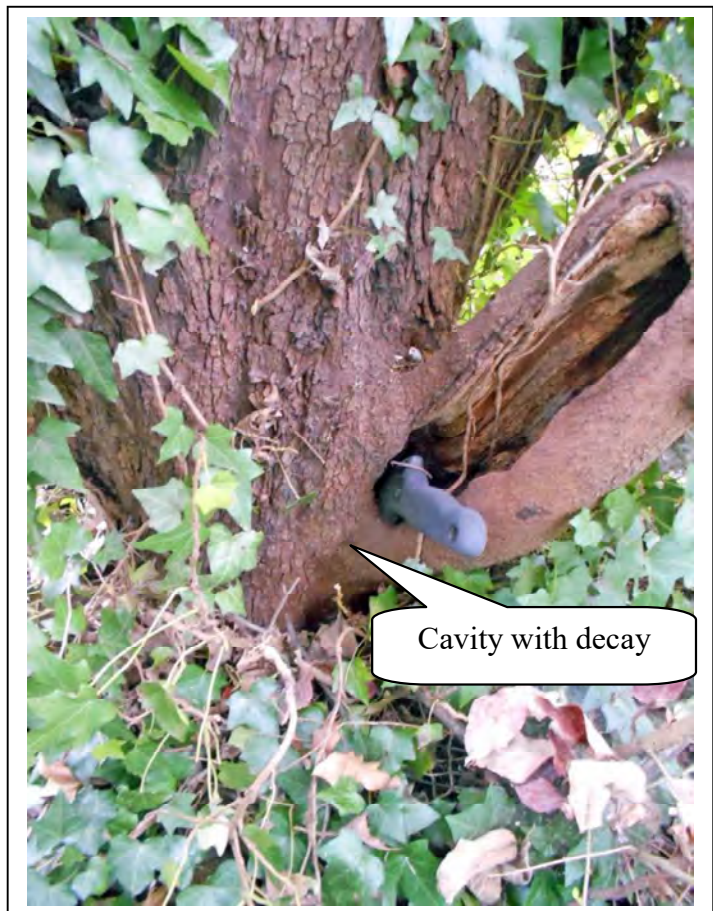


Photo 10

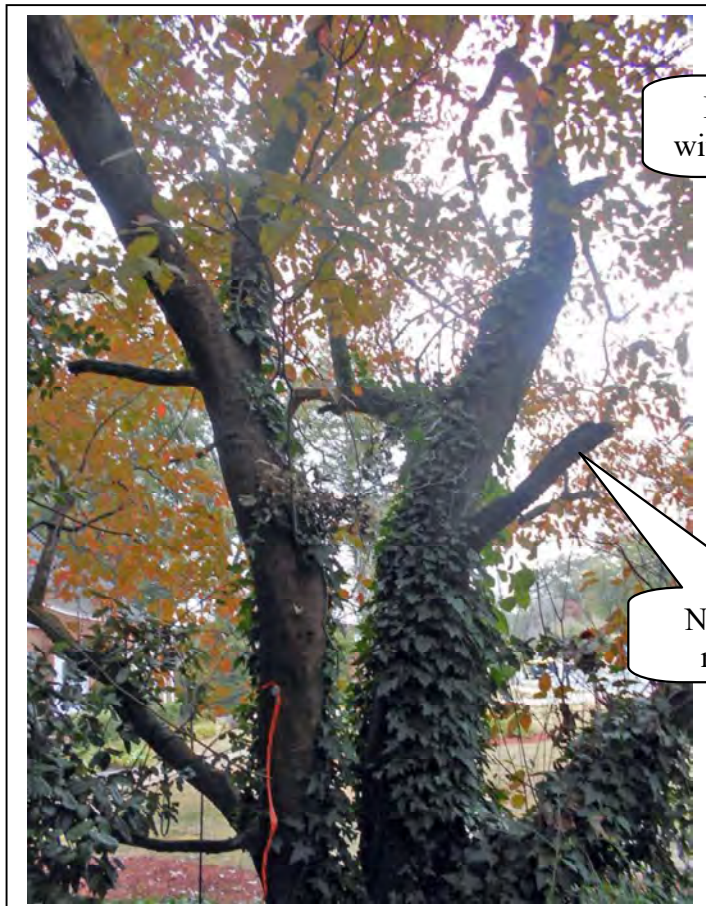
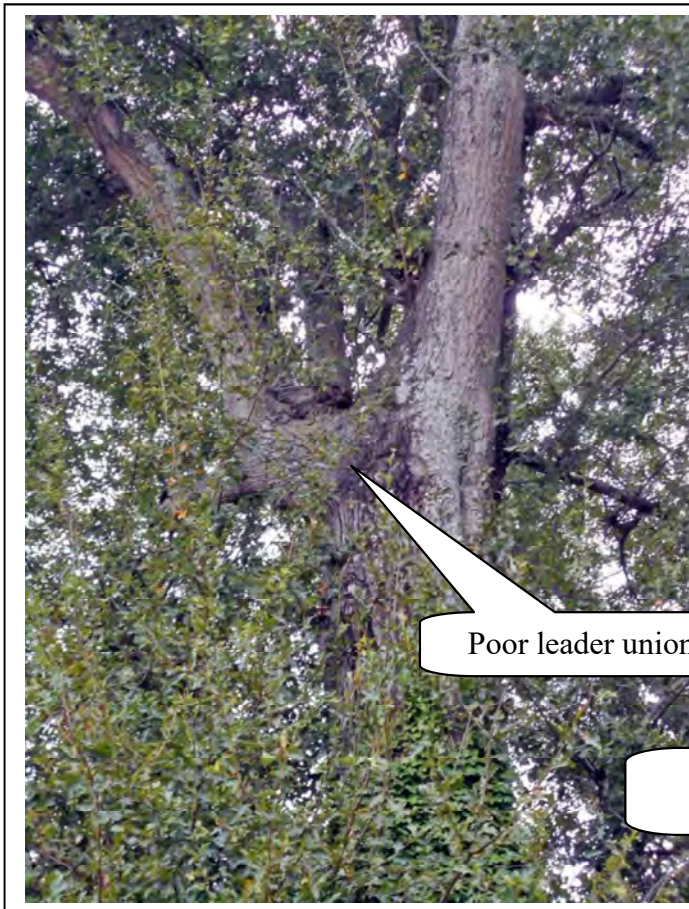


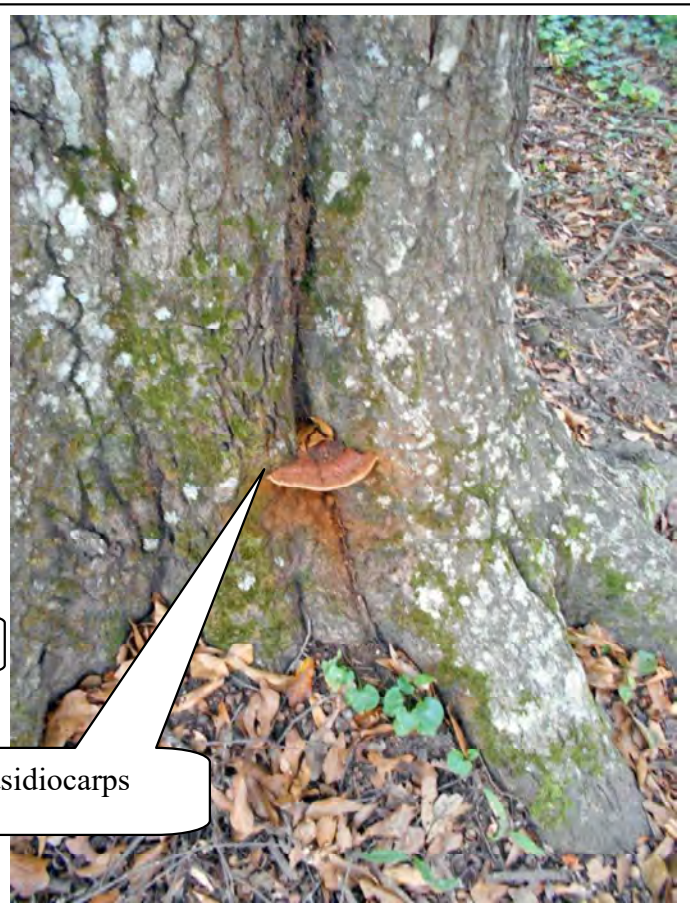
Photo 11



Photo 12



Poor leader union



Basidiocarps

Photo 13

Photo 14



Basidiocarps



Trunk distortion

Photo 15

Photo 16

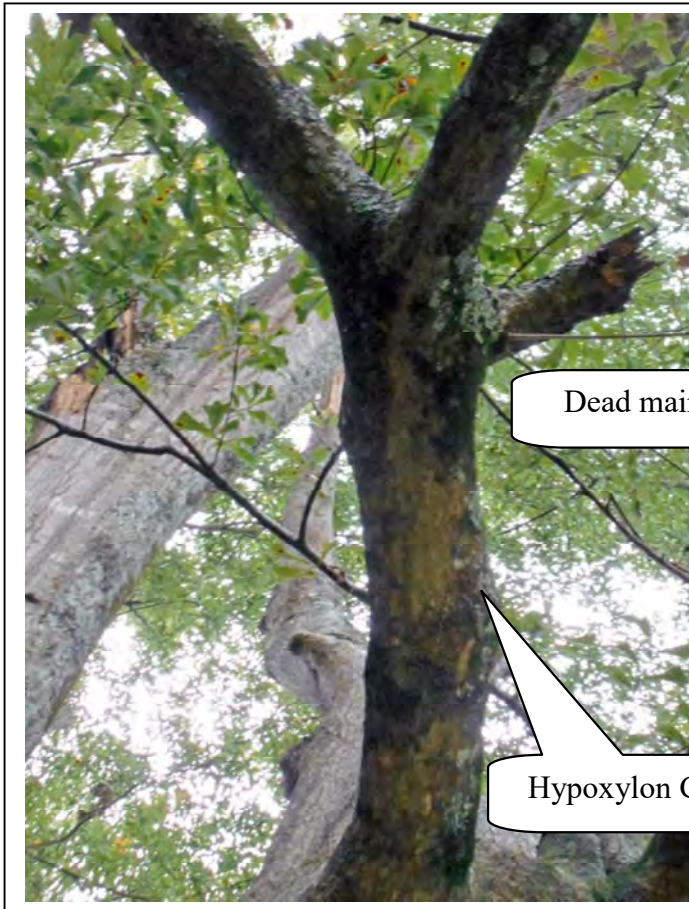


Photo 17



Photo 18

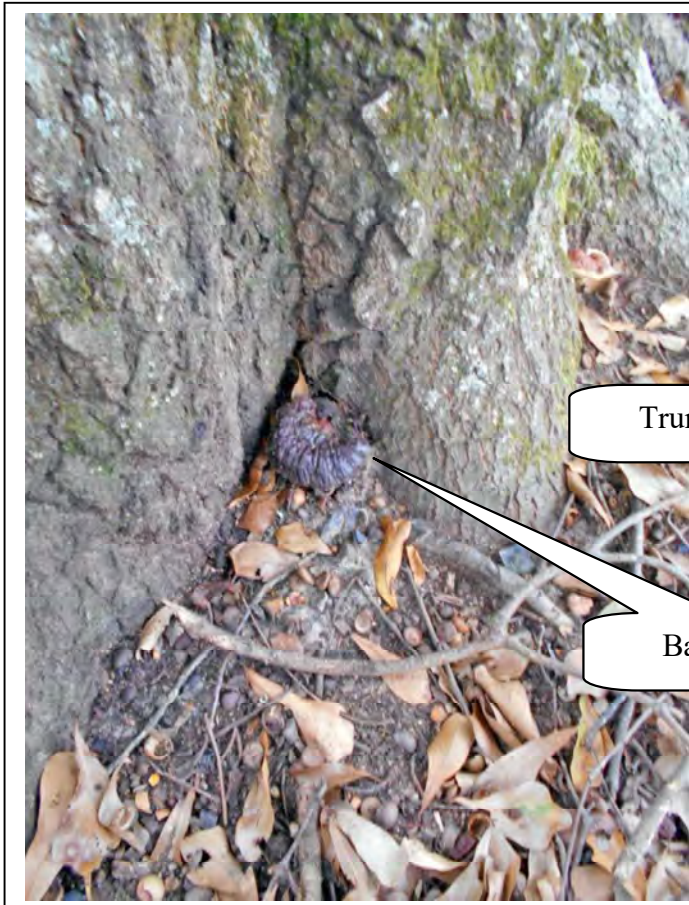


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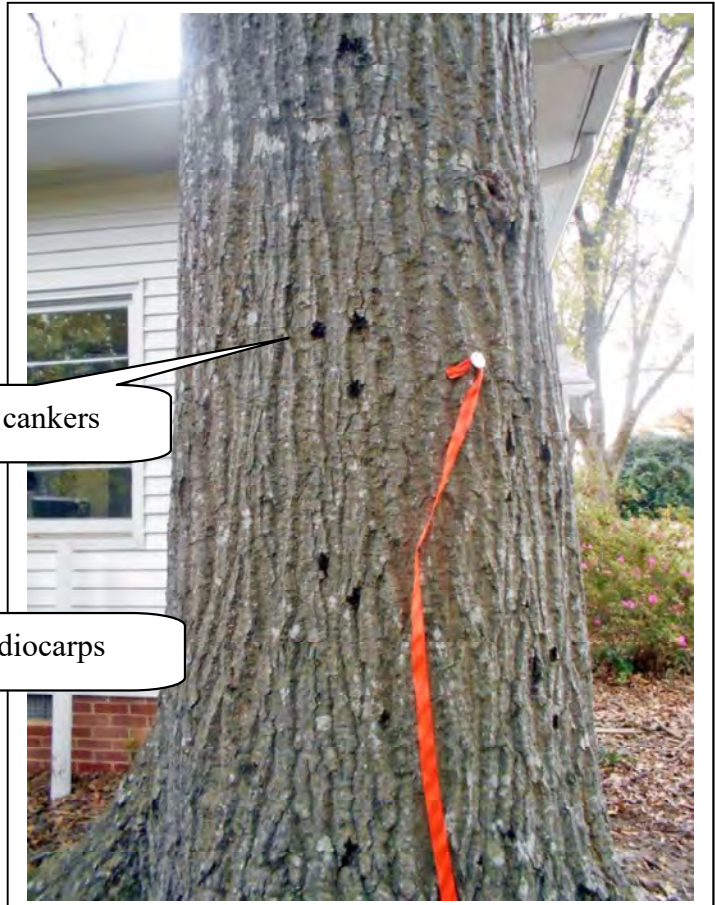


Photo 20

9/3/19

100 N. Main St.
Office Building

18-10-23-01 100 North Main Street Arborist Report Alpharetta

Reference UDC
Alpharetta, Georgia



Location Map



All of the following information is based upon visual field observations and 30 years of practical horticultural experience. No scientific or lab tests have been performed. I certify that all information in this report is true and inclusive to the best of my knowledge and is prepared in good faith.

Outdoor Spaces, LLC

By Scott Hall, Owner

On Site Specimen Evaluation Date: October 25, 2018

Report Date: October 26, 2018

Revised Date:



Outdoor Spaces, LLC
Scott Hall, Owner
RLA, Certified Arborist
Certificate Number: SO-5434A
404-328-6561 Cell
678-965-4784 Fax
scottandcyrena@bellsouth.net

Warranty Disclaimer:

Although, this report will determine whether or not a tree is a specimen or "Tree of Quality"; it is provided as best judgment opinion. Ultimately, the governing body's (City of Alpharetta) arborist or representative shall determine whether a tree is classified as a specimen/"Tree of Quality" or not.

All specimen/"Tree of Quality" tree locations shall be approximate. The provided tree locations shall NOT be GPS located and in no manner shall the provided tree location plan be used or represented as a tree survey. It is the sole responsibility of the OWNER to have all tagged specimen/"Tree of Quality" trees located by a Certified Land Surveyor.

No warranties express or implied are made with respect to the report of aforementioned specimen trees. It is understood the OWNER makes use of this report by the ARBORIST at OWNER's sole risk and that the report is provided as best judgment opinion. In no manner does this report guarantee the life or imply any length of life span of the trees that are determined to be specimens.

Arborist Note:

Due to certain species and undesirable traits, some trees shall be considered in poor condition if the following is true. Numerous trees grown in a native setting may appear to grow as multi-trunk; however this is not desirable in most trees. Most trees that have multi-trunks at the base are usually created when two separate trees grow together or the tree branches off at an early age and they become Co-Dominate Leaders. Either scenario is an undesirable condition for most trees because they both create weak crotches, included bark and/or a prime place for debris and water to get trapped that will always cause decay. In this case these trees become a life safety issue and can not be considered specimen trees.

Some trees are an exception to this rule, such as, but not limited to:

Crape Myrtles, Birches, Wax Myrtles, Red Buds, Fringe Trees, Dogwoods, Hollies, Cedars, Sourwoods, Sweet Bay Magnolias, Red Bays and Live Oaks.

These are an exception because they naturally create sucker growth from the roots and/or trunk or do not typically have the life safety issues because they are not large growing trees.

Reference: **Sinclair, Wayne A., 1936. Diseases of Trees and Shrubs / Wayne A. Sinclair and Howard H. Lyon.-2nd Ed. Published 2005**

SECTION 3.2 - TREE CONSERVATION, LANDSCAPE, AND BUFFER REQUIREMENTS (Adopted 05-15-17)

3.2.2 Definitions.

For the purposes of this Section, unless the context indicates otherwise, the following terms shall have the meaning set forth below:

Boundary Tree: Any tree located on adjacent property with a critical root zone that will be impacted by proposed land disturbance activity.

Caliper: A standard of trunk measurement for replacement trees. Caliper inches are measured at the height of 6 inches above the ground for trees up to and including 4 inch caliper and 12 inches above the ground for trees larger than 4 inch caliper.

Conifer Tree: Any tree with needle leaves and a woody cone fruit including, but not limited to, pine, juniper and cedar species.

Critical Root Zone (CRZ): The minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The Critical Root Zone will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and three-tenths times the number of inches of the trunk diameter. EXAMPLE: The CRZ radius of a twenty (20) inch diameter tree is twenty-six (26) feet.

Dead Tree: Any standing tree which is no longer alive or has the ability to sustain itself through natural processes as determined by a qualified professional.

Diameter Breast-Height (DBH): The standard measure of tree size (for trees existing on a site). The tree trunk is measured at a height of 4 1/2 feet above the ground. If a tree splits into multiple trunks below 4 1/2 feet, the trunk is measured at its most narrow point beneath the split.

Guidance Document: A document maintained by the City of Alpharetta Arborist that includes clarifications to requirements with examples and additional technical standards about tree protection, tree planting, species selection, and other information relevant to the protection and replanting of trees in the City of Alpharetta. The document may be revised by the City Arborist as conditions and technical standards evolve.

Hardwood Tree: Any tree that is not coniferous (cone bearing). This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

International Society of Arboriculture (ISA): A professional organization that promotes the professional practice of arboriculture, sets standards for obtaining professional credentials for arborist, and establishes best practices for tree care, pruning, and protection.

Landscape Tree: A tree or trees that were planted or retained on a developed or previously developed site.

Ornamental Tree: A tree that provides a visual impact in the landscape. The impact may be provided through form, bark, branching structure, leaf color, and / or flower color. Typically a small or medium size tree.

Overstory Tree: Those trees that compose the top layer or canopy of vegetation and will generally reach a mature height greater than 40 feet and typically have a spreading canopy.

Pine Tree: An evergreen coniferous tree that has clusters of needle-shaped leaves.

Pruning (Tree Pruning): To cut away dead, overgrown, or undesirable branches or stems. Pruning of trees to be done in compliance with standard arboricultural practices as outlined in ANSI A300 and shall maintain the trees natural form and structure.

Qualified Professional: An International Society of Arboriculture (ISA) Certified Arborist; an American Society of Consulting Arborists (ASCA) Registered Consulting Arborist, or a Registered Forester.

Shade Tree: Any tree that has a spreading canopy that provides partial to full shade to the ground with a minimum height of 20 feet.

Softwood Tree: Any coniferous (cone bearing) tree. This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

Specimen Tree: Any tree which qualifies for special consideration for preservation due to its size, type, condition, location or historical significance and which also meets the minimum size criteria set forth below.

Size Criteria:

Pine Trees: 30-inch diameter or larger for trees in the *Pinus* (Pine) genus.

Coniferous Trees: 20" diameter or larger for trees in the *cedrus* (deodar cedar), *Thuja* (Arborvitae), or other ecologically similar trees,

Overstory Trees: 30-inch diameter or larger for trees in the *Liquidambar* (Sweetgum) or *Liriodendron* (Tulip poplar) genus

- 20-inch diameter or larger for trees in the *Fagus* (Beech), *Nyssa* (Tupelo), *Diospyros* (Persimmon), *Sassafras* (Sassafras), or other ecologically similar trees,
- 20-inch diameter or larger for *Magnolia grandiflora* (Southern magnolia) and those cultivars that generally reach a mature height over 40'
- 24-inch (24") diameter or larger for trees in all other genera

Understory Trees: 8-inch (8") diameter or larger.

- 10-inch (10") diameter or larger for *Oxydendron arboretum* (Sourwood).

See additional requirements for Specimen Trees in The Guidance Document

Street/Streetscape Tree: Any tree located or proposed to be located along a public or private street. The actual location will be determined by the specific zoning district or overlay. In situations where there is limited planting space in the right of way and or safety concerns, street trees may be located at the back of the sidewalk or within the landscape strip on private property and the discretion of the Director.

Structural Root Plate: The zone of rapid root taper that provides the tree stability against wind throw. The radius of the structural root plate is equal to 0.5 feet per inch of DBH.

Tree: Any living, self-supporting woody or fibrous plant which normally obtains a diameter breast height of at least three (3) inches and typically has one (1) main stem or trunk and many branches.

Tree Care Plan: A plan developed to provide an impacted tree the best possible chance of survival. A tree care plan should be prepared by a qualified professional and conform to the requirements of ANSI A300 and the Guidance Document

Tree Grouping: A community of trees as determined by the Director to merit special consideration as an ecological feature based upon species composition, form, structure, age, and condition. Specimen trees and trees of quality may be included in tree groupings and every alternative should be evaluated to save these trees. Except as otherwise provided in Section 3.2., Tree Groupings will be treated as specimen trees for preservation credits and every alternative should be evaluated to save these trees.

Tree of Quality: A tree that merits special consideration due to historical significance, ideal shape and structure, or uniqueness of the species as determined by the Director. Except as otherwise provided in Section 3.2., Trees of Quality will be treated as specimen trees for preservation credits and every alternative should be evaluated to save these trees.

Tree Planting List: List of preferred tree species for use in the City of Alpharetta. Species not included on this list may be approved at the discretion of the Director. The Tree Planting List is included in the Arborist Guidance Document.

Tree Protection Area: An area encompassing the critical root zone of a tree that shall remain in a previous state.

Tree Save Area: An area designated for the purpose of meeting tree density requirements, saving natural trees, and/or preserving natural buffers that shall remain in a previous state.

Understory Trees: Those trees that grow beneath the overstory, and will generally reach a mature height less than 40 feet. Understory trees may include coniferous trees that meet these same height characteristics.

9/3/19

100 N. Main St.
Office Building



Notes:

- All tree locations are approximate and have not been field surveyed. Refer to survey for locations.
- All 20" DBH trees within 30' of property line have been identified and specimen size have been evaluated.



Tree Location



North

Not To Scale

**Specimen
Location Plan**

18-10-23-01 100 North Main Street Arborist Report Alpharetta (General Observations: The site a single family residence with several old Pecans and less desirable hardwoods such as Water Oaks and Sweet Gums.)							
Tree #	Size/ Species	Health Condition	Structural Condition	Classification	Comments	Photo # (See Attached)	City of Alpharetta's Assessment
327	18" Crabapple	Fair	Poor	Non-Specimen	Large cavity with decay	1	
328	31" Pecan	Fair	Poor	Non-Specimen	2 Co-Dominate Leaders with decay in crotch. Due the species, a multi-stem tree is undesirable and could be a life safety issue.	2	
329	42"(20"-18"-15") Water Oak	Poor	Poor	Non-Specimen	3 Trees grown together creating 3 Co-Dominate Leaders with 1 dead. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Possibly Boundary Tree	3	
330	36"(27"-16") Water Oak	Fair	Poor	Non-Specimen	2 Trees grown together creating 2 Co-Dominate Leaders with weak crotches and included bark. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Possible Boundary Tree.	4	
331	29" Pecan	Poor	Poor	Non-Specimen	Cavities with decay from poor pruning. Decay at leader union. Several wounds exposing heartwood. Possible Boundary Tree.	5-6	
332	28" Pecan	Poor	Poor	Non-Specimen	Numerous trunk galls at all leader unions; an indication of trunk rot. Possible Boundary Tree.	7-9	
333	22" Dogwood	Poor	Poor	Non-Specimen	Deep cavity at base of tree and several limbs gone/ dead.	10-11	
334	28" Pecan	Fair	Good	Specimen			
335	30" Pecan	Fair	Poor	Non-Specimen	3 Co-Dominate Leaders with decay in crotch. Maple growing in crotch. Due the species, a multi-stem tree is undesirable and could be a life safety issue.	12	
336	41" Water Oak	Fair	Poor	Non-Specimen	2 Co-Dominate Leaders 30' up with weak crotches and included bark. Due the species, a multi-stem tree is undesirable and could be a life safety issue.	13	
337	36" Water Oak	Poor	Poor	Non-Specimen	Several Basidiocarps at base of trunk. Numerous trunk cankers with trunk distortion. All indications of trunk rot. Symptoms of Hypoxylon Canker. Numerous main limbs dead/ gone.	14-19	
338	38" Water Oak	Poor	Poor	Non-Specimen	Numerous trunk canker and severe decay from improper pruning.	20-22	
339	28" Pecan	Fair	Good	Specimen			
340	27" pecan	Poor	Poor	Non-Specimen	In decline with severe dieback and a lot of sucker growth and water sprouts. Possible Boundary Tree.	23	

9/3/19

100 N. Main St.
Office Building

18-10-23-01 100 North Main Street Arborist Report Alpharetta (General Observations: The site a single family residence with several old Pecans and less desirable hardwoods such as Water Oaks and Sweet Gums.)							
Tree #	Size/ Species	Health Condition	Structural Condition	Classification	Comments	Photo # (See Attached)	City of Alpharetta's Assessment
341	43"(22"-15"-12") Sweet Gum	Poor	Poor	Non-Specimen/ Hazard Tree	3 Trees grown together creating 3 Co-Dominate Leaders; 1 leader with large cavity with decay and leaning towards existing building. Other leaders have trunk galls and cankers, indicating trunk rot. Tree should be removed. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Possibly Boundary Tree	24-27	
342	43"(12"-11"-11") Sweet Gum	Poor	Poor	Non-Specimen	2 Co-Dominate Leaders with weak crotches and included bark. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Boundary Tree	28	

9/3/19

100 N. Main St.
Office Building

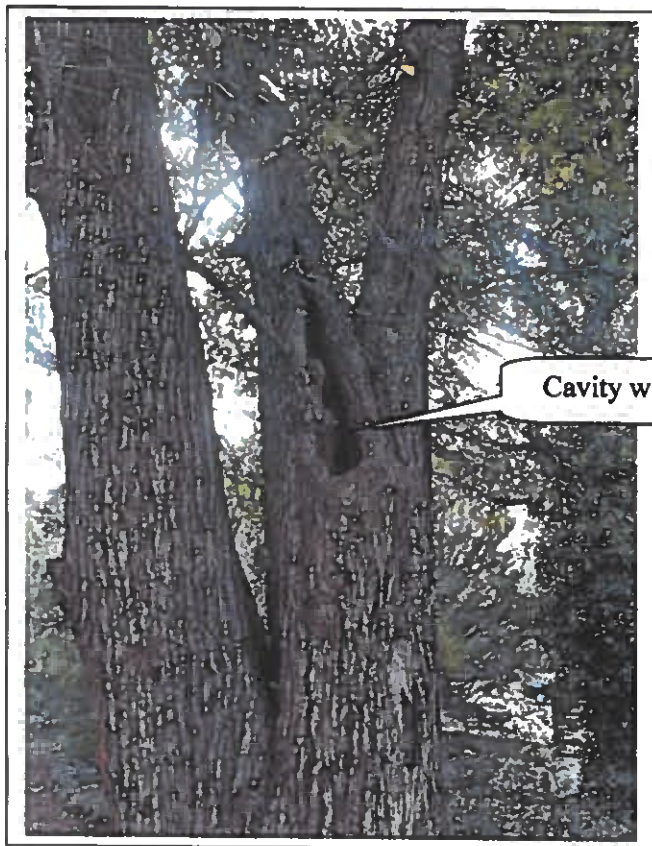


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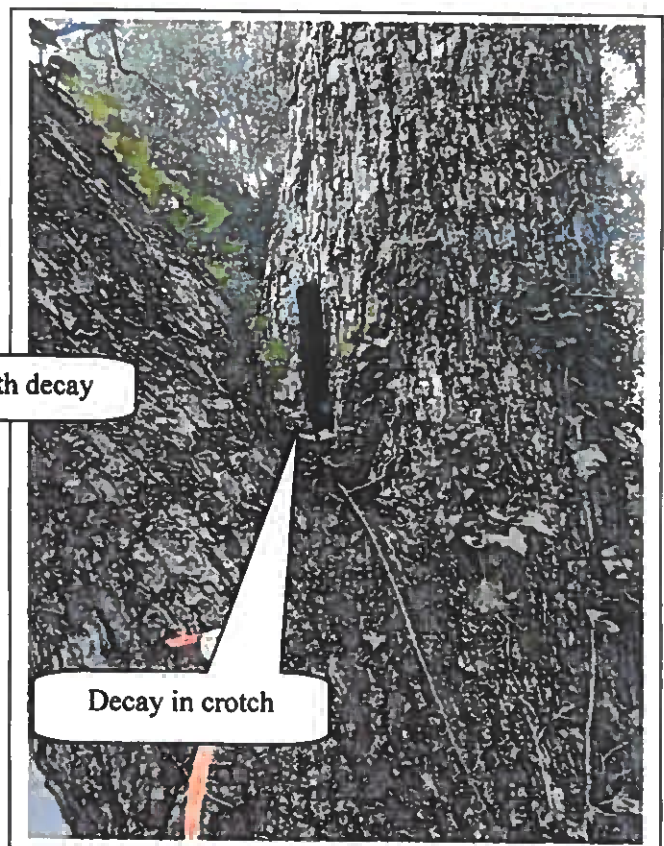


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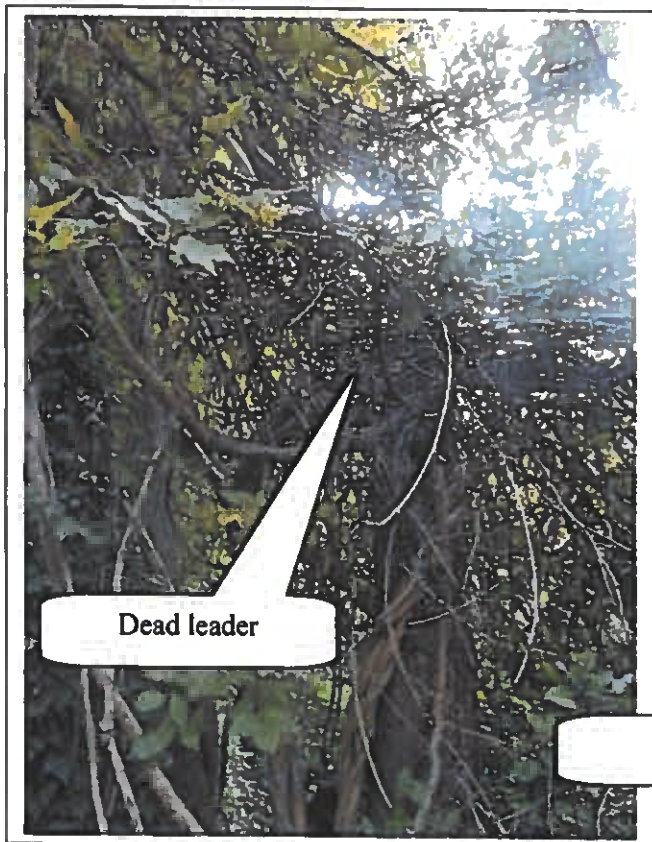


Photo 3



Photo 4

9/3/19

100 N. Main St.
Office Building

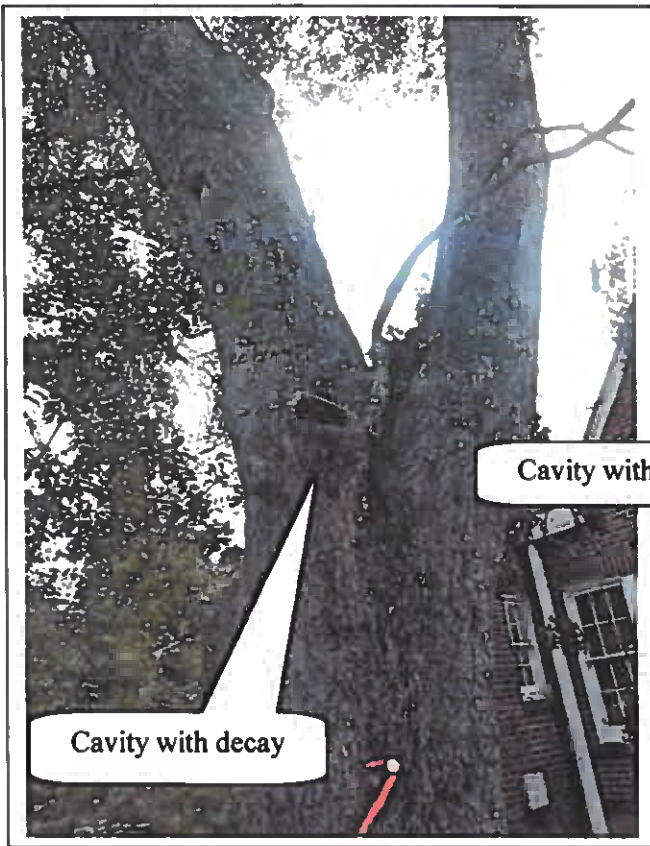


Photo 5

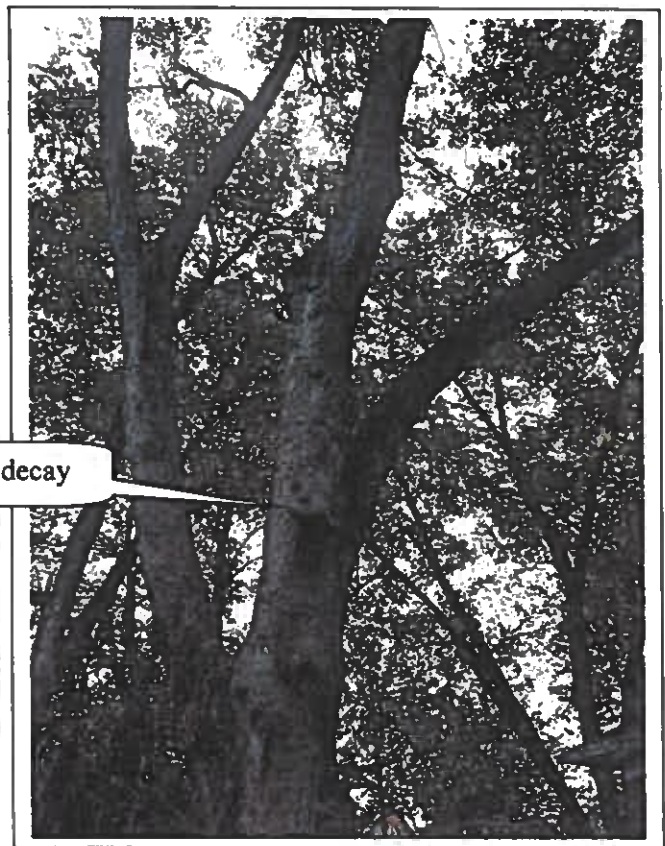


Photo 6

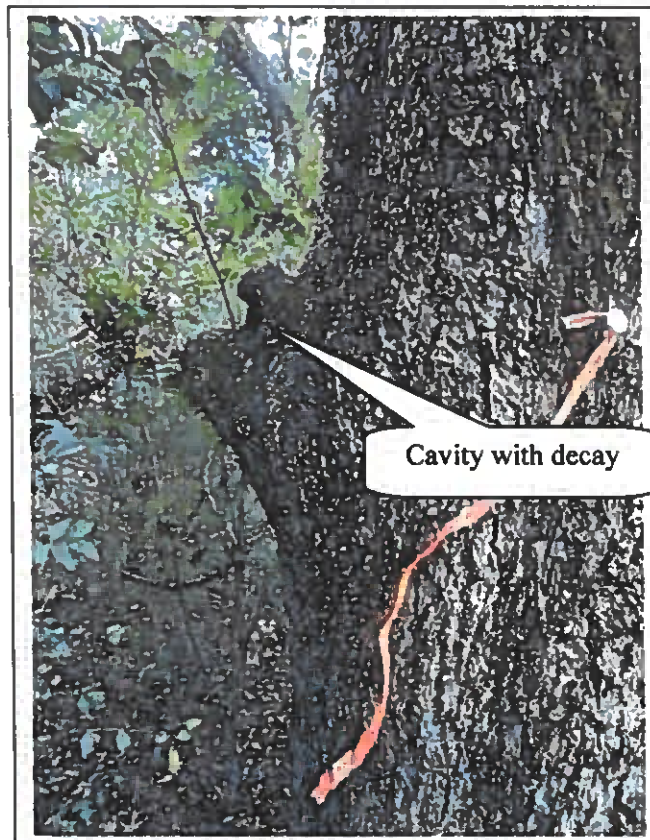


Photo 7

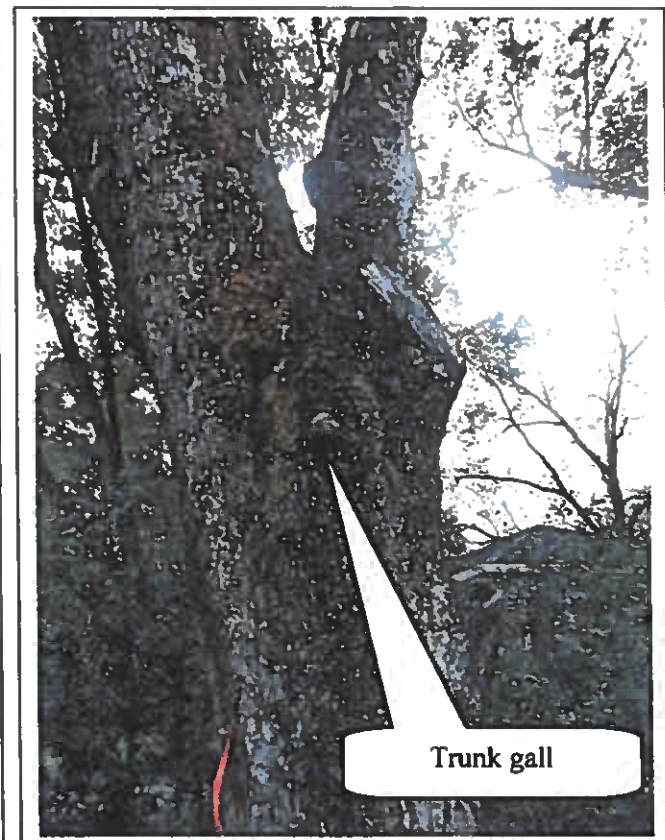


Photo 8

9/3/19

100 N. Main St.
Office Building

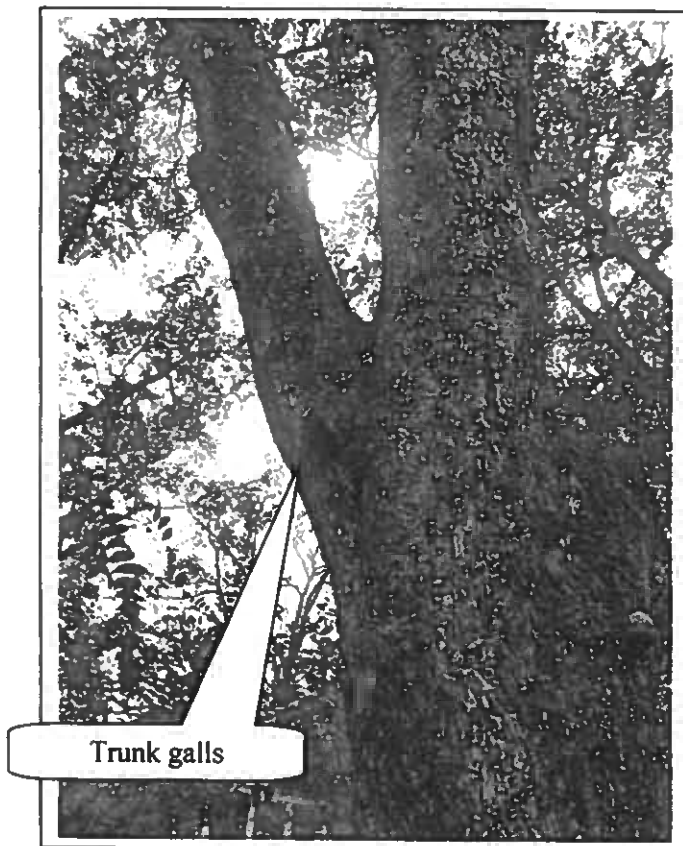


Photo 9

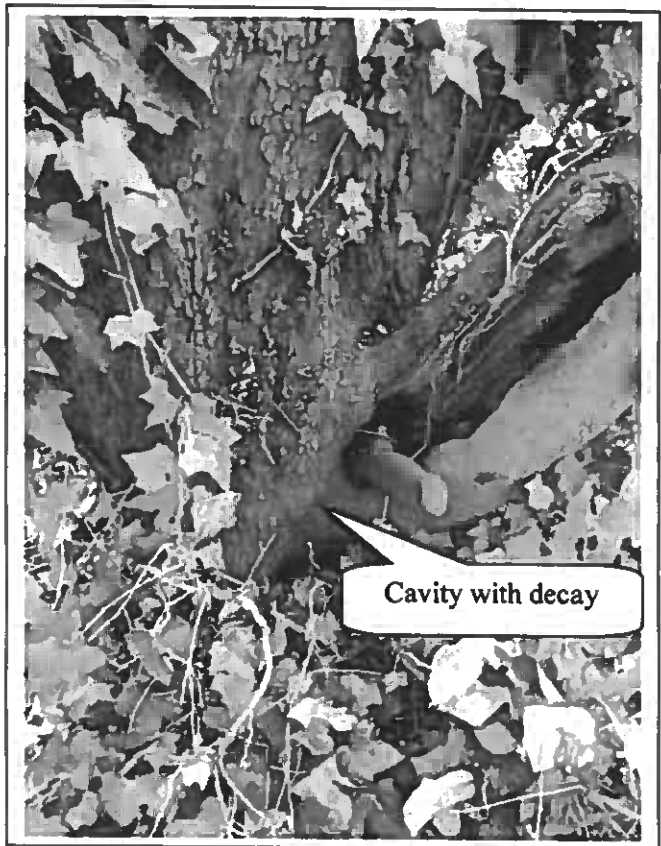


Photo 10



Photo 11

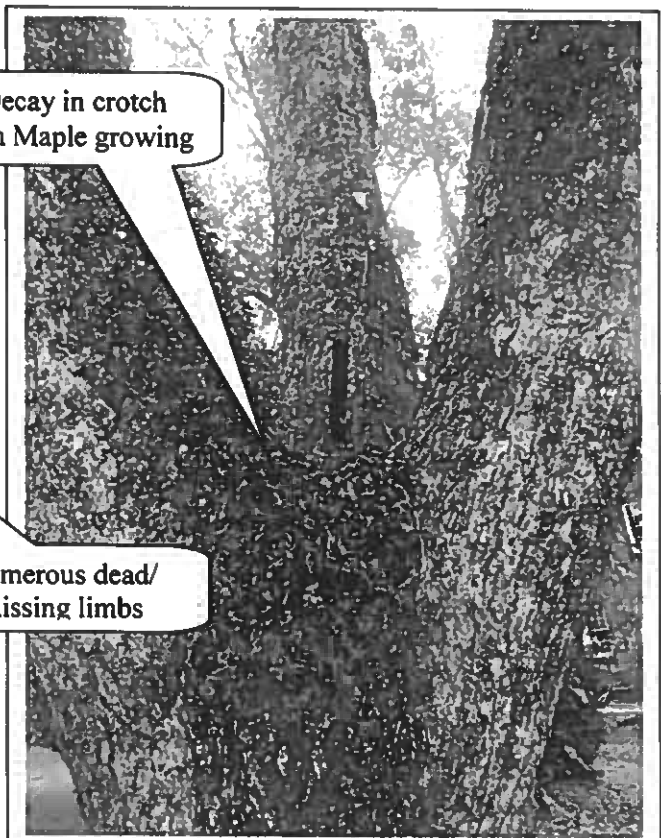


Photo 12

9/3/19

100 N. Main St.
Office Building

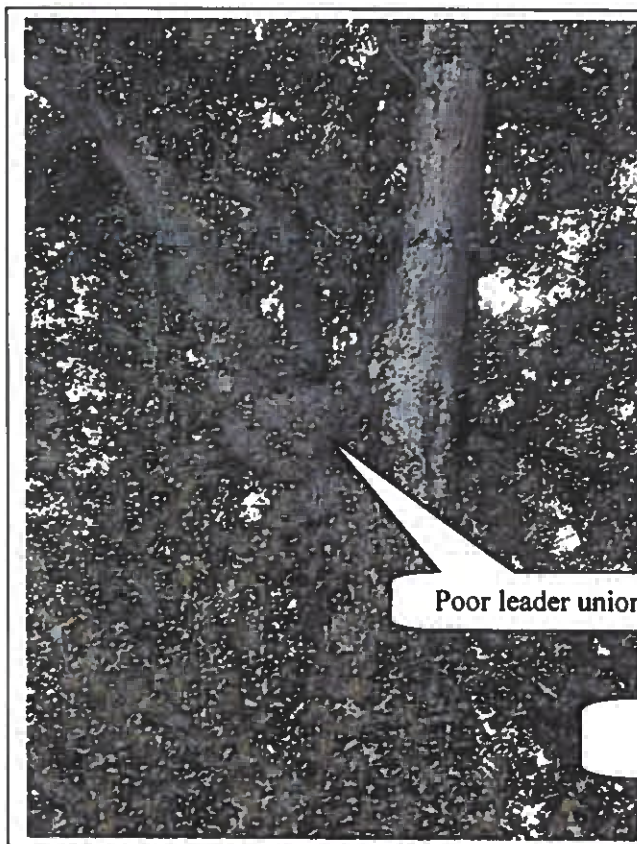


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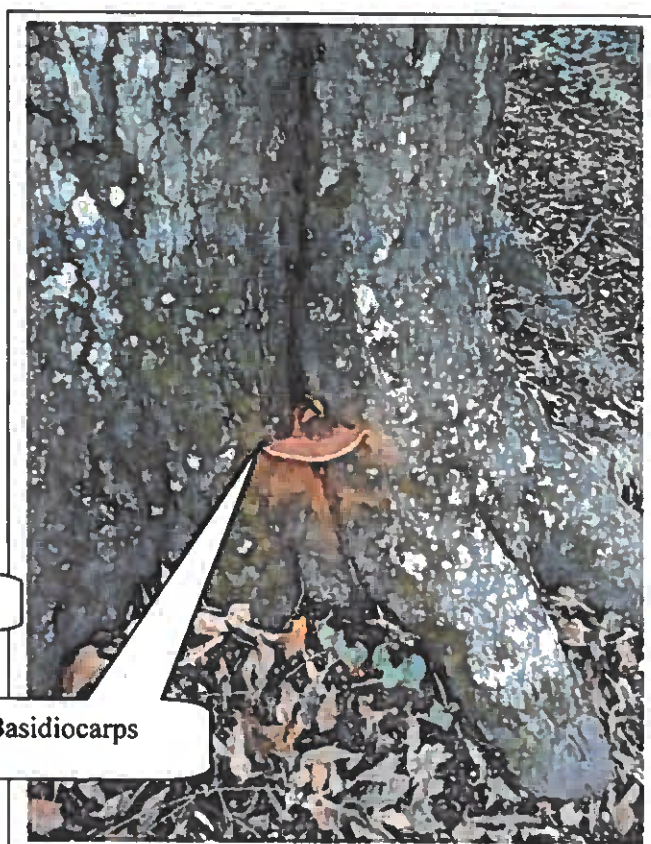


Photo 14

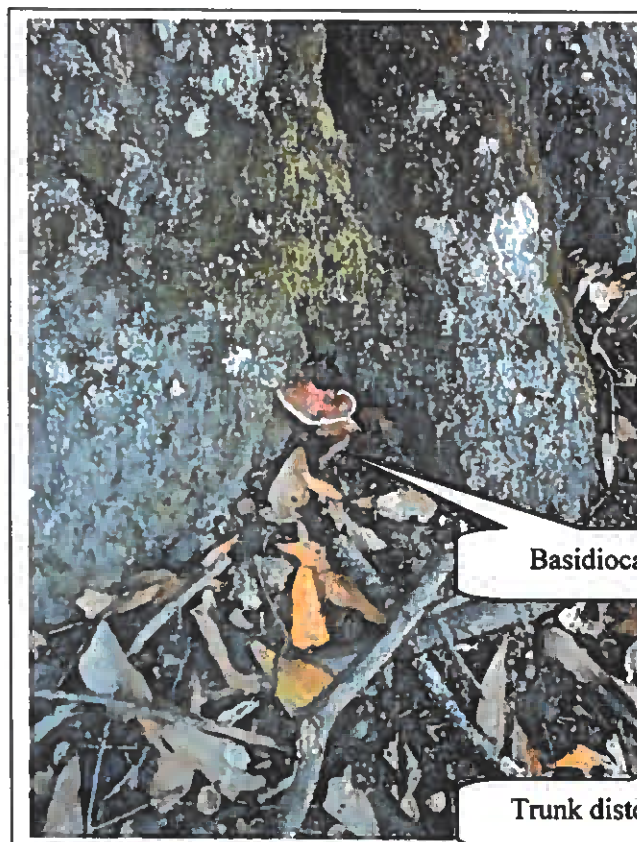


Photo 15



Photo 16

9/3/19

100 N. Main St.
Office Building

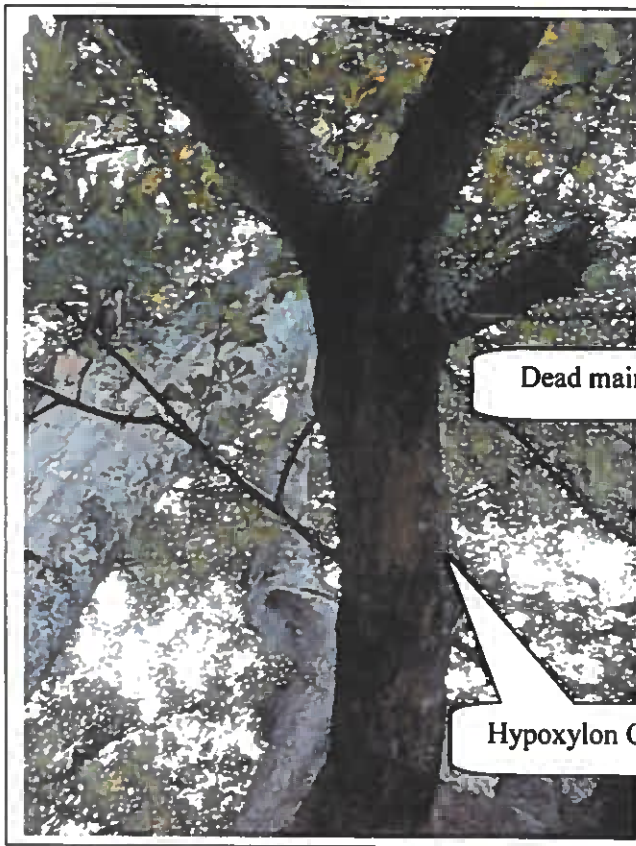


Photo 17



Photo 18



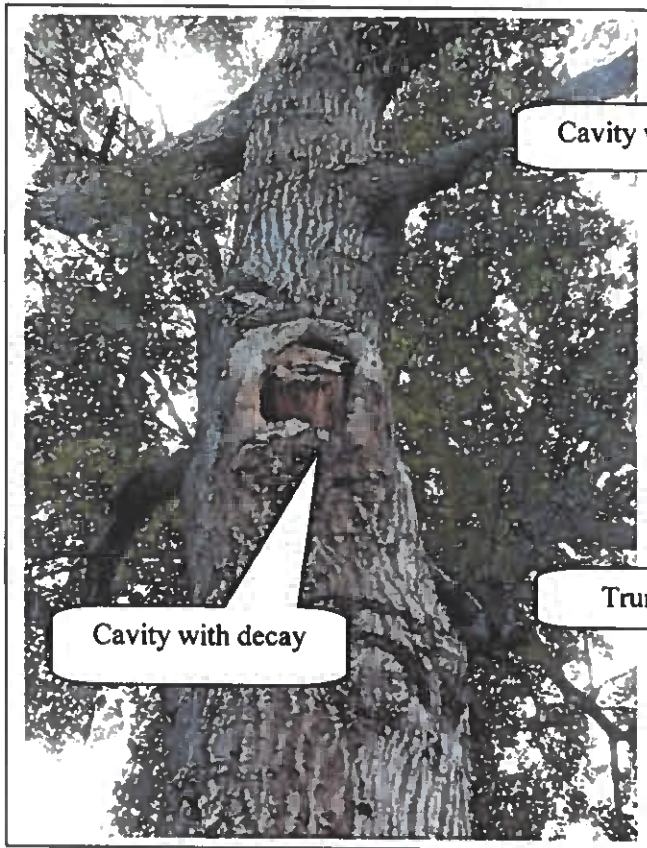
Photo 19



Photo 20

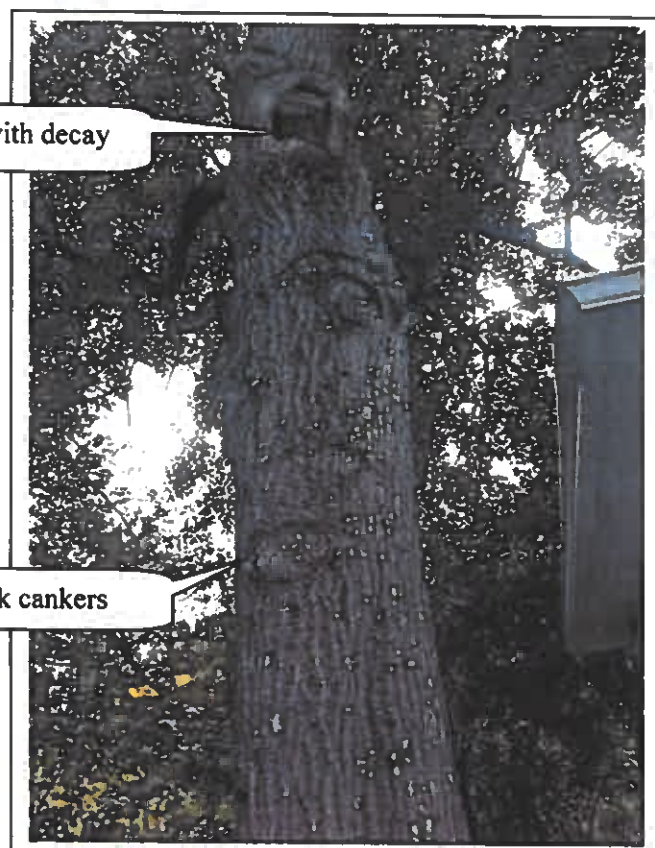
9/3/19

100 N. Main St.
Office Building



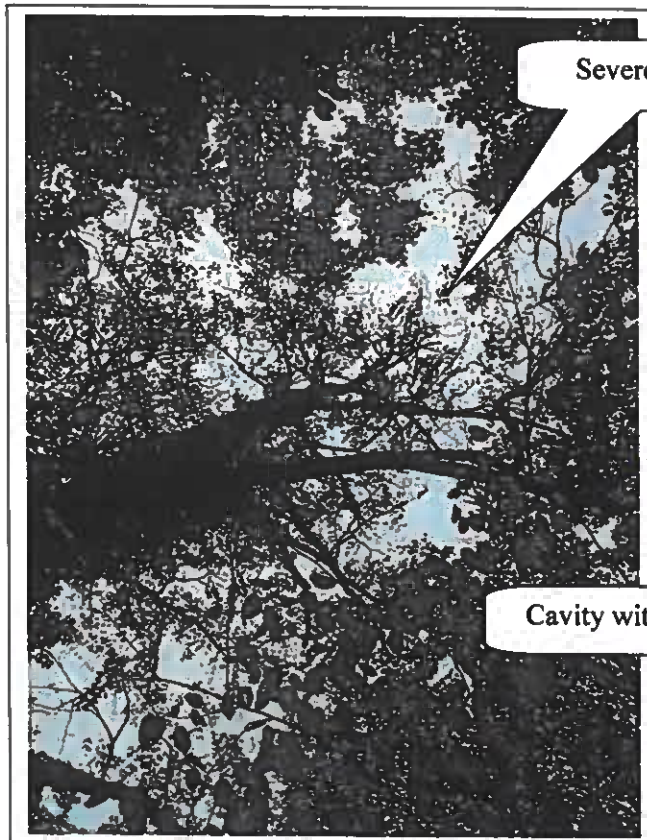
Cavity with decay

Photo 21



Trunk cankers

Photo 22



Severe dieback

Photo 23



Cavity with decay

Photo 24

9/3/19

100 N. Main St.
Office Building



Photo 25



Photo 26

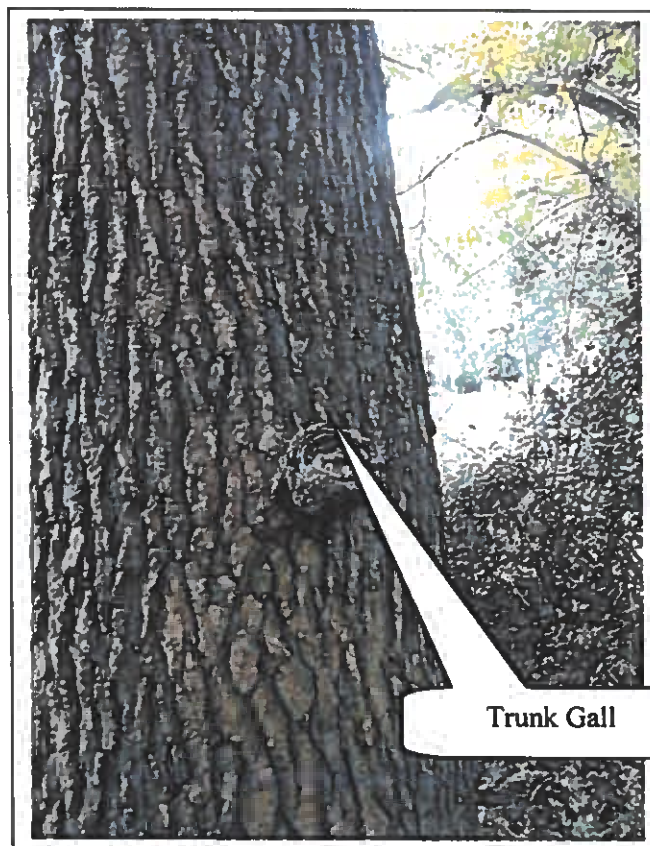


Photo 27

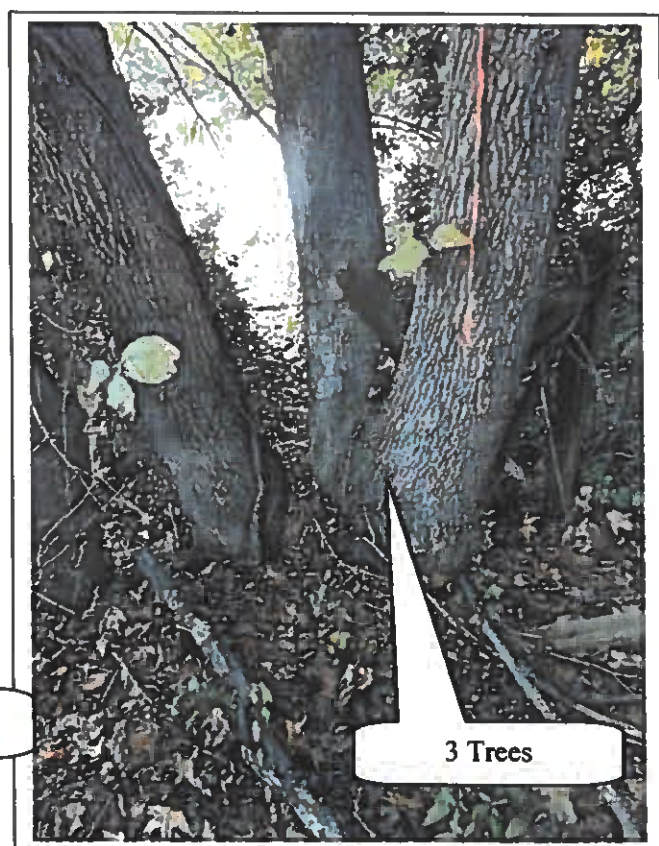


Photo 28

STEVEN L. JONES



sjones@boviskyle.com

Main: (770) 391-9100

Direct: (678) 338-3902

Cell: (404) 218-2756

Fax: (770) 668-0878

Friday, February 12, 2021

VIA EMAIL: etaylor@alpharetta.ga.us.

Ms. Elicia ("Elle") Taylor
Planning and Zoning Coordinator
Community Development Department
The City of Alpharetta, Georgia
City Hall
2 Park Plaza
Alpharetta, Georgia 30009

RE: PH-21-02 Youth Ministry Resources, Inc. – Appeal to Administrative Determination; Consideration of an appeal to an administrative determination related to a Violation Notice, dated November 20, 2020. The notice cites violation of Unified Development Code (UDC) Subsection 3.2.1(B)(4) and 3.2.8(D)(4) and is related to a concrete driveway that impacts the critical root zones (CRZ) and structural root plates of several boundary trees on the subject property and the adjacent property to the north.

Dear Ms. Taylor:

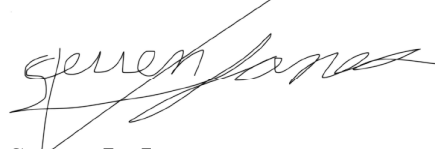
This letter serves as the response of the office of the City Attorney of the City of Alpharetta, Georgia (the "City") to the "Notice of Appeal and Reservation of Constitutional and Other Legal Rights for Appeal of Administrative Decisions" (the "Notice of Appeal") of Youth Ministry Resources, Inc., ("YMR" or the "Appellant") filed by and through its counsel. This letter is being directed to your attention because of your service as the de facto clerk of the Board of Zoning Appeals (the "BZA") with respect to this appeal.

The factual background for this appeal is detailed in the Staff Report (the "Staff Report") of the Staff ("Staff") of the City's Community Development Department ("Department") which is attached hereto as Exhibit "A" and incorporated herein by this reference. The City Attorney's office stands behind the Staff Report and its legal and factual assessment of this matter.

[SIGNATURE ON NEXT PAGE]

Ms. Elle Taylor
February 12, 2021
Page 2

Sincerely,

A handwritten signature in black ink, appearing to read "Steven L. Jones", with a long horizontal stroke extending to the right.

Steven L. Jones

SLJ

Enclosure

cc: Counsel for BZA (Mr. Tillery, esquire, of SMITH WELCH WEBB & WHITE, LLC)
Counsel for YMR (Messrs. Howell and Kline, esquires, of MILES HANSFORD &
TALLANT, LLC)



EXHIBIT "A"

BOARD OF ZONING APPEALS MEETING STAFF REPORT

SUBMITTING DEPARTMENT: COMMUNITY DEVELOPMENT

SUBMITTED BY: KATHI COOK

DRAFTED BY: MICHAEL WOODMAN

I. AGENDA ITEM TITLE: PH-21-02 YOUTH MINISTRY RESOURCES, INC. – APPEAL TO ADMINISTRATIVE DETERMINATION

BOARD OF ZONING APPEALS: FEBRUARY 18, 2021

II. REPORT IN BRIEF:

The appellant, Youth Ministry Resources, Inc. (YMR), is requesting consideration of an appeal to an administrative determination related to a Violation Notice, dated November 20, 2020. The notice cites violations of Unified Development Code (UDC) Subsections 3.2.1(B)(4) and 3.2.8(D)(4) and is related to a concrete driveway that impacts the critical root zones (CRZ) and structural root plates of several boundary trees on the subject property and the adjacent property to the north. The appellant argues that the concrete driveway was existing at the time YMR purchased the subject property. The City counters showing that the appellant's 2013 survey proves that appellant constructed a new driveway connecting the subject property to Violet Garden Walk (f/k/a Christine Drive). The subject property is located at 31 Church Street, generally at the northwest corner of North Main Street and Church Street.

DISCUSSION

The appeal to administrative determination is related to a Violation Notice, dated November 20, 2020. The notice cites violations of Unified Development Code (UDC) Subsections 3.2.1(B)(4) and 3.2.8(D)(4). The City contends that a concrete driveway, connecting to Violet Garden Walk, was constructed along the northern property line of the appellant's property impacting the critical root zones (CRZ) and structural root plates of several boundary trees on the appellant's property and on the adjacent property to the north. The violation requires the appellant to remove the on-site trees impacted by the concrete driveway, since they have been deemed hazardous. The appellant argues that the current property owner acquired the property in late 2012 and that said driveway was already in existence at the time the property was purchased. The subject property is located at 31 Church Street, generally at the northwest corner of North Main Street and Church Street.

The Notice references violations of the following UDC subsections:

UDC Subsection 3.2.1(B)(4) states, "No person shall: Construct a concrete, asphalt, brick or gravel sidewalk, significantly compact the soil, place fill material, or create other impervious or semi-impervious surfaces around any tree so as to cut off air, light or water from the roots of the tree so as to adversely impact the tree's root system."

UDC Subsection 3.2.8(D)(4) states, "For commercial development and for master plan subdivisions, a minimum of five (5) foot landscape strip shall be provided along all property lines which do not adjoin a public right-of-way or private road. One (1) shade tree, minimum 4" caliper, shall be

EXHIBIT "A"

provided for every fifty (50) linear feet of landscape strip. For master plan subdivisions, this requirement is only required along the external property line of the overall project."

The first violation relates to the City's assertion that the appellant, in violation of UDC § 3.2.1(B)(4), constructed a concrete driveway on the subject property which due to its close proximity to several boundary trees caused adverse impacts to the root systems of said trees. The City Arborist noted during a recent site visit related to the 100 North Main Street development that the driveway lies within the CRZs and structural root plates (SRP) of several on-site and off-site boundary trees, including tree #341 and #342. It is the City Arborist's determination that the trees are hazardous and should be removed. The appellant's December 4, 2020 Notice of Appeal letter states that the concrete driveway was constructed prior to the current property owner acquiring said property. However, the City has a survey associated with a 2013 administrative variance for the subject property, as well as Fulton County QPublic pictometry showing that the concrete driveway was constructed sometime between 2018 and 2020. The 2013 administrative variance survey depicts a 10' gravel driveway terminating at a concrete area, which did not connect to Violet Garden Walk (F.K.A. Christine Drive). The administrative variance was to reduce the side setback to allow for an expansion of the 2nd floor covered porch and stairs, which the stairs are depicted on the submitted site plan as obstructing vehicular access to Violet Garden Walk through this area. The 1/6/2020 Fulton County QPublic pictometry clearly shows that a shed and the stairs to the 2nd floor covered porch were removed and replaced with a 16'-wide concrete driveway providing vehicular access to Violet Garden Walk.

With regard to the second violation, the appellant asserts that this is a legal non-conformity, since UDC Subsection 3.2.8(D)(4) was adopted on May 1, 2017. However, the requirement for a five-foot (5') landscape strip along property lines not adjoining a public street has been in the City's Unified Development Code going back to at least October 30, 2001. The landscape strip regulation was moved from UDC Section 2.3 Supplementary Regulations to UDC Section 3.2 Tree Conservation, Landscape, and Buffer Requirements in 2017 as a means of consolidating the tree and landscape regulations into a common section of the UDC. Even if the driveway predated the applicable provision of the UDC, the UDC prohibits a nonconformity from being "enlarged or altered in a way that increases its nonconformity." (UDC § 2.4.2). The appellant's new 16'-wide concrete driveway providing vehicular access to Violet Garden Walk indisputably "enlarged and altered" the nonconformity. Therefore, even if the Appellant's assertions regarding the age of the driveway are correct, the Appellant's modifications or replacement of the driveway are a violation of the UDC. It is well established under Georgia law that the City, in furtherance of its UDC, may prevent the enlargement or alteration of nonconformities. *Flippen Alliance for Community Empowerment, Inc. v. Brannan*, 267 Ga. App. 134, 601 S.E.2d 106 (2004); *Cox v. City of Sasser*, 300 Ga. App. 251, 684 S.E.2d 385 (2009).

III. ATTACHMENTS:

- Exhibits



CITY COUNCIL AGENDA ACTION SUMMARY

Public Hearing Date: December 16, 2019

Z-19-03/V-19-16 100 North Main Street

Consideration of a request for a rezoning of 0.92 acres from C-1 (Neighborhood Commercial) to DT-MU (Downtown Mixed Use) to allow for the construction of a 28,100 square foot office building and structured parking. A variance is requested to increase the maximum building footprint from 10,000 square feet to 11,534 square feet. The subject property is located at 100 North Main Street on the west side of North Main Street at the intersection with Cumming Street.

Motion: Approve with Conditions, Richard
Second: Binder
Approve: 7-0

❖ Council Member Richard offered a motion to approve Z-19-03/V-19-16 100 North Main Street subject to the following conditions:

1. The site, consisting of approximately 0.92 acres, shall be zoned DT-MU and developed substantially similar to site plan submitted by AEC, revised 12/10/2019, except for modifications required to comply with the conditions below. Uses shall be limited to office, retail and restaurant.
2. Maximum building height shall be no greater than 3 stories and 46'.
3. Minimum building setback on North Main Street shall be 15' and shall include a minimum 5' landscape strip located outside of any easements building set back on North Main Street to accommodate moving the building 5' closer to North Main Street and 5' further from Violet Garden Walk, including an additional 5' area for planting along Violet Garden Walk. Minimum building setback on Violet Garden Walk shall be 20', as measured from the existing right-of-way.
4. Maximum building footprint shall not exceed 11,534 square feet.
5. Architecture and materials shall be developed similar to the submitted renderings, except for modifications required to comply with these conditions and in compliance with the Alpharetta Downtown Code, subject to approval by the DRB. Openings in parking deck walls shall be decorative screens similar to Teasley Place mixed-use development.
6. Parking deck shall be screened with a mix of landscape materials of varying heights, with final approval by DRB.
7. Decorative lighting and trees shall be placed on the upper level of the parking deck, as depicted on submitted renderings.
8. In conjunction with a Development Agreement, the developer shall set aside 5,141 square feet (0.118 acres) of land to accommodate future right-of-way for the Cumming Street extension, as depicted on the site plan prepared by AEC, revised 10/23/2019.
9. Access to the parking deck from North Main Street shall be closed off to vehicular traffic at such time that the Cumming Street extension is completed. Additional useable space, as a result of closing off the North Main Street access, may only be added

to the building if parking requirements have been met. Access shall be constructed from new roadway.

10. Final streetscape shall include decorative pedestrian lighting, as approved by Staff.
11. Street trees shall be required within the planter along North Main Street (as approved by GDOT) and Violet Garden Walk, as well as behind the sidewalks as a continuation of what has been previously planted or designed in the Downtown and outside of any utility easements, as approved by Staff. In lieu of tree grates, the soil area around street trees shall be planted with evergreen ornamental grasses, groundcovers and/or shrubs.
12. Amenity space shall be developed on the building rooftop and limited to use by the occupants, invitees and guests of the development. Landscape improvements to the existing tree area shall be a park-like setting with heavy decorative landscape, hardscape, walls and seating. The landscape shall include plant selections promoting the historic district. Developer shall remove exotic and invasive trees and shrubs within the area called out as amenity space at the rear of the property, as approved by Staff. Occupiable vertical structures are prohibited, and rooftop space shall not be rented out for commercial use.
13. Foundation plantings, consisting of shrubs, vines and/or grasses, shall be required in front of the building and along North Main Street, Cumming Street and Violet Garden Walk.
14. Developer shall save: Tree #339 (28" Pecan). The City Arborist may approve up to a 20% encroachment into the CRZ of trees with additional tree care to offset the encroachment, as approved by Staff.
15. Off-site tree encroachment shall be limited to no more than 20% on the CRZ and shall require notification to property owner.
16. Decorative paver aprons shall be required at permanent project driveways, as approved by Staff.
17. New utilities shall be placed underground.
18. 10' sidewalk on Violet Garden Walk shall be reduced to 5' with the remaining 5' added to the landscape area.

19. Lower level parking deck shall be limited by a gated system controlled and regulated by the applicant and signage posted stating no public parking.
20. Developer shall screen car head lights with sufficient parking deck wall height and landscaping.

- The motion received a second from Council Member Binder
- The motion was approved unanimously (7-0)

Final Conditions:

1. The site, consisting of approximately 0.92 acres, shall be zoned DT-MU and developed substantially similar to site plan submitted by AEC, revised 12/10/2019, except for modifications required to comply with the conditions below. Uses shall be limited to office, retail and restaurant.
2. Maximum building height shall be no greater than 3 stories and 46'.
3. Minimum building setback on North Main Street shall be 15' and shall include a minimum 5' landscape strip located outside of any easements building set back on North Main Street to accommodate moving the building 5' closer to North Main Street and 5' further from Violet Garden Walk, including an additional 5' area for planting along Violet Garden Walk. Minimum building setback on Violet Garden Walk shall be 20', as measured from the existing right-of-way.
4. Maximum building footprint shall not exceed 11,534 square feet.
5. Architecture and materials shall be developed similar to the submitted renderings, except for modifications required to comply with these conditions and in compliance with the Alpharetta Downtown Code, subject to approval by the DRB. Openings in parking deck walls shall be decorative screens similar to Teasley Place mixed-use development.
6. Parking deck shall be screened with a mix of landscape materials of varying heights, with final approval by DRB.

7. Decorative lighting and trees shall be placed on the upper level of the parking deck, as depicted on submitted renderings.
8. In conjunction with a Development Agreement, the developer shall set aside 5,141 square feet (0.118 acres) of land to accommodate future right-of-way for the Cumming Street extension, as depicted on the site plan prepared by AEC, revised 10/23/2019.
9. Access to the parking deck from North Main Street shall be closed off to vehicular traffic at such time that the Cumming Street extension is completed. Additional useable space, as a result of closing off the North Main Street access, may only be added to the building if parking requirements have been met. Access shall be constructed from new roadway.
10. Final streetscape shall include decorative pedestrian lighting, as approved by Staff.
11. Street trees shall be required within the planter along North Main Street (as approved by GDOT) and Violet Garden Walk, as well as behind the sidewalks

as a continuation of what has been previously planted or designed in the Downtown and outside of any utility easements, as approved by Staff. In lieu of tree grates, the soil area around street trees shall be planted with evergreen ornamental grasses, groundcovers and/or shrubs.
12. Amenity space shall be developed on the building rooftop and limited to use by the occupants, invitees and guests of the development. Landscape improvements to the existing tree area shall be a park-like setting with heavy decorative landscape, hardscape, walls and seating. The landscape shall include plant selections promoting the historic district. Developer shall remove exotic and invasive trees and shrubs within the area called out as amenity space at the rear of the property, as approved by Staff. Occupiable vertical structures are prohibited, and rooftop space shall not be rented out for commercial use.
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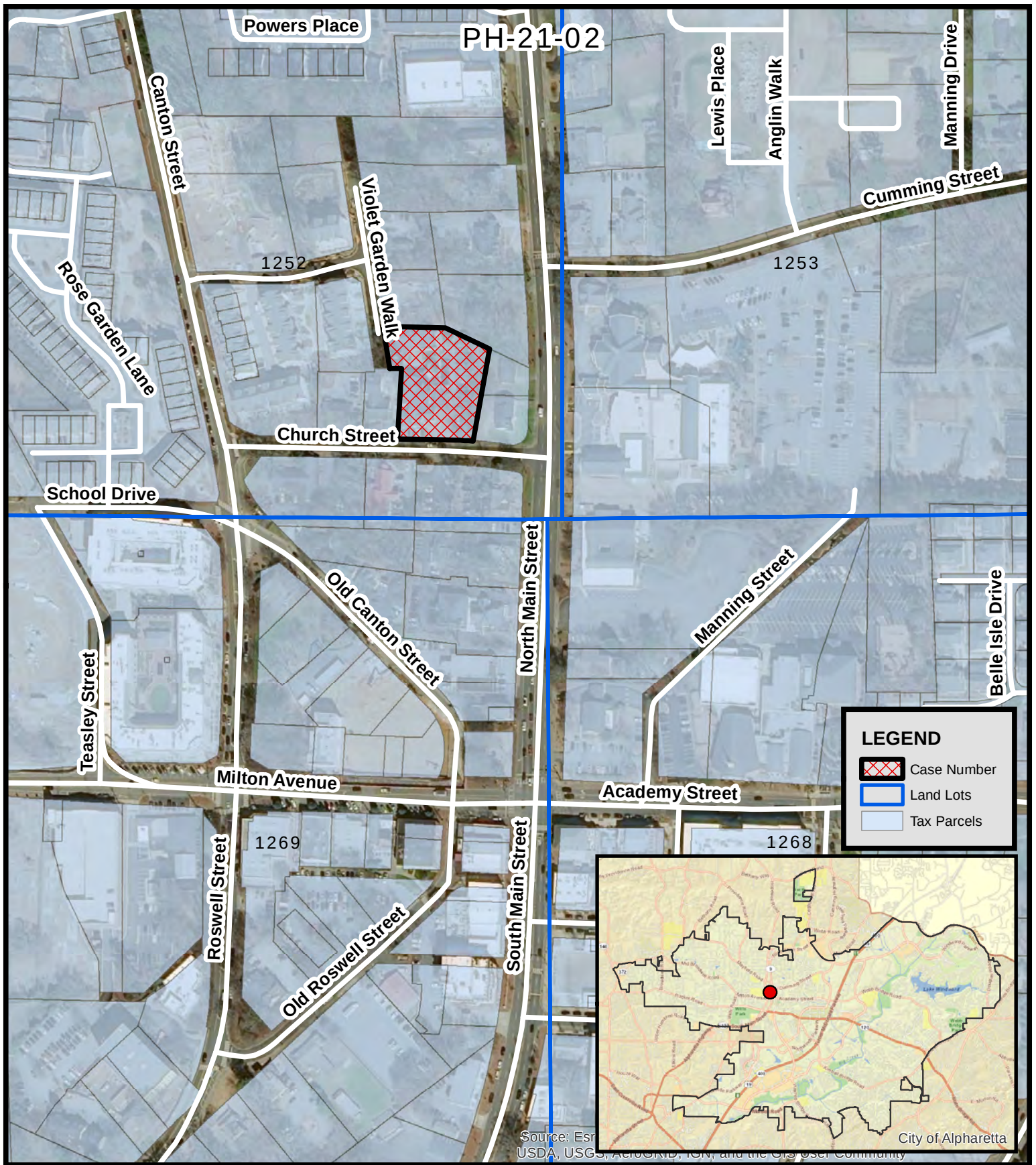
15. Off-site tree encroachment shall be limited to no more than 20% on the CRZ and shall require notification to property owner.
16. Decorative paver aprons shall be required at permanent project driveways, as approved by Staff.
17. New utilities shall be placed underground.
18. 10' sidewalk on Violet Garden Walk shall be reduced to 5' with the remaining 5' added to the landscape area.
19. Lower level parking deck shall be limited by a gated system controlled and regulated by the applicant and signage posted stating no public parking.
20. Developer shall screen car head lights with sufficient parking deck wall height and landscaping. 5.



Aerial Map
Youth Ministry Services
31 Church Street

PH-21-02
D/LL: 2/2/1252
BZA Date: 2/18/21

Location Map Provided by:
Community Development - GIS



Location Map
Youth Ministry Services
31 Church Street

PH-21-02
D/LL: 2/2/1252
BZA Date: 2/18/21

Location Map Provided by:
Community Development - GIS

NOTICE OF VIOLATION



2 PARK PLAZA
ALPHARETTA, GA 30009
PHONE: 678.297.6000
WWW.ALPHARETTA.GA.US

November 20, 2020

YOUTH MINISTRY RESOURCES, INC,
C/O Lanny Donoho
31 Church Street
Alpharetta, Georgia 30009

RE: Tree Conservation, Landscape and Buffer Requirements Code
Violation at 31 Church St., Alpharetta, GA 30009; TPN: 22 – 4822-1252-
100-3 (CE200324)

Dear Mr Donoho:

On behalf of the Director of Community Development of the City of Alpharetta, Georgia (the "Director"), pursuant to Sections 5.9.1 and 3.2.17, this letter serves as written notification that the above-identified real property (the "Subject Property") of YOUTH MINISTRY RESOURCES, INC. ("YMR") is in violation of the Tree Conservation, Landscape, and Buffer Requirements of Sections 3.2.1(B)(4) and 3.2.8(D)(4) of the Uniform Development Code (the "UDC") of the City of Alpharetta, Georgia. This notice is being delivered to you because you are the registered agent for YMR.

UDC § 3.2.1(B)(4) prohibits any person from "construct[ing] a concrete, asphalt, brick or gravel sidewalk, significantly compact[ing] the soil, plac[ing] fill material, or creat[ing] other impervious or semi-pervious surfaces around any tree so as to cut off air, light or water from the roots of the tree so as to adversely impact the tree's root system." UDC § 3.2.8(D)(4) requires a five foot (5') landscape strip along all property lines not contiguous with a public right-of-way or private road.

The City learned, during a recent site visit to the adjacent property, that an illegal concrete driveway approximately forty-five feet (45') long by sixteen feet (16') wide has been constructed along the Subject Property's northern boundary so as to provide ingress and egress via Violet Garden Walk, as shown in Figures 1 & 2 below. This concrete driveway was constructed within the critical root zone(s) ("CRZ(s)") and structural root plate(s) ("SRP(s)") of various trees located in the strip of land between the new driveway and the

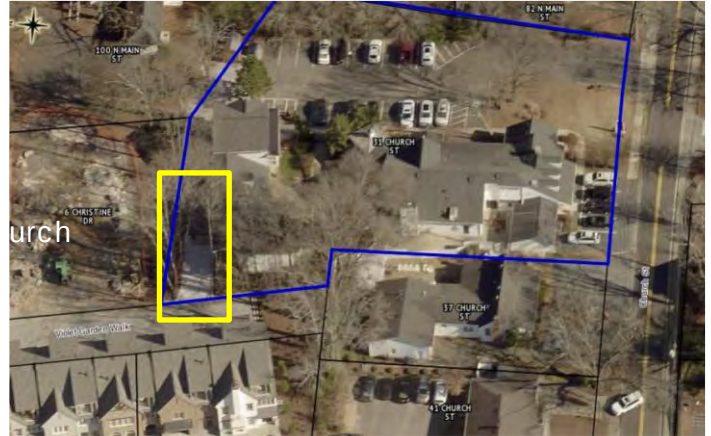
MAYOR
JIM GILVIN

COUNCIL MEMBERS
JASON BINDER
BEN BURNETT
JOHN HIPES
DAN MERKEL
DONALD F. MITCHELL
KAREN RICHARD

CITY ADMINISTRATOR
ROBERT J. REGUS

NOTICE OF VIOLATION

Subject Property's northern boundary. As a result, this driveway violates UDC §§ 3.2.1(B)(4) and 3.2.8(D)(4).



Figures 1 & 2: Driveway location at 31 Church Street

Please note that it is the opinion of the City Arborist, based upon the Arborist assessments performed by, Mr. Sisk and Mr. Hall, ISA Certified Arborists, that the trees impacted by the driveway (each identified with an "X" on the attachment hereto) are hazardous or, at best, marginal and should be removed. Based on this opinion, the Director has determined that removal of the driveway and retention of the impacted trees is not a viable option. Therefore, YMR is hereby ordered to rectify this situation by removing the trees impacted by the driveway.

Please also note that, under UDC §§ 3.2.17 and 5.9.2, each and every day these violations continue constitutes a separate offense.

In accordance with UDC § 5.9.1, if these violations are not corrected within thirty (30) days of receipt of this letter, the City will issue citations for and prosecute these violations.

Respectfully,

David Shostak, City Arborist

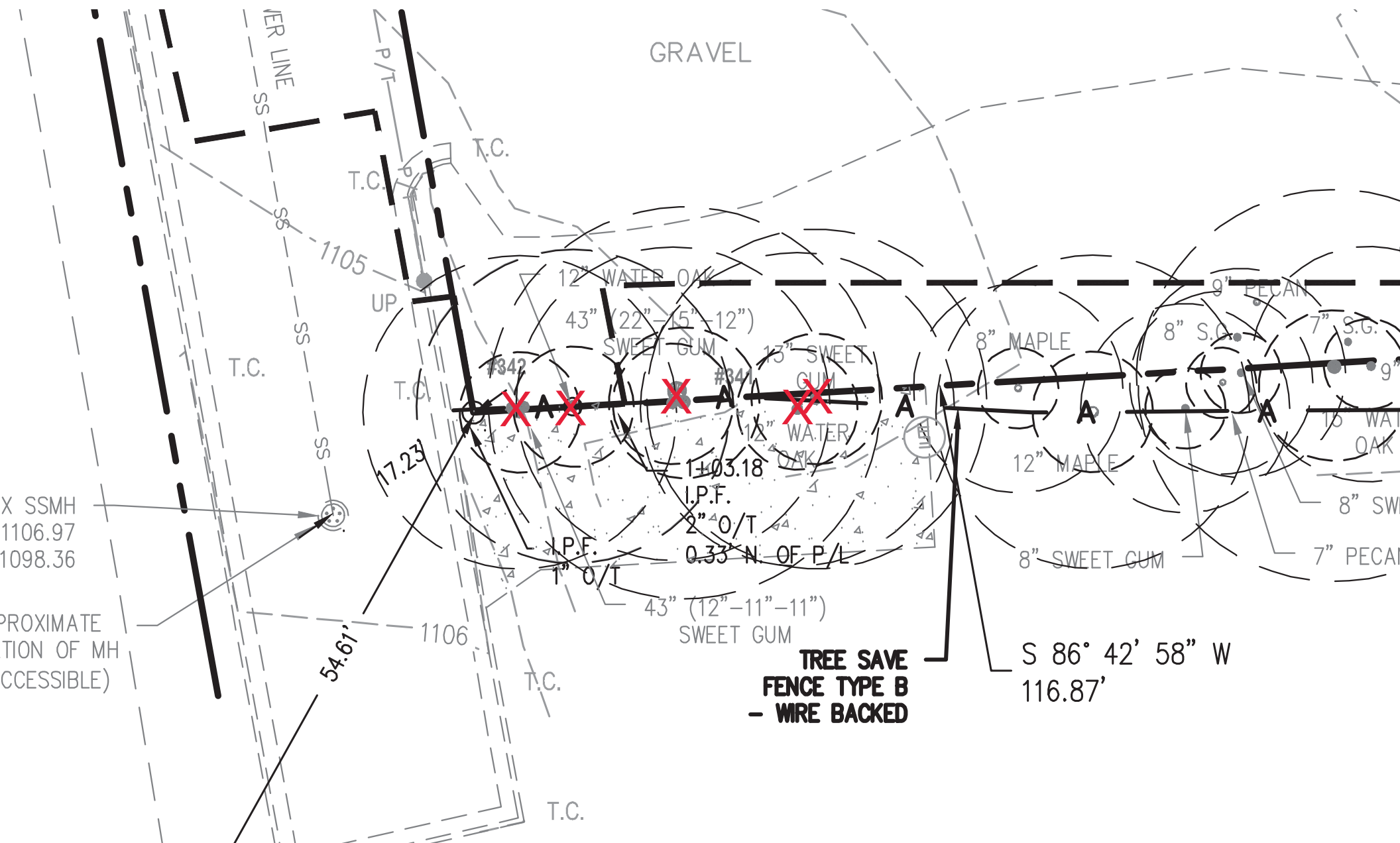
Enclosure

CC: Jonah Howell, attorney for YMR (jhowell@mhtlegal.com)
Cameron Kline, attorney for YMR (ckline@mhtlegal.com)
Bret Schroeder, Code Enforcement Manager
Jake O'Donnell, Code Enforcement Officer
C. Sam Thomas, City Attorney

NOTICE OF VIOLATION

EXHIBIT “A”

NOTICE OF VIOLATION





**Miles Hansford
& Tallant, LLC**
ATTORNEYS AT LAW

202 Tribble Gap Road | Suite 200 | Cumming, Georgia 30040
770-781-4100 | www.mhtlegal.com

Jonah B. Howell
jhowell@mhtlegal.com

December 4, 2020

VIA ELECTRONIC MAIL TO: kcook@alpharetta.ga.us
AND CERTIFIED MAIL # 9414 7266 9904 2148 1824 83

Kathi Cook
Community Development Director, City of Alpharetta
2 Park Plaza
Alpharetta, Georgia 30009

Re: Appellant(s): Youth Ministry Resources, Inc., C/O Lanny Donoho

Subject Property: 31 Church Street, Alpharetta, Georgia 30009 Fulton
County Tax Parcel: 22 482212521003

Application: Appeal of Alleged Code Violation

**Notice of Appeal and Reservation of Constitutional and Other Legal Rights for Appeal of
Alleged Code Violation**

This statement is intended to comply with the application procedures established by the City of Alpharetta, Georgia, for submittal of applications for Appeal of Alleged Code Violations as required by the City of Alpharetta Unified Development Code (the "UDC") and other City of Alpharetta Ordinances and Standards and is intended to preserve all constitutional, statutory and common law protections available to **Youth Ministry Resources, Inc., C/O Lanny Donoho** (the "Appellants"). This Notice of Appeal constitutes a timely application to appeal an alleged ordinance violation (the "Application"). The Appellants have provided all required information, and have submitted the appropriate application fees. The Application meets all judicial and statutory requirements for approval.

Standard of Review

The City of Alpharetta UDC § 3.2.17(A) grants the City of Alpharetta Board of Appeals (the "BOA") the power to hear and decide appeals from alleged violations of UDC § 3.2. Further, UDC § 4.5 also grants the BOA the power to hear and decide appeals from any order, determination, decision or other action by the Director.

Statement of Facts

Youth Ministry Resources, Inc. is the owner of the Subject Property. Mr. Donoho has long objected to the location of a parking structure scheduled to be constructed at 100 North Main Street which adjoins the Subject Property. He has voiced his objections thereto on numerous occasions. On one of the most recent occasions, Mr. Donoho actually met with several City representatives on site at the Subject Property so that Mr. Donoho could more easily demonstrate his specific issues with the proposed location of the parking structure.

Subsequent to this site visit, on November 20, 2020, Appellants received a formal Tree Conservation, Landscape, and Buffer Requirements Code Violation notice letter from the City Arborist Mr. David Shostak (the "Violation Notice"). In the Violation Notice, Mr. Shostak notes during this site visit, the City learned that a concrete driveway had been constructed along a portion of the Subject Property's northern boundary line. Mr. Shostak further states that, in his opinion, this concrete driveway lies within several trees' critical root zones ("CRZ) and structural root plates ("SRP") which are located along this northern boundary line. Mr. Shostak goes on to conclude that it is his opinion because this concrete driveway encroaches into the CRZ and SRP of these trees, the trees are therefore "hazardous or, at best marginal and should be removed." Based on Mr. Shostak's conclusion, the Director has ordered Appellants to remove the trees impacted by the concrete driveway. Specifically, the Violation Notice cites to UDC § 3.2.1(B)(4) and UDC § 3.2.8(D)(4) as justification for this directive.

The Appellants hereby appeal said code violations as alleged by Director Cook and City Arborist Shostak made on November 20, 2020.

Legal Analysis

A. Appeal of Alleged Code Violation.

i. Appellant Did Not Construct the Concrete Driveway.

Alpharetta Unified Development Code § 3.2.1(B)(4) prohibits any person from, "construct[ing], a concrete, asphalt, brick or gravel sidewalk, significantly compact[ing] the soil, plac[ing] fill material, or creat[ing] other impervious or semi-pervious surfaces around any tree so as to cut off air, light or water from the roots of the tree so as to adversely impact the tree's root system." It is important to note this code section is centered on actions taken by individuals. Specifically, the Code section upon which the City relies contemplates *only* those actions of constructing, compacting, placing, or creating. Notably, UDC § 3.2.1(B)(4) does not prohibit the maintenance or use of those prohibited surfaces which exist as the result of a prior owner constructing such a surface. .

Even further, UDC § 3.2.1(B)(4) fails to sufficiently specify the prohibited actions under the void for vagueness doctrine. It is well established that "[t]he void for vagueness doctrine of the due process clause requires that a challenged statute or ordinance give a person of ordinary

intelligence fair warning that specific conduct is forbidden or mandated and provide sufficient specificity so as not to encourage arbitrary and discriminatory enforcement.” *Parker v. City of Glennville*, 288 Ga. 34, 35 (1) (2010). The City Ordinance exists in a condition such that it is subject to multiple reasonable interpretations and therefore fails to properly notify Youth Ministry Resources, Inc., and Mr. Donoho of the specifically prohibited conduct.

The City has alleged that Appellants have violated this specific code section. However, Youth Ministries did not acquire the Subject Property until late 2012. When Appellant acquired the Subject Property, the concrete driveway had already been constructed and the the impervious surface had already been created. Thus, the initial actions taken to construct and create the concrete driveway were not committed by Appellants. Rather, the prohibited action, assuming the prohibited actions found in this ordinance are not unconstitutionally vague, was taken by a previous owner of the Subject Property. While Appellants may have maintained this concrete driveway, they did not commit any of the prohibited actions found under UDC § 3.2.1(B)(4). Therefore, Appellants have not violated UDC § 3.2.1(B)(4).

ii. The Lack of a Landscape Strip is a Legal Non-Conforming Use.

Alpharetta Unified Development Code § 3.2.8(D)(4) currently requires a five-foot (5') landscape strip along all commercial property lines which do not adjoin a public right-of-way or private road. The Subject Property is currently zoned Neighborhood Commercial (C-1). The City adopted UDC § 3.2.8(D)(4) on May 1, 2017. It is therefore incumbent upon the City to establish a change in a condition of the Property and improvements thereto which requires additional modification in order to comply with the Ordinance upon which the City relies in its allegation Youth Ministry Resources violated UDC § 3.2.8(D)(4).

In *Corey Outdoor Advertising, Inc. v. Board of Zoning Adjustments of City of Atlanta*, the Georgia Supreme Court defined “non-conforming” as “uses of structures which were existing prior to the enactment of an ordinance rendering them nonconforming.” 254 Ga. 221, 226 (1985). In determining whether a non-conformance had to be removed or altered, the Supreme Court held that the question was whether the matter conformed when it first arose upon the property. If it did, then the right to the non-conforming situation vests and cannot be undone by subsequent zoning changes. *Id.*

The Subject Property did not have a five-foot landscape strip prior to the enactment of UDC § 3.2.8(D)(4) and the City does not allege noncompliance with previous iterations of UDC § 3.2.8(D)(2) or its progeny. Presently, it appears based on a review of relevant authority the Subject Property is a legal non-conforming use with regard to the City’s five-foot landscape strip for commercial property lines. Therefore, Appellants have not violated UDC § 3.2.8(D)(4) and cannot be required to comply with this code section at this point in time.

For the foregoing reasons, the Director’s determination that the Appellants have violated UDC § 3.2.1(B)(4) and UDC § 3.2.8(D)(4) is clearly erroneous and must be reversed.

B. Reservation of Rights and Claims.

A refusal by the City of Alpharetta to overturn these code violations, will impose a disproportionate hardship on the Appellant without benefiting any surrounding property owners.

A refusal by the City of Alpharetta to overturn these code violations, will be unconstitutional in that it will constitute a taking of the Appellant's property rights without first paying fair, adequate, and just compensation for such rights in violation of Article I, Section III, Paragraph I of the Georgia Constitution of 1983, as amended, and the Fifth and Fourteenth Amendments to the Constitution of the United States.

A refusal to overturn these code violations will constitute an arbitrary and capricious act by the City of Alpharetta without any basis for such, and will constitute an abuse of discretion in violation of Article I, Section I, Paragraph I of the Georgia Constitution of 1983, as amended and the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States.

A refusal by the City of Alpharetta overturn these code violations will be unconstitutional and will discriminate in an arbitrary, capricious and unreasonable manner between the Appellant and the owners of similarly situated properties in violation of Article I, Section I, Paragraph II of the Georgia Constitution of 1983, as amended and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Furthermore, this Reservation also constitutes an Ante Litem Notice pursuant to O.C.G.A. § 36-11-1, which places the City of Alpharetta and all other agents of the City on notice of the Appellant's intent to seek monetary damages and attorney's fees against the City of Alpharetta for any rezoning action, zoning condition, illegal impact fee and any other unlawful restrictions and exactions.

Finally, the Appellant asserts that the UDC, Future Development Map and Comprehensive Plan were not adopted in compliance with the laws or constitutions of the State of Georgia or of the United States, and a denial of the Appellant's request based upon provisions illegally adopted will deprive the Appellant of due process under the law.

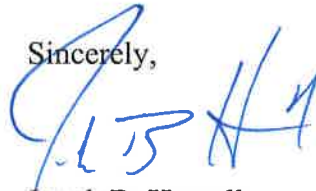
By filing this Reservation, the Appellant reserves all rights and remedies available to it under the United States Constitution, the Georgia Constitution, all applicable federal, state, and local laws and ordinances, and in equity.

Each of the named applications, permits, and documents referenced herein are incorporated with this appeal, along with all supplemental documents attached.

This Reservation forms an integral part of the Alleged Code Violation Appeal, and we ask that the City of Alpharetta include this Reservation with the Appellant's other documents. The Appellant reserves the right to amend and supplement this Reservation at any time.

Kathi Cook
Community Development Director, City of Alpharetta
Page 5 of 5
December 4, 2020

Sincerely,



Jonah B. Howell

JBH/klk

cc: C. Sam Thomas, Esq. (via email cst@boviskyle.com)
Steven Jones, Esq. (via email sjones@boviskyle.com)
Michael Woodman (via email mwoodman@alpharetta.ga.us)
David Shostak (via email dshostak@alpharetta.ga.us)

Aerial Photos

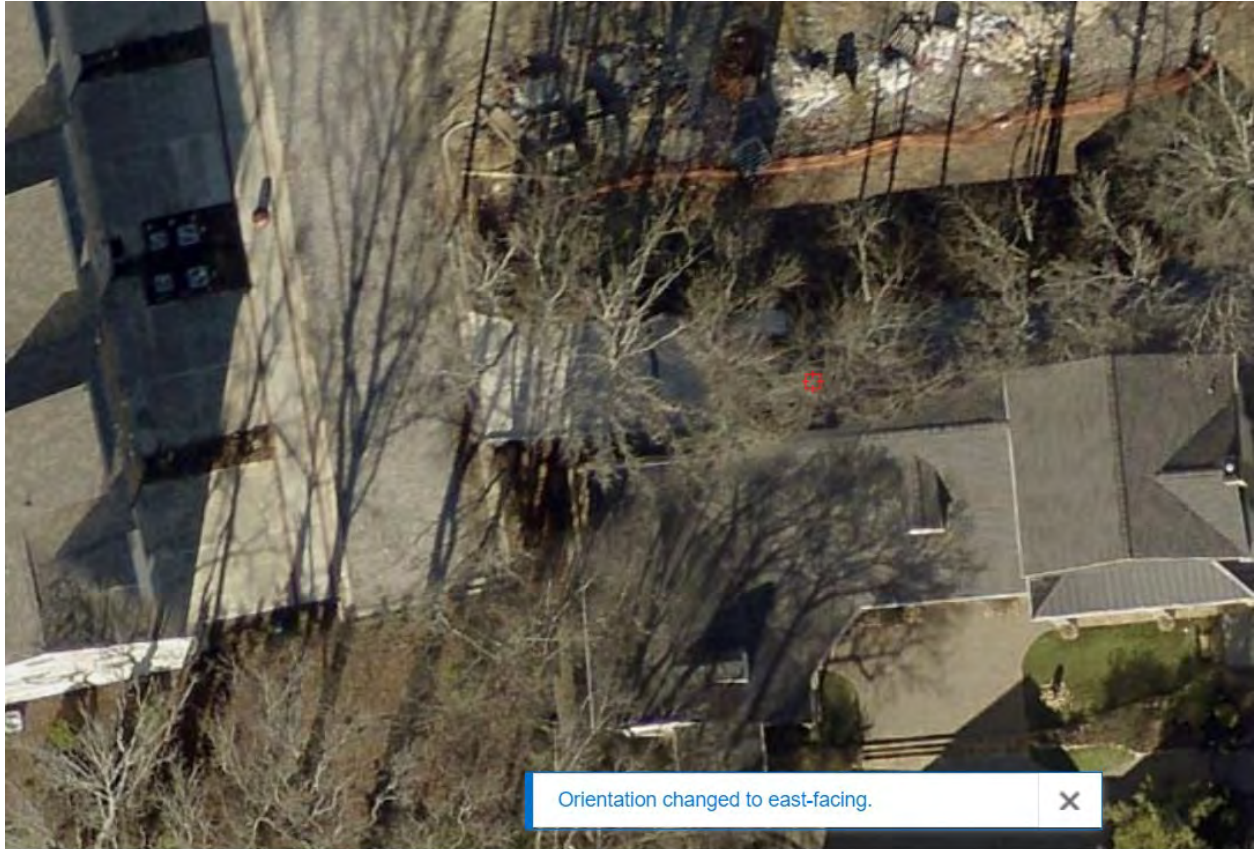


f 11 > 01/19/2017

Aerial Photos



Aerial Photos



2019 - Feb 2020 ▾ 12/26/2019 - 02/23/2020



Summary

Parcel Number 22 482212521003
Location Address 31 CHURCH ST
 ALPHARETTA
Legal Description
Property Class C3 - Commercial Lots
Neighborhood C108
Tax District 10
Zoning C1
Acres 0.83
Homestead N
Exemptions

[View Map](#)

Owner

Youth Ministry Resources Inc
 31 CHURCH ST
 ALPHARETTA GA 30009

Owner Info Last Updated 2/16/2020

Land

Description	Land Type	Land Code	Square Feet	Acres	Price
PRIMARY SITE	S	21	36,154	0.830	411,690

Total Acres:
 0.8300
Total Land-Value:
 411,690

Commercial Improvement Information

Card 1	Units 0
Building No 01	Year Built 1950
Structure MIX RES/COM	Total Sq Footage 4197

Card 2	Units 0
Building No 01	Year Built 1997
Structure MIX RES/COM	Total Sq Footage 1320

Accessory Information

Card 1	Description	Year Built	Area	Grade	Value
PAVING-ASP		1998	9,000		9,740

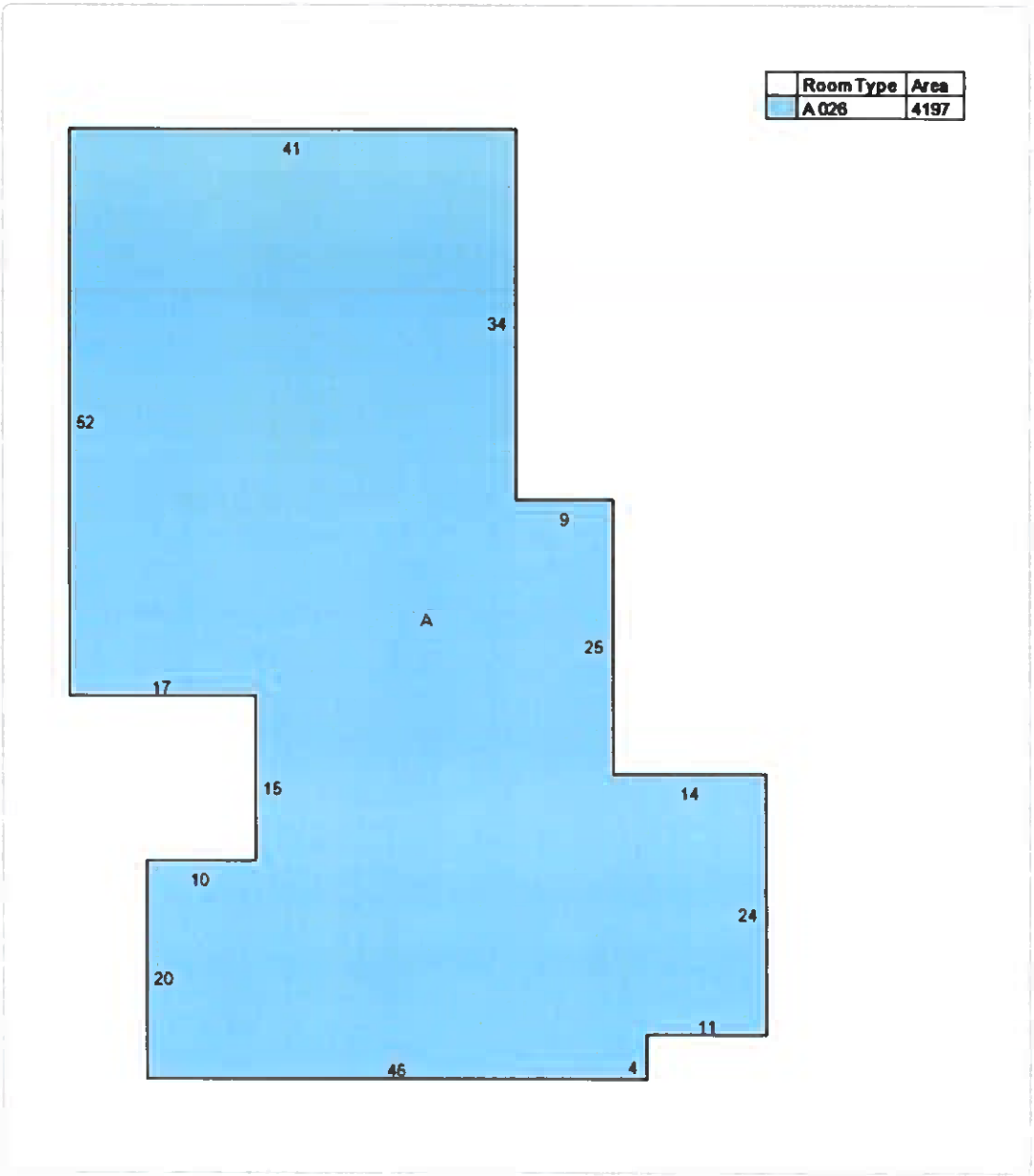
Sales

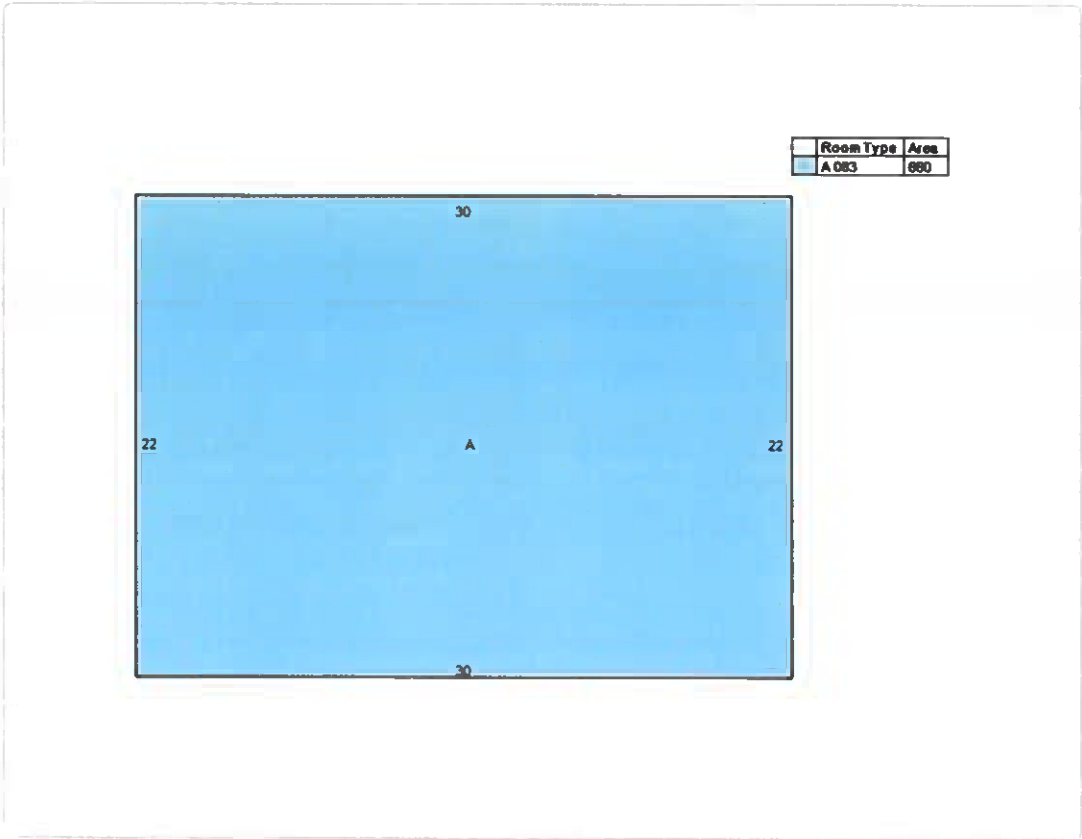
Sale Date	Sale Price	Instrument	Deed Book	Deed Page	Qualification	Sales Validity	Grantee	Grantor	Recording
12/21/2012	\$925,000		52087	0241	Qualified	Valid Sale	YOUTH MINISTRY RESOURCES INC	TWO MINUTE WALK, LLC	52087 0241
11/16/2009	\$0		48563	0491	Unqualified	Sale < = 1000	TWO MINUTE WALK LLC	FEDERAL DEPOSIT INSURANCE CORPORATION AS	48563 0491
9/8/2008	\$0		47194	0211	Unqualified	Liquidation / Foreclosure	OMNI NATIONAL BANK	OMNI NATIONAL BANK	47194 0211
6/12/2003	\$0	QC	35301	00233	Unqualified	Land Contract / Unusual Financing	LESMAN MARK W TR	LESMAN MARK W & CINDY L	35301 00233
2/14/1996	\$135,000		20650	00229	Unqualified	Unvalidated/Deed Stamps			20650 00229

Valuation

	2020	2019	2018	2017	2016	2015
LUC	301	301	301	301	301	301
Class	C3	C3	C3	C3	C3	C3
+ Land Value	\$411,700	\$411,700	\$411,700	\$411,700	\$411,700	\$411,700
+ Building Value	\$476,000	\$477,400	\$452,000	\$452,000	\$452,000	\$452,000
Total Value	\$887,700	\$889,100	\$863,700	\$863,700	\$863,700	\$863,700
Assessed Value	\$355,080	\$355,640	\$345,480	\$345,480	\$345,480	\$345,480

Sketches





No data available for the following modules: Residential Improvement Information, 2018 Assessment Notice.

The Fulton County Assessor makes every effort to produce the most accurate information possible. No warranties, expressed or implied are provided for the data herein, its use or interpretation. The assessment information is from the last certified tax roll. All other data is subject to change.

[User Privacy Policy](#)
[GDPR Privacy Notice](#)

Last Data Upload: 2/12/2021, 4:13:10 AM

Version 2.3.105

Developed by
 Schneider
GEOSPATIAL

CITY OF ALPHARETTA, GEORGIA

APPLICATION FOR ADMINISTRATIVE VARIANCE



OFFICE	☒ Owner Occupied Residence (\$100)	Case #: <u>AV2013-008</u>
	☐ All Other (\$500)	Received On: <u>5/29/13</u> By: <u>BP</u>

Print Form

Application Instructions:

1. Prior to submittal, please review all information supplied in this application to ensure that all spaces are filled out completely and accurately and that all required supporting materials have been supplied.
2. Application fees must be paid at the time of submittal. Payment may be made by check made payable to "City of Alpharetta," credit card (American Express, Master Card or Visa only), or cash.
3. Fee, if submitted after project construction has commenced, shall be twice the cost of standard fee.
4. Please submit your application and fee, either by mail or in person, to the City of Alpharetta Department of Community Development located at 217 Roswell Street, Alpharetta, GA 30009. **Please allow 10 days for processing.**

Property Owner Information:

Owner Name: Youth Ministry Resources Telephone: 404 271 9964
Address: 31 Church Street
City: Alpharetta State: GA Zip: 30009 Fax: _____

I swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of Fulton County, Georgia, of the property identified in this application for Administrative Variance.

Owner Signature: [Signature] Date: May 28, 2013

Applicant Information (If Different Than Owner):

Owner Name: Same as above Telephone: _____
Address: 31 church st
City: Alpharetta State: GA Zip: 30009 Fax: _____

Property Information:

Street Address (If Assigned): 31 church street
District / Section: 2 sect 2 Land Lot(s): 12.52
Subdivision Name / Phase: _____ Lot Number: 1252

Information On Variances Requested:

In the space provided or, if needed, on separate sheets, please itemize and briefly describe each requested variance for which this application is submitted.

Variance to Reduce Side and Rear Setback.
from 15 ft to 12 ft. to expand Deck as stairs.

In the space provided or, if needed, on separate sheets, please provide the basis or justification for each requested variance.

Since existing building is 9 ft off of side property line
this variance would allow expansion to look
more aesthetically appealing.

Please submit evidentiary items in support of this application and the requested variances along with the required application fee.

- | | |
|---|---|
| ☐ Site Plan (Includes property lines and proposed work) | ☐ Fee: Owner Occupied Property (\$100) |
| ☐ Letters of Support from Adjacent Property Owners (Required for all residential requests) | ☐ Fee: Other Property (\$500) |
| ☐ Other Items Demonstrating Need (Photos, topographic survey, etc.) | |

FOR OFFICE USE ONLY

I have reviewed the request for Administrative Variance(s) as identified and described herein. I have considered the basis for the request as indicated and described by the applicant together with the supplementary materials submitted. I have compared the request to the standards outlined in the City of Alpharetta Zoning Code (Article XIII, Section 5(B) 1-4). Based on this, the application for Administrative Variance is:

☒ Approved

☐ Denied

☐ Approved With Following Conditions

Reviewed By:

RICHARD McLEOD

Signature:

Richard McLeod

Date:

9/25/13

Sheet Index

- A-1 Cover Page
- A-2 Existing Site Plan
- A-3 Proposed Site Plan
- A-4 General Notes
- A-5 Existing Photos
- A-6 Zoning Calculations
- A-7 Existing 1st Floor
- A-8 Modified 1st Floor
- A-9 Modified 2nd Floor
- A-10 Modified Roof
- A-11 Front Elevation
- A-12 Side Elevations
- A-13 Rear Elevation
- A-14 3D Exterior Views
- A-15 Wall Section
- A-16 Slab Details
- A-17 1st Floor Perspective
- A-18 2nd Floor Perspective
- A-19 Framing Perspective
- A-20 1st Floor Customer Set
- A-21 2nd Floor Customer Set



Big Stuff Addition

Project Address: 31 Church Street, Alpharetta GA 30004

Project Description: Remodel the rear studio building to include the new addition of living room, kitchen, and bedrooms.

Code Compliance

Village Studio, Inc is not a licensed architect. The plans have been designed pursuant to owner feedback and direction. Owner and builder must ensure that these plans meet all national, state, and local building codes.

Building/Drinking Code	IBC 2006 w/Current Georgia amendments
Structural Code	IBC 2006 w/Current Georgia amendments
Plumbing Code	IPC 2006 w/Current Georgia amendments
Mechanical Code	IMC 2006 w/Current Georgia amendments
Electrical Code	NEC 2011 w/Current Georgia amendments

Owner Information:

Larry Donoho
404-271-9964

Designer Information:

The Village Studio, Inc
7240 Gresham Trace
Cumming, GA 30040

(770) 652-5961
Al Causey

Builder Information:

Engineer Information:

NO.	DESCRIPTION	BY	DATE

Cover Page

The Village Studio
ARCHITECTURAL & DESIGN
7240 GRESHAM TRACE
CUMMING, GA 30040
770-652-5961



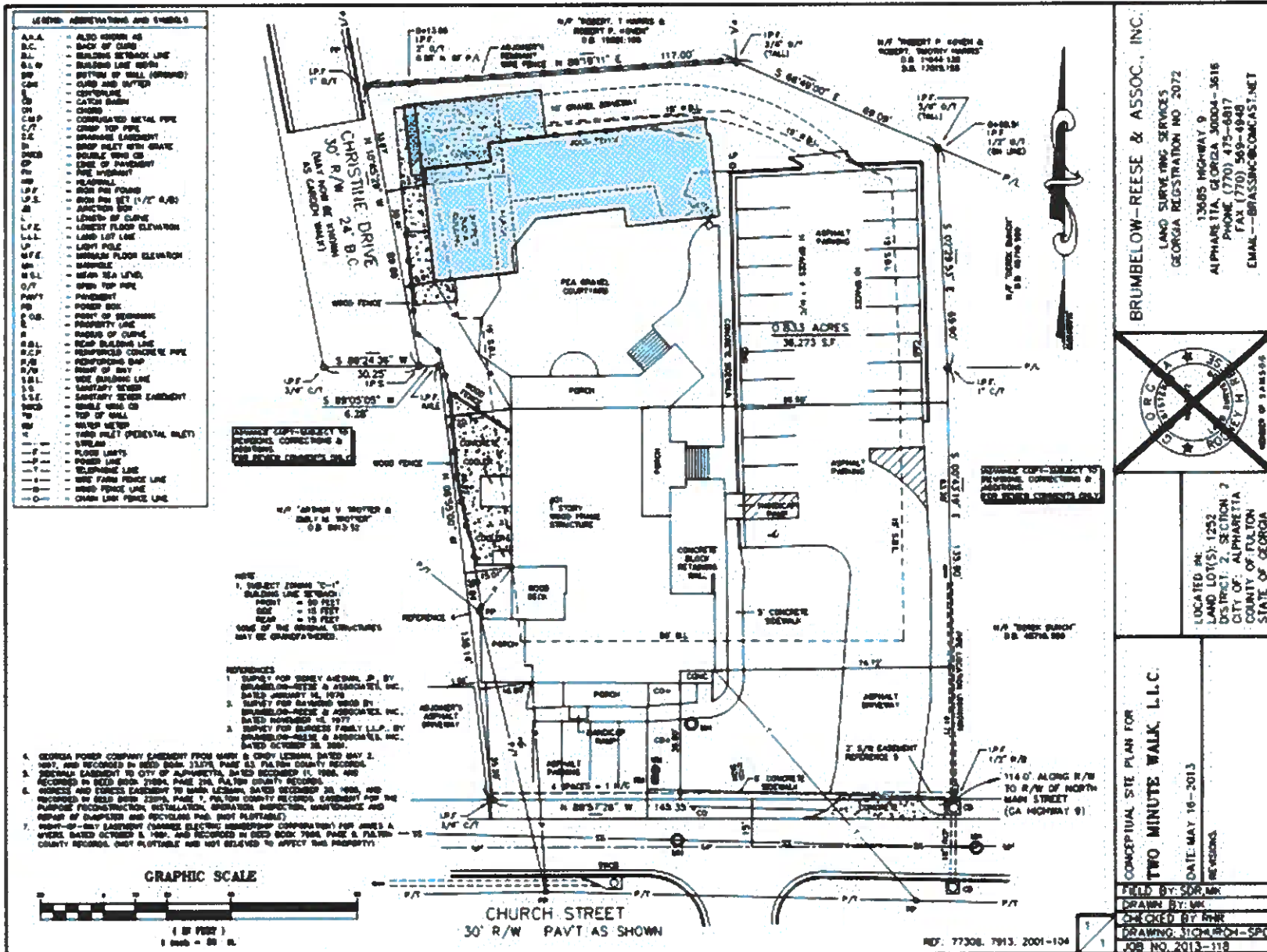
31 Church Street Remodel
31 Church St
Alpharetta, GA

DATE:
5/29/2013

SHEET:

SHEET:
A-1

CONCEPTUAL SITE PLAN FOR TWO MINUTE WALK, L.L.C.	DATE: MAY 16, 2013	REVISIONS: 6-29-2013, CLIENT COMMENTS	LOCATED IN: LAND LOT(S): 1252 DISTRICT: 2, SECTION: 2 CITY OF: ALPHARETTA COUNTY OF: FULTON STATE OF: GEORGIA		BRUMBELOW-REESE & ASSOC., INC. LAND SURVEYING SERVICES GEORGIA REGISTRATION NO. 2072 13805 HIGHWAY 9 ALPHARETTA, GEORGIA 30004-3616 PHONE (770) 476-8817 FAX (770) 868-4848 EMAIL - BRUMBLOW@COMCAST.NET
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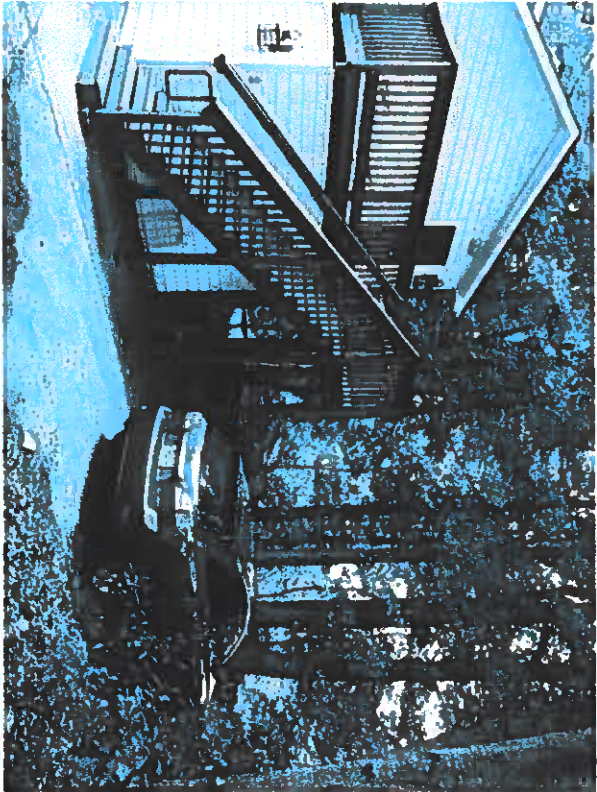




EXISTING STUDIO BUILDING WHERE ADDITION WILL GO



EXISTING SIDE OF BUILDING WHERE PROPOSED COVERED PARKING WOULD GO



A-5	SHEET	DATE:	PROJECT DESCRIPTION:
		1/29/2013	31 Church Street Remodel 31 Church St Alpharetta, GA



The Village Studio
concepting & design
7540 Oakham Trace
Columbus, GA 31906
770-963-0001

**Existing As-Built
Photos**

NO.	DESCRIPTION	BY	DATE

GENERAL NOTES

DESIGN CRITERIA

ROOF LIVE LOAD: 20psf
FLOOR LIVE LOAD: 40psf (INCLUDES DECKS, PATIO'S AND AND PORCHES.)
BASIC WIND VELOCITY: 90mph
SEISMIC DESIGN CATGORY: B
Bearing walls with light frame walls and wood structural panels

GOVERNING CODES AND STANDARDS

NATIONAL DESIGN SPECIFICATION FOR WOOD CONSTRUCTION
ACI 318, BUILDING CODE REQUIREMENTS FOR REINFORCED CONCRETE
A.I.S.C. MANUAL OF STEEL CONSTRUCTION
T.P.I. SPECIFICATION FOR THE DESIGN, MANUFACTURE, AND HANDLING OF WOOD TRUSSES

STRUCTURAL NOTES

1. SEE SITE DRAWINGS FOR LOCATION, ELEVATION, AND ORIENTATION OF THIS STRUCTURE.
2. FOUNDATION DESIGN IS BASED ON A MINIMUM SAFE SOIL BEARING CAPACITY OF 2500psf. BEARING CAPACITY OF SOILS SHALL BE VERIFIED BY A QUALIFIED GEOTECHNICAL ENGINEER PRIOR TO PLACING CONCRETE.
3. ANY FILL WITHIN 10 FEET OF THE STRUCTURE, OR BENEATH WALKS OR PAVED AREAS SHALL BE COMPACTED TO NOT LESS THAN 95% OF STANDARD PROCTOR DENSITY. ANY FILL PLACED SHALL BE MONITORED BY A QUALIFIED GEOTECHNICAL ENGINEER.
4. BRICK LEDGE PLACED ON THE PERIMETER OF THE FOUNDATION SHALL HAVE ELEVATION REQUIREMENTS VERIFIED IN FIELD BY BUILDER PRIOR TO CONCRETE PLACEMENT. LEDGES SHALL BE NOT LESS THAN 8" WIDE.
5. CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH (AT 28 DAYS) OF 3000 psi. CEMENT SHALL BE TYPE 1. AGGREGATES SHALL CONFORM TO ASTM C33. WATER USED FOR CONCRETE SHALL BE CLEAN AND POTABLE.
6. STRUCTURAL STEEL SHAPES, BARS AND PLATES SHALL CONFORM TO ASTM A36.
7. MORTAR FOR BRICK OR STONE VENEER SHALL BE TYPE S.
8. REINFORCING STEEL SHALL CONFORM TO THE REQUIREMENTS OF ASTM A-615, GRADE 60. REINFORCING FOR TURNED-DOWN SLAB EDGES OR FOR GRADE BEAMS SHALL HAVE MINIMUM 3" COVER TO BOTTOM AND SIDES OF FOOTINGS.
9. WOOD FOR LOADBEARING STUDS SHALL BE No. 2 SPRUCE PINE FIR, OR BETTER.
10. WOOD FOR NONBEARING PARTITIONS, PLATES, AND BLOCKING SHALL BE UTILITY GRADE SPRUCE PINE OR BETTER.
11. WOOD FOR HEADERS, BEAMS OR RAFTERS SHALL BE No. 2 SOUTHERN PINE OR BETTER.
12. WOOD FOR ENGINEERED WOOD TRUSSES SHALL BE No. 2 SOUTHERN PINE OR BETTER.

13. WOOD TRUSSES SHALL BE DESIGNED, FABRICATED, AND DELIVERED BY A MEMBER OF THE TRUSS PLATE INSTITUTE, WHO SHALL CONFORM TO ALL TPI STANDARDS AND SPECIFICATIONS FOR DESIGN, MANUFACTURE, DELIVERY AND HANDLING.
14. TRUSS SHOP DRAWINGS SHALL BE SUBMITTED WITH CALCULATIONS STAMPED BY A STRUCTURAL ENGINEER LICENSED IN THE STATE OF GEORGIA. TRUSS SHOP DRAWINGS APPROVED BY ENGINEER SHALL BE AVAILABLE AT THE JOBSITE AT ALL TIMES.
15. JOISTS SHALL BE DETAILED, FABRICATED AND DELIVERED UNDER THE SUPERVISION AND SEAL OF A PROFESSIONAL ENGINEER LICENSED IN THE STATE OF GEORGIA.
16. LAMINATED VENEER LUMBER SHALL HAVE A MINIMUM ELASTIC MODULUS OF 1,800,000 psi., AND A MINIMUM ALLOWABLE BENDING STRESS OF 2800 psi.
17. CONTRACTOR IS SOLELY RESPONSIBLE FOR JOBSITE SAFETY, INCLUDING BRACING AND SHORING THE STRUCTURE UNTIL THE STRUCTURE IS COMPLETED.
18. ANCHOR BOLTS SHALL CONFORM TO ASTM A-307.
19. BUILDING SHEATHING SHALL BE 7/16" THICK APA RATED SHEATHING, OR 7/16" THICK B/C PLYWOOD. SEE FASTENING SCHEDULE FOR ATTACHMENT OF SHEATHING.
20. WELDED WIRE FABRIC SHALL CONFORM TO ASTM 185. CONTRACTOR MAY SUBSTITUTE FIBERMESH ADMIXTURE IN CONCRETE FOR WELDED WIRE FABRIC. FIBERMESH USED UNDER THIS ALTERNATE MUST BE ADDED TO CONCRETE IN THE RATIO OF 2.2 LBS PER CUBIC YARD OF CONCRETE.
21. CONNECTORS FOR ROOF TRUSSES SHALL BE FURNISHED BY SIMPSON, OR EQUIVALENT. ROOF TRUSS SHOP DRAWINGS SHALL INCLUDE SELECTION OF CONNECTORS, AND PROOF OF CONNECTOR CAPACITY SHALL BE PROVIDED WITH SHOP DRAWINGS.
22. CONCRETE MASONRY UNITS SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH F_m NOT LESS THAN 1850 psi. MASONRY FIRE RATED WALL SHALL BE CONSTRUCTED, INCLUDING PLACEMENT OF GROUT, REINFORCING, AND INSULATING GRANULAR FILL, USING SPECIAL INSPECTIONS, AS DEFINED IN I.B.C. SECTION 1704.

WALL COVERING

TABLE R702.7.1 - R702.7.4.1

TABLE R702.7.3
ALLOWABLE SPANS FOR LINTELS SUPPORTING MASONRY VENEER^{a, b, c}

SIZE OF STEEL ANGLE ^a (inches)	NO STORY ABOVE	ONE STORY ABOVE	TWO STORIES ABOVE	NO. OF 1" UNIFORM EQUIVALENT REINFORCING BARS ^c
4 x 3 x 1/2	6'-0"	5'-0"	4'-0"	1
4 x 3 x 1/2	8'-0"	7'-0"	6'-0"	2
4 x 3 1/2 x 1/2	12'-0"	10'-0"	8'-0"	3
2 x 4 x 1/2 x 1/2	20'-0"	18'-0"	16'-0"	4

^a For steel angles 24 inches or less in height.

^b For long or irregular angles, the angle shall be placed at the critical position.

^c If different reinforcement is used, the reinforcement shall be designed to develop the same strength as the reinforcement shown in the table.

^d See Table R702.7.4.1 for allowable spans for lintels supporting masonry veneer.

NO.	REVISION	BY	DATE

General Notes

The Village Studio
creating a series
that combines the
best of both worlds
creating a new
world.



31 Church Street Remodel
31 Church St
Alpharetta, GA

DATE:
8/29/2013

SCALE:

SHEET:
A-4

Project Notes

Property-
31 Church St
Alpharetta, GA 30009
Lanny Donoho

0.833 acres
36,273 sq ft

Main building= $4482 + 290 = 4772$
Porches (3) = 1256
Existing studio= 922

40% of existing (including porches)= $6950 * .40 = 2780$

Total building area covers lot
 $4772 + 922 + 2278 = 7972$
 $7972 / 36,273 = 22\%$ coverage + driveways and sidewalks

Applicable Zoning section is UDC 2.2.14 C-1 Neighborhood
Commercial Section B, Subsection 1
NEW building a MAX of 40% of existing

ADDITION SQUARE FOOTAGE

1st Floor 1652
2nd Floor 1128

TOTAL 2780

**Maximum allowable square footage
based off existing building 2780**

**Proposed Addition is equal to maximum
square footage allowed.**

NO.	DESCRIPTION	BY	DATE

Zoning Calculations

The Village Studio
creating a design
from scratch
770-241-1001

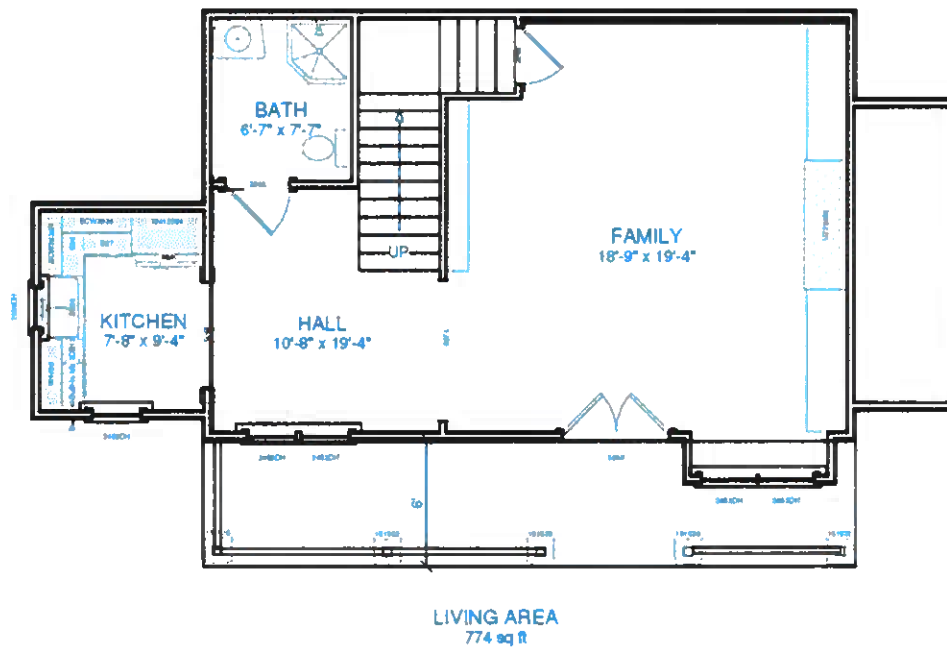


31 Church Street Remodel
31 Church St
Alpharetta, GA

DATE:
1/29/2013

SCALE:

SHEET:
A-6



1st Floor

NO.	DESCRIPTION	BY	DATE

Existing First Floor

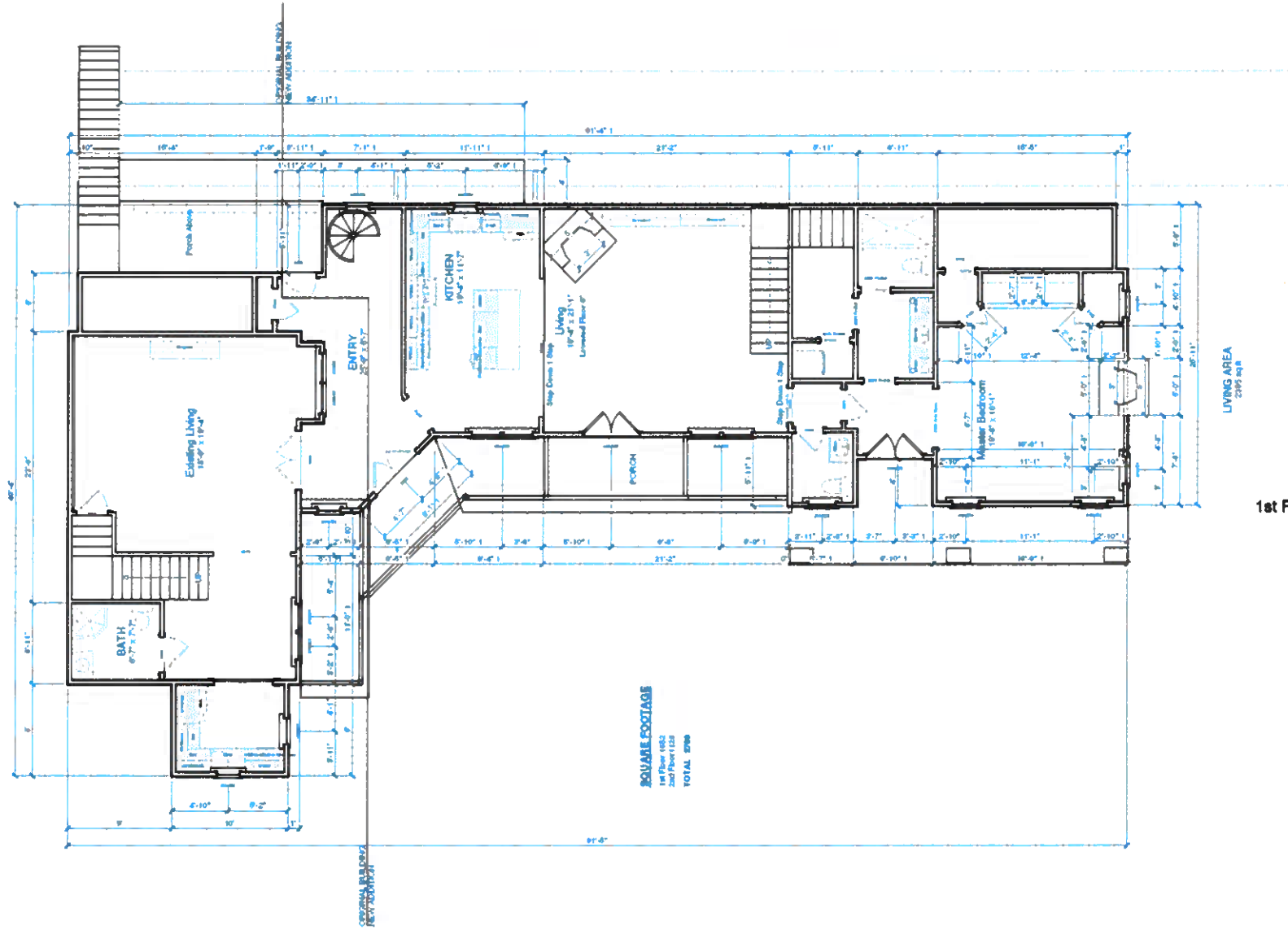
The Village Studio
creating a style
that speaks to you
7500 Oakwood Drive
Columbus, GA 31906
770-253-0001

31 Church Street Remodel
31 Church St
Athens, GA

DATE:
5/29/2013

SCALE:
3/16" = 1'-0"

SHEET:
A-7



The Village Studio
 Consulting & Design
 7500 Oakwood Drive
 Cumming, GA 30040
 770-885-0001

31 Church Street Remodel
 31 Church St
 Alpharetta, GA

DATE:
 8/29/2013

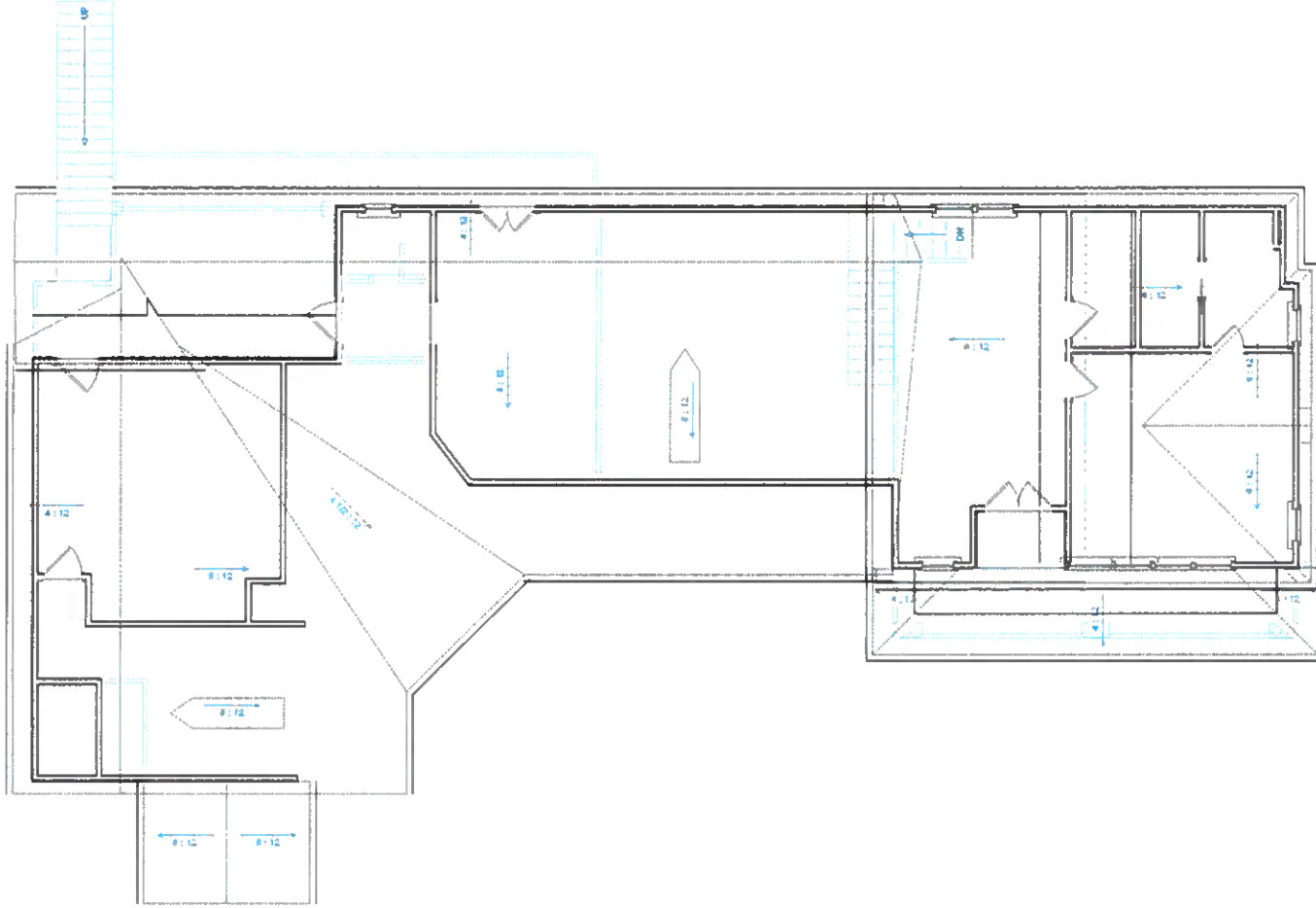
SCALE:
 1/8" = 1'-0"

SHEET:
A-8

**Proposed 1st floor plan
 with addition**

NO.	DESCRIPTION	REV.	DATE

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2nd Floor

NO.	DESCRIPTION	BY	DATE

Roof Plan

The Village Studio
 Architectural & Design
 7000 Quince Lane
 Alpharetta, GA 30005
 770-446-2071



31 Church Street Remodel
 31 Church St
 Alpharetta, GA

DATE:
 1/29/2013

SCALE:
 3/16" = 12"

SHEET:
A-10

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Elevation Facing Courtyard

NO.	DESCRIPTION	BY	DATE

Front Elevation



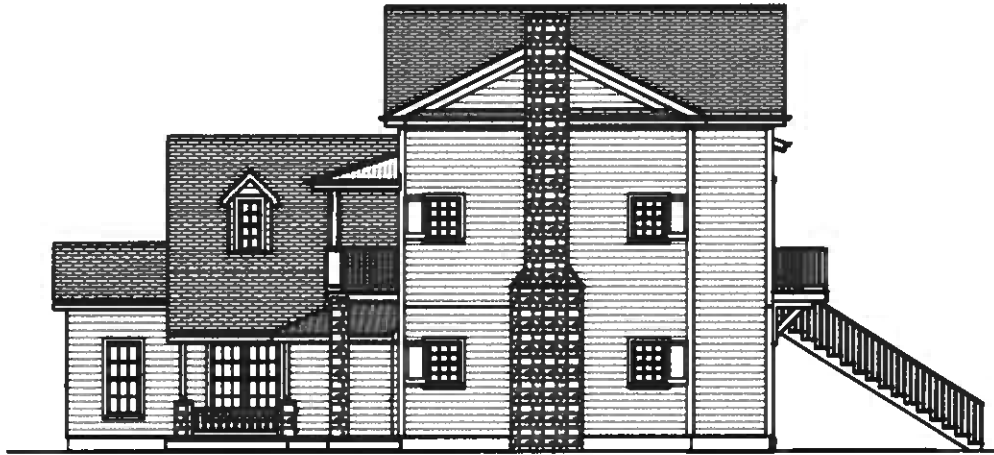
51 Church Street Remodel
 51 Church St
 Alpharetta, GA

DATE:
 5/29/2013

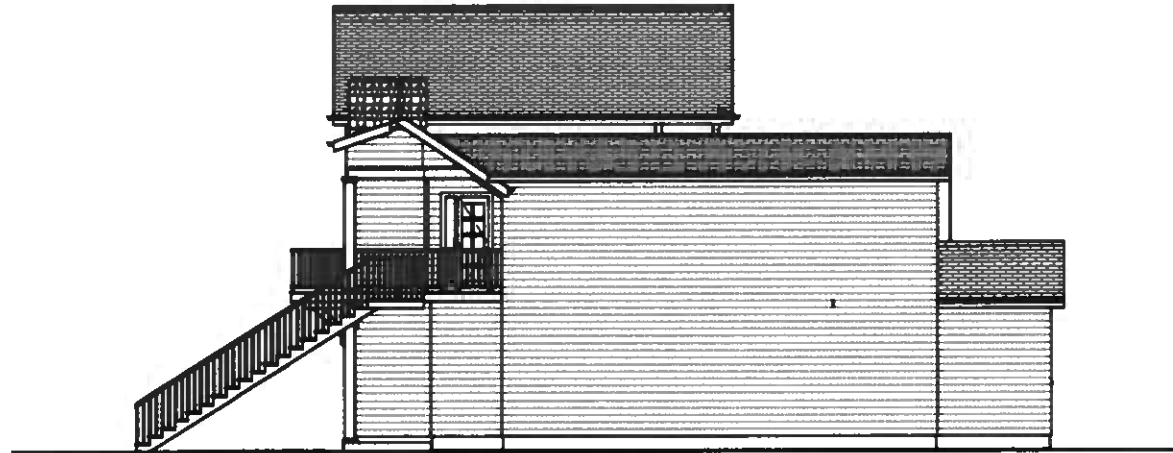
SCALE:
 1/8" = 12"

SHEET:
A-11

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Right Side Elevation



Left Elevation

NO.	DESCRIPTION	BY	DATE

Side Elevations

The Village Studio
 Architectural & Design
 7500 Gables Trace
 Cumming, GA 30041
 770-881-0801



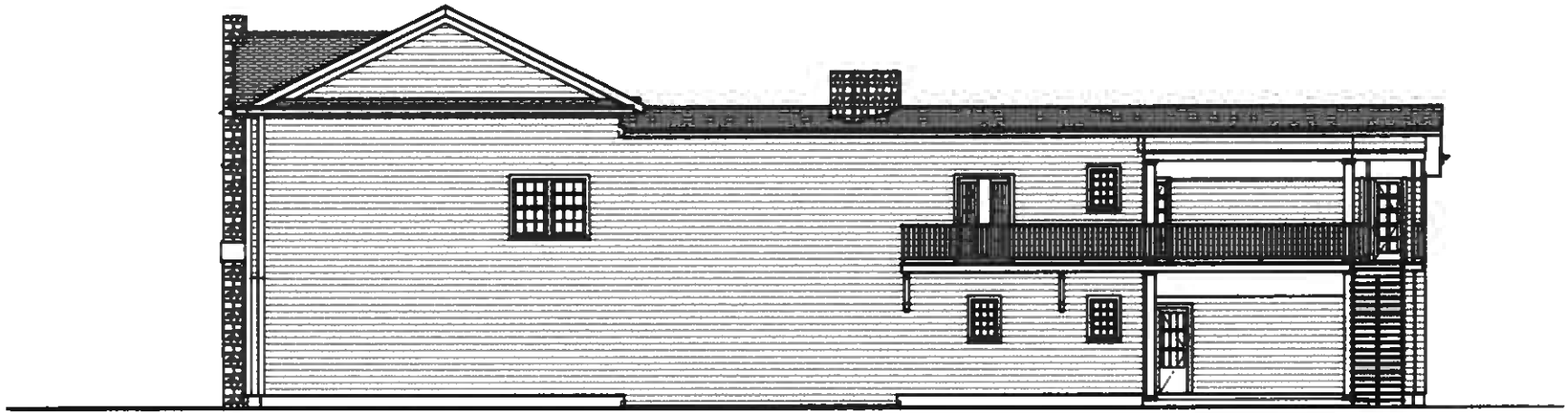
31 Church Street Remodel
 31 Church St
 Alpharetta, GA

DATE:
 5/29/2013

SCALE:
 1/8" = 12"

SHEET:
A-12

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Rear Elevation

NO.	DESCRIPTION	BY	DATE

Rear Elevation

The Village Studio
 creating a style
 that speaks to you
 7500 Quaker Tree
 Cumming, GA 30041
 770-886-0001



PROJECT LOCATION:
31 Church Street Remodel
 31 Church St
 Alpharetta, GA

DATE:
 5/29/2013

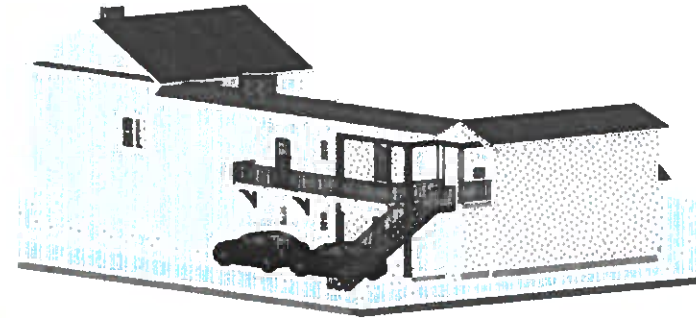
SCALE:
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SHEET:
A-13

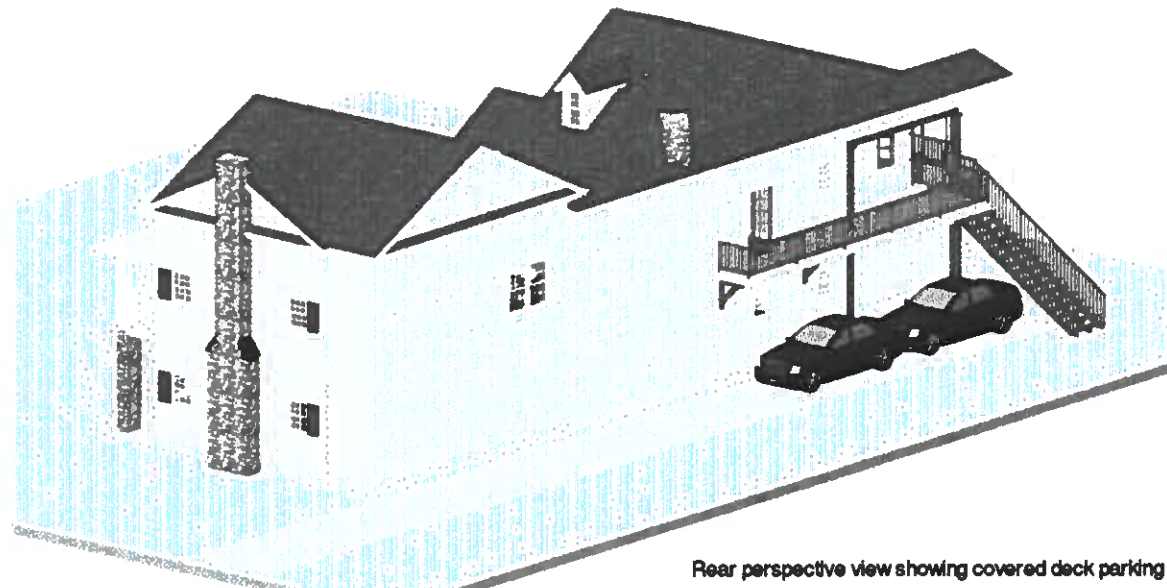
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Front perspective view of current building plus the NEW Addition



Left side perspective that faces SIDE property line.



Rear perspective view showing covered deck parking

NO.	REVISION	BY	DATE

3D Exterior Views

The Village Studio
 rendering © 2013
 7800 Quince Lane
 Cumming, GA 30041
 770-888-8881



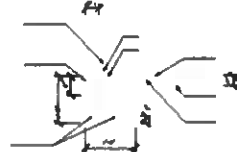
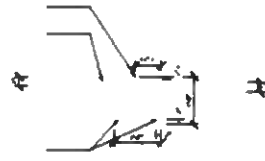
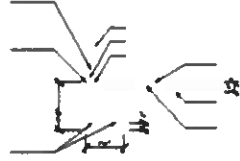
31 Church Street Remodel
 31 Church St
 Alpharetta, GA

DATE:
 5/29/2013

SCALE:
 3/16" = 12"

SHEET:
A-14

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PROJECT LOCATION:
31 Church Street Remodel
 31 Church St
 Alpharetta, GA

DATE:
 5/29/2013

SCALE:

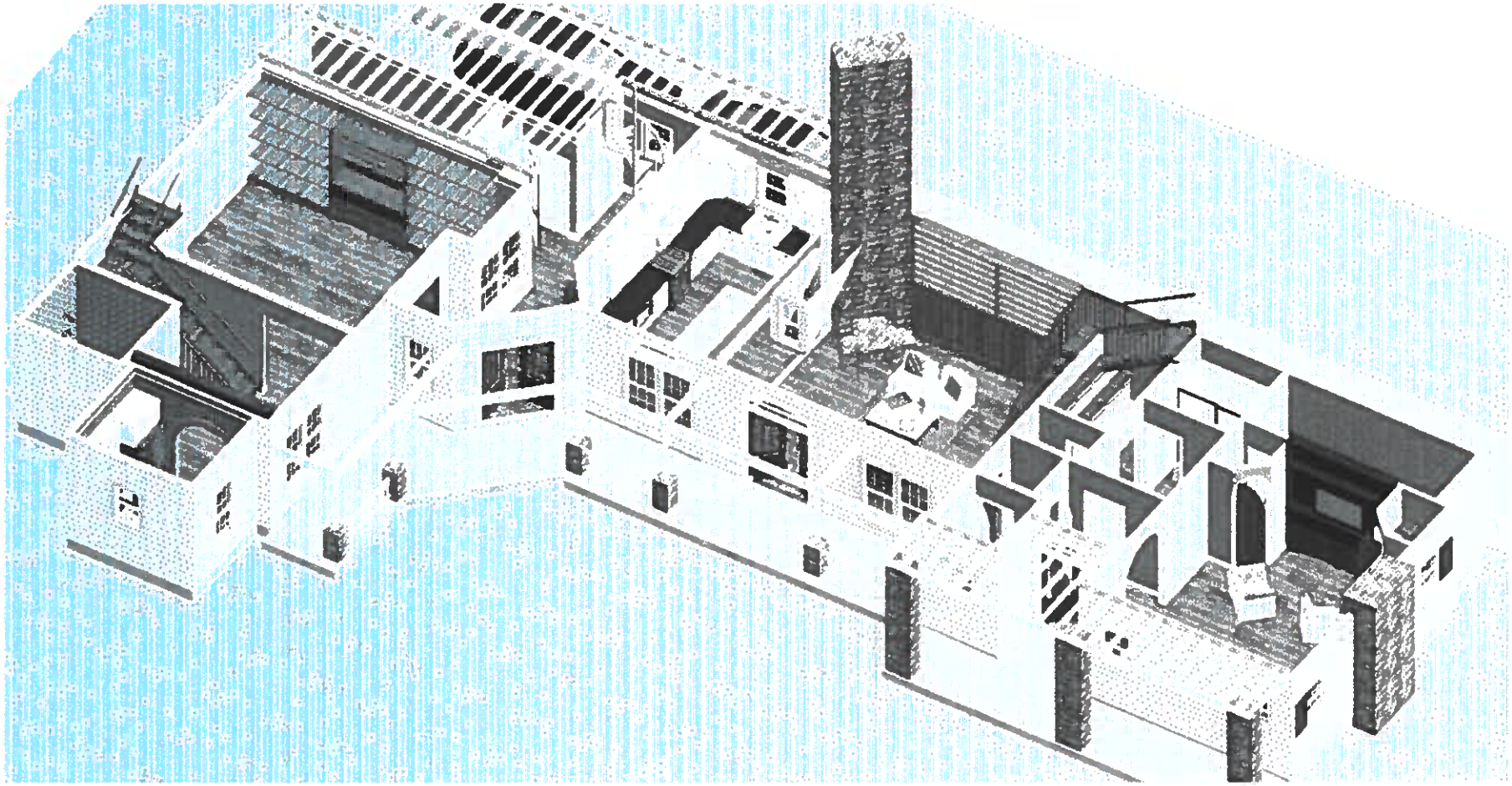
SHEET:
A-16



The Village Studio
 creating a vision
 7500 Quaker Trail
 Cumming, GA 30041
 770-886-0001

Slab Details

NO.	DESCRIPTION	BY	DATE



NO.	DESCRIPTION	BY	DATE

1st Floor Perspective

The Village Studio
 ARCHITECTURAL
 7000 Peachtree Dunwoody Rd.
 Suite 100
 Atlanta, GA 30328
 404.416.1111

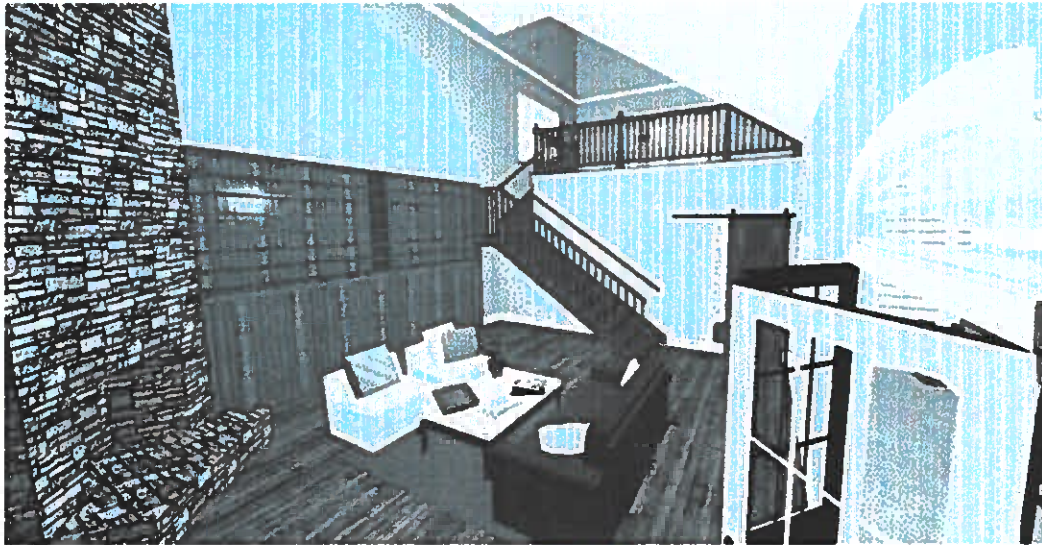


31 Church Street Remodel
 31 Church St
 Alpharetta, GA

DATE:
 1/29/2013

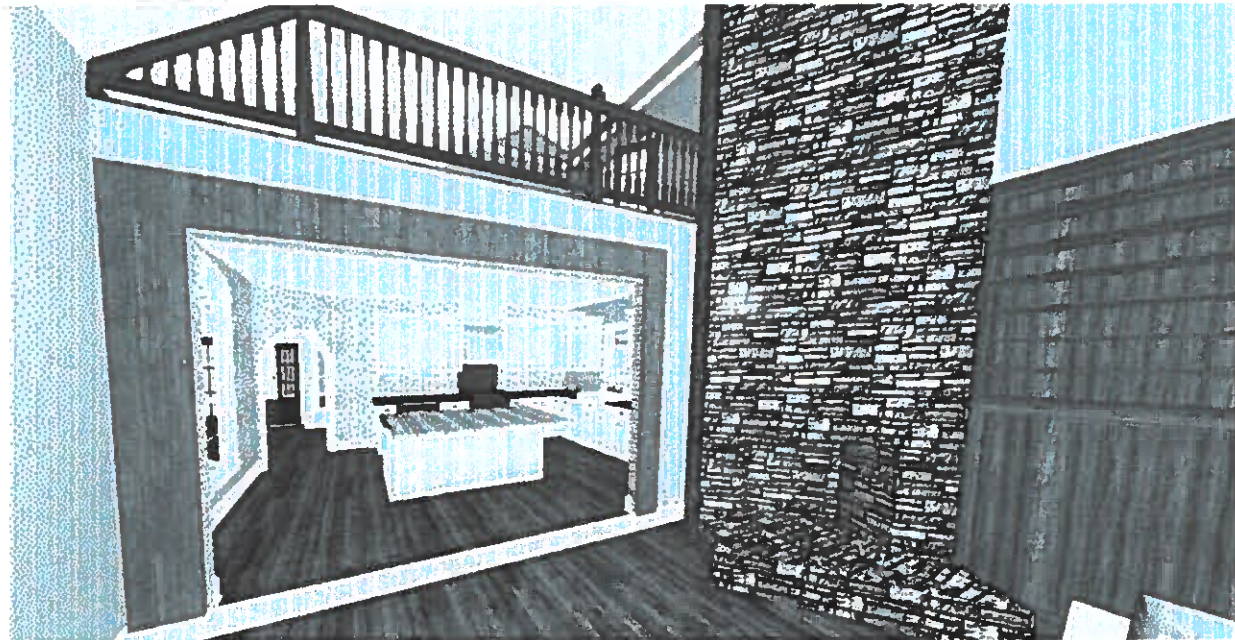
SCALE:
 NTS

SHEET:
A-17



Loft view of stairs over Master

Loft view over Kitchen
Note drop in Family Room floor



NO.	DESCRIPTION	MT	DATE

Interior Loft Views

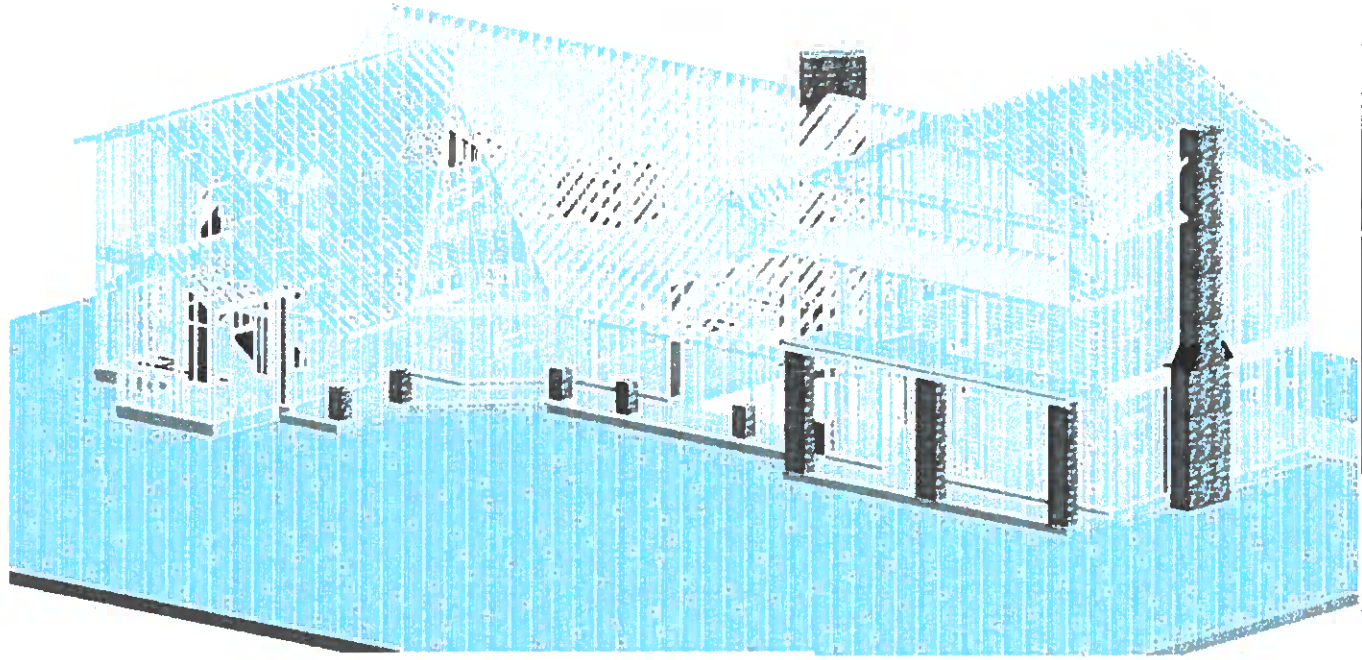
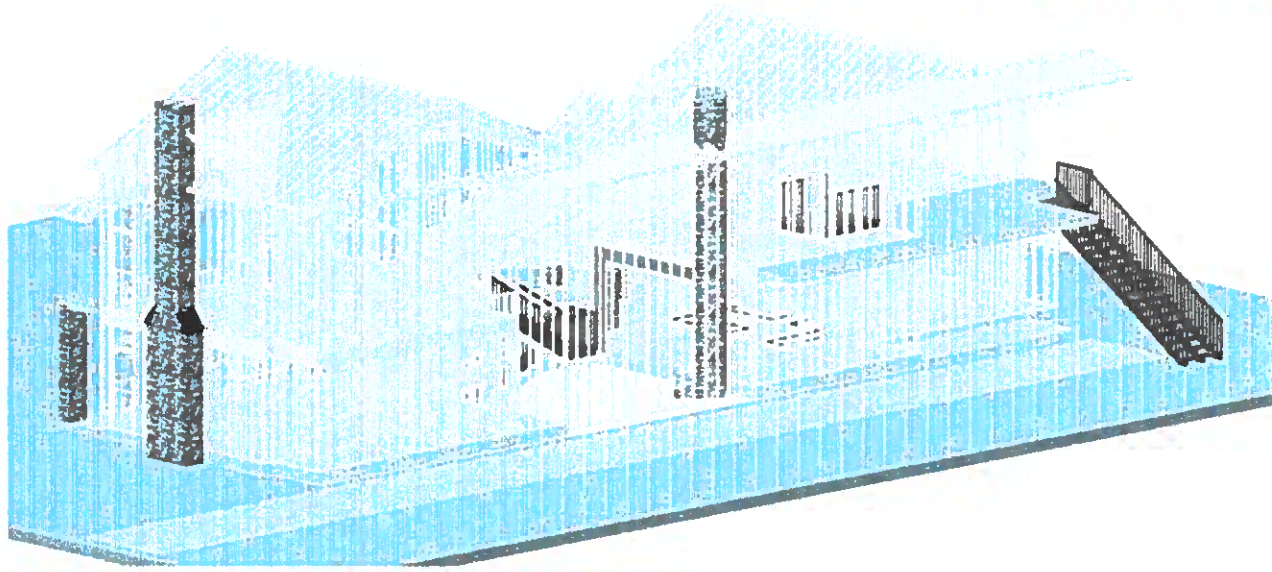


31 Church Street Remodel
31 Church St
Alpharetta, GA

DATE:
5/29/2013

SHEET:
115

SHEET:
A-18



SHEET:
A-19

HTS

SCALE:

1/2" = 1'-0"

DATE:

5/20/2013

PROJECT:

31 Church Street Remodel
31 Church St
Alpharetta, GA

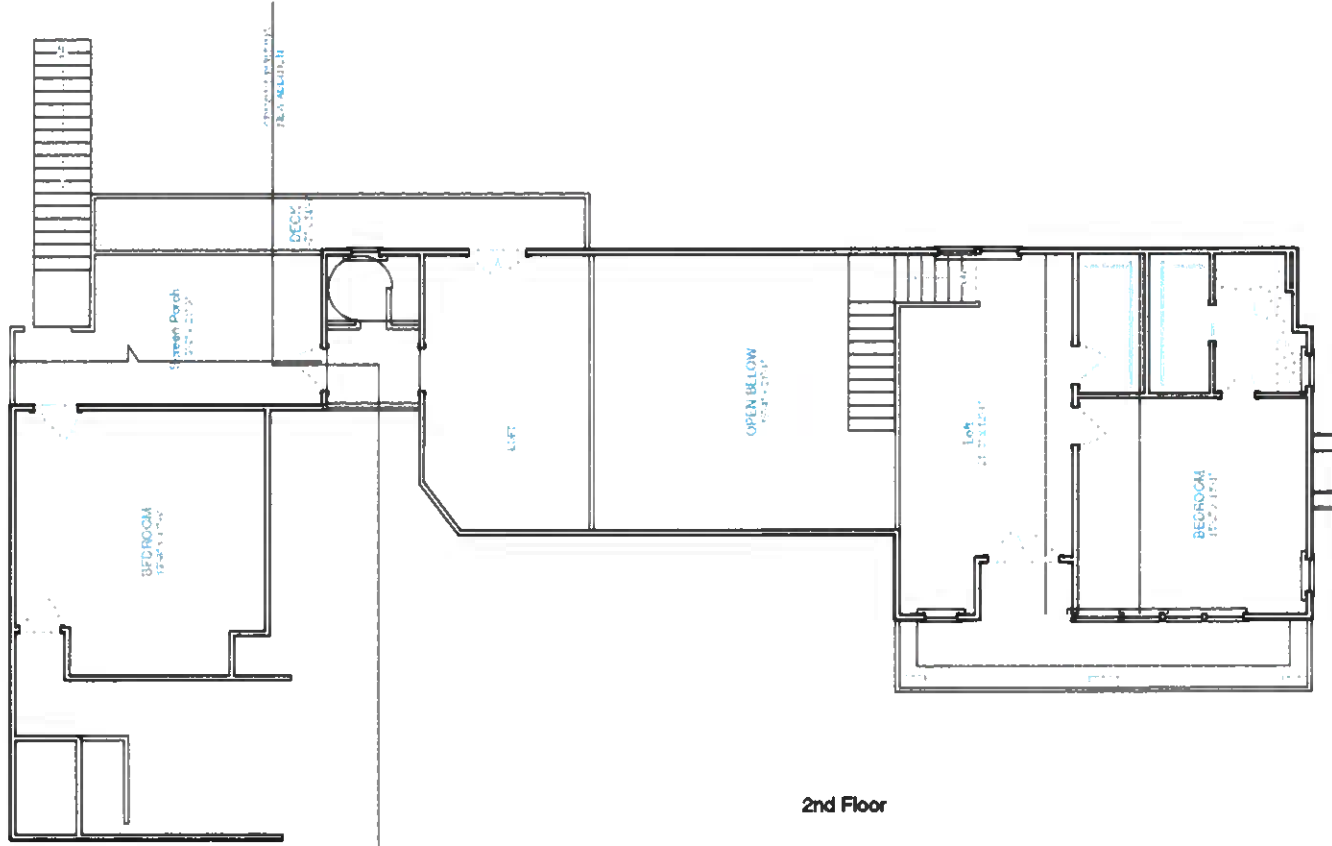


The Village Studio
creating a series
7500 Quaker Trace
Columbus, GA 31906
770-253-0001

Framing Perspective

NO.	DESCRIPTION	BY	DATE
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

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31 Church Street Remodel
31 Church St
Alpharetta, GA

DATE:
5/29/2013

SCALE:
3/16" = 1'-0"

SHEET:
A-21



2nd Floor Furniture Layout

NO.	DESCRIPTION	BY	DATE

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FIELD ENGINEER
DRAWING ENGINEER
CITY OF CHICAGO
DRAWING NUMBER - 51
JOB NO. 2015-118

I understand that Youth Ministry Resources/Lanny Donoho at 31 Church Street has applied for a variance on their property which is next to mine. The variance is to aesthetically improve the looks of the property by building an extension onto the deck on the back building which allows it to go within 12 feet of the property line rather than the present 15 feet. I understand and have no issues with this extra three feet of extension.

name Derek Burch Derek Burch

address 82+84 North Main St, Alpharetta, GA 30009

I understand that Youth Ministry Resources/Lanny Donoho at 31 Church Street has applied for a variance on their property which is next to mine. The variance is to aesthetically improve the looks of the property by building an extension onto the deck on the back building which allows it to go within 12 feet of the property line rather than the present 15 feet. I understand and have no issues with this extra three feet of extension.

name

Arthur D. Slater TREETER HOLDINGS, INC.

address

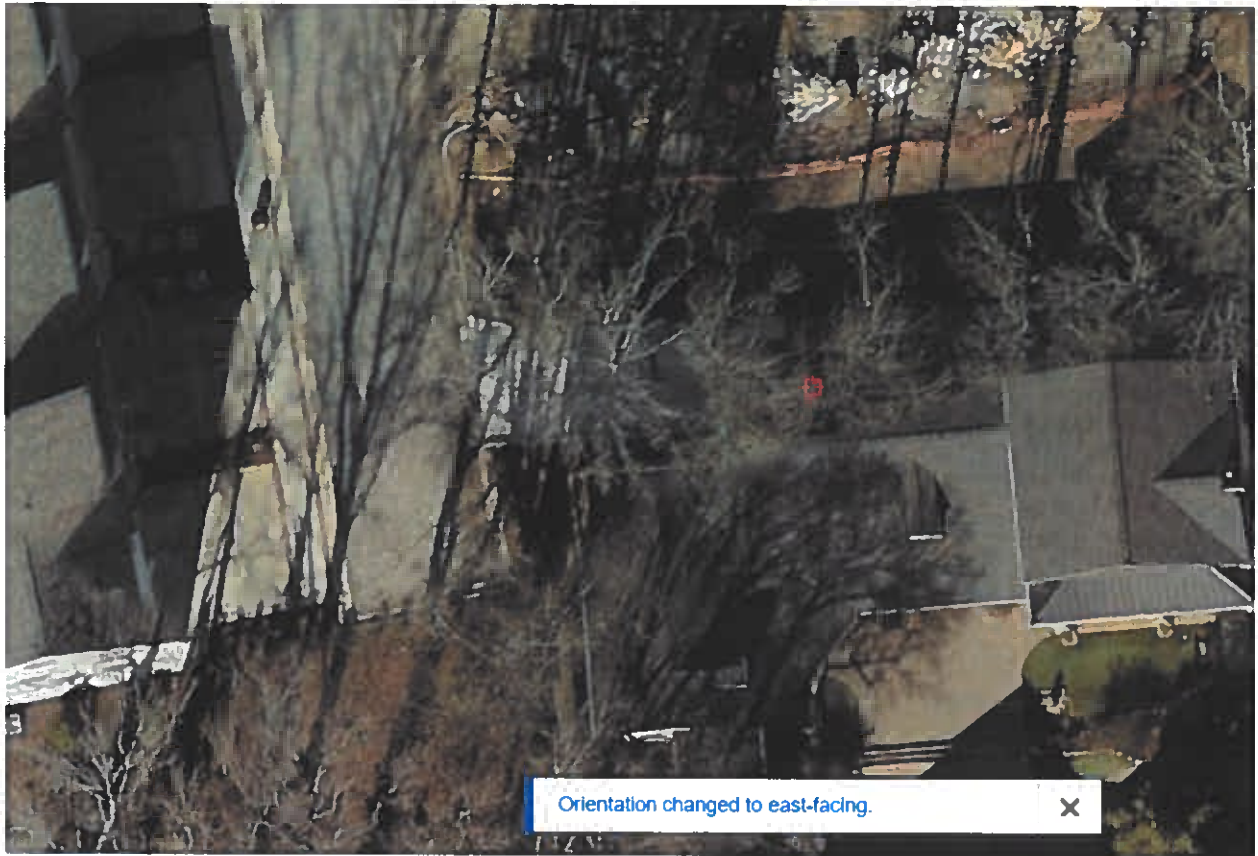
31 CHURCH ST
ALPHARETTA, GA. 30009

I understand that Youth Ministry Resources/Lanny Donoho at 31 Church Street has applied for a variance on their property which is next to mine. The variance is to aesthetically improve the looks of the property by building an extension onto the deck on the back building which allows it to go within 12 feet of the property line rather than the present 15 feet. I understand and have no issues with this extra three feet of extension.

name Robert P. Kent R. Kent

address 100 North Main St. Alpharetta Ga.





019 - Feb 2020 - 12/26/2019 - 02/23/2020



f 11 > 01/19/2017

6. Quarters for the keeping of pets owned by occupants for non-commercial purposes provided that such use does not generate a nuisance to adjoining properties. Such quarters shall maintain a 20 foot setback from rear and side lot lines.
7. Private swimming pool and bathhouse or cabana. Swimming pool shall maintain a 20 foot setback from side and rear lot lines, or the same setback as the principle structure which ever is less. All other structures shall maintain a 10 foot setback from side and rear lot lines or the same setbacks as the principal building, whichever is less.
8. Structures designed and used for purposes of shelter in the event of man-made or natural catastrophes. Same setbacks shall apply as for the principal building.

2.3.4. STANDARDS FOR SINGLE-FAMILY DETACHED HOUSES

- A. All single-family detached dwellings shall meet or exceed the following requirements in addition to the requirements of all applicable Building Codes:
 1. Each dwelling shall be connected to a potable water supply and sanitary sewage disposal system approved by the Fulton County Development Services Department.
 2. Foundation: The structure shall be attached to a permanent foundation constructed in accordance with the Building Code.
 3. Exterior siding: Exterior siding materials shall consist of wood, brick, stone, concrete, stucco, EIFS or similar materials, or lap siding of masonite, vinyl or similar materials, or any combination of the above.

The exterior siding shall extend the full height of the exterior walls, from the surrounding grade to the bottom of the eaves or other juncture with the roof.

4. Roofs:

All roof surfaces shall have a minimum pitch of 2.25:12 (2¼ inches of rise for every 12 inches of run), except that mansard and gambrel roofs must meet this requirement only for those surfaces that rise from the eaves.

All roof surfaces exposed to view shall be covered with asphalt or fiberglass shingles, wood shakes or shingles, clay tiles, slate, standing seam metal or similar materials.

5. Houses shall be at least 20 ft. in width.
6. A porch or hard surfaced landing shall be provided at each exterior door and stairway top and bottom, which shall be at least as wide as the door it serves, but no less than 36 inches in width and 36 inches in depth.

2.3.5. BUFFERS AND LANDSCAPE REQUIREMENTS

A. Buffers

A lot zoned or used for multi-family, office institutional, commercial, industrial uses or occupied by a non residential use shall provide a fifty foot wide undisturbed buffer along all property lines adjoining property zoned for or used for residential purposes. Where commercial or industrial districts or developments abut multi-family districts, the same buffer requirements apply. The undisturbed buffer shall be in addition to the required building setback line.

Except as otherwise provided, herein, buffer strips shall be preserved in their natural undisturbed state, except that sparsely planted buffers shall be enhanced with additional plant material. Enhancement plants must provide an opaque screen within two (2) years of planting and must meet the following standards: Plants must be a minimum of five (5) feet in height at time of installation; plant selection will consist of eighty (80) percent evergreen species and twenty (20) percent deciduous species; and plants will be spaced a maximum of eight (8) feet on center.

Undisturbed buffers shall not contain any surface parking or storm water, detention facilities, or any structures except that the Director may approve underground facilities within the buffer or the crossing of the buffer for the purpose of extending utilities.

Stream buffers must be replanted where disturbed for approved access, detention and utility crossing. Replacement plants must be approved by the arborist.

All buffer plantings are subject to the approval of the Director.

B. Parking Lot Screening

Surface parking lots shall provide a minimum 200 square foot wide landscape island at the end of each parking bay, and a 200 square foot island located each 150 feet of parking length. Each landscape island shall be planted with one shade tree. Alternate landscape configurations may be approved if the Community Development Director determines that the alternate design exceeds the standards above.

C. Landscape Strips

1. The City wants to promote tree lined streets therefore, a minimum of ten (10) feet wide landscape strip shall be provided along all public right-of-ways. Main streets which are listed below shall have twenty (20) foot landscape strips, except those located within the Historic Business District which shall have ten (10) feet wide landscape strips or landscaping as approved by the Director.

MAIN STREETS;

Highway 9
Mansell Road
Windward Parkway
Northpoint Parkway
Westside Parkway
Old Milton Parkway
Haynes Bridge Road
Kimball Bridge Road

2. No permanent structures other than signage are permitted within the landscape strip. This includes pavement, retaining walls, drainage structures, detention ponds, flumes, curbing, etc. Except that retaining walls built with decorative masonry and designed as a landscape feature may be located within the landscape strip subject to approval by the Director. All required plantings must be installed so as not to interfere with the structural integrity of the wall.
3. One (1) shade tree with a minimum 4 inch caliper shall be provided for every twenty five (25) linear feet of landscape strip.

Shrubs shall be provided to screen paved areas and parking lots from the right-of-way. Shrubs shall be two (2) foot high at planting, two (2) rows deep and shall provide a screen within three (3) years of planting. Alternate screening methods such as fencing may be approved by the Director.

Shrubs and trees in quantities as specified above, shall be provided to screen all parking lots, utility areas, dumpsters and detention ponds.

4. A minimum of five (5) foot landscape strip shall be provided along all property lines which do not adjoin a public right-of-way. One (1) shade tree shall be provided for every fifty (50) linear feet of landscape strip.

D. Lighting

Lighting fixtures shall be arranged so that the source of any light is screened from residential views.

E. General

All required landscape areas shall be provided with a minimum of one (1) water spigot or other water source within one hundred fifty (150) feet.

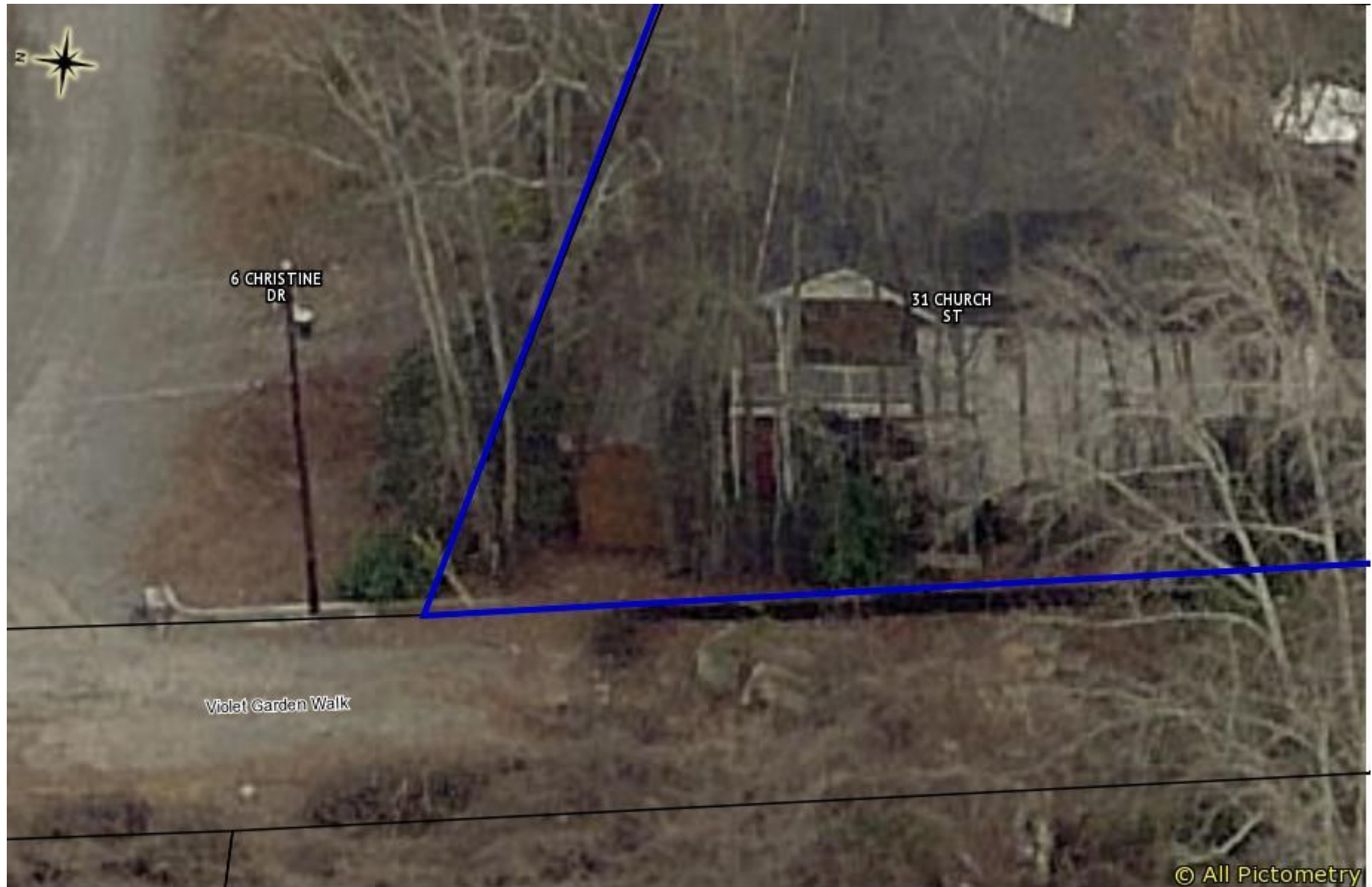
A bond shall be required for up to 36 months to ensure the irrigation and maintenance of landscaping materials. (Installation and maintenance requirements are found in Section 3.2 of this Ordinance.)

1/6/2020



01/06/2020

1/19/2017



1/29/2015

