

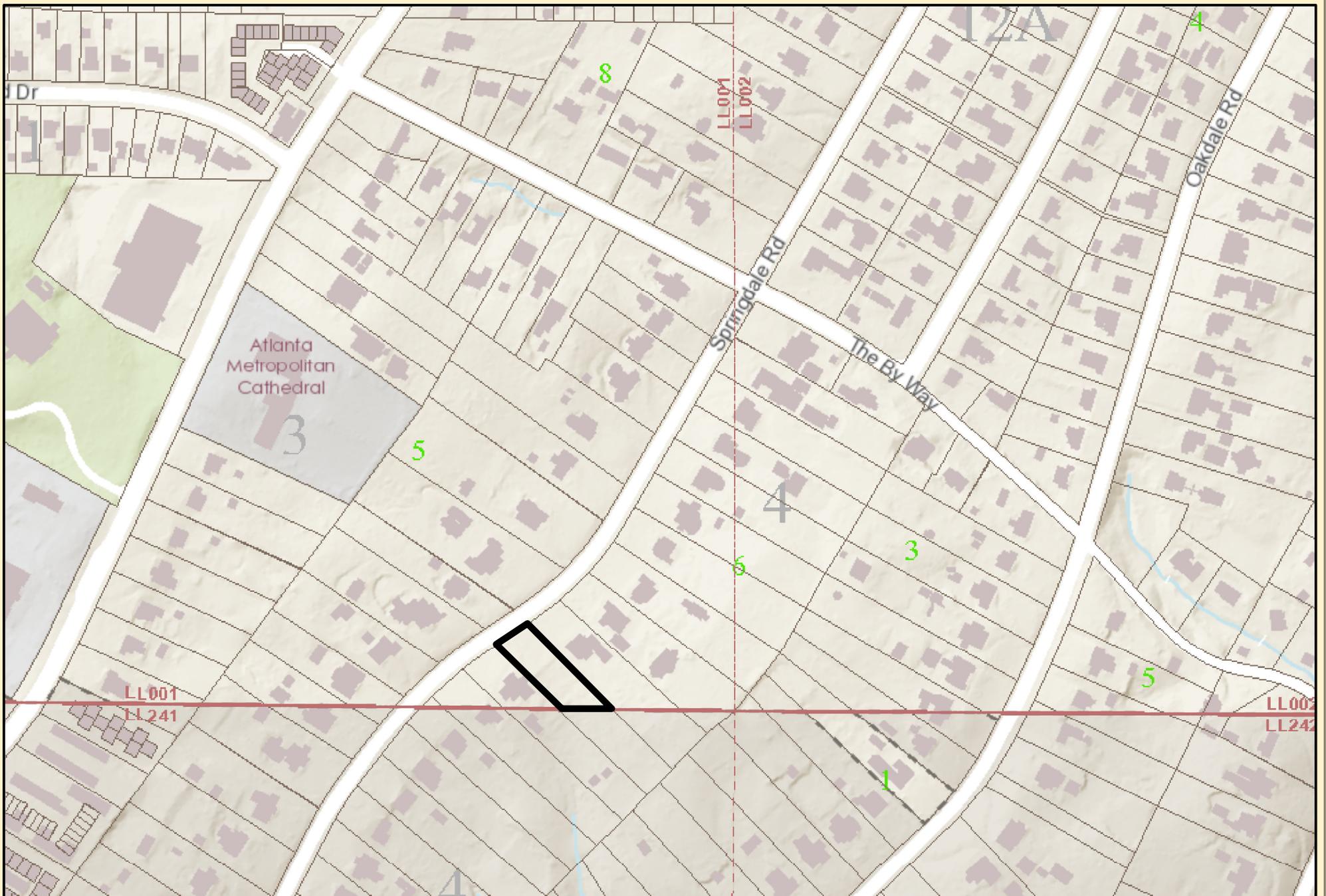
**SUBJECT: Appeal of a Decision by the DeKalb County Historic  
Preservation Commission at 929 Springdale Road  
by Eugene S. Hurwitz**

**ATTACHMENTS** (47 PAGES)

1. Attachment list (1p)
2. Location map (1p)
3. Application to appeal (5p)
4. Applicant's supplementary statement (3p)
5. Certificate of Appropriateness (1p)
6. Decision form (2p)

(All information below was provided to the preservation commission for their consideration in making their decision.)

7. Staff Report (3p)
8. Application (2p)
9. Applicant's objections to the remand and the staff recommendation (3p)
10. Arborist reports (2p)
11. Surveys/Site plans (4p)
12. September 2017 CoA, decision form & staff report (5p)
13. Certificate of appropriateness approved January 2017 (2p)
14. Emails (3p)
15. Satellite photos & topographic map (3p)
16. Photos by staff (7p)



# 929 Springdale Rd



Date Printed: 11/1/2016



### DeKalb County GIS Disclaimer

The maps and data, contained on DeKalb County's Geographic Information System (GIS) are subject to constant change. While DeKalb County strives to provide accurate and up-to-date information, the information is provided "as is" without warranty, representation or guarantee of any kind as to the content, sequence, accuracy, timeliness or completeness of any of the database information provided herein. DeKalb County explicitly disclaims all representations and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. In no event shall DeKalb County be liable for any special, indirect, or consequential damages whatsoever resulting from loss of use, data, or profits, whether in an action of contract, negligence, or other actions, arising out of or in connection with the use of the maps and/or data herein provided. The maps and data are for illustration purposes only and should not be relied upon for any reason. The maps and data are not suitable for site-specific decision-making nor should they be construed or used as a legal description. The areas depicted by maps and data are approximate, and are not necessarily accurate to surveying or engineering standards.



Chief Executive Officer  
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director  
Andrew A. Baker, AICP

### Application to Appeal a Decision of the DeKalb County Historic Preservation Commission

All appeals must comply with the procedures set forth herein.

An application to appeal a decision of the Historic Preservation Commission on a certificate of appropriateness application must be filed within fifteen (15) calendar days after the issuance or denial of the certificate of appropriateness.

To be completed by County:

Date Received:

~~NOV 27 2017~~



To be completed by appellant:

Name: Eugene Hurwitz

Address of appellant: 935 Springdale Road, Atlanta, Georgia, 30306

Appeal submitted by counsel: Eric C. Lang, 2655 Shallowford Rd. NE Suite 104-230, Atlanta, 30345

Address of Property: 929 Springdale Road, Atlanta, Georgia, 30306

This appeal is a review of the record of the proceedings before the preservation commission by the governing authority of DeKalb County, Georgia. The governing authority is looking for an abuse of discretion as revealed by the record. An abuse of discretion exists where the record presented to the governing authority shows that the preservation commission: (a) exceeded the limits of its authority; (b) that the preservation commission's decision was not based on factors set forth in the section 13.5-8(3) or the guidelines adopted by the preservation commission pursuant to section 13.5-6 or; (c) that the preservation commission's decision was otherwise arbitrary and capricious.

If the governing authority finds no abuse of discretion, then it may affirm the decision of the preservation commission. If the governing authority finds that the preservation commission abused its discretion in reaching a decision, then it may; (a) reverse the preservation commission's decision, or; (b) it may reverse the preservation commission's decision and remand the application to the preservation commission with direction.

Date(s) of hearing, if any: November 13, 2017

Date of Historic Preservation Commission decision: November 16, 2017



DEPARTMENT OF PLANNING & SUSTAINABILITY

Historic Preservation Commission  
Appeal Form  
Page 2 of 2

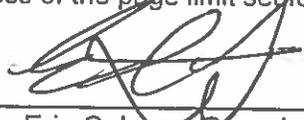
In the space provided below the Appellant must describe how the preservation commission's decision constitutes an abuse of discretion. Specifically, the appellant must, citing to the preservation commission's written decision, show at least one of the following: that the preservation commission exceeded the limits of its authority, or that the preservation commission's decision was not based on factors set forth in the section 13.5-8(3) of the DeKalb County Code or on the guidelines adopted by the preservation commission pursuant to section 13.5-6 of said code or that the preservation commission's decision was otherwise arbitrary and capricious.

**Grounds for appeal:**

On November 16, 2017, the Commission delivered a COA for Parcel 18-001-06-015. The COA contained five modifications to Applicant's proposal, and failed to contain modifications urged by Appellant. The Commission erred in delivering the COA. The Commission abused its discretion, and acted arbitrarily and capriciously, in awarding the COA allowing the driveway to be placed at the lot line. First, the COA does not refer to Code Section 13.5-8(3)'s "landscaping" provision, and similarly makes no mention of Code Section 13.5-2's definitions of "exterior environmental features" or "material change in appearance." Second, the COA, on its face, is so vague and ambiguous as to render the COA meaningless. Third, the COA cannot possibly be supported by competent evidence. Fourth, the COA's inconsistency with other COA entries for 18-001-06-015 show that the COA was entered arbitrarily and capriciously. The attached "Supplementary Explanation" is incorporated into this statement by reference.

The appellant may submit a written supplementary explanation in support of the appeal. The supplementary explanation shall be submitted with the appeal. The supplementary explanation may not exceed three pages and must be typewritten and double-spaced using a twelve-point font with a one-inch margin on all four sides. The governing authority will not consider text in excess of the page limit set forth herein.

Date: Nov 30 2017

Signature:   
Eric C. Lang, Georgia Bar No. 435515

**Instructions:** The appellant shall also deliver copies of this appeal to the planning department and the county attorney. The appellant and any person who has filed a statement in opposition to, or in support of the appeal may attend the meeting at which the appeal is considered and may be called upon by any member of the governing authority to provide information or answer questions. There shall be no other public participation in the appeal.



caused. In a terse and loosely worded COA, the Commission permitted Applicant to proceed. Appellant timely appeals from that COA.

First, the Commission did not make findings required by relevant Dekalb County Code provisions. Code § 13.5-8(3) requires consideration of “landscaping” items. This requirement must be read in conjunction with § 13.5-8(14)’s empowerment to “prevent any material change in the appearance” of properties, which under § 13.5-8(2), includes “external environmental features,” such as “landscaping.” The COA is silent as to all of these Code provisions. Failure to rely on controlling authority is abuse of discretion and requires reversal or remand.

Second, the COA is so broadly and ambiguously worded that it would be virtually impossible for Appellant to enforce it against Applicant. *E.g. Caring Hands, Inc. v. Department of Human Resources*, 449 S.E.2d 354, 214 Ga.App. 853 (1994) (reversing and remanding injunction for failure to state a plan in “reasonable detail”). The COA cavalierly refers to trees (and roots and branches) but it does not specify which ones. Were there a dispute as to whether a tree is subject to the COA, there is no way to know. Although the COA does identify *what* Applicant must do, it does not specify *how*. For example, the COA states “[a]pply prescriptive measures including fertilization and insecticidal sprays to the part of impacted critical root zones that extend onto the applicant's property.” Putting aside the ambiguity in the phrase “impacted critical root zones,” Applicant could theoretically meet this provision with a handful of basic 10-10-10 fertilizer and a can of Raid. There are similar defects in the remainder of the COA.

Third, the Commission appears to have relied legally insufficient “expert” opinion. Expert evidence must be based on sufficient facts; reliable principles and methods; and

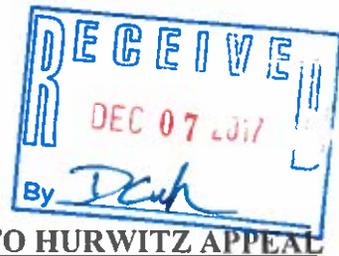
application of the principles and methods to the facts. O.C.G.A. § 24-7-702(b).<sup>2</sup> The only document submitted by Applicant was a single page entitled “Estimate” which explains what the arborist issuing the “Estimate” would do for \$180.00. It does not state what factors were examined or how they were investigated. Contrastingly, Appellant’s arborist identified what steps he took; when they were taken; provided precise tolerances; and was *signed*.

Fourth, the Commission’s failure to consider necessary detail becomes apparent when reviewing the other issue before the Commission regarding this parcel: windows. Applicants wanted to install windows measuring 3’0”. The Commission rejected this and required windows measuring 3’4”, a minor difference. In reaching this decision, the Commission quoted three different guidelines; made specific findings (“affects the appearance of the façade both by increasing the amount of brick and making the windows appear taller”); and sought and received staff recommendations. The Commission took *none* of these steps with respect to the issues in this appeal. Put another way, the Commission did not meet its own standards.

The only way to save the trees at issue is to require Applicant to submit a plan for a driveway that does not disturb the long-existing landscaping. The question is whether the current COA was entered in compliance with the law. It was not. The Commission made no reference to the law; entered an unfollowable order; relied on incompetent evidence; and failed to meet its own standards of diligence. Its actions were not grounded in the law, were an abuse of discretion, and were arbitrary and capricious. The Commission seemed more concerned with not disturbing Applicant’s plans, as opposed to not disturbing the trees.

---

<sup>2</sup> Regardless of whether the Georgia Rules of Evidence apply to Commission proceedings, their principles provide useful guidance.



**SUPPLEMENTAL EXPLANATION IN OPPOSITION TO HURWITZ APPEAL**

On September 18, 2017, the HPC considered the application of Cody Pless for a modification of a previously approved COA for 929 Springdale Road. Mr. Pless sought to change the grade of the driveway and change the windows on the front façade. The HPC approved changing the grade and approved modification to previously approved casement windows with modification. The next door neighbor at 935 Springdale, Eugene Hurwitz, was NOT present at the hearing on September 18<sup>th</sup> and did not express any objections to the modified COA sought by Mr. Pless. Nonetheless, Mr. Hurwitz appealed the September 18<sup>th</sup> decision to the BOC stating that “the tree in question should have been considered in the original application as it was shown on the site map but overlooked” and requested that the driveway be moved at least ten feet. His appeal was untimely, having been filed 18 days after the written decision, not the 15 days required by ordinance. In spite of Hurwitz’s lack of standing to appeal, the untimeliness of the appeal and nothing in the HPC record from Hurwitz’s arborist pertaining to the unidentified “tree in question”, on October 24, 2017, the BOC affirmed the decision relating to the windows but remanded the remainder of the application to the HPC to “fully consider the arborist reports prepared for both the applicant and the appellant neighbor”. On remand before the HPC on November 13, staff recommended approval of the modifications requested by the Applicant to the grade but recommended that conditions be imposed on the approval which would effectively require the Applicant to trespass on Hurwitz’s property, prune, mulch, and take prescriptive measures on trees on Hurwitz’s property. Applicant objected to such requirements on the grounds that it was outside the scope of the HPC’s authority to require action be taken on property not the subject of the COA, on the grounds that any damage to trees on Hurwitz’s

property was speculative and a civil matter which needed to be resolved in a forum other than the HPC, and on the grounds that the 1 page arborist report submitted by Hurwitz fully 14 days after the BOC remand was too vague and ambiguous to identify what trees had been allegedly damaged, the cause of the damage and where exactly the allegedly damaged trees were located. Recognizing the limits of its authority, the HPC agreed with the Applicant and approved the COA modification with the conditions that any trees damaged on the **Applicant's** property be treated, pruned and mulched as needed. Hurwitz appeals this decision stating that the decision is in error because: 1) the HPC did not consider "landscape items" as required by the ordinance; 2) the conditions are so vague that Appellant could not enforce them against Applicant; and 3) the HPC relied upon incompetent expert evidence.

Hurwitz's appeal should be denied on all grounds. First, the standard for reversal is an abuse of discretion. The record is devoid of any abuse of discretion. The HPC clearly considered "landscape items" because it expressly conditioned approval of the COA on taking prescriptive measures in the event of damage to trees or roots crossing on the Applicant's property. Hurwitz's objection is really that the HPC refused to require treatment of alleged damage to the trees or roots on his property. The HPC clearly stated that such consideration was outside the scope of its authority and to do so would be a clear abuse of discretion. The conditions relative to the treatment of Applicant's trees imposed by the HPC are not vague and it is not up the Appellant to enforce them against the Applicant---that is the County's job. Strangely, the wording of the conditions imposed by the HPC on Applicant's property is wording taken directly from the arborist report submitted by Hurwitz in support of prescriptive measures being taken on his property. Such wording was apparently precise enough for Hurwitz when addressing **his** trees but not enough when addressing **Applicant's** trees?! The conditions are

sufficiently precise to put a reasonable person on notice of their meaning. Nothing more is required. Finally, the HPC does not sit as a judicial body to which the strict rules of evidence apply. The HPC clearly considered both arborist reports and determined that requiring the Applicant to take remedial measures in the event of damage to trees on the Applicant's property sufficed to address concerns regarding trees within its jurisdictional purview.

Hurwitz incorrectly states in his appeal that "it is undisputed that Applicant's proposed construction will adversely impact multiple trees on neighboring property". As noted in written objections filed by Applicant with the HPC the documentation provided by Hurwitz does not specify the exact location, size and species of trees which Hurwitz claims are damaged. And contrary to the assertions of Hurwitz nothing in the County ordinances require identification and survey of trees by the Applicant on neighboring properties. Applicant admitted that a 12 inch maple's critical root zone was damaged (See Specimen Tree report) on Applicant's property but further notes that the roots were pruned and treated. This 12 inch maple was shown on the original survey submitted by the Applicant as was a 24 inch red oak—both trees are on the Appellant's property. Neither one was counted in the tree preservation inventory simply because the tree ordinance only allows Applicant to count trees on his property towards the tree preservation requirements. There was nothing "faulty" or misleading about the written inventory—it was completely proper given the requirements and allowances of the tree ordinance. There is absolutely no factual or legal basis for reversal of the HPC decision and the Applicant respectfully requests that the Board sustain the HPC decision and allow him to move forward with development of the Subject Property which has been severely delayed by the Appellant's frivolous appeals.



## Decision of the DeKalb County Historic Preservation Commission

Name of Applicant: \_\_\_\_\_ Cody Pless \_\_\_\_\_

Address of Property: \_\_\_\_\_ 929 Springdale Road \_\_\_\_\_

Date(s) of hearing if any: \_\_\_\_\_ November 13, 2017 \_\_\_\_\_

Case Number: \_\_\_\_\_ 21835 \_\_\_\_\_

Approved       Denied       Deferred

**Approval:** The Historic Preservation Commission, having considered the submissions made on behalf of the applicant and all other matters presented to the Preservation Commission finds that the proposed change(s) will not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic district and hereby approves the issuance of a certificate of appropriateness.

Any conditions or modifications are shown below.

Pursuant to Code of DeKalb County, § 13.5-8(3), the Preservation Commission has considered the historical and architectural value and significance; architectural style; scale; height; setback; landscaping; general design; arrangement; texture and materials of the architectural features involved and the relationship of such texture and materials to the exterior architectural style; pertinent features of other properties in the immediate neighborhood, as prescribed generally by county code and specifically by the district design guidelines.

This application relates to an existing building, pursuant to the authority granted to the Preservation Commission by Code of DeKalb County, § 13.5-8(3), the Preservation Commission has also used the Secretary of the Interior's Standards for Historic Preservation Projects, including the Standards for Rehabilitation therein as a guidelines. The Preservation Commission finds that all relevant guidelines have been met.

### Additional pertinent factors:

Grade the driveway as proposed and change the garage elevation as required by the grading.

---

---

---

---

---

---

---

---

Application is approved with conditions or modifications  without conditions or modifications .

**Conditions or modifications (if applicable):**

1. An arborist will conduct a visual survey of boundary trees from the applicant's property and the right-of-way.
2. Apply prescriptive measures including fertilization and insecticidal sprays to the part of impacted critical root zones that extend onto the applicant's property. These must be applied every two months during construction.
3. Prune exposed and damaged roots that extend onto the applicant's property and cover them with mulch.
4. Prune damaged limbs projecting over the applicant's property.

---

---

---

---

---

**Denial:** The Preservation Commission has determined that the proposed material changes in appearance would have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district /or, the applicant has not provided sufficient information for the Preservation Commission to approve the application . Specifically, the Preservation Commission finds as follows:

---

---

---

**Deferral:** The Preservation Commission has deferred action on this application for the following reasons:

---

---

---

The application will be re-heard by the Historic Preservation Commission at its meeting on

---

**Date:** 11/15/17

**Signature:** 

**Vice Chair, DeKalb County  
Historic Preservation Commission**

# DeKalb County Historic Preservation Commission

Monday, November 13, 2017 - 7:00 P.M.

## Staff Report

### Regular Agenda

F. 929 Springdale Road (DH), Cody Pless. Modify a previously approved CoA to change the grade of the driveway. **Remanded on appeal.** 21835

Vacant. (18-001-06-015)

This property is in the Druid Hills National Register Historic District and Druid Hills Character Area 1.

10-15 923 Springdale Road (DH), John & Elizabeth Lynch. Divide the property into two lots. 20240 **Approved with modifications**

9-16 923 & 929 Springdale Road (DH), Michelle Kraus. Realign the existing driveway and create a new driveway for the adjacent lot. 21009 **Approved**

1-17 929 Springdale Road (DH), Kevin Maher, Linda Dunlavy, Allen Layson. Build a new house on a vacant lot. 21123 **Approved with modifications**

7-17 929 Springdale Road (DH), Cody Pless. Modify the existing CoA to decrease the size of some front windows, increase the size of some rear windows, extend the left side of the building 4' to the rear, add a window on the side of that extension, install a basement access well behind that extension and add windows in both gable ends of the garage. 21699 **Part approval, part denial**

9-17 929 Springdale Road (DH), Cody Pless. Modify a previously approved CoA to change the grade of the driveway and change the windows on the front façade. 21835 **Approved with modification**

NOTE: The applicant has filed a new application to change the windows on the front of the house. Since this is a remand, the new application will be treated as a separate item rather than the two being combined.

As of November 7, the only new material provided by the applicant is a new survey & site plan submitted November 2. The survey shows two of the appellant's trees near the property line: a double-trunked redbud tree in the front yard near the street and a 12" maple. The site plan shows only the maple, located at a point approximately even with the middle of the new house.

The only new material provided by the appellant is an arborist report submitted 11-9. The report states that there are several trees not identified on the survey and that the construction has damaged the critical root zone of several of the trees. The arborist recommends that all the appellants trees that will have their critical root zoned affected be shown on the survey and site plan. He further recommends that:

- Impacts on trees greater than or equal to 20% should require tree prescriptive measures. Based on calculated impacts, prescriptive measures should include fertilization on and insecticidal sprays on a 2 month basis through construction. Impacts approximately 30% or higher should trigger alternative design evaluation or removal of impacted trees.
- Exposed and damaged roots should be pruned properly to allow for root regeneration. A mulch layer approximately 4" in depth should be applied to impacted CRZ areas in order to prevent further desiccation. Intrusion into the SRP of any tree should not be allowed.
- Proper pruning should occur on failed limbs.

The appellant submitted an arborist report with the September application. This report only addressed the maple tree. This report also recommended injection of beneficial fungi, bacteria and organics" and application of "paclobutrazol 2SC as a basal drench".

Staff visited the site and identified about eight trees near the property line that might have their critical root zones impacted by the work. Photos of these trees are in the file. Several cut roots were evident, including at some from the magnolia set several yards back from the property line. The closest oak appears to be the one in the center of the backyard. It appears to be far enough away that it will not be affected by the work.

In September 2017 the HPC approved a CoA to modify the windows on the sides and rear of a previously approved new house on this property and also approved a different grading plan for the driveway. The applicant said the new plan would help preserve the trees just over the property line to the north. The neighbor to the north, Gene Hurwitz, filed an appeal of the HPC's decision. On October 24, the Board of Commissioners affirmed the decision of the HPC related to the windows, but remanded the consideration of the grading, with direction that the commission "fully consider the arborist reports prepared for both the applicant and the appellant neighbor". Staff has requested arborist reports from both the applicant and the appellant.

One arborist report was included in the original application. The report was requested by a representative of the applicant, but the report gives the location as that of the appellant. The report only addresses a maple. The tree has lost a significant amount of roots and will take several years to recover, but is in good condition and is a species tolerant of root damage. The arborist recommends soil injections.

The applicant said that changing the grading as requested to better protect the root systems, but did not provide a statement from the arborist, even though staff requested it several times.

The appellant has expressed special concern about root damage to a red oak in his yard. If it is the oak in his backyard near the house the trunk is about 35' from the property line.

Plan approved in September: Change the grading plan on the left (north) side of the house and in the rear, resulting in lowering the garage floor by 3'. The applicant says this will help preserve the neighbor's 24" maple tree located adjacent to the property line on that side. The applicant says this was recommended by an arborist. Staff has repeatedly requested a statement from an arborist confirming this, but it has not been provided.

The arborist report submitted by the applicant recommended other treatments to help save the tree, but the application did not say these actions would be taken and they were not required in the CoA.

September Recommendation - The change in grade will not have a significant adverse effect and might save the adjacent tree. This does not appear to have a substantial adverse effect, appears to meet the guidelines and staff recommends approval of this aspect of the application.

### **Recommendation**

The location of the driveway was approved earlier this year and the appeal period has passed. This is only an appeal of the September decision. Staff recommends the application for changes to the grading be approved as requested, with the modifications that:

1. The survey and site plan be amended to show all the trees that might have their critical root zoned impacted.
2. Impacts on trees greater than or equal to 20% should require tree prescriptive measures. Based on calculated impacts, prescriptive measures should include fertilization on and insecticidal sprays on a 2 month basis through construction. Impacts approximately 30% or higher should removal of impacted trees, if agreed to by the appellant.
3. Exposed and damaged roots should be pruned properly to allow for root regeneration. A mulch layer approximately 4" in depth should be applied to impacted CRZ areas in order to prevent further desiccation.
4. Proper pruning should occur on failed limbs.

### **Relevant Guidelines**

- 8.2 *Trees* (p78) Recommendation - The mature hardwood forest within the Druid Hills Local Historic District should be perpetuated through a district-wide replanting program. Trees should be replaced when mature trees are lost to age or damage or are removed for safety reasons. Replacement trees should be of identical or similar varieties to the original trees. A diversity of tree types is recommended to perpetuate the existing character of most tree groupings. Replacement trees of adequate size (1.5" caliper minimum) are recommended. Existing ordinances that provide for the protection and replacement of the district's tree resources should be applied to development activities within Druid Hills.
- 11.0 *Nonhistoric Properties* (p93) Guideline - In reviewing an application for a Certificate of Appropriateness for a material change to a nonhistoric building, the Preservation Commission should evaluate the change for its potential impacts to any historic development (architecture and natural and cultural landscapes) in the area of influence of the nonhistoric property. Guidelines presented in *Section 7.0: Additions and new Construction* are relevant to such evaluations.

Chief Executive Officer  
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director  
Andrew A. Baker, AICP

Application for Certificate of Appropriateness

Date Received: \_\_\_\_\_ Application No.: \_\_\_\_\_

Address of Subject Property: 929 Springdale Road, Atlanta

Applicant: Cody Pless E-Mail: cplless@placemakerdesign.com

Applicant Mailing Address: 1000 Circle 75 Parkway, Suite 400  
Atlanta, GA 30339

Applicant Phone(s): 404-549-4499 EXT 3102 Fax: \_\_\_\_\_

Applicant's relationship to the owner: Owner  Architect:  Contractor/Builder  Other

\*\*\*\*\*  
Owner(s): 929 Springdale Family Trust E-Mail: daver@urbanecogroup.com  
E-Mail: \_\_\_\_\_

Owner(s) Mailing Address: 245 North Highland Avenue #230 Atlanta, GA 30307

Owner(s) Telephone Number: 404-392-5551

Approximate age or date of construction of the primary structure on the property and any secondary structures affected by this project: New construction

Nature of work (check all that apply):

- New construction  Demolition  Addition  Moving a building  Other building changes
- New accessory building  Landscaping  Fence/Wall  Other environmental changes
- Sign installation or replacement  Other

Description of Work:

Revise proposed grade of driveway along property line w/ 935 Springdale. Lower the garage finished floor height by 3'. These changes will lower proposed retaining walls and allow for measures to be taken to save a tree on the property of 935 Springdale. Also proposing the change from 3'-4" French Casement windows to 3'-0" simulated French Casement windows.

This form must be completed in its entirety before the Planning Department accepts it. The form must be accompanied by supporting documents (plans, material, color samples, photos, etc.). Provide eight (8) collated sets of the application form and all supporting documentation. If plans/drawings are included, provide eight (8) collated sets on paper no larger than 11" x 17" and three (3) additional sets at scale. All documents submitted in hard copy must also be submitted in digital form (.pdf format). All relevant items from the application checklist must be addressed. An application which lacks any of the required attachments shall be determined incomplete and will not be accepted.

 31 AUGUST 2017  
Signature of Applicant/Date

Revised 1/26/17



DEPARTMENT OF PLANNING & SUSTAINABILITY

**Authorization of a Second Party to Apply for a Certificate of Appropriateness**

This form is required if the individual making the request is **not** the owner of the property.

(I) / (We),

David Radlmann

being (owner) (owners) of the property 929 Springdale Road, Atlanta,

hereby delegate authority to Cody Pless

to file an application in (my) (our) behalf.

8/31/17

Signature of Owner/Date

**Please review the following information**

**Approval of this Certificate of Appropriateness does not release the recipient from compliance with all other pertinent county, state, and federal regulations.**

Before making any changes to your approved plans, contact the preservation planner (404/371- 2155). Some changes may fall within the scope of the existing approval, but others will require review by the preservation commission. If work is performed which is not in accordance with your certificate, the Preservation Commission will issue a cease and desist order and you may be subject to other penalties including monetary fines and/or required demolition of the non-conforming work.

If your project requires that the county issue a Certificate of Occupancy at the end of construction, the preservation planner will need to inspect the completed project to ensure that the work has been completed in accord with the Certificate of Appropriateness. The review may be conducted either before or after your building inspection. If you will be requiring a Certificate of Occupancy, please notify the preservation planner when your project nears completion. If the work as completed is not the same as that approved in the Certificate of Appropriateness you will not receive a Certificate of Occupancy. You may also be subject to other penalties including monetary fines and/or required demolition of the non-conforming work.

If you do not commence construction within twelve months of the date of approval, your Certificate of Appropriateness will become void. You will need to apply for a new certificate if you still intend to do the work.

Please contact the preservation planner, David Cullison (404/371-2155), if you have any questions.

OBJECTIONS OF APPLICANT TO REMAND FROM BOC  
AND STAFF RECOMMENDATION

The remanded appeal should not be heard by the HPC because the appeal to the BOC, from which this matter is remanded, was untimely. The HPC decision was made September 18, 2017, and the appeal was filed October 9<sup>th</sup>. Since the Code of Ordinances, Section 13.5-12(c) requires appeals from HPC decisions be filed within 15 calendar days of a decision, the appeal was clearly untimely—being 21 days after the decision. The timing requirement for the filing of an appeal is jurisdictional, such that the BOC lacked jurisdiction to hear an appeal filed beyond the time allowed by law. *Accord, Fortson v. Tucker*, 307 Ga. App. 694 (2011)(Superior Court lacks jurisdiction to hear an untimely zoning appeal). Applicant raised the untimeliness issues before the HPC. The BOC, like the ZBA in the case of *City of Dunwoody v. Discovery Practice Management, Inc.*, 338 Ga. App. 135 (2016), did not have jurisdiction to hear the appeal of Mr. Hurwitz and any decision thereon is null and void as a matter of law. Moreover. The BOC in its October 24, 2017, decision on remand requires the HPC to fully consider the arborist reports prepare for both the applicant and the appellant neighbor”. There was no report in the record from the appellant neighbor. That report, as is evident from the file on remand was not prepared until fully 14 days after the BOC remand. Since appeals are to be reviewed on the record by the BOC, it is a gross abuse of discretion for the Board of Commissioners to require the HPC to consider a report not part of the original record nor one that had not even been in the record before the BOC. The original driveway location for 929

Springdale was approved in January of 2017. Presumably Mr. Hurwitz's trees were in the same location back in January of 2017. If he had an issue with grading for the driveway he should have raised it back in January. On information and belief, he in fact did raise it in January but the HPC nonetheless approved the application to build a new house with the driveway where it is today. For all these reasons, the BOC decision is null, void and of no force and effect.

Should the HPC nonetheless move forward with consideration of the remanded appeal, the Applicant has objections to the staff recommendation. While staff is recommending approval, it is recommending so with conditions. Moreover, the conditions recommended would require the Applicant to take action on Appellant's property. The Appellant submits the following with respect to the recommendations of staff:

- Requiring an applicant for a COA to perform work on adjoining property is outside the scope of the HPC. There is nothing in the Design Guidelines or in the HPO that would allow for such a condition.
- Any actual or anticipated damage to trees on an adjoining lot are matters for code enforcement---this is a civil matter between Radlman and Hurwitz---. By requiring Radlman to survey, treat, prune etc trees that are off site the HPC would essentially be delegating its authority over COA matters to an individual citizen. If Radlman treats or prunes a tree based on the requirements of these recommended conditions, will the County or the HPC indemnify Radlman if Hurwitz is later unhappy with the treatment or the pruning?
- The recommended conditions are grossly outside the scope of what the HPC is authorized to do. I realize that Hurwitz is upset but that is for him to work out with Radlman not for the County to insert itself into this problem. The documentation provided does not specify the exact location, size and species of trees to which the Appellant's arborist refers. No survey has been provided by the arborist or by Hurwitz.
- The DeKalb County Tree Ordinance only requires the identification of trees that are 18 inches DBH or more. Section 14-39e(1)(b). Moreover, it does not require a survey of the neighboring property's trees for obvious reasons. To do so, runs counter to common sense and the limited jurisdiction of the HPC.

- The Arborguard report is too vague and ambiguous to enforce the recommended staff conditions. It references “three hardwood species all approximately 20” in diameter and two softwood species approximately 10 inches in diameter”.

For all the foregoing reasons, the HPC should refrain from going along with the staff recommendations. Applicant is certainly willing to prune, treat, and otherwise care for any damaged trees on his property but vigorously objects to being required to do so on another’s property.

Respectfully submitted on behalf of the Applicant by:

LINDA DUNLAVY  
DUNLAVY LAW GROUP, LLC

A handwritten signature in black ink, appearing to read "Linda Dunlavy", with a large, stylized flourish at the end.

November 7, 2017

Eugene Hurwitz  
935 Springdale Road NE  
Atlanta, Georgia 30306



Re: Assessment of construction impacted trees

On October 31, 2017 Arboguard performed a site visit to the previously mentioned address to assess the condition of numerous trees along the property line with 929 Springdale Road NE. Subject trees are three hardwood species all approximately 20" diameter at breast height (DBH) and two softwood species approximately 10" DBH.

During the field assessment, the following notes were made:

- A Level I visual assessment concluded that all trees were at minimal in 'FAIR' condition prior to the start of construction activities on the adjacent property. Recent construction related activity may alter this condition rating.
- Many of the trees exhibited clear evidence that their critical root zones (CRZ) and possibly their structural root plates (SRP) had been impacted significantly by grading activities.
- Some trees exhibited limb failure most likely from adjacent construction activities or tree removal.

Upon review of approved construction documents, the following notes were made:

- Subject trees are not identified on the existing conditions survey or on any other proposed site development plans.

Through the synthesis of the field assessment and review of site development plans, the following conclusions were made:

- Subject trees need to be identified on construction document plans so that proper CRZ and SRP impacts can be calculated based on 1" DBH equals 1' radius of CRZ.
- As shown on plans, the proposed driveway will pass through significant portions of the CRZ and SRP of subject trees.

The following recommendations are being made to preserve subject trees:

- Impacts on trees greater than or equal to 20% should require tree prescriptive measures. Based on calculated impacts, prescriptive measures should include fertilization and insecticidal sprays on a 2 month basis through construction. Impacts approximately 30% or higher should trigger alternative design evaluation or removal of impacted trees.
- Exposed and damaged roots should be pruned properly to allow for root regeneration. A mulch layer approximately 4" in depth should be applied to impacted CRZ areas in order to prevent further dessication. Intrusion into the SRP of any tree should not be allowed.
- Proper pruning should occur on failed limbs.

Respectfully,

A handwritten signature in black ink that reads "Benjamin J Kent". The signature is written in a cursive, flowing style.

Benjamin J Kent, PLA  
ISA Certified Arborist SO-7070A

# Specimen Tree

P.O. Box 76578

Sandy Springs, GA 30358

# Estimate

Date	Estimate #
8/31/2017	663

Phone #	Web Site
404-374-8200	www.specimentree.net

E-mail
Rob@specimentree.net

Name / Address
Jim Brown JWB Properties, LLC 1525 Spring Street SE Smyrna, GA 30080

Customer Phone	Customer E-mail
[REDACTED]	jim@jwbproperties.com

Rep	Referral
RS	Appleseed

Description	Qty	Rate	Total
Location: Dr Gene Hurlwirtz 935 Springdale Rd Atlanta, GA 30306  Soil inject beneficial fungi, bacteria and organics to aid in the development and efficiency of the root system. Apply paclobutrazol 2SC as a basal drench. Maple with damaged root system on boundary with construction site. These treatments will generate new fibrous root system by stimulating root development using chemical means and improving soil conditions by driving beneficial bacterial growth in the critical root zone. Root development will begin within two weeks from application and will continue for four years.  This tree has lost a significant amount of roots and will require several years to recover. Good news is the tree is in good shape and is a species tolerant of root damage. The root crown malformation is likely due to the decay of an adjacent stump and should not affect the stability of this tree.		[REDACTED] [REDACTED]	[REDACTED] [REDACTED]
		<b>Total</b>	[REDACTED]



GRID NORTH (GA. WEST ZONE)

GENERAL NOTES~

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS AN ANGULAR ERROR OF 10 SECONDS PER ANGLE POINT AND A PRECISION RATIO OF 1 IN 24,649. IT HAS BEEN ADJUSTED USING THE COMPASS RULE.

EQUIPMENT USED TO OBTAIN THESE MEASUREMENTS WAS A TOPCON GTS-235.

THE DATA SHOWN ON THIS PLAT HAS A CLOSURE PRECISION RATIO OF 1 IN 314,678

ALL I.P.'s ARE 1/2" REBARS.

BEARINGS SHOWN HEREON ARE BASED ON THE GEORGIA STATE PLANE CO-ORD. SYSTEM.

ACCORDING TO THE CURRENT "F.L.A. OFFICIAL FLOOD HAZARD MAP", COMMUNITY PANEL NO. 13089C 0064 H, DATED MAY 7, 2001, THIS PROPERTY IS NOT IN AN AREA HAVING SPECIAL FLOOD HAZARDS.

\* PER DEED AND PLAT RECORDS; NO MONUMENT FOUND.

REFERENCE: DB 12356, PG. 234

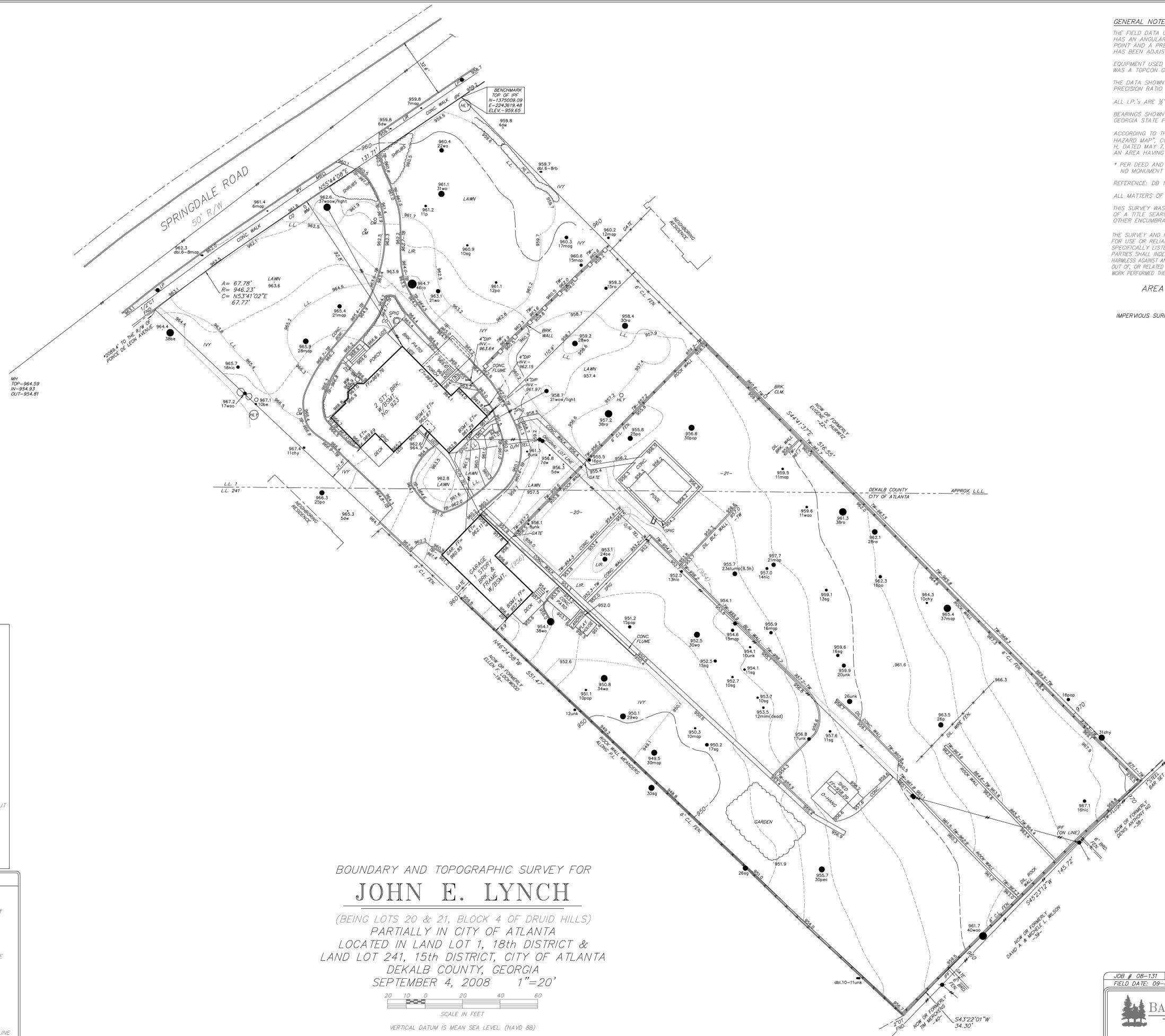
ALL MATTERS OF TITLE ARE EXCEPTED.

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH. THERE MAY BE EASEMENTS OR OTHER ENCUMBRANCES NOT SHOWN.

THE SURVEY AND PLAT SHOWN HEREON IS NOT INTENDED FOR USE OR RELIANCE BY ANY PARTIES OR ENTITIES NOT SPECIFICALLY LISTED IN THE TITLE. UNAUTHORIZED THIRD PARTIES SHALL INDEMNIFY AND HOLD BARTON SURVEYING, INC. HARMLESS AGAINST ANY AND ALL LIABILITY FOR ANY LOSS ARISING OUT OF OR RELATED TO, RELIANCE BY ANY THIRD PARTY ON ANY WORK PERFORMED THEREUNDER, OR THE CONTENTS OF THE SURVEY.

AREA = 100,487 SQ. FT.  
2.307 ACRES

IMPERVIOUS SURFACE AREA = 13,818 SQ. FT.  
= 13.8% TOTAL LOT AREA



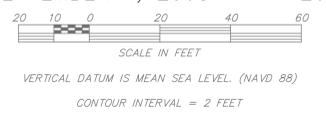
**ABBREVIATIONS ~**

ABL = ABELIA	HOS = HOSTA
AUC = AUCUBA	HYD = HYDRANGEA
AHY = AMERICAN HOLLY	IMP = IMPATIENS
AZ = AZALEA	IPF = IRON PIN FOUND
BB = BARBERRY	JAS = JASMINE
BE = BEECH	JHY = JAPANESE HOLLY
BEG = BEGONIA	JM = JAPANESE MAPLE
BHY = BURFORD HOLLY	JUN = JUNIPER
BIR = BIRCH	LD = LINDEN
BP = BRADFORD PEAR	LL = LAWN LIMITS
BW = BOXWOOD	MAG = MAGNOLIA
CAL = CALADIUM	MAP = MAPLE
CAM = CAMELLIA	MM = MIMOSA
CE = COTONEASTER	OGH = OREGON GRAPE HOLLY
CED = CEDAR	P = PINE
CHY = CHERRY	PEC = PECAN
CH = CHINESE HOLLY	PO = POST OAK
CHN = CHESTNUT	POP = POPLAR
CHO = CHESTNUT OAK	RB = REDBUD
CL = CHERRY LAUREL	RO = RED OAK
CO = CLEAN OUT	RT = RED TIP
CM = CRAPE MYRTLE	SG = SWEET GUM
DC = DWARF GARDENIA	SP = SPRUCE
DS = DOWNSPOUT	SPK = SPRINKLER
DW = DOGWOOD	SW = SOURWOOD
EL = ELAEAGNUS	UDS = UNDERGROUND DOWNSPOUT
EM = ELECTRIC METER	UNK = UNKNOWN
ET = EXTERIOR THRESHOLD	VLIR = VARIATED LIRIOPE
FF = FINISH FLOOR	VPI = VARIATED PRIVET
GE = GOLDEN ELDER	WAO = WATER OAK
GLF = GROUND LIGHT FIXTURE	WLO = WILLOW OAK
GM = GAS METER	WL = WILLOW
HB = HACKBERRY	WO = WHITE OAK
HEM = HEMLOCK	WP = WHITE PINE
HIC = HICKORY	
HH = HELLERI HOLLY	

**LEGEND**

	1/2" REBAR FND.
	1/2" REBAR SET
	RIGHT OF WAY
	SANITARY SEWER EASEMENT
	DRAINAGE EASEMENT
	LAND LOT LINE
	CENTERLINE
	CRIMP TOP PIPE
	OPEN TOP PIPE
	CORRUGATED METAL PIPE
	REINFORCED CONCRETE PIPE
	DROP INLET
	JUNCTION BOX
	MANHOLE
	CATCH BASIN
	BENCHMARK
	POWER POLE
	FIRE HYDRANT
	CONCRETE MONUMENT FND.
	BACK OF CURB
	EDGE OF PAVEMENT
	FENCE
	OVERHEAD ELEC. SERVICE LINE
	BUILDING LINE
	UNDERGROUND POWER LINE
	TRANSFORMER

BOUNDARY AND TOPOGRAPHIC SURVEY FOR  
**JOHN E. LYNCH**  
 (BEING LOTS 20 & 21, BLOCK 4 OF DRUID HILLS)  
 PARTIALLY IN CITY OF ATLANTA  
 LOCATED IN LAND LOT 1, 18th DISTRICT &  
 LAND LOT 241, 15th DISTRICT, CITY OF ATLANTA  
 DEKALB COUNTY, GEORGIA  
 SEPTEMBER 4, 2008 1"=20'



JOB # 08-131 DRAWN BY: J.E. CHECKED BY: TD  
 FIELD DATE: 09-04-08 PLAT PREPARED: 09-09-08

**BARTON SURVEYING INC.**  
 1500 PALM STREET  
 CANTON, GEORGIA 30115  
 (770) 345-2810



02 STREETScape  
A0.1 NO SCALE



EXISTING LANDSCAPE SCREEN BETWEEN 929 AND 935 SPRINGDALE RD



PROPOSED 6' HIGH WOOD FENCE & GATE DESIGN BOTH SIDES

LANDSCAPE CALCULATIONS FOR 929 SPRINGDALE ROAD

TREE INVENTORY

REMOVED			SAVED		
SIZE	TYPE	CONDITION	SIZE	TYPE	UNITS
10"	SWEETGUM	HEALTHY	22"	OAK	6
46"	OAK	DDH	21"	OAK	5.4
37"	OAK	DDH	11"	MAPLE	3.2
12"	OAK	HEALTHY	11"	OAK	3.2
17"	MAGNOLIA	HEALTHY	14"	HICKORY	4
15"	MAPLE	HEALTHY	21"	MAPLE	5.4
21"	OAK	DDH	38"	OAK	15.8
28"	OAK	HEALTHY	16"	MAPLE	4.8
15"	OAK	DDH	13"	SWEETGUM	4
30"	OAK	DDH	28"	OAK	8.6
38"	OAK	HEALTHY	16"	OAK	4.8
30"	POPLAR	HEALTHY	16"	SWEETGUM	4.8
25"	OAK	HEALTHY	20"	HARDWOOD	5.4
			26"	HARDWOOD	7.4
			10"	CHERRY	3.2
			37"	MAPLE	15
			17"	MIMOSA	4.8
			26"	PINE	7.4
			11/12"	MIMOSA	5.4
			16"	HICKORY	4.8
			40"	OAK	17.4
			31"	OAK	10.3
			11"	PINE	3.7
			20"	OAK	6.7

TOTAL - 16 TREES  
TOTAL DBH - 504"  
TOTAL UNITS - 161.5

TREE REQUIREMENTS:

LOT AREA = 1.094 ACRES	24 TREES SAVED; REQUIREMENT MET
25% OF 37 TREES = 10 TREES REQUIRED	504" DBH SAVED; REQUIREMENT MET
120" DBH x 1.094 = 132" DBH REQUIRED	161.5 UNITS SAVED; REQUIREMENT MET
15 UNITS x 1.094 = 16.4 UNITS REQUIRED	4 REMAIN; ONE 2-3" TREE TO BE PLANTED IN FRONT YARD PER ORDINANCE
3 FRONT YARD TREES REQUIRED	



REV #	DATE	DESCRIPTION

PROPOSED NEW HOUSE  
929 SPRINGDALE ROAD  
ATLANTA, GEORGIA 30306

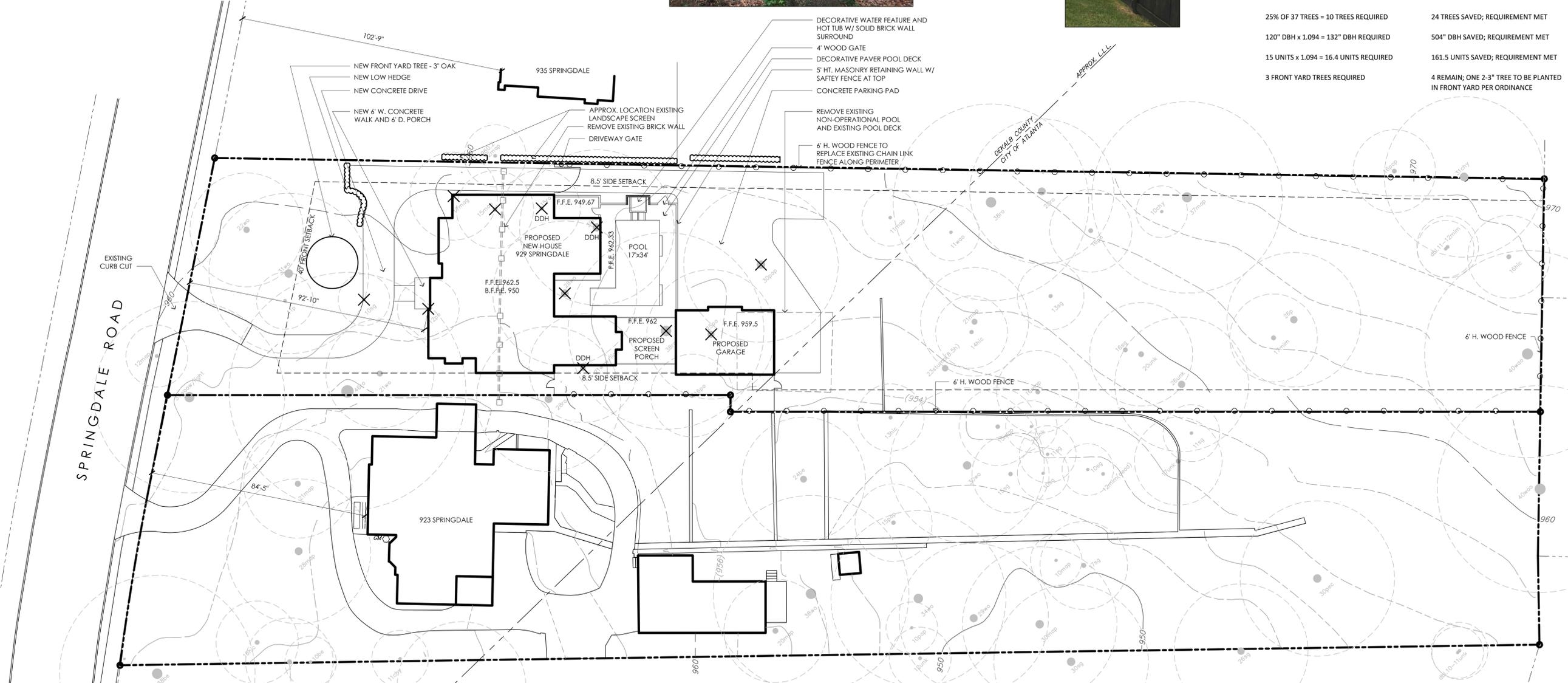
This document and all information contained within it is copyrighted by Place Maker Design and may not be copied or used without permission.

PLACE MAKER DESIGN  
1000 CIRCLE 75 PARKWAY  
SUITE 400  
ATLANTA, GEORGIA 30339  
404.549.4499

ISSUE DATE: 12/27/16  
DRAWN BY: CIP  
CHECKED BY: KJM  
PMD PROJ #: 1629

SHEET TITLE  
PROPOSED SITE PLAN & STREETScape

A0.1



01 PROPOSED SITE PLAN  
A0.1 1" = 20'





**LANDSCAPE CALCULATIONS FOR 929 SPRINGDALE ROAD**

**TREE INVENTORY**

REMOVED			SAVED		
SIZE	TYPE	CONDITION	SIZE	TYPE	UNITS
10"	SWEETGUM	HEALTHY	22"	OAK	6
46"	OAK	DDH	21"	OAK	5.4
37"	OAK	DDH	11"	MAPLE	3.2
12"	OAK	HEALTHY	11"	OAK	3.2
17"	MAGNOLIA	HEALTHY	14"	HICKORY	4
15"	MAPLE	HEALTHY	21"	MAPLE	5.4
21"	OAK	DDH	38"	OAK	15.8
28"	OAK	HEALTHY	16"	MAPLE	4.8
15"	OAK	DDH	13"	SWEETGUM	4
30"	OAK	DDH	28"	OAK	8.6
38"	OAK	HEALTHY	16"	OAK	4.8
30"	POPLAR	HEALTHY	16"	SWEETGUM	4.8
25"	OAK	HEALTHY	20"	HARDWOOD	5.4
			26"	HARDWOOD	7.4
			10"	CHERRY	3.2
			37"	MAPLE	15
			17"	MIMOSA	4.8
			26"	PINE	7.4
			11/12"	MIMOSA	5.4
			16"	HICKORY	4.8
			40"	OAK	17.4
			31"	OAK	10.3
			11"	PINE	3.7
			20"	OAK	6.7

**TOTAL - 16 TREES**

**TOTAL - 24 TREES  
TOTAL DBH - 504"  
TOTAL UNITS - 161.5**

**TREE REQUIREMENTS:**

- LOT AREA = 1.094 ACRES
- 25% OF 37 TREES = 10 TREES REQUIRED
- 120" DBH x 1.094 = 132" DBH REQUIRED
- 15 UNITS x 1.094 = 16.4 UNITS REQUIRED
- 3 FRONT YARD TREES REQUIRED
- 24 TREES SAVED; REQUIREMENT MET
- 504" DBH SAVED; REQUIREMENT MET
- 161.5 UNITS SAVED; REQUIREMENT MET
- 4 REMAIN; ONE 2-3" TREE TO BE PLANTED IN FRONT YARD PER ORDINANCE

**02 STREETScape  
A0.1 NO SCALE**

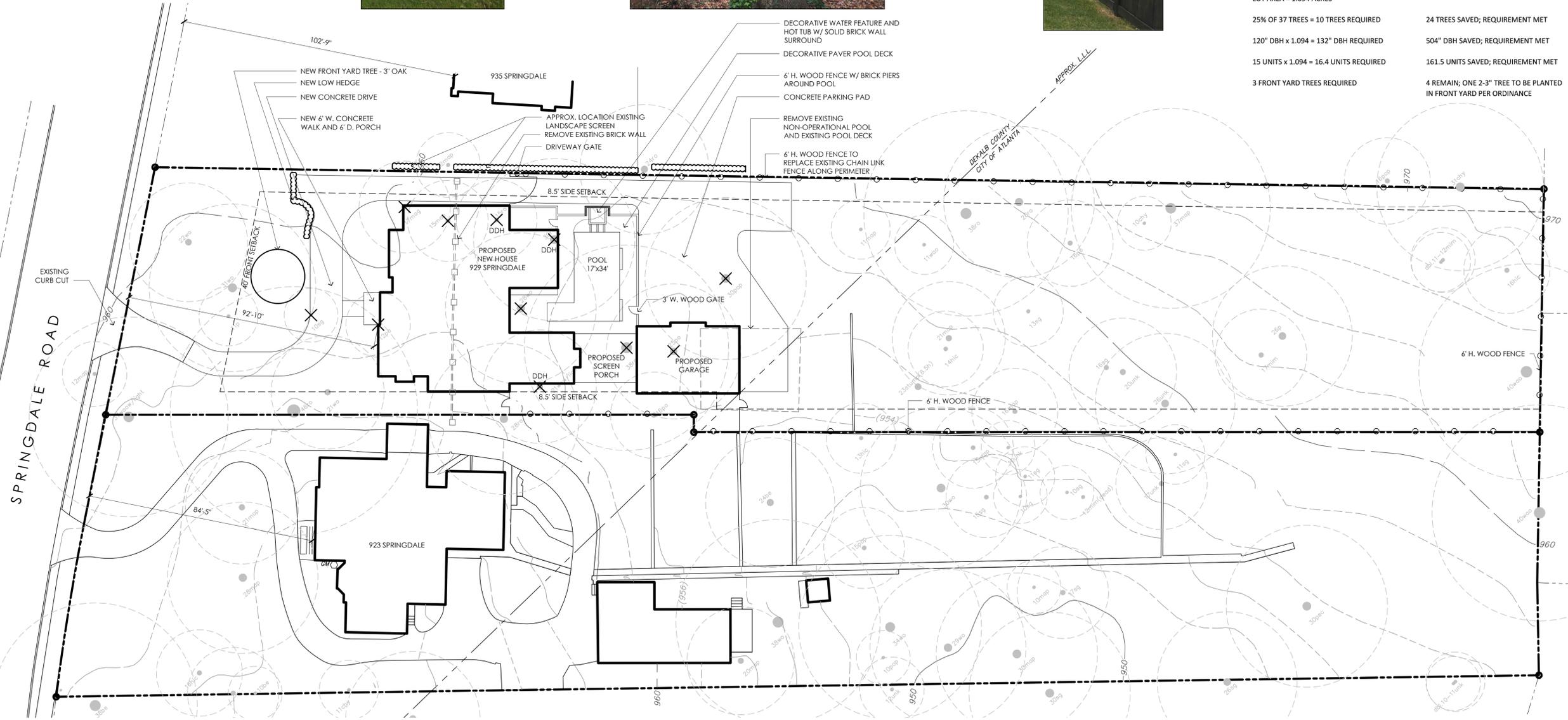
PROPOSED 6' HIGH WOOD INFILL BETWEEN BRICK COLUMNS AT POOL BOTH SIDES- STAINED TO MATCH SITE FENCE



EXISTING LANDSCAPE SCREEN BETWEEN 929 AND 935 SPRINGDALE RD



PROPOSED 6' HIGH WOOD FENCE & GATE DESIGN BOTH SIDES



**01 PROPOSED SITE PLAN  
A0.1 1" = 20'**



REV #	DATE	DESCRIPTION

**PROPOSED NEW HOUSE**  
929 SPRINGDALE ROAD  
ATLANTA, GEORGIA 30306

This document and all information contained within it is copyrighted by Place Maker Design and may not be copied or used without permission.

**PLACE MAKER DESIGN**  
1000 CIRCLE 75 PARKWAY  
SUITE 400  
ATLANTA, GEORGIA 30339  
404.549.4499

ISSUE DATE: 12/27/14  
DRAWN BY: CP  
CHECKED BY: KJM  
PMD PROJ #: 16049

**PROPOSED SITE PLAN & STREETScape**

**A0.1**



## Decision of the DeKalb County Historic Preservation Commission

Name of Applicant: \_\_\_\_\_ Cody Pless \_\_\_\_\_

Address of Property: \_\_\_\_\_ 929 Springdale Road \_\_\_\_\_

Date(s) of hearing if any: \_\_\_\_\_ September 18, 2017 \_\_\_\_\_

Case Number: \_\_\_\_\_ 21835 \_\_\_\_\_

Approved       Denied       Deferred

**Approval:** The Historic Preservation Commission, having considered the submissions made on behalf of the applicant and all other matters presented to the Preservation Commission finds that the proposed change(s) will not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic district and hereby approves the issuance of a certificate of appropriateness.

Any conditions or modifications are shown below.

Pursuant to Code of DeKalb County, § 13.5-8(3), the Preservation Commission has considered the historical and architectural value and significance; architectural style; scale; height; setback; landscaping; general design; arrangement; texture and materials of the architectural features involved and the relationship of such texture and materials to the exterior architectural style; pertinent features of other properties in the immediate neighborhood, as prescribed generally by county code and specifically by the district design guidelines.

This application relates to an existing building, pursuant to the authority granted to the Preservation Commission by Code of DeKalb County, § 13.5-8(3), the Preservation Commission has also used the Secretary of the Interior's Standards for Historic Preservation Projects, including the Standards for Rehabilitation therein as a guidelines. The Preservation Commission finds that all relevant guidelines have been met.

### Additional pertinent factors:

1. Substitute 3'0" simulated French casement windows on the sides and rear of the building in place of the previously approved 3'4" true French casement windows. The use of these windows on the front of the house was not approved.
2. Change the grading plan on the left (north) side of the house and in the rear, resulting in lowering the garage floor by 3' and helping to protect the neighbors' tree near the property line.

---

Application is approved with conditions or modifications  without conditions or modifications .

**Conditions or modifications (if applicable):**

---

---

---

---

---

---

---

---

---

---

**Denial:** The Preservation Commission has determined that the proposed material changes in appearance would have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district /or, the applicant has not provided sufficient information for the Preservation Commission to approve the application . Specifically, the Preservation Commission finds as follows:

---

---

---

---

---

---

**Deferral:** The Preservation Commission has deferred action on this application for the following reasons:

---

---

---

---

The application will be re-heard by the Historic Preservation Commission at its meeting on

---

Date: 9/22/17

Signature:   
Chair, DeKalb County  
Historic Preservation Commission

# DeKalb County Historic Preservation Commission

Monday, September 18, 2017 - 7:00 P.M.

## Staff Report

### Regular Agenda

Q. 929 Springdale Road (DH), Cody Pless. Modify a previously approved CoA to change the grade of the driveway and change the windows on the front façade. 21835

Vacant. (18-001-06-015)

This property is in the Druid Hills National Register Historic District and Druid Hills Character Area 1.

10-15 923 Springdale Road (DH), John & Elizabeth Lynch. Divide the property into two lots. 20240 **Approved with modifications**

9-16 923 & 929 Springdale Road (DH), Michelle Kraus. Realign the existing driveway and create a new driveway for the adjacent lot. 21009 **Approved**

1-17 929 Springdale Road (DH), Kevin Maher, Linda Dunlavy, Allen Layson. Build a new house on a vacant lot. 21123 **Approved with modifications**

7-17 929 Springdale Road (DH), Cody Pless. Modify the existing CoA to decrease the size of some front windows, increase the size of some rear windows, extend the left side of the building 4' to the rear, add a window on the side of that extension, install a basement access well behind that extension and add windows in both gable ends of the garage. 21699 **Part approval, part denial**

The applicant proposes modifying the CA approved in January to:

1. Allow the use of 3'0" simulated French casement windows in place of the previously approved 3'4" true French casement windows.
2. Change the grading plan on the left (north) side of the house and in the rear, resulting in lowering the garage floor by 3'. The applicant says this will help preserve the neighbor's 24" red oak tree located adjacent to the property line on that side. Although not shown on the site plan presented with this application, the tree was shown on the January site plan, where it is identified as '24" ro'. Staff has provided an enlarged copy of the relevant section of that site plan.

The arborist report submitted with the application recommends other treatments to help save the tree, but the application does not specifically say these actions will be taken.

### **Text below is from July 2017**

1. Reduce the ground floor front windows from 3'4" wide French casement windows to 3' casement windows. This also applies to windows on both sides of the house and on the garage.
2. Change windows in the center rear dormer.
3. Extend the ground floor of the left (north) wing by 4'. The upper level floor plan was drawn so that it extended 4' beyond the end of the ground floor, so the ground floor extension is required to support it.
4. Install a casement window in the upper level of the left wing.
5. Install an access well behind the left wing to allow basement access. The only part of this that will be able grade will be the railing.
6. Install a casement window in each gable end of the garage.

### **July Recommendation**

The change to the windows is not appropriate. It is not in character with other houses in the neighborhood. This change would have a substantial adverse effect and would not comply with guidelines 7.2.3 and 7.2.8. Staff recommends denial of this part of the application. The other changes will not have a substantial adverse effect and appear to comply with the guidelines. Staff recommends approval of those parts of the application.

### **September Recommendation**

The change in grade will not have a significant adverse effect and might save the adjacent tree. This does not appear to have a substantial adverse effect, appears to meet the guidelines and staff recommends approval of this aspect of the application.

Although the proposed faux French casement windows appear to be a good substitute for true French casement, the windows are narrower than what was approved. The change in window width affects the appearance of the façade both by increasing the amount of brick and making the windows appear taller. The modification to the windows does not meet the guidelines and would have a substantial adverse effect on the house and the historic district. Staff recommends denial of this part of the application.

### **Relevant Guidelines**

- 7.2.3 Shape: Building Elements* (p68) Guideline - The principal elements and shapes used on the front facade of a new building should be compatible with those of existing buildings in the area of influence, if dominant patterns are present.
- 7.2.8 Individual Architectural Elements* (p73) Guideline - New construction and additions should be compatible and not conflict with the predominant site and architectural elements—and their design relationships—of existing properties in the area of influence.
- 11.0 Nonhistoric Properties* (p93) Guideline - In reviewing an application for a Certificate of Appropriateness for a material change to a nonhistoric building, the Preservation Commission should evaluate the change for its potential impacts to any historic development (architecture and natural and cultural landscapes) in the area of influence of the nonhistoric property. Guidelines presented in *Section 7.0: Additions and new Construction* are relevant to such evaluations.



Michael L. Thumond  
Chief Executive Officer

## DeKalb County Government Historic Preservation Commission

330 Ponce De Leon Avenue Suite 500  
Decatur, GA 30030  
404/371-2155 or 404/371-2835(Fax)



September 15, 2017

### CERTIFICATE OF APPROPRIATENESS

SITE ADDRESS 929 Springdale RD  
Atlanta, GA 30306

PARCEL ID: 18-001-06-015

APPLICATION DATE October 28, 2016

APPLICANT Michelle Krauss

MAILING ADDRESS 245 Highland Ave Suite 230-367  
Atlanta, GA 30307

---

**THIS IS TO ADVISE YOU THAT THE DEKALB COUNTY HISTORIC PRESERVATION COMMISSION, AT ITS REGULARLY SCHEDULED PUBLIC MEETING ON JANUARY 17, 2017, REACHED THE FOLLOWING DECISION ON THIS APPLICATION:**

**ACTION: MODIFIED APPROVAL**

1. Build a Tudor style house with an attached garage. The house will be clad with brick and roofed with TruSlate except for the rear screened porch, the garage, several domers and shallow rear slopes, which will be roofed with standing metal seam roofing. The house will be approximately 36' tall from the grade in front of the threshold, with the threshold roughly 1.4' above grade. All windows will be aluminum-clad with simulated divided lights.
  2. Construct a 17' by 34' swimming pool and adjacent terrace. Install a fence or wall around the pool.
  3. The front drive will be concrete with the section near the street remaining as it is and curving in front of the house where it widens to 12'. A small turnaround will be added near the northwest corner of the house with a low hedge planted on the street side of the turnaround. The driveway will lead to a paved parking area behind the house.
  4. Install a 6' tall wooden fence around the backyard, connecting to the house near the rear on both sides.
  5. A brick and iron fence, a small pool, a deck and a small accessory building will be demolished.
  6. Remove thirteen trees. If any additional oaks need to be removed from the front yard due to disease or decay, they will be replaced with 3" oaks.
- Modifications from the original drawings are that all windows that are large enough will be further

divided by adding vertical mullions, that corbeling be added to the parapets at the gable ends, that downspouts be added where appropriate, that the chimney representation in the front and right elevations be corrected, that the header of the front door be the same height as the header of the small window to its left (roughly 8'), that the front porch have a lintel rather than an arch, that the light patterns of the transoms over the windows reflect the pattern of the window below them, that the right rear wing of the house be roofed with TruSlate except for the rear screened porch, the garage, several dormers and shallow rear slopes, which will be roofed with standing metal seam roofing and that the applicant has the option to add a transom above the front door. Revised plans reflecting these changes must be provided.

## Cullison, David

---

**From:** Nicolas Bohorquez <nbohorquez@williamsteusink.com>  
**Sent:** Monday, October 23, 2017 4:59 PM  
**To:** Jester, Nancy; Rader, Jeff; Johnson, Larry L.; Bradshaw, Stephen R.; Johnson, Mereda D.; Gannon, Kathie; Adams, Gregory (Commissioner)  
**Cc:** CEO Michael Thurmond; Baker, Andrew; Cullison, David; Brantley, O.V.; Sanders, Barbara H.; Eugene Hurwitz  
**Subject:** Appeal No. 2017-1011: Notice of Opposition and Constitutional Objection  
**Attachments:** 2017.10.23 - Notice of Opposition and Constitutional Objections - SIGNED.pdf

Good Afternoon, Commissioners:

I trust you are all well. This firm represents Dr. Eugene Hurwitz concerning the above-referenced appeal on the Board's agenda for tomorrow morning. As Dr. Hurwitz recently retained our services, I apologize for the last-minute nature of this correspondence.

Dr. Hurwitz is the owner of that property located at 935 Springdale Road, Atlanta, Georgia 30329, adjacent to and adjoining 929 Springdale Road, Atlanta, Georgia 30329. Dr. Hurwitz opposes that Certificate of Appropriateness granted by the Historic Preservation Commission on September 18th that forms the basis of this appeal.

Attached, please find Dr. Hurwitz's Notice of Opposition and Constitutional Objection. Please add this letter to the file of the above-referenced matter in order to preserve the rights of Dr. Hurwitz.

Please do not hesitate to contact me with any questions or concerns you may have.

Regards,

Nicolas Bohorquez



The High House  
309 Sycamore Street  
Decatur, Georgia 30030  
Direct Dial: (404) 458-4098  
Facsimile: (404) 378-6049  
[nbohorquez@williamsteusink.com](mailto:nbohorquez@williamsteusink.com)

This communication is CONFIDENTIAL and solely for intended recipients. If you are not an intended recipient, your receipt of this communication is the result of an inadvertent or unauthorized disclosure. Sender reserves and asserts all rights to confidentiality and privileges that are applicable and for violations thereof. Accordingly, immediately DESTROY all copies of the email and attachments, and NOTIFY the sender of your receipt of this email. DO NOT review, copy, or rely on in any way the contents of this communication. NO DUTIES ARE CREATED BY THIS COMMUNICATION.

CIRCULAR 230 DISCLOSURE: This communication is not intended to be used, and cannot be used, for the

purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

## Cullison, David

---

**From:** Cody Pless <cplless@placemakerdesign.com>  
**Sent:** Friday, September 15, 2017 1:12 PM  
**To:** Cullison, David  
**Subject:** Re: 929 Springdale

Mr. Cullison,

I know it was said, I'm asking if we can get it in writing. I will send it to you, if he puts it in writing, as soon as I get it.

Thank you,

Cody

Get [Outlook for iOS](#)

---

**From:** Cullison, David <[dccullis@dekalbcountyga.gov](mailto:dccullis@dekalbcountyga.gov)>  
**Sent:** Friday, September 15, 2017 12:58:28 PM  
**To:** Cody Pless  
**Subject:** 929 Springdale

Mr. Pless,

The arborist's report doesn't address the changes you that propose to help the tree. Can you provide anything to show that these changes will assist in preserving the tree?

David Cullison  
Senior Planner  
DeKalb County Department of Planning & Sustainability  
330 W. Ponce de Leon Avenue  
Third Floor  
Decatur, GA 30030  
404/371-2247  
404/371-4556 (fax)

The DeKalb County zoning map is now on-line at <http://maps.dekalbcountyga.gov/parcel/>. The DeKalb County Zoning Ordinance is now on-line at [http://planningdekalb.net/?page\\_id=756#articles](http://planningdekalb.net/?page_id=756#articles).

Please visit the Planning & Sustainability web site at [www.planningdekalb.net](http://www.planningdekalb.net) for information about procedures to obtain certificates of occupancy or building permits.



## 929 Springdale Rd



Date Printed: 11/1/2016



### DeKalb County GIS Disclaimer

The maps and data, contained on DeKalb County's Geographic Information System (GIS) are subject to constant change. While DeKalb County strives to provide accurate and up-to-date information, the information is provided "as is" without warranty, representation or guarantee of any kind as to the content, sequence, accuracy, timeliness or completeness of any of the database information provided herein. DeKalb County explicitly disclaims all representations and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. In no event shall DeKalb County be liable for any special, indirect, or consequential damages whatsoever resulting from loss of use, data, or profits, whether in an action of contract, negligence, or other actions, arising out of or in connection with the use of the maps and/or data herein provided. The maps and data are for illustration purposes only and should not be relied upon for any reason. The maps and data are not suitable for site-specific decision-making nor should they be construed or used as a legal description. The areas depicted by maps and data are approximate, and are not necessarily accurate to surveying or engineering standards.



### 929 Springdale oak location



Date Printed: 11/3/2017



**DeKalb County GIS Disclaimer**

The maps and data, contained on DeKalb County's Geographic Information System (GIS) are subject to constant change. While DeKalb County strives to provide accurate and up-to-date information, the information is provided "as is" without warranty, representation or guarantee of any kind as to the content, sequence, accuracy, timeliness or completeness of any of the database information provided herein. DeKalb County explicitly disclaims all representations and warranties, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. In no event shall DeKalb County be liable for any special, indirect, or consequential damages whatsoever resulting from loss of use, data, or profits, whether in an action of contract, negligence, or other actions, arising out of or in connection with the use of the maps and/or data herein provided. The maps and data are for illustration purposes only and should not be relied upon for any reason. The maps and data are not suitable for site-specific decision-making nor should it be construed or used as a legal description. The areas depicted by maps and data are approximate, and are not necessarily accurate to surveying or engineering standards.













