

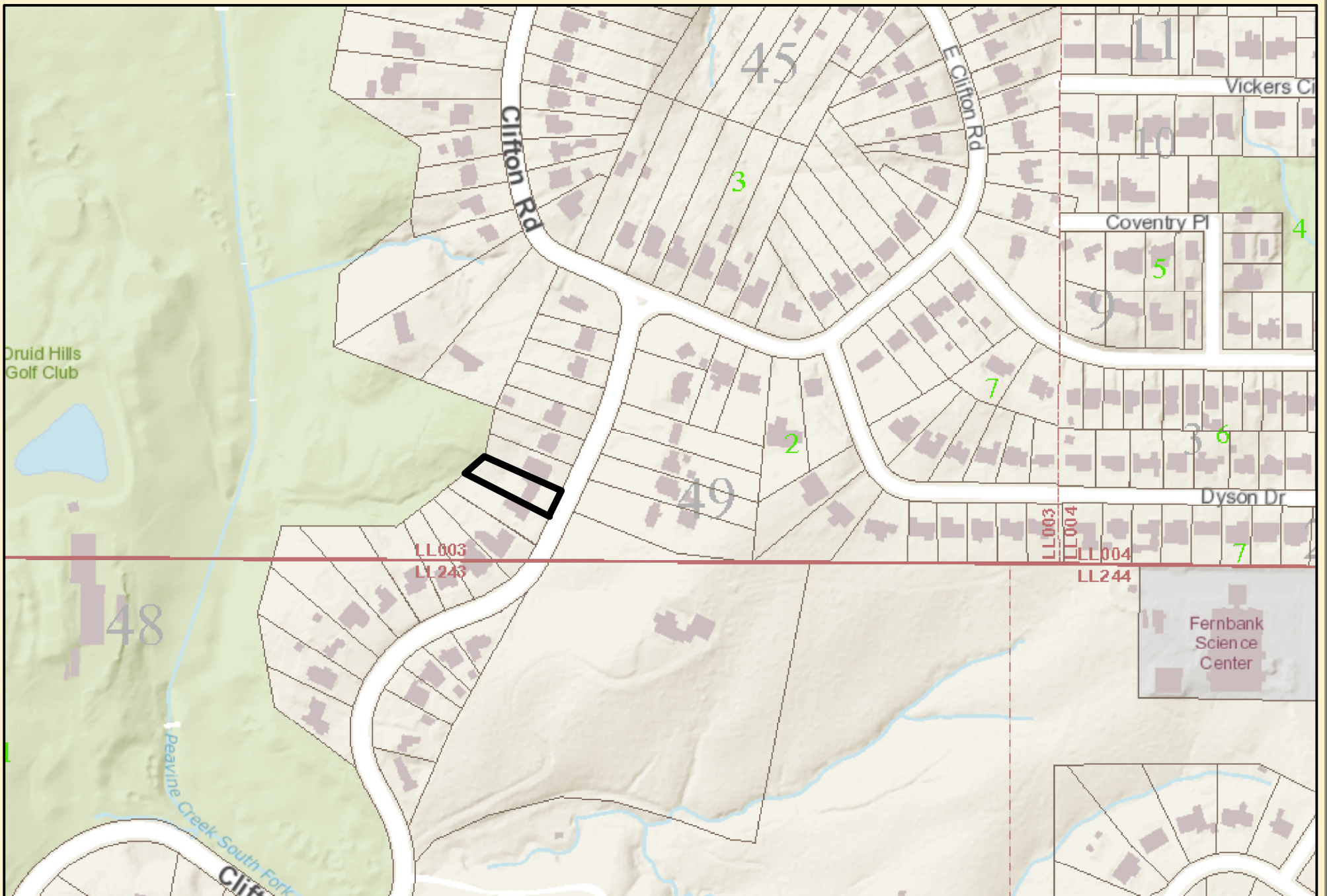
SUBJECT: Appeal of a Decision by the DeKalb County Historic Preservation Commission at 932 Clifton Road by Louis & Jill Hengen c/o Shea Roberts, Esq.

ATTACHMENTS (32 PAGES)

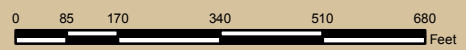
1. Attachment list (1p)
2. Location map (1p)
3. Application to appeal and supplementary statement (5p)
4. Supplementary statement filed by the Druid Hills Civic Association (3p)
5. Denial letter and decision form (4p)

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

6. Staff Report (2p)
7. Original application with attachments and email (5p)
8. September deferral (3p)
9. Opposition from the Druid Hills Civic Association (2p)
10. Satellite photo and topographic map (2p)
11. Google Earth photo (1p)
12. Photos by staff (3p)



932 Clifton Rd



Date Printed: 7/19/2017



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Chief Executive Officer
Michael Thurmond

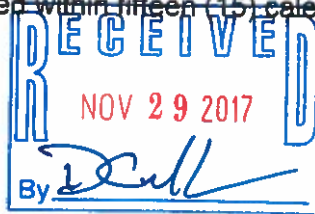
DEPARTMENT OF PLANNING & SUSTAINABILITY

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:

To be completed by appellant:

Name: Jill and Louis Hengen c/o Shea E. Roberts, Esq.

Address of appellant: 932 Clifton Road, Atlanta, GA 30307

Address of Property: 932 Clifton Road, Atlanta, GA 30307

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: 11/13/2017

Date of Historic Preservation Commission decision: 11/15/2017



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:

The HPC exceeded the limits of its authority and grossly abused its discretion by: (1) requiring Mr. and Mrs. Hengen to apply for a retroactive COA to sanction the already-painted brick on their 3-year old, non-historic home where the Guidelines and County web-site indicate that no COA is required for paint color or to paint your home; (2) applying inappropriately Guideline 6.1.1 to a 3 year old, non-historic home not subject to "rehabilitation" or "preservation"; (3) applying Guideline 11.0 when it only applies if a COA is required; and (4) assuming arguendo a COA can be required, finding that the Hengens must remove the paint from their brick despite there being at least 24 painted homes in the immediate Area of Influence (including two homes on each side of the Hengens). As set forth more completely in the Supplement, the Guidelines and Code are, at best, indisputably ambiguous, in conflict, and should be construed in favor of the property owner. The HPC's decision also was arbitrary and capricious and a violation of equal protection because, literally one month prior to the Hengen denial, the HPC itself acknowledged that the above Guidelines and County guidance were ambiguous and that there was nothing putting a homeowner on notice that painting their home required a COA. There, the HPC *approved* a retroactive COA for an Applicant who presented identical facts as the current case with one exception--the painted brick there was actually on a historic home. Thus, the Hengens find themselves in a situation wherein it is estimated that it will cost at least \$125,000 to try to remove 3 coats of paint from a *non-historic* home that mirrors *all* of the homes on both sides of them. See attached Supplement.

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: 11/29/17

Signature: Alex E Forest

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.

Supplement to HPC Appeal for 932 Clifton Road

Mr. and Mrs. Hengen now plead with the Board of Commissioners to GRANT their appeal and overturn the HPC's arbitrary and capricious denial of their retroactive application for a COA. This COA would permit the Hengens to maintain the paint they installed on the brick portion of their non-historic home in March of this year, which they undertook because there was no notice that any COA was required. In March, the Hengens moved with their 2-year old daughter to Atlanta. They fell in love with the Druid Hills area but wanted a home with modern amenities. They identified a house built in 2014 but wanted to paint the exposed brick similar to that of the houses on either side of the home. They confirmed with their realtor that they could paint the home and the realtor, Chase Mizell, reviewed the Design Manual Guidelines and the County web-site and indicated that there was nothing restricting paint color or, in fact, requiring any review for simply painting the home. The Hengens observed more than 20 other homes on Clifton Road that were similarly painted, so nothing visually alerted them that painting homes required anything; particularly where, as here, the house was not historic and was only 3 years old. Mr. Mizell determined that the only reference to exterior paint in the Guidelines was in the section discussing rehabilitation of historic buildings but that even that section provided that there was no review of paint color. He also noted, in the Appendices, P. ix, that it states that "historic designation does NOT . . . (4) require permission to paint your house." Thus, the Hengens hired a contractor who similarly did not inform them that they needed a COA. Painting commenced on the house at the end of March and the painters worked 6 to 7 days per week from 8:30 a.m. until 6:30 p.m. for approximately 2 full months – the work being very conspicuous on busy Clifton Road. At no point during those 2 months did anyone notify the Hengens that they were in violation of any regulations.

On June 8, 2017, the County notified them for the first time, by a citation on their door, that a COA was required. The Hengens already had spent approximately \$11,500 to have 3 coats of exterior paint applied to the siding and the brick.

During the HPC hearing, the Hengens provided letters from 2 different contractors who refused to bid the paint removal job because both believed sandblasting (which was the best solution they could offer) was invasive to the neighbors because of the release of silica dust, and that it would fundamentally compromise the structural integrity of the brick work and surrounding trim. The Hengens presented photographs of over 30 painted homes near their home including the four to which they are immediately adjacent. They also presented the transcript of the HPC's decision, the previous month, acknowledging that the Guidelines are ambiguous and that nothing puts a homeowner on notice of a COA requirement for painting their home. Despite this information, the HPC still voted to deny the COA. Submitted herewith is a revised proposal from ECQ, one of the paint removal companies, under the "mandate" effected by the HPC's denial. ECQ still strongly advises against paint removal because of the damage to the structural integrity of the brick and wood trim and the fact that it won't fully remove the paint. ECQ also advises against blasting because of the nuisance and threat to the safety to the neighbors and their family from silica dust and noise. If forced, against its recommendation, to remove the paint from the non-historic home, the Hengens now are faced with a quote to remove the paint of \$125,000, not inclusive of any subsequent damage that could result from the work. That is wholly unfair and unreasonable given their efforts prior to painting the home and the fact that even the HPC acknowledges the ambiguity of the Guidelines and the lack of "notice" to homeowners.

The Statement of Support submitted with the COA clearly outlines why the HPC's reliance on Guideline 6.1.1 and 11.0 is inappropriate and exceeds their authority. We will not restate it here, but suffice it to say 6.1.1 is part of a larger Chapter 6.0 entitled "Architectural Rehabilitation" Guidelines which is intended to assist with preservation projects and 6.1.1 specifically states only that the *original* masonry should not be painted. Masonry is not defined and brick is never specifically identified as precluded from being painted but, regardless, this section does not apply to a non-historic home not being rehabilitated—precisely as Mr. Mizell interpreted it when he reviewed it. Even if that Section did apply, Section 6.8 recites that paint color will not be reviewed by the HPC. Section 11.0 does not even come into play unless there is a clear indication that a

COA is required, a fact which does not obtain (particularly where, as here, the Appendices, P. ix, recites that “designation does not . . . (4) require permission to paint your house.”

Even if a COA was required, though, the unrefuted evidence provided at the hearing demonstrates that there are 24 painted brick homes in the immediate “Area of Influence,” and specifically 2 houses located immediately adjacent on each side of the Hengens’ home. No evidence was present of *any* adverse impact, much less a material adverse impact (nor could there be when all of the homes surrounding the Hengens’ non-historic home are *painted*). Thus, the HPC decision was unsupported by any evidence whatsoever and a gross abuse of discretion.

More telling, just one month prior to hearing the Hengens’ application, the HPC heard an identical application for a retroactive COA where the owners of 1351 Springdale Road had painted the brick on their home. The only fact that was different was the Springdale home was actually a “historic” home and more likely subject to 6.1.1. They, too, had painted brick homes on both sides. They claimed no notice when they closed on their home that a COA was required. A copy of the partial transcript was submitted to the HPC as Tab 10 of the Hengens’ Notebook. There the HPC conceded, in discussing their approval of the COA, that: (1) there is no notice when someone closes on a property in the historic district that a COA is required; (2) no building permit is required so there is nothing to trigger an owner being told they need a COA; (3) there were painted houses on both sides and in the immediate area of influence; (4) the Guideline 6.1.1 may be ambiguous in its wording especially when joined with the “Do Not Paint” section; (5) and there is a potential conflict with Guideline 6.1.1. and the Secretary of Interior standards regarding treatment of masonry and cleaning masonry and applying paint to it. The HPC’s decision to approve the COA for this identical application is further evidence that their decision to deny the Hengens’ COA was arbitrary and capricious. The HPC decision should be reversed. All materials previously submitted, including the Hengens’ constitutional objections, are incorporated by reference herein.

**Supplementary Explanation Responding to an Appeal of a Decision of the DeKalb County
Historic Preservation Commission at 932 Clifton Rd. (case 21922)**

This supplementary explanation is submitted in accordance with DeKalb County Code section 13.5-8(12)c–d, which allows an adversely affected person to submit a written supplementary explanation to an appeal filed against a decision of the DeKalb County Historic Preservation Commission (HPC). This explanation responds to an appeal filed by Jill and Louis Hengen, c/o Shea E. Roberts, in relation to a COA application denied for 932 Clifton Rd. in November, 2017.

This explanation is further endorsed by and represents the position of the Druid Hills Civic Association DeKalb County Land Use and Historic Preservation Committee, the body of the local civic association tasked with oversight and support for matters related to historic preservation on behalf of its members and the community.

The appellant claims that the HPC exceeded the limits of its authority and abused its discretion by requiring a retroactive COA for the painted brick of their property at this address, and then by denying the request to retain its altered appearance under that application.

The present document aims to introduce into the record a perspective omitted from the appellant’s filings. The work completed by the appellant, and conducted without HPC review or approval, has an impact on the historic district and its residents, and this impact on the district must be taken into account, alongside the appellant’s claims for individual relief.

DeKalb County Code section 13.5-8 clarifies that “no material change in the appearance of such historic property, or of any building, structure, site or work of art within such historic district shall be made or be permitted to be made by the owner or authorized agent unless or until an application for a certificate of appropriateness has been submitted and approved by the

preservation commission.” This paragraph’s charge precedes the guidelines adopted by the preservation commission, and it assures property owners and residents of the historic district that material changes to both historic and non-historic properties will be vetted by the HPC before being carried out. Furthermore, section 13.5-8(2) requires public notice and a public hearing for material changes to a property in the district, where public comment can be made.

By pursuing this substantial (and possibly irreversible) material change to the subject property outside of historic-district oversight, the appellant has precluded the community’s ability to petition against this material change, including its subsequent impact on the area of influence and the district. The impedance of a public hearing is a factor relevant to the appeal.

The due diligence undertaken by the appellant is also relevant, as it contributed to the need for a retroactive COA in the first place. The appellant’s statements, both in the COA application and the appeal, indicate that they knew about the historic district and pursued action in relation its requirements, but that the sources of their information were unreliable or incorrect. The appellant appears to have consulted with real estate agents (whose livelihood depends on making sales, not on interpreting land-use law), read the code, and observed other painted-brick homes in the area. They do not appear to have contacted anyone in the county.

Even if the appellant had no ill intentions, the governing body should consider how other actors might make use of a precedent to end-around historical review by appealing to caprice and/or financial exigency after conducting work without a COA.

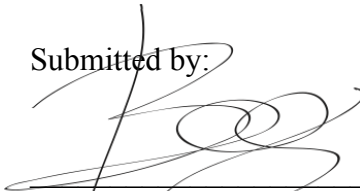
On the work itself: The appellant notes that the structure at 932 Clifton is not an historic property, cites precedents for painted brick, and claims that the guidelines appear ambiguous on brick painting. For one part, those factors do not exempt the property from historic oversight for material changes. Each case must be decided on its merits. For another part, the non-regulation

of paint color (Guideline 6.8) is unrelated to regulation of painted masonry (Guideline 6.1.1). And for yet another part, the relationship between historic and non-historic properties, and between individual structures on the streetscape, applies to historic preservation as much as the protection of individual historic structures. Guidelines 7.x cover this last topic in detail.

The 2014 rebuild of this property, conducted by its prior owners, was an especially good example of Tudor infill redevelopment. When built, it was particularly sensitive to the guidelines and to the Tudor style, which is dependent on exterior finishes such as brick, stone, and half-timbering. Those features, and their resulting impact in the area, have been altered substantially by the appellant's changes. Furthermore, alterations without oversight tend to beget others. In the time between the HPC's issuance of a denial on November 15 and the filing of the appeal on December 5, another property in the area of influence, at 960 Clifton, has also painted its brick surfaces (and conducted other exterior work of an unknown nature) without a COA.

The complexity, cost, and feasibility of restoring the property's exterior to its previous state might make restoration impossible. And even if the governing body is compelled in part or in whole by the applicant's appeal, it ought to consider that the community is still owed a public hearing regarding restoration of the altered structure to something nearer to its prior state, in a way that accounts for their right to input regarding those changes in the area of influence. Ultimately, resolution of this matter should meaningfully engage with the historic code and the guidelines, leading to a remedy for the district as a whole, not just the property-owner appellant.

Submitted by:



Dr. Ian Bogost, 1676 E Clifton Rd.

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

November 15, 2017

NOTICE OF DENIAL

SITE ADDRESS: 932 CLIFTON ROAD
PARCEL ID: 18 003 01 016

APPLICANT: Louis & Jill Hines Hengen (corrected)
MAILING ADDRESS: 932 Clifton Road
Atlanta, GA 30307

THIS IS TO ADVISE YOU THAT THE DEKALB COUNTY HISTORIC PRESERVATION COMMISSION, AT ITS PUBLIC MEETING ON NOVEMBER 13, 2017 REACHED THE FOLLOWING DECISION ON THIS APPLICATION:

ACTION: DENIAL

The preservation commission determined that the painting of the brick house will have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district and does not comply with the following guidelines: 6.1.1 and 11.0.

This decision is in accord with the sections of the DeKalb County Code and the Druid Hills Design Manual listed below.

DeKalb County Code

Sec. 13.5-8. Certificate of Appropriateness After the designation by ordinance of a historic property or of a historic district, no material change in the appearance of such historic property, or of any building, structure, site or work of art within such historic district shall be made or be permitted to be made by the owner or authorized agent unless or until an application for a certificate of appropriateness has been submitted and approved by the preservation commission.

Sec. 13.5-8.(1) Application for Certificate of appropriateness Owners of historic property or of property in a historic district, or their duly authorized agents, must make application for a certificate of appropriateness on forms and according to procedures promulgated by the preservation commission for such purpose.

Sec. 13.5-8.(3) Review of Applications When reviewing applications for certificates of appropriateness, the preservation commission shall consider, in addition to any other pertinent

DEPARTMENT OF PLANNING & SUSTAINABILITY

factors, 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 thereof to the exterior architectural style and pertinent features of other properties in the immediate neighborhood. When considering applications for existing buildings, the Secretary of the Interior's *Standards for Historic Preservation Projects*, including the *Standards for Rehabilitation* shall be used as a guideline.

The Design Manual for the Druid Hills Local Historic District

6.1.1 Exterior Materials (p50) Guideline - Original masonry should be retained to the greatest extent possible without the application of any surface treatment, including paint. Repointing of mortar joints should only be undertaken when necessary, and the new mortar should duplicate the original material in composition, color, texture, method of application, and joint profile. Repaired joints should not exceed the width of original joints. The use of electric saws and hammers in the removal of old mortar is strongly discouraged as these methods can seriously damage adjacent bricks.

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.


Lydia Atubeh, Vice Chair

DeKalb County Historic Preservation Commission

11/15/17
Date

Decision of the DeKalb County Historic Preservation Commission

Name of Applicant: _____ Louis & Jill Hines Hengen (corrected) _____

Address of Property: _____ 932 Clifton Road _____

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

Case Number: _____ 21733 _____

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:

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

Conditions or modifications (if applicable):

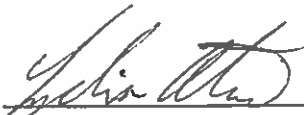
Denial: The Preservation Commission has determined that the proposed material changes in appearance would have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district or, the applicant has not provided sufficient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

The preservation commission determined that the painting of the brick house will have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district and does not comply with the following guidelines: 6.1.1 and 11.0.

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

L. 932 Clifton Road (DH), Louis & Jill Hines. Paint a brick house. 21733

Built 2014. (18 003 01 016)

This property is located in the Druid Hills National Register Historic District and Druid Hills Character Area 2.

10-13 932 Clifton Road (DH), Dave Price of Price Residential Design. Demolish nonhistoric house and build a new house.

For comment only.

12-13 932 Clifton Road (DH), Dave Price of Price Residential Design. Demolish nonhistoric house and build a new house.

18944 Approved with modification

11-14 932 Clifton Road (DH), Dave Price of Price Residential Design. Modify existing CoA to replace a wooden fence with an aluminum picket fence and install gate at foot of driveway. 19559 **Approved**

This is a nonhistoric building. (*Druid Hills Design Manual*, Glossary, page ii: **Nonhistoric** — Nonhistoric properties within the district are those properties constructed after 1946. Nonhistoric properties are identified on the Historic District

The applicants have painted their brick house. The applicants recently bought the house and say they were told that a CoA would not be required because the house is not historic.

The applicants' attorney filed a statement with supporting material on November 6.

The argument is included in the *Statement in Support of Application for Certificate of Appropriateness*, the first in the material. In summary:

- The realtor told them they did not need a certificate of appropriateness.
- They say many painted historic houses in the area and had no reason to believe there was any restriction on painting historic houses.
- The painting took about 2 months and in that period they did not receive a warning, adverse comment, citation or stop them on the street to tell them that they needed a CoA.
- They spent more than \$11,800 for the painting.
- County code only requires CoAs when rehabilitation historical homes.
- CoA is not necessary under guideline 6.1.1.
- Paint color is exempted from review.
- Guideline 11.0 is not applicable if a CoA is not requested.
- If a CoA was required, they satisfy the Design Manual.
- They were denied due process.
- There is no realistic remedy.

This is a summary only, and details can be found in the applicant's statement.

Recommendation

Staff cannot address the legal concerns, but can comment on some items.

- Changes to the exterior of any building in the historic district require a CoA. The Code is attached below.
- The applicant does not appear to have reviewed any methods of paint removal other than blasting. Heat and chemical are two options. Staff does not claim that these would necessarily work, but they are options that should be investigated.
- Among other things, Guideline 6.1.1 says that original masonry should not be painted. The house is nonhistoric, but Guideline 11.0 says a change to a nonhistoric property should be evaluated for its potential impacts on historic resources in the area of influence.

The painted brick does not appear to meet the guidelines and would have a substantial adverse effect on the on the area of influence and the historic district. Staff recommends denial.

DeKalb County Code

Sec. 13.5-8. Certificate of Appropriateness

After the designation by ordinance of a historic property or of a historic district, no material change in the appearance of such historic property, or of any building, structure, site or work of art within such historic district shall be made or be permitted to be made by the owner or authorized agent unless or until an application for a certificate of appropriateness has been submitted and approved by the preservation commission.

- (1) *Application for Certificate of appropriateness.* Owners of historic property or of property in a historic district, or their duly authorized agents, must make application for a certificate of appropriateness on forms and according to procedures promulgated by the preservation commission for such purpose. The Georgia Department of Transportation and contractors performing work funded by the Georgia Department of Transportation are exempt from provisions of this chapter. Local governments are also exempt from obtaining certificates of appropriateness but shall notify the preservation commission at least forty-five (45) days prior to beginning or undertaking any work that would otherwise require a certificate of appropriateness, so as to allow the preservation commission an opportunity to comment. All applications for certificates of appropriateness shall be accompanied by drawings, photographs, plans and documentation as required by the preservation commission. Notarized authorization of the property owner shall be required if the applicant is not the owner of record.

Relevant Guidelines

6.1.1 *Exterior Materials* (p50) Guideline - Original masonry should be retained to the greatest extent possible without the application of any surface treatment, including paint. Repointing of mortar joints should only be undertaken when necessary, and the new mortar should duplicate the original material in composition, color, texture, method of application, and joint profile. Repaired joints should not exceed the width of original joints. The use of electric saws and hammers in the removal of old mortar is strongly discouraged as these methods can seriously damage adjacent bricks.

M. 929 Springdale Road (DH), Cody Pless
page three

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.



404.371.2155 (o)
404.371.4556 (f)
DeKalbCountyGa.gov

Clark Harrison Building
330 W. Ponce de Leon Ave
Decatur, GA 30030

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: 932 Clifton Road Ne, Atlanta, GA 30307

Applicant: Louis & Jill Hengen E-Mail: lhengenjr@gmail.com

Applicant Mailing Address: 932 Clifton Road Ne, Atlanta, GA 30307

Applicant Phone(s): 202-841-1385 Fax: _____

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

Owner(s): Louis & Jill Hengen E-Mail: lhengenjr@gmail.com

_____ E-Mail: _____

Owner(s) Mailing Address: 932 Clifton Road Ne, Atlanta, GA 30307

Owner(s) Telephone Number: 202-841-1385

Approximate age or date of construction of the primary structure on the property and any secondary structures affected by this project: 2014

Nature of work (check all that apply):

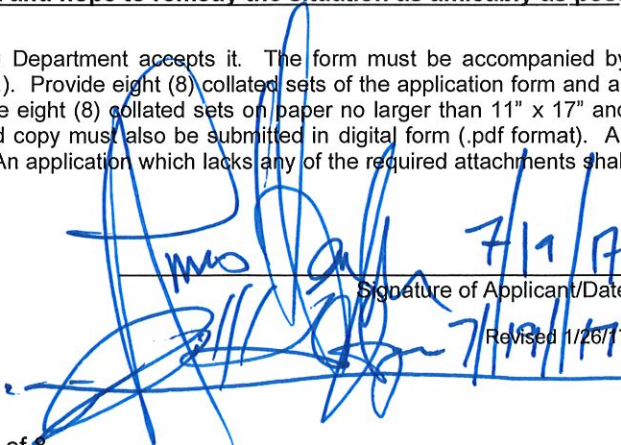
- New construction Demolition Addition Moving a building Other building changes
- New accessory building Landscaping Fence/Wall Other environmental changes
- Sign installation or replacement Other

Description of Work:

We are completing the application in regards to exterior painting that has already been performed. We received incorrect information from several resources within the Historic Druid Hills community pertaining to the requirement of the certificate of appropriateness for a newly constructed home. We were under the impression that we did not need to complete an application since our home is not historic. We are extremely apologetic for not taking the steps necessary to obtain approval before performing the work and hope to remedy the situation as amicably as possible.

Continued on page 10

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.



 Signature of Applicant/Date
 Revised 1/26/17

Addendum to Certificate of Appropriateness

932 Clifton Road Ne, Atlanta, GA 30307

Owners/applicants: Louis & Jill Hengen

202-841-1385

Scope of work:

- a. Paint entire exterior of home, including all brick and trim.
- b. Replace brick porch (horizontal only) with slate stone.

Color schedule:

- a. Main body color: Sherwin Williams Pure White
- b. Trim color & mullions color: Sherwin Williams Dorian Gray

Before photo:



After photo:



Addendum to Certificate of Appropriateness

932 Clifton Road Ne, Atlanta, GA 30307

Owners/applicants: Louis & Jill Hengen

202-841-1385

Description of work Continued:

Please note that throughout the four week (exterior) painting process there was never an on-site warning or notice that we were in code violation. If we had been notified we would have immediately taken the necessary steps to submit an application for your consideration. We take this matter seriously and respect the County's desire to maintain the integrity of the architectural significance within the Druid Hill's historic district and wish to comply with all rules and regulations. We sincerely hope that you find our paint color and patio flooring choices are in good taste and improved upon this home and further compliments the beauty of the neighborhood.

Cullison, David

From: Keller, Jill <Jill.Keller@dlapiper.com>
Sent: Monday, October 02, 2017 1:44 PM
To: Cullison, David
Cc: Louis Hengen (Lhengenjr@gmail.com)
Subject: FW: FW: 932 Clifton Rd certificate of appropriateness application
Attachments: August 2017 HPC agenda 8-11.pdf; staff report for applicant.pdf; 932 DHCA comment 8-18.pdf

David,

Many thanks for taking the time to speak with me earlier today, I appreciate the information you provided to me. Per our discussion, I am forwarding you the email my husband received in August pertaining to our home. My apologies, I had not realized that we weren't denied the COA, but rather, that a denial had been recommended.

As I mentioned during our call, our realtor, who handled the COA application for us, forgot to detach the application from the information packet, so we have not yet had a chance to review it. We will pick up the packet this week.

With the Jewish holidays that just ended, we have been quite busy. It would be a tremendous help if you would please allow us a deferral until the November meeting, as my husband and I will be traveling for business over these next two weeks. This issue is of great importance to us, being brand new to the neighborhood (we just relocated to Atlanta few months ago), and we hope to make 932 Clifton Road and DeKalb County our home for many years to come, so we both want to be able to participate at length in preparation for the meeting.

Many thanks for your consideration, and I hope to hear from you soon.

All the best,
Jill

Jill Keller

Associate

T +1 202.799.4347

F +1 202.799.5347

M +1 202.256.3354

E jill.keller@dlapiper.com



DLA Piper LLP (US)
500 Eighth Street, NW
Washington, DC 20004
United States
www.dlapiper.com

----- Forwarded message -----

From: **Cullison, David** <dcullis@dekalbcountyga.gov>

Date: Fri, Aug 18, 2017 at 1:59 PM

Subject: FW: 932 Clifton Rd certificate of appropriateness application

To: "lhengenjr@gmail.com" <lhengenjr@gmail.com>

My staff report and the meeting agenda are attached. This report is just my recommendation; the decision on your application will be made by the historic preservation commission.

I've also attached an email I received today from the Druid Hills Civic Association Land Use and Historic Preservation Committee.

David Cullison

Senior Planner

DeKalb County Department of Planning & Sustainability

330 W. Ponce de Leon Avenue

Third Floor

Decatur, GA 30030

[404/371-2247](tel:4043712247)

[404/371-4556](tel:4043714556) (fax)

The DeKalb County zoning map is now on-line at http://secure-web.cisco.com/1R--P8EqcVDNrbAYXs8sv1UKLH0RbOGAPA9WFYH8R9IzfJpuXWDzW0yeh60P3WI7LDiVSib-2bIdFDsOhiKeKmySfaZvElK3d6gMkoe6Yb4eyNNnZqOHURUy0P6CpUJDPLieeVPtPvTfl2918W1ddBNXa-XxYkzsfE0jIYtVqzE0ZN2p0-m_Q0T80H-Ybx7SifJK4oY0nx8Nz88iW0o5Y_Q/http%3A%2F%2Fmaps.dekalbcountyga.gov/parcel/. The DeKalb County Zoning Ordinance is now on-line at http://planningdekalb.net/?page_id=756#articles.

Please visit the Planning & Sustainability web site at www.planningdekalb.net for information about procedures to obtain certificates of occupancy or building permits.

Please consider the environment before printing this email.

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Cullison, David

From: Linda Dunlavy <ldunlavy@dunlavylawgroup.com>
Sent: Monday, August 21, 2017 11:54 AM
To: Cullison, David
Subject: Louis and Jill Hengen

Importance: High

David:

I have been contacted this am by a representative of the above-referenced property owners who have an application pending before the HPC for work done at 932 Clifton Road. This Application is apparently on the agenda tonight. For reasons that are not entirely clear the Hengens were unaware that the hearing was scheduled for this evening and they are actually in New York City and unable to attend the meeting. For that reason they have requested that I notify you and advise you of their need for a deferral. They also state that there is no sign in their yard so the hearing has not been properly noticed. They will be meeting with me upon their return with an eye towards engaging me to represent them and I am not available in September for the HPC meeting. As such, they request a deferral to the October meeting of the HPC. Please confirm for me prior to this evening's meeting if at all possible that the item will be removed from the agenda as not properly noticed and placed on the October agenda.

thx

Linda I. Dunlavy
DUNLAVY LAW GROUP, LLC
1026 B Atlanta Avenue
Decatur, GA 30030
Ph: (404) 371-4101
Fax: (404) 371-8901

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Decision of the DeKalb County Historic Preservation Commission

Name of Applicant: _____ Louis & Jill Hines _____

Address of Property: _____ 932 Clifton Road _____

Date(s) of hearing if any: _____ August 21, 2017 _____

Case Number: _____ 21733 _____

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:

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:

Requested by the applicant prior to the meeting. _____

The application will be re-heard by the Historic Preservation Commission at its meeting on _____ October 16, 2017 _____.

Date: 8/26/17

Signature: 
Chair, DeKalb County
Historic Preservation Commission

Cullison, David

From: Ian Bogost <ian@bogost.com>
Sent: Friday, August 18, 2017 8:33 AM
To: Cullison, David
Subject: 932 Clifton Rd DHCA comment August HPC

Mr. Cullison,

This email contains (below) the statement the Druid Hills Civic Association DeKalb County Land Use and Historic Preservation Committee would like to submit for the record regarding the application for COA at 932 Clifton Rd.

Ian Bogost

Even though this is not an historic structure, 932 Clifton one of the best Tudor infills in the district. Its design served as a model for other tear-down rebuilds. The result was historically appropriate without being imitative. We feel confident that the HPC would never have approved the majority of the work conducted at this property had an application for COA been properly submitted.

Unfortunately, it does not seem likely that the original structure can be restored to its prior state. Even though the brick is new, making it less susceptible to decay were an attempt made to remove the paint, the quantity of the surface painted makes the idea of such a project likely to be difficult if not impossible.

Given the conditions as they stand, we'd like to urge the HPC to enforce a partial restoration of the Tudor/English revival appearance as originally designed. We do not have a specific request to advance in this regard, but at the very least, it should be possible to restore the dark contrast of the faux half-timbering, and perhaps the trim as well.

Overall, the changes made to the structure contribute to a more contemporary, suburban look than would normally be desirable for the Druid Hills Historic District. Adding to this effect is new exterior lighting, which appears to have been installed along the front elevation of the property at the same time as the other changes (see attached photo). Admittedly, the Guidelines do not appear to offer explicit guidance on exterior lighting, although the zoning code (27-5.6, Sec. 5.6.1) states that "An outdoor lighting plan required within a locally designated historical district that is subject to architectural design review shall require a certificate of appropriateness from the DeKalb County Historic Preservation Commission." We are not sure what additional oversight the HPC can provide in this regard. However, as a part of the process of restoring as much of the original look of 932 Clifton as is feasible, it is our hope that the property owners might be willing to reduce the amount and brightness of the added exterior lights, and to reduce their color temperature from what appears to be the 3000–4000K range to the 2200–2700K range.

Finally, we want to urge for better and more preemptive oversight for the historic district. While we sympathize with the property owners' confusion about the COA requirements, ultimately the code is in place, and ignorance of it is an insufficient excuse. That said, the County has not created any scaffolding to manage and protect the DHHD before changes take place. Some of these changes can be irreversible, and others take so long to mitigate through code enforcement that they produce deleterious effects for years.

The DHCA plans to take this case as an opportunity to develop an outreach plan to address seller's agents who work frequently in the district. We hope to draft or acquire a one-sheet about the DHHD and its basic

regulations that could be distributed by seller's agents at closings for properties in the district, such that common risks associated with ownership transfers can be mitigated. We would welcome the HPC, Planning Department, and County Commissioners' additional support toward this end, in whatever ways might be feasible.



932 Clifton Rd

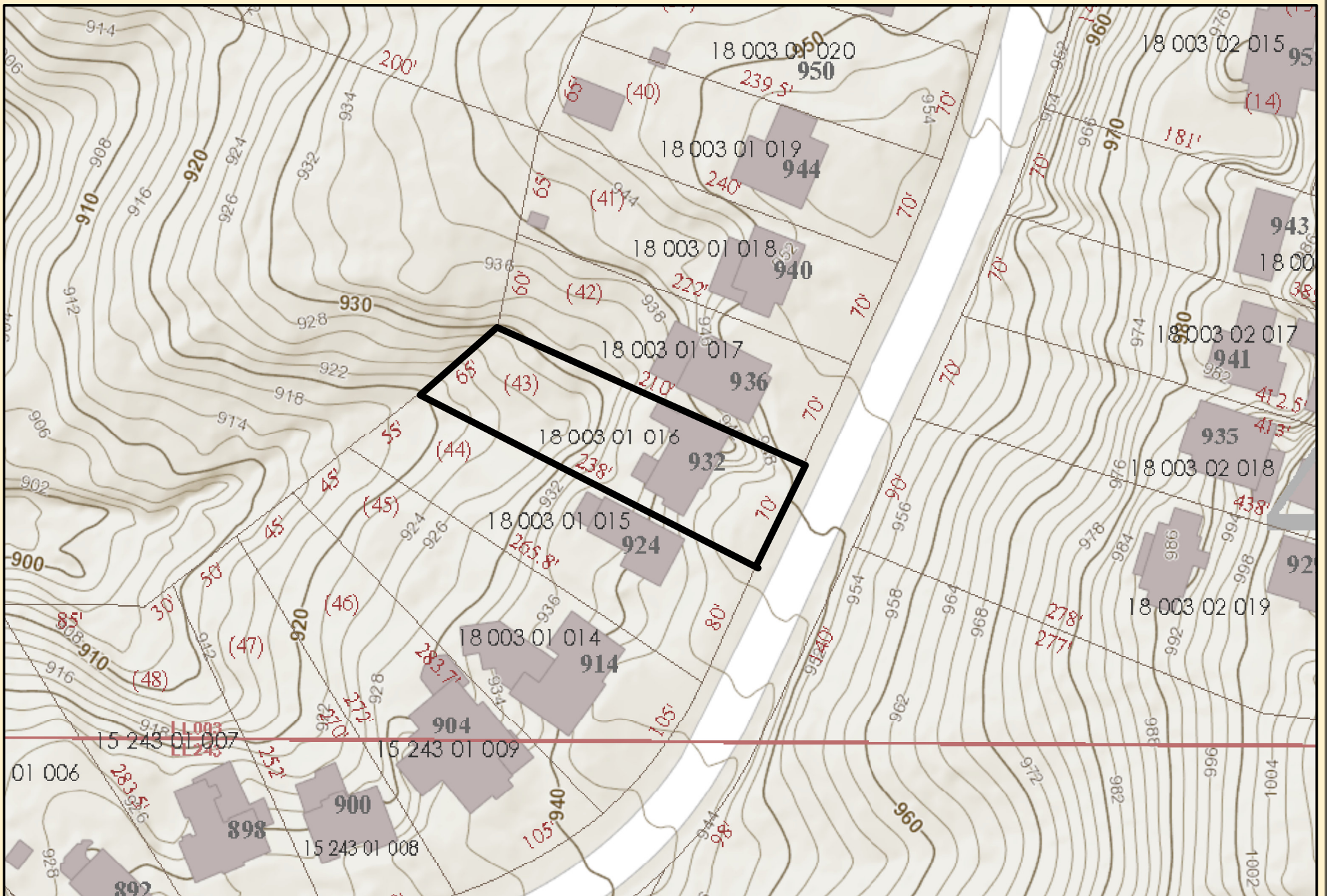


Date Printed: 7/19/2017

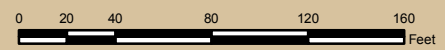


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932 Clifton Rd



Date Printed: 7/19/2017



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