



DECEMBER 06, 2011 9:00 A.M.

1. Call to Order by Mayor Joe Brannen
2. Invocation and Pledge of Allegiance by Councilman John Riggs
3. Recognitions/Public Presentations
4. Public Comments (Agenda Item):
5. Consideration of a Motion to approve the Consent Agenda
 - A) Approval of Minutes
 - a) November 15, 2011 Council Minutes
 - b) November 15, 2011 Work Session Minutes
 - c) November 29, 2011 Public Hearing and Work Session Minutes
 - B) Second Reading and Consideration of a Motion to approve the application of alcohol license:
 - a) Steven Jones (Sugar Magnolia Bakery & Cafe)
 - C) First Reading and Consideration of a Motion to approve the application of alcohol license:
 - a) Christian K. Bennett (Chops Statesboro, LLC)
 - D) Second Reading and Consideration of a Motion to approve Resolution to amend **Ordinance #2011-13**. An ordinance amending Chapter 86 of the City of Statesboro's Code of Ordinances titled "Urban Forest Beautification and Conservation Ordinance".
 - E) Second Reading and Consideration of a Motion to approve **Ordinance 2011-14**: An Ordinance Amending Chapter 6 of the City of Statesboro's Code of Ordinances titled Alcoholic Beverages
 - F) Consideration of a Motion to award the purchase of three (3) new sports utility vehicles for use by the City of Statesboro Police Department to Mall of Georgia Ford for \$22,550.00 per a vehicle and for a total of \$67,650.00. No local dealers came within the 3% local preference range.
 - G) Consideration of a Motion to award a contract to Smith Steel Structures having offered the lowest responsive bid of \$37,996.00 for the relocation and extension of existing metal building at the Lakeview landfill Facility
 - H) Consideration of a motion to approve the purchase of a water tanker for the Fire Department in the amount of \$193,693 using SLOST 2007 funds.

- I) Consideration of a Motion to award the second lowest bidder, Tucker Utilities, Inc. in the amount of \$350,997.14 for the Gateway II Industrial Park (Cannady Tract) water and sewer extension
6. Public Hearing and Consideration of a Motion to approve the following request:
APPLICATION # RZ 11-08-01: Breckenridge Properties requests a zoning map amendment of 10.1 acres of property located on Highway 67 from CR (Commercial Retail) to R4 (High Density Residential).
7. Other Business from City Council
8. Consideration of a Motion to enter into Executive Session to discuss personnel matters in accordance with **O.C.G.A. §50-14-3 (2010)**
9. Consideration of a Motion to Adjourn



**CITY OF STATESBORO
CITY COUNCIL MINUTES
NOVEMBER 15, 2011**

A regular meeting of the Statesboro City Council was held on November 15, 2011 at 6:00 p.m. in the Council Chambers at City Hall. Present were Mayor Joe R. Brannen, Council Members: Will Britt, Tommy Blitch, John Riggs, Gary Lewis and Travis Chance. Also present were City Manager Frank Parker, City Clerk Sue Starling, City Engineer Robert Cheshire, and Director of Community Development Mandy Cody.

Recognitions/Public Presentations

- a) **Recognition of Van Collins, Matt Aycok, Dakota Deloach and Laura Fuller for scoring 100% for the blind lab testing**

Director of Water Wastewater Wayne Johnson recognized 4 of the wastewater employees for their test scores. Matt, Dakota and Laura were not present.

Public Comments (Agenda Item):

Teresa Concannon expressed her concerns on item (F) and (G) of the consent agenda. She stated as being a member of the Planning Commission, she was not aware of the changes the Community Development Department was proposing to Council and also was concerned about the 20 percent administrative variances.

Consideration of a Motion to adopt a "Consent Agenda" for its regular Council Meetings

Mayor Pro Tem Will Britt made a motion, seconded by Councilman Chance to adopt a "Consent Agenda" for its regular Council Meetings. Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carries by a 5-0 vote.

Consideration of a Motion to approve Items on the Consent Agenda

A) Approval of Minutes:

- a) **Nov. 01, 2011 Council Minutes**
- b) **Nov. 01, 2011 Work Session Minutes**

B) Consideration of a Motion to approve Special Event Permit:

- a) **Black Tie Christmas Ball – Larry Scarboro**

C) Consideration of a Motion to approve 2nd reading for the application of alcohol license:

- a) **Heath Charles Robinson (The NYC Pizzeria LLC)**

- D) Consideration of a Motion to approve 1st reading for the application of alcohol license:
 - a) Karen Pittman Brown – French Quarter Sports Bar and Gril
- E) Consideration of a Motion to approve 2nd reading of Ordinance 2011-10: An Ordinance to Amend Business License Insurers of the Statesboro Code of Ordinance Part II Chapter 18- Article II
- F) Consideration of a Motion to approve 2nd reading of Ordinance 2011-11: An Ordinance Amending Article XVI of the Statesboro Zoning Ordinance regarding off street parking requirements.
- G) Consideration of a Motion to approve 2nd reading of Ordinance 2011-12: An Ordinance adopting Article XXIX of the Statesboro Zoning Ordinance regarding administrative variances.
- H) Consideration of a Motion to approve the Christmas bonuses for the City of Statesboro employees in the amount of \$100.
- I) Consideration of a Motion to approve Change Order in the amount of \$3,782.24 for the Great Dane Water and Sewer Extension

Mayor Pro Tem Will Britt made a motion, seconded by Councilman Chance to remove item (G) from the consent agenda for further discussion and approve the remaining items on the consent agenda. Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carries by a 5-0 vote.

- (G) Item Consideration of a Motion to approve 2nd reading of Ordinance 2011-12: An Ordinance adopting Article XXIX of the Statesboro Zoning Ordinance regarding administrative variances.

The Council led the discussion with Director of Community Development Mandi Cody with concerns of how the neighbors would be notified and the impact on them. Mayor Pro Tem Will Britt made a motion, seconded by Councilman Chance to approve 2nd reading of Ordinance 2011-12: An Ordinance adopting Article XXIX of the Statesboro Zoning Ordinance regarding administrative variances. Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carries by a 5-0 vote.

First Reading and Consideration of a Motion to approve Resolution to amend Ordinance 2011-13: An Ordinance amending Chapter 86 of the City of Statesboro's Code of Ordinances titled "Urban Forest Beautification and Conservation Ordinance".

Councilman Riggs made a motion, seconded by Councilman Lewis to approve Resolution to amend Ordinance 2011-13: An Ordinance amending Chapter 86 of the City of Statesboro's Code of Ordinances titled "Urban Forest Beautification and Conservation Ordinance". Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carries by a 5-0 vote.

Consideration of a Motion to approve 1st reading of Ordinance 2011-14: An Ordinance Amending Chapter 6 of the City of Statesboro's Code of Ordinances titled Alcoholic Beverages

Councilman Riggs made a motion, seconded by Councilman Lewis to approve 1st reading of Ordinance 2011-14: An Ordinance Amending Chapter 6 of the City of Statesboro's Code of Ordinances titled Alcoholic Beverages. Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carries by a 5-0 vote.

Consideration of a Motion to Approve Award of Contract to Preferred Site Construction, LLC in the amount of \$78,634.75 to construct new parking lot on E. Vine Street behind the City Utility offices and GSU City Campus. Improvements to be funded by 2007 SPLOST

Mayor Pro Tem Will Britt made a motion, seconded by Councilman Chance to approve award of Contract to Preferred Site Construction, LLC in the amount of \$78,634.75 to construct new parking lot on E. Vine Street behind the City Utility offices and GSU City Campus. The improvements will be funded by 2007 SPLOST. Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carries by a 5-0 vote.

Consideration of a Motion to award the second lowest bidder, Tucker Utilities, Inc. in the amount of \$350,997.14 for the Gateway II Industrial Park (Cannady Tract) water and sewer extension

Jeffrey Wolfe of Southeastern Civil Inc. spoke against the bid award to Tucker Utilities. Mr. Wolfe stated his company was the lowest bidder and should receive the award. Director of Water Wastewater Wayne Johnson stated there were some issues on previous jobs done by Mr. Wolfe concerning his performance and delivery of service. Councilman Chance asked if the language in the contract was common for all bids of this nature and Mayor Pro Tem Will Britt asked if this was a legal bid. With no certainty in answers, Councilman Blitch made a motion, seconded by Councilman Lewis to table this item until the next Council meeting. Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carries by a 5-0 vote.

Consideration of a Motion to approve the Transform Health RX Health Clinic Proposal and Contract

Mayor Pro Tem Will Britt made a motion, seconded by Councilman Lewis to approve the Transform Health RX Health Clinic Proposal and Contract. Councilman Britt, Blitch, Lewis and Chance voted in favor of the motion. The motion carries by a 4-0 vote. Councilman Riggs stepped away from the meeting momentarily.

Consideration of a Motion to amend the service contract to 5 years with Northland Cable for the installation of Fiber Optic Cable

Mayor Pro Tem Will Britt made a motion, seconded by Councilman Riggs to amend the service contract to 5 years with Northland Cable for the installation of Fiber Optic Cable. Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carries by a 5-0 vote.

Other Business from City Council

Director of Community Planning Mandi Cody asked Council to approve a 6 month extension of variances for height and density for Campus Works regarding project at Rucker Lane.

Mayor Pro Tem Will Britt made a motion, seconded by Councilman Chance to approve a 6 month extension of variances for height and density for Campus Works regarding project at Rucker Lane. Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carries by a 5-0 vote.

Director of Community Planning Mandi Cody asked Council to suspend the occupational tax certificate regarding Cosmic Charlie's business.

Councilman Lewis made a motion, seconded by Councilman Riggs to suspend the occupational tax certificate regarding Cosmic Charlie's business. Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carries by a 5-0 vote.

Consideration of a Motion to enter into Executive Session to discuss personnel matters in accordance with O.C.G.A. §50-14-3 (2010)

Councilman Chance made a motion, seconded by Mayor Pro Tem Will Britt to enter into Executive Session at 7:20p.m. with a ten(10) minute break before starting the discussion of personnel matters in accordance with O.C.G.A. § 50-14-3 (2010). Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 5-0 vote. Present were Mayor Joe R. Brannen, Council Members: Will Britt, John Riggs, Tommy Blitch, Gary Lewis and Travis Chance. Also present were City Clerk Sue Starling, Director of Human Resources Jeff Grant.

After the doors were opened back to the public, Councilman Riggs made a motion, seconded by Mayor Pro Tem Will Britt to come out of executive session. Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 5-0 vote. Mayor Joe Brannen called the regular Council session back to order at 7:40 p.m. Mayor Brannen announced no action had been taken in executive session.

Councilman Chance made a motion, seconded by Mayor Pro Tem Will Britt to authorize Director of Human Resources Jeff Grant to negotiate the position of City Attorney. Councilman Britt, Blitch, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 5-0 vote.

Consideration of a Motion to Adjourn

Mayor Pro Tem Will Britt made a motion, seconded by Councilman Chance to adjourn. Councilman Britt, Blich, Riggs, Lewis and Chance voted in favor of the motion. The motion carried by a 5-0 vote. The meeting was adjourned at 9:15 p.m.



**CITY OF STATESBORO
CITY COUNCIL WORK SESSION MINUTES
November 15, 2011**

A work session of the Statesboro City Council was held on November 15, 2011 at 5:00 p.m. in the Council Chambers at City Hall. Present were Mayor Joe R. Brannen, Council Members: Will Britt, Tommy Blitch, John Riggs, Gary Lewis and Travis Chance. Also present were City Manager Frank Parker, City Clerk Sue Starling, City Engineer Robert Cheshire, and Director of Community Development Mandy Cody. Also present were staff members, news media and citizens.

Topics for Discussion:

Discussion of Agenda Items for November 15, 2011 Council Meeting

Mayor, Members of Council, City Manager Frank Parker along with Department Heads discussed the agenda items for the regular Council Meeting that will immediately follow this work session.

Reports from Staff:

- a) City Manager's Report**
- b) Department Head Reports**

City Engineer Robert Cheshire stated the Parks and Streets employees worked on the Susie Inez Williams Park in front of First Baptist Church on North Main St.

Senior Engineer Assistant Jason Boyles updated Council on the history of the boy and girl sculpture in front of First Baptist Church on North Main St.

Director of Community Development Mandi Cody updated Council on the Fletcher Neighborhood Association

Director of Water/Wastewater Wayne Johnson updated Council on the project bids stating he would be providing Council with a list of the projects

Alcohol Changes

City Manager Frank Parker presented Council with a proposal to change Chapter 6 Alcoholic Beverages of the City Ordinance Code

Public Comments (General):

Ray Frye expressed his concerns with the 50/50 ratio for Sunday sales.

The meeting adjourned at 6:05 p.m.
There was no action taken at the meeting.



**CITY OF STATESBORO
CITY COUNCIL PUBLIC HEARING & WORK SESSION
MINUTES
November 29, 2011**

A Public Hearing and work session of the Statesboro City Council was held on November 29, 2011 at 5:00 p.m. in the Council Chambers at City Hall. Present were Council Members: Will Britt, Tommy Blitch, John Riggs, Gary Lewis and Travis Chance. Also present were City Manager Frank Parker, City Clerk Sue Starling as well as staff members, news media, citizens and various business owners. Mayor Joe Brannen was absent.

Topics for Discussion

1. Discussion of Changes to the City of Statesboro Code of Ordinance Chapter 6 concerning Alcoholic Beverages.

Mayor Pro Tem Will Britt called the meeting to order. The discussion was led by Mayor Pro Tem Will Britt and City Manager Frank Parker. The changes to the Alcohol Ordinance were discussed at length with all parties contributing their input as to what they would like to see in the Ordinance. The changes to the section on violations-penalties will give Council the ability to be more flexible. The renewal fees will not be increased. Some of the additional topics that were discussed for future changes were open containers on First Friday Downtown, an Alcohol Advisory Board and to have a category for "Bars".

The first change to the Ordinance for first reading has already been approved by Council and will be considered for second reading at the Council Meeting of December 6, 2011. Other changes that were discussed at this meeting may be presented as early as January 2012.

The meeting was adjourned at 7:15 p.m.

There was no action taken at the meeting.

ALCOHOL APPLICATION CHECKLIST

Business Name: Sugar Magnolia Bakery & Cafe

1. ☒ Zoning/Planning
2. ☒ Fire Inspection
3. ☒ Background Check (Police Department)
4. ☒ Food Service Permit (Health Department)
5. NA Food Sales Permit (Department of Agriculture)
6. ☐ State License - Alcohol (Issued after City Approves & Issues City License)
7. ☒ Affidavit
8. ☒ Copy of Identification
9. ☒ Affidavit of Publication (Alcohol License Only)
(Advertised during the 1st and 2nd readings)

☒ **No Issues With Any Departments**

11-1-11 First Reading

12-6-11 Second Reading

 Date Approved/Denied By Mayor and City Council



Teresa Skinner – Tax Clerk

CITY OF STATESBORO, GEORGIA

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

DATE OF APPLICATION 10-5-11 NEW ☒ RENEWAL ☐

TYPE OF BUSINESS TO BE OPERATED:

<input type="checkbox"/>	RETAIL BEER & WINE PACKAGED ONLY	\$1,250.00
<input checked="" type="checkbox"/>	RETAIL BEER & WINE BY THE DRINK	\$1,250.00
<input type="checkbox"/>	BEER, WINE & LIQUOR BY DRINK	\$3,750.00
<input type="checkbox"/>	WHOLESALE LICENSE	\$1,000.00
<input type="checkbox"/>	APPLICATION FEE - PACKAGED SALES	\$ 150.00
<input checked="" type="checkbox"/>	APPLICATION FEE - POURING SALES	\$ 150.00

APPLICANTS FULL NAME Sugar Magnolia Bakery & Cafe / Steven Jones

OWNERS NAME Steven Jones

DBA (BUSINESS NAME) Statesboro Bakery, Inc.

BUSINESS ADDRESS 106 C Savannah Ave. Statesboro 30458

BUSINESS MAILING ADDRESS 106 C Savannah Ave Statesboro 30458

BUSINESS TELEPHONE # 912-764-2090

APPLICANTS HOME ADDRESS

APPLICANTS HOME PHONE #

APPLICANTS AGE 59 DATE OF BIRTH

ARE YOU A CITIZEN OF THE UNITED STATES? ☒ YES ☐ NO

HAVE YOU EVER BEEN ARRESTED FOR ANYTHING? ☐ YES ☒ NO

IS THE APPLICANT THE OWNER OF THE BUSINESS? ☒ YES ☐ NO

IF NO, WHAT IS YOUR TITLE IN THE BUSINESS? _____

HOW MANY PARTNERS, SHAREHOLDERS, ETC. ARE INVOLVED IN THE BUSINESS 3

PLEASE LIST BELOW:

Barry Turner, Marilyn Turner, Steven Jones

FOR OFFICE USE ONLY: APPROVED DENIED (REASON ATTACHED)

Police Department _____

Community Development _____

Fire Department _____

Building Official _____



City of Statesboro
Department of Community Development Memorandum

50 East Main Street

P.O. Box 348

» (912) 764-0630

Statesboro, Georgia 30458

Statesboro, Georgia 30459

» (912) 764-0664 (Fax)

DATE: October 26, 2011

TO: Teresa Skinner, Tax Clerk

SUBJECT: BUSINESS OCCUPATION TAX APPLICATION (106 C Savannah Ave: Sugar Magnolia – Application for Alcoholic Beverage License.)

The Department of Community Development has reviewed the Application for an Alcoholic Beverage License submitted by Sugar Magnolia for 8106 C Savannah Ave. The applicant is proposing a "retail beer and wine by the drink" use at this location. The proposed use is permitted at the location and the application may be APPROVED. Staff's recommendation is based on the following:

Alcoholic Beverages: the Department of Community Development has reviewed the subject property for consistency with the proximity restrictions of Chapter 6, Article III of *Statesboro Municipal Code*. The proposed location does conform to the proximity restrictions of said provisions and is eligible to be considered for licensing for the sale of alcoholic beverages. Community Development review does not serve as an approval or denial to serve alcoholic beverages at this location; but, is a recommendation to the City Clerk's office to proceed with the processing of an Application for Alcoholic Beverage License in accordance with the applicable provisions of Chapter 6 (Alcoholic Beverages) of *Statesboro Municipal Code*.

Department of Community Development approval is based on the information provided within the business occupational tax application submitted for our review. This approval merely indicates that the proposed use is allowed in the zoning district. This approval does not confer rights to open or operate the proposed business until all dimensional requirements of the *Statesboro Zoning Ordinance*, or applicable requirements of any other chapter of City Code have been met.

The Department of Community Development encourages all applicants to access the *Statesboro Zoning Ordinance* online at <http://www.sboro.net/>. A copy of the ordinance may also be obtained through the Community Development office at City Hall for a fee of \$10 - \$20. Any questions concerning the *Statesboro Zoning Ordinance* may be directed to the Department of Community Development at (912) 764-0630. The applicant is also encouraged to consult directly with representatives of the Engineering, Fire, Community Development and other permitting departments if any work on the building or site is occurring to determine whether or not building or site plans associated with the proposed use are necessary.

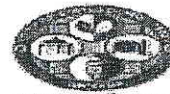
Respectfully,

Martin Laws,
City Planner



Statesboro Fire Department

Sealed, Preserved by the City of Statesboro and
Surrounding Communities since 1868



Wendell T. Hunter
Director of Public Safety

Print Date: 10/10/2011

INSPECTION SUMMARY REPORT

Page 1 of 1

Name: Sugar Magnolia Bakery	
106-C Savannah AVE, STATESBORO	
Date: 10/10/2011	Contact: Steven Jones Business Owner
Inspector Name: Fire Inspector Dallas K McPhee	Date notice sent: 10/10/2011
Type of Inspection: Complete	
Property Notes: Business Owner Steven Jones E-Mail Address: jones.baker@gmail.com	
Fire Code Reference	Discrepancy / Remarks Date Resolved
N/A	All Violations Corrected All previous violations have been corrected on the annual Fire Inspection.

Inspector Signature

Dallas McPhee

Site Signature

Steven Jones



Scott P. Brunson
Police Major

Statesboro Police Department

25 West Grady Street
Statesboro, Georgia 30458
Phone: (912) 764-9911 / Fax: (912) 489-5050



Wendell Turner
Public Safety Director

October 26, 2011

Sue Starling, City Clerk
City of Statesboro

Via Hand-Delivery

REF: Licensing

BUSINESS: Sugar Magnolia Bakery & Café, 106C Savannah Ave., Statesboro
APPLICANT: Steven Jones, 206 College Blvd., Statesboro

The responses received from the fingerprints submitted show no state or federal record on file for Mr. Jones.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Major Scott P. Brunson", followed by a horizontal line.

Major Scott P. Brunson

CITY OF STATESBORO, GEORGIA

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE

DATE OF APPLICATION 10/31/11 NEW RENEWAL

TYPE OF BUSINESS TO BE OPERATED:

 RETAIL BEER & WINE PACKAGED ONLY \$1,250.00
 RETAIL BEER & WINE BY THE DRINK \$1,250.00
✓ BEER, WINE & LIQUOR BY DRINK \$3,750.00
 WHOLESALE LICENSE \$1,000.00
 APPLICATION FEE - PACKAGED SALES \$ 150.00
 APPLICATION FEE - POURING SALES \$ 150.00

APPLICANTS FULL NAME Christian K. Bennett

OWNERS NAME Christian K. Bennett

DBA (BUSINESS NAME) Chops Statesboro, LLC

BUSINESS ADDRESS 30 West Main St.

BUSINESS MAILING ADDRESS P O Box 508, Statesboro, GA 30459

BUSINESS TELEPHONE # 912-764-7119

APPLICANTS HOME ADDRESS

APPLICANTS HOME PHONE #

APPLICANTS AGE 43 DATE OF BIRTH

ARE YOU A CITIZEN OF THE UNITED STATES? ✓ YES NO

HAVE YOU EVER BEEN ARRESTED FOR ANYTHING? YES ✓ NO

IS THE APPLICANT THE OWNER OF THE BUSINESS? ✓ YES NO

IF NO, WHAT IS YOUR TITLE IN THE BUSINESS?

HOW MANY PARTNERS, SHAREHOLDERS, ETC. ARE INVOLVED IN THE BUSINESS 1

PLEASE LIST BELOW: Christian Bennett

FOR OFFICE USE ONLY: APPROVED DENIED (REASON ATTACHED)

Police Department

Community Development

Fire Department

Building Official

Ordinance #2011-13

A RESOLUTION TO AMEND CHAPTER 86, URBAN FOREST BEAUTIFICATION AND CONSERVATION, OF THE CODE ORDINANCES, WITHIN THE CITY OF STATESBORO, GEORGIA.

WITNESSETH

WHEAREAS, the City has previously adopted an ordinance regulating urban forest beautification and conservation; and

WHEAREAS, the Mayor and City Council has determined there is sufficient reason and need to amend Chapter 86 (Urban Forest Beautification and Conservation) of the Code of Ordinances, City of Statesboro, Georgia:

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Statesboro, Georgia in regular session assembled as follows:

That Chapter 86 (Urban Forest Beautification and Conservation) of the Code of Ordinances, City of Statesboro, Georgia is hereby amended by replacing it in full.

APPROVED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF STATESBORO at a regular meeting of the Mayor and Council on ____ day _____, 2011.

CITY OF STATESBORO, GEORGIA:

Joe Brannen, Mayor

ATTEST:

Sue Starling, City Clerk

DIVISION 1. GENERALLY

Sec. 86-26. Title.

This article shall be known as the "Urban Forest Beautification and Conservation Ordinance of the City of Statesboro, Georgia."
(Ord. of 12-19-95, § I)

Sec. 86-27. Jurisdiction.

The provisions of this article shall apply to all lands within the city.
(Ord. of 12-19-95, § II)

Sec. 86-28. Purpose.

The purpose of this article is to:

- Protect the aesthetic quality provided by the natural tree cover on tracts of land being converted to urban development.
- Protect and enhance the aesthetic quality provided by street and park trees.
- Prevent soil erosion.
- Prevent reductions in the drainage holding capacity of land.
- Prevent increases and promote reductions in air pollution and carbon dioxide levels in the air.
- Consistent with the expressed purpose of this article, all persons shall **make** reasonable efforts to preserve and retain certain existing, self-supporting trees as defined **herein**. It is also the intent of this article that all applicable sites within the city maintain or obtain a 35% **minimum** tree canopy, as defined and explained herein.

A. Minimum Canopy Requirements

- 1) A basic condition of the Urban Forest Beautification and Conservation Ordinance of the City of Statesboro is that all applicable sites maintain a minimum tree *canopy of 35%*. Applicable sites except those exempted under Sec. 86-29 of this ordinance, for this section, include but are not limited to:
 - a) Parks and public grounds;
 - b) Any activity requiring issuance of a land disturbance permit is carried out;
 - c) Commercial development;

The *canopy* requirement must be met whether or not a site had trees prior to development or disturbance of the applicable site. The *canopy* may be achieved by preserving existing trees, by planting new trees according to the minimum standards in this Ordinance or by a combination of the two. Minimum tree *canopy* shall be calculated and established pursuant to the formula and analysis set forth in Appendix 1 to this Ordinance. Any existing tree (acceptable species) of four (4) inches or greater DBH left in good growing condition on the property is eligible to be counted toward the **minimum** required *canopy*. If a preserved tree is counted towards the required tree canopy it must be properly protected. The property owner shall be subject to the minimum tree *canopy* requirement set forth in this section. The property owner shall base the *canopy* calculation on the gross site area.

- 2) Trees replanted to achieve *canopy* requirements are to be selected species from the City of Statesboro, Tree Species Selection List set forth in Appendix 6 (*which will list values of canopy coverage in square feet for various groups of trees and minimum area for planting*), on file with the City. In addition, replanting shall be at the ratio of not less than one (1) overstory tree for every three (3) understory trees. *Canopy* credit may be met by planting all overstory trees, but not by planting only understory trees. All replacement trees will be maintained properly to ensure their survivability.

B. Canopy Recovery Plan

- 1) Development plans shall include a canopy recovery plan for replacement of trees and vegetation approved for removal. A canopy recovery plan shall include the following:
 - a) Areas to be cleared and areas preserved;
 - b) The number of trees required for replacement, to achieve **35% canopy coverage**.
- 2) In order to promote diversity, no more than twenty five (25%) percent of the replacement trees shall be of the same species;
- 3) Where the City Representative determines that a site cannot sustainably support the required replacement, due to the size and shape and/or structures and/or other viable site constraints, a fee shall be paid to the City of Statesboro Tree Bank. This fee shall be the actual and verified cost of the required tree replacement and shall be submitted prior to the issuance of a Certificate of Occupancy; and
- 4) If a property owner has preserved extensive overstory trees and clusters of native trees and vegetation, in such a manner as to provide extensive shading within the built environment, value shall be 100% of the drip line area of groupings, excluding wetlands. An exhibit depicting the aforementioned shall be submitted that calculates the canopy spread based on DBH and species of a tree.

C. Alternative Compliance to Canopy Density Requirement

- 1) One of the intentions of this Ordinance is to ensure that a minimum canopy density of trees is maintained on all applicable sites, as defined in this ordinance. If this intent cannot be met because a site will not bear the required density of trees (determined by the City's Representative and confirmed by the City's Tree Board), contributing to the City of Statesboro Tree Bank may be an acceptable method of compliance.
- 2) The following standards have been established for administering these alternative compliance methods. The City representative must review and approve all requests for alternative compliance. In no instance shall more than 60% of the required site canopy be met through alternative compliance. The site in question must be planted with as many trees as can reasonably be expected to survive.
- 3) No development approval (as defined by this ordinance), land disturbance permit, or building permit shall be issued until the City representative has approved the request and received the necessary documentation and/or funds for the alternative compliance method.
- 4) As a method of alternative compliance, the City of Statesboro will accept donations to the City of Statesboro Tree Bank. These donations will be used for the sole purpose of planting trees on public property within the City of Statesboro. For calculating contributions to the City of Statesboro Tree Bank, see Appendix 2 of this Ordinance.
- 5) The City of Statesboro Tree Bank will be administered by the *designated City representative*. An annual report shall be submitted to the City of Statesboro City Manager showing amounts collected, amounts spent, and the type and location of trees planted.

(Ord. of 12-6-11)

Sec. 86-29. Exemptions.

The following activities and properties are exempt from the regulations in **this** Chapter and no tree removal permit is required in the following instances:

- A. The removal of dead, diseased, or damaged trees.
- B. The removal of trees necessary for the construction, operation and **maintenance** of drainage facilities and sanitary and storm sewers as approved by the City.
- C. The removal of trees for construction of public streets and improvements as approved by the City.
- D. The removal of trees in time of emergency, but not limited to: **tornadoes**, windstorms, floods, freezes, or other natural disasters or which pose potential danger to life or property.
- E. Utilities in connection with overhead service, distribution, **transmission** lines, underground service, and distribution lines are exempt from the requirements of this section with **the** following exceptions:
 - 1) Pruning or trimming a tree inconsistent with current ANSI 300A-**2001**, as amended, is prohibited.
 - 2) Removal of trees twelve (12) inches DBH and larger within **corridors** and/or easements shall require notification, prior to removal, by telephone to the City Engineer or **his/her** designee and notification to the property owner and/or occupant at least three (3) business **days** prior to removal.
 - 3) The removal of exceptional trees or heritage trees.
 - 4) Utility lines, which are tunneled beneath tree roots in order to **protect** feeder roots, are permitted. Elsewhere trenching is allowed no closer to a tree's trunk than **of** the dripline radius. However, protective measures shall be taken as specified in the, Best Management Practices Manual which protective measures for feeder roots are incorporated herein by **reference**.
- F. Construction (including clearing of the lot) of a detached, semi-detached or attached single-family or two family (duplex) residential structure where such structure is the **principal** use on an individual lot, except that exceptional trees on such lots will not be exempt.
- G. Single Family Residential Subdivisions.
- H. Any land recognized by the City upon which bona fide agricultural or **commercial** nursery or tree farm uses are being conducted.

(Ord. of 12-6-11)

Sec. 86-30. Definitions.

For the purpose of this article, certain words or terms used in this article, shall **be** defined as follows. Words not defined in this section shall be interpreted so as to give them the meaning **they** have in common usage and to give the regulations set out in this article their most reasonable application. **Words** used in the singular shall include the plural, and the plural shall include the singular. Words used in **the** present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "**may**" is permissive. The phrase "used for" shall encompass the phrases "arranged for," "designed for," "intended for" and "occupied for."

Acceptable species means a species determined by the tree board to be of **acceptable** quality and with acceptable characteristics when planted on the appropriate site as a street, park, or lawn **tree** in the city. The board shall develop and maintain a list of acceptable species, and such list shall be **approved** by the City Council and kept on file and available to the public in the office of the City Engineering Department.

American National Standards Institute A300 (ANSI A300) are the industry **consensus** standards for pruning trees, which is incorporated herein by reference.

Best Management Practices Manual is the documentation of the standards and specifications based on generally accepted practices developed by the City of Statesboro Tree Board for sound arboricultural practices, techniques and procedures which shall serve as guidelines for trees regulated by this Section 86, including but not limited to tree selection, planting, pruning, alteration, treatment, protection, and removal as approved by City Council, and available through City Engineering Department.

Building means any structure having a roof supported by columns or walls that encloses a space and is intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature, or as may be further defined in the building code of the City.

Caliper means the diameter or thickness of the main stem of a young tree or sapling as measured at six inches above ground level. This measurement is used for nursery-grown trees having a diameter of four inches or less.

Canopy means the area consisting of a tree's branches in all directions from its trunk, the outer edge which is the Dripline.

Canopy Coverage means aerial extent of the ground within the dripline of the tree.

City Engineer is the qualified designated official of the City of Statesboro, or his or her designee, assigned to carry out the enforcement of this ordinance related to City right-of-way and other City owned property except property in City parks.

Clear-Cutting means the indiscriminate removal of protected trees from a site or tract with a DBH of 6" or greater.

Critical root zone (CRZ) includes all the area within a radius equal to one and one-half feet (1.5') for every one inch diameter of the tree trunk (as measured at breast height). Example: The CRZ radius of a 20 inch diameter tree is thirty feet Appendix 3. The radius is measured outward from the root flare at ground level. NOTE: This is not the same as dripline.

Dead or Beyond Recovery shall mean more than 50% of the tree is dead, is a hazardous tree as defined herein, or in a state of irrecoverable decline.

Developer means the legal or beneficial owner or owners of a lot or of any land included in a proposed development. Also, the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.

Development means a planning or construction project involving substantial property improvement and, usually, a change of land-use character within the site; the act of using land for building or extractive purposes.

Diameter at breast height (DBH) means the diameter or width of the main stem of a tree in inches as measured 4.5 feet above the natural grade at the base of a tree. Whenever a branch, limb, defect or abnormal swelling of the trunk occurs at this height, the diameter at breast height shall be measured at the nearest point above or below 4.5 feet at which a normal diameter occurs.

Directional Pruning or target pruning, involves removing only those limbs that will come in contact with energized conductors. This reduces the number of times the tree must be pruned and directs growth away from the power lines, thus allowing the tree to achieve its natural height and shape.

Dripline Radius shall mean a radius equal to the horizontal distance from the trunk of the tree to the end of the longest branch.

Exceptional tree means any tree determined by the tree board and recommended to and approved by the Mayor and City Council as provided for in this article, to be of notable historic interest, of high aesthetic value, or of unique character because of species, type, age or size (80% of state champion size).

Greenspace means any area retained as permeable unpaved ground and dedicated to supporting vegetation.

Greenspace plan means a map and supporting documentation which describes, for a particular site, where vegetation (greenspace) is to be preserved or planted in compliance with this article. The greenspace plan includes the tree establishment plan, the tree protection plan and the irrigation plan.

Heritage trees are defined as large, native trees with special characteristics such as historical significance.

Irrigation plan means a map and supporting documentation which describes, for a particular site, the locations of permanent water sources and/or irrigation lines.

Large tree means a tree that is expected to attain a height of 50 feet or greater at maturity under ideal growing conditions.

Master Street Tree Plan means a plan outlining the urban tree management policies and plans for public trees in the areas of tree selection and planting, tree removal, tree pruning, tree maintenance, and tree protection, administered by the City's Streets and Parks Divisions.

Medium tree means a tree that is expected to attain a height of greater than 25 feet and less than 50 feet at maturity under ideal growing conditions.

Minimum canopy requirement is the minimum percentage (35%) of tree canopy required to be preserved or planted on any tract of land being developed.

Out parcel means a parcel of land within the total acreage acquired. Such parcel is set aside and undisturbed, yet has potential for future development. Left as such, it is not counted as part of current development.

Over story tree means those trees that compose the top layer or canopy of vegetation and will generally reach a mature height of forty (40) feet or more.

Planted tree means a tree that is to be planted on a site during or after development and that will be protected after planting.

Preserved tree means an existing tree on a site that is to be preserved and protected during construction.

Preferred species means a species determined by the tree board to be of excellent quality and with highly desirable characteristics, as approved by the City Council. The Tree Board shall develop and maintain a list of preferred species, and such list shall be approved by the City Council and kept on file and available to the public in the office of the City Engineering Department. The list shall further contain a list of tree quality ratings of individual species which shall be referred to in the construction and operation of this article.

Protective fencing means a physical and visual barrier installed around the critical root zone of a tree to prevent damage to the tree and its root system. At a minimum this would include three to four foot tall orange safety fencing

Recommended species means a species determined by the tree board to be of very good quality and with desirable characteristics. The Tree Board shall develop and maintain a list of recommended species, and such list shall be approved by the city council and kept on file and available to the public in the office of the City Engineering Department. The list shall further contain a list of tree quality ratings of individual species which shall be referred to in the construction and operation of this article Appendix 6.

Required buffer means any of the following three alternative types of buffers:

- 1) Natural buffer strip: A strip at least 50 feet wide, having an existing natural growth equivalent to a densely planted evergreen screen.
- 2) Landscape buffer strip: A strip at least ten feet wide, densely planted with shrubs and/or trees at least three feet high at the time of planting, of a type that will possess growth characteristics of such a nature as to produce a dense, compact evergreen planting screen capable of growing to a height of at least six feet within three years.
- 3) Landscape buffer wall: A buffer-strip at least ten feet wide, containing an opaque wall or barrier or uniformly painted fence at least six feet in height. Buffer strip shall have five feet of landscape plantings on the exterior side of the wall and shall be planted with appropriate trees, shrubs, and groundcover as to provide a transition from the wall to both edges of the buffer strip.

Sight triangle is an area on either side of street intersections, street corners or vehicular access points which allows for sufficient sight distance to allow drivers approaching simultaneously to see each other in time to prevent a traffic accident. The size of the sight triangle is governed by space, time and traffic volume of the subject intersection. All sight distance requirements will be established by City Engineering Department.

Small tree means a tree that is expected to attain a height of 25 feet or less at maturity under ideal growing conditions.

Spread means the crown diameter measured by taking the average of the widest branch Spread and the branch Spread perpendicular to it.

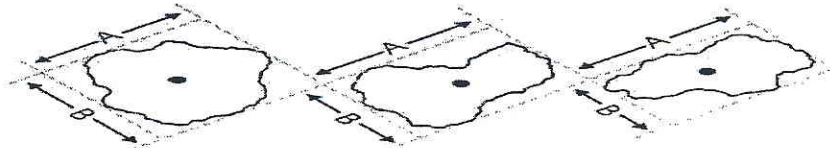


Fig. 1 Add A and B together and divide by 2 to get the Spread.

Tree board means a legally constituted body of nine individuals, appointed by the mayor, and adopted by the City Council, whose responsibility is to advise the Mayor, City Council, and City Manager in all tree-related matters.

Tree density means the spread of tree canopy on a square footage area of greenspace.

Tree establishment plan means a map and supporting documentation which describes, for a particular site, the species and locations of trees to be planted in compliance with the requirements of this article.

Tree establishment zone means the area essential to a tree's health and survival, including both above ground and below ground space, surrounding a planted tree which is protected within the guidelines of this article.

Tree manager or Streets and Parks Superintendent is a person with special knowledge of the cultural requirements, identification and characteristics of trees.

Tree Plan Designer for the purposes of this article means, an architect, engineer, surveyor or landscape architect who prepares a planting plan for a development project.

Tree protection plan means a map and supporting documentation which describes, for a particular site, where existing trees are to be preserved in compliance with the requirements of this article and the species of trees.

Tree protection zone (TPZ) means the area essential to a tree's health and survival, including both above ground and below ground space, surrounding a preserved or planted tree which is protected within the guidelines of this article (further defined in the Best Management Practices Manual).

Tree quality rating means, for a planted tree, a square footage area that is assigned to each category of mature tree size and tree quality (unacceptable, acceptable, recommended, and preferred).

Tree species list means a list of tree species prepared by the City arborist/tree manager, University of Georgia Extension Service, and Georgia Forestry Commission in which tree species are categorized by size and recommendation. The list is made a part of this article by reference and incorporated herein. The list may be revised by the Tree Board and the Engineering Department upon submission to and approval by the City Council. The list is a part of the Best Management Protection Manual attached hereto [by reference].

Unacceptable species means a species determined by the Tree Board to be of poor quality and with undesirable characteristics. The Tree Board shall develop and maintain a list of unacceptable species, and such list shall be approved by the city council and kept on file and available to the public in the office of the City Engineering Department Appendix 7. Canopy area requirement credit not received for unacceptable species.

Underbrushing means the removal of woody brush and other vegetation at the groundline, as in mowing.

Understory tree means those trees that grow beneath the overstory, and will generally reach a mature height of under forty (40) feet.

Vegetative practices means measures to stabilize erodible or sediment-producing areas by covering the soil with plantings such as:

- 1) Permanent seeding, sprigging or planting producing a long-term vegetative cover;
- 2) Short-term seeding, producing temporary vegetative cover; or
- 3) Sodding areas with a turf of perennial sod-forming grass.

(Ord. of 12-19-95, § V; Ord. of 9-6-00; Ord. of 12-6-11)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 86-31. Permit required for clearing.

Except as provided in this article, no person, partnership, corporation, or business entity shall clear land (as defined in Sec. 86-101) or permit the clearing of land without first obtaining a land disturbance activities permit as provided for in Division 4 of this article.

(Ord. of 12-19-95, § VI)

Sec. 86-32. Best Management Practices Manual.

- A. The Best Management Practices Manual., which provides detailed information and standards in reference to the provisions of this article, hereby adopted by reference and made a part of this article as adopted by Mayor and City Council.
 - B. All land clearing and required greenspace shall be provided in a manner consistent with the provisions contained in this article and the Best Management Practices Manual.
- (Ord. of 12-6-11)

Sec. 86-33. Other jurisdictions.

Tree Maintenance within Right-of-Way

It shall be the duty of all owners of property encumbered or crossed by City rights-of-way, to keep tree limbs from their property from protruding into the City rights-of-way so that motor vehicle and pedestrian traffic are not obstructed at intersections, points of ingress and egress, and/or sidewalks on the public rights-of-way. Where proper trimming is not maintained, the City may, after notifying the property owner responsible for the trimming, enter upon that property and perform the work necessary to comply with code. Upon performing such work, the City will charge the property owner for the actual cost and administrative costs. Property owners are also responsible for trimming overhanging limbs within any City rights-of-way to a minimum height of eight feet (8') over sidewalks and for a minimum height of fourteen feet (14') above any public roadway.

- a) Maintenance shall be done under the direction and with the approval of the City Streets and Parks Superintendent. Protected trees of any size on private or public property shall not be cut by topping.
- b) Trees of all sizes shall be pruned as needed to maintain health and safety. Pruning shall retain the natural form of that tree species. All tree pruning shall be conducted according to the latest edition of the National Arborists Association (NAA) standards, the International Society of Arboriculture (ISA) standards, and the American National Standards Institute (ANSI) A-300 that are hereby incorporated by this reference. Trees deemed to be pruned beyond recovery as defined in Sec. 86-30 shall be replaced as per applicable sections of this Division.

(Ord. of 12-6-11)

Sec. 86-34. Unlawful activity – Tree Removal Permits

It shall be unlawful for any person or contractor to directly or indirectly, cut down, destroy, improperly prune, remove, top or move any protected or replacement trees, or to authorize the cutting down, destroying, removing, topping, moving, or damaging of any protected or replacement trees on City Property, except those persons who are employees of the City or are appointed or designated by the Mayor and/or City Council, without first obtaining approval from the City Engineering Department, or exemption, as provided in this ordinance. Historic trees may not be removed unless deemed dead, beyond recovery or dangerous by the City Streets and Parks Superintendent.

The City Engineering Department or designee shall have the authority to stop work at a site if unauthorized tree work is occurring. Once a Stop Work order is issued, work shall not commence until the necessary permits have been issued and any applicable fine has been paid. Violations for this section shall be subject to Sec. 86-36 of this ordinance.

Notwithstanding the above stated requirements, protected trees that are shown to be preserved and are a part of an approved site plan or landscape plan for existing or new development, or are shown to be preserved as part of the approval of conditional uses by the City Engineering Department and Tree Board or other development orders or review process requirements are included as protected trees and cannot be removed without first

obtaining proper approval. Approval must be given by the City Engineering Department or Tree Board, whichever is applicable.

Furthermore any protected trees approved for removal by the City Engineering Department shall not subsequently need approval from the Tree Board.

(Ord. of 12-6-11)

Sec. 86-35. Enforcement.

The City Engineer shall be charged with the enforcement of this article and is hereby authorized to do all acts necessary to ensure compliance with the terms and conditions of this article, including but not limited to the issuance of citations for violation of this article.

(Ord. of 12-19-95, § XIV; Ord. of 9-6-00)

Sec. 86-36. Violation penalty.

Each violation of the provisions of this article shall be punishable by a fine not to exceed \$1,000.00 per violation. The removal or destruction of each tree covered by the terms and conditions of this article shall constitute a separate offense under this article.

(Ord. of 12-19-95, § XV)

Sec. 86-37. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. of 12-19-95, § XVI)

Sec. 86-38. Trees on existing developed properties.

No more than 65% of the tree canopy shall be cut from an existing developed property, except for single-family dwellings, without the consent of the City Engineer or the Tree Board.

Sec. 86-39. Nonliability of City

The contents of this Ordinance shall not in any way be deemed to impose any liability upon the City or upon any of its officers or employees, nor shall it relieve the owner and/or occupant of any private property from duty to keep trees upon private property or under his/her control in a safe condition as not to affect the health, safety and general welfare of the public and to follow all provisions of the ordinance.

(Ord. of 12-6-11)

Secs. 86-40--86-60. Reserved.

DIVISION 2. PRINCIPLES AND STANDARDS FOR GREENSPACES, TREE PROTECTION, TREE ESTABLISHMENT AND LANDSCAPING

Sec. 86-61. Applicability and plans required.

Except as herein provided, there shall be provided for each new development a greenspace plan. Such plan shall incorporate a tree protection plan and a tree establishment plan as part of the greenspace plan or as a separate document. Such tree protection plan and tree establishment plan shall conform to the standards and requirements set out in this article.

(Ord. of 12-19-95, § VII)

Sec. 86-62. Greenspace design principles and standards.

The following principles and standards shall apply to the greenspace on a site to be developed.

- A. *Greenspace.* A minimum of 15% of the total area of any development, including all buildable areas, shall be devoted to greenspace; i.e., for every one acre in the total area of the development fifteen-hundredths acre (6,534SF) shall be reserved as greenspace.
 - 1) The 15% minimum greenspace requirement is calculated from the total area of the development.
 - 2) Required buffers: Existing trees in required buffer zones can be counted in the total calculations of tree canopy required for the development.
 - 3) Out parcel development is subject to all requirements contained in this article and shall not be permitted without prior approval.
- B. *Tree density.* Each greenspace shall have a tree canopy density of at least 15,246 square feet of canopy for every 43,560 square feet of greenspace (35%).
- C. *Canopy area requirement.* The total canopy area requirement (CARs) required may consist of a combination of canopy area for preserved trees and planted trees.
- D. *Paved surfaces.* If the total of all paved surface areas in the development is 10,000 square feet or greater, then a minimum of 15% of the paved surface area must be in greenspace.
 - 1) The greenspace within paved surface areas must be distributed in islands or peninsulas within and throughout the paved surface areas. Tree islands and peninsulas shall be placed no more than 10 consecutive parking spaces apart.
 - 2) This paved area must have a tree density of at least 50% tree canopy.
 - 3) The canopy area requirements within the paved surface areas shall count towards the canopy area requirements for the total area of the development.
- E. *Trees in poor condition.* Trees in poor condition are not eligible for canopy area requirements. A tree shall be determined to be in poor condition upon evaluation by the Tree Board and/or the City Engineering Department using guidelines set forth in the Best Management Practices Manual resource material, which is incorporated in this article and which is available in the office of the City Engineering Department and City tree manager.
- F. *Canopy area requirement for preserved trees.* The *canopy area requirement* for a preserved tree is calculated by measuring canopy coverage of all trees saved. Preserved trees may only count for up to 60% of minimum canopy area requirement. Unacceptable species or trees (acceptable species) less than four (4) inches will not be assigned canopy coverage area.
- G. *Canopy area requirement for planted trees.* The *canopy area requirements* for a planted tree are assigned based upon mature tree size. Refer to Table No. 1, for the canopy area requirement assigned to each category of planted tree, and to the land clearing and tree protection manual for further information. No one species shall make up over 25% of the total number of trees planted.

Table No. 1

Mature Size	Canopy area in square feet
Small Canopy Trees (Less than 25')	250
Medium Canopy Trees (30'--50')	550
Large Canopy Trees (50' and larger)	1500

- H. *Unacceptable species.* Unacceptable species as listed in the tree species guidelines incorporated in this article will not be assigned *canopy area requirement*. Reference shall be made to the tree species list Appendix 7.
- I. *Minimum caliper.* The minimum caliper (measured at six inches above the ground) for planted trees is two (2) inches. Multi-stemmed trees must have three to four stems and be six to eight feet tall. Refer to the tree species list located in the manual for information on the mature size of a specific species.
- J. *Protection of preserved or planted trees.* All preserved and/or planted trees shall be protected from land disturbance resulting from any building or facility construction.
- K. *Maintenance of minimum tree canopy requirements.* The required minimum tree canopy requirements must be maintained on the site as living trees for the life of the development.
(Ord. of 12-19-95, § VII; Ord. of 9-6-00; Ord. of 12-6-11)

Sec. 86-63. Tree protection and tree establishment

- A. *Protection of preserved trees.* Tree protection zones shall be established and maintained for all preserved trees. The following provisions apply to such zones and trees within them.
- 1) A tree protection plan shall accompany all applications identifying how existing trees within tree protection zones are to be protected during clearing and construction of the project. Such plan shall be approved by the City Engineering Department when it is determined that the plan adequately addresses the criteria set forth in the Best Management Practices Manual. The tree protection plan may be either a separate plan or included as part of the greenspace plan. This plan will be reviewed by the City Engineer or his designee. For projects four acres or more, this plan shall be developed by either a landscape architect, certified arborist or a horticulturist.
 - 2) Standards for Protected Tree preservation in preparation of building plans and during development, demolition, and construction
 - a) Before plans are submitted for permit, the City Engineering Department or designee is to be consulted before any permanent structure or impervious paving is constructed within the tree protection area.
 - i. A tree protection barrier plan shall be provided illustrating how trees located on or adjacent to the subject property will be protected from any adverse effects of proposed construction or grade changes. The plan must include the tree protection barrier that will be installed.
 - ii. If a major root of any protected tree affected by a grade change visibly extends beyond its drip line, then City Engineering Department or designee may require additional root protection.
 - iii. Prior to demolition and/or construction, a tree protection barrier shall be placed and maintained as necessary to prevent damaging protected trees on, or adjacent to the subject property. Shield Critical Tree Protection Zone: Active protective barriers shall be installed along the outer edge of and completely surrounding the critical tree protection zones of all specimen trees or stands of trees, and otherwise designated tree save areas, prior to any land

disturbances. The tree save areas shall include no less than the total area beneath the tree(s) canopy as defined by the farthest canopy dripline of the tree(s). Refer to Appendix 3 – Critical Root Zone.

- iv. Tree protection barriers are to be placed at or beyond the tree's drip line whenever possible. At no time shall the tree protection barrier(s) be closer than (10) ten feet from a trunk unless existing or proposed structures are within that range. Refer to Appendix 4 – Tree Protection.
- 3) No vehicles shall be parked, construction material stored or substances poured or disposed of or placed, within any tree protection zone at any time during clearing or construction of the project.
- 4) No application of an herbicide, defoliant, or pre-emergent to any tree without first obtaining a permit.
- 5) Where clearing has been approved, trees shall be removed in a manner that does not physically impact the trees to be preserved. Felling trees into Tree Save Areas shall be treated as a violation and shall be punishable in accordance with this Ordinance.
- 6) No change in grade within the tree protection zone shall be allowed except for a maximum addition of two inches of sandy loamy topsoil covered with sod or mulch.
 - a) Before any grade changes involving the removal of any soil, the property owner or permittee shall:
 - i. Leave the area within the drip-line at its original grade with terraces by use of dry retaining walls at the drip-line that are constructed to allow for drainage and aeration;
 - ii. Cut roots cleanly and re-trim them after excavation;
 - iii. Cover exposed root system and keep moist;
 - iv. Irrigate tree to compensate for root loss.
 - b) Violations of this section will result in a citation of \$350 per protected tree per day.
- 7) Precautions required for excavation and paving around protected trees
 - a) Whenever possible, water, sewer, and other underground utility lines shall be routed around the drip-lines of protected trees.
 - b) If compliance with subsection (a) is impossible, then tunneling or directional boring for the utility shall be routed under the protected tree's root system to prevent damage to major roots. Mechanical trenching is prohibited.
 - c) Suitable pervious pavement may be placed within the drip-line of a protected tree as long as the tree is not damaged by grade change, soil compaction, or any other cause. There is to be no disturbance to the trunk root flair.
 - d) Violations of this section will result in a citation of \$350 per protected tree per day.
- 8) Buffer Trees shall also be protected and included in Tree Save Areas.
- 9) Upon request by the applicant, the use of pervious pavers shall be allowed upon approval by the City Engineering Department if it is determined the following conditions exist:
 - a) The pavers cannot be counted in the total percent of greenspace; and
 - b) If the use shall not restrict the water supply or root system of planted or existing trees.

B. *Protection of planted trees.* Tree establishment zones shall be established by the developer and maintained for all planted trees by the landowner, leaseholder and/or developer. The following provisions apply to such zones and trees within them.

- 1) Any planted tree must have a minimum tree establishment zone based upon its mature size (see tree species list for mature size). The minimum size tree establishment zone centered upon the planted tree shall be as specified below and detailed further in the Best Management Practices Manual:
 - a) Small trees – 100 square feet.
 - b) Medium trees – 200 square feet.
 - c) Large trees – more than 400 square feet.

- 2) Tree planting shall follow current horticultural planting practices as detailed in Appendix 5 and Best Management Practices Manual.
- 3) A tree establishment plan identifying the location of all planted trees shall be provided. The tree establishment plan may be either a separate plan or included as part of the greenspace plan. For projects four acres or more, this plan shall be developed by either a landscape architect, certified arborist or a member of the tree board. This plan will be reviewed by the tree board, City arborist/tree manager or a consulting urban forester/arborist hired by the City.
- 4) To minimize traffic hazards at street intersections and avoid conflicts with city infrastructure all tree plantings must follow listed guidelines Table No. 2:

Table No. 2

Mature Size	Large 50' – 70'	Medium 30' – 40'	Small 15' – 20'	Evergreen 40' – 50'
Minimum Width of Tree Space	8' +	8'	4'	8' +
Spacing between trees	50'	40'	20'	30'
Overhead utilities	DO NOT PLANT	DO NOT PLANT	APPROVAL REQUIRED	DO NOT PLANT
Intersections	40'	40'	40'	40'
Stop signs, traffic signs, street lights, traffic signals	30'	30'	30'	30'
Fire hydrant, gas or water valves	10'	10'	10'	10'
Underground utilities	10'	10'	10'	10'

- 5) No tree is to be planted in any area between a sidewalk and curb that is less than three feet (3) wide.
- 6) The area within the tree establishment zone must remain open and unpaved. The use of pervious pavers may be allowed subject to approval of the City Engineering Department.
- 7) No vehicles shall be parked, or construction material stored, or substances poured, or disposed of or placed within any tree establishment zone at any time during clearing or construction of the project, prior to establishment.

C. *Irrigation requirements.* Except as provided for in this article, irrigation or a permanent water source shall be provided for all trees, planted, including medians and boulevards within subdivisions, according to the following provisions.

- 1) Irrigation Systems. An independent low-flow drip and/or micro-spray irrigation system may be used for establishing all trees planted within the critical root zone of a protected tree. Irrigation system for trees shall be on a separate zone to insure adequate watering for trees. Utilize re-use water where available.
- 2) A permanent water source shall be installed not more than 100 feet from each tree protection or tree establishment zone, but shall not encroach more than 12 inches into any tree protection or establishment zone.
- 3) For development of 10 acres or more, the locations and descriptions of the required permanent water sources and/or irrigation lines shall be placed on a separate irrigation plan or shall be included as part of the greenspace plan.
- 4) The minimum permanent water source shall be a 1/2-inch hose bib.
- 5) All irrigation systems connected to any potable water supply shall conform to city and state requirements to prevent contamination of the potable water supply.
- 6) Irrigation shall not be required where:

- a) Existing individual trees of clumps or groups of existing trees or wooded areas are to be preserved and grading, filling or other land disturbing activities have not disturbed the natural ground water supply to such trees; or
- b) For planted trees if it is determined by the City Engineering Department that the natural ground water supply and/or the natural soil condition is sufficient to sustain tree growth.

D. *Designation of exceptional trees.* The Mayor and City Council may, on its own initiative or upon petition, designate a tree as "exceptional," as defined in this article. All nominations for exceptional tree designations shall be reviewed by the Tree Board who shall make a recommendation on such nomination to the Mayor and City Council. Trees so designated shall thereafter be considered a public landmark and shall not be destroyed or endangered. The designation of an exceptional tree shall be based upon an evaluation of the tree in relation to the following criteria:

- 1) The tree is demonstrated to have an association with a documented historical event, or is located on an historic site.
- 2) The tree has unusually high aesthetic value.
- 3) The tree is of unique character because of its age, species, variety, location, or because of the size and development of its crown, trunk, or main stem.
- 4) The tree is free of disease, pests or serious injury.
- 5) The tree has a life expectancy of more than ten years.
- 6) The tree is free from structural defects which could present a hazard to the public.

E. *Prohibited trees along street and in public areas.* Trees that are prohibited along streets and in public areas within the city are found in Appendix 7.

F. *Trees on adjacent City property.*

- 1) A property owner or person authorizing or responsible for any land disturbing activity within the drip line of a tree located on City property shall provide for the protection of such tree(s) to the standards described in these regulations.
- 2) Any person authorizing or who engages in land disturbing activity that causes damage to or affects the health or growth of a tree or tree's surrounding environment or support system on city property shall be responsible for damages to the tree or to the surrounding environment, including replacement value, as determined by the tree board. Upon notice of the amount of damages, an appeal as to the amount of damages may be filed with the City Council within 15 days of notice. In the event the damages are not paid within 30 days of the lapsing of the time for filing a final appeal or final decision by the city council, the damages shall become a lien on the adjacent property from which the damage emanated and shall be collected in the same manner and fashion as authorized by state law for the collection of delinquent tax liens.

(Ord. of 12-19-95, § VII; Ord. of 9-6-00; Ord. of 12-6-11)

Sec. 86-64. Parking Lot and Perimeter Requirements

A. *Applicability:* The requirements of this section shall apply to off-street parking lots and their perimeters. To meet the requirements of this section, only shade trees listed in Appendix 6, as amended from time to time by resolution of the City Council, equal or larger than two (2) inches in caliper shall be planted. Trees known to be intolerant of paving conditions or whose physical characteristics may be injurious to the public shall not be used to comply with the provisions of this section.

B. *Parking Lot Requirements and Guidelines*

Parking lots which are required to include greenspace and tree canopy shade shall contain landscaping and planting as follows:

- 1) At least one (1) tree island for each ten (10) consecutive parking spaces.
- 2) Each tree shall be at least two (2) inch caliper at time of planting and shall be a species designated in approved city planting list.
- 3) The minimum planting area or space for each tree shall be in accordance with Sec. 86-63(B)(1)
- 4) Trees shall be planted in open-space planter with suitable groundcover.
- 5) Such open-space planters may be constructed through the deletion of paving or asphalt behind the wheel stops, bumper stops, or curb.
- 6) Trees shall be located to avoid underground and overhead utilities.
- 7) Parking lots may be designed so that water runs into the landscaped areas to the greatest extent possible in order to maximize stormwater retention.
- 8) At least thirty 30% of the trees planted shall consist of Overstory Trees.

(Ord. of 12-6-11)

Sec. 86-65. Underbrushing requirements.

On tracts of land containing 20 or more acres, the City Engineering Department shall approve underbrushing of no greater than two-inch diameter trees upon the following findings:

- 1) The City Engineering department has found that sufficient tree cover exists such that the removal of such trees will not impair the ability of the site to comply with the requirements of these regulations, and;
- 2) The removal of such trees is not in conflict with the purpose and intent of these regulations.

(Ord. of 12-19-95, § VII)

Sec. 86-66. Tree banking.

For those projects that the 35% Minimum Canopy Requirement cannot be achieved as determined by the Tree Board, a cash payment can be made to the City's Tree Bank. These funds will be used for the purchasing and planting of trees at the City's discretion.

(Ord. of 9-6-00; Ord. of 12-6-11)

Secs. 86-67--86-80. Reserved.

DIVISION 3. ADMINISTRATION

Sec. 86-81. Creation and establishment of a city tree board.

- A. *Tree board.* There is hereby created and established a tree board for the City which shall consist of nine members, who shall be appointed by the mayor with the approval of the city council, with consideration for expertise in the areas of administration, urban forestry, conservation, preservation of environmental attributes, horticulture, landscaping, and commercial or private construction.
- B. *Term of office.* The term of the nine members shall be three years except that the term of three of the members appointed to the first nine-member tree board shall be for one year and three of the members appointed to the first nine member tree board shall be two years. In the event that a vacancy should occur during the term of any member, his successor shall be appointed for the unexpired portion of the term. All may be reappointed to successive terms; however, no member shall serve more than six consecutive years (two terms). Members who have served for six consecutive years on the nine-member tree board may be reappointed to the tree board after a one-year break in service.
- C. *Compensation.* Members of the tree board shall serve without compensation.
- D. A request for a variance shall be heard by the tree board, which may grant the variance of a special use permit if it determines the following criteria are met:
 - 1) The variance requested will not adversely impact the intent and purpose of these regulations.
 - 2) The variance will not promote soil erosion or interfere with drainage holding capacity of the land, or increase air pollution and carbon dioxide levels in the air.
 - 3) The variance will be consistent with the aesthetic quality of forest and conservation patterns predominant in the surrounding areas;
 - 4) The variance will not have a negative impact on surrounding property values or forest and conservation patterns; and
 - 5) Failure to grant the variance would result in an undue or exceptional hardship.
- E. *Ex-officio tree board members.* The tree board may appoint persons as ex-officio tree board members as it desires. Such members shall be persons from the community or city, state or federal government whose expertise, job responsibilities or knowledge is such that it would enhance or bring special knowledge to the tree board and from whose participation the tree board would benefit. Ex-officio members shall function as a part of the tree board; however, they are not eligible to cast a vote on issues being decided by the tree board in a voting matter.

(Ord. of 12-19-95, § VIII)

Sec. 86-82. Designator of the administrator of this article.

The City Engineering Department is hereby appointed to administer and implement the provisions of this article.
(Ord. of 12-19-95, § VIII)

Secs. 86-83--86-100. Reserved.

DIVISION 4. LAND CLEARING ACTIVITIES

Sec. 86-101. Application for land disturbance activities permits.

Applications for permits for land disturbance and clearing activities shall be submitted by the land owner or a legally authorized agent on a form provided for this purpose, available from the City Engineering Department. Such application shall be submitted to the City Engineering Department along with all required attachments. Each land disturbance activities permit application shall include the data, items, plans, and other documents listed below. Required data may be combined into a single document as long as clarity is maintained. Complete applications shall be reviewed by the City Engineering Department. If application is not routine, then it will be reviewed by the Tree Board. Silvicultural activities, including timber harvesting and planting, and removal of hazardous and diseased trees do not require this permit, but must follow the best management practices for forestry. In addition, on tracts where timber is harvested, where possible, a 25' buffer of existing trees shall be left undisturbed along each property line including street rights of way.
(Ord. of 12-19-95, § IX; Ord. of 9-6-00)

Sec. 86-102. Plans required for land disturbance activities permit.

- A. *Project description.* Such description shall include:
- 1) Purpose of the requested permit.
 - 2) Map(s) showing existing and proposed land uses, building, parking, and other pertinent elements of development.
 - 3) A boundary survey which shall include the location of all easements, building setback lines, nearby governmental jurisdictional boundaries, and nearby zoning district boundaries.
 - 4) Anticipated starting and completion dates for each phase of the project. Any permit granted under this article shall lapse unless construction or field work on the site is commenced within six months of issuance of the permit.
- B. *Greenspace plan.* The greenspace plan shall include the following plans. These may be separate documents, or may be included as part of the overall greenspace plan.
- 1) *Tree protection plan.* Such plan shall include:
 - a) A map showing existing tree cover and tree cover that is to be removed.
 - b) The location and species of all trees to be preserved on the site.
 - c) The location, species, specifications if different from those listed in the Best Management Practices Manual.
 - d) The DBH of all trees located on adjacent city right-of-way.
However, where a grouping or cluster of 20 or more trees is located within a proposed tree protection zone, the location of individual trees within such cluster is not required to be spotted on the plan, provided the number of trees for each species within the cluster is given, and the average DBH is identified for each species.
 - 2) *Tree establishment plan.* Such plan shall include:
 - a) The location of tree establishment zones.
 - b) A listing of all trees to be planted on the site giving their respective species.
 - c) A description of tree planting specifications if altered from those listed in the land clearing and tree protection manual.
 - 3) *Irrigation plan.* Such plan shall include the location of permanent water sources and/or irrigation lines.
- C. *Permits for multi-phase developments.* If a tract is to be developed in phases, then a separate permit shall be required for each phase

D. *Denial of permit.* If a permit is denied, the reason for denial shall be furnished to the applicant in writing. (Ord. of 12-19-95, § IX; Ord. of 12-6-11)

Sec. 86-103. Appeals, modifications, and variances.

- A. *Appeals.* Appeals from the orders, rulings or decisions of the City Engineering Department or requests for variance from the provisions of this article shall be made in writing within 15 days of the order, ruling or decision to the City Tree Board on forms provided for such purpose by the City Engineering Department. The Tree Board shall consider the appeal or variance at its next regularly-scheduled meeting, but in no event more than 45 days following the request. Any appeal or variance may be appealed to the City Council by filing written notice with the City Clerk following a decision by the Tree Board.
- B. *Modifications.* Requests for modification shall be submitted in writing to the City Engineering Department, who will pass it on to the City Tree Board for consideration with an explanation of how the plan with modifications stills meets the intent of the ordinance.

Modifications may be sought for the following:

- 1) Species selection – for use of non listed specie cultivars that share characteristics of species listed but not shown on recommended specie list.
- C. *Variance.* Variances shall only be granted upon determination that the variance is the minimum necessary to afford relief. Requests for variance will be accompanied by a nonrefundable fee of \$30.00.
- D. *Reasons for granting variances.* Variances shall only be granted upon:
- 1) A showing of good and sufficient cause;
 - 2) A determination that failure to grant the variance would result in exceptional hardship; and
 - 3) A determination that the granting of a variance will not adversely impact the intents and purposes of these regulations.
- E. *Additional standards.* In consideration of variances and appeals, and the purpose set forth for these regulations, the Tree Board may impose or require such additional standards as may be necessary to protect the value and use of property in the general neighborhood.
- F. *Submitting a request for variance.* Variances shall be submitted to the City Engineering Department prior to the next regularly-scheduled Tree Board meeting. If the Tree Board receives the request for variance from the City Engineering Department within five working days of the next regularly-scheduled tree board meeting, the variance will be reviewed and a ruling returned to the City Engineering Department within five days after the meeting.

(Ord. of 12-19-95, § IX; Ord. of 12-6-11)

Secs. 86-104—86-120. Reserved.

DIVISION 5. PUBLIC TREE PLANTING

Sec. 86-121. Definition of street trees and park trees.

Street trees are herein defined as trees and all woody vegetation on land lying on either side of all streets within the City, within the designated public street right-of-way. Park trees are herein defined as trees and all woody vegetation in public parks and other areas owned by the City to which the public has free access.
(Ord. of 12-19-95, § X)

Sec. 86-122. Selection of trees for streets and parks.

Prior to planting a tree on any street, park or other public land, the species to be planted must be approved by the City Engineering Department.
(Ord. of 12-19-95, § X)

Sec. 86-123. Placement of street trees and park trees.

A. To minimize traffic hazards at street intersections and avoid conflicts with City infrastructure all tree plantings must follow listed guidelines:

Mature Size	Large 50' – 70'	Medium 30' – 40'	Small 15' – 20'	Evergreen 40' – 50'
Minimum Width of Tree Space	8' +	8' +	4'	8' +
Spacing between trees	50'	40'	30'	30'
Overhead utilities	DO NOT PLANT	DO NOT PLANT	APPROVAL REQUIRED	DO NOT PLANT
Intersections	40'	40'	40'	40'
Stop signs, traffic signs, street lights, traffic signals	35'	35'	35'	35'
Fire hydrant, gas or water valves	10'	10'	10'	10'
Underground utilities	10'	10'	10'	10'

B. Distance from curb and sidewalk:

- 1) The distance public trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes in the Statesboro Recommended List of street trees and no trees may be planted closer to the curb or sidewalk than the following:
 - a) Small trees: two feet (minimum of a four foot wide treelawn)
 - b) Medium trees: three feet (minimum of a six foot wide treelawn)
 - c) Large trees: four feet (minimum of an eight foot wide treelawn) except in special plantings designed or approved by the City Tree Board and City Engineering Department.

(Ord. of 12-6-11)

Secs. 86-124--86-140. Reserved.

DIVISION 6. PUBLIC TREE CARE

Sec. 86-141. Tree removal.

The Tree Board may recommend to the Engineering Department the removal of any tree or part thereof which is in an unsafe condition or which by reason of its nature is a public hazard or is injurious to any public improvement and if infected with any fungus, insect or disease which constitutes a potential threat to other trees in the City.

(Ord. of 12-19-95, § XI)

Sec. 86-142. Stump removal.

All stumps of street and park trees shall be removed 12" below the surface of the ground.

(Ord. of 12-19-95, § XI)

Sec. 86-143. Tree pruning.

Trees on public property may be pruned for utility line clearance only by tree pruners who have attended at least one city sponsored utility line clearance workshop within a 12-month period of pruning activity. Participants will be trained and certified by the city tree board. At each pruning site, names of pruning crew with date of certification shall be available for City's review. The City Streets & Parks Superintendent shall be notified three (3) days in advance the locality of any pruning activities taking place. All pruning of public trees shall be done in accordance with the current American National Standard for Tree Care Operations (ANSI A300-2001) and the most current standards as developed by the National Arborist Association.

(Ord. of 12-19-95, § XI; Ord. of 9-9-99; Ord. of 9-6-00)

Sec. 86-144. Tree topping.

Tree topping is not permitted. Tree topping is an unacceptable practice and is not permitted for any reason.

(Ord. of 12-19-95, § XI)

Sec. 86-145. Tree management.

Tree management of street, park and other public trees will be carried out in accordance with the policies established in the Best Management Practices Manual and administered by the Public Works Department.

(Ord. of 12-19-95, § XI)

APPENDIX 1

Example 1: Following site to be developed:

Step 1: 10 acre site = 435,600 sq. ft.

Step 2: 35% canopy cover figure

$$435,600 \times 0.35 = 152,460 \text{ sq. ft. to meet 35\% canopy cover}$$

Step 3: Preserved trees left on site = 65,340 sq. ft. (1.5 acres)

$$152,460 \text{ minus } 65,340 = \mathbf{87,120 \text{ sq. ft. of replacement trees}}$$

Step 4: Replacement trees required to meet **35% CR** (*canopy area requirement*)

CR = *canopy area requirement*

➤ **87,120 sq. ft.** of area to be planted in trees

a. Overstory trees = 1500 sq. ft./tree planted

✓ 48 overstory (large canopy trees) x 1500 sq. ft. =	72,000 sq. ft.
✓ 24 overstory (medium canopy trees) x 550 sq. ft. =	13,200 sq. ft.
✓ Total sq. ft.	85,200 sq. ft.

b. Understory trees = 250 sq. ft./tree planted

✓ 12 understory (small canopy trees) x 250 sq. ft. =	3,000 sq. ft.
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c. **Total square footage of trees planted: 88,200 sq. ft.**

THE 88,200 SQ. FT. OF PLANTED TREES HAS MET 35% CANOPY AREA REQUIREMENT

and

THE PRESERVED TREE AREA (65,340 sq. ft.) DOES NOT EXCEED 60% OF THE MINIMUM CANOPY AREA REQUIRED (152,450 sq. ft.)

APPENDIX 2

CITY OF STATESBORO TREE BANK FORMULA FOR DETERMINING CONTRIBUTIONS

Contribution calculations are based on two (2) inch caliper replacement trees **with** a value updated annually, and on file with the City, representing the average size and cost of materials, labor **and** guarantee for trees planted in The City of Statesboro area.

Example: Based on unit value of tree replacement of \$500.00 (amount subject to change)

To determine the appropriate Canopy Requirement (**CR**) contribution, first calculate the *Implantable Square Footage (ISF)* of tree space which cannot be planted on the site.

Divide the ISF by 1500 sq. ft. (the sq. ft. value of a 2" caliper overstory **replacement** tree) and multiply by \$500.00.

Example 2: The total sq. ft. of 35% **CR** required is 43,560 sq. ft.

Due to space limitation and other site problems, the site only has 29,000 sq. ft. of Plantable Area (PA) for replacement trees.

To determine the CR trees not plant able on site use the following formula:

$$\text{ISF} = \text{CR} - \text{PA}$$

In this example:

$$\text{CR (43,560 sq. ft.)} - \text{PA (29,000 sq. ft.)} = 14,560 \text{ sq. ft. of ISF}$$

$$\text{CR} = \text{ISF} \div 1500 \text{ sq. ft.}$$

$$\text{CR} = 14,560 \div 1500 \text{ sq. ft.} = 9.707 \text{ replacement trees}$$

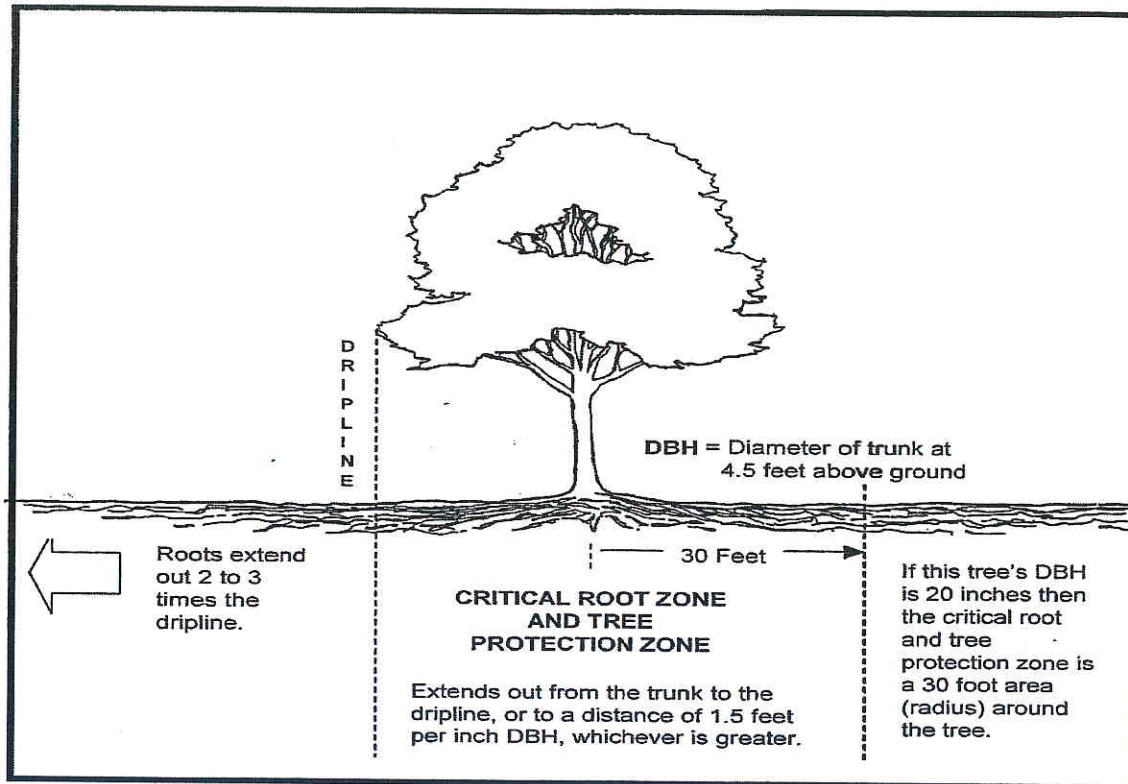
This means the developer must contribute to The City of Statesboro Tree Bank **the** value of 10 trees.

Determine the acceptable contribution amount as follows:

$$10 \times \$500.00 = \$5,000 \text{ TOTAL CONTRIBUTION TO TREE BANK}$$

APPENDIX 3

CRITICAL ROOT ZONE (CRZ)



To calculate critical root zone radius, begin by measuring the diameter at breast height (DBH). This is done by measuring the tree's trunk diameter (thickness) at a point 4.5 feet above the ground. The measurement should be done in inches. For each inch of DBH, allow for 1.5 feet of critical root radius for significant or sensitive trees, or 1.0 feet for tolerant trees. For example, if a tree's DBH is 10 inches, then its critical root radius is 15 feet ($10 \times 1.5 = 15$). The PRZ is an area around the tree with a diameter of 30 feet ($2 \times \text{radius}$) and is the area in which a critical amount of the tree's roots may be found. Whenever possible, isolate this area from construction disturbance.

Approximate a tree's Protected Root Zone by calculating the critical root radius (crr). First, measure the tree diameter in inches at breast height (DBH). Then multiply that number by 1.5 or 1.0. Express the result in feet.

Example:

dbh = 8 inches

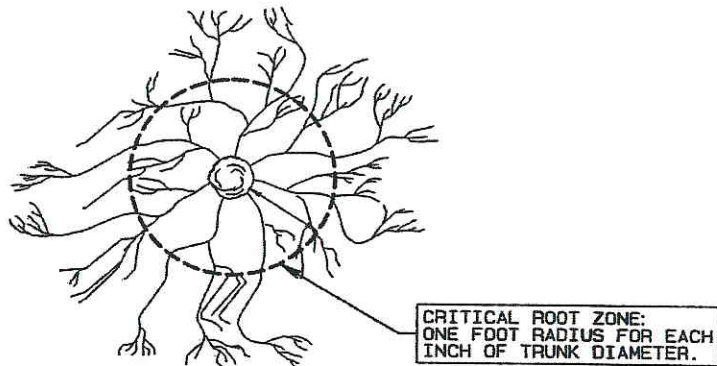
$8 \times 1.5 = 12$

crr = 12 feet

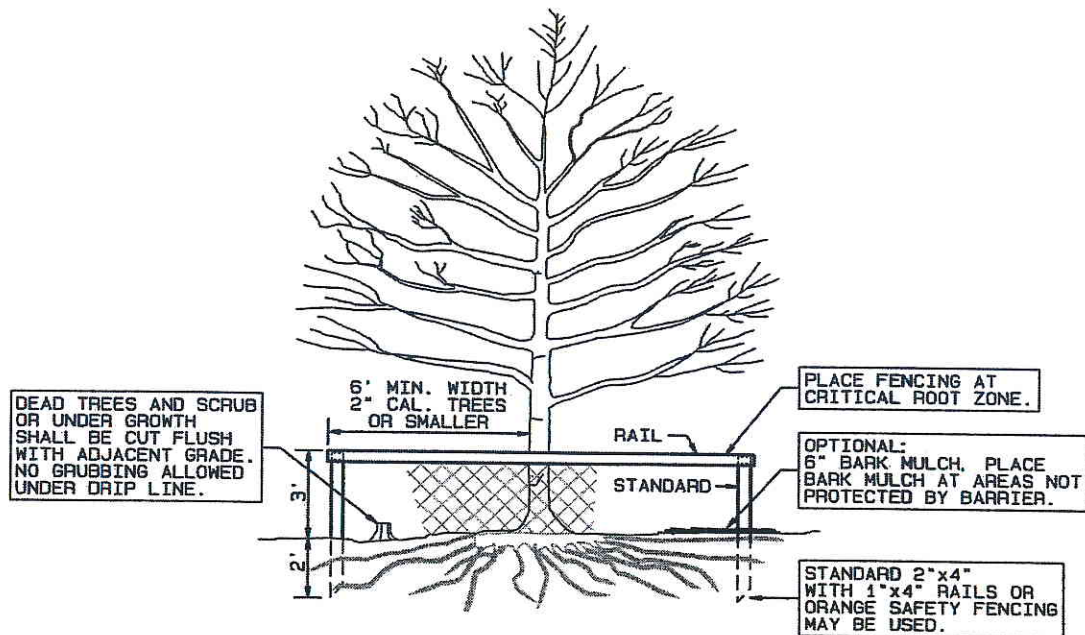
Measure diameter (width) = dbh

APPENDIX 4

Tree Protection Details:



PLAN VIEW OF CRITICAL ROOT ZONE



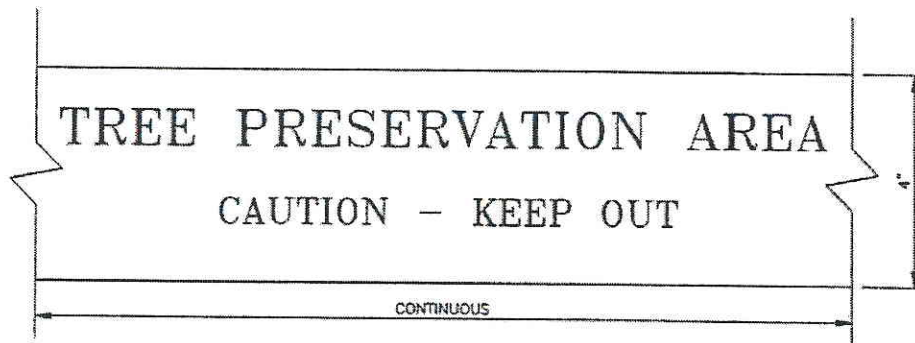
SECTION VIEW

NOTES:

1. SEE PLANS FOR LOCATION OF ALL TREE PROTECTION FENCES.
2. ALL TREE PROTECTION DEVICES MUST BE INSTALLED PRIOR TO LAND DISTURBANCE, INCLUDING THE CUTTING OF ANY TREES.
3. NO GRADING IS TO OCCUR IN THE TREE CONSERVATION AREAS OR TREE CRITICAL ROOT ZONES.
4. REMOVE ALL BARRIERS UPON COMPLETION OF PROJECT.

CITY OF STATESBORO

STANDARD TREE PROTECTION DETAIL



HEAVY MIL. PLASTIC, MINIMUM 4" WIDTH,
DARK LETTERING ON BRIGHT BACKGROUND

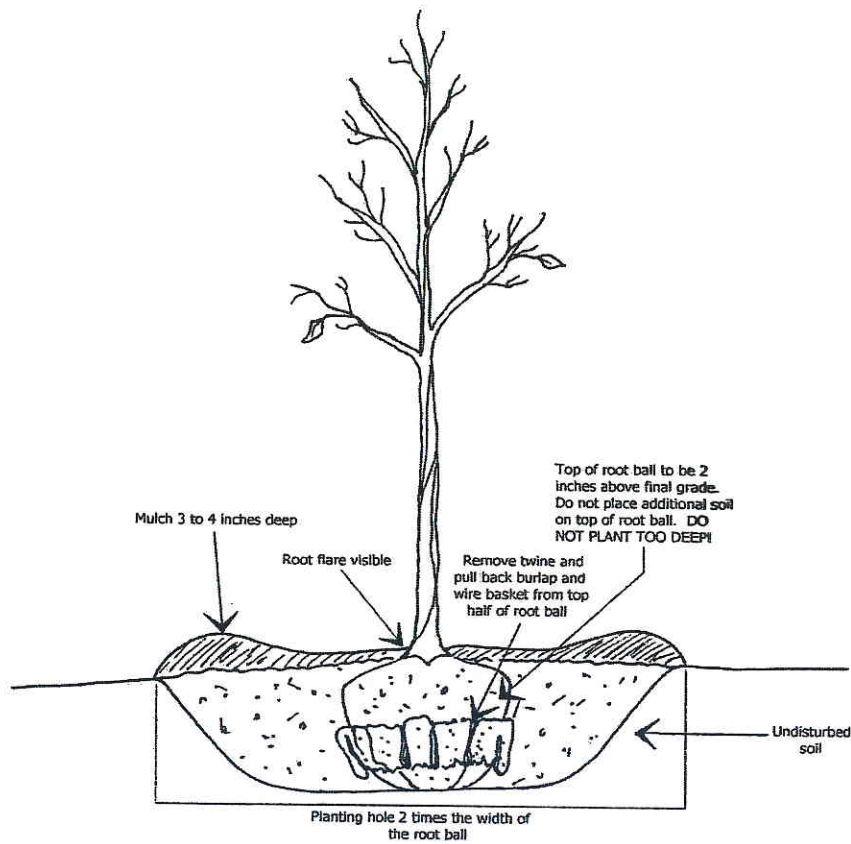


○ PASSIVE TREE PROTECTION FLAGGING
N.T.S.

CITY OF STATESBORO

STANDARD TREE PROTECTION DETAIL

APPENDIX 5



NOTES:

1. ALL TREES ARE TO BE NURSERY GROWN AND LOCALLY ADAPTED, BALL AND BURLAP (B&B) PREFERRED. MINIMUM TREE SIZE IS 2" CALIPER
2. REMOVE ALL TREATED OR PLASTIC-COATED BURLAP, STRAPPING, WIRE OR TWINE FROM ROOT BALL.
3. FOR CONTAINER GROWN TREES, CAREFULLY REMOVE THE PLANT FROM THE CONTAINER AND CUT ANY MATTED OR CIRCLING ROOTS.
4. WATER TREE AFTER PLANTING. FOR MULCH, USE PINE NEEDLES OR SEASONED MULCH AND USE NO MORE THAN 3 TO 4 INCHES DEEP.
5. TREE WRAP IS OPTIONAL.
6. STAKING IS OPTIONAL. RUBBER HOSE AND ROPE OR WIRE FOR STAKING IS NOT RECOMMENDED. 3/4" NYLON STRAP OR TREE BRACE STRAP IS PREFERRED. STAKING SHOULD BE REMOVED AFTER ONE GROWING SEASON.

CITY OF STATESBORO

STANDARD TREE PLANTING DETAIL

APPENDIX 6

CITY OF STATESBORO, GEORGIA TREE SPECIES LISTING

Large Canopy Trees for Overstory: (Count for 1500 sq. ft. of area for planting – minimum 2” caliper)

Species Common Name	Deciduous (D) Evergreen (E)	Sun/ Shade	Growth Rate	Medians	Parking Lots or Similar 'Hardscapes'	Near Sidewalks	Under Utility Lines	Visibility Concern Areas **	Yards
Green Ash*	D	FS	F	YES	YES	YES	NO	YES	YES
Blackgum*	D	PS/FS	S	YES	NO	NO	NO	YES	YES
Bald Cypress*	D	FS/PS	F	YES	NO	NO	NO	YES	YES
Pond Cypress*	D	PS/FS	F	YES	NO	NO	NO	YES	YES
Pignut Hickory*	D	PS/FS	M	YES	YES	NO	NO	YES	NO
Water Hickory*	D	PS/FS	S	YES	YES	NO	NO	YES	NO
Southern Magnolia*	E	PS/FS	M	YES	NO	YES	NO	NO	YES
Red Maple* ^B	D	PS/FS	F	YES	YES	YES	NO	YES	YES
Laurel Oak*	SE	PS/FS	F	YES	NO	NO	NO	NO	YES
Live Oak*	E	PS/FS	M	YES	YES	NO	NO	YES	YES
Nuttall Oak*	D	FS	M	YES	YES	NO	NO	YES	YES
Shumard Oak*	D	FS	F	YES	YES	YES	NO	YES	YES
Southern Red Oak*	D	FS	M	YES	YES	YES	NO	YES	YES
Scarlet Oak*	D	FS	M	YES	YES	YES	NO	YES	YES
Swamp Chestnut Oak*	D	PS/FS	M	YES	YES	NO	NO	YES	YES
White Oak*	D	PS/FS	M	YES	YES	NO	NO	YES	YES
Willow Oak*	D	FS	F	YES	YES	YES	NO	YES	YES
Loblolly Pine*	E	FS	F	NO	NO	NO	NO	NO	YES
Longleaf Pine*	E	FS	F	NO	NO	NO	NO	NO	YES
Eastern Redcedar*	E	FS	F	YES	YES	NO	NO	NO	YES
Sycamore*	D	FS	F	YES	NO	NO	NO	YES	NO
Tulip Poplar*	D	FS	F	YES	YES	YES	NO	YES	YES
Zelkova	D	FS	M	YES	YES	YES	NO	YES	YES

Key:

* Native to South Georgia	Sun/shade exposure:	Growth rate:	Type:	Problems
** Tree placement and maintenance procedures should be respectful of sight distance	FS = Full sun	S = Slow (less than 1' per year)	D = Deciduous	A. Large fruit
	PS = Part sun	M = Medium (1-2' per year)	E = Evergreen	B. Use of hybrids recommended
	S = Shade	F = Fast (more than 2' per year)	SE = Semi Evergreen	

Medium Canopy Trees: (Count for 550 sq. ft. of area for planting – minimum 2" caliper)

Medium Trees 30' - 50' Suitable for spaces with 100 to 200 sq ft of total planting space; in a planting strip at least 4-7 feet wide; or place at least 4' from pavement or wall.

Key:

Key:				
* Native to South Georgia		Sun/shade exposure:	Growth rate:	Type:
** Tree placement and maintenance procedures should be respectful of sight distance		FS = Full sun	S = Slow (less than 1' per year)	D = Deciduous
		PS = Part sun	M = Medium (1-2' per year)	E = Evergreen
		S = Shade	F = Fast (more than 2' per year)	SF = Semi Evergreen
				A. Large fruit
				B. Use of hybrids recommended

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Small Trees < 25' Useful under utility lines; areas with < 100 sq ft of total planting area; a planting strip with a width of at least 4'.

Key:

	Sun/shade exposure:	Growth rate:	Type:	Problems
* Native to South Georgia	FS = Full sun	S = Slow (less than 1' per year)	D = Deciduous	A. Large fruit
** Tree placement and maintenance procedures should be respectful of sight distance	PS = Part sun S = Shade	M = Medium (1-2' per year) F = Fast (more than 2' per year)	E = Evergreen SE = Semi Evergreen	B. Use of hybrids recommended

APPENDIX 7

CITY OF STATESBORO, GEORGIA – Unacceptable Species

The following species are unacceptable because they are poor or marginal performers.

Common Name	Scientific Name	Problem
Box Elder	<i>Acer negundo</i>	Aggressive shallow roots, weak wood
Bradford Pear	<i>Pyrus calleryana</i> 'Bradford'	Genetic flaw, splits apart, susceptible to breakage
Catalpa	<i>Catalpa bignonioides</i>	Weak wooded
Chinese Tallowtree	<i>Sapium sebiferum</i>	Aggressive shallow roots, susceptible to breakage
Female Ginkgo	<i>Ginkgo biloba</i>	Foul smelling fruit
Green ash	<i>Fraxinus pennsylvanica</i>	Anthraxnose, Aggressive shallow roots
Hackberry	<i>Cercis spp.</i>	Large diameter surface roots, susceptible to breakage
Mimosa	<i>Albizia julibrissin.</i>	Prone to disease, weedy tree, susceptible to breakage
Pecan	<i>Carya illinoensis</i>	Large diameter surface roots, diseased prone, susceptible to breakage
Princess tree	<i>Paulowina tomentosa</i>	Aggressive shallow roots, Weedy tree, messy, weak wooded
Russian olive	<i>Elaeagnus angustifolia</i>	Poor form, disease
Silver Maple	<i>Acer saccharinum</i>	Aggressive shallow roots, weak wood
Sweetgum	<i>Liquidambar styraciflua</i>	Aggressive surface roots, fruit a litter nuisance
Tree-of-heaven	<i>Ailanthus altissima</i>	Aggressive shallow roots, Weedy tree, seeds, weak wood
Water Oak	<i>Quercus nigra</i>	Large diameter surface roots, susceptible to breakage

PART II - CODE OF ORDINANCES
Chapter 6 - ALCOHOLIC BEVERAGES
ARTICLE X. - OPEN CONTAINERS

Ordinance 2011-14

Chapter 6 - ALCOHOLIC BEVERAGES ^[12]

(12) **Cross reference**— Buildings and building regulations, ch. 14; businesses, ch. 18; offenses and miscellaneous provisions, ch. 58; streets, sidewalks and other public places, ch. 70; taxation, ch. 74; zoning, app. A; signs, app. A, art. XV.

(12) **State Law reference**— Use of proceeds of alcoholic beverage tax for prevention, education and treatment, Ga. Const. art. 3, sec. 9, par. 6(e); Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; public drunkenness, O.C.G.A. § 16-11-41; furnishing alcoholic beverages to persons under 21 years of age, jurisdiction of municipal courts, O.C.G.A. § 36-32-10; treatment of alcoholics and intoxicated persons, O.C.G.A. § 37-8-1 et seq.; driving under the influence of alcoholic or drug, O.C.G.A. § 40-6-391.

ARTICLE I. - IN GENERAL

ARTICLE II. - LICENSING

ARTICLE III. - LOCATION

ARTICLE IV. - SALES

ARTICLE V. - SALES TO AND BY UNDERAGED PERSONS

ARTICLE VI. - BREAKING PACKAGE OR DRINKING ON PREMISES

ARTICLE VII. - CONSUMPTION ON PREMISES

ARTICLE VIII. - EXCISE TAX ON MIXED DRINKS

ARTICLE IX. - WHOLESALE LICENSES, EXCISE TAX ON MALT BEVERAGES

ARTICLE X. - OPEN CONTAINERS

ARTICLE I. - IN GENERAL

Sec. 6-1. - Purposes.

Sec. 6-2. - Definitions.

Sec. 6-3. - Violations; penalty.

Sec. 6-4. - Alcohol control board.

Secs. 6-5—6-25. - Reserved.

Sec. 6-1. - Purposes.

(a) The purposes of this chapter shall include, without necessarily being limited to, the following:

- (1) Compliance with and effectuation of the general state law;
- (2) Prevention and control of the sale of alcoholic beverages by unfit persons;
- (3) Insuring that any licenses issued for the consumption of alcoholic beverages on the premises are issued only to a legitimate restaurant or private club as defined in this chapter;
- (4) Protection of the public health, safety, and welfare.

(b) To the maximum extent permissible under state and federal law, the business of selling alcoholic beverages shall under this chapter be considered to be a privilege to be accorded in conformity with the foregoing and other public policies of the city, rather than a right.

PART II - CODE OF ORDINANCES
Chapter 6 - ALCOHOLIC BEVERAGES
ARTICLE X. - OPEN CONTAINERS

Sec. 6-2. - Definitions.

(a) Unless a contrary intention is clearly apparent from the context, the following terms used in this chapter shall have the following meaning:

Alcohol means ethyl alcohol, hydrated oxide of ethyl, spirits or wine, from whatever source or whatever process produced.

Alcoholic beverage means and includes all alcohol, malt beverages, distilled spirits, wine and fortified wines defined in this section.

City means the City of Statesboro and when used in a geographical sense means the territorial limits of the City of Statesboro.

City clerk means the City Clerk of the City of Statesboro.

Distilled spirits means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume including, but not limited to, all fortified wines.

Fortified wine means any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. "Fortified wine" includes, but is not limited to, brandy.

Interest includes any pecuniary interest and any ownership interest, whether present or future, whole or partial, legal or beneficial, contingent or vested, direct or indirect, and any right, power, or authority of control.

Licensed premises includes not only the room wherein alcoholic beverages are sold or served but also the entire building in which such room is located, except that when such a room is located in a hotel, motel, or similar facility or in a shopping center only such room and any adjoining storage, office, toilet, and other similar rooms shall constitute the "licensed premises."

Licensee includes an individual licensee and in the case of a partnership or corporation includes both the partnership or corporation and the named licensee.

Majority stockholder means the person, if any, who owns more than 50 percent of the voting stock of a corporation; if no person owns more than 50 percent of the voting of a corporation, the "majority stockholder" is the person owning more of the voting stock than any other person; and if two or more persons each own the same amount of the voting stock of a corporation and each own more of the voting stock than any other person, then any one of such persons may act as the "majority stockholder."

Malt beverage means fermented beverage made in whole or in part from malt or any similar fermented substance.

Mayor and city council means the mayor and council of the City of Statesboro.

Mixed drink means any distilled spirits served for consumption on the premises, whether or not diluted by water or any other substance.

Named licensee means the person acting as such for a partnership or corporation pursuant to section 6-27.

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Open container means any bottle, can, glass, cup or other vessel which contains an alcoholic beverage not in its original container. The term "open container" shall also mean the original container of an alcoholic beverage which contains an alcoholic beverage on which the seal has been broken.

Person includes a corporation, partnership, association, club or institution.

Semipublic parking facility means any privately owned area wherein motor vehicles may be parked by the public in conjunction with any business, enterprise, commercial establishment, office building, church, school, or multiple-family residential building.

(b) Unless a contrary intention is clearly apparent from the context, any term used in this chapter shall have the same meaning as when used in comparable provision of the Georgia Alcoholic Beverage Code, O.C.G.A. title 3.

(c) As used in this chapter, the singular and plural shall each include the other, the masculine and feminine shall each include the other, and any verb tense may include any other verb tense.

(d) As used in this chapter, the term "may" is permissive and the term "shall" is mandatory.

Sec. 6-3. - Violations; penalty.

(a) Any person who violates any provision of this chapter may upon conviction in municipal court be punished by a fine not to exceed \$1,000.00. Any such fine, if imposed, may be in addition to and not in lieu of any license suspension or revocation under this chapter. This fine shall not apply to violations of article X of this chapter, which may be punished as provided within said article.

(b) The violation of any of the provisions of this chapter may be grounds for suspension or revocation by the mayor and city council of any retail or wholesale license issued hereunder, as set out below:

(1) For the first violation there may be a warning or a one-day suspension of the license.

(2) For the second violation, the date of occurrence of which is within any 12-month period of the first violation, there may be a three-day suspension of the license.

(3) For the third violation, the date of occurrence of which is within any 12-month period of the first violation, there may be a 10-day suspension of the license.

(4) For the fourth violation, the date of occurrence of which is within any 12-month period of the first violation, there may be a 30-day suspension of the license.

(5) For any violation beyond the fourth, the date of occurrence of which is within any 12-month period of the first violation, the license may be revoked.

(6) Any suspension or revocation shall begin after the suspension or revocation decision was made by the mayor and city council.

(7) Any suspension or revocation of a license shall first require notice to the license holder of a due process hearing as required by section 6-35 herein.

(8) A license holder who receives a suspension or revocation of his license may not be a license holder of any succeeding entity that holds a license from the city during his period of suspension.

Secs. 6-4—6-25. - Reserved.

ARTICLE II. - LICENSING

Sec. 6-26. - Required classifications, etc.
Sec. 6-27. - Procedure for issuance.
Sec. 6-28. - Restrictions on licensed businesses annexed into city.
Sec. 6-29. - Qualifications.
Sec. 6-30. - Application procedures.
Sec. 6-31. - Renewal.
Sec. 6-32. - Transfer.
Sec. 6-33. - Change in business ownership.
Sec. 6-34. - Temporary license.
Sec. 6-35. - Suspension/revocation.
Sec. 6-36. - Automatic revocation.
Secs. 6-37—6-55. - Reserved.

Sec. 6-26. - Required classifications, etc.

(a) *Required.* It shall be unlawful for any person to sell or offer for sale any alcoholic beverages within the city except under a valid license issued under this chapter and in compliance with the provisions of this chapter.

(b) *Pay schedule.* License fees shall be payable in advance for an entire year beginning July 1 and ending June 30 of the following year. If an initial fee is paid after July 1 but on or before December 31 of the year of application, the license fees shall not be prorated for a part of year, but the full license fee shall be payable for any part of a year. If an initial fee is paid after December 31 but on or before June 30 of the year of application, the license fee shall be reduced to 50 percent of the fee for an entire year. The suspension or revocation of any license granted pursuant to this article may not entitle the licensee to a return of any portion of the license fee.

(c) *Classification fee.* Classes of licenses issued under this chapter, activities permitted and regulated thereunder, and the annual license fees shall be as follows:

(1) *Retail package licenses:*

Package sales for off-premises consumption of beer and wine = \$1,250.00

(2) *Retail consumption on-the-premises licenses:*

a. Pouring license for beer and wine only on the premises = \$1,250.00

b. Pouring license for consumption of distilled spirits only on the premises = \$2,500.00

c. Pouring license for retail sale of distilled spirits, wine and malt beverages by the drink = \$3,750.00

(3) *Wholesale licenses:*

Resident wholesale dealer's license: wholesale of distilled spirits, wine, and malt beverages by a wholesale dealer having a place of business in the city - \$1,000.00

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(d) *Application fees.* Each application for a license under this chapter shall be accompanied by a nonrefundable application fee in the following amount:

- (1) Sale off-premises of package malt beverage and wine license - \$150.00
- (2) Consumption on-the-premises pouring license for distilled spirits, beer and wine -\$150.00

(e) *Payment of fees.* Application fees shall be paid at the time the application is filed and may not be refunded under any circumstances. An applicant may pay the annual license fee at the time the application is filed; and in such event the annual license fee shall be refunded if the license applied for is not issued. If the annual license fee is not paid at the time of the application, the annual license fee shall be paid prior to the issuance of the license by the city clerk after notification of approval of the license by City Council. Failure to pay within 30 days shall bear a ten percent penalty on the license fee.

Sec. 6-27. - Procedure for issuance.

(a) A license issued to an individual shall be issued in the name of the individual. A license issued to a partnership shall be issued in the name of the partnership and in the name of one of the partners who shall be the named licensee. A license issued to a corporation having as its principal business an activity other than the sale of alcoholic beverages shall be issued in the name of the corporation and in the name of the officer or employee of the corporation primarily responsible for the operation of the licensed premises; and such officer or employee shall be the named licensee.

(b) In the case of a partnership, a partner shall join as an applicant for the license.

(c) In the case of a corporation having as its principal business an activity other than the sale of alcoholic beverages, the officer or employee who is to be the named licensee shall be the applicant and must meet the qualifications of an individual licensee, as provided herein.

(d) In the case of a partnership, each partner may be responsible for the actions of the named licensee and the conduct of the licensed business. In the case of a corporation, the corporation may be responsible for the actions of the named licensee and the conduct of the licensed business.

Sec. 6-28. - Restrictions on licensed businesses annexed into city.

In the event a business located in an unincorporated area of the county is annexed into the city and held licenses from the state and the county which allowed the business to dispense malt beverages and wine on the business premises in broken, opened or unsealed containers, such business shall be required to obtain a malt beverages and wine license from the city, and shall from that time forward be required to comply with this section in all respects, with the following exception: Such business shall not be subject to the requirement that at least 50 percent of its gross income be derived from the sale of food prepared on the premises, nor any of the accompanying reporting requirements concerning the service of food. In the event a business exempted from the requirements as stated herein is sold, transferred or assigned, the exemption with the requirements stated herein shall remain in effect for the transferee, assignee or purchaser. If a business, its heirs, successors or assigns which is exempted from the requirement as stated herein ceases to sell and/or dispense malt beverages or wine for a period of 180 days, then the exemption shall lapse and the resumption of the business shall be subject to all of the provisions of Article II concerning licensing and the sale of malt beverages and wine within the city; provided, however, that in the event the cessation of activity is the result of fire or similar hazard, natural disaster, major renovation or expansion for which a building permit is obtained, then the 180-day period shall be tolled during a time in which the license holder makes a reasonably diligent effort to repair or renovate the business and

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resume activity, but in no event shall the time be tolled more than one year. Any business referred to in this section shall not be exempted from the requirements of Article II or other requirements of holders of a malt beverages and wine license in the city.

Sec. 6-29. - Qualifications.

(a) A licensee must be at least 21 years of age, of good moral character and a citizen of the United States or an alien lawfully admitted for permanent residence. Any such alien shall have been lawfully admitted for permanent residence for at least one year prior to application.

(b) A licensee shall not have been convicted, within the five years preceding his application, of any felony, misdemeanor involving moral turpitude, any sexual-related crime or any criminal offense relating to alcoholic beverages. This subsection shall apply with respect to the laws of this state, other states and the United States. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this subsection. Sentencing on first offender status shall not be considered as a conviction if the sentence was successfully completed without any violation of probation or program requirements.

(c) A licensee shall not have been denied or had revoked, within the five years preceding his application, any license to sell alcoholic beverages issued by any governmental entity.

(d) No license for the sale of alcoholic beverages by the drink for consumption on the premises shall be issued to any applicant who does not meet the requirements of a private club or restaurant as defined in section 6-157, 6-158.

(e) A license shall have, and continuously maintain, as a registered agent, a resident of the county upon whom may be served, any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner. The registered agent must be at least 21 years of age.

Sec. 6-30. - Application procedures.

(a) Application for a license for the retail sale of beer and malt beverages and/or distilled spirits in the city shall be filed with the city clerk upon forms prescribed by the city clerk and made available at city hall. The application shall be subscribed by the applicant under oath and fully completed and executed.

(b) There shall be attached to the application a bank money order, certified check or like remittance of the application. There shall also be attached an affidavit of publication in compliance with this section.

(c) As a prerequisite to the issuance of the license, the applicant shall furnish a complete set of fingerprints to be forwarded to the state bureau of investigation which shall search the files and forward the fingerprints to the Federal Bureau of Investigation to determine past criminal activity.

(d) Failure to fully complete and execute an application for a license or to furnish accurately all data, information and records required by the application form as well as failure to accompany the application with the payment of the prescribed fee or the affidavit of publication shall be deemed just cause for denying the application with prejudice.

(e) Upon proper completion of the application and payment of fees, the city clerk shall review the application and conduct such investigation and hearings thereon as deemed necessary under this article. The city clerk may seek the advice of law enforcement officers and state prosecutors during its consideration of the application.

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(f) As a prerequisite to the issuance of a license, all businesses where alcohol is consumed on the premises shall satisfy all requirements of a fire and life safety inspection performed by the local fire official and city building official or his/her designee. The prescribed inspection form shall be provided by the city. In addition, all businesses where alcohol is consumed on the premises and the occupancy load is 100 or more, shall provide the city clerk with a signed fire safety report and certificate of occupancy from the state fire marshal's office. The local fire official may cause to be inspected any building or portion of any building licensed under this ordinance.

(g) Upon full compliance with the requirements of the fire and life safety inspections, as contained in section 14-1 of this Code, the local fire official shall notify the city clerk for further processing of the license.

(h) After its investigation, the city clerk shall grant or deny the license applied for.

(i) If the application is denied, the application fee shall not be refunded.

(j) Upon application and payment of a fee set by the mayor and city council, a special event alcohol beverage permit for the complimentary furnishing of alcohol to a group, entity, or organization may be granted by the mayor and city council. The applicant must also obtain a special event permit from the State of Georgia before conducting the event.

Sec. 6-31. - Renewal.

All alcoholic beverage licensees shall be required to apply for renewal of their licenses annually on forms prescribed by the city clerk and must comply with all provisions of this article, with the exception that publication of notice, fingerprinting and background checks, shall not be required for renewal of a license unless there has been a change of ownership of the business. On renewal, the applicant shall take the oath specifically contained on the application form.

Sec. 6-32. - Transfer.

(a) Except as provided in this section, no license shall be transferable to any other person or location.

(b) If a licensee seeks to move his place of business from the licensee's premises to another place within the city, application shall be made as for an original license.

(c) In the case of death of an owner of a license or financial interest therein, such license or interest therein may be transferred to the administrator, executor, or adult heir or heirs of the deceased unless the city clerk determines that it would otherwise violate this chapter. If the transferee cannot meet all the requirements of this chapter when the time comes to renew the license, it may not be renewed.

(d) Nothing in this section shall prohibit one or more partners in a partnership from retiring therefrom in favor of one or more of the other partners.

(e) Where a license is issued to a corporation having as its principal business an activity other than the sale of alcoholic beverages, a change in the named licensee will be permitted by the mayor and city council if the new named licensee meets the requirements of new license applicants.

Sec. 6-33. - Change in business ownership.

(a) If any licensee withdraws from, sells or otherwise transfers the licensee's interest in the licensed business, the licensee shall within ten days, notify the city clerk and surrender the license.

(b) In the case of such a withdrawal, transfer, or sale, a new application shall be made as for an original license.

Sec. 6-34. - Temporary license.

(a) A temporary license may be issued by the mayor and city council, if in their judgment, the denial of a temporary license would create an undue hardship such as the closing of an existing business. The temporary license shall be issued for an extra fee of \$50.00 for a 90-day period with additional 90-day extensions if needed.

(b) A temporary license may be revoked, with cause, by the mayor and city council at any time, and the grant or denial of a temporary license shall not affect or have any bearing upon the grant or denial of a permanent license.

Sec. 6-35. - Suspension/revocation.

(a) A license may be suspended or revoked by the mayor and city council for any major violation of this chapter or other city ordinances, for any material misrepresentation or omission in the application for the license, or if the licensee or the licensed business ceases to meet the eligibility requirements for license. The city clerk shall schedule a due process hearing before mayor and city council for any license holder alleged to have violated any provision of this chapter, by sending at least 14 days prior to the date of the due process hearing, a certified letter to the license holder containing the date, time, and location of the hearing, the date and nature of the allegations, and the license holder's right to be represented by an attorney and to present evidence. In lieu of a certified letter, the city clerk may elect to have service perfected by personal service by a city police officer. Suspension shall take place in seven days from action by mayor and city council.

(b) The mayor and city council shall conduct the hearing in accordance with the provisions of O.C.G.A. § 3-3-2 et seq., and shall make written findings of fact and reason(s) for its decision.

(c) The mayor and city council are authorized to suspend the sale of alcoholic beverages under any license for any emergency situation such that they deem such suspension necessary for the protection of the public health, safety or welfare. Such suspension may be made effective immediately and may remain in force until they determine that the emergency is over.

Sec. 6-36. - Automatic revocation.

A license may be automatically revoked by operation of law if:

- (1) The licensee's state alcoholic beverage license is revoked, suspended, canceled or not renewed;
- (2) Payment of the annual license fee is not received by the city within 30 days after notification that the approval to issue a license has been made by the city clerk. However, in the case of an initial annual license fee for a licensee occupying a new or remodeled building requiring a building permit, payment of the annual license fee may be delayed up to 14 days after the issuance of the building's certificate of occupancy.
- (3) Operation of the licensed activity is not commenced within six months after the license is issued.
- (4) Operation of the licensed activity is commenced and then discontinued for a period of 90 days

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unless extended by the city clerk for good cause.

(5) The licensed business fails to properly account for, file report and pay any excise tax levied and due under this chapter.

(6) The licensed business fails to properly account for, file, report or maintain any records or remit any license fee imposed or taxes required under this chapter.

(7) The named licensee is convicted of a felony by a court of competent jurisdiction.

Secs. 6-37—6-55. - Reserved.

ARTICLE III. - LOCATION

Sec. 6-56. - Sale/service in public places.

Sec. 6-57. - Proximity restrictions.

Secs. 6-58—6-80. - Reserved.

Sec. 6-56. - Sale/service in public places.

It shall be unlawful to furnish or dispense alcoholic beverages through kegs, barrels, cylinders or other portable receptacles containing tap or pump-type devices in which the flow of contents is controlled by the operator in a public place and facility. When receptacles are found in violation of this section and the person maintaining the receptacle cannot be identified, the receptacle shall be confiscated and held for 30 days by the city police. The receptacle may be claimed by the owner or lessor, but will be disposed of at the end of 30 days if unclaimed. Nothing in this section shall prohibit persons holding licenses pursuant to this article from dispensing through kegs, barrels, cylinders or other such receptacles inside the establishments or premises approved for a pouring license.

Sec. 6-57. - Proximity restrictions.

(a) No person knowingly and intentionally may sell or offer to sell:

(1) Any distilled spirits in or within 100 yards of any church building, public school or educational building, or college campus building. This subsection shall not apply at any location for which a new license is applied for if the sale of distilled spirits was lawful at such location at any time during the 24 months immediately preceding such application. A church building is defined as a free-standing structure built for and used as a church, and does not apply to commercial or retail space that has been converted to occupancy as a church.

(2) Any wine or malt beverages within 100 yards of any public school or college building. This subparagraph shall not apply at any location for which a license has been issued prior to July, 1, 1981, nor to the renewal of such license. Nor shall this subsection apply at any location for which a new license is applied for if the sale of wine and beer was lawful at such location at any time during the 24 months immediately preceding such application.

(3) Any distilled spirits, wine, or malt beverages within 100 yards of an alcoholic treatment center owned and operated by this state or this city. This subsection shall not apply to any business having a license in effect on July 1, 1981.

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(b) Nothing contained in this article shall prohibit the licensing of the sale or distribution of alcoholic beverages by:

(1) Hotels of 50 rooms or more.

(2) Bona fide private clubs, owning or renting their premises, subject to licensing under state law.

(c) For the purposes of this article, distances shall be measured by drawing a line from the nearest point of an outside door of the applicant's business establishment to the nearest point of the outside wall enclosing conditional (mechanically heated or cooled) space of a public school, public educational or college campus building.

(d) The proximity restriction distances between a licensed premises and a college or university building shall not apply in those cases where all of the conditions listed below are met:

(1) The proposed licensed premises front on either (a) U.S. 301 South (S. Main Street) from its intersection with Tillman Street south to the city limits; (b) Veterans Memorial Parkway from its intersection with U.S. 301 South to GA 67 (Fair Road); (c) GA 67 (Fair Road) from its intersection with Veterans Memorial Parkway north to its intersection with Tillman Road; or (d) Tillman Road from its intersection with Fair Road west to its intersection with U.S. 301 South.

(2) The proposed licensed premises are located on the opposite side of any of these four major streets or highways from any portion of the university campus as it exists at the time of application.

(3) The total sales from food, nonalcoholic beverages, and other nonalcoholic sources of revenue reported must be at least 50 percent of the licensed premises' total sales; and the total sales of all alcoholic beverages must not exceed 50 percent of the licensed premises' total sales. Should the licensee fail to meet these ratios for any two on-premises consumption reports in any 12-month period, filed as required by section 6-84, the license may be suspended or revoked.

(4) Any proposed licensed premises that requests the consumption on the premises of a deck or patio attached or adjacent to the principal restaurant assembly area, as allowed in subsection 6-157(a)(7)c.4, shall include sufficient screening to obstruct the viewing of said outdoor consumption by any vehicular driver or passenger on the major fronting street or highway.

(5) All proximity restriction distances between a licensed premises and a public school building, public educational building, or a college or university building shall continue to apply.

Secs. 6-58—6-80. - Reserved.

ARTICLE IV. - SALES

Sec. 6-81. - Responsibility of named licensee.

Sec. 6-82. - Rentals paid restricted.

Sec. 6-83. - Display of license.

Sec. 6-84. - Retention of records.

Sec. 6-85. - Knowledge of chapter provisions.

Sec. 6-86. - Sales to underage persons prohibited.

Sec. 6-87. - Days of sales prohibited.

Sec. 6-88. - Sales to intoxicated persons; gambling; disorderly conduct.

Sec. 6-89. - Container, storage, illumination.

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Sec. 6-90. - Cleanliness of premises; inspections.

Sec. 6-91. - Drive-through sales of alcoholic beverages prohibited.

Secs. 6-92—6-110. - Reserved.

Sec. 6-81. - Responsibility of named licensee.

The named licensee shall be active in the operation of the licensed business sufficiently to assure compliance with the provisions of this chapter.

Sec. 6-82. - Rentals paid restricted.

(a) Except as otherwise provided in this section, it shall be unlawful for a licensee to enter into any agreement whereby the rental paid for licensed premises is based in whole or in part on the volume of sales of alcoholic beverages by the licensed business.

(b) Subsection (a) shall not apply where the primary business of a package licensee is an activity other than the package sale of alcoholic beverages; for example, a grocery store selling package beer and wine.

Sec. 6-83. - Display of license.

Each license issued under this chapter shall at all times be kept plainly exposed to view upon the licensed premises.

Sec. 6-84. - Retention of records.

(a) All consumption-on-the-premises of licensees shall keep and preserve records of all alcoholic beverages purchased and sold by the licensee and shall keep and preserve records of all food and nonalcoholic beverages purchased and sold by them. Such records shall at all reasonable times during normal business hours be open for inspection by an authorized agent of the city. Such records shall be maintained for a period of at least three years.

(b) All consumption-on-the-premises licensees shall file with the city clerk the following reports by 5:00 pm on the 20th day of the month immediately following the end of each calendar quarter for which the report is filed:

(1) An on-premises consumption report for the immediately preceding three-month period in a reasonable format prescribed by the city clerk.

(2) Certified copies of the licensee's three monthly state sales tax reports as filed with the state department of revenue for the immediately preceding three-month period coinciding with the on-premises consumption report.

(3) Any other reasonable documents, reports, records, or books as shall be required by the mayor and city council to confirm the accuracy of the reported information.

(c) (1) The city clerk shall send by regular mail to each consumption-on-the-premises licensee by the 5th day of the month following the end of a calendar quarter, the forms for the quarterly report required in (b) above, with a letter reminding them that the report is due no later than the 20th of that month, and that failure to file the report by that date may result in a \$250.00 late payment license fee.

(2) Should any licensee fail to provide the quarterly report to the city clerk by the deadline (the

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20th), there may be imposed a \$250.00 late payment license fee. The city clerk shall notify such licensee by certified mail within three business days after the deadline that the penalty is due and payable, and that failure to submit the quarterly report and the late payment license fee by the 10th of the next month may result in revocation of the alcohol license by mayor and city council as required under subsection 6-36(6) herein.

Sec. 6-85. - Knowledge of chapter provisions.

Every licensee shall, prior to applying for a license, read and familiarize himself with the provisions of this chapter. Every licensee shall maintain a copy of the ordinance from which this chapter derives on the licensed premises and shall instruct each employee engaged in the sale or handling of alcoholic beverages on the relevant provisions of the ordinance from which this chapter derives.

Sec. 6-86. - Sales to underage persons prohibited.

Furnishing to, purchase of or possession of [by] persons under the age of 21 years of age of alcoholic beverages shall be controlled by state law O.C.G.A. § 3-3-23. Additionally, any alleged violation of this subsection by a license holder, or its employee(s), shall result in a due process hearing being called pursuant to section 6-35 of this Code.

Sec. 6-87. - Days of sales prohibited.

- (a) No licensee shall permit the sale of alcoholic beverages on any day or any time when such sales are prohibited by state law.
- (b) The wholesale or retail sale of distilled spirits shall be lawful during the polling hours of any election; however, the sale of alcoholic beverages within 250 feet of a polling place is unlawful during such hours that the polls are open.
- (c) No licensee shall permit the sale of alcoholic beverages on Sunday unless a Sunday sales license is approved by the city.

Sec. 6-88. - Sales to intoxicated persons; gambling; disorderly conduct.

- (a) No licensee shall permit the sale of alcoholic beverages to any person who is in a state of noticeable intoxication or allow persons who are noticeably intoxicated to congregate on licensed premises.
- (b) No licensee shall permit any gambling, betting, illegal lottery, or other device for the hazarding of any money or other thing of value on the licensed premises, except that this prohibition shall not apply with respect to a properly licensed bingo game or Georgia lottery.
- (c) No licensee shall permit on the licensed premises any disorderly conduct, breach of the peace, or noise or activity which is disturbing to the surrounding neighborhood.

Sec. 6-89. - Container, storage, illumination.

- (a) Alcoholic beverages shall be delivered to and received at licensed premises only in the original container and only in a conveyance owned and operated by a licensed wholesale dealer (or a licensed common carrier acting for a wholesaler). Alcoholic beverages shall be sold at retail only on the licensed premises.
- (b) A retail licensee shall store alcoholic beverages only on the licensed premises and at no other place.

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All stock shall be available at all times for inspection by an authorized agent of the city. Any alcoholic beverages found in any retail licensee's stock which were not received from a wholesaler licensed to make deliveries in the city shall be subject to immediate confiscation.

(c) The exterior of each building in which alcoholic beverages are sold for consumption on the premises shall contain sufficient lighting so that all entrances thereto are clearly visible at all times.

Sec. 6-90. - Cleanliness of premises; inspections.

All licensed premises shall be kept clean and in proper sanitary condition and in full compliance with all regulations governing the condition of premises used for the storage and sale of food for human consumption. All licensed premises shall be open at reasonable times for inspection by authorized agents of the city.

Sec. 6-91. - Drive-through sales of alcoholic beverages prohibited.

(a) It shall be unlawful for any person to sell or offer for sale any alcoholic beverage within the city by means of drive-through sale.

(b) For purposes of this chapter, the term "drive-through sale" means the sale of alcoholic beverages by any means that allows the customer to remain in his vehicle.

Secs. 6-92—6-110. - Reserved.

ARTICLE V. - SALES TO AND BY UNDERAGED PERSONS

Sec. 6-111. - General prohibitions.

Sec. 6-112. - Activity in grocery stores.

Secs. 6-113—6-135. - Reserved.

Sec. 6-111. - General prohibitions.

(a) Except as provided in subsection (d), below, no wholesale dealer or package licensee shall allow any employee under the age of 18 years to dispense, sell, serve, take orders for, or handle alcoholic beverages.

(b) No consumption-on-the-premises licensee shall allow any employee under the age of 18 years to dispense, sell, serve, take orders for, or handle alcoholic beverages.

(c) This section shall not prohibit the employment of persons under the above ages on licensed premises where such persons do not dispense, sell, serve, take orders for, or handle alcoholic beverages.

(d) This section shall not prohibit persons 16 years of age or older from selling or handling alcoholic beverages in grocery stores, supermarkets, convenience stores or similar establishments.

Sec. 6-112. - Activity in grocery stores.

For the purposes of this article, the bagging or carrying out of wine or malt beverages in the original

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package in the course of employment by a grocery store, convenience store or similar establishment shall not constitute handling of alcoholic beverages.

Secs. 6-113—6-135. - Reserved.

ARTICLE VI. - BREAKING PACKAGE OR DRINKING ON PREMISES

Sec. 6-136. - Prohibited.

Sec. 6-137. - Wine tastings.

Sec. 6-138. - Brown-bagging prohibited.

Secs. 6-139—6-155. - Reserved.

Sec. 6-136. - Prohibited.

It shall be unlawful for any person to open or consume any alcoholic beverages on premises licensed for the sale of alcoholic beverages by the package.

Sec. 6-137. - Wine tastings.

Upon filing an application and payment of a permit fee as set by the mayor and city council and after investigation and review, the city clerk may issue an annual permit to a holder of an alcoholic beverage license to hold wine tastings. The permit fee shall be paid upon application and is payable annually thereafter on the same date as alcoholic license fees are due and payable. The permit shall allow the applicant to provide samples of wine to the public for consumption at a location which meets the legal requirements for on-premises consumption (excluding those requirements set forth in sections 6-156, 6-157 and 6-159) under the following conditions:

- (1) The applicant for a wine tasting must hold a valid current wine license in the State of Georgia.
- (2) All wines secured for tasting purposes must be obtained through a retail or wholesale wine outlet.
- (3) No wine tasting shall last more than four hours.
- (4) Except as otherwise provided in this section, the licensee must comply with all state statutes and sections of this Code and other city ordinances concerning alcoholic beverages, including but not limited to those dealing with hours of operation, zoning and distance requirements.

Sec. 6-138. - Brown-bagging prohibited.

It shall be unlawful for a licensee or any other commercial establishment to allow customers to bring with them their own alcoholic beverages, which is known as "bring your own booze" (BYOB) or "brown-bagging".

Secs. 6-139—6-155. - Reserved.

ARTICLE VII. - CONSUMPTION ON PREMISES

Sec. 6-156. - Eligibility restricted—Generally.
Sec. 6-157. - Same—Restaurant.
Sec. 6-158. - Private club.
Sec. 6-159. - Ratio of alcoholic/nonalcoholic sales.
Sec. 6-160. - Illumination of premises, location of sales restricted.
Sec. 6-161. - Hours of sale.
Sec. 6-162. - Dancing on premises prohibited.
Sec. 6-163. - Removal of beverages prohibited.
Sec. 6-164. - Prohibition of certain types of entertainment, attire and conduct.
Sec. 6-165. - Pricing of alcoholic beverages.
Sec. 6-166. - Misrepresentation of alcoholic beverages.
Secs. 6-167—6-190. - Reserved.

Sec. 6-156. - Eligibility restricted—Generally.

Any type consumption-on-the-premises license may be granted only to a restaurant, as defined under section 6-157 and a private club as defined under section 6-158.

Sec. 6-157. - Same—Restaurants.

(a) In order to be eligible for a pouring or limited pouring consumption on-the-premises license, a restaurant shall:

- (1) Be used and held out to the public as a place where meals prepared on the premises are regularly served to the public for adequate pay each day the establishment is open for business;
- (2) Contain one or more public dining rooms, with adequate and sanitary kitchen facilities and refrigeration as required by the Bulloch County Health Department and staff to prepare, cook and serve suitable food for its guests;
- (3) Have the ability to serve meals prepared on the premises during any time the establishment is open for business;
- (4) Have a valid Bulloch County Health Department Food Service Permit and any other applicable local, state or federal permits, licenses, etc. required for food service establishments;
- (5) Have at least 50 percent of its total sales comprised of the sale of food prepared on the premises and nonalcoholic beverages; and for this purpose, if a restaurant makes a minimum charge, cover charge, or admission charge, or any other nonfood or nonalcoholic beverage charge, the amount so charged shall not be counted in computing total sales and shall not be counted as a food or beverage sale;
- (6) Have a permanent seating capacity of at least 25 persons.
 - a. The occupancy load determined by the Statesboro Fire Commander, or his designee, for each location shall be posted for public view.
 - b. If the occupancy load is exceeded, the Statesboro Fire Commander, or his designee, is authorized to reduce the occupancy load to the lawful level by requesting the owner/operator, if available, to voluntarily reduce the occupancy load. In case the occupancy load is not reduced voluntarily, the Statesboro Fire Commander, or his designee, is authorized to temporarily close

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such premises or facility in order to vacate the premises to the lawful occupancy load. Violation of the occupancy load, even if voluntarily reduced as requested, shall be a violation of this chapter, subject to penalties as set out in section 6-3.

(7) Follow all laws of the State of Georgia involving Sunday sales of alcohol.

(b) In order to be eligible for a pouring or limited pouring consumption on-the-premises license, a sports restaurant shall:

(1) Be required to serve meals during time the establishment is open for business until 10:00 P.M.

(2) Have a valid Bulloch County Health Department Food Service Permit and any other Licenses required for food service establishments.

(3) Have at least 50 percent of its total sales comprised of nonalcoholic sales. If revenue is received from a food, minimum charge, cover charge, or any other nonfood or nonalcoholic beverage, the amount so charged shall be counted in computing total sales and shall be counted as a nonalcoholic sales.

(4) The occupancy load determined for each location shall be posted for public view.

(5) If the occupancy load is exceeded, the Statesboro Fire Commander, or his designee, is authorized to reduce the occupancy load to the lawful level by requesting the owner/operator or manager to voluntarily reduce to the occupancy load. If the occupancy is not reduced voluntarily, the Statesboro Fire Department designee is authorized to temporarily close such facility in order to vacate the premises to the lawful occupancy load. Violation of the occupancy load may be a violation of this chapter, subject to penalties.

(6) Sunday sale of alcohol are prohibited.

Sec. 6-158. - Private club.

(a) In order to be eligible for a pouring or consumption on-the-premises license, a private club must be a veterans organization, fraternal organization or other nonprofit organization all of which must be incorporated, and:

(1) The local chapter has been in existence at least one year prior to the filing of its application for a license;

(2) Have a least 50 regular dues-paying members;

(3) Be organized and operated exclusively for pleasure, recreation and other non-profitable purposes;

(4) Own, hire, or lease a building or space within a building for the reasonable use of its members, which building or space:

a. Has suitable kitchen and dining room space and equipment;

b. Is staffed for cooking, preparing, and serving meals for its members and guests; and

c. Has no member, officer, agent, or employee directly or indirectly receiving in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond a fixed

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salary.

(b) For purposes of subsection (a)(4), above, a "fixed salary" means the amount of compensation paid any member, officer, agent, or employee of a private club as may be fixed for him by its members or by the governing body out of the general revenue of the club and shall not include any commission or any profits from the sale of alcoholic beverages.

(c) No alcoholic beverage license shall be granted to a private club organized or operated primarily for the selling or serving of alcoholic beverages.

(d) Private clubs licensed under the provisions of this section shall not be required to maintain the percentage sale of food/nonalcoholic beverages as compared to alcoholic beverages; however, any such organization shall be subject to all chapter regulations dealing with general licensing and consumption on the premises.

Sec. 6-159. - Ratio of alcoholic/nonalcoholic sales.

Should the total sales from food and nonalcoholic beverages reported by any licensee for consumption on the premises not equal those from the sale of all alcoholic beverages for any two reporting periods in any 12-month period, the license may be suspended or revoked by the mayor and city council.

Sec. 6-160. - Illumination of premises, location of sales restricted.

(a) All restaurants and all passageways for customers, shall be sufficiently well illuminated so that they may be viewed by those inside the premises.

(b) The sale of alcoholic beverages in any back room or side room which is not open to the general public is prohibited, except that this prohibition shall not apply with respect to:

- (1) Scheduled private parties;
- (2) Room service to hotel guests in their hotel rooms, provided a properly licensed restaurant is located on the premises;
- (3) Private clubs.

Sec. 6-161. - Hours of sale.

(a) Consumption-on-the-premises licensees shall only engage in the sale and service of alcoholic beverages between the hours of 7:00 a.m. and 1:00 a.m. current time Monday through Saturday, with consumption of purchased beverages on the premises until 2:00 a.m. current time. Sunday sales shall be allowed between noon and 11:00 p.m. with consumption on the premises until midnight current time.

(b) Package sales of beer and wine for off-premises consumption shall be between the hours of 6:00 and midnight current time, Monday through Saturday. Sunday sales shall be allowed between noon through 11:00 p.m.

Sec. 6-162. - Dancing on premises prohibited.

Patron dancing shall be permitted at facilities licensed for consumption on-the-premises sales only where:

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- (1) Adequate space exists;
- (2) All fire and safety regulations are met.

Sec. 6-163. - Removal of beverages prohibited.

All alcoholic beverages sold by consumption on-the-premises licensees shall be consumed only on the licensed premises. It shall be unlawful for any person to remove from the licensed premises any alcoholic beverages sold for consumption on the premises to any public streets, sidewalks or rights-of-way within the city.

Sec. 6-164. - Prohibition of certain types of entertainment, attire and conduct.

(a) *Findings; public purpose.* The mayor and city council takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality. Moreover, it is the findings of the mayor and city council that public nudity (either partial or total) under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages, begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhood, increased expenditure for and allocation of law enforcement personnel to preserve law and order, and increased burden on the judicial system as a consequence of the criminal behavior hereinabove described. Therefore, the limitation of nude conduct in establishments licensed to sell alcoholic beverages is in the public welfare and it is a matter of governmental interest, and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments which serve alcohol and also allow and/or encourage nudity. To that end, this section is hereby adopted.

(b) *Enactment.* The following types of entertainment, attire and conduct are prohibited upon any premises licensed to sell, serve or disperse alcoholic beverages.

(1) The employment or use of any person, in any capacity, in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing, as to expose to view any portion of the female breast below the top of the areola or any portion of the male or female pubic hair, anus, cleft or the buttocks, vulva and genitals.

(2) Live entertainment where any person appears in the manner described in subsection (1) of this subsection or where such persons (or person) perform(s) acts of or acts which simulate any of the following:

- a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law.
- b. The touching, caressing or fondling of the breasts, buttocks, anus or genitals.
- c. The displaying of the male or female pubic hair, anus, vulva or genitals.

(3) The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct described in subsections (1) and (2) above.

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Sec. 6-165. - Pricing of alcoholic beverages.

- (a) This section shall be construed to cover, include and apply to every type of alcoholic beverages licensed to be sold, including beer, wine, fortified wine, malt beverages and distilled spirits.
- (b) No licensee or holder of any license to sell alcoholic beverages for consumption on the premises or in any part thereof, or employee or agent of a licensee, shall:
- (1) Offer to deliver any free alcoholic beverage to the general public, or at a price less than the wholesale price paid for the alcoholic beverage. This subsection shall not apply to a tasting-room where wine is offered in a quantity to only taste the product.
 - (2) Any on-premises consumption licensee may sell, offer to sell, or deliver to a person any alcoholic beverage for less than the price customarily charged. This provision does not permit a licensee to sell, offer to sell, or deliver any alcoholic beverages during this period to any person or group at a price lower than is offered to the general public during this period, except at private functions not open to the public.
 - (3) Such sales shall only take place on a day when sales of alcoholic beverages for consumption-on-the-premises are allowed by this chapter and state statute.
 - (4) Sell, offer to sell, or deliver to any person or group of persons two or more or an unlimited number of alcoholic beverages during any set period of time at a fixed price, except at private functions not open to the public.
 - (5) Sponsor, conduct, encourage or allow on the licensed premises any game or contest or promotion which either:
 - a. Involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as the prize; or
 - b. Has as its primary purpose the increasing of the consumption of alcoholic beverages on the premises.
 - (6) Sell two or more alcoholic beverages for a price substantially the same as is charged for one such alcoholic beverage.
 - (7) Require the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased.
 - (8) Sell, offer to sell, or give away any coupons, tokens, tickets, receipts or other devices authorizing the serving of any alcohol beverage drinks either on the current or a subsequent day.
 - (9) Sell, offer to sell, or deliver to a customer in any container other than: a) a glass or plastic cup for distilled spirits; or b) a standard wine glass or plastic cup, carafe or original winery bottle for any wine or fortified wine; or c) a glass or plastic cup, pitcher, or the original can or bottle for any beer or malted beverage.
 - (10) Sell, offer to sell, or deliver any alcoholic beverage to be inserted into the mouth of a customer in any manner by anyone other than by the customer.
 - (11) Charge any minimum charge, cover charge, admission charge, or any other nonfood or

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nonalcoholic beverage charge which discriminates on the basis of gender, race, creed, or national origin.

(c) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, or to prohibit the sale or delivery of wine by bottle or carafe when sold with meals or to more than one person, or to prohibit any hotel or motel from offering room services to registered guests; and do not apply to a movie theater licensed by the City of Statesboro to show movies to the public while offering reduced prices for tickets to matinees to youth under a certain age or to senior citizens.

Sec. 6-166. - Misrepresentation of alcoholic beverages.

It shall be unlawful for licensees under this chapter or their agents to add to the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

Secs. 6-167—6-190. - Reserved.

ARTICLE VIII. - EXCISE TAX ON MIXED DRINKS

Sec. 6-191. - Imposition.

Sec. 6-192. - Collection.

Sec. 6-193. - Payment to city.

Secs. 6-194—6-215. - Reserved.

Sec. 6-191. - Imposition.

There is imposed upon the sale of mixed drinks in the city a tax in the amount of three percent of the purchase price of the mixed drinks to the consumer. Each licensee shall be allowed a deduction of three percent of the amount of taxes collected as reimbursement for collection of such taxes; provided that such tax is not delinquent at the time of payment. A record of each sale will be made in writing and maintained for inspection by any authorized agent of the city.

Sec. 6-192. - Collection.

Every consumption on-the-premises licensee shall collect the tax imposed by this article from purchasers of mixed drinks. The licensee shall furnish such information as may be required by the city clerk to facilitate the collection of the tax. In all cases where the purchase is by deferred payment or credit, the licensee becomes liable for the collection and payment of the tax at the time of delivery of the mixed drink to the purchaser.

Sec. 6-193. - Payment to city.

On or before January 20th, April 20th, July 20th and October 20th of each calendar year, licensees shall be required to file with the city clerk an excise tax report showing the licensee's gross receipts from the sale of mixed drinks and the amount of taxes collected or coming due thereon for the previous three months and shall pay over the amount due of taxes collected under this article to the city at the same time the excise tax report is filed.

Secs. 6-194—6-215. - Reserved.

ARTICLE IX. - WHOLESALE LICENSES, EXCISE TAX ON MALT BEVERAGES

Sec. 6-216. - Required issuance.

Sec. 6-217. - Tax imposed.

Secs. 6-218—6-240. - Reserved.

Sec. 6-216. - Required issuance.

Any wholesale dealer in alcoholic beverages who is licensed by the state and who has a place of business in the city shall procure a license under the same provisions applicable to retail licensees.

Sec. 6-217. - Tax imposed.

(a) There is imposed by the city an excise tax on the first sale or use of malt beverages in the city, as follows:

(1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons;

(2) Where malt beverages are sold in bottles, cans or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

(b) There is imposed by the city an excise tax on the first sale or use of wine in the city at a rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(c) There is imposed by the city an excise tax on the first sale or use of distilled spirits in the city at the rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(d) The excise taxes provided for in this section shall be imposed upon and paid by the licensed wholesale dealer. Such taxes shall be paid on or before the 20th day of the month following the month in which the alcoholic beverages are sold or disposed of by the wholesaler within the city.

Secs. 6-218—6-240. - Reserved.

ARTICLE X. - OPEN CONTAINERS ^[13]

Sec. 6-241. - Possession of open container prohibited.

Sec. 6-242. - Application to property owned by the Georgia Board of Regents.

Sec. 6-243. - Application to restaurants with outside areas.

Sec. 6-244. - Possession in automobiles prohibited.

Sec. 6-245. - Application of section 6-244 to passengers of limousines, buses and campers.

Sec. 6-246. - Posting of notice by establishments.

Sec. 6-247. - Penalties for violation.

Sec. 6-241. - Possession of open container prohibited.

It shall be unlawful for any person to have in his or her possession any alcoholic beverages in any open container while on the public streets, sidewalks or rights-of-way, or in any public parking facility within the city.

Sec. 6-242. - Application to property owned by the Georgia Board of Regents.

This prohibition shall not apply to any property owned or managed by, or affiliated with the state board of regents.

Sec. 6-243. - Application to restaurants with outside areas.

The prohibition in section 6-241 above shall not apply to patrons of a restaurant seated within an outdoor seating area that has been authorized for consumption under subsection 6-157(a)(7)c.4 of this Code.

Sec. 6-244. - Possession in automobiles prohibited.

It shall be unlawful for any person to have in his or her possession any alcoholic beverages in any open container while an occupant of any motor vehicle, whether such vehicle is under way or not, while such vehicle is on the public street, sidewalks or rights-of-way, or in any public parking facility within the city. An open container shall be considered to be in the possession of the operator of a vehicle if the container is not in the possession of a passenger or is not located in the trunk or other non-passenger area of the vehicle.

Sec. 6-245. - Application of section 6-244 to passengers of limousines, buses and campers.

Section 6-244 above shall not apply to:

- (1) A passenger of a limousine or other similar vehicle in which the driver is operating the vehicle pursuant to a contract to provide transportation for hire and such driver holds a valid commercial driver's license pursuant to Georgia law or any other state;
- (2) A passenger of a bus in which the driver holds a valid commercial driver's license pursuant to Georgia law or any other state;
- (3) Or to occupants in the living quarters of a camper or motor home.

Sec. 6-246. - Posting of notice by establishments.

All licensed alcohol establishments are hereby required to post in a conspicuous location inside such establishment a notice informing patrons that open containers are prohibited on the public streets, sidewalks or rights-of-way, or in any public or semipublic parking facility within the city.

Sec. 6-247. - Penalties for violation.

Any violation of this article shall be punishable by a fine not to exceed \$100.00 for the first offense; a fine not to exceed \$200.00 for the second offense; and a fine not to exceed \$500.00 for any offense thereafter.

Memo



TO: Frank Parker, City Manager

FROM: Darren Prather, Purchasing Director

DATE: 11-29-11

Re: Sealed Bid Results—PD SUVs

The City of Statesboro solicited sealed bids for three (3) new sports utility vehicles for use by the Police Department. Great care was taken to make sure all specifications were fair as to allow each dealer an opportunity to bid a model from their line of vehicles. Kelly Blue Book was used to fairly compare all possible vehicles and specifications to be offered by dealerships. All local dealerships were sent bid packages and were contacted by a combination of emails and phone calls. In addition, out-of-town dealerships were sent bid packages and some discovered the opportunity via a trade search engine similar to those in the construction industry (Construction Data, Bid Ocean, etc...). The following dealers submitted sealed bids and they are as follows:

1. NeSmith Chevy	Chevy Traverse	\$27,055.00	\$81,165.00
2. Rozier Ford	Ford Explorer	\$24,040.00	\$72,120.00
	(3% in-county pref. margin	\$23,226.50 maximum amount)	
	(Rozier would have to be in this range to qualify for the 3% advantage)		
3. Mall of GA Ford	Ford Explorer	\$22,550.00	\$67,650.00
4. GA Chrysler Dodge	Dodge Durango	\$27,917.00	\$83,751.00
5. Prater Ford	Ford Explorer	\$24,093.00	\$72,279.00
6. J.C. Lewis Ford	Ford Explorer	\$24,240.00	\$72,720.00
7. Nash Chevy	Chevy Traverse	\$23,983.00	\$71,949.00

Specifications called for the vehicles to be new and of a 2011 model or newer. It is believed that the pricing difference achieved by the Mall of Georgia Ford dealership was due to the fact that they were able to secure numerous 2012 models given their dealership volume while other dealerships were not able to obtain these and had to opt to bid 2013 models. (More price concessions on the 2012 models). Having met all of the required specifications and having offered a bid price more than 3% lower than the lowest in-county dealer (3% in-county preference), I recommend the purchase be awarded to Mall of Georgia Ford at a bid price of \$22,550.00 per vehicle for a total of \$67,650.00 for three (3) as they have met or exceeded all of the required specifications. In addition, they have offered a delivery time of two weeks after receipt of a purchase order.

Memo



TO: Frank Parker, City Manager

FROM: Darren Prather, Purchasing Director

DATE: 11-29-2011

Re: Bid Award/Relocation and Extension of Transfer Station Metal Building

The City of Statesboro recently solicited sealed bids for the relocation and extension of a metal building at the City of Statesboro Transfer Station. This building will be erected on an existing slab. This building will be utilized to service large and small equipment as well as to provide sheltered storage for tools and equipment when not in use. Funding for this project is provided by the inert landfill expansion line item. By relocating this building, the transfer station will be able to utilize more of the existing property for this purpose. This bid opportunity was advertised per our ordinance and this project is to be a turn-key contract to be completed within 60 days of contract award. Bid packages were sent to six area companies with three attending the mandatory pre-bid meeting. Several companies stated that current ongoing projects had too many of their resources tied up for allocate to this project. The two companies submitting sealed bids are as follows:

- | | |
|---|-------------|
| 1. Smith Steel Structures, Inc. (Statesboro) | \$37,996.00 |
| 2. Mill Creek Construction Company, Inc. (Statesboro) | \$48,598.00 |

Having met all of the required specification and insurance requirements as well as having submitted the lowest responsible bid of \$37,996.00, I recommend that the City of Statesboro award this contract to Smith Steel Structures, Inc.



November 9, 2011

Wayne Johnson
Director of Water/Wastewater Department
City of Statesboro
P.O. Box 348
Statesboro, GA 30459

RE: GATEWAY II INDUSTRIAL PARK CANNADY TRACT WATER AND
SEWER EXTENSION

Dear Mr. Johnson,

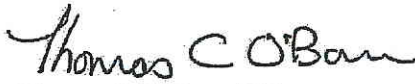
Maxwell-Reddick & Associates, Inc. has reviewed the bid proposals of the bidders, and has compiled the attached bid abstract. No major discrepancies were found in any of the bid proposals. The low bidder is Southeastern Civil, Inc.

However, Maxwell-Reddick & Associates, Inc. has reviewed the City's documentation (see attached) of disputes encountered while Southeastern Civil (SEC) performed the contracting duties on a previous project known as "Well No. 10 Water Main and US 301 Water Main Extension Project" (here after referred to as "previous project") in doing so, it is apparent that the City was displeased in the performance of Southeastern Civil, Inc. (SEC) on this previous project. Based upon this documentation, SEC was assessed liquidated damages on the previous project for failure to complete all of the punch list items for the project by the specified deadline. As such, Maxwell-Reddick recommends that the City use its right to reject any bid as listed in the Notice to Contractors and Invitation/Advertisement for Bids. In addition, Section 8 of the Instruction and Information for Bidders portion of the Contract Documents for the Gateway II Industrial Park Cannady Tract Water and Sewer Extension project clearly reserves the City's right to not award the contract to any bidder who has, on any previous contract, performed in a manner unsatisfactory to the Owner, either as to the character of the work, the fulfillment of guarantees or the time consumed in its completion. The documentation of the previous project clearly shows that SEC was unable to complete all of the work required for a complete project by the deadline specified, as well as being non responsive to directives submitted to SEC from City personnel.

Therefore, Maxwell-Reddick recommends that the contract for the Gateway II Industrial Park Cannady Tract Water and Sewer Extension be awarded to the second lowest bidder, Tucker Utilities, Inc. in the amount of Three Hundred Fifty Thousand, Nine Hundred Ninety-Seven Dollars and Fourteen Cents (\$350,997.14).

If you have any questions concerning this letter or the bid abstract, please feel free to give me a call at 489-7112.

Sincerely,



Thomas C. O'Barr, P.E.

Attachments:

1. Bid Abstract
2. Documentation of the Well No. 10 Water Main and US 301 Water Main Extension Project
3. Notice to Contractors and Invitation/Advertisement for Bids, Specifications, Gateway II Industrial Park Cannady Tract Water and Sewer Extension
4. Instruction and Information for Bidders, Specifications, Gateway II Industrial Park Cannady Tract Water and Sewer Extension

Cc: Frank Parker, City Manager, City of Statesboro
Darren Prather, Purchasing Director, City of Statesboro
Van Collins, Assistant Director, Water/Wastewater Department, City of Statesboro
Joey Maxwell, Principal, Maxwell-Reddick & Associates, Inc.

BID SCHEDULE
GATEWAY II INDUSTRIAL PARK WATER AND SEWER
CANNADY TRACT
BULLOCH COUNTY, GEORGIA
OCTOBER 24, 2011

Description	Quantity	Unit	SHOCKLEY PLUMBING	
			UNIT COST	CALCULATED TOTAL COST
12" PVC Water Main, AWWA C-900, SDR 18	4845	LF	\$ 21.00	\$ 101,745.00
12" PVC Restrained Joint Water Main, AWWA C-900, SDR 18	805	LF	\$ 30.00	\$ 24,150.00
12" DI Restrained Joint Water Main (Carrier Pipe)	100	LF	\$ 62.00	\$ 6,200.00
Connect to Existing Water Main @ US Highway 301	1	EA	\$ 2,000.00	\$ 2,000.00
Connect to Existing Water Main Stub-out	1	EA	\$ 1,000.00	\$ 1,000.00
12" Gate Valve and Box	12	EA	\$ 2,000.00	\$ 24,000.00
Fire Hydrant Incl. Gate Valve, Tee, and Lead	10	EA	\$ 3,000.00	\$ 30,000.00
Fire Hydrant Riser Pipe - 12"	1	EA	\$ 500.00	\$ 500.00
Fire Hydrant Riser Pipe - 18"	1	EA	\$ 500.00	\$ 500.00
Fire Hydrant Riser Pipe - 24"	1	EA	\$ 500.00	\$ 500.00
Jack/Bore Incl. 24" steel casing w/ spacers	100	LF	\$ 220.00	\$ 22,000.00
Misc Water Main Fittings (Plugs, Tees, Bends, Etc.)	1,485	LBS	\$ 4.00	\$ 5,940.00
Access Road - 14' wide, 6" GAB with Tenear Geogrid TX140-475, including stripping of vegetation, grading, and spreading/disposing excess material/vegetation	3,250	SY	\$ 16.00	\$ 52,000.00
12" DI Gravity Sewer, 6'-8'	256	LF	\$ 68.00	\$ 18,088.00
12" DI Gravity Sewer, 8'-10'	90	LF	\$ 70.00	\$ 6,300.00
12" DI Gravity Sewer, 10' - 12'	192	LF	\$ 76.00	\$ 14,592.00
12" DI Gravity Sewer, 12' - 20'	82	LF	\$ 100.00	\$ 8,200.00
12" PVC Gravity Sewer, SDR 26, 12' - 20'	60	LF	\$ 60.00	\$ 3,600.00
Standard Manhole, 4' Dia. - 10'-12'	1	EA	\$ 2,000.00	\$ 2,000.00
Standard Manhole, 4' Dia. - 18' - 20'	1	EA	\$ 3,000.00	\$ 3,000.00
Connect to Existing Sanitary Sewer Main Stub-out	1	EA	\$ 600.00	\$ 600.00
Misc Gravity Sewer Fittings (Plugs)	114	LBS	\$ 4.00	\$ 456.00
Grassing - Dst1, Dst2, Dst3, Du	15,000	SY	\$ 0.30	\$ 4,500.00
Silt Fence - Type A	4300	LF	\$ 1.00	\$ 4,300.00
Silt Fence - Type C	2050	LF	\$ 3.00	\$ 6,150.00
Clearing and removal of trees and underbrush	1	LS	\$ 10,000.00	\$ 10,000.00
Cut and repair existing asphalt pavement	100	LF	\$ 40.00	\$ 4,000.00
Remove Unsuitable Material, replace with crushed stone	75	CY	\$ 40.00	\$ 3,000.00
Remove Unsuitable Material, replace with approved off-site borrow	500	CY	\$ 5.00	\$ 2,500.00
Coordinate and install electrical service to elevated storage tank site	1	LS	\$ 5,000.00	\$ 5,000.00
Grading, spreading/disposal of excess excavated material, testing and disinfection of mains, mobilization, clean up, insurance, bonds, as-built drawings on disk and red lined plans, and other miscellaneous items not specifically listed but necessary for a complete job	1	LS	\$ 5,000.00	\$ 5,000.00
GRAND TOTAL			\$ 372,821.00	\$ 372,821.00

BID SCHEDULE
GATEWAY II INDUSTRIAL PARK WATER AND SEWER
CAMBRY TRACT
BULLOCH COUNTY, GEORGIA
OCTOBER 24, 2011

SOUTHEASTERN CIVIL			TUCKER UTILITIES			WOODARD CONSTRUCTION			Y-DELTA		
CALCULATED			CALCULATED			CALCULATED			CALCULATED		
UNIT COST	TOTAL COST		UNIT COST	TOTAL COST		UNIT COST	TOTAL COST		UNIT COST	TOTAL COST	
\$ 18.25	\$ 88,421.25		\$ 20.66	\$ 100,097.70		\$ 22.00	\$ 106,590.00		\$ 19.94	\$ 98,609.30	
\$ 25.00	\$ 20,125.00		\$ 31.00	\$ 24,955.00		\$ 31.00	\$ 24,955.00		\$ 26.39	\$ 21,243.95	
\$ 55.00	\$ 5,500.00		\$ 83.00	\$ 8,300.00		\$ 65.00	\$ 6,500.00		\$ 47.32	\$ 4,732.00	
\$ 1,500.00	\$ 1,500.00		\$ 1,000.00	\$ 1,000.00		\$ 1,500.00	\$ 1,500.00		\$ 2,489.03	\$ 2,489.03	
\$ 400.00	\$ 400.00		\$ 600.00	\$ 600.00		\$ 500.00	\$ 500.00		\$ 589.21	\$ 589.21	
\$ 1,650.00	\$ 19,800.00		\$ 1,600.00	\$ 19,200.00		\$ 1,725.00	\$ 20,700.00		\$ 1,732.79	\$ 20,793.48	
\$ 2,500.00	\$ 25,000.00		\$ 2,650.00	\$ 26,500.00		\$ 2,800.00	\$ 28,000.00		\$ 3,016.42	\$ 30,164.20	
\$ 650.00	\$ 650.00		\$ 750.00	\$ 750.00		\$ 500.00	\$ 500.00		\$ 481.91	\$ 481.91	
\$ 700.00	\$ 700.00		\$ 750.00	\$ 750.00		\$ 525.00	\$ 525.00		\$ 501.92	\$ 501.92	
\$ 750.00	\$ 750.00		\$ 750.00	\$ 750.00		\$ 550.00	\$ 550.00		\$ 584.88	\$ 584.88	
\$ 180.00	\$ 18,000.00		\$ 222.97	\$ 22,297.00		\$ 145.00	\$ 14,500.00		\$ 240.32	\$ 24,032.00	
\$ 4.15	\$ 6,162.75		\$ 4.06	\$ 6,029.10		\$ 4.50	\$ 6,682.50		\$ 10.08	\$ 14,968.80	
\$ 13.50	\$ 43,875.00		\$ 15.00	\$ 48,750.00		\$ 12.00	\$ 39,000.00		\$ 19.13	\$ 62,172.50	
\$ 70.00	\$ 18,620.00		\$ 63.95	\$ 17,010.70		\$ 75.00	\$ 19,950.00		\$ 69.34	\$ 18,444.44	
\$ 75.00	\$ 6,750.00		\$ 63.95	\$ 5,755.50		\$ 80.00	\$ 7,200.00		\$ 69.34	\$ 6,240.60	
\$ 70.00	\$ 13,440.00		\$ 66.95	\$ 12,854.40		\$ 82.00	\$ 15,744.00		\$ 69.34	\$ 13,313.28	
\$ 85.00	\$ 7,820.00		\$ 74.25	\$ 6,831.00		\$ 110.00	\$ 10,120.00		\$ 74.34	\$ 6,839.28	
\$ 22.00	\$ 1,320.00		\$ 35.50	\$ 2,130.00		\$ 45.00	\$ 2,700.00		\$ 25.90	\$ 1,554.00	
\$ 2,550.00	\$ 2,550.00		\$ 1,650.00	\$ 1,650.00		\$ 2,500.00	\$ 2,500.00		\$ 2,371.10	\$ 2,371.10	
\$ 3,100.00	\$ 3,100.00		\$ 2,150.00	\$ 2,150.00		\$ 3,800.00	\$ 3,800.00		\$ 3,433.56	\$ 3,433.56	
\$ 650.00	\$ 650.00		\$ 500.00	\$ 500.00		\$ 3,500.00	\$ 3,500.00		\$ 1,000.00	\$ 1,000.00	
\$ 6.00	\$ 684.00		\$ 4.06	\$ 462.84		\$ 5.00	\$ 570.00		\$ 13.92	\$ 1,586.88	
\$ 0.36	\$ 5,400.00		\$ 0.25	\$ 3,750.00		\$ 0.35	\$ 5,250.00		\$ 0.25	\$ 3,750.00	
\$ 0.75	\$ 3,225.00		\$ 1.80	\$ 7,740.00		\$ 1.00	\$ 4,300.00		\$ 1.77	\$ 7,611.00	
\$ 1.50	\$ 3,075.00		\$ 2.65	\$ 5,432.50		\$ 2.00	\$ 4,100.00		\$ 2.35	\$ 4,817.50	
\$ 500.00	\$ 500.00		\$ 1,000.00	\$ 1,000.00		\$ 2,500.00	\$ 2,500.00		\$ 5,000.00	\$ 5,000.00	
\$ 26.50	\$ 2,650.00		\$ 10.00	\$ 1,000.00		\$ 38.00	\$ 3,800.00		\$ 50.00	\$ 5,000.00	
\$ 53.00	\$ 3,975.00		\$ 40.00	\$ 3,000.00		\$ 45.00	\$ 3,375.00		\$ 75.00	\$ 5,625.00	
\$ 13.00	\$ 6,500.00		\$ 14.00	\$ 7,000.00		\$ 11.00	\$ 5,500.00		\$ 25.00	\$ 12,500.00	
\$ 4,926.40	\$ 4,926.40		\$ 4,926.40	\$ 4,926.40		\$ 5,200.00	\$ 5,200.00		\$ 5,798.38	\$ 5,798.38	
\$ 8,000.00	\$ 8,000.00		\$ 7,825.00	\$ 7,825.00		\$ 12,000.00	\$ 12,000.00		\$ 9,673.30	\$ 9,673.30	
\$	\$ 322,069.40		\$	\$ 350,997.14		\$	\$ 362,611.50		\$	\$ 383,921.50	



City of Statesboro
Office of the Staff Attorney

P.O. Box 348
Statesboro, Georgia 30459

912.764.0643
912.489.6140(Fax)

November 9, 2010

Jeff Wolfe
Southeast Civil, Inc.
9100 White Bluff Road
Suite 205
Savannah, Georgia 31406

RE: Well No. 10 Water Main and US 301 Water Main Extension Project (Statesboro)

Dear Mr. Wolfe,

I am writing you concerning deficiencies relating to the above-stated project. It has come to my attention that several items have not been completed in accordance with your contract with the City of Statesboro. In particular, the following items remain unfinished:

- 1) Installation of a riser for the hydrant located at the well site;
- 2) Raise valve at 301 and Gold Kist Road;
- 3) Extension and repair of pavement at the Newell Recycling Center;
- 4) Correct the ditch area and clean up the concrete section at Farmer's Automatic;
- 5) Grass seed area surrounding the Well 9 site; and
- 6) Repair irrigation line and sod at Audio Outlet.

Pursuant to the contractual agreement, the City of Statesboro is entitled to liquidated damages of \$500.00 per day for any delay in the completion of this project. If the above-stated issues are not resolved by November 19, 2010 by 17:00 hours, the City will begin enforcing the liquidated damages provision of the agreement. We ask that you please correct these items as soon as possible to avoid the imposition of penalties. If you have any further questions or concerns, please feel free to call me at (912) 764-0643.

Sincerely,

Michael L. Graves, Jr., Esq.
Staff Attorney
City of Statesboro

cc: Frank Parker, City Manager
Wayne Johnson, Director of W/WW



City of Statesboro
Office of the Staff Attorney

P.O. Box 348
Statesboro, Georgia 30459

912.764.0643
912.489.6140(Fax)

November 29, 2010

Jeff Wolfe
Southeast Civil, Inc.
9100 White Bluff Road
Suite 205
Savannah, Georgia 31406

RE: Well No. 10 Water Main and US 301 Water Main Extension Project (Statesboro)

Dear Mr. Wolfe,

On November 9, 2010, I sent correspondence to you in regard to failure by Southeast Civil to complete the construction of the above-referenced project. As of this date, the paving at Newell Recycling Center has not been completed. Pursuant to Southeast Civil's contractual agreement with the City of Statesboro, the City will begin exercising its right to liquidated damages of \$500.00 per day for any delay beginning on Monday, November 29, 2010 and will continue until this project is completed pursuant to the terms of the agreement.

The total amount of liquidated damages will be applied against the total due on the contract. In the event that the liquidated damages assessed against you exceed the total sum owed per the contract, you will be billed for any amounts owed. We ask that you please complete the paving at the Newell Recycling Center site as soon as possible to avoid the imposition of additional penalties. If you have any further questions or concerns, please feel free to call me at (912) 764-0643.

Sincerely,

Michael L. Graves, Jr., Esq.
Staff Attorney
City of Statesboro

cc: Frank Parker, City Manager
Wayne Johnson, Director of W/WW



City of Statesboro
Water, Sewer Department

P.O. Box 348
Statesboro, Georgia 30459

912.764.0693
912.764.0928 (Fax)

December 7, 2010

To: Wayne Johnson, Water Wastewater Director
Van Collins, Water Wastewater Assistant Director ✓
From: Darryl Lively, Water Sewer Superintendent
Subject: 301 South Water Main Extension

Below are the deficiencies that Southeastern Civil, Incorporated, had on the above referenced project.

1. Keith and Danny worked with Southeastern Civil, Inc. while they made two (2) bores under the railroad. This was done Saturday and Sunday.
2. On several occasions during project Keith, Van and Danny had to remind Southeastern Civil, Inc. about installing marking tape.
3. During the week of 4-5-10 to 4-9-10, he left this job to finish up another project and did not return until 6-21-10.
4. On 7-8-10, Keith and Danny stopped Southeastern Civil, Inc. from installing the water main on 301 South and made him start repairing area from A to Z Truck Stop to Farmer's Automatic.

After dressing up along ditch line on 301 South, Keith had a problem with Southeastern Civil, Inc. delaying installing erosion control (hay bales). Southeastern Civil, Inc. kept delaying this for 3 or 4 days.

5. While installing water main in front of Farmer's Automatic, I informed Southeastern Civil, Inc. that the parking pad in front of this business would not support his excavator; however, he used it anyway and had to replace the complete parking pad. The City did not pay for this repair.
6. Southeastern Civil, Inc. completed water main installation for this project during the week of 7-23-10 and as of 12-6-10, has not completed all of the punch list items.

7. During the week of 8-16-10 and 8-20-10, there was a 3-inch rain event with a significant amount of erosion. Southeastern Civil, Inc. was notified of this and did not address any of the erosion problems until the week of 8-30-10/9-3-10.
8. During the week of 9-6-10/9-10-10, Southeastern Civil, Inc. repaired the cut parallel to Newels Recycling Center. On 9-13-10, Van and Danny met with Levy Lowery from Newels about the cut and how terrible and incomplete it was. There was also some concrete left on site.
9. Southeastern Civil, Inc. was given the punch list for this project on 9-23-10 and as of 12-6-10 it is not complete.

Michael L. Graves, Jr.

From: Danny Lively [dlively@statesboroga.net]
Sent: Monday, December 13, 2010 11:08 AM
To: 'Michael Graves'
Cc: Wayne Johnson (Wayne Johnson); Van Collins (Van Collins)
Subject: Southeastern Civil Inc.

Michael,

Southeastern Civil Inc. (Jeff Wolf owner) has completed the 301 South water main extension project as of 3:00 pm

December 10, 2010.

I have received all paper work, warranty, and as built drawings pertaining to this project.

*Danny Lively, Water Sewer Operations Superintendent
City of Statesboro
P. O. Box 348
Statesboro, GA 30459
912-764-0693 (Office)
912-764-0928 (Fax)*

1. Hydrant at well site needs riser — 1 foot
Not completed
2. Raise valve at 301 and Gold Kist Road, Straighten valve box at same location
Valve has not been raised, valves boxes have been corrected
3. A to Z Truck Stop
1st drive — Rerock drive and dress up both sides of same drive
Corrected
4. Rental Store
Dress up shoulders of driveways, Patch drive
Corrected
5. Deloach Truck Repair
Remove leftover asphalt in drive and rock driveway
Corrected
6. Newell Recycling
Sweep lot, Tear out and repave parking lot — Extend 5' more to north, Dress up end of parking lot (North end), Sign against fence put back up
Extend pavement approx. 5' to the north, repair parking lot.
7. Sykes Property
Patch driveway
Completed
8. Delta Transport
Rock in driveway
Completed
9. Gateway Storage
Rock in driveway and clean up hay bales
Completed
10. Farmers Automatic
Patch driveway, Clean up concrete pile, Remove hay bales, Kill service once line is disinfected
Complete, need to dress up area in ditch and clean up concrete
11. Well 9 Site
Dress Up — Raise valve box, Remove power pole, Drainage swell put back, Clean up (tree, roots)
Complete, grass seed area
12. Repair irrigation line and sod at Audio Outlet
Has not done anything here



City of Statesboro
Office of the Staff Attorney

P.O. Box 348
Statesboro, Georgia 30459

912.764.0643
912.489.6140(Fax)

December 29, 2010

Jeff Wolfe
Southeast Civil, Inc.
9100 White Bluff Road
Suite 205
Savannah, Georgia 31406

RE: Well No. 10 Water Main and US 301 Water Main Extension Project (Statesboro)

Dear Mr. Wolfe,

As you have previously been notified, the City of Statesboro elected to enforce the liquidated damages provision of its agreement with Southeast Civil. In accordance with the agreement, the City has a right to liquidated damages of \$500.00 per day for any delay beyond the completion date of the agreement. In order to provide leniency to you in regard to the enforcement of liquidated damages, the City elected to begin enforcing liquidated damages starting on Monday, November 29, 2010. The total amount of liquidated damages calculated for the ten days subsequent to November 29, 2010 totaled \$5,000.00.

After being notified that liquidated damages would be enforced, you petitioned the City of Statesboro for a waiver of liquidated damages. After considering your request, the City of Statesboro has determined that it will grant a partial waiver of liquidated damages and that the final reduction for liquidated damages will be \$1,000.00. No further waiver will be granted. I am hopeful that the partial waiver will provide you with some financial relief. If you have any further questions or concerns, please feel free to call me at (912) 764-0643.

Sincerely,

Michael L. Graves, Jr., Esq.
Staff Attorney
City of Statesboro

cc: Frank Parker, City Manager
✓ Wayne Johnson, Director of W/WW

Southeastern
Civil, Inc.

Southeastern Civil, Inc.
1401 Henderson Street
Statesboro, GA 30459
Phone: 912/231-0700
Fax: 912/231-0701

City of Statesboro
P.O. Box 348
Statesboro, GA 30459

January 25, 2011

RE: Well No. 10 Watermain and US 301 Watermain Extension Project

Mr. Graves,

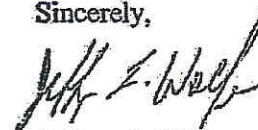
On January 21, 2011 Southeastern Civil, Inc. received final payment on the above referenced project minus \$1,000.00 that was withheld according to your letter dated December 29, 2010. We have enjoyed working with the City of Statesboro on this project and greatly appreciate all efforts put forth by City personnel on our behalf.

I apologize for not responding to any of the three letters you sent to our office regarding potential liquidated damages until now. After I received each letter I made sure to verbally contact the City inspector for the project to let him know the issues at hand were being handled. Although it took me longer that I wanted to complete the punch list, I would like to state for the record that the actual watermain was installed, pressure tested, chlorinated and put in service by The City of Statesboro at least two months before the contract completion date. I assume full responsibility for the punch list taking too long to complete, but according to the consulting engineer on this project, Hussey, Gay, Bell & DeYoung, Inc., liquidated damages should only be enforced when the owner has suffered monetary damages themselves.

I would also like for it to be known that Southeastern Civil, Inc. saved the City of Statesboro approximately \$21,000.00 by notifying them of a potential quantity overrun in 12" restrained joint watermain prior to installation. If we had installed all 12" restrained joint watermain according to the contract documents that particular line item would have exceeded its predetermined quantity by more than one thousand feet. At \$21.00 per foot according to the unit price contract that was in place the overrun would have been substantial.

I am not writing this letter in hopes of collecting the \$1,000.00 withheld from our final payment. I just wanted both sides of the story on file to protect our position as it pertains to bidding and being awarded future work with the City of Statesboro.

Sincerely,



Jeffrey L. Wolfe



City of Statesboro
Office of the Staff Attorney

P.O. Box 348
Statesboro, Georgia 30459

912.764.0643
912.489.6140(Fax)

January 28, 2011

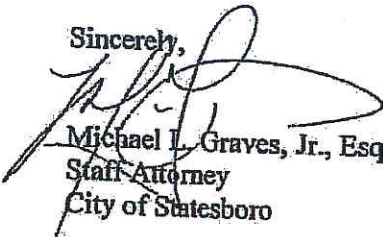
Jeff Wolfe
Southeast Civil, Inc.
9100 White Bluff Road
Suite 205
Savannah, Georgia 31406

RE: Well No. 10 Water Main and US 301 Water Main Extension Project (Statesboro)

Dear Mr. Wolfe,

I wanted to personally thank you for your work with the City of Statesboro and your efforts to save the City money in regard to the installation of the water main. Unfortunately, the City is unwilling to reduce the enforcement of liquidated damages further, as the amount was reduced significantly prior to the enforcement of the \$1,000.00 reduction. Understand that unless the City begins to enforce the damages provisions of its contracts in regard to construction deadlines, there will be no recourse against a construction firm in the event that a deadline is not met. Deadlines for water/sewer projects are taken seriously by our Water and Sewer Department, as water service is vital to our community and the construction of enhanced capabilities is essential to the City's growth. I apologize that we are not able to meet your request. If you have any further questions or concerns, please feel free to call me at (912) 764-0643.

Sincerely,


Michael L. Graves, Jr., Esq.
Staff Attorney
City of Statesboro

cc: Frank Parker, City Manager
Wayne Johnson, Director of W/WW

City of Statesboro
P.O. Box 348
Statesboro, Georgia 30459

February 4, 2011

RE: Well No. 10 Water Main and US 301 Water Main Extension Project (Statesboro)

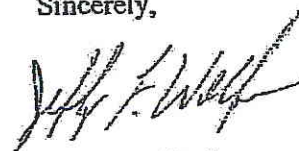
Mr. Graves,

I appreciate the gratitude expressed in your recent letter sent to my office dated January 28, 2011, however I felt a reply was necessary. I am not certain that you understood the intent of my last correspondence concerning the liquidated damages imposed by the City of Statesboro on the above referenced project. My intent was not to collect the \$1,000.00 or even have it reduced. The point I was attempting to make is that no damages whatsoever should have been imposed in the first place due to the fact that the City was able to utilize the services of a water system installed by Southeastern Civil, Inc. for two months before our contract time ever expired. I assure you that I take deadlines seriously myself which is why this water system was installed and in operation at least sixty days prior to the completion date. That fact coupled with the money that we were able to save the City on this project, which can be used for future growth, should have certainly earned my company some leniency concerning the completion of the punch list.

As a taxpayer in the City of Statesboro I would like to respectfully request that the Water and Wastewater Department acknowledge that the \$1,000.00 fine imposed on my company was not necessary and that no future attempts will be made to prevent Southeastern Civil, Inc. from bidding or being awarded future projects let by The City of Statesboro. I would also like to donate the \$1,000.00 to the City for future expansion projects.

Again, thank you for your gratitude and please feel free to call me if I can be of further assistance.

Sincerely,



Jeffrey L. Wolfe
912.313.9705

NOTICE TO CONTRACTORS AND
INVITATION/ADVERTISEMENT FOR BIDS

Sealed bids will be received for Gateway II Industrial Park Cannady Tract, Water and Sewer Extension in the office of Darren Prather, Purchasing Director, City Hall, 50 East Main Street, Statesboro, Georgia, until 2:00 PM (Local Time), November 1, 2011 at which time the bids will be publicly opened.

The work under this Contract will consist generally of the following:

Installation of about 700 LF of 12-inch gravity sewer, construct 2 manholes, 5,700 LF of 12-inch water mains, clearing, soil & erosion control and other miscellaneous construction items.

The Plans and Specifications are available for inspection at the office of Maxwell-Reddick and Associates, Inc., 1203 Brampton Avenue, Statesboro, Georgia.

One (1) set of Plans, Specifications and other Contract Documents may be obtained by application, accompanied by a check or money order in the amount of \$200.00 payable to Maxwell-Reddick and Associates, Inc., 1203 Brampton Avenue, Statesboro, Georgia, 30458. No refund will be made for returned documents.

All questions concerning the plans, Specifications and other Contract Documents should be directed to Maxwell-Reddick and Associates, Inc., 1203 Brampton Avenue, Statesboro, Georgia, 30458, telephone (912) 489-7112.

A mandatory Pre-Bid Conference is scheduled for 2:00 P.M. on October 13, 2011 at Council Chambers, 2nd floor, City Hall, Statesboro.

Bids must be accompanied by a certified check or Bid Bond in the amount of five percent of the amount bid. The successful bidder must be able to provide a Payment Bond and Performance Bond within ten days of Notice of Award. These bonds must be in the amount of 100 percent of the contract amount. *A statement from the bidder's bonding company shall accompany the bid bond stating that the bidder can submit a Payment and Performance Bond, in accordance with the contract documents, within ten days of award of contract.* In accordance with State of Georgia Code Section 43-14-8.2(h) the low bidder must furnish proof that they have a Utility Contractor's License before a contract will be executed.

The City of Statesboro reserves the right to reject any or all bids and to waive technicalities and informalities.

CITY OF STATESBORO, GEORGIA
POST OFFICE BOX 348
50 E. Main Street
STATESBORO, GEORGIA 30458

INSTRUCTION AND INFORMATION FOR BIDDERS

1. BASIS OF CONTRACT:

See Invitation/Advertisement for Bids and Proposal Form.

2. BID SECURITY:

See Invitation/Advertisement for Bids and Proposal Form.

3. INTERPRETATIONS:

No oral interpretation will be made to bidders as to the meaning of the Drawings and Specifications. Requests for interpretation of Drawings and Specifications must be made in writing to the Engineer not later than seven (7) days prior to the date set for receipt of proposals, and failure on the part of the successful bidder to do so shall not relieve him as Contractor of the obligation to execute such work in accordance with a later interpretation by the Engineer. All interpretations made to bidders will be issued in the form of addenda to the Drawings and specifications and will be sent to all bidders. Such addenda are to be covered in the proposal, and in closing the Contract they will become a part thereof. No Addenda shall be issued within 72 hours of Opening except to cancel or postpone Bid.

4. BIDDERS TO INVESTIGATE:

Bidders are required to submit their proposals upon the following express conditions, which shall apply to and become part of every bid received:

Each Bidder must satisfy himself and form his own opinion by personal examination of the location and ground of the proposed work, and by such other means as he may desire, as to the actual conditions and requirements of the work, including the materials to be excavated; must make his own interpretations and satisfy himself by his own investigations and research regarding labor and materials needed, and shall make his bid in sole reliance thereon. Any information or data furnished by the Owner or its employees for the convenience of any bidder is not guaranteed.

5. PROPOSALS:

Proposals will be opened and read as stated in the Invitation/Advertisement for Bids.

All bids must be submitted on the Bid Proposal Form furnished to the Bidder as a part of these documents and must be signed. All blanks on the proposal form must be filled in. Numbers shall be written in English words and in Arabic Numerals, and the completed form shall be without interlineations, alteration, or erasure. Written words govern. Failure to submit a proposal in the form requested or the inclusion of any condition, alternate, limitation or provision not called for will render the bid irregular and shall be considered sufficient cause for rejection of a bid. Failure to complete entries in all blanks in the proposal form shall be considered sufficient cause for rejection of a proposal.

All addenda issued shall be acknowledged in the place so designated. All alternates, if any, shall be bid on; the term "no bid" shall not be used. In the event that the Bidder does not desire to make a change in price from his Base Bid for any given alternate, he shall so indicate by using the words "no change." Proposals shall close with legal name of Bidder and be executed by one legally authorized to bind the bidding firm to a contract.

Bid Security, made payable to the Owner, shall be in the amount of five percent (5%) of the Base Bid. Security shall be a Bid Bond issued by a surety licensed to conduct business in state where project is located, and shall have attached Power of Attorney certifying bond signee. A proposal can be withdrawn after it is filed in accordance with 36-91-52 OCGA. If any bidder refuses to enter into a contract, the Owner will retain his Bid Security as liquidated damages but not as a penalty.

Submittal: The Proposal, in duplicate, and a single copy of the Bid Security together with the Power of Attorney shall be contained in a sealed envelope bearing the Bidder's name clearly addressed to the Owner as indicated on the Proposal Form. Furthermore, the Bidder shall include his Underground Utility Contractor's License number on the outside of the sealed envelope. In addition, in large letters on both the front and back of the envelope, the following shall appear: "PROPOSAL FOR CONSTRUCTION DO NOT OPEN UNTIL 2:00 O'CLOCK P.M., NOVEMBER 1, 2011". After that time, no proposals will be received or withdrawn.

6. FORM OF AGREEMENT:

Form of Agreement will be on the enclosed Form in the Bid Documents.

7. AWARD:

The Owner's intent is to make an award within funds available to the lowest responsible bidder furnishing satisfactory performance surety.

The Owner reserves the right to reject any or all bids and to waive technicalities and informalities.

8. CONTRACTOR TO BE SATISFACTORY TO OWNER:

The Contract will not be awarded to any bidder or bidders who have failed in any contractual obligations to the Owner, or who has on any previous contract performed in a manner unsatisfactory to the Owner, either as to the character of the work, the fulfillment of guarantees or the time consumed in its completion.

The three low bidders shall, upon written request and prior to the letting of a contract, furnish the Owner with the following information relative to his own business and that of each of the subcontractors named in his Bid Proposal.

(a) A statement of his experience, including a list of projects for which he or his firm was a responsible contractor or subcontractor; such lists shall indicate the name or identification and location of each project, the year it was completed, a brief description and the approximate dollar value of the work for which he was responsible.

(b) A statement of experience of each subcontractor named in his Bid Proposal; each

statement shall include a list of projects for which the named subcontractor was a responsible contractor or subcontractor; such lists shall include the name or identification and location of each project, the year it was completed, a brief description and the approximate dollar value of the work for which the named subcontractor was responsible.

(c) The amount of capital and equipment the Bidder has available for the work of the project.

(d) The amount of capital and equipment each of the named subcontractors has available for the work of the project.

(e) A statement showing the financial assets and liabilities of the Bidder, certified to by a Certified Public Accountant.

(f) A statement from each of the named subcontractors showing his assets and liabilities, certified by a Certified Public Accountant.

9. LIQUIDATED DAMAGES:

Liquidated damages as set forth in the Bid Proposal will be assessed for each consecutive calendar day of delay in the completion of the work not excusable as provided in the Bid Proposal.

10. SURETY AND INSURANCE COMPANIES:

The Contract provides that the surety and insurance companies must be acceptable to the Owner. To avoid inconvenience, any bidder or subcontractor should confer with the Owner to determine whether the surety or insurance companies expected to be used on the work are acceptable to the Owner.

11. PARTIAL SETS-DRAWINGS AND SPECIFICATIONS:

Plan holders may obtain partial sets of Drawings and Specifications upon payment of a charge of \$2.00 per Drawing and \$0.25 per Specification sheet to cover the costs of reproduction and handling. All requests for individual Drawings or Specifications shall be made in writing and the request shall clearly indicate the specific Drawings and pages or sections of the Specifications desired. No refund will be made for partial sets.

12. NPDES MONITORING, SAMPLING, AND REPORTING:

The Contractor must sign the Notice of Intent (NOI) as the Operator and the Primary Permittee for the site. The Owner will provide the NPDES Monitoring, Sampling, and Reporting.

END OF SECTION



City of Statesboro – Department of Community Development DEVELOPMENT SERVICES REPORT

P.O. Box 348
Statesboro, Georgia 30458

» (912) 764-0630
» (912) 764-0664 (Fax)

ZONING MAP AMENDMENT RZ 11-08-01 HIGHWAY 67/BURKHALTER ROAD

LOCATION: Highway 67 / Burkhalter Road

REQUEST: Rezone from CR to R4; variance from Sections 2301 and 2302 regarding landscaping buffers.

APPLICANT: Breckenridge Properties

OWNER: Martha S. Coleman

LAND AREA: apx 64 acres

PARCEL TAX MAP #s: MS88 000026 000

COUNCIL DISTRICT: 5 (Chance)

RZ 11-08-01 Highway 67
Location Map



BACKGROUND / PROPOSAL:

Maxwell-Reddick and Associates, on behalf of applicant Breckenridge Properties is requesting a variance from Sections 2301 and 2302 of the *Statesboro Zoning Ordinance* regarding landscape buffers and a zoning map amendment from CR (Commercial Retail) to R4 (High Density Residential) for a portion of the subject site's acreage located at Highway 67 and Burkhalter Road (see **Exhibit A**) in order to allow for the purchase, subdivision, and development of the property.

SURROUNDING LAND USES/ZONING:

ZONING:		LAND USE:
NORTH:	Bulloch County Highway Commercial	General commercial use / transition into city limits
SOUTH:	Bulloch County Highway Commercial	General commercial uses
EAST:	Bulloch County R40 Single Family Residential	Undeveloped acreage
WEST	Bulloch County Highway Commercial	General commercial uses

The (approximately) 64 acre subject site is an undeveloped parcel situated along Highway 67 and Burkhalter Road. The subject site was annexed into the city in 2005. In 2007, City Council action approved a split zoning of the property at 43.1 acres Commercial Retail (CR) and 23.4 acres R4 (High Density Multi Family Residential). The purpose of this rezoning is to increase the R4 zoning by 10.9 acres from 23.4 acres to 34.3 acres to accommodate

the proposed development shown on the attached Rezone Plan (resulting in 15.7 acres CR and 46.4 acres R4) (see current Zoning Map and Proposed Zoning Plan, **Exhibits B and C**).

The requested variance is to waive the ordinance required landscape buffers between the high density dwelling units and the adjacent commercial zones of the property in order to allow flexibility of design and walkability between the developments.

Applicant's concept plan, see **Exhibit C and D**, associated with these requests, is to develop a student oriented multifamily housing complex consisting of a building mixture of four (4) bedroom houses, three (3) bedroom duplexes, and two (2) bedroom duplexes and commercial development of the appropriately zoned portions of the property.

COMPREHENSIVE PLAN:

The *City of Statesboro Comprehensive Master Plan* includes the subject site within the proposed annexation character area for the City of Statesboro. The only guidance given for this character area in the *Plan* is the encouragement and development of annexation policies for the City.

However, this area has long been anticipated as a future growth area for the City of Statesboro and at one time was included within a Capital Cost Recovery Area as identified by Bulloch County and the City of Statesboro. This designation established the formal recognition of the intent to develop the property pursuant to city regulations and resulted in appropriate planning and preparation for infrastructure development and provision of city services to the area.

The subject property is also located along an "Access Corridor" (Highway 67) and a local road (Burkhalter Road) as defined by the *Plan*. Access Corridors are designed to move traffic efficiently. Suggested Development and Implementation Strategies for Access Corridors include the following:

- Encourage connection of areas with existing and proposed networks of bicycle paths, sidewalks, and trails.

Furthermore, the *Plan* encourages relationships between buildings, parking, and mixed uses that promote connectivity, walkability, and shared access to maintain mobility on major arterial roads. It goes on to state that the traditional development patterns of limited entry and exits marked by cul-de-sacs can (and often do) result in increased traffic congestion, inefficient transportation networks, issues of public safety, and lack of accessibility for pedestrians and cyclists. It is for these reasons, that the staff has recommended approval of the landscape buffers otherwise required by the *Statesboro Zoning Ordinance* in the development of this parcel. (Note: In the event a variance was approved, each parcel would still be subjected to Chapter 86 "tree ordinance" for the City of Statesboro).

TRANSPORTATION:

The subject site takes access from Highway 67 and Burkhalter Road.

Although located along a five (5) lane access corridor, this area is generally recognized by the community at large as one suffering from congestion issues in the Burkhalter area.

The Institute of Traffic Engineers Trip Generation Manual estimates an average of 6.65 trips per unit to be generated per day for a housing development of this type. At an expected 738 beds plus development of 34 acres as Commercial Retail, an obvious impact on traffic volumes is anticipated by the development proposed by these applications. Given this expectation, as well as the positioning of this property to promote additional annexations and development of adjacent green fields, and the guidance of the Comprehensive Plan, the Bulloch County Long Range Transportation Plan, and the terms of the Capital Cost Recovery Area Intergovernmental Agreement for adjacent properties, it is staff's recommendation that a condition of rezoning this parcel include appropriate transportation network planning. (Please see conditions at end of report for specifics).

COMMUNITY FACILITIES (EXCEPT TRANSPORTATION):

Provision of public utilities for this site has long been anticipated, planned for, and approved by the City Council. Therefore, provision of city utilities to this site will be carried forward in accordance with this preparation and the Capital Improvement Plan of the City of Statesboro at the development stage.

ENVIRONMENTAL:

A small portion of the acreage on the west side of the property is within a special flood hazard zone. However, staff review of this issue indicates that all environmental issues connected with this site could be satisfactorily handled through proper site design and standard permitting and inspecting processes should any of the applicant's requests be granted.

HISTORIC AND CULTURAL RESOURCES:

There are no known historical or cultural resources on or adjacent to the subject property that would be affected by the request.

ANALYSIS:

43 acres of the subject site is currently zoned CR (Commercial Retail) with the remainder 23.4 acres being zoned R4 (High Density Multi Family Residential). The applicant is requesting that 9.1 acres of the CR zoned property be rezoned R4 (High Density Residential) and that a variance from Sections 2301 and 2302 regarding landscape buffers be granted from the *Statesboro Zoning Ordinance*.

I. Application RZ 11-08-01 to rezone 10.9 acres of tax map parcel MS 880000026000 from CR (Commercial Retail) to R4 (High Density Residential).

The request to rezone the subject property from CR (Commercial Retail) to R4 (High Density Residential) district should be considered in light of the standards for determination of zoning map amendments given in Section 2007 of the *Statesboro Zoning Ordinance*; the vision and community policies articulated within the city's two (2) primary land use policies: *The Statesboro Comprehensive Plan* and the *2035 Bulloch County/City of Statesboro Long Range Transportation Plan*; and the potential for the property to develop and be utilized in conformance with the requirements of the proposed R4 (High Density Residential) zoning district as set forth in the *Statesboro Zoning Ordinance*.

Section 2007 of the Statesboro Zoning Ordinance provides eight (8) standards for the Mayor and City Council to consider "in making its determination" regarding a zoning map amendment in "balancing the promotions of the public health, safety, morality (morals), and general welfare against the right of unrestricted use of property." Those standards are as follows:

- (1) Existing uses and zoning or (of) property nearby;
- (2) The extent to which property values are diminished by the particular zoning restrictions.
- (3) The extent to which the description of property values of the property owner promotes the health, safety, morals or general welfare of the public.
- (4) The relative gain to the public, as compared to the hardship imposed upon the property owner.
- (5) The suitability of the subject property for the zoned purposes.
- (6) The length of time the property has been vacant as zoned, considered in the context of land development in the area in the vicinity of the property.
- (7) The extent the proposed change would impact the following: population density in the area; community facilities; living conditions in the area; traffic patterns and congestion; environmental aspects; existing and future land use patterns; property values in adjacent areas; and
- (8) Consistency with other governmental land use, transportation, and development plans for the community.

Review of the standards given in Section 2007 and the City's long term planning and preparation for the development of this site as a mix of Commercial Retail and R4 (High Density Multi Family) zoning districts support the rezoning of 10.9 acres of the site from CR to R4 for development.

The subject property can be developed and utilized in conformance with the requirements of the R4 (High Density Residential) zoning district as set forth in the *Statesboro Zoning Ordinance*. Furthermore, staff review of the proposed zoning map amendment found no outstanding safety or site design issues nor anticipated any negative impact associated with the requested zoning map amendment that could not be appropriately mitigated by the placement of the conditions recommended herein. Furthermore, the applicant's request to rezone the subject property from CR to R4 (High Density Residential) is not inconsistent with the vision or land use policies adopted in the *Statesboro Comprehensive Plan* nor those articulated within the *2035 Bulloch County/City of Statesboro Long Range Transportation Plan*.

II. Application of tax map parcel MS 880000026000 for a variance from Sections 2301 and 2302 of the Statesboro Zoning Ordinance regarding landscape buffering.

Sections 2301 and 2302 of the *Statesboro Zoning Ordinance* requires the installation of side and rear yard buffers (section 2301) and front yard buffers (2302) whenever a nonresidential use abuts a residential zoned area and/or when a multifamily use is adjacent to a local street. Section 2301 gives three buffer options: (1) a natural buffer at least fifty (50) feet wide; (2) a landscaped buffer strip at least ten (10) feet wide; or (3) a landscape buffer wall of at least six (6) feet in height and five feet of landscape plantings. All three of the options require dense planting strips with plantings at six (6) feet in height.

Section 1801 of the *Statesboro Zoning Ordinances* authorizes the City Council to grant variances from provisions of the zoning regulations stating that "approval of a variance must be in the public interest, the spirit of the ordinance

must be observed, public safety and welfare secured, and substantial justice done" and states that the Mayor and Council [should] consider if the following are true in its consideration of a variance request:

1. There are special conditions pertaining to the land or structure in question because of its size, shape, topography, or other physical characteristic and that condition is not common to other land or buildings in the general vicinity or in the same zoning district;
2. The special conditions and circumstances do not result from the actions of the applicant;
3. The application of the ordinance to this particular piece of property would create an unnecessary hardship; and
4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations.

There are no special conditions pertaining to this property or the structure in question that are not common to others in the general vicinity nor would application of the ordinance to this property create an unnecessary hardship. This request is the result of the actions of the applicant in regard to its proposed development of the property. However, there is no known fact that would indicate that the grant of the requested variances would cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations. Furthermore, grant of this variance is in support of the policies adopted within the *Comprehensive Plan* to allow for site design that encourages connectivity and walkability between uses.

STAFF RECOMMENDATION:

Based on the factors of consideration given in Sections 2007 and 1801 of the *Statesboro Zoning Ordinance* and consideration of the policies adopted by the *Statesboro Comprehensive Plan* and articulated within the *Long Range Transportation Plan*, staff recommends the following:

Approval of the following requests:

- I. Application RZ 11-08-01 to rezone 10.9 acres of tax map parcel MS 8800000260000 from CR (Commercial Retail) to R4 (High Density Residential) in accordance with the Proposed Zoning Plan attached hereto as Exhibit C.
- II. Application granting variances from Sections 2301 and 2302 regarding landscape buffers for tax map parcel MS 2000026000.

Subject to the following conditions:

- i. Developer to install a purple pipe/reuse water irrigation system for connection to city reuse system (when available) to the specifications of the City of Statesboro Water/Wastewater Department.
- ii. The dedication of an unimproved 80' wide strip of land running from Highway 67 to the adjacent property line to the north (that property now or formerly being owned by Paul Beasley) as a right of way, to the City of Statesboro, for the express purpose of future right of way construction and improvements. The routing and placement of said lane shall be subject to the approval of the City of Statesboro.
- iii. Developer shall improve the 80' right of way upon development of each parcel or portion of each parcel— as illustrated by the City of Statesboro approved subdivision plat for the subject tract- to the point of service of each parcel. Said improvements shall include, but not be limited to, road, curb, gutter, bike lanes, and sidewalks (generally 5'wide), and shall be constructed by the developer to City of Statesboro standards.
- iv. In the event the property to the north (aka the "Beasley property") develops prior to the full development of the subject site, the developer of "Beasley" property to the north shall be required to improve the unimproved portions of the dedicated right of way area.

PLANNING COMMISSION RECOMMENDATION:

Planning Commission voted 5-0 to recommend approval of case # RZ 11-08-01. Ms. Cody confirmed that the intent of the motion was to include both the zoning map amendment and variance. Recommendation is subject to the following staff recommended conditions:

- i. Developer to install a purple pipe/reuse water irrigation system for connection to city reuse system (when available) to the specifications of the City of Statesboro Water/Wastewater Department.
- ii. The dedication of an unimproved 80' wide strip of land running from Highway 67 to the adjacent property line to the north (that property now or formerly being owned by Paul Beasley) as a right of way, to the City of Statesboro, for the express purpose of future right of way construction and

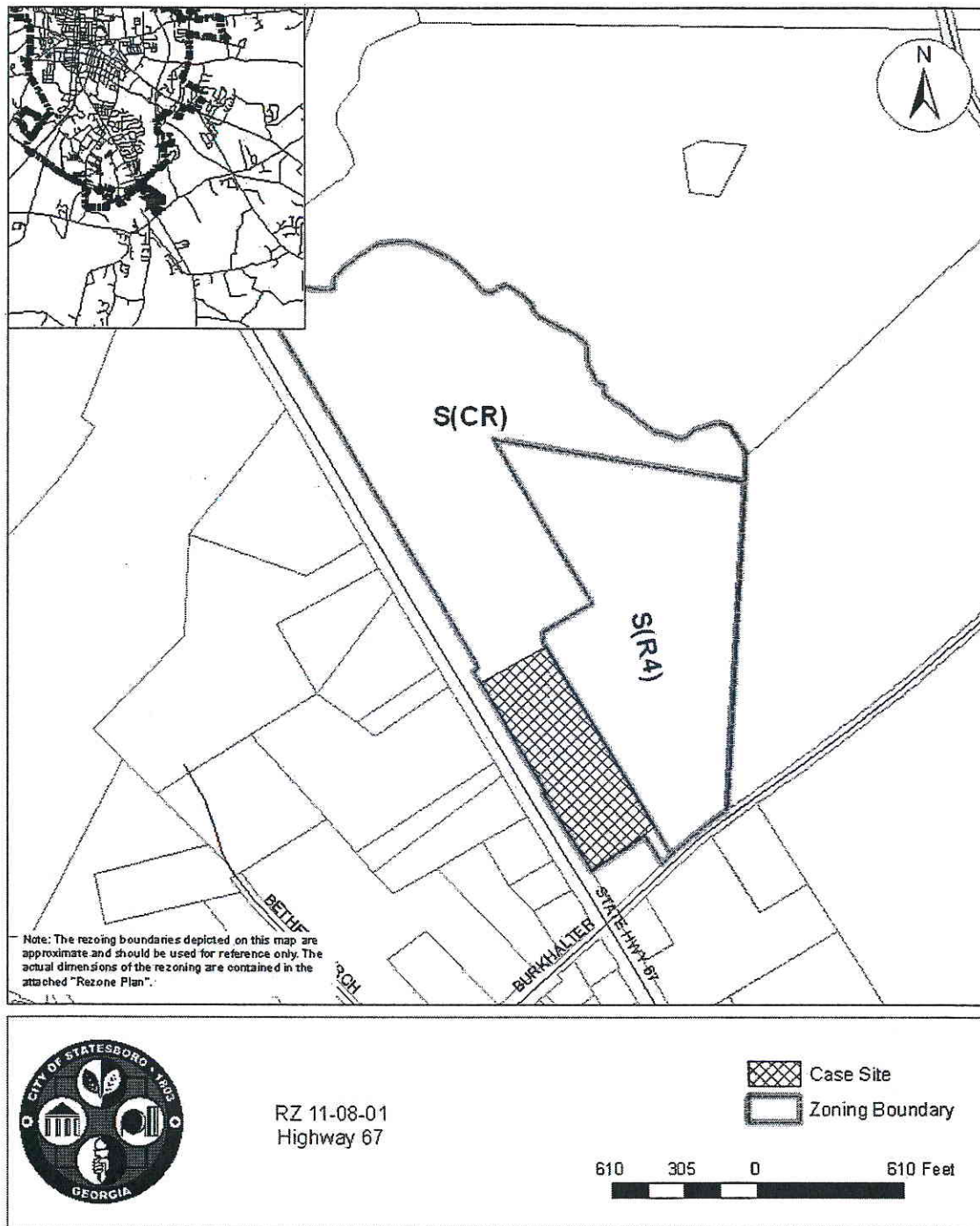
- improvements. The routing and placement of said lane shall be subject to the approval of the City of Statesboro.
- iii. Developer shall improve the 80' right of way upon development of each parcel or portion of each parcel- as illustrated by the City of Statesboro approved subdivision plat for the subject tract- to the point of service of each parcel. Said improvements shall include, but not be limited to, road, curb, gutter, bike lanes, and sidewalks (generally 5'wide), and shall be constructed by the developer to City of Statesboro standards.
 - iv. In the event the property to the north (aka the "Beasley property") develops prior to the full development of the subject site, the developer of "Beasley" property to the north shall be required to improve the unimproved portions of the dedicated right of way area.

(Please note: Sketch plan (Exhibit B) submitted for reference only. Approval of this zoning map amendment or variances request does not constitute approval of any final site plan or variance).

EXHIBIT A: LOCATION MAP

RZ 11-08-01 Highway 67

Location Map



[illegible]

PROPOSED ZONING

ZONING NOTE:
TOTAL PROPOSED R-4 46.4 ACRES
TOTAL PROPOSED CR = 18.7 ACRES

R-4 12.1 ACRES

7.8 ACRES PROPOSED CR

RESERVED FOR 80' R/W +/- 2.04 ACRES

7.8 ACRES PROPOSED CR

R-4 34.3 ACRES

PARCEL B 41.0 ACRES PROPOSED

DATE: NOVEMBER 3, 2011
SCALE: 1" = 200'

EXHIBIT D: EXAMPLE CONCEPT PLAN.

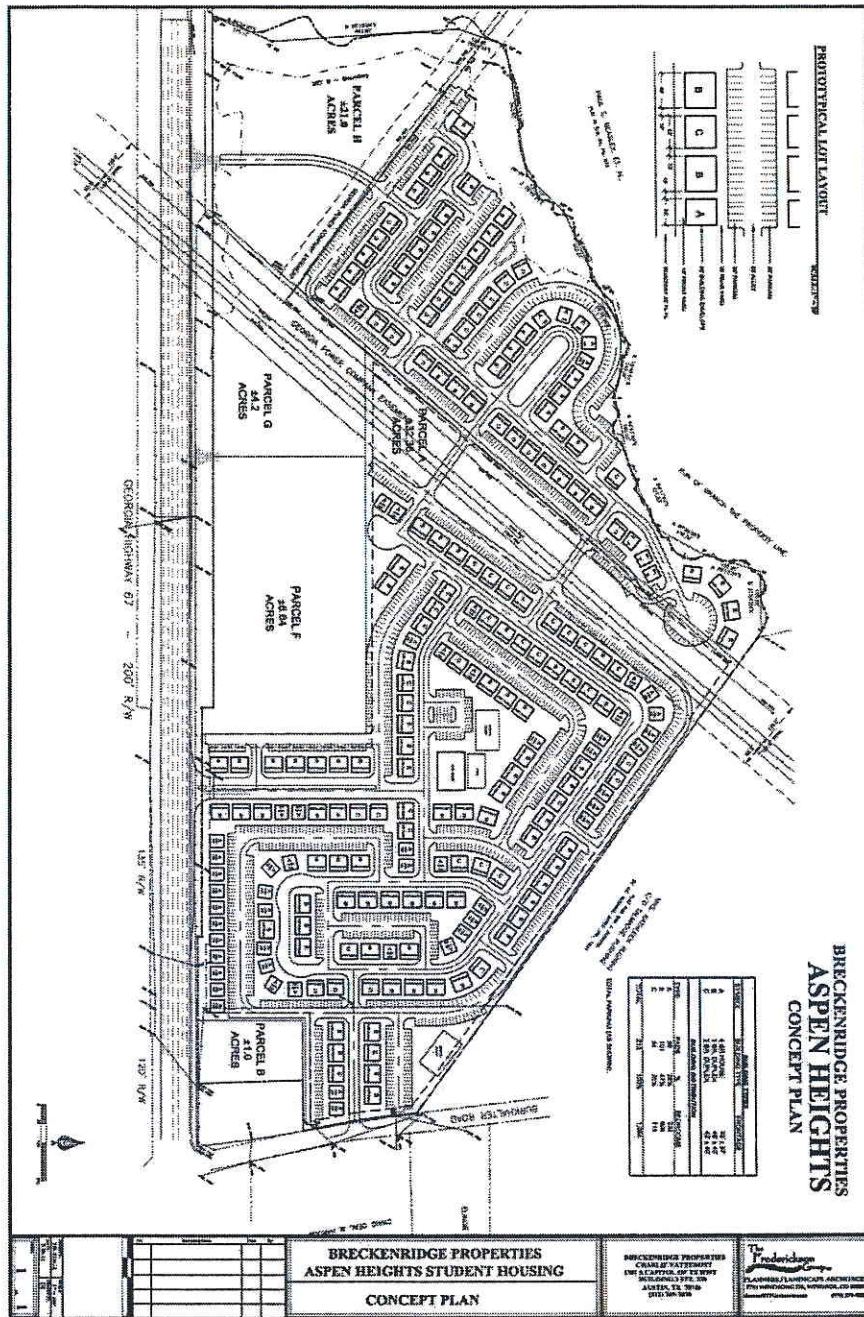


EXHIBIT E: PICTURES.

