



DEPARTMENT OF PLANNING AND ZONING

PLANNER'S REPORT

DATE: May 9, 2019
TO: Adrienne Senter
FROM: Lynn M. Patterson
RE: **Site Plan Review – 3472 Rainey Avenue**

BACKGROUND

The City of Hapeville has received a site plan application from Tony McSwain to construct a two-story single-family dwelling with a detached garage at 3472 Rainey Avenue. The dwelling will have 2070 SF of heated floor area and will include 4 bedrooms and 3 bathrooms.

The property is zoned U-V, Urban Village, and is subject to the Commercial/Mixed-Use Area of the Architectural Design Standards.

REVIEW

The following code sections are applicable to this application:

ARTICLE 11.2. - U-V ZONE (URBAN VILLAGE)

Sec. 93-11.2-1. - Intent.

The U-V district is established in order to:

- (1) Accommodate a mixed-use, urban fabric that preserves neighborhood scale;
- (2) Accommodate residents in the district with pedestrian access to services and employment typical of a live/work community;
- (3) Promote neighborhoods established near shopping and employment centers;
- (4) Encourage pedestrian and neighborhood uses in the commercial area;
- (5) Discourage land uses that are automobile or transportation related;
- (6) Exclude industrial uses such as manufacturing, processing and warehousing;
- (7) Promote retail and related commercial uses such as business offices, florists, card shops, antique shops, new apparel shops and banks; and
- (8) Encourage intensified mixed-use with commercial uses on the ground floor and dwellings above.

Sec. 93-11.2-3. - Permitted uses.

The following are permitted within the U-V zone:

- (14) Single-family detached dwellings, subject to the density restrictions in subsection (19) of this section.

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- (19) Residential density limitations shall be as follows:
- The maximum permitted residential density of a master planned development shall be 40 units per acre as calculated based on the sum of all residential uses and the total acreage of the project, including multiple parcels or city blocks, but not rail lines, public streets, or other areas not owned by the applicant;
 - The built residential density of individual parcels or blocks within a master planned development may be greater or less than 40 units per acre, provided the project's combined average maximum permitted residential density is not exceeded; and
 - Any changes to an approved site plan shall require approval of the city planning commission and shall be reviewed based on the geographic extent of the original approved site plan, shall not exceed maximum density requirements of the original application, and shall indicate all built or planned improvements.

Sec. 93-11.2-7. - Area, placement, and buffering requirements.

All buildings or structures erected, converted or structurally altered shall hereafter comply with the following lot area, yard, and building coverage requirements:

- Lot area and width.* The minimum area shall be established by the restriction governing lot coverage, setbacks, height, and parking requirement as found in article 22.1. Generally, no lot shall have a minimum frontage of less than 20 feet; however, single-family residential lots shall have a minimum frontage of 30 feet.
- Front yard.* See subsection (3) below.
- Build-to line.* The minimum build-to line shall be zero feet and the maximum shall be 15 feet, provided that the maximum build-to line may be increased as determined to be necessary and advisable by the city planning commission in the course of its site plan review process. In determining such increase, the city planning commission shall consider the size and configuration of the proposed buildings, their relationship to the existing and proposed thoroughfares, the relationship to existing and proposed parks and plazas, the location of existing mature trees, and supplemental area of adjacent structures. Where the built-to line is modified to provide parks and plazas, said facilities shall be directly accessible to the public during normal city park hours.
- Side yards.* There shall be no minimum side yard requirement except as required by subsection (8) of this section for residential zone buffers.
- Rear yards.* There shall be no minimum rear yard requirements except as required by subsection (8) of this section for residential zone buffers.
- Distance between buildings.* Section 93-2-6 notwithstanding, the minimum distance between two buildings on a single lot or on contiguous property under the same ownership shall be ten feet, plus four additional feet for every story or fraction thereof that the building exceeds three stories, or such distance determined necessary by the city planning commission to enhance the aesthetics of development. All exterior walls shall be designed per the International Residential Building Code 2003, as amended, or the International Building Code 2003, as amended. Adjoining buildings, whether commercial, residential, or mixed-use, shall have sprinkler systems and there shall be a fire resistance rating of one hour between buildings and occupancies that are side-by-side and top and bottom. However, if a building is a single-family dwelling and the adjacent building is closer than 15 feet there can be no vertical openings (windows) between the two structures of buildings that exist within 15 feet of the horizontal fire separation.
- Height regulations.* No building or structure shall be less than 24 feet in height or exceed four stories or a 64 feet in height, provided the city planning commission may allow a development with greater height via site plan approval, if it finds that:
 - The proposed height will not adversely impact adjacent properties or nearby residential neighborhoods.
 - The added height is necessary to support redevelopment of an area, which currently contains uses that have an adverse impact upon adjacent neighborhoods.
 - The proposed development is designed to facilitate the objectives and strategies of an officially adopted master plan, an LCI Study or the current comprehensive plan.
 - The proposed development meets approval from the fire department and FAA.

- e. The proposed development meets the sprinkling standards set forth by the fire department. It shall meet the requirements as set forth in NFPA (13)(D), standard for the installation of sprinkler systems in one-family or two-family dwellings and NFPA (13)(R) for residential occupancies up to and including four stories in height. All others shall be required to meet NFPA (13) standard for the installation of sprinklers.
- (8) *Residential buffer.* Where this district adjoins a residential zone, new development shall provide an attractive physical barrier between different zones as necessary to minimize disruptive light, noise, odor, dust, unsightly appearances and intrusive activity relative to the residential zone. A smooth transition to adjacent residential zones shall be ensured by the provision of:
 - a. A minimum 15-foot landscaped buffer located within the U-V zone along the district line. Said buffer shall be planted with a minimum of one tree per 40 linear feet. Shrubs, flowers or grasses shall also be provided and maintained to visually screen non-residential areas and provide an attractive boundary that encourages continued investment in the adjacent residential zones.
 - b. A permanent opaque wall between six and eight feet in height and faced in wood, stacked stone, brick or hard-coat true stucco. Said wall may be located anywhere within the required landscaped buffer.
 - c. Where an alley separates this zone from a residential zone, the required landscape buffer and permanent opaque wall shall be provided on the portion of the U-V-zoned property adjacent to the alley.

Sec. 93-11.2-8. - Supplemental area requirements.

Supplemental areas shall meet the following requirements:

- (1) The following may not be located in the supplemental area:
 - a. Recreational areas and facilities such as swimming pools, tennis courts;
 - b. Fences and walls;
 - c. Service elements such as dumpsters, loading docks and similar elements;
 - d. Mechanical features; and
 - e. Parking.
- (2) Adjacent to ground floor retail or restaurant uses the supplemental area:
 - a. Shall be at the same grade, slope, and cross slope as the adjacent required sidewalk;
 - b. Shall be hardscaped for a minimum of 80 percent of its horizontal area with decorative pavers, bricks, slate, or stamped or colored concrete, but not asphalt;
 - c. Shall be accessible to the general public and may be used for pedestrian amenity elements such as benches, trees, outdoor dining, merchandise display and potted plants.
- (3) Adjacent to ground floor dwelling units, excluding live-work dwellings, the supplemental area:
 - a. Shall be landscaped, except for area uses for stoops, porches, wheelchair ramps, or walkways;
 - b. Shall be planted with one canopy tree, as established in section 93-2-14(k)(11), an average of 40 feet on-center as measured parallel to the front lot line.
 - c. Shall be differentiated from the adjacent sidewalk by a continuous wall, fence, hedge, or retaining wall between six and 30 inches in height.
- (4) Adjacent to ground floor live-work dwellings, all other uses, or when not adjacent to a building the supplemental area shall be treated as identified in subsections (2) or (3) of this section.

Sec. 93-11.2-9. - Sidewalk requirements.

Public sidewalks shall be located along all public and private streets. Sidewalks shall be of the widths indicated below and shall consist of two areas: a landscape area and a clear area. The following regulations shall apply to all required sidewalks:

- (1) *Sidewalk landscape area requirements.*
 - a. The landscape area shall have a minimum width of five feet and shall be located adjacent to the curb.
 - b. The landscape area may be primarily paved adjacent to on-street parking and shall be landscaped in all other areas.
 - c. Street trees shall be planted a maximum of 40 feet on center, spaced equal distance between streetlights, and in line with stripes of parallel parking spaces. All newly planted trees shall be a minimum caliper of 3½ inches measured 12 inches above ground, shall be limbed up to a minimum height of seven feet and shall have a minimum mature height of 40 feet. Trees shall have a minimum planting area of 40 square feet. The city planning commission may approve an alternate for street

tree requirement subject to constraints such as overhead or underground utilities or underground utility easements.

- d. The landscape area is also intended for the placement of street furniture, including utility poles, waste receptacles, fire hydrants, traffic signs, newspaper vending boxes, bus shelters, bicycle racks, public kiosks and similar elements in a manner that does not obstruct pedestrian access or motorist visibility as approved by the city.
 - e. The landscape area shall be maintained by the adjacent property owner.
- (2) *Sidewalk clear area requirements.*
- a. The clear area shall be the portion of the sidewalk reserved for pedestrian passage and unobstructed by permanent objects to a height of eight feet, including but not limited to steps and stoops, traffic control boxes, and utility structures. The sidewalk clear area shall have a consistent cross slope not exceeding two percent.
 - b. No awning or canopy shall extend more than five feet over the clear area.
 - c. Along the following streets, if zoned U-V: South Central Avenue, North Central Avenue, Perry Hudson Boulevard, Dogwood Drive, Sylvan Road, Virginia Avenue, International Boulevard, and Atlanta Avenue, the sidewalk clear area shall have a minimum width of ten feet.
 - d. Along all other streets zoned U-V, the sidewalk clear zone shall have a minimum width of six feet.
 - e. Where property within the district abuts a residential zone without an intervening street, the sidewalk area within 20 feet of such district shall taper when necessary to provide a smooth transition to the existing residential zone sidewalk. In the event that the abutting residential zone has no existing sidewalk, the sidewalk shall taper to a width of six feet, measured from the street curb, or as approved by the city planning commission.
- (3) *Paving materials to remain continuous.* Any paving materials, including concrete, special pavers, or decorative paving within the landscape area or clear area shall continue across any intervening driveway.

Sec. 93-11.2-10. - Parking and curb cut requirements.

In addition to the requirements of article 23, off-street parking and loading, the following requirements shall apply within the U-V district:

- (1) See article 22.1 of this chapter for minimum parking space requirements.
- (2) See section 93-23-7 for mixed-use developments, which may be reduced as authorized by the board of appeals subject to a shared parking arrangement under the following criteria:
 - a. The minimum number of parking spaces for a project where shared parking is proposed shall be determined by a study prepared by the applicant following the procedures of the Urban Land Institute (ULI) Shared Parking Report or Institute of Transportation Engineers (ITE) Shared Parking Guidelines. The actual number of parking spaces required shall be based on well-recognized sources of parking data such as the ULI or ITE reports. If standard rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates. If the shared parking plan assumes use of an existing parking facility, then field surveys shall be conducted to determine actual parking accumulation.
 - b. An applicant shall submit the following information as part of an application to reduce parking requirements and avoid conflicting parking demands:
 - 1. A to-scale map indicating location of proposed parking spaces;
 - 2. Hours of business operation of nonresidential parking users;
 - 3. Copies of the legal instrument that authorizes the use of shared parking facilities;
 - 4. Copies of the relevant legal instrument authorizing the shared use, shall be filed with the department of economic development.
 - 5. Where authorized shared parking exists and a change affecting the shared use occurs, the applicant shall have up to 30 calendar days to provide the city director of economic development with a valid legal instrument reflecting the modified parking arrangements.
 - c. Change to any of the conditions identified in this subsection, except as identified in subsection (2)b.5 above, shall terminate authorization for shared parking. A shared parking arrangement shall be deemed a condition of the zoning and any modification will require a new site plan, parking plan, and zoning approval.
- (3) Developments are permitted a maximum of two driveway curb cuts per block face or one. For the purposes of this section, two curb cuts serving two one-way driveways shall only be counted as one curb cut.

- (4) No curb cuts, driveways or circular drives shall be permitted on South Central Avenue, Virginia Avenue or Atlanta Avenue when access can be provided from a side or rear street. Circular drives are prohibited, with the exception of hotel and hospital uses.
- (5) Rear alleys or rear drives shall be provided to access attached single-family garages, detached single-family dwelling garages, and commercial loading and service areas.
- (6) Carports shall be prohibited.
- (7) Garages shall not face adjacent streets except where alley or rear drive access is not feasible, in which case such garages shall be set back a minimum of 25 feet from the build-to line. All garage materials shall match those of the principal structure.
- (8) Parking structures shall conceal automobiles from view, shall have the appearance of a horizontal storied building on all levels, shall be faced in brick, stacked stone, cast stone, poured-in-place rubbed concrete, or pre-cast concrete faced in or having the appearance of brick or stacked stone. Parking structures adjacent to the supplemental area shall also meet the requirements of section 93-11.2-10(1).
- (9) Bicycle or moped parking spaces are required as follows: All non-residential uses shall provide one such space for every 20 automobile spaces and condominium and apartment uses shall provide one such space for every five units provided that no such uses shall have fewer than two such spaces or be required to exceed 30 spaces. Such spaces shall be located within the sidewalk landscape a maximum distance of 100 feet from the primary pedestrian entrance, or within the supplemental area, or at least as close as the closest automobile space, except for handicapped parking spaces. Bicycle parking spaces shall include a bike rack with a metal anchor sufficient to secure the bicycle frame when used in conjunction with a user-supplied lock.
- (10) Dumpsters shall be entirely screened from view of any street with vertically enclosed opaque walls matching the materials of the principal structure.

Sec. 93-22.1-1. - Chart of dimensional requirements

Dimensional Requirements for **U-V Zoning** are as follows:

							Minimum Front Yard Setback		Minimum		Maximum			
Development Type	Lot Frontage (FT)	Min. Lot Area (SF)	Lot Area/ DU (SF)	Bed/ Bath Required	Floor Area/ DU (SF)	Max. Lot Coverage (%)	Minor Col.	Maj. Arterial	Side	Rear	Stories	Feet	Min. Parking Spaces	Max. Unit/ Bldg. Lot
Single-family Detached	30	2,400			1,600	90	0/15	0/15	0	0	2½	35	1.5 DU	1
Accessory Structure(s)									0	0	2	25		

REQUIREMENTS

Sec. 93-2-16. - Site plan review.

- (a) *Intent and purpose.* The site plan review procedures are intended to ensure adequate review and consideration of potential impacts of proposed development upon surrounding uses and activities, and to encourage a high standard of site planning and design resulting in quality development in the city.
- (b) *Application.* An application for site plan review may be filed by the owner, or agent for the owner, of any property to be developed according to the plan. All applications for site plan review shall be filed with the building official for transmission to the planning commission. Site plan review requirements are applicable for all proposed development in all zones within the city and all property submitted for annexation.

- (c) *Submission requirements.* Applications for site plan review shall contain the following information and any additional information the planning commission may prescribe by officially adopted administrative regulations; ten copies of the application shall be submitted:

- (1) *Site and landscape plan.* Maps and site plans shall be submitted (minimum scale of 1" = 50' or larger, e.g., 1" = 40', 1" = 30', etc.) indicating project name, applicant's name, adjoining streets, scale, north arrow and date drawn, showing:

- a. The locations, size and height of all existing and proposed structures on the site.

- ***The subject tract is undeveloped.***
- ***The plans indicate the dwelling will be 2-stories, or 30'-6" high.***
- ***Setback dimensions provided:***
 - ***Front setback is 16.1'. Build-to lines in U-V can be set back a maximum of 15'.***
 - ***North side setbacks are 6' for the dwelling and 7.7' for the garage***
 - ***South side setback is not provided but is at least 5'***
 - ***East rear setbacks are 85.5' for the dwelling and 40.9' for the garage***
- ***The proposed garage will be 22.6' from the dwelling in the rear yard.***

- b. The location and general design cross section characteristics of all driveways, curb cuts and sidewalks including connections to building entrances.

- ***The plans show the location of the driveway, curb cuts, sidewalk, and a walkway extending from the sidewalk to the building entrance. However, only the width of the driveway is provided. The Applicant should provide the general design cross section characteristics for the driveway, curb cuts, and sidewalk.***
- ***The sidewalk must comply with the requirements of section 93-11.2-9, above.***

- c. The locations, area and number of proposed parking spaces.

- ***The 9' wide driveway will provide access to a detached 2 car garage.***

- d. Existing and proposed grades at an interval of five feet or less.

- ***Existing and proposed grades are shown, but at undefined intervals. The Applicant should provide labeled existing and proposed grades at an interval of five feet or less.***

- e. The location and general type of all existing trees over six-inch caliper and, in addition, an identification of those to be retained.

- ***The location and size of existing trees, trees to save and trees to remove are provided. The two trees to be removed, a 48" hardwood and a 42" oak, are landmark trees. Removals of landmark trees are subject to the requirements of section 93-2-14, presented later in this review. Two trees, a 30" oak and a 42" oak, will remain.***

- f. The location and approximate size of all proposed plant material to be used in landscaping, by type such as hardwood deciduous trees, evergreen trees, flowering trees and shrub masses, and types of ground cover (grass, ivies, etc.). Planting in parking areas should be included, as required in section 93-23-18.

- ***The landscape plan proposes four crape myrtle trees, 18 shrubs, and a Bermuda grass ground cover.***
- ***One street tree is required per 40' of road frontage. The Applicant should include a minimum of one street tree planted in the sidewalk's landscape area.***

- g. The proposed general use and development of the site, including all recreational and open space areas, plazas and major landscape areas by function, and the

general location and description of all proposed outdoor furniture (seating, lighting, telephones, etc.).

- ***Not applicable to residential development.***

h. The location of all retaining walls, fences (including privacy fences around patios, etc.) and earth berms.

- ***No retaining walls, fences or earth berms are shown as existing or proposed.***

i. The identification and location of all refuse collection facilities, including screening to be provided.

- ***Not applicable to single-family development.***

j. Provisions for both on-site and off-site stormwater drainage and detention related to the proposed development.

- ***Not applicable.***

k. Location and size of all signs.

- ***Not applicable.***

(2) *Site and building sections.* Schematic or illustrative sections shall be drawn to scale of 1" = 8' or larger, necessary to understand the relationship of internal building elevations to adjacent site elevations.

- ***The building elevations will be reviewed by the Design Review Committee for compliance with the Architectural Design Standards.***

(3) *Typical elevations.* Typical elevations of proposed building shall be provided at a reasonable scale (1/8" = 1'0") and shall include the identification of proposed exterior building materials.

- ***The building elevations will be reviewed by the Design Review Committee for compliance with the Architectural Design Standards.***

(4) *Project data.*

a. Site area (square feet and acres).

- ***The total site area is 7,551 SF or 0.17 acres. The minimum lot size is 2,400 SF.***

b. Allocation of site area by building coverage, parking, loading and driveways, and open space areas, including total open space, recreation areas, landscaped areas and others.

- ***Proposed lot coverage is 1,841 SF (house & garage), 1,243 SF (driveway), and 84 SF (sidewalk) for a total 3,168 SF or 41.9%. Maximum lot coverage allowed is 70% or 5,286 SF.***

c. Total dwelling units and floor area distributed generally by dwelling unit type (one-bedroom, two-bedroom, etc.) where applicable.

- ***One single family dwelling unit with 4 bedrooms and 3 bathrooms is proposed. There is no minimum for single-family dwellings.***

- d. Floor area in nonresidential use by category.
- ***Not applicable.***
- e. Total floor area ratio and/or residential density distribution.
- ***One 2,070 SF (heated area) single-family dwelling unit is proposed. Minimum required is 1,600 SF.***
- f. Number of parking spaces and area of paved surface for parking and circulation.
- ***The plans include a 2 car detached garage.***
- (5) ***Project report.*** A brief project report shall be provided to include an explanation of the character of the proposed development, verification of the applicant's ownership and/or contractual interest in the subject site, and the anticipated development schedule. At the discretion of the planning commission, analyses by qualified technical personnel or consultants may be required as to the market and financial feasibility, traffic impact, environmental impact, stormwater and erosion control, etc. of the proposed development.
- ***Single family 4-bedroom/3-bathroom 2,070 SF (heated area) residence.***
- ***Authorization of property owner has been provided.***
- ***Construction schedule provided has minimal detail and does not include a start date.***

Sec. 93-2-14. - Tree conservation.

(b) *Applicability.*

- (1) The terms, provisions and regulations of this section and the administrative standards and best management practices for Hapeville urban forest, Appendix A hereto, shall apply to any real property, public or private, within the corporate limits of the city:
 - a. For all activities which require a land disturbance, building construction, or demolition permit;
 - b. For external renovations of all properties resulting in the increase of total square footage, or the construction of accessory structures, which may impact landmark trees;
 - c. For the purpose of permitting the removal of landmark trees.

- (c) ***Definitions.*** As used in this section, unless specifically stated otherwise, the following terms shall be defined as indicated and where any definition herein conflicts with another definition in this chapter, the more restrictive definition shall prevail.

...

Landmark tree. Any canopy tree 30 inch dbh or larger, or otherwise designated by the mayor and council as having significance to the community, or any understory tree eight inches dbh or larger, in fair or better condition, having a life expectation of greater than five years.

...

(d) *General requirements.*

- (1) ***Tree removal.***
 - a. No trees shall be removed or destroyed prior to issuance of a building construction or land disturbance permit. The issuance of a building construction or land disturbance permit shall constitute compliance with the tree conservation provisions of this section.
 - b. No landmark tree shall be removed from any real property within the corporate limits of the city without the issuance of a landmark tree removal permit.
- (2) ***Protected trees.***
 - a. All trees outside the footprint of a proposed building construction or land development project, eight inches dbh or larger, shall be considered protected trees.
 - b. No protected trees shall be damaged or destroyed.
- (3) ***Conditions for removal or destruction of trees.***

- a. The removal or destruction of trees is subject to approval of the city arborist, only if all of the following conditions are met:
 - 1. Unavoidable site modifications resulting from grading, utility work, and construction activities will result in destroying the tree;
 - 2. Site plan modifications to prevent irreparable damage to the tree are impossible or not practical, based on cost benefit analysis;
 - 3. Actions are taken to mitigate the removal of trees by way of replacing by meeting overall site canopy requirements.
 - b. Approval of the STCP by the city arborist shall constitute approval to remove protected trees.
 - c. Any decision of the city arborist relating to the removal or destruction of protected trees may be appealed as provided in subsection 93-2-14(i).
- (4) *Trees that present a dangerous condition.*
 - a. It shall be unlawful for any person to allow to remain on their property any tree which presents a dangerous condition. Dangerous trees include:
 - 1. A tree or any part of a tree that is likely to fail (fall) as a result of structural defects, root damage, disease, decay, decline or death; and where failure of a tree or any part of a tree would result in potential property damage or injury.
 - 2. A tree that by its proximity interferes with traffic or pedestrian sight distance, drainage or utility lines and easements so as to create an unsafe condition on or off the site or easement.
 - 3. A tree of any species or variety which, because of any other circumstances, poses a danger to public health or safety.
 - b. The city's department of community services (or agent of the department of community services) is authorized and empowered to enter upon any lot or parcel of land in the city for the purpose of inspecting and evaluating any tree which is suspected to present a dangerous condition. It shall be unlawful for any property owner to take any action to prevent or interfere with the inspection and evaluation of potentially dangerous trees.
 - c. The department of community services shall obtain the services of the city arborist for the purpose of inspecting and evaluating suspected dangerous trees.
 - d. If it is determined by the city's department of community services that a tree presents a dangerous condition, the city's department of community services shall serve the owner of record of the lot or parcel of land on which said tree is located, a written notice requiring such owner to take corrective action to remove the tree or its dangerous part(s) to eliminate the dangerous condition. This written notice shall include a time frame to complete the corrective action. When the corrective action includes tree removal, the tree shall be replaced. Replacement shall be based on a canopy replace for canopy lost basis.
 - e. Any notice by the city's department of community services to correct a dangerous condition or remove a tree which presents a dangerous condition may be appealed to the city's planning commission, provided a written notice is submitted no later than five days following receipt of the notice appealed from.
 - f. If a property owner fails, neglects, or refuses to trim or remove such tree within the stated time frame or following an adverse decision on appeal, the city's department of community services may proceed to take the corrective action and assess the resulting costs to the property owner. The amount of costs shall be paid by the owner to the city.
 - g. The assessment of the costs of work done by the city against the property owner shall include the actual cost of work performed, including tree replacement, in addition to the penalties imposed for any violation or noncompliance with any provision of this section, plus administrative fees.
 - h. If the property owner fails to pay the costs assessed by the department of community services, a lien shall be placed on the subject property for the cost of the work performed, penalties, and fees.
- (5) *The removal or destruction of landmark trees.*
 - a. The removal or destruction of landmark trees from any property in the city is subject to the approval of the city arborist, and approval may only be granted if one of the following two conditions is met:
 - 1. The tree threatens the property, safety or health of the property owner or the public.
 - 2. Actions are taken to mitigate the tree's removal by way of planting a new tree of a comparable species and canopy. Payment may be made into the city tree bank in lieu of planting, calculated on a tree lost/replaced basis.
 - b. The issuance of a tree removal permit constitutes approval to remove a landmark tree.

- c. Any decision of city arborist relating to the removal or destruction of landmark trees may be appealed as provided in subsection 93-2-14(g).
 - (6) *The removal or destruction of boundary trees.* No boundary trees shall be damaged, destroyed, or removed. Procedures for the protection of boundary trees are provided in subsection 93-2-14(e)(4).
 - (7) *Canopy requirements.*
 - a. All properties requiring the issuance of a demolition, building construction, remodeling or land disturbance permit shall meet the minimum canopy requirements as established in the administrative standards and best management practices for Hapeville's urban forest.
 - b. All new parking lots shall meet the minimum canopy requirements as established in the administrative standards and best management practices for Hapeville's urban forest.
 - c. Trees planted to meet canopy requirements shall be ecologically compatible with the intended growing site.
 - (8) *Establishment of the city tree bank.*
 - a. Where it is determined by the city arborist that it is impractical or impossible to fully meet the canopy requirements on a specific site, the cost for the balance (unmet portion) of the requirement will be paid into the city tree bank, prior to issuance of a demolition, building construction, or land disturbance permit. Calculation of costs shall be established in the administrative standards and best management practices for Hapeville's urban forest.
 - b. Funds in the city tree bank shall be administered by the mayor and council or their designee and shall be used exclusively for increasing, managing, maintaining tree canopy and tree safety in public space, the purchase of open space, and seasonal landscaping in the city. The mayor and council will establish a planned program for administration of these funds.
- (e) *Procedures.*
- (1) *Tree removal permits.*
 - a. All properties applying for a permit to remove landmark trees shall submit a permit application to the department of community services, indicating how the tree(s) present a dangerous condition pursuant to subsection 93-2-14(d)(4)a.
 - 1. For properties requiring the issuance of demolition, building construction, or land disturbance permits, the removal of landmark trees is permitted under the procedures in subsection 93-2-14(e)(3).
 - 2. The required STCP shall indicate how the tree(s) present a dangerous condition pursuant to subsection 93-2-14(d)(4)a.
- (2) *Permits to remodel.*
 - a. Permits to remodel owner occupied single family houses shall have tree protection and replacement prescriptions prepared by the city arborist when both the following conditions are met:
 - 1. The proposed remodeling alters the existing footprint of the house.
 - 2. The proposed remodeling or construction related activities will encroach upon a landmark tree.
 - b. Replacement prescriptions shall be based on a canopy replace for canopy lost basis, for the loss of landmark trees. Payment may be made into the city tree bank when the city arborist determines that site constraints preclude the replacement of trees.
- (3) *Demolition, building construction, land disturbance permits.*
 - a. A site/tree conservation plan (STCP) shall be submitted by a qualified professional for review by the city arborist and approval by the city development department prior to issuance of demolition, building construction or land disturbance permits. (Except for permits to remodel, see subsection 93-2-14(e)(2).)
 - 1. The STCP shall document tree species eight inches dbh or greater, including size, dbh, critical root zone and location, the species and caliper size of proposed trees, the location of all proposed site building construction and land development activities, including grading, drainage, proposed utility locations, and all proposed tree protection measures.
 - 2. All proposed trees for removal must be indicated.
 - 3. The exact location of any tree must be provided if encroachment is proposed with that tree's critical root zone.
 - 4. Standard details for tree protection and tree planting shall conform to the administrative standards and best management practices for Hapeville's urban forest.
 - 5. The following note shall be provided on the STCP in large letters: TREE PROTECTION FENCING SHALL BE MAINTAINED DURING THE ENTIRE PROJECT PERIOD.

6. The STCP shall include emergency 24-hour contact information.
7. The STCP shall document compliance with the canopy, parking, and landscape requirements established in the administrative standards and best management practices for Hapeville's urban forest, in addition to the city landscape requirements for vehicular use areas.
- b. The STCP shall also include the location of landmark trees.
 1. The removal or destruction of landmark trees will be permitted only if the city arborist determines that no alternative construction or mitigating site or cultural practices will prevent destruction of the tree.
 2. Replacement of landmark trees shall be of comparable species with the size potential of the landmark tree, and shall be ecologically compatible with the intended growing site.
 3. Trees planted to replace a landmark tree shall have the grow out potential to fully mitigate loss of the entire measured canopy of the landmark tree.
 4. Canopy mitigation for loss of a landmark tree shall be in addition to the overall site canopy requirements.
- (4) *Boundary trees.*
 - a. The STCP shall provide for the protection of boundary trees.
 - b. When building construction or land disturbance activities occur within the critical root zone of boundary tree(s) and the city arborist determines that the survival of the tree(s) is/are doubtful as a result of the proposed disturbance activities, a performance bond shall be established regarding the subject boundary tree(s). The bond amount shall cover the removal and replacement costs of the subject boundary tree(s) and the arborist fee for determination of the trees' survival at the end of the escrow period, and shall be approved by the city arborist.
 1. In establishing the bond amount, replacement trees specified shall be of comparable species and size potential to the subject boundary tree, shall be ecologically compatible with the intended growing site at maturity, and shall fully mitigate the lost canopy area of the subject boundary tree.
 2. Canopy credit will be granted to a permittee for the entire canopy area of successfully protected boundary trees, except for those trees located on public rights-of-way.
 3. The department of community services will administer the bonding of boundary trees through the department of finance.
 - c. Prior to a determination authorizing the return of the performance bond to the permittee, any property owner whose property contains an at risk boundary tree(s) for which the bond was held, may petition the department of community services for payment for the removal and replacement of the subject boundary tree(s), should any of the subject boundary tree(s) fail to survive or is determined to be in an irreversible decline as a result of the permitted disturbance activities, as determined by the city arborist.
 1. The permittee shall have the right to petition the mayor and council or their designee for the return of all escrow funds should the subject trees survive for a period of three full growing seasons, as determined by the city arborist. If the subject tree(s) has/have failed to survive or is in a reversible or irreversible decline as a result of the permitted disturbances, the escrow funds shall be paid pursuant to subsection 93-2-14(e)(4)b., for removal and replacement of the subject tree(s), or for arboricultural practices to reverse the decline as determined and prescribed by the city arborist.
 2. Any funds not collected by either an affected property owner or the permittee within a period of five years, or any interest accrued therein, shall be deposited in the city tree bank.
- (5) *Field verification.*
 - a. The qualified professional preparing the STCP shall verify its accuracy with the city arborist prior to submittal.
 - b. The city arborist shall verify successful compliance to the STCP prior to issuance of a permit, and shall verify final field compliance prior to issuance of a certificate of occupancy.
 - c. Performance bonds may be accepted by the department of community services in lieu of required tree planting and landscaping if seasonal and weather conditions are inappropriate for the establishment and survival of plant material.
 1. The bond amount shall be one and one-fourth times the amount of the documented landscape cost, including plant materials and installation.
 2. The period of the bond shall be mutually agreed upon by the permittee and the department of community services.
 3. The bond shall be returned when all of the landscape requirements are met, or cashed by the city

when the bond period expired. The bond period may be extended if determined appropriate by the department of community services.

(f) *Enforcement.*

(1) *Authority.* The department of communities services or their designee has the responsibility to issue permits in conformance with and enforce compliance with this section.

(2) *Responsibility and inspection.*

- a. Neither the issuance of a tree permit nor compliance with the conditions thereof, nor with the provisions of this section shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon city, its officers or employees, for injury or damage to persons or property.
- b. The department of community services may cause periodic inspections of the work under permit in accordance with this section and shall make a final inspection following completion of the work. The permittee shall assist the city arborist or his designee in making such inspections. Agents of the permitting authority shall have the authority to conduct such investigations as he/she may reasonably deem necessary to carry-out his/her duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the protection area. No person shall refuse entry or access to any authorized representative or agent of the department of community services who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his/her official duties.
- c. Where it is deemed necessary, the department of community services or their designee shall require performance bonds to assure compliance to the terms, conditions, and standards of this section.

(3) *Violations and penalties.*

- a. Any action or inaction which violates the provisions of this section or the requirements of an approved site plan or permit may be subject to the enforcement actions outlined in this section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

1. *Notice of violation.* If the director community services determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this section, a written notice of violation shall be issued by code enforcement to such applicant or other responsible person. Where a person is engaged in activity covered by this section without having first secured the appropriate permit, code enforcement shall be serve a notice of violation on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

- A. The name and address of the owner or the applicant or the responsible person;
 - B. The address or other description of the site upon which the violation is occurring;
 - C. A statement specifying the nature of the violation;
 - D. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this section and the date for the completion of such remedial action;
 - E. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
 - F. A statement that the determination of violation may be appealed to the board of zoning appeals by filing a written notice of appeal within 15 days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient).
2. *Penalties.* In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the director community services shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except that in the event the violation constitutes an immediate danger to public health or public

safety, as determined by the director of community services, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the city arborist may take any one or more of the following actions or impose any one or more of the following penalties.

- A. *Stop work order.* The director of community services may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.
- B. *Withhold certificate of occupancy.* The director of community services may refuse to authorize a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- C. *Suspension, revocation or modification of permit.* The director of community services works may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the director of community services may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- D. *Penalties.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days (or such greater period as the city arborist shall deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) after the city arborist has taken one or more of the actions described above, the city's designated code enforcement agent may issue a citation to the applicant or other responsible person, requiring such person to appear in municipal court to answer charges for such violation. Any violation of this article is punishable, upon conviction, according to the provisions the City Code. Each day any violation of this section shall continue shall constitute a separate offense.

(g) *Administrative appeal and judicial review.*

(1) *Administrative appeal.*

- a. *Administrative appeal.* Any person aggrieved by a decision or order of the city arborist may appeal in writing within 15 days after the issuance of such decision or order to the board of zoning appeals of the city and shall be entitled to a hearing before the board of zoning appeals of the city within 60 days of receipt of the written appeal.

- 1. The board of zoning appeals shall hear and decide appeals when it is alleged an error in any requirement, interpretation, decision, or determination is made by the city arborist in the enforcement or administration of this section.
- 2. The board of zoning appeals shall consider the testimony of the city arborist, who shall be present at such hearings, and may consider all technical evaluations, relevant factors, field conditions, and all standards specified in this and other relevant sections of this section.
- 3. The board of zoning appeals after conducting a public hearing may affirm or reverse the decision or order by the city arborist.

- (2) *Judicial review.* Any person aggrieved by a decision or order of the city arborist after exhausting all administrative remedies, shall have the right to appeal de novo to the Superior Court of Fulton County.

The Applicant proposes the removal of two landmark trees. Removal of any landmark trees is subject to the approval of the city arborist and requires a tree removal permit.

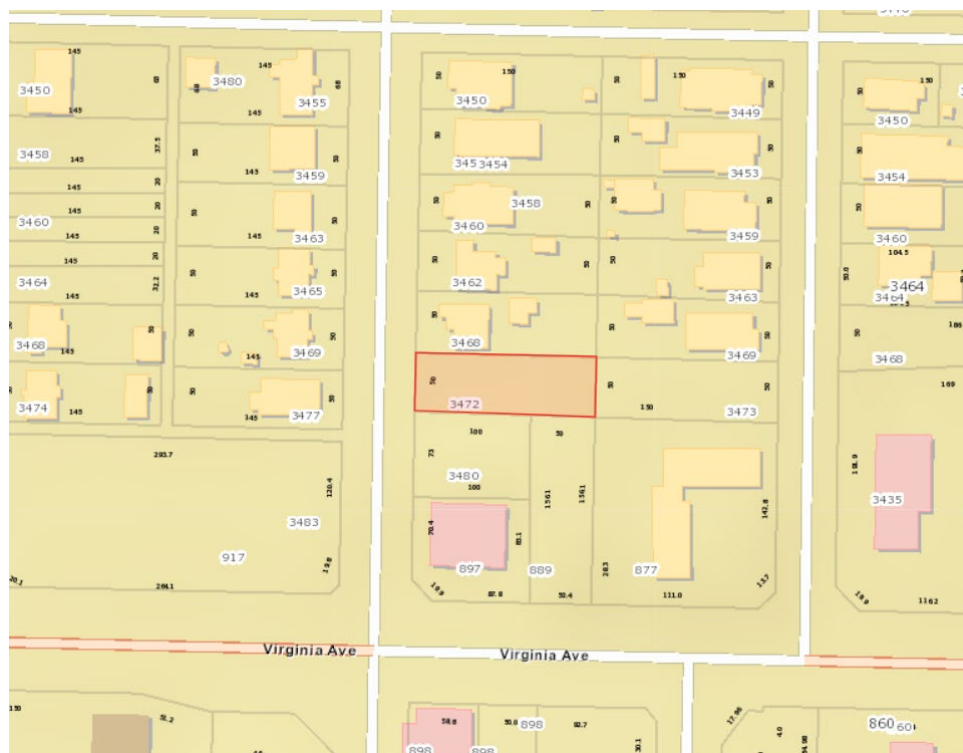
RECOMMENDATION

Prior to approval, the Applicant must provide, and/or the site plan must be revised to reflect the following:

- *Front setback is 16.1'. Build-to lines in U-V can be set back a maximum of 15'.*
- *The Applicant should provide the general design cross section characteristics for the driveway, curb cuts, and sidewalk.*
- *The sidewalk must comply with the requirements of section 93-11.2-9.*
- *The Applicant should provide and label existing and proposed grades at an interval of five feet or less.*
- *The Applicant should include a minimum of one street tree planted in the sidewalk's landscape area.*
- *The Applicant should provide a more detailed construction schedule with a start date.*
- *The Applicant proposes the removal of two landmark trees. Removal of any landmark trees is subject to the approval of the city arborist and requires a tree removal permit.*

In addition, it is understood the building elevations will be reviewed by the Design Review Committee for compliance with the Architectural Design Standards.

Based on the resolution of these items and any others the Planning Commission may deem necessary, approval of the site plan is recommended.



Location Map – 3472 Rainey Avenue