

Erin Murphy

132 Mead Road

I'm writing to express my concerns about the application to rezone the three parcels of property on 614-622 East Lake Drive for a 34-unit development. I am confused as to why the developer has not included a tree survey in this application, but has requested a full exemption from the city's tree ordinance. We know that they have met with city staff, so we know that they are aware of its standards.

As you may remember, the newly passed ordinance requires that everyone who wishes to develop or re-develop land must plan for trees first AND preserve at least 50% of quality canopy. It would seem the absence of a tree survey AND a complete site plan for maxxing out the property to squeeze 34 2-3 bedroom homes into a 7-8 acre space indicates that the developer has not done these first two required tasks.

The new ordinance was passed with the acknowledgement that the city -- much like the rest of the world--cannot continue its practice of indiscriminate tree removal and grading, as its deleterious effects contribute to climate change and haunt the surrounding neighborhood via stormwater issues and increases in air temperatures due to less shade and increased impervious surfaces.

I've walked around the proposed lots and counted around 20 or more high-value trees -- a stand of healthy pine trees, one beautiful old growth magnolia and several oaks, one of which has likely 4' DBH.

By granting this developer an exemption before they have even tried to comply with our conservation ordinance would set a bad precedent for every developer who comes after. As it was noted many, many times in the public record regarding the tree ordinance, those contributing most to the city's canopy loss are developers, not residents. They are the ones whose practices of not preserving high value trees and grading lot line to lot line are changing the character of our neighborhood.

=While it's true that we need affordable housing in Decatur, we need to challenge the developers and homebuilders to work within the conservation ordinance. Just imagine, if grading alone had been limited years ago, the sizes of houses would have been smaller and more varied, creating more affordable options.

I ask that the planning commission recommends denial of the application, or at the minimum, request that the applicant redesign its proposal to fully comply with the ordinance.

I have attached a couple of photos of trees that I have referenced. Some of the trees do have invasive ivy, but could be saved, and there are 1-2 trees that are likely too far gone.



John Whittemore

223 Montgomery Street

I would appreciate if you would share this photograph that I took yesterday and if you could please read the following comments at the Commission meeting.



Parkland Communities' application contains no survey of the existing parcels documenting their tree inventory. Without this, how can the effect on Decatur's tree canopy be determined? Wouldn't such a survey be necessary in order for this application to be accepted?

Through clearcutting and replanting, Parkland Communities' plan seems to fly in the face of the intent of Decatur's goals for sustainability. It's difficult to see the rationale behind removing all the trees, disturbing the soil and starting from scratch with immature trees.

This proposal provides only a paltry number of affordable housing units. If Decatur wants to make a commitment to affordable housing, this is not an encouraging sign.

It seems that these trees, this small, but wonderful stand of mixed hardwoods (and a beautiful magnolia!) deserve a place in the future of Decatur. Therefore, I believe that the Commission should deny this rezoning application.

Joy Martin

220 Ponce De Leon Place

I oppose the application to rezone three parcels at 614-622 East Lake Drive. I have been a Decatur resident for over 20 years living first in a townhouse community with many mature trees and that was always a key selling point. I sold 2 years ago and lived in one very "unsustainable" large apartment building, Cortland Decatur East and now live in downtown Decatur. I know what it is like not having trees, birds and animals outside my windows.

This Oakhurst housing project seems to be considered acceptable because "affordable housing" is referenced and we know this is one of the important initiatives for the city. I understand the interest but do not accept the idea that this development should be approved and exempt from the new Decatur Tree Ordinance. Development of affordable housing and the tree ordinance can work together.

In the application, where is the plan for a tree survey, for alternative approaches to the design and development? Removing mature trees and covering the built area with housing, asphalt, cement and a few street trees, that sometime in the future offer a slight bit of cooling, goes against all the years of work and study that is the foundation of the tree ordinance. It is not just about trees it is about quality of life.

I would hope you will require the developers to submit a plan that meets the tree ordinance incorporating a tree survey and the impact to the tree canopy before any exemptions are considered. I am all for "sustainable development" and I hope the Zoning Board is too.

Amy Landesburg

223 Montgomery Street

Please read these comments aloud at the Commission meeting, and, if possible, share this photo I took just yesterday.



The application from Parkland Communities does not include a survey of the existing parcels that documents their tree inventory. Without this vital information, a quantitative assessment of the project's impact on the City's canopy can not be made. It therefore seems this application should not have been accepted for review.

Parkland Communities must see this point as moot since the proposed plan has removed all the existing trees. This approach disregards Decatur's sustainability goals. Clear cutting and replanting is a step backward on maintaining our canopy and healthy soils.

This proposal does not provide a substantial number of affordable housing units. It makes no major commitment to Decatur's community in that regard.

This site is a rich micro-forest in Decatur worth our respect and serious consideration. It is the best interest of our City that this rezoning application be denied. I urge the Commission to do so.

Catherine Fox

262 Forkner Dr

I have been a resident of Decatur for nearly 24 years. I have reviewed the application of this project and request that the Planning Commission deny it for many reasons. See list below.

1. The project does not fit into the neighborhood of single family homes and will change the character of the neighborhood.
2. The impacts caused by the additional traffic are significant.
3. The project does not meet the requirements of the City's Tree Ordinance.
4. The plans should be revised to meet the City's current ordinances.

Ash Miller
128 W. Benson St.
Decatur GA, 30030

March 7, 2022

Via Email (ryan.sellers@decaturga.com)

City of Decatur Planning Commission
Decatur City Hall
509 North McDonough St.
Decatur, GA 30030

Dear City of Decatur Planning Commission,

I request these comments on the application to rezone three parcels of property at 614-622 East Lake Drive be read aloud in the public comments portion of your meeting.

Applicant appears to be requesting a full exemption from the City's tree ordinance without having submitted the most basic information about trees. The new Decatur tree ordinance requires projects to plan for tree preservation first.¹ And to preserve at least 50% of existing quality canopy on sites like this one.²

This application does the opposite. This plan would apparently remove *all* the trees first. Applicant offers no rationale for why this approach is good policy, much less necessary.

No tree survey is included. No tree count, or description of the type or size of existing trees. No analysis of how current trees might influence site development. No alternative designs or concepts are presented.

We should not be granting exceptions to the ordinance before an applicant has even attempted to comply with it. We must promote sustainable development here in our City, by asking developers to comply with our reasonable conservation ordinances.

¹ UDO 9.1.16.b.3.a.

² UDO 9.1.5.c.3.

The exemption request appears to rest solely on the inclusion of a few affordable units above what's already legally required. This is a fundamental misunderstanding of the tree ordinance. While we need affordable housing in Decatur, affordable housing needs trees. A blanket exemption based on a few additional units was never the intent of the tree ordinance.

I request you recommend denial of the application, or at minimum, request the applicant redesign its proposal to fully comply with the Tree Ordinance.³

The problems with this application are many. First, the applicant unfortunately appears to misunderstand the tree ordinance. The application asserts that “special exceptions apply to canopy standards for affordable housing.”⁴ This is incorrect.

The code provision cited, UDO 9.1.2.e, creates no active, applicable exemption for affordable housing. Rather, it provides that the City Commission “may” -- within its discretion -- choose to create exemptions.⁵

So please do not be misled by the statements in the application -- there is no existing exception for affordable housing unless the Commission chooses to create one. Deputy City Manager Hugh Saxon recently stated that the rules regarding a potential exception haven't been created.⁶

The City never intended a categorical exemption for any project containing affordable units. Affordable units already legally required should not form the basis of an exemption. But the applicant appears to believe any affordable housing projects are exempt categorically, which is simply false.

To demonstrate an exemption might be merited, much more information would be required. However -- the applicant has not submitted the basic information that would allow the Planning Commission to assess the environmental impacts of this decision.

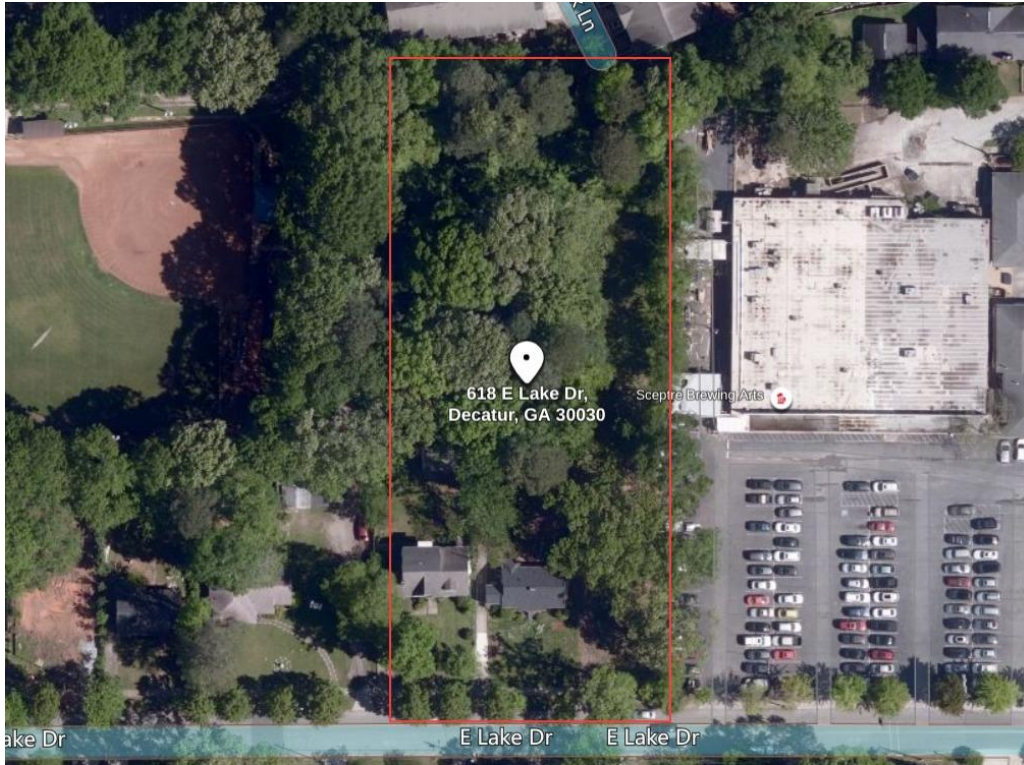
³ I assisted the City's Environmental Sustainability Board (ESB) in drafting portions of the new tree ordinance, working with the ESB's Natural Resources Subcommittee, including work on the relevant provisions at issue here. I am an environmental and land use attorney admitted in Georgia with over 15 years of experience, including working on mitigating environmental impacts for multiple development projects here in the City. I live in Oakhurst at 128 W. Benson Street. I submit these comments in my personal, individual capacity.

⁴ Application, Note on Project Site Plan.

⁵ (stating “[t]he City Commission *may* authorize special exceptions to the requirements of this Section when public purposes are met and such exceptions support the community goal of affordable housing. Such exceptions shall be considered for permanent, bona fide affordable housing and subject to such standards, limitations and conditions as determined by the City Commission.”) (emphasis added). Of course, the City Commission could create exemptions for any type of project it deems suitable.

⁶ Zoe Seiler, *Decatur Housing Authority, city seeking public input on South Housing Village*, Decaturish (March 1, 2022) (“the exception is something they could apply for, but the rules for the exception haven't been finalized yet”), available at <https://decaturish.com/2022/03/decatur-housing-authority-city-seeking-public-input-on-south-housing-village/>

There is no tree survey. The properties are host to many, large, hardwood trees. Which would all or nearly all be apparently be removed under the current design:



Bing Maps

Removal of this much canopy would violate the tree ordinance's requirement that 50% of fair or better tree canopy be preserved. UDO 9.1.5.c.2. Why can't applicant meet this requirement? It's impossible to say, without first knowing where and what type of trees we are dealing with here. A 20-foot buffer proposed on the north side of the property does not change this result -- applicant identifies no trees growing in that buffer area, whether any would be saved, and it's not even clear that any exist.

It's also not clear how much canopy would be planted under the current design. Tree plantings are identified conceptually on the site plan, but no canopy analysis is provided.

Without this most basic information this Board lacks a basis for a reasoned decision. Any decision to recommend an exception or accompanying rezoning on this record would be unsupported by sufficient factual foundation. And therefore likely to be considered legally arbitrary and capricious.

In addition, the applicant has not submitted a design, or even an *assertion*, that the tree ordinance would make a viable project impossible. Of course, even meeting that burden does not mean it is entitled to a rezone or exemption -- but the applicant appears to have not attempted to make such a showing. The applicant has chosen to assemble this site -- with a large quantity of existing, mature, protected trees (see attached photos for examples). It can't claim ignorance of a situation that the developer itself has created.

Also -- the scope of the exemption being requested is not at all clear. The specific request is for an exemption to the UDO 9.1.2.e -- the section that says the City Commission may, in the future, create exemptions.⁷ So on its face the applicant is requesting an exemption from the language that says there might be an exemption created in the future?

This is confusing at best, and practically speaking, it is vague to the point that this Commission can't make a reasoned decision. Is the applicant requesting an exemption to tree preservation requirements? UDO 9.1.5.c.3. Replanting requirements? UDO 9.1.6. Canopy minimums? UDO 9.1.5.c.2. It is entirely unclear. These are distinct concepts under the ordinance with potentially different impacts on the analysis and project design. This commission simply does not know what applicant is asking for -- apparently they just want to be exempt from the whole tree ordinance? This is so vague, the commission must recommend denial.

In addition to tree concerns, there are significant land use planning issues here. This is the second recent proposal to build dense housing near Oakhurst Village, both have been on East Lake. There is clearly demand to develop around the village, but it needs to be managed comprehensively and proactively.

In this context, we should not be granting rezones on an ad-hoc, case-by-case basis for single projects. We need a comprehensive plan for the entire village area to decide what we want as a community, proactively. This way we will not be reacting to development proposals and engaging in accidental, circumstantial planning based on proposals by individual developers.

For example -- if the parking lot next to this site were proposed for development, it would not present the same environmental concerns that this site does. Why not encourage dense development closer to the village, in an already paved area? Or encourage residential units above the retail that exists at the village? Whatever it is, let's do this via a thorough, area-wide planning process with public input.

⁷ (as cited above, stating: "The City Commission *may* authorize special exceptions to the requirements of this Section when public purposes are met and such exceptions support the community goal of affordable housing. Such exceptions shall be considered for permanent, bona fide affordable housing and subject to such standards, limitations and conditions as determined by the City Commission.") (emphasis added).

Comprehensive planning would allow the City to ensure safe pedestrian access to Oakhurst Park along the mapped right of way next to this site, instead of paving over that public right of way for access to a private development. Planning proactively would avoid the spot zoning issues that face this current application at 614 East Lake.

Finally -- and most importantly, this application is unacceptable from a sustainable development perspective. We plan for trees first. We conserve existing canopy. We don't make a plan to take down all the trees, and ask for an exception later.

We can do better in Decatur, but developers must make reasonable attempts to comply with our standards first. This is the wrong approach here today. Affordable housing deserves mature tree preservation as much -- if not more -- than any other type of development. I therefore request you to recommend denial of this application. In the alternative, the applicant should redesign the project in full compliance with the City of Decatur Tree Ordinance.

Thank you for your time and consideration,

A handwritten signature in black ink, appearing to read 'Ash Miller', with a long horizontal flourish extending to the right.

Ash Miller

Site Photos



