

12-R-1641

(Do Not Write Above This Line)

A RESOLUTION BY
CITY UTILITIES COMMITTEE

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH JASON AND KRISTIE SATTLER, OWNER OF REAL PROPERTY LOCATED AT 2180 PARKVIEW RUN, N.W. ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING A PORTION OF TWO PRESENTLY EXISTING RETAINING WALLS WHICH PARTIALLY EXTEND INTO THE PUBLIC RIGHT-OF-WAY ALONG THE WEST SIDE OF PARKVIEW RUN, N.W. FOR AN APPROXIMATE TOTAL OF FIFTY THREE (53) LINEAR FEET; AND FOR OTHER PURPOSES.

ADOPTED BY

DEC 03 2012

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1ST ADOPT 2ND READ & REFER
- PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred To _____

Committee
Date
Chair
Action
Fav, Adv, Hold (See rev. side)
Other
Members

City Utilities
November 21 2012
Jason Sattler

Jason Sattler

Jason Sattler

Jason

Refer To

Committee

Date

Chair

Action
Fav, Adv, Hold (See rev. side)
Other
Members

Committee

Date

Chair

Action
Fav, Adv, Hold (See rev. side)
Other
Members

Refer To

Committee

Date

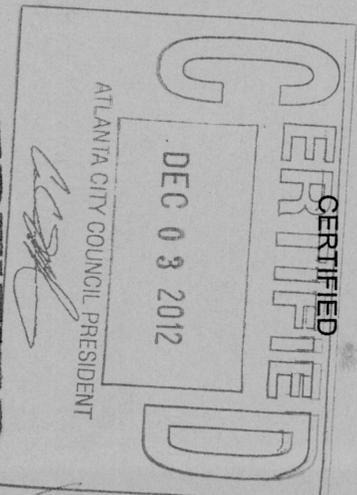
Chair

Action
Fav, Adv, Hold (See rev. side)
Other
Members

Refer To

Refer To

- FINAL COUNCIL ACTION
- Readings
- 2ND
 - 1ST & 2ND
 - 3RD
 - Consent
 - V Vote
 - RC Vote



Richard D. Thompson
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

DEC 12 2012

WITHOUT SIGNATURE
BY OPERATION OF LAW



**A RESOLUTION BY
CITY UTILITIES COMMITTEE**

12- R -1641

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH JASON AND KRISTIE SATTLER, OWNER OF REAL PROPERTY LOCATED AT 2180 PARKVIEW RUN, N.W. ATLANTA, GEORGIA, FOR THE PURPOSE OF PERMITTING A PORTION OF TWO PRESENTLY EXISTING RETAINING WALLS WHICH PARTIALLY EXTEND INTO THE PUBLIC RIGHT-OF-WAY ALONG THE WEST SIDE OF PARKVIEW RUN, N.W. FOR AN APPROXIMATE TOTAL OF FIFTY THREE (53) LINEAR FEET; AND FOR OTHER PURPOSES.

WHEREAS, Jason and Kristie Sattler (the "Sattlers") own certain real property located at 2180 Parkview Run, N.W. in Atlanta, Georgia ("Property"); and

WHEREAS, it has been determined that a portion of two presently existing retaining walls ("Walls") currently owned by the Sattlers, extend into the public right-of-way for a total distance of approximately Fifty Three (53) feet; and

WHEREAS, the City of Atlanta's ("City") Code of Ordinances, at Sections 138-22, 138-24 and 138-26, requires that an Encroachment Agreement be entered into between the City and the Sattlers for authorization to allow the Walls to be remain in the public right-of-way and for authorization for the Sattlers to continue to maintain the Walls in the public right-of-way; and

WHEREAS, the Commissioner of the Department of Public Works has reviewed the plans for the right-of-way encroachment and has determined that the Walls will not adversely impact the ability of the affected right-of-way to handle vehicular or pedestrian traffic or otherwise to perform its intended public function; and

WHEREAS, the Sattlers desire to continue to maintain the presently existing Walls in the public right-of-way; and

WHEREAS, the Sattlers have agreed to conform to the conditions set out in the City's Code of Ordinances at Sections 138-22, 138-24 and 138-26.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor or his designee is authorized, on behalf of the Department of Public Works, to enter into an Encroachment Agreement for Non-Conforming Uses, as outlined in Section 138, Article II, of the City's Code of Ordinances with the Sattlers for the purpose of granting the Sattlers the right to maintain two retaining walls in the public right-of-way at 2180 Parkview Run, N.W. between Parkview Lane, N.W. and Parkview Court, N.W. in Atlanta, Georgia as depicted in Exhibit "A" attached hereto, in a form pursuant to conditions determined by the Commissioner of the



Department of Public Works and the City Attorney, to be desirable, appropriate and in the best interest of the City of Atlanta for this transaction.

BE IT FURTHER RESOLVED, that the plans and specifications for said retaining walls shall be submitted for the review and approval of the Commissioner of Public Works.

BE IT FURTHER RESOLVED, that the Sattlers shall indemnify the City for any damages to persons or properties within the public right-of-way resulting from the maintenance of said Walls.

BE IT FURTHER RESOLVED, that the Sattlers shall comply with the conditions set out at Sections 138-22, 138-24 and 138-26 of the City's Code of Ordinances.

BE IT FURTHER RESOLVED, that the City Attorney is directed to prepare an Encroachment Agreement, acceptable as to form, for execution by the Mayor and the Sattlers.

BE IT FINALLY RESOLVED, that the Agreement shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder until the Agreement has been approved as to form by the City Attorney, executed by the Mayor, attested to by the Municipal Clerk and delivered to Jason and Kristie Sattler.

A true copy,


Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

DEC 03, 2012
DEC 12, 2012

EXHIBIT A



CITY OF ATLANTA

KASIM REED
MAYOR

68 MITCHELL STREET, S.W.
SUITE 4900, CITY HALL SOUTH
ATLANTA, GEORGIA 30303-3531
TEL. (404) 330-6501
FAX. (404) 658-7085
Email: publicworks@atlantaga.gov

DEPARTMENT OF PUBLIC WORKS
RICHARD MENDOZA
Commissioner

DEXTER C. WHITE
Deputy Commissioner

Department of Public Works Office of Transportation

Information Checklist – Encroachment Agreements

In order for the Law Department to prepare encroachment agreements pursuant to legislation adopted by the City Council, the following information needs to be provided to the Law Department by the Department of Public Works

1. Scaled Engineering Drawings/Plan of the location on 8-1/2" X 11" Sheet
2. Scaled Engineering Drawings of the encroachment e.g. monuments, awnings, etc. on 8-1/2" X 11" Sheet
3. Structural Calculations with a Professional Engineer's stamp
4. Area and Volume calculation for the encroachment
5. Ordinance/Resolution number of legislation authorizing the project.

6. The date that DPW completed its review and approval of the plans and technical specifications for the project. _____

DEPARTMENT OF PUBLIC WORKS – OFFICE OF TRANSPORTATION
N

"Designing, Implementing & Maintaining a Sustainable Transportation Infrastructure System"



7. Owner of the Property David Vyaticil

8. Name and title of encroaching party official who will execute the agreement. This person **must** have legal authority to bind the encroaching party to the terms of the encroachment agreement.

Name David Vyaticil
Title Owner

9. Full corporate name of encroaching party.

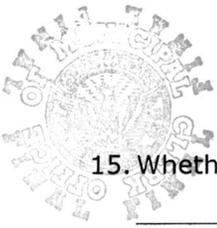
10. Mailing address of encroaching party.
2112 Parkview Run
Atlanta GA 30318

11. Name and telephone number of contact person for encroaching party.
Name David Vyaticil
Number 404-643-5493

12. When applicable, the date that the Urban Design Commission completed its review and approval of the design and location of the project.

13. The amount of public liability insurance that will be required for this project (as determined by Risk Management).
None

14. Whether the encroachment is permanent or temporary
Permanent
If Temporary, the expected length of time the encroachment will be in place.



15. Whether a performance/completion bond is required for this encroachment

None

If a bond is required, the dollar amount that will be required for the bond:

16. Fees to be charged by DPW to the encroaching party – If none, indicate with a zero in the appropriate blank below:

a. Application and Review Fee: \$1,300.00

b. ROW use fee (rental): \$100.00

If the right-of-way use fee is to be imposed, please provide the basis upon which the fee has been determined:

DPW contact: Name Wahab Alabi 404-330-6501

17. Project Brief Description – Include reason(s) for encroachment.

*Retaining wall built in right of way
of Road*



2192 PARKVIEW RUN

Please return to: FERGUSON MCMANAMY ATTORNEYS AT LAW, LLC
621 NORTH AVENUE, STE. C-100, ATLANTA, GA 30308
File # 1001-2257

Deed Book 48999 Pg 350
Filed and Recorded May-06-2010 08:30am
2010-0203053
Real Estate Transfer Tax \$285.00
Cathelene Robinson
Clerk of Superior Court
Fulton County, Georgia

STATE OF GEORGIA
COUNTY OF FULTON

WARRANTY DEED

THIS INDENTURE made this 30th day of April, 2010 between

DENNIS R. DEVLIN

as party or parties of the first part, hereinafter called Grantor, and

DAVID VYILACIL

as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN DOLLARS and other good and valuable consideration (\$10.00) in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee, the following described property:

All that tract or parcel of land lying and being in Land Lot 244 of the 17th District, Fulton County, Georgia, being Lot 45, Parkview at Bolton Subdivision, Phase 1, as per plat recorded in Plat Book 229, page 38, Fulton County records, said plat being incorporated herein by reference thereto.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the above-described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this first day and year first above written.

Signed, sealed and delivered in the presence of:

Ursula Henry
Witness

Brandy Garrow
Notary Public

My commission expires

Dennis R. Devlin
DENNIS R. DEVLIN



RCS# 2447
12/03/12
2:58 PM

Atlanta City Council

CONSENT I

CONSENT AGENDA SECTION I; ALL ITEMS
EXCEPT 12-R-1647
ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	NV Bond
Y Hall	Y Wan	Y Martin	NV Watson
B Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I

		12-03-12
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT
1. 12-O-1252	35. 12-R-1669	69. 12-R-1692
2. 12-O-1550	36. 12-R-1737	70. 12-R-1693
3. 12-O-1551	37. 12-R-1742	71. 12-R-1694
4. 12-O-1552	38. 12-R-1753	72. 12-R-1695
5. 12-O-1553	39. 12-R-1754	73. 12-R-1696
6. 12-O-1728	40. 12-R-1641	74. 12-R-1697
7. 12-O-1738	41. 12-R-1642	75. 12-R-1698
8. 12-O-1545	42. 12-R-1643	76. 12-R-1699
9. 12-O-1546	43. 12-R-1644	77. 12-R-1700
10. 12-O-1425	44. 12-R-1645	ITEMS ADVERSED ON CONSENT
11. 12-O-1426	45. 12-R-1648	78. 12-R-1701
12. 12-O-1427	46. 12-R-1649	79. 12-R-1702
13. 12-O-1429	47. 12-R-1650	80. 12-R-1703
14. 12-O-1430	48. 12-R-1651	81. 12-R-1704
15. 12-O-1569	49. 12-R-1727	82. 12-R-1705
16. 12-O-1725	50. 12-R-1729	83. 12-R-1706
17. 12-R-1675	51. 12-R-1731	84. 12-R-1707
18. 12-R-1677	52. 12-R-1732	85. 12-R-1708
19. 12-R-1678	53. 12-R-1745	86. 12-R-1709
20. 12-R-1679	54. 12-R-1652	87. 12-R-1710
21. 12-R-1565	55. 12-R-1663	88. 12-R-1711
22. 12-R-1654	56. 12-R-1722	89. 12-R-1712
23. 12-R-1655	57. 12-R-1752	90. 12-R-1713
24. 12-R-1656	58. 12-R-1681	91. 12-R-1714
25. 12-R-1657	59. 12-R-1682	92. 12-R-1715
26. 12-R-1658	60. 12-R-1683	93. 12-R-1716
27. 12-R-1659	61. 12-R-1684	94. 12-R-1717
28. 12-R-1660	62. 12-R-1685	95. 12-R-1718
29. 12-R-1661	63. 12-R-1686	96. 12-R-1719
30. 12-R-1662	64. 12-R-1687	
31. 12-R-1664	65. 12-R-1688	
32. 12-R-1665	66. 12-R-1689	
33. 12-R-1666	67. 12-R-1690	
34. 12-R-1667	68. 12-R-1691	