

**A ORDINANCE BY
COUNCILMEMBER YOLANDA ADREAN**

AN ORDINANCE CORRECTING ORDINANCE NUMBER 12-O-0562 WHICH ABANDONED A PORTION OF SOUTH COLONIAL HOMES CIRCLE, N.W., LOCATED BETWEEN COLONIAL HOMES DRIVE, N.W. AND SOUTH COLONIAL HOMES CIRCLE, N.W. IN EXCHANGE FOR CONVEYANCE OF APPROXIMATELY 0.415 ACRES LOCATED ON SOUTH COLONIAL HOMES CIRCLE N.W.; AND FOR OTHER PURPOSES.

WHEREAS, Ordinance 12-O-0562 was adopted by the City Council on May 21, 2012 and approved by the Mayor on May 30, 2012; and

WHEREAS, the purpose of Ordinance Number 12-O-0562 was to allow the relocation of a portion of South Colonial Homes Circle, N.W. such that the City of Atlanta right-of-way would be shifted west and the former right-of-way would be incorporated into a development tract; and

WHEREAS, the parties contemplated that the existing 0.614 acre right-of-way described in Ordinance 12-O-0562 (the "Existing ROW") would be abandoned and appraised by the City of Atlanta to determine fair market value owed to the City of Atlanta for its conveyance; and

WHEREAS, the parties further contemplated that the new right-of-way consisting of 0.415 acres of land described in Ordinance 12-O-0562 (the "New ROW") would also be appraised to determine fair market value owed to Pope & Land Enterprises, LLC ("P&L") for its conveyance; and

WHEREAS, the intent of the parties was that the appraised values of the Existing ROW and the New ROW would be compared to determine the incremental cost owed by P&L for the right-of-way exchange due to the fact that P&L was receiving more right-of-way than P&L was dedicating to the City of Atlanta; and

WHEREAS, such practice is consistent with the City of Atlanta Code of Ordinances and typical policy and procedures in connection with right-of-way and real property exchanges in the City of Atlanta; and

WHEREAS, Ordinance Number 12-O-0562 does not clearly identify the intent of the parties to have a right-of-way exchange with P&L paying only the incremental increase in the fair market values of the rights-of-way; and

WHEREAS, the clarification of this intent is necessary to facilitate the completion of the road abandonment process and redevelopment of a portion of the existing Colonial Homes project; and

WHEREAS, the parties also desire to confirm the timing for the exchange of deeds to facilitate the development of the New ROW by P&L, or its successors, to allow the City of Atlanta to accept its dedication; and

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, AS FOLLOWS:

Section 1: That the Chief Procurement Officer is hereby directed to prepare an appraisal to determine the fair market value of the New ROW.

Section 2: That the Chief Procurement Officer is hereby directed to compare the fair market values provided in the appraisal for the Existing ROW and the New ROW to determine the incremental difference in the fair market values of the Existing ROW and the New ROW (the “Increment”).

Section 3: That P&L shall pay to the City of Atlanta the Increment and shall not be required to pay the City of Atlanta the full fair market value of the Existing ROW without offset for the fair market value of the New ROW.

Section 4: That to allow construction of a street according to City standards on the New ROW, P&L shall not be required to convey the New ROW to the City of Atlanta concurrently with the conveyance of the Existing ROW and payment of the Increment, provided, however, that P&L shall convey the New ROW including the street completed to City Standards, to the City of Atlanta within eighteen (18) months from and after conveyance of the Existing ROW to P&L.

Section 5: If P&L fails to convey the New ROW, including a street completed to City Standards, to the City, within eighteen (18) months from and after conveyance of the Existing ROW to P&L, no certificate of occupancy shall issue for any new development on the site adjacent to the New ROW until the conveyance is completed and the City Attorney is authorized to take whatever steps are deemed necessary to protect the City’s best interests, including without limitation, the condemnation of the New ROW, a suit for specific performance of the agreement represented by this Ordinance and a suit for damages to recover the cost to the City necessary to build a new street, whether such property is owned by P&L or by its successors and assigns.

Section 6: That the Mayor is hereby authorized to execute all documents, including but not limited to quitclaim deeds, to effectuate the terms of this Ordinance.

Section 7: That this ordinance shall become effective when signed by the Mayor or by operation of law.



CITY OF ATLANTA

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MEMORANDUM

TO: Hon. Yolanda Adrean, Councilmember for District 8
Atlanta City Council

FROM: Lemuel H. Ward, Chief Counsel 
Department of Law

RE: Ordinance for Correction of Colonial Homes ROW Payments

DATE: January 22, 2013

Enclosed is the ordinance (blueback included) that we discussed concerning the correction of the right of way payment arrangements for the Colonial Homes abandonments. A copy of the ordinance is attached to this memo for your files.

It has been reviewed by the Law Department and the abandonment remains in the same configuration. The reason that the ordinance is being introduced is that the Colonial Homes development team wanted to be certain that the land being exchanged could be set-off against the cost of the ROW being constructed. Law and OEAM had no issues with this concept and the attorney for DPW was informed.

Law and OEAM appreciate your agreement to introduce the ordinance.

The attorneys for the Colonial Homes developers would like for me to confirm that this will be done today.

Thanks – LHW

Enclosure
Attachment