

City Council  
Atlanta, Georgia

13-O-

AN ORDINANCE  
BY COUNCILMEMBER NATALYN ARCHIBONG



**AN ORDINANCE WAIVING THE SIDEWALK REQUIREMENTS OF SECTION 15-09.003 OF THE CITY OF ATLANTA CODE OF ORDINANCES FOR SUBDIVISION APPLICATION SD-12-011 (394 MCWILLIAMS AVENUE, SE); TO PROVIDE THAT IN LIEU OF THE REQUIRED SIDEWALKS AT THE SUBDIVISION SITE, THE DEVELOPER OF THE SUBDIVISION SHALL CONSTRUCT SIDEWALKS OF EQUAL OR GREATER LENGTH ALONG THE WEST SIDE OF JOSEPH AVENUE FROM THE END OF EXISTING SIDEWALK TO PORTLAND AVENUE; AND FOR OTHER PURPOSES.**

**WHEREAS**, Section 15-09.003 of the City of Atlanta Code of Ordinances (“subdivision ordinance”) requires the subdivision applicant (“developer”) to provide sidewalks on both sides of existing and proposed streets (“sidewalk requirement”); and

**WHEREAS**, the subdivision ordinance further provides that the City Council may waive the sidewalk requirement “in order to permit the developer of said subdivision to construct sidewalks of equal or greater length along adjoining streets”; and

**WHEREAS**, the subdivision ordinance further provides that such waiver can be granted by the City Council “only if the subdivision developer or the pertinent neighborhood planning unit has formally petitioned the city for said waiver, and only if the City Council has received formal comments on said petition from the Commissioner of Public Works and Commissioner of Planning”; and

**WHEREAS**, the developer, Andrew Levine, has formally petitioned for the waiver of the sidewalk requirement for subdivision application SD-12-011 (394 McWilliams Avenue, SE); and

**WHEREAS**, the City Council has received the formal comments on such petition from the Commissioner of Public Works, attached hereto as Exhibit “A”; and

**WHEREAS**, the City Council has received the formal comments on such petition from the Commissioner of Planning, attached hereto as Exhibit “B”; and

**WHEREAS**, based on these formal comments, the City Council finds that construction of sidewalks along the street frontage of SD-12-011 (394 McWilliams Avenue, SE) may not benefit said area being that there are no existing sidewalks to serve as a connection and it may negatively affect the appearance and character of the existing neighborhood; and

**WHEREAS**, the City and area residents would be better served by the construction of sidewalks by the developer along the west side of Joseph Avenue from the end of existing sidewalks to Portland Avenue where there are existing connecting sidewalks and the area is immediately adjacent to existing retail and restaurant space with significant pedestrian traffic, as more fully depicted on the drawing, attached hereto as Exhibit “C”.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS as follows:**

**SECTION 1:** The requirement of Section 15-09.003 of the City of Atlanta Code of Ordinance that sidewalks be provided on both sides of existing and proposed streets is hereby waived for Subdivision SD-12-011 (394 McWilliams Avenue, SE).

**SECTION 2:** The waiver of said requirement for the aforementioned application is conditioned upon the agreement of developer Andrew Levine to construct 168 feet of sidewalks along the west side of Joseph Avenue from the end of existing sidewalks to Portland Avenue, as more fully depicted on Exhibit “D”, attached hereto.

**SECTION 3:** Prior to approval of the final subdivision plat by the Director of Office of Planning for SD-12-011, as provided by Sec. 15-07.005 (f)(1), the sidewalks as described in this ordinance, shall be constructed by the developer, Andrew Levine, inspected and accepted by the Department of Public Works.

**SECTION 4:** In the event the developer, Andrew Levine, or his successor(s)-in-interest, withdraws the land subdivision request, this ordinance is void and of no further effect.

**SECTION 6:** All other requirements of the Code of Ordinances for SD-12-011 above shall remain in full force and effect.

EXHIBIT "A"



**CITY OF ATLANTA**

Kasim Reed  
MAYOR

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SUITE 4700, CITY HALL - SOUTH  
(404) 330-6240  
FAX (404) 658-7552  
email: publicworks@atlanta.gov

DEPARTMENT OF PUBLIC WORKS

Richard Mendoza  
Commissioner

Dexter C. White  
Deputy Commissioner

**MEMORANDUM**

TO: Natalyn Archibong  
Council Member, Council District 5

FROM: Richard Mendoza  
Commissioner, Public Works

DATE: January 15, 2013

RE: Sidewalk Waiver Request - 394 McWilliams Avenue S.E. (SD-12-11)

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A sidewalk waiver has been requested by the developer of 394 McWilliams Avenue S.E. per code section 15-09.003, which reads as follows:

*Sec. 15-09.003. - Sidewalk and curb improvements.*

*Except as provided herein, sidewalks shall be provided in each subdivision on both sides of existing and proposed streets. The City Council may, through an appropriate resolution for each subdivision, waive the foregoing requirement in order to permit the developer of said subdivision to construct sidewalks of equal or greater length along adjoining streets; provided, however, that the City Council may grant such a waiver only if the subdivision developer or the pertinent Neighborhood Planning Unit has formally petitioned the city for said waiver, and only if the City Council has received formal comments on said petition from the Commissioner of Public Works and the Commissioner of Planning, Development and Neighborhood Conservation.*

The length of sidewalk required along the front of this subdivision is 140.4 feet. The Department of Public Works agrees to waive the sidewalk installation requirements along said frontage provided that the developer constructs sidewalks of equal or greater length along adjoining streets.

**MEMORANDUM: Sidewalk Waiver Request  
394 McWilliams Avenue S.E. (SD-12-11)**

In lieu of installing the 140.4 feet of sidewalk required at this subdivision, the applicant has proposed to install an equivalent sidewalk along the west side of Joseph Avenue from the end of the existing sidewalk to Portland Avenue, a distance of 168 feet. The department approves of the proposed alternative location which will provide for greater connectivity and pedestrian safety than the subject property. Upon approved Council legislation, the applicant is required to submit construction plans for approval and to obtain a permit from the Department of Public Works prior to installation of the sidewalks. Such plans shall include all improvements to meet the Americans with Disability Act (ADA) requirements.

If you have any questions or concerns, please contact Michele Wynn, Public Works Manager at 404-330-6764 or by email at [mwynn@atlantga.gov](mailto:mwynn@atlantga.gov).

Thank you.

EXHIBIT 'B'



# CITY OF ATLANTA

KASIM REED  
MAYOR

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT  
55 TRINITY AVENUE, S.W. SUITE 3350 – ATLANTA, GEORGIA 30303-0308  
404-330-6145 – FAX: 404-658-7491  
[www.atlantaga.gov](http://www.atlantaga.gov)

JAMES SHELBY  
Commissioner

CHARLETTA WILSON JACKS  
Director, Office of Planning

## MEMORANDUM

TO: Councilmember Natalyn Archibong  
Council District 5

FROM: Charletta Wilson Jacks, Director

DATE: February 18, 2013

SUBJECT: **Sidewalk waiver request for 394 McWilliams Avenue, SE (SD-12-011)**

Section 15-09.003 of the Land Subdivision Ordinance requires the applicant for land subdivision to provide sidewalks on both sides of existing as well as proposed streets. However, the City Council through appropriate resolution may waive this requirement in order to permit the applicant for land subdivision to construct sidewalks of equal or greater length along adjoining streets if the subdivision developer or the pertinent neighborhood planning unit has formally petitioned the City for said waiver. Formal comments on said petition from the Commissioner of Public Works and the Commissioner of Planning and Community Development are also required by the ordinance.

The Office of Planning has received a request to construct sidewalks for the above referenced land subdivision application at an alternate location. The length of the sidewalk required to be built is at the subject location is 140.4 feet. The proposed alternative location is along the west side of Joseph Avenue, from the end of the existing sidewalk to the north side of Portland Avenue, a length of 168 feet.

My office has reviewed the subdivision application as well as the applicant's proposal for waiver of the sidewalk and staff is of the opinion that the proposed alternate location for the sidewalk is reasonable for the following reasons:

- There is no existing sidewalk at the site location to serve as a connection.
- The alternate proposed location remains within the same Council District, same neighborhood planning unit W and same local neighborhood of East Atlanta.

- Constructing the sidewalks at the alternate proposed location would complete the entire west side of Joseph Avenue between Glenwood Avenue and Portland Avenue with connecting sidewalks.
- Just across the street on Glenwood Avenue, there is existing restaurant and retail space with significant pedestrian traffic.

Finally, the Office of Planning is of the opinion that improved pedestrian infrastructure is of great benefit to the public and more specifically to the surrounding neighborhood. The Office of Planning has also sought input from the Office of Transportation and their comments are attached. The opinions of both offices are provided as background should you decide to introduce a resolution to allow the applicant to install sidewalks at an alternate location.

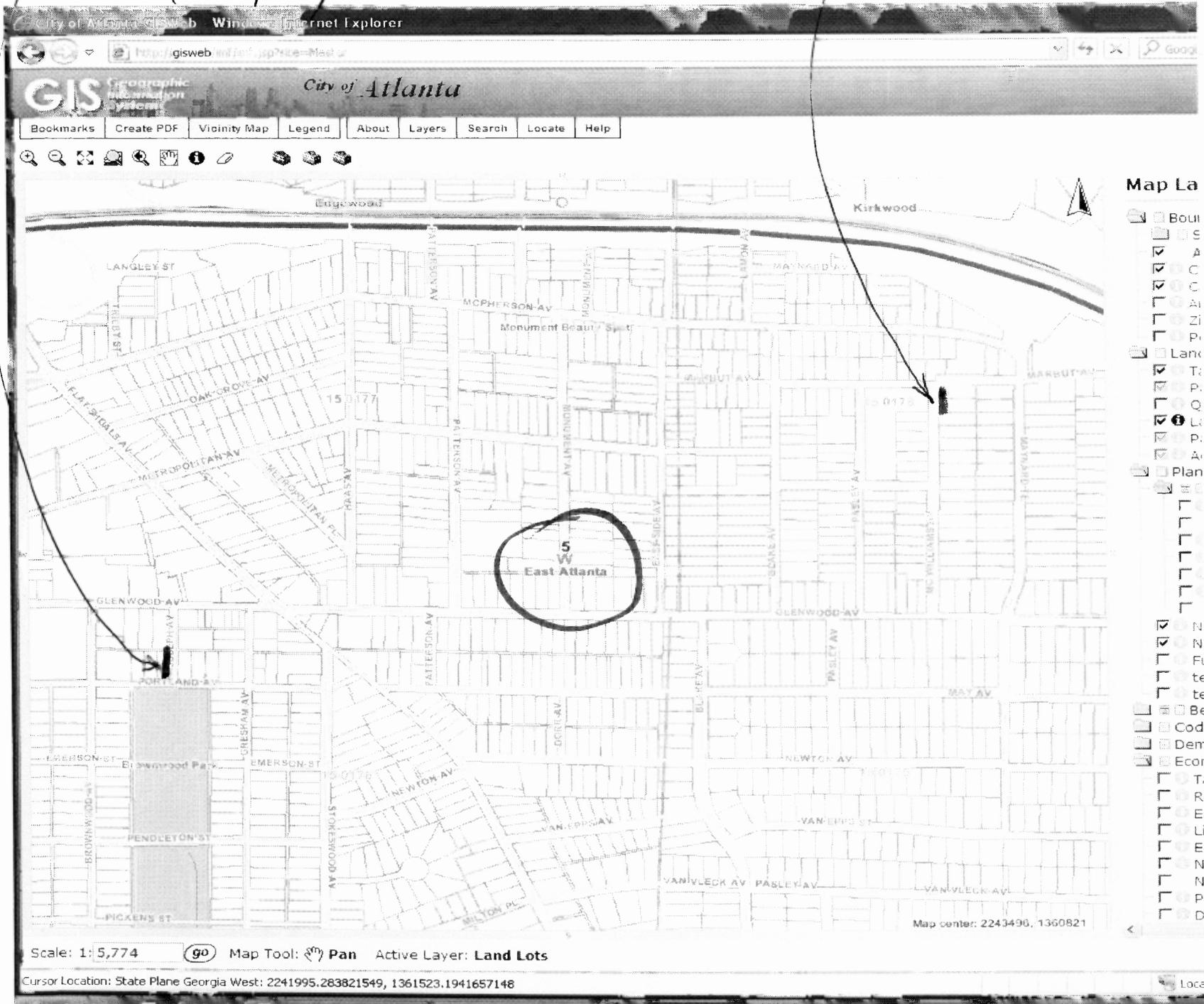
Please feel free to contact me at 404-330-6145 if you have questions.

c: Christian Olteanu, Office of Planning



To here  
(168 feet)

From here  
(140.4 feet)



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EXHIBIT 'D'