

City of Wilmington
Board of Adjustment

Item #4



Board of Adjustment
February 19, 2026

REQUEST FOR A VARIANCE
BADV-20-226

Patrick O'Mahony, (910) 341-3260, zoning@wilmingtonnc.gov

Request

<i>Code Section(s)</i>	Land Development Code: Section 18-316 Tree preservation Section 18-615 Board of adjustment
Subject Property	1009 South 13th Street
<i>Parcel ID</i>	R05414-005-001-000
<i>Zoning</i>	High-density multiple-dwelling residential district (MD-17)
<i>Request</i>	Variance to City Code Section 18-316 tree preservation standards regarding specimen trees in the MD-17 district.
<i>Owner</i>	Wilmington Housing Authority PO Box 899 Wilmington, NC 28402
<i>Agent</i>	Ward and Smith, P.A. c/o Sam Frank 127 Racine Drive Wilmington, NC 28403

GENERAL INFORMATION

Subject Property Area	Approximately 26.4 acres +/- (1,148,906 square-feet)
Annexation Date	December 31 st , 1945
History if applicable	N/A

Analysis & Research

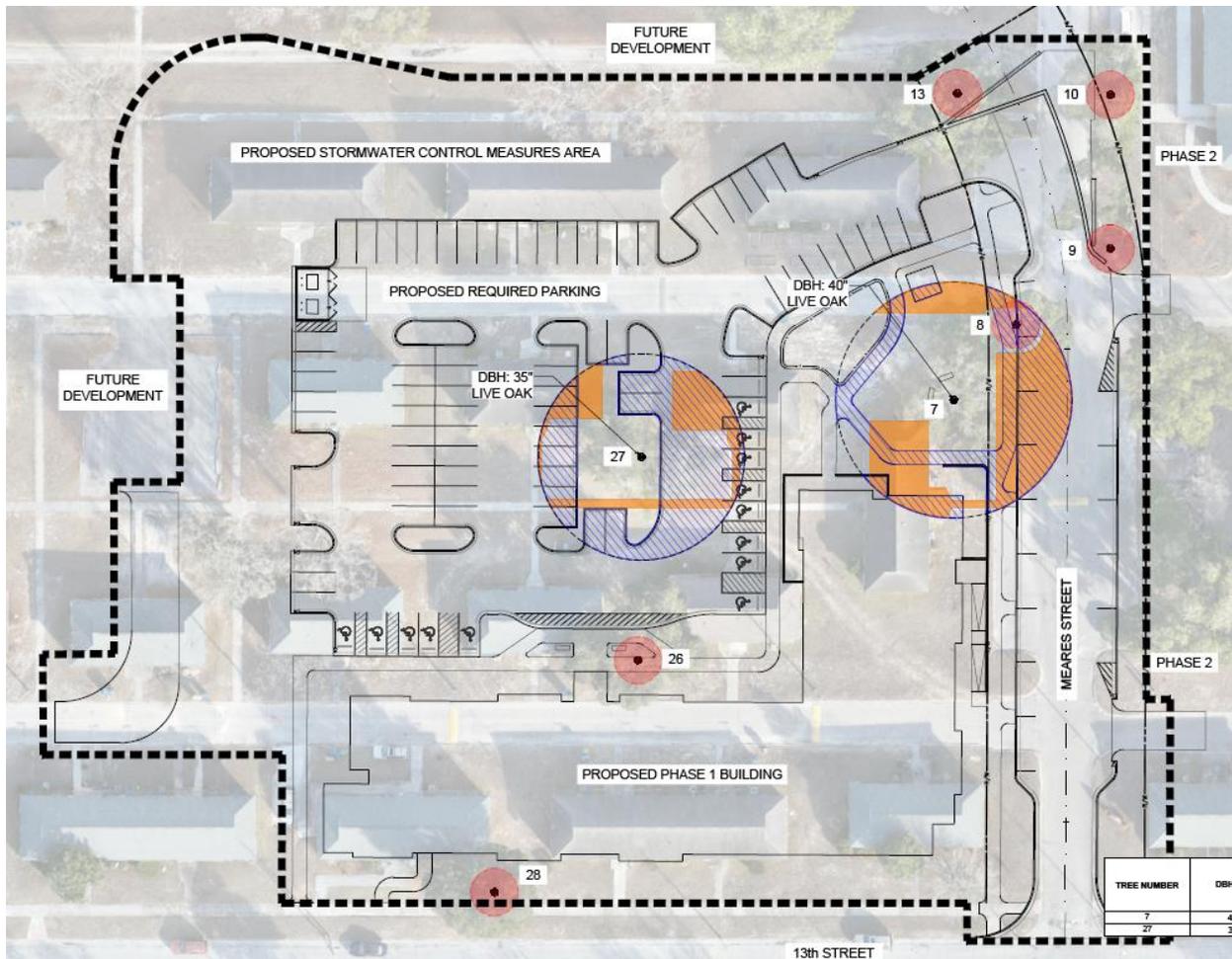
1. The subject property is located at 1009 South 13th Street, is zoned MD-17, High-density multiple-dwelling residential district, and contains a multi-family housing development (Hillcrest).
2. On or about December 10th, 2025, a redevelopment plan for the demolition of 17 structures and new construction of a four-story senior living facility with 84 units was submitted for preliminary review by the City's Technical Review Committee.
3. The proposed new construction is the first phase of the Hillcrest site redevelopment and would involve the removal of six specimen trees.
4. Pursuant to Table 18-316.1 of the Land Development Code, any Live Oak with a minimum diameter breast height of 24 inches shall be classified as a specimen tree.
5. Land Development Code Section 18-316 (B) states that protected trees existing on a site prior to development or redevelopment that meet the size threshold prescribed in Table

18-316.1 shall be retained. This section further states that the removal of specimen trees shall only be authorized by a variance from the Board of Adjustment.

6. Section 18-316 (D) states that disturbance within the critical root zone shall not exceed 20% of the critical root zone protection area or extend any closer than 1.25 feet for every inch in trunk diameter.
7. According to the applicant, the phase one development contains ten specimen trees that will be impacted by the proposed redevelopment. The applicant is proposing either the removal of the specimen or impacting the critical root zone beyond what is permitted by code with the intent to retain viable trees.
8. **The applicant has requested a variance to Land Development Code Section 18-316 to remove or impact the critical root zone of the nine specimen trees in the following ways:**

- To be removed:
 - **30-inch live oak** (tree #8 on plans)
 - **30-inch live oak** (tree #28 on plans)
 - **32-inch live oak** (tree #13 on plans)
 - **37-inch live oak** (tree #26 on plans)
 - **40-inch live oak** (tree #10 on plans)
 - **44-inch live oak** (tree #9 on plans)
- To be retained, but increased impact to the CRZ:

60-in. live oak (tree #3 on plans)	Current impact by existing improvements: 52.7% CRZ	Proposed impact: 64.2% CRZ
39-in. live oak (tree #5 on plans)	Current impact by existing improvements: 54.9% CRZ	Proposed impact: 56.3% CRZ
40-in. live oak (tree #7 on plans)	Current impact by existing improvements: 42.6% CRZ	Proposed impact: 45.2% CRZ
35-in. live oak (tree #27 on plans)	Current impact by existing improvements: 22.6% CRZ	Proposed impact: 55.1% CRZ



9. The applicant states that the location of existing specimen trees near existing structures and the need to repair failing utilities justifies the variance requests in order to make redevelopment possible.
10. On January 6th, 2026, staff accepted an application for a **variance to the tree preservation standards** for a property located in the MD-17 district pursuant to **Land Development Code, Section 18-316**.
11. On or about January 29th, 2026, the applicant met with staff to provide an updated site plan which reduced the impact of the proposed redevelopment on the critical root zones of the specimen trees.
12. This matter is set for hearing before the Board of Adjustment on February 19th, 2026.

FINDINGS OF FACT

The Board of Adjustment, in granting a variance, shall find that the following four findings of fact required by North Carolina General Statutes §160D-705 and City Code Chapter 18, Land Development Code, Section 18-615 Board of adjustment have been met by the applicant:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance;
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

NEIGHBORHOOD CONTACT

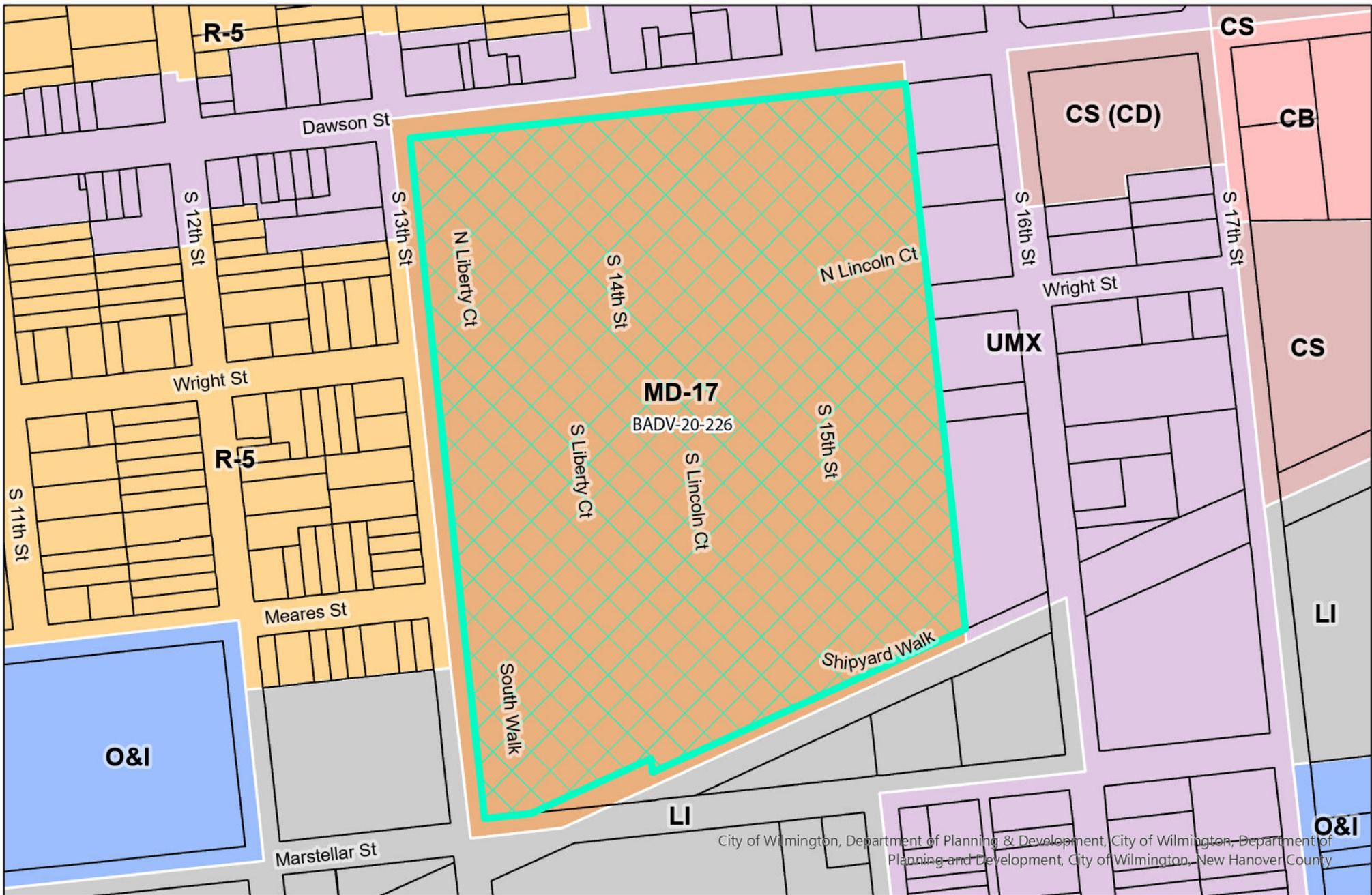
City Notifications:	Board of Adjustment
Adjacent Letters	2/2/2026
Property Posted	2/6/2026
Advertisement Dates	2/13/2026

ATTACHMENTS

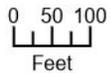
- 1.) Location and Zoning Map (2/4/26)
- 2.) Aerial Map (2/4/26)
- 3.) Application (received 1/6/2026)
- 4.) Applicant attachments & site plan
- 5.) City Code Chapter 18, Land Development Code references:
 - a. Section 18-316 Tree Preservation
 - b. Section 18-615 Board of adjustment

ATTACHMENT

1



City of Wilmington, Department of Planning & Development, City of Wilmington, Department of Planning and Development, City of Wilmington, New Hanover County



Board of Adjustment
BADV-20-226 — Aerial Map
109 South 13th Street

2/4/2026



ATTACHMENT

2



City of Wilmington, Department of Planning & Development, City of Wilmington, New Hanover County

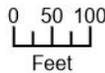
Board of Adjustment

BADV-20-226 — Aerial Map

1009 South 13th Street

2/4/2026



 Site
 Zoning
 N
 0 50 100 Feet

ATTACHMENT

3

**CITY OF WILMINGTON
STATE OF NORTH CAROLINA**

APPLICATION FOR A VARIANCE

PRE-APPLICATION MEETING – A pre-application meeting with staff is required before a variance application can be accepted. Pre-application meetings will not be scheduled for or held on the date of the application submission deadline. Please identify the meeting date and staff in attendance below.

Meeting Date: _____ Staff: _____

PURPOSE OF VARIANCE – A Variance is the official allowance of a variation from the dimensional requirements of the City Land Development Code or other development regulations. An applicant for a variance must demonstrate valid reasons which create a need for a Variance. These reasons cannot be strictly economic in nature but must generally involve some physical problem with the subject property which will not allow it to be developed in a reasonable manner if City development regulations are followed literally, such as a lot which is substandard in area or width.

BOARD OF ADJUSTMENT - The Board of Adjustment, or BOA, is the official City Board that considers requests for variances. The BOA receives sworn testimony at its quasi-judicial hearings and issues decisions on variance requests based on this testimony. It is the responsibility of each applicant for a Variance to attend the BOA meeting and present sworn testimony in support of the request.

REASON FOR VARIANCE REQUEST – Explain in your own words why you are requesting a Variance. Be sure to clearly indicate the problem(s) you will experience in complying with the City development regulations. (Attach additional sheets if needed.)

The BOARD OF ADJUSTMENT is required to make the following four (4) findings before granting a Variance. Write a thorough response to each of these items.

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance;

Application No. _____

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

ATTACH PLOT PLAN DESCRIBING VARIANCE REQUEST

PROPERTY LOCATION INFORMATION

Street address of subject property 1009 S 13th St., Wilmington, NC 28401

Tax Parcel Number of subject property R05414-005-001-000

ATTACH TAX PARCEL & OWNERSHIP INFORMATION FOR ADJACENT PROPERTIES

APPLICANT INFORMATION

Name/Address/Telephone/Email

Name: Ward and Smith, P.A. c/o Sam Franck

Address: 127 Racine Drive, Wilmington, NC 28403

Phone #: 910-794-48000

Email: SBF@wardandsmith.com

OWNER INFORMATION

Name/Address/Telephone/Email

Housing Authority of the City of

Wilmington, North Carolina

1524 S 16th Street

WILMINGTON NC 28401

Phone:910-341-7700

Email:

ATTACH AGENT FORM IF THE APPLICANT IS NOT THE OWNER

DATE 01-06-2026

APPLICANT'S SIGNATURE 

Attachment A

Narrative Responses

Reasons for Variance Request:

The Wilmington Housing Authority, TEDc, Urban Trends Real Estate, and Related Urban (collectively, the "Developer") plan to redevelop the Hillcrest housing community located at 1009 S 13th Street in Wilmington, North Carolina (the "Property"). Hillcrest currently provides affordable housing through two hundred and fifty six one-story units across approximately 26.38 acres. Originally constructed as temporary housing during World War II, the buildings and utilities date to the 1940s and are now obsolete. This variance request relates to Phase 1 of the Hillcrest redevelopment and will allow necessary improvements to be made in order to provide better mixed-income housing to the City of Wilmington. The full redevelopment of Hillcrest proposes more than five-hundred-fifty residential units, along with supporting commercial uses. Phase 1 alone includes eighty-four units dedicated to affordable housing and senior housing.

The Hillcrest redevelopment involves demolition of existing structures and comprehensive reconstruction as a mixed-use, mixed-income community with upgraded infrastructure. In response to staff feedback during TRC meetings, the Developer has identified all live oaks, pond or bald cypress, and longleaf pines measuring twenty-four (24) inches breast height ("DBH") or greater and has treated them as specimen trees, which require Board of Adjustment variance approval if removal is required. These requirements are related to Table 18-316.1 and Section 18-316(B)(2) of the Wilmington Land Development Code (the "LDC").

On the inventory attached, Phase 1 specimen trees proposed to be retained with a critical root zone less than required by the UDO are identified as Tree No. 7 and Tree No. 27, and the Phase 1 specimen trees to be removed are depicted in red; these designations, together with tree locations and diameters, are shown on Attachment B.

Additionally, Section 18-316(D)(2)-(3) of the LDC sets forth requirements regarding protection of the critical root zone ("CRZ") of trees during construction, including, without limitation, (i) that land disturbance extend no closer to the tree trunk than a distance of one and a quarter (1.25) feet for every inch in trunk diameter, and (ii) that disturbance within the critical root zone shall not exceed twenty percent (20%) of the critical root zone protection area and only with prior approval of the City Manager.

In this case, the CRZs for a number of the specimen trees are already impacted by existing improvements. Those improvements may have been constructed prior to the applicable regulations, the specimen trees may have grown since the improvements were installed (thus expanding the CRZs), or both. The existing and

proposed impacts to the CRZ of the Phase 1 specimen trees proposed to be retained are shown on Attachment C.

The Developer seeks relief from Table 18-316.1 and Sections 18-316(B)(2) and 18-316(D)(2)-(3) of the LDC and approval to remove, or impact the critical root zone of, specimen trees within Phase 1 as depicted in Attachment B and Attachment C, generally as follows:

1. To remove six (6) specimen trees, as identified on Attachment B, whose removal is necessary to accommodate essential demolition, utility replacement, building placement, and safe site circulation within Phase 1.
2. To allow an adjustment in the area of CRZ disturbance for the forty (40) inch DBH specimen tree (Tree No. 7), which has a CRZ radius of fifty (50) feet and, based on a strict interpretation of the UDO, a total CRZ area of approximately seven thousand eight hundred fifty-four (7,854) square feet. Currently, three thousand three hundred forty-five (3,345) square feet of the CRZ are impacted by existing improvements, as shown on Attachment C. To accommodate the proposed plan of development, approval is requested to allow disturbance of up to three thousand one hundred seventy (3,170) square feet of the CRZ.
3. To allow an adjustment in the area of CRZ disturbance for the thirty-five (35) inch DBH specimen live oak tree (Tree No. 27), which has a CRZ radius of forty-three and three-quarters (43.75) feet and, based on a strict interpretation of the UDO, a total CRZ area of approximately six thousand thirteen (6,013) square feet. Currently, one thousand three hundred sixty-two (1,362) square feet of the CRZ are impacted by existing improvements, as shown on Attachment C. To accommodate the proposed plan of development, approval is requested to allow disturbance of up to three thousand nine hundred fifty-three (3,953) square feet of the CRZ.

This variance request is necessary to accommodate the removal of existing site features and facilitate construction. While Phase 1 requires removal of six (6) specimen trees and preservation of two (2) specimen live oaks with managed CRZ impacts, the Developer intends in subsequent phases to increase the ratio of specimen trees preserved relative to those removed as designs are advanced, utilities are realigned, and the open space framework is extended across the site.

Required Findings:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

The strict application of the tree preservation and CRZ standards would result in unnecessary hardship because Hillcrest's buildings and infrastructure are obsolete, widely deteriorated, and must be replaced to protect public health and safety. Since its construction, the neighborhood has undergone few updates and suffers from moisture intrusion, mold, and legacy water and sewage lines that are prone to collapse, and documented failures including a ceiling collapse due to moisture. Many specimen tree CRZs in Phase 1 are already encroached upon by existing slabs, pavements, and utilities that predate current standards. Requiring full compliance with CRZ limits and prohibitions would prevent the removal and replacement of failing improvements within existing encroachments, foreclose feasible building placements for affordable housing, and impede installation of a safe, code-compliant utility and street network. These constraints would render Phase 1 redevelopment functionally infeasible and would eliminate the ability to deliver modern, healthy homes. The requested variance narrowly tailors relief to enable necessary demolition and reconstruction while preserving two (2) viable specimen live oaks, each with CRZ impacts that must be managed during construction.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or general public may not be the basis for granting a variance.

The hardship is driven by conditions peculiar to Hillcrest. The Property is an unusually large, developed, urban site originally constructed as temporary World War II housing, with buildings and utilities interlaced among mature trees whose critical root zones have expanded over more than eight decades. The confluence of numerous specimen trees within active building envelopes, brittle clay utility lines prone to failure, and widespread building deterioration creates unique, inherited conditions in the Phase 1 area that constrain the ability to remove obsolete improvements and reposition essential infrastructure without work within CRZs and the removal of some specimen trees. The Phase 1 redevelopment plan has been designed to minimize tree impacts while delivering a functional, code-compliant, mixed-income community on a site whose historic layout and aging infrastructure present exceptional constraints, and subsequent phases are being planned to further increase the proportion of specimen trees preserved.

Please note that the CRZ's for the specimen trees proposed to be saved, Tree Nos. 7 and 27, are already impacted by improvements.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that

circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The hardship did not result from the actions of the Applicant or Developer. The Property was conveyed to the Applicant with buildings and infrastructure originally constructed as temporary housing in the 1940s, and the Applicant neither constructed those improvements nor planted or altered the existing trees in a manner that created the need for a variance. Existing encroachments into critical root zones arise from long-standing improvements that predate the current Land Development Code, and the trees' critical root zones have expanded naturally over time as the trees matured. The Developer's Phase One efforts are directed toward remedying these inherited deficiencies, including removing obsolete structures, replacing failing utilities, and delivering safe, modern housing. The decision to pursue redevelopment with knowledge of these conditions does not constitute a self-created hardship; rather, the circumstances exist independent of the Applicant and justify the requested relief under Section 18-316.

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

The requested variance is consistent with the spirit, purpose, and intent of the ordinance to preserve and enhance the City's tree canopy while allowing responsible development. The Phase 1 redevelopment prioritizes preservation of two (2) specimen live oaks and commits to robust protection measures for these retained trees. Structures do not last forever, and, at Hillcrest, redevelopment is truly necessary. Public safety will be secured by replacing failing buildings and utilities, addressing moisture and mold conditions, and providing code-compliant, healthy housing connected by walkable streetscapes. Substantial justice will be achieved by balancing environmental stewardship with the urgent community need for affordable housing, ensuring that the ordinance's goals are advanced rather than impeded within Phase 1. In subsequent phases, the Developer's intent is to further increase the ratio of specimen trees preserved versus removed as site-wide infrastructure is modernized and the open space framework is implemented.

AUTHORITY FOR APPOINTMENT OF PERSON
TO ACT ON MY BEHALF

The undersigned applicant Housing Authority of the City of Wilmington, NC hereby appoints Ward and Smith, P.A. to act on its behalf for the purpose of petitioning, applying, and otherwise interacting with the City of Wilmington for: a) all applications and approvals, including without limitation any pursuit of entitlements and consents as needed regarding the removal of certain specimen trees from the real property with New Hanover County Parcel ID Number R05414-005-001-000 ("Property"); b) all matters related to any proposed variances for the Property; and c) appeals to the Board of Adjustment or City Council regarding the Property.

The applicant does hereby covenant and agree with the City of Wilmington that Ward and Smith, P.A. has the authority, without limitation, to do the following acts for and on behalf of the applicant:

- (1) To submit a proper petition or application and the required supplemental materials;
- (2) To appear at public meetings and quasi-judicial hearings to give testimony, make commitments on behalf of the applicant, and to accept conditions or recommendations regarding the Property; and
- (3) To act on the applicant's behalf without limitation with regard to any and all things directly or indirectly connected with or arising out of any petition or application.

This appointment agreement shall continue in effect until final disposition of the petition(s) or application(s) submitted in conjunction with this appointment.

-Signature on Following Page-

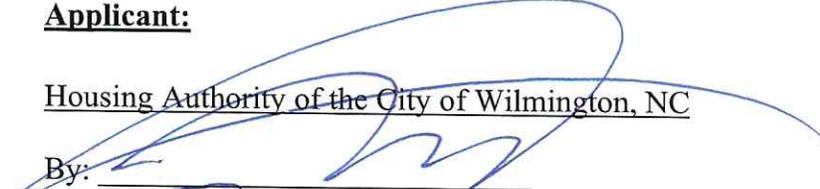


Appointees' Name, Address, Telephone & Email:

Ward and Smith, P.A.
127 Racine Drive
Wilmington, NC 28403
SBF@wardandsmith.com
910-794-4835

Applicant:

Housing Authority of the City of Wilmington, NC

By: 

Name: TYRON GARNETT

Title: CEO

Date: 1. 5. 20



127 Racine Dr.
Post Office Box 7068
Wilmington, NC 28406-7068

P: 910.794.4835
F: 910.794.4877
sbf@wardandsmith.com

January 6, 2026

VIA EMAIL

City of Wilmington
Planning and Development
929 North Front Street
Wilmington, NC 28401

RE: Variance Application on Behalf of Applicant
Housing Authority of the City of Wilmington, North Carolina

Dear Sir/Madam:

Enclosed, please find a Variance Application on behalf of the Housing Authority of the City of Wilmington, North Carolina regarding relief from Table 18-316.1 and Sections 18-316(B)(2) and 18-316(D)(2)-(3) of the City of Wilmington's Land Development Code for approval to remove or impact the critical root zone of specimen trees located at 1009 S 13th Street in Wilmington, North Carolina. The enclosed includes the following:

- PDF Variance Application
- Attachment A – Narrative Responses
- Attachment B – Specimen Tree Inventory
- Attachment C – Proposed and Existing CRZ Impacts
- Attachment D – Agent Authorization from Housing Authority of the City of Wilmington, North Carolina to Ward and Smith, P.A.

We understand that the City will issue an invoice for the Variance Application fee of \$500. Please send that invoice to Ward and Smith, P.A. directly and we will promptly pay the fee once the invoice is received.

Please do not hesitate to reach out with any questions or concerns.

Yours very truly,



Samuel B. Franck

127 Racine Drive
University Corporate Center (28403)
Post Office Box 7068
Wilmington, NC 28406-7068

P: 910.794.4835
F: 910.794.4877
sbf@wardandsmith.com

February 9, 2026

VIA EMAIL

City of Wilmington
Planning & Development
c/o Grace Lamay, Tucker Cherry,
Catherine Horner & Brian Chambers
929 N. Front St.
Wilmington, NC 28401

RE: Supplement and Amendment to Variance
Application re Removal of Specimen Trees

Our File 260001-00001

Dear Grace, Tucker, Catherine, and Brian:

Please consider this Supplement as an update, amendment, and supplement to the Variance Application submitted by Ward and Smith, P.A. (“Applicant”) on January 6, 2026 and to supersede and replace in its entirety the Supplement submitted on January 29, 2026, regarding the removal of Specimen Trees located at 1009 S. 13th Street, Wilmington, North Carolina 28401, identified as Parcel ID R05414-005-001-000 (“Property”) (“Application”). Capitalized terms not defined in this Supplement shall have the same meaning as those terms are defined in the Application. Where there is any inconsistency between the terms of the Application and the terms of this Supplement, the terms of this Supplement shall control.

This Supplement amends and replaces Attachment B and Attachment C to reflect updated planned as-built conditions and plan refinements affecting the CRZs of certain trees on the Property, and to request approval for adjusted impact to the CRZ's of Trees 3 and 5. Please note that Tree 3 and Tree 5 are located outside of the first phase of the development property, but their CRZ's extend into that Property.

In calculating the proposed CRZ impacts, **all grading activities were calculated as impacts to the CRZ**, *including the placement of nominal fill*. In many areas, the intensity of the CRZ impact decreases when transitioning from existing improvements currently within the CRZ to the proposed grading and fill shown on Attachments B and C.

City of Wilmington
February 9, 2026
Page 2

Attachment B is amended to add requested variances regarding the impact to the CRZs of Tree Nos. 3 and 5. These trees are located outside of the Phase 1 of the development, but have areas of CRZ to be impacted that are located within Phase 1.

Attachment C is amended to include Trees 3 and 5 and to depict both existing and proposed CRZ impacts for those trees, as described below.

Attachment C also updates and refines the proposed CRZ impact calculations for Trees 7 and 27 to reflect adapted proposed disturbed areas of those CRZ's. Evolution of the site design has allowed for decreased proposed impacts to CRZ's of these trees.

Please consider the following supplemental and revised requests:

1. To allow an adjustment in the area of CRZ disturbance for the sixty (60) inch DBH specimen tree (Tree No. 3), which has a CRZ radius of seventy-five (75) feet and, based on a strict interpretation of the UDO, a total CRZ area of seventeen thousand six hundred and seventy-one (17,671) square feet. Currently, nine thousand three hundred fifteen (9,315) square feet of the CRZ are impacted by existing improvements, as shown on Attachment C. The applicant requests variance relief to allow disturbance of up to eleven thousand three hundred forty-three (11,343) square feet of the CRZ, as shown on the attached.
2. To allow an adjustment in the area of CRZ disturbance for the thirty-nine (39) inch DBH specimen tree (Tree No. 5), which has a CRZ radius of forty-eight and three-quarters (48.75) feet and, based on a strict interpretation of the UDO, a total CRZ area of approximately seven thousand four hundred sixty-six (7,466) square feet. Currently, four thousand ninety-seven (4,097) square feet of the CRZ are impacted by existing improvements, as shown on Attachment C. To accommodate the proposed plan of development, approval is requested to allow disturbance of up to four thousand two hundred seven (4,207) square feet of the CRZ as shown on the attached.
3. Modify the proposed impacts to the CRZs of Tree No. 7 and Tree No. 27 to reflect adapted disturbance areas.
 - For Tree No. 7, the proposed CRZ impact is revised from three thousand one hundred seventy (3,170) square feet to three thousand five hundred fifty six (3,556) square feet. The adapted design also moves the closed proximity of disturbed area of the CRZ further away from the tree.
 - For Tree No. 27, the proposed CRZ impact is reduced from three thousand nine hundred fifty-three (3,953) square feet to three thousand three hundred

City of Wilmington
February 9, 2026
Page 3

eighteen (3,318) square feet. The adapted design also moves the closed proximity of disturbed area of the CRZ further away from the tree.

Except as otherwise explicitly altered pursuant to this Supplement, the Application shall continue in full force and effect. Please do not hesitate to reach out with any questions.

Sincerely,

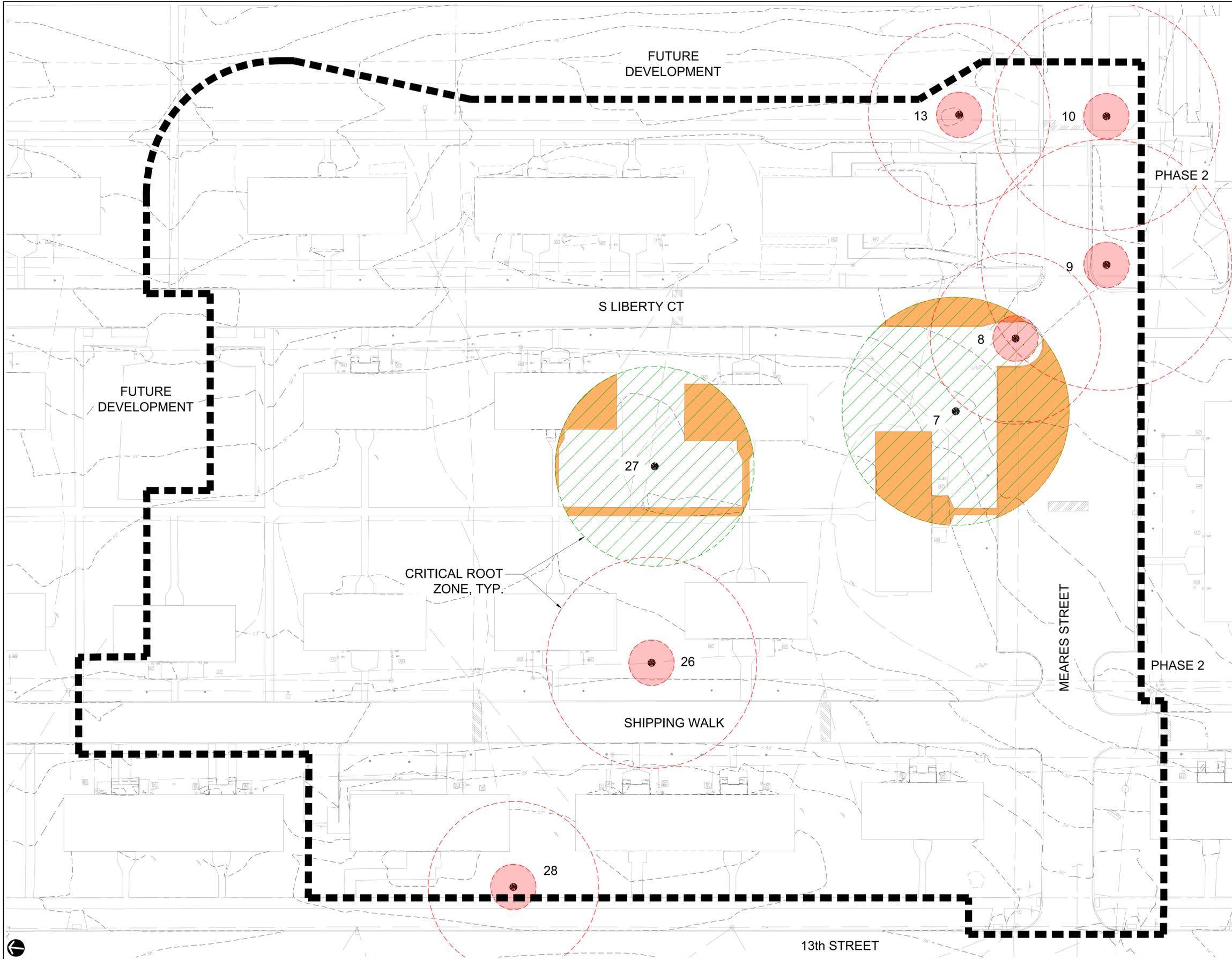


Samuel B. Franck

Enclosures
ND:4901-4640-9102, v. 1

ATTACHMENT

4



SPECIMEN TREES LOCATED IN PHASE 1

TREE NUMBER	COMMON NAME	DBH	CONDITION
7	LIVE OAK	40"	GOOD
8	LIVE OAK	30"	GOOD
9	LIVE OAK	44"	FAIR
10	LIVE OAK	40"	GOOD
13	LIVE OAK	32"	FAIR
26	LIVE OAK	37"	GOOD
27	LIVE OAK	35"	GOOD
28	LIVE OAK	30"	GOOD

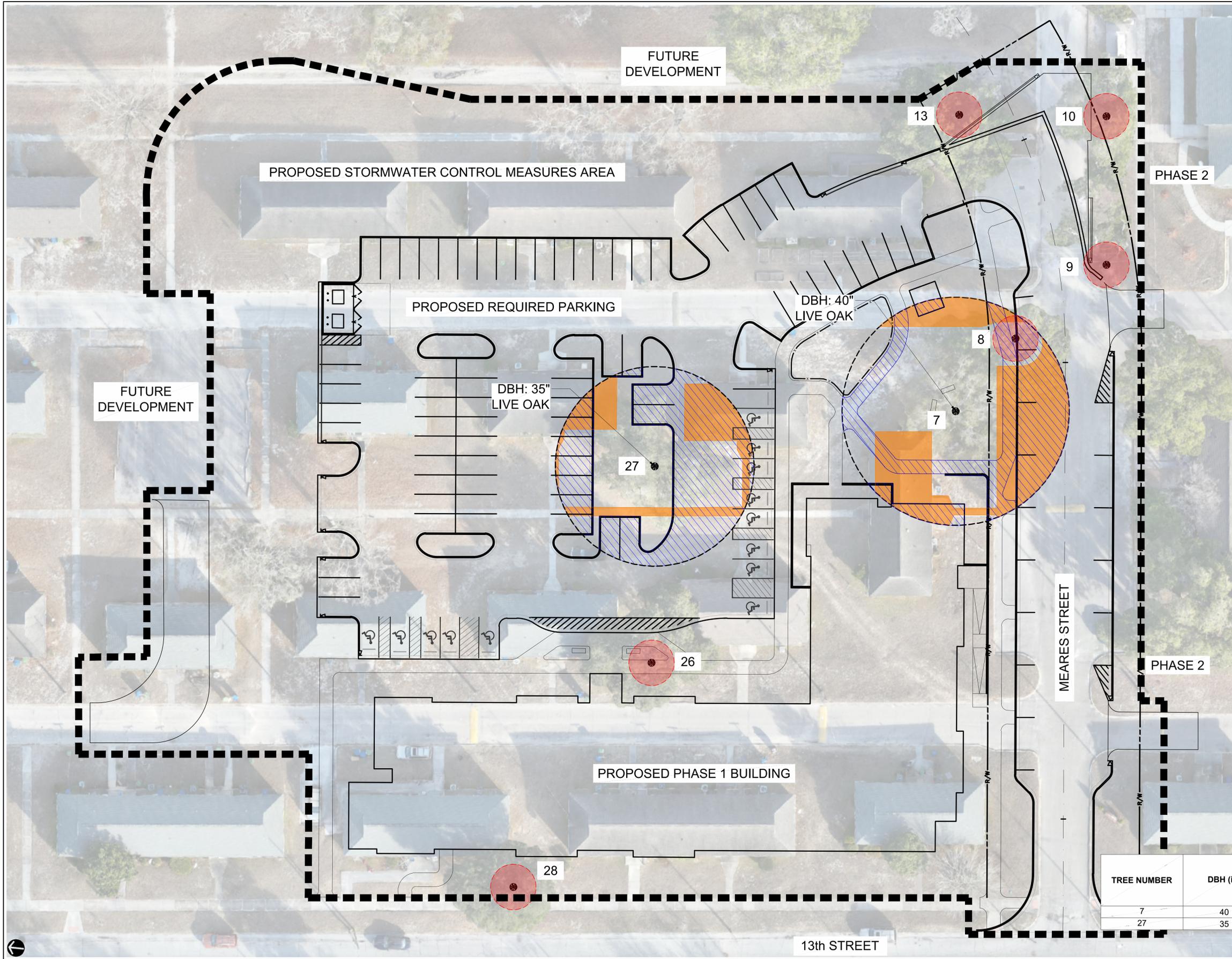
NOTES: TREES HIGHLIGHTED IN RED ARE TO BE REMOVED. PLAN DEPICTS SPECIMEN TREES ONLY. TREE ASSESSMENT COMPLETED BY BARTLETT TREE EXPERTS, COMPLETED DECEMBER 9, 2025. PLAN SUBJECT TO CHANGE.

LEGEND

-  SPECIMEN TREE TO REMAIN
-  SPECIMEN TREE TO BE REMOVED
-  EXISTING IMPACTS WITHIN CRITICAL ROOT ZONE
-  PHASE 1 PROJECT BOUNDARY



1/6/2026 10:55 AM JNK/CAD P:\DLT_20211021215\CADD\DOCUMENTATION\EXHIBITS\2026-01-05_SUPPLEMENTAL TREE INFORMATION EXHIBITS\1021215_EXISTING TREE INFORMATION_0026-01-05.DWG



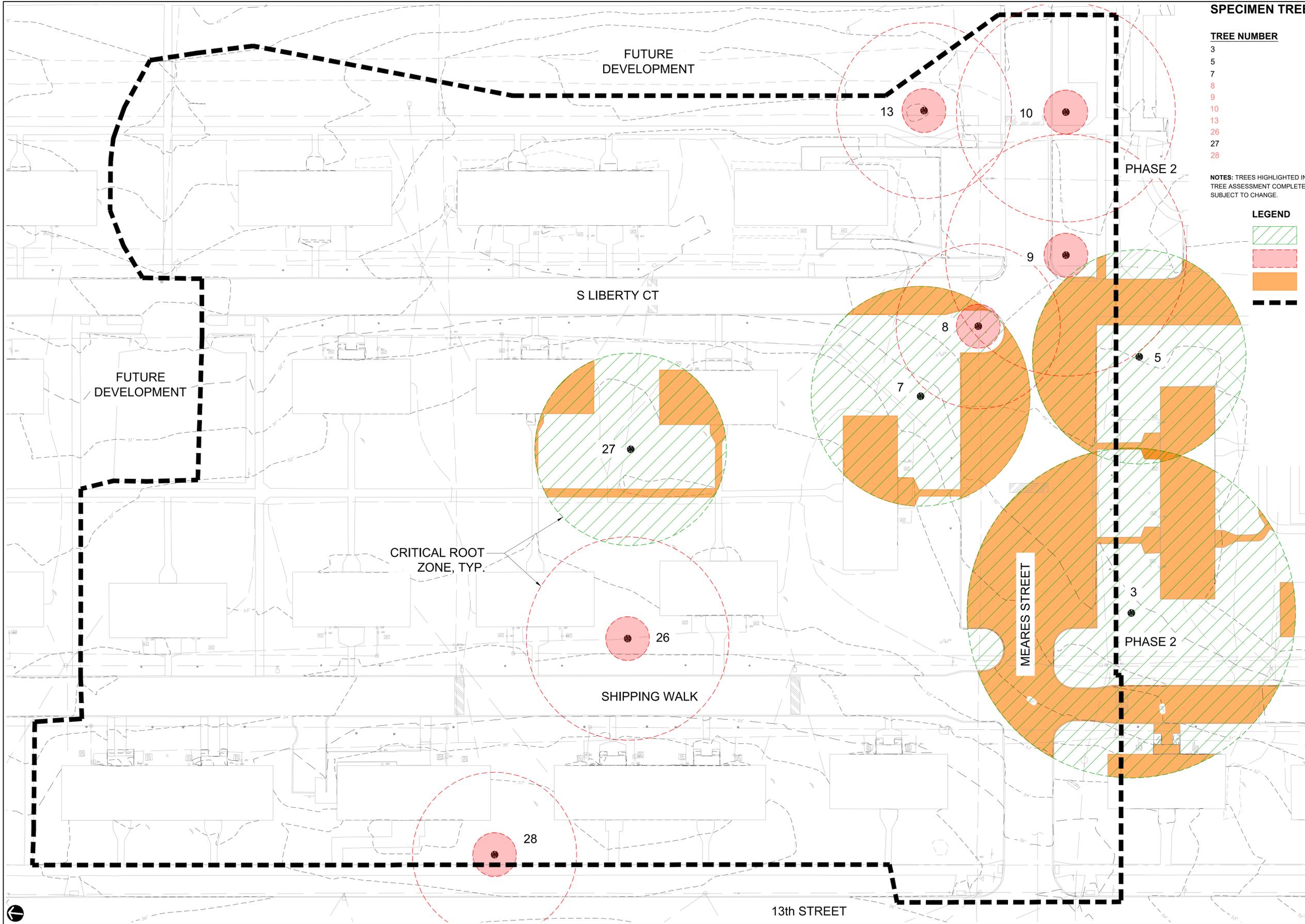
LEGEND

- PROPOSED IMPACTS WITHIN CRITICAL ROOT ZONE
- EXISTING IMPACTS WITHIN CRITICAL ROOT ZONE
- SPECIMEN TREE TO BE REMOVED
- PHASE 1 PROJECT BOUNDARY

NOTES: PLAN DEPICTS SPECIMEN TREES ONLY. TREE ASSESSMENT COMPLETED BY BARTLETT TREE EXPERTS, COMPLETED DECEMBER 9, 2025. PLAN SUBJECT TO CHANGE.

TREE NUMBER	DBH (in)	CRITICAL ROOT ZONE (CRZ) RADIUS (DBH x 1.25)	FULL TREE PROTECTION AREA (SF)	EXISTING IMPACT AREA WITHIN CRZ (SF)	ANTICIPATED IMPACT AREA WITHIN CRZ (SF)
7	40	50'	7,854	3,345	3,170
27	35	43.75'	6,013	1,362	3,953

SCALE: 1:20_XREF

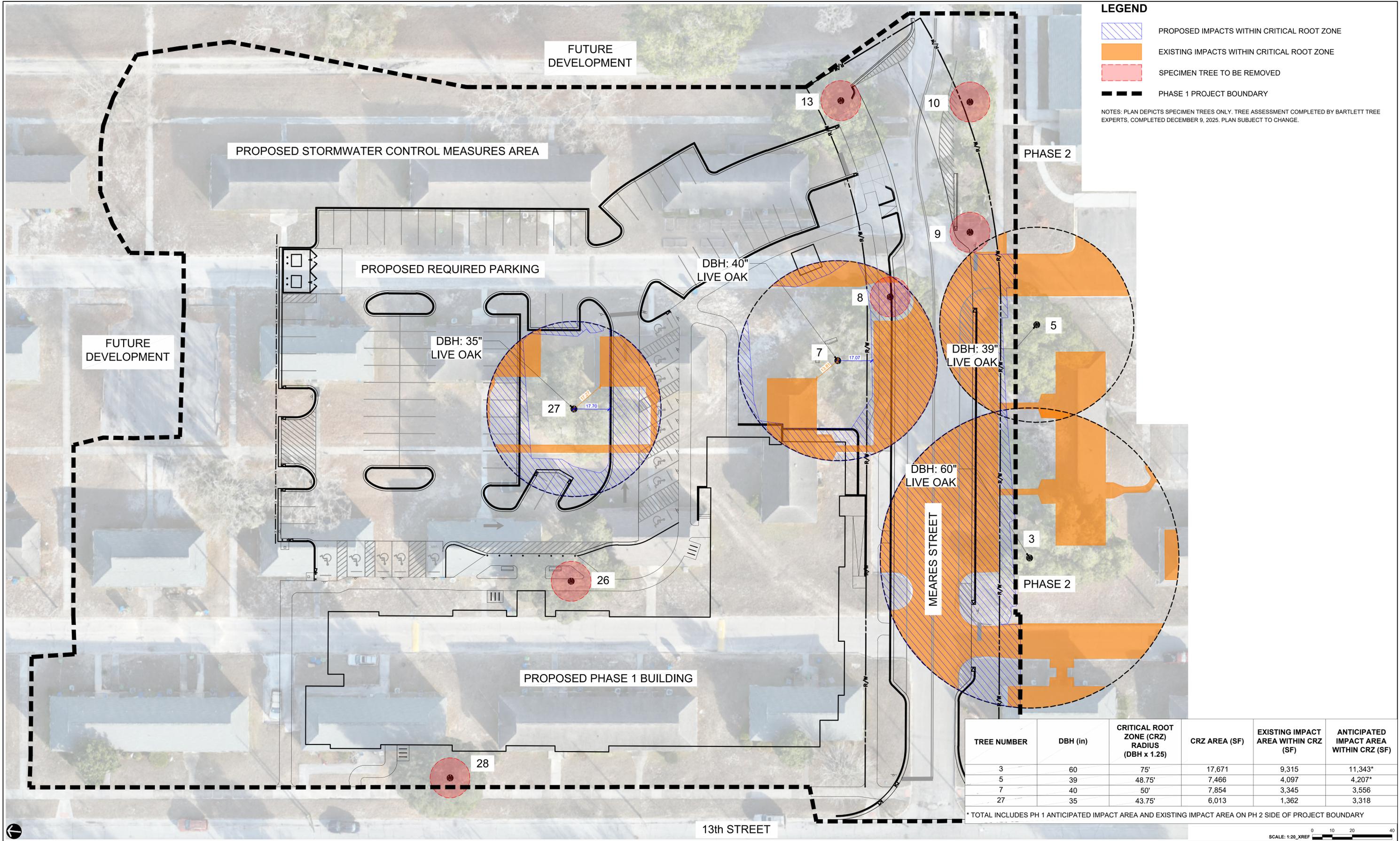


SPECIMEN TREES LOCATED IN PHASE 1

TREE NUMBER	COMMON NAME	DBH	CONDITION
3	LIVE OAK	60"	GOOD
5	LIVE OAK	39"	GOOD
7	LIVE OAK	40"	GOOD
8	LIVE OAK	30"	GOOD
9	LIVE OAK	44"	FAIR
10	LIVE OAK	40"	GOOD
13	LIVE OAK	32"	FAIR
26	LIVE OAK	37"	GOOD
27	LIVE OAK	35"	GOOD
28	LIVE OAK	30"	GOOD

NOTES: TREES HIGHLIGHTED IN RED ARE TO BE REMOVED. PLAN DEPICTS SPECIMEN TREES ONLY. TREE ASSESSMENT COMPLETED BY BARTLETT TREE EXPERTS, COMPLETED DECEMBER 9, 2025. PLAN SUBJECT TO CHANGE.

- LEGEND**
- SPECIMEN TREE TO REMAIN
 - SPECIMEN TREE TO BE REMOVED
 - EXISTING IMPACTS WITHIN CRITICAL ROOT ZONE
 - PHASE 1 PROJECT BOUNDARY



LEGEND

- PROPOSED IMPACTS WITHIN CRITICAL ROOT ZONE
- EXISTING IMPACTS WITHIN CRITICAL ROOT ZONE
- SPECIMEN TREE TO BE REMOVED
- PHASE 1 PROJECT BOUNDARY

NOTES: PLAN DEPICTS SPECIMEN TREES ONLY. TREE ASSESSMENT COMPLETED BY BARTLETT TREE EXPERTS, COMPLETED DECEMBER 9, 2025. PLAN SUBJECT TO CHANGE.

TREE NUMBER	DBH (in)	CRITICAL ROOT ZONE (CRZ) RADIUS (DBH x 1.25)	CRZ AREA (SF)	EXISTING IMPACT AREA WITHIN CRZ (SF)	ANTICIPATED IMPACT AREA WITHIN CRZ (SF)
3	60	75'	17,671	9,315	11,343*
5	39	48.75'	7,466	4,097	4,207*
7	40	50'	7,854	3,345	3,556
27	35	43.75'	6,013	1,362	3,318

* TOTAL INCLUDES PH 1 ANTICIPATED IMPACT AREA AND EXISTING IMPACT AREA ON PH 2 SIDE OF PROJECT BOUNDARY

SCALE: 1:20_XREF

ATTACHMENT

5

- ~~i. Adjacent zoning districts;~~
- ~~j. Approximate locations of all existing trees greater than eight inches diameter at breast height within required streetscape landscaping, buffers, and parking areas and all areas of natural vegetation to be used as part of any buffers;~~
- ~~k. Setbacks of all buildings and structures and specifications for any required screening of buildings, structures, and features, including but not limited to parking areas, mechanical equipment, and trash receptacles;~~
- ~~l. Locations of any conservation resources associated with the lot including any rare and endangered species in accordance with the North Carolina Wildlife Resources Commission;~~
- ~~m. Proposed schedule for landscaping;~~
- ~~n. Approximate location of all existing protected trees, clearly indicating those to be retained and those proposed for removal, and all trees to be planted on site to meet any mitigation requirements; and~~
- ~~o. Location of vegetation impacting vision clearance, as specified in Section 18-667: Vision clearance at all intersections with streets and driveways.~~

(Ord. No. O-2022-41, §22, 6-7-2022)

Section 18-316: Tree preservation

A. General

Trees existing on a site at the time of development that are required to be retained in accordance with this section shall be inventoried on a tree survey.

1. Inventory and identification shall be performed by a professional arborist, urban forester, or landscape architect.
2. The location of existing trees shall be certified by a registered land surveyor and submitted as part of a site plan application.
3. The inventory shall include the size and species of each protected tree and any trees proposed for mitigation credits.
4. The approximate locations, species, and critical root zones of all protected trees, both on the site and any located within 20 feet of the site on adjacent properties shall be identified. Groves of protected trees that will not be disturbed shall be labeled as such on the plan, stating the approximate number of protected trees and species mix, without specifying data on each individual tree.
5. A note stating that prior to any clearing, grading, or construction activity, tree protection fencing shall be installed around protected trees or groves of trees and that no construction workers, tools, materials, or vehicles shall be permitted within the tree protection fencing shall be included.
6. The inventory shall identify trees to be retained and those for which removal is proposed.
7. The areas that are designated as tree protection areas that will not be disturbed shall be delineated as such and do not require inventorying individual trees.
8. Existing trees within any required transitional buffer or streetscape landscaping shall be preserved, excluding invasive species. The following standards apply as a minimum to all newly planted landscaped areas and additional trees needed to

meet the requirements of this division.

- a. Invasive species, as identified by the United States Department of Agriculture (USDA), or included as prohibited within the Technical Standards and Specifications Manual are prohibited from being used to meet the requirements of this division.
- b. All plant and tree material shall meet the standards published in the ANSI Z60 Standard for Nursery Stock.
- c. Tree and landscape materials selected for planting shall be free from injury, pests, disease, nutritional disorders, and root defects and shall be healthy at time of planting.
- d. No more than one-third of any plant species within a plant type shall be used within a required landscaped area.
- e. Trees planted within a right-of-way to be dedicated as public may be inspected and shall be approved by the city manager prior to planting.

- b. If the trees are shown to be dead, dying, or greater than 50 percent damaged or diseased because of natural factors or are otherwise exempted, the mitigation requirements may be waived.
- c. The total number of replacement trees shall be subject to the requirements of this section.

B. Protected trees

Regulated, significant, and specimen trees shall be considered protected trees. Protected trees existing on a site prior to development or redevelopment that meet the size threshold prescribed in Table 18-316.1: Protected tree species shall be retained on a development or redevelopment site.

- 1. If regulated, significant, or specimen trees are removed, regardless of location on the site, they shall be mitigated.
 - a. Mitigation shall be with replacement trees or by use of credits in accordance with this section.

Table 18-316.1: Protected tree species	
Tree type	Minimum diameter at breast height (DBH)
Regulated trees	
Dogwoods, magnolias, other ornamental flowering trees, and American hollies	4 inches
Hardwood trees, long leaf pine, pocosin (pond) pine, black pine, and non-pine conifer trees	8 inches
Other pine trees not specified	12 inches
Significant trees	
Dogwoods, magnolias, other ornamental flowering trees, and American hollies	8 inches
Hardwood trees, long leaf pine, pocosin (pond) pine, black pine, and non-pine conifer trees	18 inches
Other pine trees, not specified	24 inches
Specimen trees	
Live oak, pond cypress, bald cypress, and long leaf pine	24 inches

2. Removal of specimen trees shall only be authorized by a variance from the board of adjustment. Board of adjustment approval is not required for the removal of specimen trees in the IND district.
3. Invasive tree species shall not be considered protected trees.
4. Any regulated or significant trees within required streetscape landscaping shall be retained and supplemented as necessary to meet the streetscape landscaping planting requirements.
5. Any existing trees or shrubs within required transitional buffers shall be retained and supplemented as necessary with other plantings, fences, or berms to meet the transitional buffer requirements.

C. Retention standards for protected trees

Protected trees may be removed only if essential site improvements cannot be accommodated elsewhere on the site. If any protected trees are to be cleared from a site for essential site improvements, the proposed removal shall be indicated and the reasons for doing so shall be stated on the tree survey. Such factors as cost or removal to accommodate nonessential site improvements shall not be valid reasons for removal of protected trees. Clearing of sites shall be limited to areas approved for construction.

1. Evaluation

Prior to site development, applicants shall contact the city to determine whether a meeting is required to evaluate the site and tree retention opportunities. Roadways and building sites shall be planned to minimize the removal of protected trees.

2. Grading limits

Land disturbance, including removal of any trees, shall not be permitted outside of necessary grading limits for essential site improvements.

3. Significant and specimen trees

Significant and specimen trees determined to be healthy by the city manager or a certified arborist shall be preserved or relocated inside the limits of disturbance where possible. Trees requiring removal shall be mitigated pursuant to this section.

4. Accommodation of protected trees

- a. The following may be required or permitted by the technical review committee to accommodate protected trees.
 - i. Sites shall be designed to work with significant topographic features to minimize wholesale clearing, massive regrading, and leveling of a site for drainage and other essential site improvements. Buildings, parking, utilities, stormwater features, and other essential site improvements shall be designed and placed to minimize land disturbance and loss of tree cover.
 - ii. Modification of parking requirements may be considered to preserve protected trees.
 - iii. Change in size of required streetscape landscaping, landscape islands, foundation plantings, or setbacks may be permitted for the purpose of retaining trees.
- b. A minimum of 15 trees, at least two inches diameter breast height, shall be retained or planted on the site for each acre disturbed by development. To meet this requirement, spading for the purpose of transplanting existing trees greater than four inches diameter breast height is allowed. This requirement shall be in addition to other landscaping

requirements of this article.

5. Credit for non-protected trees

Credit for trees that are not otherwise classified as protected trees by this division and trees transplanted by spading may be allowed.

- a. Credit towards landscaping requirements shall be granted by the technical review committee for healthy trees of at least two-inch caliper preserved or transplanted by spading from within the limits of disturbance within the improved area of the project boundaries.
- b. Credit shall be allowed for the retention of existing nonprotected trees in accordance with “Table 18-316.2: Credit ratios for non-protected trees.” Credit shall be granted for the caliper inches that exceed the minimum size requirements for trees used to satisfy required landscaping.
- c. To receive credit, existing trees growing in mature native forests or trees growing in stands or natural clusters, as determined by a certified arborist or a North Carolina licensed forester, shall be retained.
- d. Existing protected trees may be donated to the city to be planted on public property.
- e. Credit may be used to satisfy streetscape landscaping or parking lot requirements.
- f. Credit may be used to offset mitigation requirements.
- g. Credit shall not be granted for single-dwelling development, except for retained trees in common areas.

Table 18-316.2: Credit ratios for non-protected trees		
	Credit inches for every 1 inch in DBH retained	
	Specimen tree	Significant trees
Native trees	1	1½
Non-native trees	No credit	1
Native trees growing in stands or natural clusters	1 inch	1½
Non-native trees in stands or natural clusters	No credit	1
Native trees growing in mature native forest	1	1½

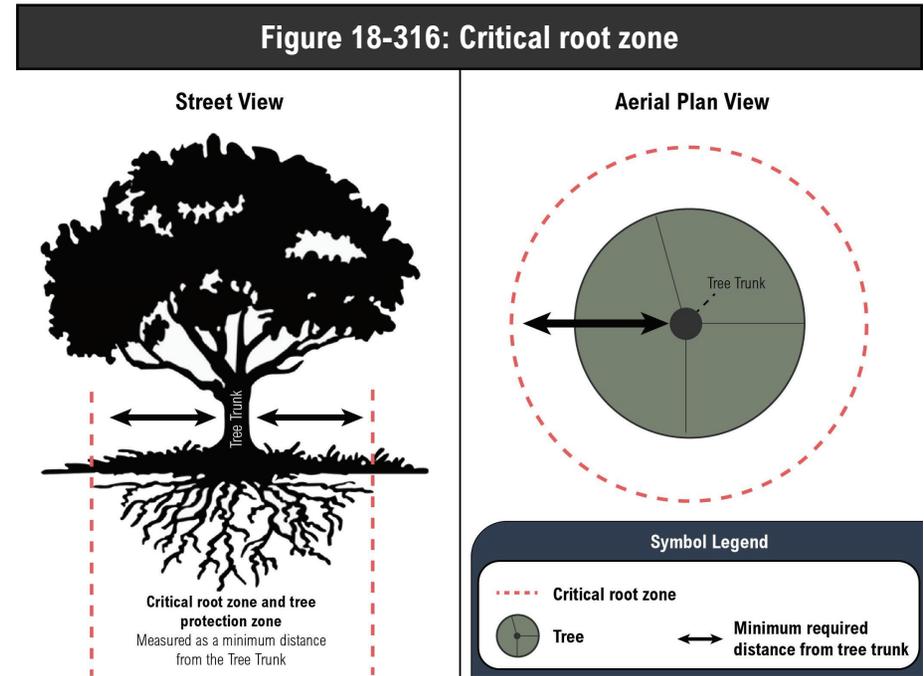
- h. Credit shall not be granted for trees preserved to meet required landscaping.

6. Additional provisions

Trees planted in alternative locations, including rooftops, permanent planters, raised or at grade plazas, over parking decks, or other locations, may be used to meet the requirements of this section if approved by the city manager.

D. Tree protection during construction

1. The critical root zone shall be protected during construction by tree protection fencing (see Figure 18-316: Critical root zone).
 - a. Tree protection fencing shall be shown on site plans and grading plans around each tree, cluster of trees, perimeter of tree-save areas, required streetscape landscaping and transitional buffers, and limits of disturbance.
 - b. No construction equipment shall be allowed on the site until all tree protection fencing and silt fencing have been installed and approved.
 - c. Tree fencing shall be a minimum of four feet in height.
 - d. Tree protective fencing shall remain in place through completion of construction activities.
2. If the entire critical root zone of a tree cannot be preserved, tree roots must be cleanly pruned prior to any land disturbance and the disturbed area shall extend no closer to the protected tree trunk(s) than a distance of 1.25 feet for every inch in trunk diameter.
3. Disturbance within the critical root zone shall not exceed 20 percent of the critical root zone protection area and only with prior approval by the city manager.
4. Prior to grading, tree roots shall be pruned along all grade cut lines, including excavations and trenches.
5. Disturbance other than that approved, including incorrectly placed tree protection fencing or improper root pruning, shall



be a violation of this section.

- a. In addition to any other penalty or mitigation required by this division, such violation shall also require the site owner to post an irrevocable letter of credit, or other means of performance guarantee approved by the city manager, for three years.
- b. The performance guarantee shall be in an amount sufficient to provide for mitigation of the tree.
- c. If the city manager determines that the tree(s) are not at risk of dying due to the disturbance, the performance guarantee may be waived.
6. Any person responsible for failing to properly install or maintain protection measures pursuant to this division shall be

subject to a fine consistent with the adopted fee schedule and a stop work order shall be placed on the project. The property owner shall also be a jointly and severally responsible party if the improper practices are conducted by an employee, agent, or other person under the control, employ, or direction of the property owner.

E. Negligence

If a tree required to be protected is destroyed, substantially damaged, or dies because of negligence or failure to comply with the requirements of this section on the part of any property owner or agent of the owner, within three years after completion of construction, replacement trees of a similar species or mature size shall be planted on the site in accordance with this section.

F. Mitigation

1. Removed protected trees shall be mitigated on site using the same or comparable species.
 - a. Mitigation for significant and specimen trees shall occur at a rate of 200 percent. For every one inch of trees removed, measured in diameter breast height, two inches of mitigation trees, measured in caliper inches shall be planted. Mitigation shall not be required for invasive and prohibited trees that are removed.
 - b. Mitigation for regulated trees shall be as prescribed in Table 18-316.4: Tree replacement by species.
 - c. Any tree planted for mitigation shall measure at least two caliper inches at the time of planting.
2. A minimum growing area of pervious surface shall be required around each replacement tree. The growing area shall be measured in soil volume. The depth shall be a maximum of

Table 18-316.4: Tree replacement by species

Tree category	Required replacement
Native/naturalized	100%
Non-native	75%
Invasive and prohibited	None

three feet for the volume calculation. The soil volume shall be as follows:

- a. 500 cubic feet for understory trees; and
 - b. 1,000 cubic feet canopy trees.
3. In lieu of planting trees required for mitigation, a developer may, if approved by the city manager, pay a fee per caliper inch in an amount set in the adopted fee schedule. Fees in lieu of on-site planting shall be put into the city's tree improvement fund and reserved solely for planting trees on public lands and rights-of-way.
 4. Any trees planted as required mitigation for the removal of protected trees shall be planted in addition to any tree plantings required in this division and shall not be counted towards requirements of streetscape landscaping, transitional buffers, or interior parking requirements.

G. Exemptions to mitigation

1. Regulated trees removed within the area of disturbance necessary for essential site improvements, including, but not limited to, underground utility corridors, detention basins, sidewalks, and required driveway placement, shall be exempt from mitigation.
2. Any protected trees removed by spading and planted elsewhere on the site shall be exempt from mitigation.
3. Protected trees removed by spading and accepted by the city for planting on public property shall be exempt from mitigation.
4. Any tree that has been transplanted for the purpose of mitigation that becomes diseased or dies within three years of transplanting shall be replanted by the party requesting the exemption with a tree of the same species and size or mitigated pursuant to this section.

(Ord. No. O-2022-41, §§23, 24, 6-7-2022; Ord. No. O-2022-88, §§ 6, 7(Att. A), 11-1-2022;
Ord. No. O-2023-41, §§10, 11, 6-6-2023)

Section 18-317: Tree removal**A. Permits required**

- ~~1. Removal of any tree four inches diameter breast height or greater shall require a tree removal permit.

 - ~~a. A tree removal permit shall be required before any clearing, grading, or other authorizations may be issued, including soil and sedimentation control permits and building permits.~~
 - ~~b. An approved tree removal permit for new or infill construction shall apply to the entire site.~~
 - ~~c. The tree removal permit and approved tree preservation plan shall be posted on the property with other permits for the duration of work on the site.~~
 - ~~d. If a tree is within a conservation resource setback or protective buffer, as defined in article 4, division 3 of this chapter, a tree removal permit shall be required. The application for tree removal may be attached to a submitted site plan and the site plan shall be clearly marked for either approval or denial of tree removal.~~~~
- ~~2. The city may withhold or withdraw any permits, certificates, and other authorizations, including, but not limited to, building permits and certificates of occupancy, until a required tree removal permit is obtained. Where required, a tree removal permit shall be obtained before a soil and sedimentation control permit or building permit may be issued.~~

ARTICLE 7. DIVISION 3.

BOARDS, COMMISSIONS, AND COMMITTEES

Section 18-615: Board of adjustment

A. Establishment

The board of adjustment is established to fulfill the duties and powers prescribed by the city of Wilmington Code of Ordinances and by NCGS 160D-302.

B. Appointment and tenure

1. The board shall consist of five members and two alternate members, who shall be citizens and residents of the city, holding no other public office under the city government, and shall be appointed by the city council.
2. All members shall be appointed for staggered terms of three years, to serve in accordance with the city council policy on boards and commissions then in effect.
3. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.
4. All appointments to fill vacancies shall be for the unexpired period of the term.

C. Compensation

Members of the board shall serve without compensation and may be removed by the city council at any time.

D. Organization

1. The board shall hold meetings in accordance with its rules of procedure for the purpose of transacting its duties assigned in this chapter and shall maintain a public record of its actions.

2. Rules of procedure shall be adopted by the board for the conduct of its business and for the election of its officers. The city council shall approve the rules of procedure and any amendments prior to implementation.
3. All meetings held by the board shall be held in accordance with the North Carolina open meetings law.
4. The board shall keep minutes of its proceedings suitable for review in court showing:
 - a. The factual evidence presented to the board by all parties concerned;
 - b. The findings of fact and the reasons for the determinations by the board; and
 - c. The vote of each member, or if absent or failing to vote indicating such fact, all of which shall be public record and be filed with the secretary to the board.

E. Duties

1. The board shall hear and decide all matters upon which it is required to pass under any statute or development regulation.
2. The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. Vacant positions on the board and members who are disqualified from voting on the quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.