

## 311 Complaint

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This complaint concerns the grounds of Parkway Pointe Shopping Center, located at the northeast corner of the intersection of SW Cary Parkway and Old Apex Road in the Town of Cary, North Carolina.

Most of the trees in the vehicle use area (the parking lot) are unhealthy. Most have not grown **at all** in at least 15 years. These four images show representative examples.







These shots below from Google Historical Images show the same tree, on the left in 2011, and on the right, in 2022.





And this one shows the earliest Google Image of that same tree, published in 2007. Manifestly, the tree has not grown **at all** in 16 years.



The Cary Land Development Ordinance, section 7.2.13 **Maintenance Responsibility, Replacement of Damaged Vegetation, and Associated Fines**, subsection (A) states:

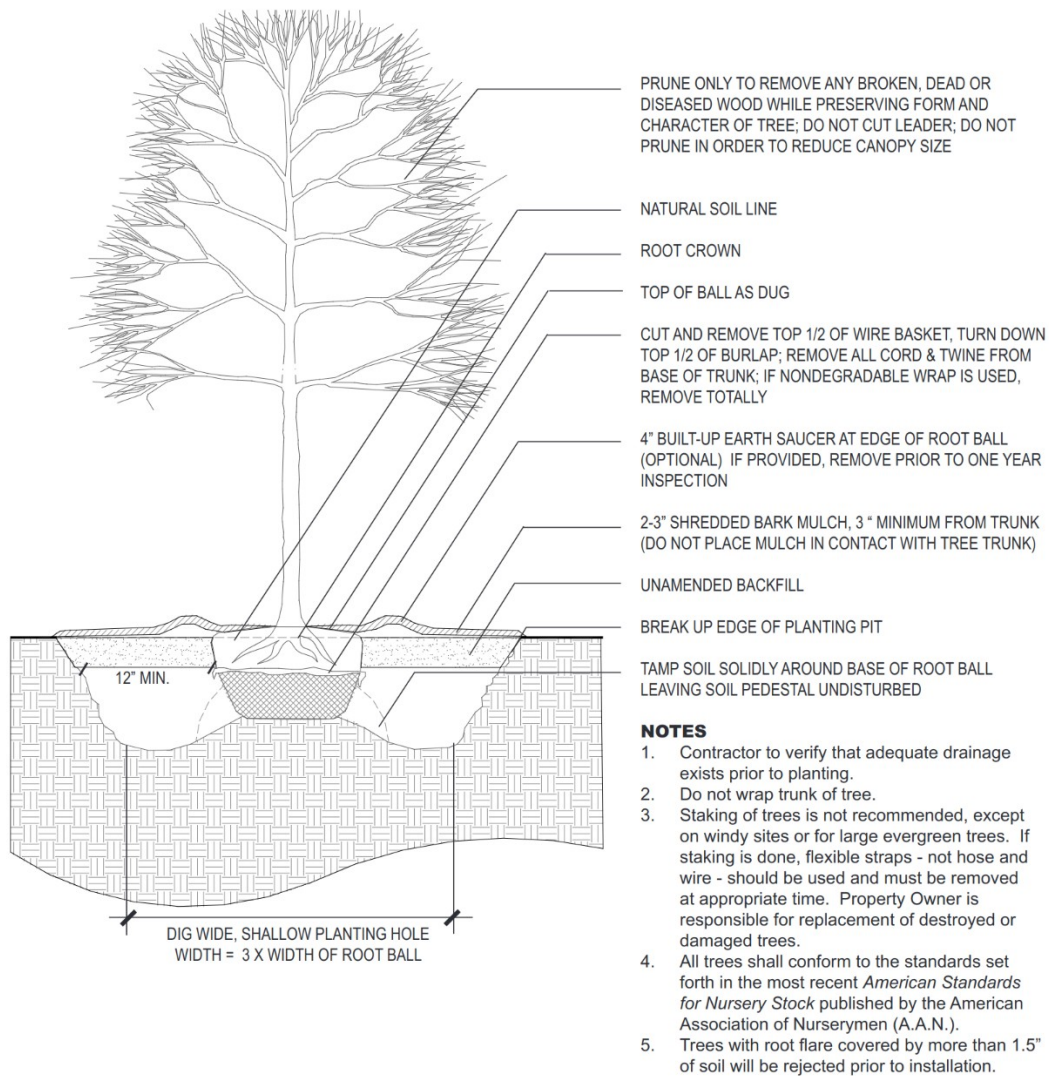
The owners of the property shall be responsible for the installation, preservation, and maintenance of all planting and physical features (installed or vegetated natural areas) in all buffers, streetscapes, vehicular use areas, and other landscaped areas required under Sections 7.2.1 through 7.2.12 and Section 7.2.15, by zoning condition(s) or by an approved development plan or final plat, including areas labeled on such plans or plats as undisturbed, (hereinafter, in this Section 7.2.13, referred to collectively as "required landscape areas"), as provided below:

- (4) Any dead, unhealthy, or missing vegetation, or vegetation disfigured by severe pruning, shall be replaced with locally adapted vegetation that conforms to the standards of this Ordinance and the approved development plan.

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The majority of the trees in the parking lot of Parkway Pointe Shopping Center **have not grown at all in at least 16 years**. Indeed, some have lost large branches in their canopies, and are smaller than they were in 2007. They have absorbed minimal stormwater. They have not cleaned the air of particulate or gas pollution. They have absorbed no carbon dioxide. [A tree grows in direct proportion to the amount of carbon dioxide it absorbs. No growth means no absorption.] They have provided no shade to customers who park there.

The Cary Land Development Ordinance incorporates the Community Appearance Manual [LDO section 7.2.2, subsection (A)(3)]. The Manual provide direction on the proper way to plant a tree on page LAN – 44:



REF SEC:

REVISED:

DETAIL NO:

**LA-24**

**LANDSCAPE**

Town of Cary **Community Appearance Manual**

LAN - 44



Every year in the springtime, a landscape crew comes to the Parkway Pointe Shopping Center and spreads huge additional amounts of mulch on the stricken trees, for what reason, only God and the landscaper know. But we suspect the property-management company, unaware and uncaring of how it is being ripped off by the landscaping company, readily pays the bill for the cost of the unneeded mulch and the crew to spread it. The fee is passed on to the stores in the rent they are charged, and the cost of that additional rent they pay is passed on to consumers – US -- in higher prices for merchandise items they sell.







This process is condemned by North Carolina statutes in the North Carolina Landscape Contractors' Licensing Board legislation, 21 NCAC 28B, section .0501 – Minimum Standards,

.0502

(4) Consider the cultural requirements of individual plants.

(12) Set the plant so that the top of rootball is at or slightly above surrounding soil and does not exceed four inches above the surrounding soil.

(13) Prior to planting, insure that the trunk flare of a tree is not covered with soil, is at or above the surrounding finished grade, and that no soil has been placed on top of the rootball.

(19) When mulching plants, maintain a mulch depth that is beneficial to the health of the plants.

(20) When mulch is applied, apply mulch so that it does not touch a tree trunk or root flare.

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The problem with the Landscape Contractors' Licensing Board legislation is that there are so many loopholes that over 90% of complaints are dismissed.

<https://nclclb.com/statutes-and-rules/enforcement-actions/>

If a Cary citizen were to complain to the Board about the planting and nurture of the trees in this parking lot, the complaint would be dismissed for lack of standing to complain. The only party with standing is the one with whom the landscaper has a contract or agreement. The owner of Parkway Pointe [it has had at least three owners in the last 15 years] is an out-of-state corporation. The ones who suffer the result of the outrageously ruinous treatment of the trees – the citizens of Cary – have recourse only to the Town of Cary's 311 system.

Thus I ask that the Town of Cary enforce the law against Parkway Pointe Shopping Center.

This problem is not confined to the Parkway Pointe Shopping Center. The problem is Town-wide, County-wide, State-wide, Country-wide, and International. There are billions of trees worldwide – incorrectly planted and improperly nurtured – that contribute hugely to the problems our species faces: to name just a few, flooding and air pollution. There should and could be a jurisdiction that puts its administrative foot down and proclaims – ENOUGH! The privilege the developer has been granted by the jurisdiction to develop the land came with obligations, and those obligations MUST be met. We won't stand for looking like a Third World area. The Town of Cary – which self-proclaims leadership in so many areas – could and should be a LEADER in enforcing laws that benefit its citizens.

Respectfully submitted,

George McDowell