

## MEMORANDUM

DATE: June 30, 2014

RE: 3743 Donald Avenue, the Unauthorized Cutting of Roots of a Mahogany Tree Causing Irreparable Harm.

FROM: Karen DeMaria, Urban Forestry Manager, City of Key West

On June 5, 2014, David Ray (Building Dept Inspector) informed me that roots of a large tree had been cut during the installation/trenching of a fence/wall at 3743 Donald Ave. The tree was located along the 20<sup>th</sup> street side of the property. An inspection revealed that large structural support roots had been cleanly cut and painted along 20<sup>th</sup> St and a large trench had been dug down the 20<sup>th</sup> St property line.

The contractor, Fred Salinero, was informed later that day to cease all work along the 20<sup>th</sup> St portion of the fence until the tree issues were resolved. He was also advised to hire a certified arborist to review the situation.

Other trees located in the fence line area to be impacted by the fence/wall include 2 Christmas palms (both <10 ft tall, no permit required for removal) and 1 frangipani (<4" diameter, no permit required for removal). There is also a large Royal Poinciana tree in the area. No damage or impacts were observed to the Royal Poinciana tree.

Mr. Salinero hired Cynthia Domenech-Coogole to look at the tree and submit a statement regarding her review. It was determined that the tree was a hazard to people and property, therefore, an emergency permit was issued for the tree's removal on June 13, 2014.

Facts:

Main, structural roots of (1) large diameter mahogany tree were cut on or before June 5, 2014.

The tree was 14.5" diameter. The tree would have had a value of approximately 80% under permitting criteria.

# **Administrative Hearing Notice**



## THE CITY OF KEY WEST

### Tree Commission

Post Office Box 1409 Key West, FL 33041-1409

Telephone: 305-809-3723

---

## NOTICE OF ADMINISTRATIVE HEARING BEFORE THE TREE COMMISSION OF THE CITY OF KEY WEST

June 16, 2014

Tree Commission  
City of Key West  
Petitioner,

Vs.

Fred Salinero  
Salinero Construction, LLC  
5570 3<sup>rd</sup> Avenue  
Key West, FL 33040

An administrative hearing before the Tree Commission for the City of Key West will be held on **Tuesday, July 8, 2014**, at 5:00 p.m., at Old City Hall, 510 Green St. Key West, Florida.

This hearing will be conducted pursuant to sections 110-288 et. seq. of the Key West City Code. The purpose of this hearing will be to determine if a code violation has been committed by the above named Respondent. Your presence is required at this Tree Commission meeting.

**Date of alleged violation: prior to June 5, 2014 at 3743 Donald Avenue**

Alleged code violation:

***Sec. 110-256. Tree abuse.***

- (a) *Generally.* Tree abuse is prohibited, and abused trees shall not be counted toward fulfilling landscape requirements. The city may require the abused trees to be replaced.
- (b) *Prohibited acts.* A tree shall be considered abused if a person takes an action so that one of the following occurs:
  - (1) Significant damage has been inflicted upon any part of a tree, including the root system, by machinery, storage of materials, soil compaction, excavation, vehicle accidents, chemical application or change to the natural grade.
- (c) *Additional prohibitions.*
  - (1) No private property owner or agent shall damage, cut, or carve any tree or tree root located on the owner's property; or allow any liquid, solid or biological substance that is harmful to trees to be placed within the dripline.
  - (4) Trenching of any kind shall not be done within the dripline of any tree. Only mechanical- or auger-type equipment shall be used to place conduit under a tree root system.

*Key to the Caribbean – average yearly temperature 77 ° Fahrenheit.*

**Section 110-321. Permit Required.**

- (a) *Unless a tree removal permit approved by the tree commission and issued by the urban forestry manager has been obtained, no person, whether on publicly or privately owned land, shall cause tree abuse or other harm, or major maintenance to, hatracking, transplanting, topping or removal of the following:*

- (1) *Any tree listed as "specially protected" in section 110-253;*

**Factual allegation: The roots of one (1) large diameter Mahogany tree had been severely cut removing over 40% of the root system on one side of the tree, for the installation of a fence. The tree was deemed a hazard due to the removal of the structural roots and an emergency permit was issued for the removal of the tree (imminent threat to person or property).**

If the Tree Commission for the City of Key West finds that there has been a violation of the above code section, it will elect to enter into a compliance settlement agreement pursuant to section 110-291 of the Key West City Code or recommend a fine and further hearing before the Special Master of The City of Key West pursuant to section 110-294 of the Key West City Code.


Attendees are hereby notified that a complete and accurate record of the proceeding is required under Florida Statute 286.0105 if an appeal is sought. Appellants are responsible for providing transcription services.

I hereby certify that the forgoing notice has been e-mailed to the Respondent, and has been sent regular mail and certified U.S. Mail to the above named Respondent's listed address on this **16<sup>th</sup> day of June 2014.**

If you have any questions, please call the office at (305) 809-3768.

  
Karen DeMaria  
Urban Forestry Manager  
[kdemaria@keywestcity.com](mailto:kdemaria@keywestcity.com)

cc: Irina Mikheeva Burr  
2678 East 23<sup>rd</sup> St  
Brooklyn, NY 11235

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature </p> <p><input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
1. Article Addressed to:		B. Received by (Printed Name)	C. Date of Delivery
<p><b>Fred Salinero</b>  <b>Salinero Construction LLC</b>  <b>5570 3<sup>rd</sup> Avenue</b>  <b>Key West, FL 33040</b></p>		PATRICIA PATTERSON	6-19-14
2. Article Number (Transfer from service label)		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
PS Form 3811, February 2004		3. Service Type	
		<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
		Domestic Return Receipt	
		102595-02-M-1540	

U.S. Postal Service <sup>TM</sup>	
CERTIFIED MAIL <sup>TM</sup> RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
OFFICIAL USE	
Postage	\$ 18
Certified Fee	330
Return Receipt Fee (Endorsement Required)	270
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 648
<p>Sent To</p> <p>Street, Apt. No. or PO Box No.</p> <p>City, State, Zip</p>	
<p><b>Fred Salinero</b>  <b>Salinero Construction LLC</b>  <b>5570 3<sup>rd</sup> Avenue</b>  <b>Key West, FL 33040</b></p>	
<p>Postmark Here</p> <p><b>RECEIVED</b></p> <p><b>JUN 18 2014</b></p>	
PS Form 3800	



Karen DeMaria &lt;kdemaria@keywestcity.com&gt;

---

**RE: TREE 3743 DONALD AVE**

---

Fsalinero@aol.com &lt;Fsalinero@aol.com&gt;

Thu, Jun 5, 2014 at 4:23 PM

To: kdemaria@keywestcity.com

Dear Karen Demaria

I have been a State Certified General Contractor since 1971.

I love trees and plants, in fact I took a course offered to contractors by the University of Florida in the care of trees and plants on construction job sites.

I was issued a permit to build a block fence and nobody realized that there were roots in the way of the footer. I assumed cutting the roots and painting with pruning paint was better than going to the tree commission and requesting to take it out. I understand now that I should have contacted you for an opinion, which I will do in the future.

Tomorrow I will properly put 2 x 4's to support the tree. I feel that the remaining roots will keep the tree alive and she will regenerate new roots to sustain her growth.

I will await your return email.

Thank You

Fred Salinero

CGCA05177



Karen DeMaria &lt;kdemaria@keywestcity.com&gt;

---

## Tree Application and authorization forms

---

Karen DeMaria &lt;kdemaria@keywestcity.com&gt;

Mon, Jun 16, 2014 at 2:49 PM

To: Irina Burr &lt;irinaburr@gmail.com&gt;

Yes, thank you.

For your information, at the July 8, 2014 Tree Commission meeting, the application for the removal of the backyard mahogany tree will be re-addressed (the silver buttonwood has been removed from the application). At the same meeting but toward the end of the meeting, the unauthorized removal of the tree roots of the street mahogany tree will also be addressed in an administrative hearing. You will receive a copy of the paperwork involving that tree issue.

The case is primarily against Fred but the Commission might like to hear comments from you, especially when determining a settlement. They may want additional plantings on the property to replace what was removed. Please talk to Fred about this. If you can not attend the hearing, I would at last request an email as to what was your intent with this tree in regards to your redevelopment of the property. I think I heard that you intended the tree to remain and didn't want to remove it.

Also, you have said that you have plans for landscaping the property, do you have them written down? If so, can I have a copy for the file.

Sincerely,

Karen

[Quoted text hidden]



CITY OF KEY WEST

# TREE PERMIT

## EMERGENCY

Permit# 6950 Date Issued June 13, 2014

Address 3743 Donald Avenue

This is to certify that Irina Mikheeva-Burr/Fred Salinero

has permission to Remove (1) Mahogany tree located on the 20<sup>th</sup> Street side of the property. Main, structural roots of the tree have been cut thereby destabilizing the tree.

Required replacements will be discussed during the Administrative Hearing scheduled for July 8, 2014 in front of the Tree Commission.

The person accepting this permit shall conform to the terms of the application on file in the office of the Tree Commission of Key West. All work shall conform to the requirements of the Code of Ordinances of the City of Key West, Chapter 110-Article VI. Tree Protection.

This Tree Permit is effective for 6 months from the date issued.

### IMPORTANT NOTICE

This card must be posted in a location clearly visible from the street and in a protected covering.

APPROVED BY \_\_\_\_\_

Karen DeMaria, Urban Forestry Manager  
City of Key West, Florida  
Tree Commission  
PO Box 1409  
Key West, FL 33040  
Phone: (305)809-3768



EMERGENCY



safety hazard

6950

## Tree Permit Application

Date: 6/13/2014

Please Clearly Print All Information unless indicated otherwise.

Tree Address 3743 DONALD AVE  
Cross/Corner Street 20TH STREET  
List Tree Name(s) and Quantity MAHOGANY  
Species Type(s) check all that apply ( ) Palm ( ) Flowering ( ) Fruit ( ) Shade ( ) Unsure  
Reason(s) for Application:

(☒) REMOVE (☒) Tree Health (☒) Safety (☒) Other/Explain below  
( ) TRANSPLANT ( ) New Location ( ) Same Property ( ) Other/Explain below  
( ) HEAVY MAINTENANCE ( ) Branch Removal ( ) Crown Cleaning/Thinning ( ) Crown Reduction

Other/Explain See ATTACHED

### Reason for Request

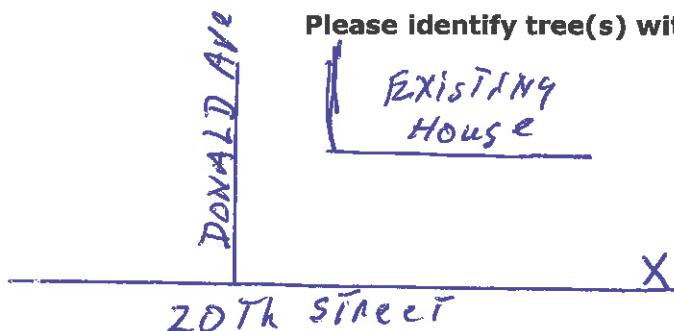
Property Owner Name IRINA MIKHIEVA BURR  
Property Owner eMail Address IRINABURR@GMAIL.COM  
Property Owner Mailing Address 2678 EAST 23rd STREET  
Property Owner Mailing City BROOKLYN State NY Zip 11235  
Property Owner Phone Number (718) 644-7786  
Property Owner Signature IA Solo for IRINA BURR

Representative Name Cynthia Demmech-Copale  
Representative eMail Address CynthiaBlueppine@gmail.com  
Representative Mailing Address 1006 16th Ter  
Representative Mailing City 1004 WEST 100 State FL Zip 33040  
Representative Phone Number (305) 747-2142

NOTE: A Tree Representation Authorization form must accompany this application if someone other than the owner will be representing the owner at a Tree Commission meeting or picking up an issued Tree Permit.

Tree Representation Authorization form attached ( )

<<<<< Sketch location of tree in this area including cross/corner Street >>>>>



roots of tree were improperly cut creating a hazard. emergency removal of tree then resolve at admin hearing July 8, 2014. KD 6/13/14 5pm.

If this process requires blocking of a City right-of-way, a separate ROW Permit is required. Please contact 305-809-3740.



Karen DeMaria <kdemaria@keywestcity.com>

---

## 3743 Donald Avenue Mahogany Request for Emergency Permit

---

**cynthia domenech-coogle** <cynthiasbluepalms@gmail.com>

Fri, Jun 13, 2014 at 2:43 PM

To: Karen DeMaria <kdemaria@keywestcity.com>, dray@keywestcity.com

Hi Karen and David,

Attached please find my evaluation of the Mahogany tree at 3743 Donald Avenue after the apparent severing of major roots.

Call me if you have any questions please.

Thank you for your time and efforts in this.

Cynthia Domenech-Coogle

Cynthia's Blue Palms  
1006 16th Terrace  
Key West, FL 33040



**Fred Salinero 3743 Donald and 20th St Mahogany 6 13 14.docx**

15K

**Cynthia's Blue Palms**  
*1006 16<sup>th</sup> Terrace, Key West, FL 33040*

Dear Mrs. DeMaria and Mr. Ray;

City of Key West

I have been asked by Mr. Fred Salinero, Salinero Construction, LLC, to evaluate the Mahogany and consequent root removal at 3743 Donald Avenue. I have found the following; the Mahogany tree is located on the east side of home, approximately 3 foot from side property line. The tree is 14.5" in diameter at approximately 4' from grade. The tree has been topped repeatedly in the past by the prior owner, however, over the last few years the tree has grown rapidly without any pruning.

The root system has been completely severed and removed on the east side of tree by a machine for footer installation of a concrete wall. Root loss totals approximately 40% with five major structural support roots, 4"-6" in diameter, being severed at least 1 foot from trees trunk. I am of the opinion the tree could survive the root loss however, even with tree staking it is my opinion that the trees structure for stability to topple has been compromised and should be removed immediately. Therefore, I am requesting an immediate "Emergency Permit" approval.

I appreciate your time and efforts in the issuance of an "Emergency Permit". If I can answer any other questions please call me at

305/747-2142.

Sincerely,

Cynthia Domenech Coogler



Cynthia's Blue Palms, LLC

1006 16<sup>th</sup> Terrace

Key West, FL 33040























Call for inspections:  
293-6462  
24-hour inspection line



THE CITY OF KEY WEST  
BUILDING DEPARTMENT

P.O. BOX 1409  
KEY WEST, FL 33001-1409  
(305) 509-5956

Application Number . . . . . 14-00001985 Date 5/16/14  
Application pin number . . . . . 763885  
Property Address . . . . . 3743 DONALD AVE  
RE #/PARCEL #/TAX ID etc: . . . . . 0005-5520-000000-  
Previous utility acct #: . . . . . 1056081.00  
Application type description FENCE  
Property Zoning SINGLE FAMILY UNITS  
Application valuation . . . . . 30000

Owner

MIKHEEVA IRINA-BURR  
2678 EASTR 23rd ST  
BROOKLYN NY 11235

Contractor

SALINERO CONSTRUCTION, LLC  
5576 3RD AVENUE, STOCK ISLAND  
KEY WEST FL 33040  
(305) 294-7618

Permit FENCE PERMIT  
Additional desc . . . GH  
Permit Fee . . . . . 71.00  
Issue Date . . . . . 5/16/14 Valuation . . . . . 0  
Expiration Date . . . . . 5/15/16

Qty	Unit	Charge	Per	BASE FEE	Extension
					71.00

Special Notes and Comments  
CONSTRUCTION OF A CBS FENCE 4' SOLID AT  
THE BOTTOM & 2' 50% OPEN AT TOP, 193 LF  
\*NEED FILE N. O. C. \* \* \* \* \* MC\*  
T/S: 05/02/2014 03:49 PM KEYWMXC

Other Fees . . . . . DCA SURCHARGE: FS553.721 2.00  
APPLICATION FEE FENC NEW 50.00  
EDUCATION FEE 2.00  
PLAN REVIEW FEE 10.00  
DBPR SURCHARGE: FS468.631 2.00

Fee summary	Charged	Paid	Credited	Due
Permit Fee Total	71.00	.00	.00	71.00
Other Fee Total	66.00	50.00	.00	16.00
Grand Total	137.00	50.00	.00	87.00

THE PROPOSED CONSTRUCTION IS PERMITTED ON CONDITION OF  
COMPLIANCE WITH ALL APPLICABLE CODES AND ORDINANCES, AND IN  
CONFORMANCE WITH ALL PLANS, SPECIFICATIONS, AND ESTIMATES  
SUBMITTED WITH THE SUBJECT APPLICATION. PERMIT VOID UNLESS  
CONSTRUCTION COMMENCED WITHIN 180 DAYS OF ISSUE. DEPOSIT ONLY  
ACCOUNT 6180523096

1-22-14  
L. Baker



# Application For Fence Permit

OFFICE USE ONLY

## THE CITY OF KEY WEST

3140 Flagler Avenue Key West FL 33040  
Phone: 305-859-3956 Fax: 305-859-3978

Note: All owner ~~builders~~ must apply in person  
and be present at time of all inspections  
At time of application \$50 application fee is due.

Street Address of proposed  
construction:

3743 DONALD AVE

Property owners name as appears  
on deed:

IRINA M. KHEKHA-BURR

Phone #:

Property owner's mailing address:

2678 E 23rd ST APT 111, NEW YORK

E-mail:

Contractors name:

SAVARO CONSTRUCTION, LLC

Phone #:

Contractor's address:

5570 3rd AVE NW, FL

E-mail:

Architect/Engineer's Name:

CHARLES R. JONES

Phone #:

Architect/Engineer's Address:

E-mail:

Describe proposed construction in detail including quantities and linear footage:

CONSTRUCTION OF A CBS  
FENCE AS PER PLAN  
1' ALONG 50' OPEN  
193'

Number of Dwelling Units

Type of Fence. Circle all that apply

Closed Picket

50% Open Picket

Shadow Box

4 Ft. Solid

6 Ft. Solid

4 Ft. Solid Top 2 Ft. 50% open

CBS

Wood

Please Provide a survey high lighting the location of the fence  
Property cards and site plans are not acceptable  
In order to obtain a permit for a six foot solid fence. The  
reverse side of this application must be filled out by  
the neighbors on the sides and rear adjoining properties

HARC #

Estimated Cost of Work

\$ 30,000

Warning to owner: Your failure to record a notice of commencement may result in your paying twice for improvements to your property. If you intend to obtain financing, consult with your lender or an attorney before recording your notice of commencement.

I as owner or contractor of record for this project agree that I will comply with the provisions of Florida Statute 408.003 and to notify the Department of Environmental Protection of my intent to demolish/replace a structure and remove contents, when applicable, in accordance with state and federal law.

I hereby certify that I have read and examined this application and know that same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with, whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any local, state or federal laws regulating construction or the performance of construction.

Notice: In addition to the requirements of this permit, there may be DEED RESTRICTIONS and/or additional restrictions applicable to this property that may be found in the public records of this county and there may be additional permits required from other government entities such as water management districts, state agencies or federal agencies.

Chapter 637.06 F.S. False Official Statements: Whoever knowingly makes a false statement in writing with the intent to obstruct a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree punishable as provided for in s. 775.082 or s. 775.083.

I have obtained all necessary approvals from Associations, Government Agencies, H.A.R.C. and other parties as applicable, in order to complete the above described work.

Owner: IRINA M. KHEKHA-BURR

Signature: [Signature]

I have obtained all necessary approvals from Associations, Government Agencies, H.A.R.C. and other parties as applicable, in order to complete the above described work.

Contractor Qualifier: SAVARO CONSTRUCTION, LLC

Signature of Qualifier: [Signature]

State of Florida County of Monroe  
Sworn to and scribed before me this

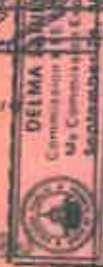
day of 20

State of Florida County of Monroe

Sworn to and scribed before me this 18 day of April 2014

by:

(seal)



Personally known  
or Produced Identification

Personally known  
or Produced Identification

(office use only)

Trans. number:

CX. CHLX

1811

Trans. date: 5/10/14

Time: 10:50:30

Building Official, Assistant Building Official  
or Plan Reviewer  
Reviewed for issuance of permit

Cost of Permit: \$ 137.50

121.50  
10.00  
2.00  
2.00  
\$ 137.50

13232  
13649

PART OF

100.00' (m/r) 10

PART OF  
LOT 10

FRAME  
SHED

FRAME

METAL  
SHED

93.00' (m/r)

7.59'

8.00'

13.00'

56.30'

1 STORY CBS  
RESIDENCE NO.  
3743

CARPORT

12.01'

19.00'

COVERED

BRICK

12.25'

24.30'

32.35'

7.66'

2' PLANTER

19.72'

19.77'

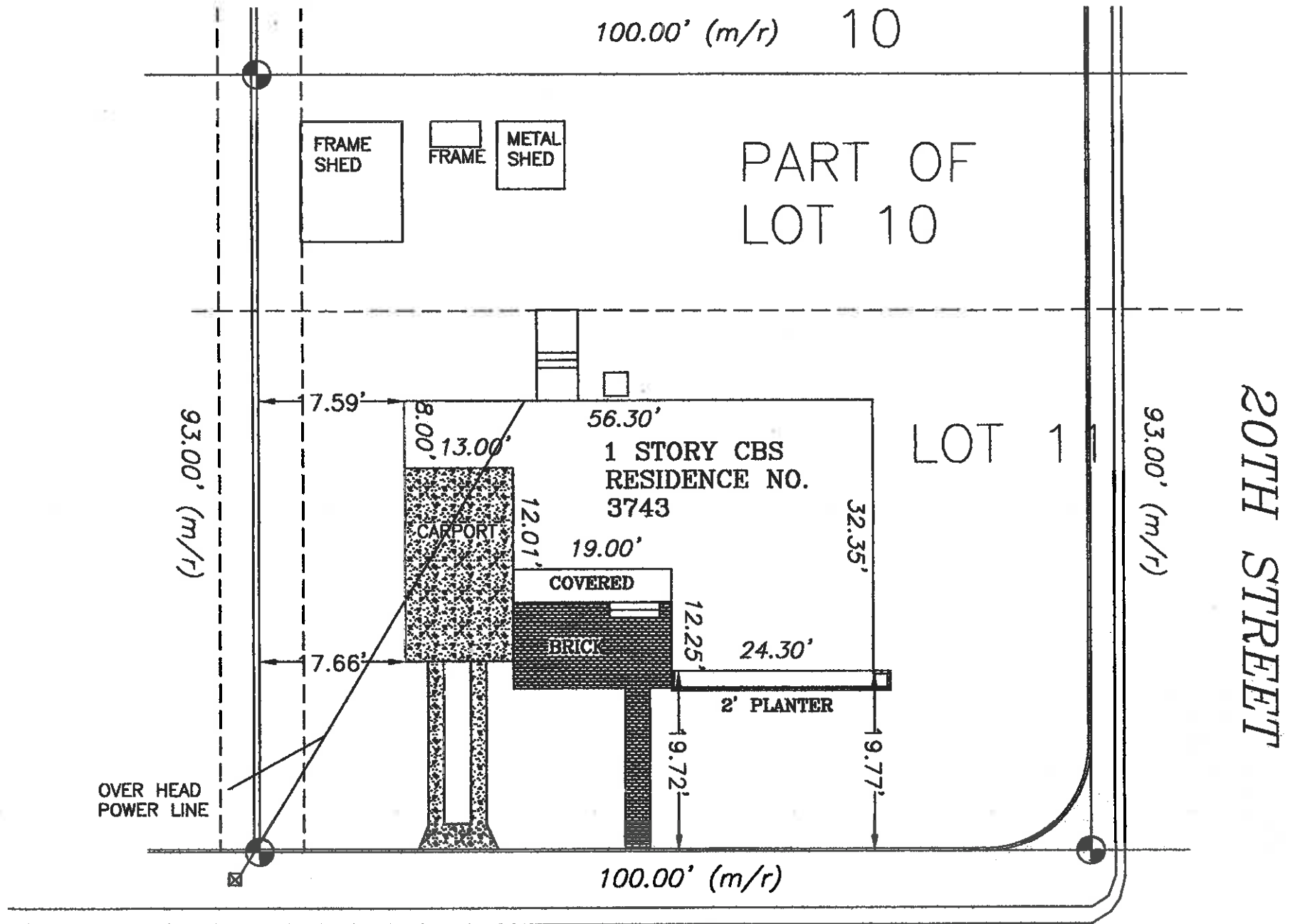
OVER HEAD  
POWER LINE

100.00' (m/r)

93.00' (m/r)

LOT 1

20TH STREET







Royal Poinciana



Mahogany tree  
that was damaged  
and removed

Tree also removed,  
npr <10 ft tall