



April 30, 2021

Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Creekside at Cabin Branch
Tree Variance Request and
Justification
RCI Project No.: 0377AB8
MNCPPC# 820200160

Dear Sir or Madam:

Please accept this letter and the accompanying Final Forest Conservation Plan as a formal written request for a variance from section 22A-12(b)(3) of the Montgomery County Code. The referenced section addresses the requirement to not disturb “*any tree that is part of a historic site*”.

A. Project Background

The Creekside at Cabin Branch project is located to the south of Interstate I-270 and to the west of Maryland Route 121 in Clarksburg, MD. In accordance with the Ten Mile Creek Limited Area Master Plan Amendment and Zoning Ordinance, the Applicant proposes a project with a walkable, pedestrian-friendly, environmentally sensitive, residential community.

The Ten Mile Creek Limited Master Plan Amendment, dated July 2014, discusses a locally designated historic resource, the historic Cephass Summers House, located on along Clarksburg Road. The Limited Master Plan Amendment requires that the house be restored to a habitable state. For the historic work area permit, the Cephass Summers House had a Conditions Assessment Report performed for the house by SAA Architects. Their findings concluded that there was extensive deterioration of the building and due to years of weather exposure, moisture, and fungus the building was determined to be in unsound structural condition and could not be retained. HPC staff initially recommend the demolition of the subject property, however it was determined the that better solution would be to reconstruct the house and modify it to function as a home for a modern family and be a productive component of the County’s housing supply while allowing for continued historical recognition of the site.

The location of each specimen tree was surveyed and documented by Rodgers Consulting staff on the Cephass House Tree Survey Exhibit as part of the Historic Area Work Permit application submitted on January 6, 2021. There were 124 specimen trees identified on and within 100' of the project boundary. Of the inventoried 124 trees, 115 have a dbh less than 24 inches and nine trees have a dbh greater than 24 inches. Trees given a poor condition exhibited significant structural defects, disease, rot and/or decay.

The vegetation surrounding the Cephass Summers House was not maintained, leaving many trees in poor condition., including many invasive Norway Maple and Honeysuckle. To develop the property to a habitable condition, make the property useable, and eliminate invasive

species, one hundred and twenty-one (121) trees will need to be removed. The removal of these trees will vastly improve the function and appearance of the property and allow for reconstruction of the house and landscape.

B. Tree by Tree Analysis- Removals

Tree #'s 1 through 87, 89, 90, 91, 92, 93, 94, 96 through #115

Tree's 1 through 87 consist of Norway maple (*Acer platanoides*), Black locust (*Robinia pseudoacacia*), Bush honeysuckle (*Lonicera tatarica*), Hackberry, (*Celtis occidentalis*), Red mulberry (*Morus rubra*), Box elder (*Acer negundo*), Black walnut (*Juglans nigra*), Green ash (*Fraxinus pennsylvanica*), Bradford pear (*Pyrus calleryana*), and European privet (*Ligustrum vulgare*). Trees 89 through 94 consist of Pignut hickory (*Carya glabra*), Black cherry (*Prunus serotina*), Norway maple (*Acer platanoides*), and Tulip poplar (*Liriodendron tulipifera*). Trees 96 through 115 consist of Norway maple (*Acer platanoides*), Tree of heaven (*Ailanthus altissima*), Pignut hickory (*Carya glabra*), and Black locust (*Robinia pseudoacacia*). One hundred and thirteen (113) trees are located within the historic Cephas Summers House property identified in the Ten Mile Creek Limited Master Plan Amendment for re-development and cannot be avoided.

Tree #'s 140, 141, 142, 143, 212, 213, 214, and 215

These trees are all significant or specimen trees in addition to being historic. They are of varying sizes (24" dbh and greater) and species consisting of Norway maple (*Acer platanoides*), Red maple (*Acer rubrum*), River birch (*Betula nigra*), Norway spruce (*Picea abies*), American elm (*Ulmus americana*), and Black locust (*Robinia pseudoacacia*). These trees are located within the historic Cephas Summers House property identified in the Ten Mile Creek Limited Master Plan Amendment for re-development and cannot be avoided.

C. Tree by Tree Analysis- Minor Impacts to Critical Root Zone Only

Trees #'s 88 and 95

Trees 88 and 95 are a 7" and 10" Hackberry (*Celtis occidentalis*), respectively, observed in good health. They are located outside of the proposed limits of disturbance and should have very minor impacts to critical root zone in the case of work vehicles and construction.

Tree # 211

This tree is a 35" Norway spruce (*Picea abies*) observed in good health. The tree is located outside the proposed limits of disturbance. Minor impacts to the critical root zone of this specimen tree may be required to implement the restoration of the Cephas Summers House. During construction actual impacts to the critical root zone will be minimized through field adjustments and root protection techniques in coordination with the M-NCPPC forest conservation inspector.

D. Requirements for the Granting a Variance Request

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship:*

Per the amended Ten Mile Creek Master Plan, this project fulfills the countywide need for single-family housing with residential development between Shiloh Church Road and Clarksburg road. A total reconstruction of the Cephas Summers House will allow it to function as a home for a modern family and would serve as a productive component of the County's housing supply and continue recognition of the history of the site. To reconstruct the property in accordance with the master plan, the development will require historic and specimen trees to be removed. Most of these trees are deemed historic only due to their relation to the historic house only and have established due to lack of maintenance. Additionally, the trees being removed range from fair to poor health and retaining them could pose a safety risk for the proposed housing updates due to trunk rot and breaking branches. Denying the applicants request to remove these trees will deny the applicant the ability to develop their property in accordance with the County's master plan resulting in an unwarranted hardship.

- (2) Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas:*

Proposed activities are limited to the areas surrounding the Cephas Summers House as shown in the Cephas House Tree Survey Exhibit submitted in January 2021 with the Historic Area Work Permit. Not allowing the Applicant to redevelop their property in accordance with the County's Master Plan would deprive the Applicant of a right enjoyed by others in similar areas.

- (3) Verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of granting the variance.*

The proposed development is subject to Chapter 19 of the Montgomery County Code, which has been determined by the Maryland Department of the Environment to be in conformance with the State's water quality standards. Additionally, this property is located within the County designated Ten Mile Creek special protection area requiring the preparation and approval of a Water Quality Protection plan that requires redundancies to ensure water quality is protected.

- (4) Provide any other information appropriate to support the request.*

This project satisfies the recommendation for development, detailed in the approved Ten Mile Creek Limited Master Plan Amendment to rehabilitate of the historic Cephas Summers House. The vegetation surrounding the Cephas Summers House was neglected, unattended and not maintained, leaving many trees in poor conditions requiring their removal. The removal of these trees will improve the rehabilitation of the property. Additionally, new trees will be planted once redevelopment is complete and there are numerous specimen trees contained on the site that will be placed in parkland or within a forest conservation easement.

In addition to meeting the criteria of subsection (a), the granting of this variance:

(1) *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the applicant. Pursuant to Section 24A-8 of the Montgomery County Code, this proposal is necessary in order that the unsafe and uninhabitable conditions of the existing house are remedied and is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship.

(2) *Will not be based on conditions or circumstances which result from the actions by the applicant.*

This variance request is based on the specific recommendations for this property contained within the Ten Mile Creek Limited Master Plan Amendment, the size, type and distribution of trees, and engineering constraints. It is not based on circumstances which result from the actions by the applicant.

(3) *Will not be based on a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.*

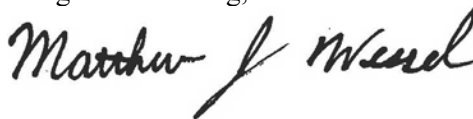
This variance request is based on the specific recommendations for this property contained within the Ten Mile Creek Limited Master Plan Amendment, the size, type and distribution of trees, and engineering constraints. To develop the property, unavoidable impacts to historic and specimen trees are required. These circumstances are specific to the property and not a condition relating to land or building use on a neighboring property.

(4) *Will not violate State water quality standards or cause measurable degradation in water quality.*

The proposed development is subject to Chapter 19 of the Montgomery County Code, which has been determined by the Maryland Department of the Environment to be in conformance with the State's water quality standards. Additionally, this property is located within the County designated Ten Mile Creek special protection area requiring the preparation and approval of a Water Quality Protection plan that requires redundancies to ensure water quality is protected.

Please do not hesitate to contact me with any questions or comments concerning this application. I can be reached at (240) 912-2150 or mwessel@rodgers.com.

Sincerely,
Rodgers Consulting, Inc.



Matthew J. Wessel, PLA, ISA Certified Arborist
Environmental Director