

August 25, 2021

MNCPPC
Downcounty Planning
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Tree Variance Request for Edgemoor – Lots 20, 21 & P/O Lot 2, Block 8
M-NCPPC File No. #62020008A

Dear Downcounty Reviewer:

This report is intended to serve as the Tree Variance Request pursuant to Section 22A-21 of the Montgomery County Code to remove Specimen Trees from existing Lot 21 and Part of Lot 2 (future Lot 22) and to impact adjacent off-site trees. The subject property is located at 5310 & 5314 Moorland Lane.

Variance Justification

Final Forest Conservation Plan, #620200080 for Lots 20 and 21 is being amended to include Part of Lot 2 (5314 Moorland) and reflect the proposed construction to occur on future 22. The applicants, [REDACTED], are requesting a variance for impacts to, or removal of, six (6) specimen trees located on or adjacent to the subject property. The property is zoned R-90 with surrounding properties being both R-60 and R-90 and front on Moorland Lane. The property does not contain any forest, streams, floodplains, wetlands, or associated buffers. There are areas of steep slopes. The property does not contain any historic structures nor is it on the Masterplan for Historic Preservation. The property is the subject of a pending Amendment to approved Administrative Subdivision Plan #620200080.

The following charts indicates the specific amount of root zone disturbance to each of the six (6) impacted or to be removed specimen trees on property and impacted trees off-site.

Off-Site Significant / Specimen Tree Data

Tree No.	Common Name	Botanical Name	D.B.H.	C.R.Z. Radius	C.R.Z. Area	% C.R.Z. Area Disturbed	Condition
5	Tulip Poplar	Liriodendron tulipifera	38 in.	57 feet	10,207 sq. ft.	21%	Good (Save)
9	Tulip Poplar	Liriodendron tulipifera	40 in.	60 feet	11,310 sq. ft.	38%	Remove with intent to save
10	White Oak	Quercus alba	30 in.	45 feet	6,362 sq. ft.	5%	Good (Save)
11	White Oak	Quercus alba	30 in.	45 feet	6,362 sq. ft.	0%	Good (Save)

On-Site Significant / Specimen Tree Data

Tree No.	Common Name	Botanical Name	D.B.H.	C.R.Z. Radius	C.R.Z. Area	% C.R.Z. Area Disturbed	Condition
2	White Oak	Quercus alba	34 in.	51 feet	8,171 sq. ft.	87%	Fair (Remove)
3	White Oak	Quercus alba	34 in.	51 feet	8,171 sq. ft.	77%	Fair (Remove)

In accordance with Section 22A-21(b) of the Forest Conservation Law, the following is a description of the application requirements:

1. *Describe the special conditions peculiar to the property or other conditions which would cause the unwarranted hardship;*

In order to develop the subject property as intended by the applicant, avoiding impacts to or the removal of significant / specimen trees is not feasible and is unavoidable. Tree #2 is centrally located and redevelopment of this property is not feasible unless the tree is removed. Trees #3 and #6 are in fair / poor condition and redevelopment of the property would further impact the critical root zone of these trees. While tree #7 and #8 are in good condition redevelopment of the property and any required installation of stormwater management devices would require these trees to be removed. Alternative designs, including stormwater management devices, reduced grading and improvements were considered in the development of this plan. However, those considerations did not result in the ability to retain additional trees.

Due to the location of specimen trees on the subject property it would not be feasible or practical to develop the property as intended without a variance to remove / impact the trees reference in the above tables. The applicant has consulted with Proper Tree Care, LLC for recommendations on tree removal, tree protection and stress reduction. Any recommendations for tree protection measures or stress reduction will be followed and they will monitor site during construction. The limits of disturbance has been pulled in from shared property lines to reduce impacts to off-site trees with tree protection fence to follow limits.

2. *Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;*

Eliminating the ability to impact or remove these trees, some of which are in fair or poor condition, would not allow the owner to develop the property similarly to other R-90 properties in the immediate vicinity.

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;*

A Stormwater Management Concept Plan has been submitted to Montgomery County Department of Permitting Services and was approved on August 2, 2021. Currently there is no stormwater management practices located on the subject property. The SWM Concept Plan will ensure that water quality standards will be met in accordance with State and County criteria. All applicable stormwater management requirements have been addressed with permeable pavers for some proposed hard surfaces and stormwater planter boxes to handle roof runoff. Disturbance to any of these specimen trees will not create a measurable degradation in water quality. The subject trees are not located near streams, wetlands, floodplains or associated buffers.

4. *Provide any other information appropriate to support the request;*

There are minimal proposed impacts to existing specimen trees that are being saved on adjacent, privately owned property or County public right-of-way. Due to the requirement to remove the existing public sidewalk and install a new 5' wide walkway along the frontage of the property the limits of disturbance has been extended to include the removal of the existing walk. Care will be taken when removing the walk as to minimize impact to right-of-way trees. There are no streams, stream buffers, or floodplains on the subject property. There are no contiguous forest on adjacent properties. None of the specimen trees requested to be removed are rear, threatened, or endangered. The property is not part of an historic site nor does it contain any historic structures.

In accordance with Section 22A-21(d) of the Forest Conservation Law, the following is a description of the minimum criteria necessary for granting a variance. The variance must not be granted if granting the request:

1. *Will confer on the applicant a special privilege that would be denied to other applicants;*
The impact or removal of variance trees is unavoidable due to their location and with respect to the proposed development of the property. It is a property owner's right to make maximum use of any planning and zoning option while still providing the greatest protection of specimen trees. No special privileges have been requested or provided to the applicant.
2. *Is based on conditions or circumstances which result from the actions by the applicant;*
The variance is based upon the R-90 zoning, site topography, proposed site development, and the need for required best management practices for stormwater management. No previous actions by the applicant have necessitated the need for a variance.
3. *Is based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*
The requested variance is necessitated by R-90 zoning requirements, site topography, required best management practices for stormwater management, necessary grading and responsible site appurtenances for the use and enjoyment of the property and is not a result of land or building use on a neighboring property.
4. *Will not violate State water quality standards or cause measurable degradation in water quality.*
The requested variance will not violate State water quality standards or cause measurable degradation in water quality. The Specimen trees being removed or impacted are not within a stream buffer or special protection area. A Stormwater Management Concept Plan will be reviewed and approved by Montgomery County Department of Permitting Services.

Should you have any questions or require any additional information please do not hesitate to contact me.

Sincerely,

Sallie P. Stewart, RLA #612
Section Head
Charles P. Johnson & Associates, Inc.