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May 9, 2023

M-NCP&PC Area 1 Plan Review 2425 Reedie Drive, 14th Floor Wheaton, MD 20902

Re: Lot 21, Block 4, Edgemoor 7611 Fairfax Road, Bethesda, MD 20814 Proposed Lots 23 – 24, Block 4, Edgemoor Forest Conservation (Chapter 22A) Variance Request MNCPPC # 620230060

Dear Planning Area 1 Reviewer:

This letter is intended to serve as the Forest Conservation Variance Request pursuant to Section 22A-21 of the Montgomery County Code. The Preliminary / Final Forest Conservation Plan is attached hereto for your review and approval.

Variance Justification

The applicant, Surfside Realty Investors, LLC, is requesting a variance for the impact to, or removal of, seven (7) specimen trees, located on the subject property. The subject property (Lot 21, Block 4) totals 0.959 acres of land including 0.184 acres of forest in a platted category 1 conservation easement. The lot and surrounding areas are zoned R-60 and are bounded by Fairfax Road to the west and residential properties to the north, east and south. Most of the property drains to the southwest, towards Fairfax Road; the northeast corner of the site drains to the northeast, towards Wilson Lane (MD 188). There are no streams, steep slopes, floodplains, wetlands or associated buffers on site. 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 Administrative Subdivision Plan proposing to subdivide the existing property into two single-family lots.

The following charts indicates the specific amount of root zone disturbance to each of the seven (7) impacted or to be removed specimen trees. Please note that Trees 7, 8 & 13 have a trunk diameter that is either larger than or within 75% of the current state/county champion trees.

Tree No.	Common Name	Botanical Name	D.B.H.	C.R.Z. Radius	C.R.Z. Area	% C.R.Z. Area Disturbed (*)	Condition	
7**	Scarlett Oak	Quercus coccinea	43 in.	64.5 feet	13,069 s.f.	3.5%	Good (Save)	
14	American Elm	Ulmus Americana	39 in.	58.5 feet	10,751 s.f.	10.4%	Good (save)	

Off-Site Specimen Tree Data

* Final disturbed area may vary slightly due to location of installed utility connections, but an no point will a "save" tree be removed without express written consent from MNCPPC.

** Tree diameter is either larger than or within 75% of the current state champion.

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Tree No.	Common Name	Botanical Name	D.B.H.	C.R.Z. Radius	C.R.Z. Area	% C.R.Z. Area Disturbed (*)	Condition	
4	Norway Spruce	Picea abies	30.5 in.	45.75 feet	6,576 s.f.	49%	Good (Remove)	
8**	Japanese Pagoda	Styphnolobium japonicum	44 in.	66 feet	13,685 s.f.	17.4%	Good (Save)	
11	Red Maple	Acer rubrum	41.5 in.	62.25 feet	12,174 s.f.	35%	Poor (Remove)	
12	Red Maple	Acer rubrum	34 in.	51 feet	8,171 s.f.	47%	Poor (Remove)	
13**	Short Leaf Pine	Pinus echinate	34 in.	51 feet	8,171 s.f.	81%	Good (Remove)	

On-Site Specimen Tree Data

* Final disturbed area may vary slightly due to location of installed utility connections, but an no point will a "save" tree be removed without express written consent from MNCPPC.

** Tree diameter is either larger than or within 75% of the current state champion.

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 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 specimen trees is not feasible and is unavoidable.

Tree #13, a 33" short leaf pine is in the center of proposed Lot 23 and the further development of this property would not be feasible unless the tree is approved for removal. More specifically, the subject property as it exists today has drainage issues. Due to a lack of slope from the rear yard to front yard, water ponds in the rear yard after rain events. Regardless of any proposed improvements to the property, drainage must first be addressed. The only way this can be accomplished is through regrading most of the property including the rear yard where Tree #13 exists. To further exemplify the grading impacts to Tree #13, an exhibit has been prepared in which all proposed improvements have been removed (See Appendix A). The impacts from grading alone will result in the removal of Tree #13. Additionally, the applicant or future property owner will need to obtain a sediment control permit for proposed Lot 23; whether it be for site grading to improve drainage, improvements to the property (i.e. addition, pool, patio, stormwater facilities, etc.) or a combination of both. It will be the their responsibility to satisfy all requirements of the sediment control permit including COMCOR Section 19.10.02.06, which states For finished grading, the permittee must provide adequate gradients so as to: (1) prevent water from standing on the surface of lawns more than twenty-four (24) hours after the end of a rainfall, except in swale flow areas which may drain as long as forty eight (48) hours after the end of a rainfall, and (2) provide positive drainage away from all building foundations or openings. This section of COMCOR cannot be satisfied unless Tree #13 is approved for removal. This would clearly cause a hardship for the applicant as it would not only remove their ability to obtain a sediment control permit, but it would also take away their right to improve a back yard that does not drain. No matter what improvements are planned for proposed Lot 23 it is not be feasible to develop a grading plan that could save Tree #13 while providing adequate drainage for the property.



Trees #11 and #12 are in poor condition and each suffers from decay and are potential hazards (See Appendix B, Arborist Tree Evaluation) to the subject and adjacent properties. Trees #11 and #12 were likely impacted during the redevelopment of the adjacent property and will be further impacted during the development of proposed Lot 24 through the installation of stormwater management devices. Proposed impacts to the critical root zones of off-site specimen trees (7, and 14) will be limited to approximately 3.5% & 10.4%, respectively.

The other on-site specimen tree proposed for removal is Tree #4. Retaining this tree would prohibit the construction of necessary stormwater management facilities for future development on this property. As shown on the Forest Conservation Plan, the proposed stormwater management facilities (gravel drywells) are spaced as close together as current regulations allow (15 feet from each other and 10 feet from slab on grade structures). Smaller setbacks and spacing cannot be explored for these types of facilities. Alternate SWM facilities were considered in the front yard but were found to result in just as much disturbance as gravel drywells or more in some cases. More specifically, surface facilities (i.e. landscape infiltration, rain garden, and micro-bioretention) were explored but were found to result in excessive grading as needed to construct the level surface of the facility and the non-erosive overflow berm around it. The protection of Tree #4 could not be implemented under any alternate scenario in which a surface facility was proposed. Permeable pavement was also explored as an alternate solution to gravel drywells. It was determined that permeable pavement was not appropriate for the proposed driveway due to soil restrictions (pavers cannot be located in compacted fill; majority of proposed driveway near the house will be in compacted fill), setback requirements (pavers must be located at least 10 feet from the house), and driveway slope restrictions (pavers cannot be installed on driveway slopes that exceed 5%, driveway slope leading up to garage is approximately 10%).

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 seven (7) specimen trees referenced in Table 1. For additional information on the trees proposed for removal, please see Appendix B (Arborist Tree Evaluations). For additional information on the proposed disturbances to the specimen trees, please see Appendix C (Tree Variance Exhibit).

2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas.

Due to the spacing of the specimen trees around the site (and off-site), the aggregate critical root zone area encompasses approximately 53% of the subject property. Eliminating the ability to impact or remove these trees (some of which are in poor condition) would not allow the owner to develop the property similarly to other R-60 zoned properties in the immediate vicinity.

3. Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance.

A Stormwater Management (SWM) Concept Plan has been approved by the Montgomery County Department of Permitting Services. 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. 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 (>5% of CRZ) proposed impacts to existing specimen trees on adjacent, privately owned property. Two of four the trees (#11, #12) slated for removal are in poor condition, each suffering from decay and a potential hazard to the subject and adjacent properties; one (tree #4) is located in an area that is needed for stormwater management facilities. Tree #13 is located in an area that must be regraded as needed to remediate existing drainage issues.

There are no streams, stream buffers, or floodplains on the subject property. There are no contiguous forests on adjacent properties. None of the specimen trees requested to be removed are rare, threatened, or endangered, according to the Maryland Nongame and Endangered Species Conservation Act. The property is not part of an historic site nor does it contain any historic structures.

The planting of twelve (12) mitigation trees, each 3" caliper, native trees will be provided as part of the Administrative Subdivision Application.

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 locations 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 options while still providing the greatest protection of specimen trees. Additionally, the property owner has a right to remediate any drainage issues on the property. 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-60 zoning, preservation of the existing house, practical uses on residential lots, site topography (i.e. poor drainage), and the need for required best management practices for stormwater management.

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-60 zoning requirements, site topography, required BMP's for stormwater management, necessary grading and reasonable 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 a special protection area. A Stormwater Management Concept (SWMC) Plan has been 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.

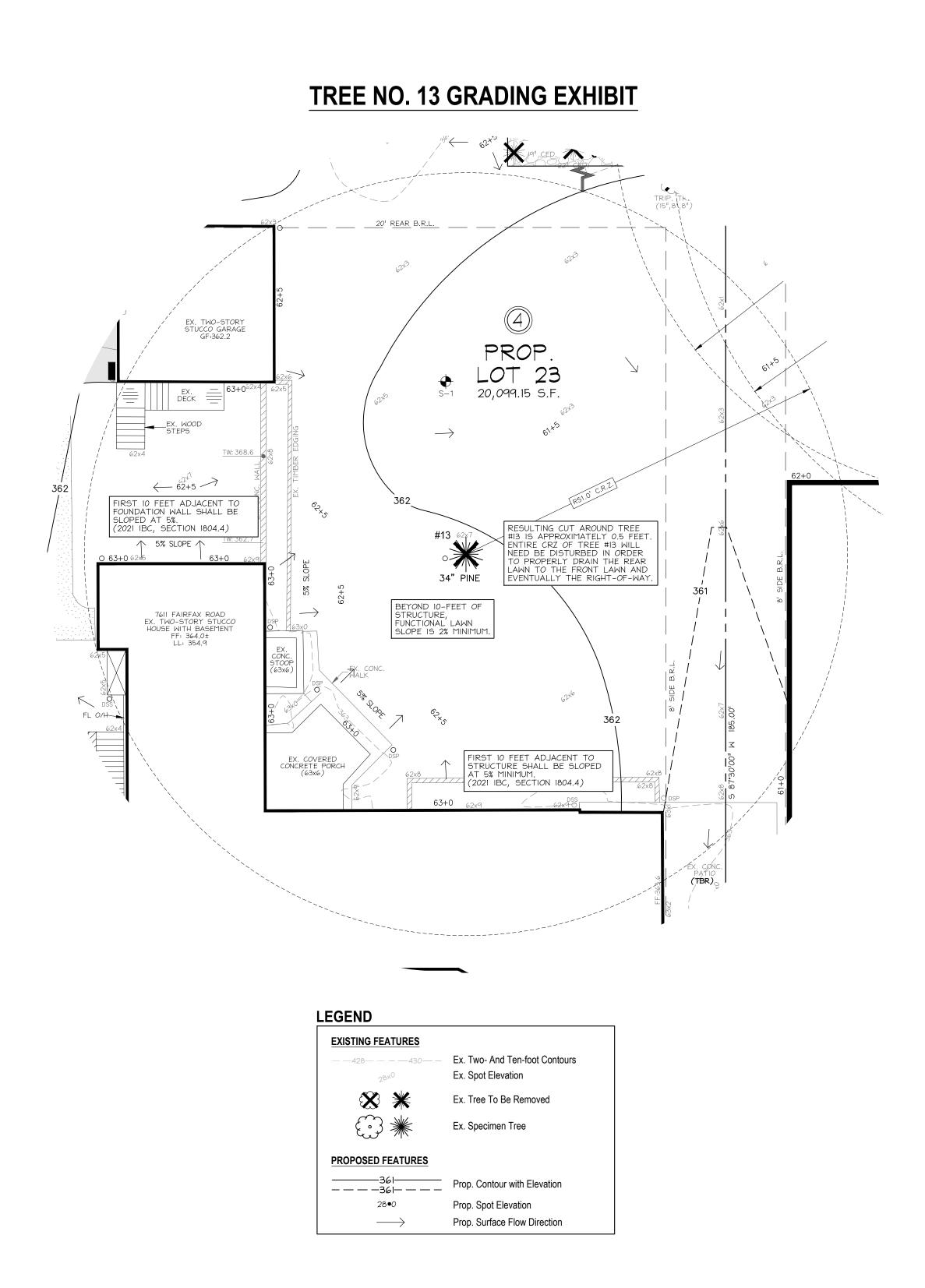
Sincerely,

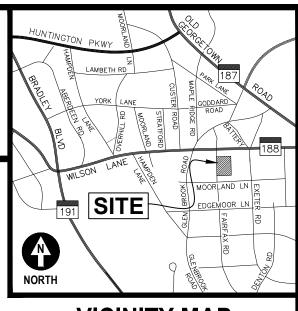
Jared Carhart, PE Senior Project Manager



Appendix A: Tree Variance Exhibit (Tree No. 13 Grading Exhibit)

TREE VARIANCE EXHIBIT (APPENDIX A) - M-NCP&PC No. 620230060





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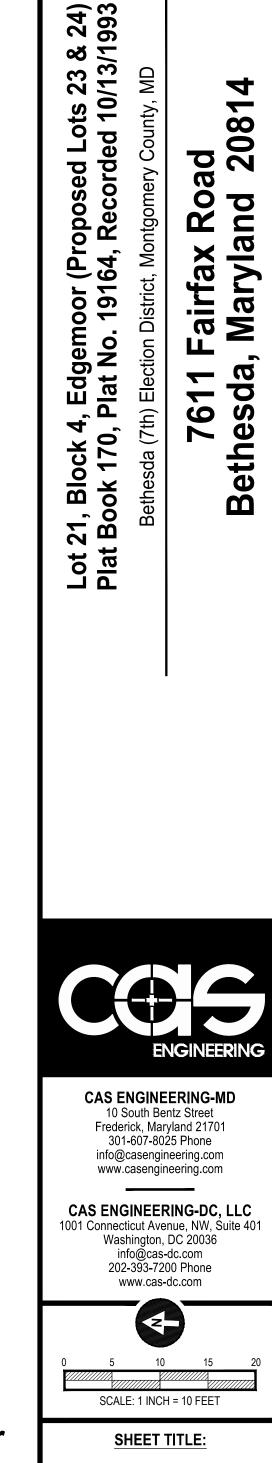
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10/2022

VICINITY MAP ADC MAP 5407, GRID D-3, SCALE: 1" = 2000'



OWNER/APPLICANT Surfside Realty Investors, LLC Oliver Carr, Managing Member 5311 Moorland Lane Bethesda, MD 20814 202-494-4633 Phone ocarr@carrprop.com

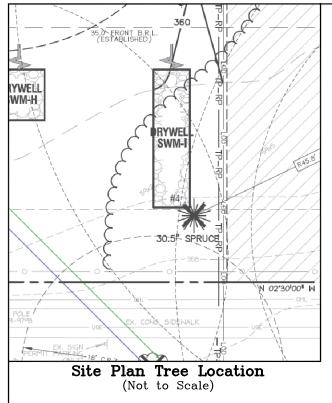
7611 Fairfax Road Lot 21, Block 4, Edgemoor Proposed Lots 23 & 24 Tree Variance Exhibit M-NCP&PC No. 620230060

1 of 1

Tree Variance Exhibit



Appendix B: Arborist Tree Evaluation (Tree No. 4)



Tree Evaluation Description:

Tree Tag: 4 Species: Norway Spruce (Picea abies) Size (DBH): 30.5" Location: Front of Property approximately 25 feet from Fairfax Road. Date of Evaluation: January 23, 2023 Accessment Type: Level 2 (ANSI A300, Part 9)

Species & Construction:

The susceptibility of norway spruce to construction damage can depend on a number of factors, such as the size and age of the trees, the proximity of the construction site, and the method of construction. Construction activities, such as excavation, grading, and the use of heavy machinery, can damage the roots and structures of nearby trees, leading to reduced growth, increased susceptibility to pests and diseases, and increased risk of failure. In some cases, construction can completely destroy trees and their root systems, leading to their death.

Tree Evaluation:

A visual "walk-around" evaluation was performed to determine the overall condition/health of the tree. As part of this evaluation we have determined that this tree is in good condition. Although, this tree may be in decline due to vine strangling (English Ivy). The severity of english ivy can be seen in the attached photograph. Slight deadwood was noted within the canopy, which is typical for this species, but the presence of strangling vines could also be contributing. We observed a twin stem at approximately 30-feet with included bark (with a potential seam). The included bark and seam is a weak point within the union which could be subject to failure. Due to this, we noted this tree to have a high probability of failure. Mitigation can be provided for the weak branch union and the english ivy can be trimmed from the tree. These measures would improve the trees likelihood of stability and longevity.



Tree 4

I hereby certify that this evaluation was prepared or approved by me and I am a duly certified professional arborist as estblished by the International Society of Arboriculture, Certification Number MA-4587A.



Disclaimer: This tree evaluation is based on a visual "walk around" inspection only. A level 2 assessment was conducted as identified in ANSI A300 (part 9). Internal defects may exist within these trees which were not visibly evident during this analysis. This report should not be interpreted as a tree hazard evaluation, as additional studies would be required to make those assessments. Tree health should be monitored by an ISA Certified Arborist during and after all construction activities to insure proper tree save measures have been implemented. Due to the proximity of some of the existing trees to the existing/proposed structures, we suggest that a tree risk assessment be periodically conducted, after construction has been completed, to better insure the future safety of persons and property.



TREE EVALUATION FOR: 7611 Fairfax Road Lot 21, Block 4, Edgemoor

Lot 21, Block 4, Edgemoor Proposed Lots 23 and 24 Montgomery County, Maryland
 Scale:
 1" = 10'

 Date:
 1/15/23

 Field By:
 JWW

 Drawn By:
 JWW

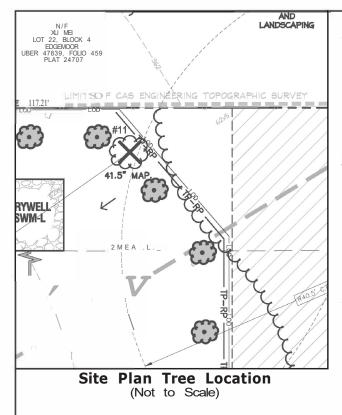
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Appendix B: Arborist Tree Evaluation (Tree No. 11)



Tree_Evaluation_Description:

Tree Tag: 11 Species: Silver Maple (Acer saccharinum) Size (DBH): 41.5" Location: Several Feet from a joint property line with the adjoining neighbor. See location exhibit, this page. Date of Evaluation: January 23, 2023 Accessment Type: Level 2 (ANSI A300, Part 9)

Species_Characteristics:

Silver maples (Acer saccharinum) are considered to be highly susceptible to failure. They are fast-growing trees with weak wood, which makes them prone to breaking and falling during storms or heavy winds. Additionally, silver maples have shallow roots that can easily be damaged by construction, erosion, or heavy machinery, further increasing the risk of failure. To minimize the risk of failure, it is recommended to plant silver maples in areas where they will have plenty of space to grow and away from buildings, sidewalks, and other structures that could be damaged in the event of a tree failure.

Tree_Evaluation:

A visual "walk-around" evaluation was performed to determine the overall condition/health of the tree. As part of this evaluation we have determined that this tree is in poor condition due to decline, hollowing, and moderate defoliation (limb/caopy loss). Removal is recommended. We believe vine strangling (English Ivy) and species succepability to decline/decay has contributed to the current condition. We observed significant decline, decay, hollowing (cavity and sounding), and dieback due to invasive vines. This tree has been classified as a hazard tree due to condition and proximity to an offsite structure (target).



Tree 11

I hereby certify that this evaluation was prepared or approved by me and I am a duly certified professional arborist as estblished by the International Society of Arboricultur: Certification Number MA-4587A.



Disclaimer, This tree evaluation is based on a visual "walk around" inspection only. A level 2 assessment was conducted as identified in ANSI A300 (part 9). Internal defects may exist within these trees which were not visibly evident during this analysis. This report should not be interpreted as a tree hazard evaluation, as additional studies would be required to make those assessments. Tree health should be monitored by an ISA Certified Arborist during and after all construction activities to insure proper tree save measures have been implemented. Due to the proximity of some of the existing trees to the existing/proposed structures, we suggest that a tree risk assessment be periodically conducted, after construction has been completed, to better insure the future safety of persons and property.



TREE EVALUATION FOR: 7611 Fairfax Road Lot 21, Block 4, Edgemoor

Proposed Lots 23 and 24 Montgomery County, Maryland

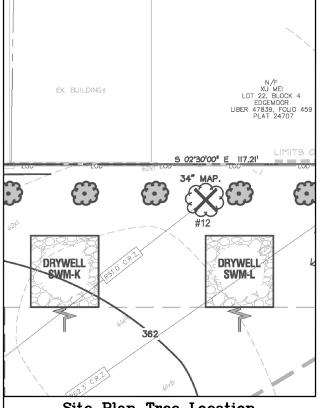
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Prepared For:

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Appendix B: Arborist Tree Evaluation (Tree No. 12)



Site Plan Tree Location (Not to Scale)

Tree Evaluation Description:

Tree Tag: 12 Species: Silver Maple (Acer saccharinum) Size (DBH): 34" Location: Several Feet from a joint property line with the adjoining neighbor. See location exhibit, this page. Date of Evaluation: January 23, 2023 Accessment Type: Level 2 (ANSI A300, Part 9)

Species Characteristics:

Silver maples (Acer saccharinum) are considered to be highly susceptible to failure. They are fast-growing trees with weak wood, which makes them prone to breaking and falling during storms or heavy winds. Additionally, silver maples have shallow roots that can easily be damaged by construction, erosion, or heavy machinery, further increasing the risk of failure. To minimize the risk of failure, it is recommended to plant silver maples in areas where they will have plenty of space to grow and away from buildings, sidewalks, and other structures that could be damaged in the event of a tree failure.

<u>Tree Evaluation:</u>

A visual "walk-around" evaluation was performed to determine the overall condition/health of the tree. As part of this evaluation we have determined that this tree is in poor condition due to decline and defoliation (limb/caopy loss). Removal is recommended. We believe vine strangling (English Ivy) and species succepability to decline/decay has contributed to the current condition. We observed significant decline, apparent internal decay, and a severe loss of canopy. This tree has been classified as a hazard tree due to condition and proximity to an offsite structure (target).





I hereby certify that this evaluation was prepared or approved by me and I am a duly certified professional arborist as estblished by the International Society of Arboriculture. Certification Number MA-4587A.



Disclaimer: This tree evaluation is based on a visual "walk around" inspection only. A level 2 assessment was conducted as identified in ANSI A300 (part 9). Internal defects may exist within these trees which were not visibly evident during this analysis. This report should not be interpreted as a tree hazard evaluation, as additional studies would be required to make those assessments. Tree health should be monitored by an ISA Certified Arborist during and after all construction activities to insure proper tree save measures have been implemented. Due to the proximity of some of the existing trees to the existing/proposed structures, we suggest that a tree risk assessment be periodically conducted, ofter construction has been completed, to better insure the future safety of persons and property.



TREE EVALUATION FOR: 7611 Fairfax Road

Lot 21, Block 4, Edgemoor Proposed Lots 23 and 24 Montgomery County, Maryland
 Scale:
 1" = 10'

 Date:
 1/15/23

 Field By:
 JWW

 Drawn By:
 JWW

 File No.:
 17-718

 Page No.:
 1 of 1

Prepared For:



Appendix B: Arborist Tree Evaluation (Tree No. 13)



Tree Evaluation Description:

Tree Tag: 13 Species: Shortleaf Pine (Pinus echinata) Size (DBH): 34" Location: Rear of the subject property roughly 25-feet from the existing house. Date of Evaluation: January 23, 2023 Accessment Type: Level 2 (ANSI A300, Part 9)

Species & Construction:

The susceptibility of shortleaf pines to construction damage can depend on a number of factors, such as the size and age of the trees, the proximity of the construction site, and the method of construction.

Construction activities, such as excavation, grading, and the use of heavy machinery, can damage the roots and structures of nearby trees, leading to reduced growth, increased susceptibility to pests and diseases, and increased risk of failure. In some cases, construction can completely destroy trees and their root systems, leading to their death

Tree Evaluation:

A visual "walk-around" evaluation was performed to determine the overall condition/health of the tree. As part of this evaluation we have determined that this tree is in good condition. We did not observe decline, dieback, decay, hollowing or other indicators of stress. The canopy of the tree appears open and well maintained. Structurally, this tree has multiple leaders which may consist of include bark. This would create a weak point within the structure of the tree that increases the risk of failure. Although, mitigation could be provided to reduce such risk.





I hereby certify that this evaluation was prepared or approved by me and I am a duly certified professional arborist as estblished by the International Society of Arboriculturg. Certification Number MA-4587A.



Disclaimer: This tree evaluation is based on a visual "walk around" inspection only. A level 2 assessment was conducted as identified in ANSI A300 (part 9). Internal defects may exist within these trees which were not visibly evident during this analysis. This report should not be interpreted as a tree hazard evaluation, as additional studies would be required to make those assessments. Tree health should be monitored by an ISA Certified Arborist during and after all construction activities to insure proper tree save measures have been implemented. Due to the proximity of some of the existing trees to the existing/proposed structures, we suggest that a tree risk assessment be periodically conducted, ofter construction has been completed, to better insure the future safety of persons and property.



TREE EVALUATION FOR: 7611 Fairfax Road

Lot 21, Block 4, Edgemoor Proposed Lots 23 and 24 Montgomery County, Maryland
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 1" = 10'

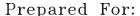
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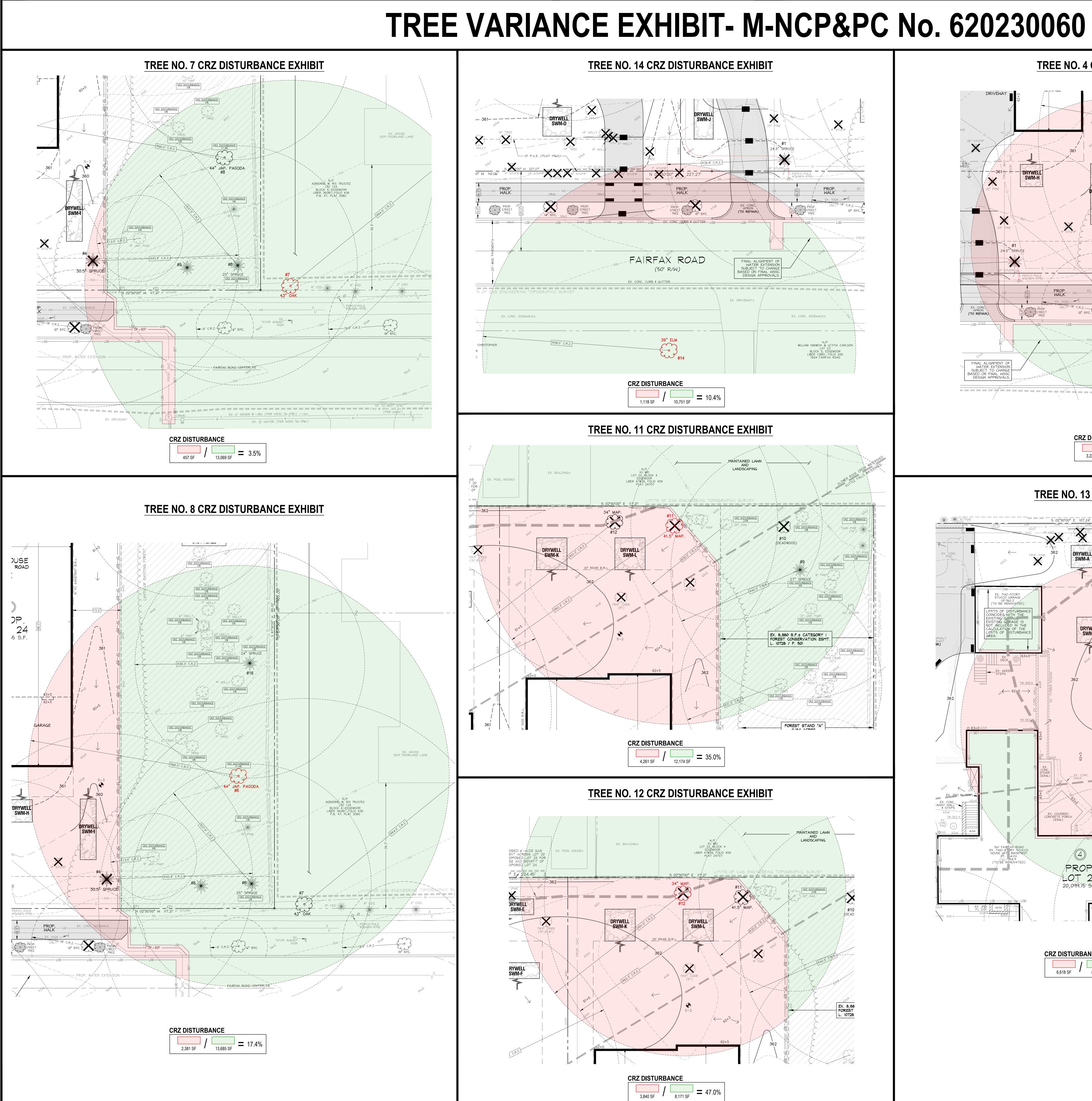
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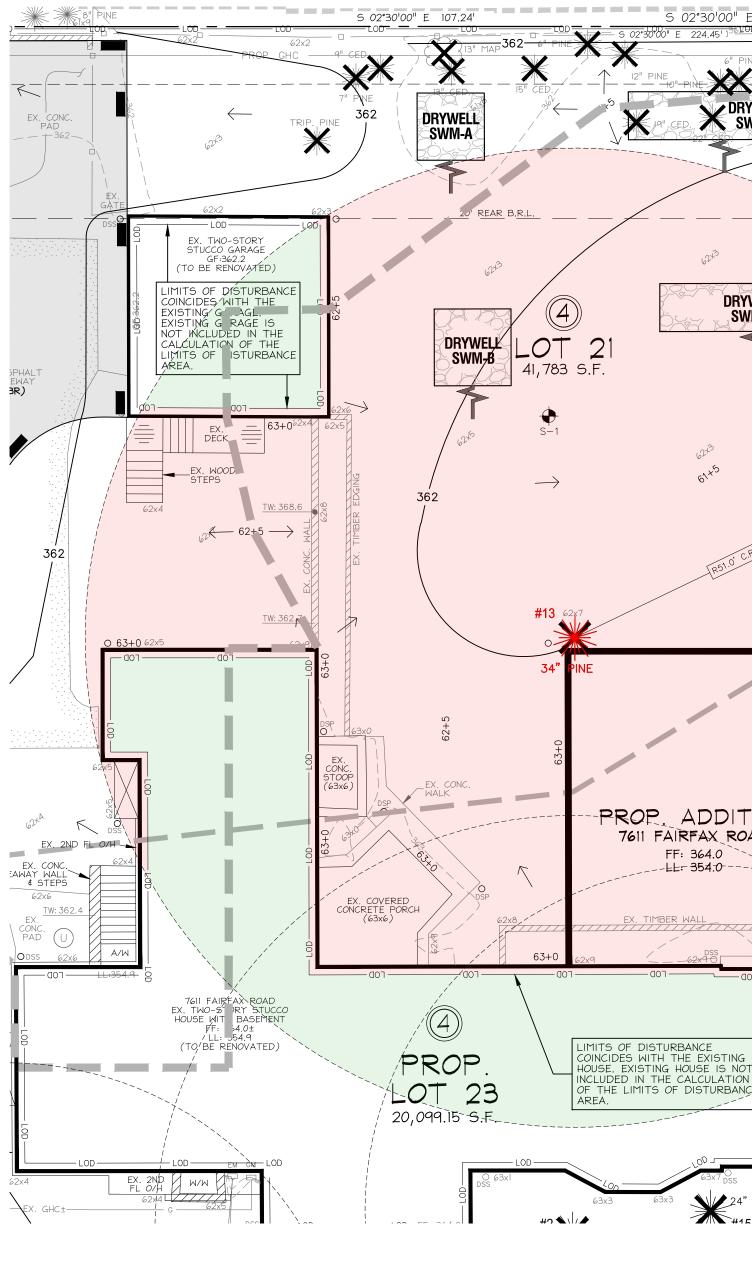


Appendix C: Tree Variance Exhibit (Specimen Tree CRZ Disturbances)



- -TO REMAIN FINAL ALIGNMENT OF WATER EXTENSION SUBJECT TO CHANGE BASED ON FINAL WSSC DESIGN APPROVALS.

TREE NO. 13 CRZ DISTURBANCE



CRZ DISTURBANCE							
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