



October 10, 2023

Maryland National Capital Park & Planning Commission
2425 Reddie Drive
Wheaton, MD 20902

Re: Musgrove's Addition
to Neelsville PFCP
MHG Project No. 87.115.41

To Whom It May Concern:

On behalf of the applicant of the above referenced Forest Conservation Plan, we hereby request a variance from Section 22A-12.b(3)(C) of the Montgomery County Code, Chapter 22A for the removal of twelve and impact of three specimen trees, as required by the Maryland Natural Resources Article, Title 5, Subtitle 16, Forest Conservation, Section 5-1611, and in accordance with Chapter 22A-21(b) of the Montgomery County Code. The proposed removal of twelve and impact of three trees over thirty inches satisfies the variance application requirements of section 22A-21(b).

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

The subject property is 4.66 acres. The property is currently developed with two single family residential buildings and is zoned R-200. The development proposes to remove the existing buildings and replace them with an assisted living community. The property is partially forested (1.36 acres) which is proposed for removal. The majority of the property is maintained as treed grass/yard space. The property is rectangular in shape and includes an area of dedication. The proposed development includes eight buildings, a parking lot, open space areas, extensive stormwater requirements, as well as other utilities such as water and sewer connections.

The trees to be removed are scattered across the property with many located in central locations causing them to be impacted by multiple things. The development proposes a new entrance off of West Old Baltimore with the driveway going across the property with parking in the back. This layout was a requested change by the county. This has pushed the development out and created more tree impacts that are unavoidable. Sidewalks serve the buildings and make connections to the parking and open space areas. Stormwater is met through six facilities as well as drywells where possible. A sediment control facility is proposed behind and downhill from the proposed parking lot. The sewer and water connections are just off-site in the northwest corner of the property. In order to connect to this existing utility line, the disturbance must cross through the forest area. Trees 00, 01, 02, 03, 04, 05, 31, 25, 32 and 34 are all centrally located and are impacted by the house site locations, sidewalks and the extensive grading necessary across a

relatively flat lot that needs to be graded to provide necessary drainage. Trees 06, 17, 13 and 19 are impacted by the parking lot and grading around the parking lot. The parking is required as is the turn around radius within the parking lot for emergency vehicle movement. In order to treat the stormwater, five stormwater facilities are needed as well as multiple drywells which impact trees 00, 09, 13, 32, and 34. Given the grades of the site relative to the position of the impervious surfaces, the stormwater facilities need to be placed in their proposed positions in order to properly treat and convey stormwater. Drywells were utilized on buildings where spacing allowed. Trees 09 and 13 are impacted by the water and sewer connections which are in the rear corner of the property. In addition to the impacts from grading, stormwater, parking lot and utility connections, tree 13 is also impacted by the proposed sediment control facility needed to treat the site during construction. Tree 29 is just off-site and is impacted by the removal of an existing building as well as the proposed sidewalk, grading, and building placement. The complexities of designing on a site that is long and narrow to provide the parking, driveway, and building accessibility results in significant land disturbance and the ultimate need to impact and remove the subject trees.

Impacts to trees to remain have been minimized and will be mitigated with all stress reduction requirements necessary. In order to meet the needs of proposed development and maintain a development style that is compatible with the surrounding properties while providing the necessary stormwater, parking, and utility requirements, not allowing the removals would be a hardship that is not warranted in light of the special conditions particular to the property.

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

The development of the property regardless of being developed as single family homes per R-200 zoning or developed as assisted living housing would result in significant disturbance to the overall property, and as a result the need for removal of specimen trees. The inability to remove the subject trees would limit the development of the property. This creates a significant disadvantage for the applicant and deprives the applicant of the rights enjoyed by the neighboring and/or similar properties not subject to this approval process.

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

A Stormwater Management Concept has been submitted for the improvements. The sites SWM requirement is met with five facilities and drywells. The approval of the Stormwater Management Concept will confirm that the goals and objectives of the current state water quality standards are being met.

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

Mitigation will be provided for all specimen trees to be removed. A copy of the Forest Conservation Plan and variance tree table has been provided as part of this variance request. Please let us know if any other information is necessary to support this request.

Please contact me via email, at fjohnson@mhgpa.com, or by phone, at (301) 670-0840 should you have any additional comments or concerns.

Thank you,

Frank Johnson

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VARIANCE REQUEST AND MITIGATION WORKSHEET

ID	Botanical Name	Common Name	Condition	DBH (")	Mitigation	Notes
E00	Picea Pungens	Blue Spruce	Good	34	8.50	One inch cal. Per 4" DBH removed
E01	Liriodendron tulipifera	Tulip Poplar	Fair/Poor	30	7.50	One inch cal. Per 4" DBH removed
E02	Prunus Serotina	Black Cherry	Fair	34	8.50	One inch cal. Per 4" DBH removed
E03	Acer Rubrum	Red Maple	Good	33	8.25	One inch cal. Per 4" DBH removed
E04	Quercus rubra	Red Oak	Fair	31	7.75	One inch cal. Per 4" DBH removed
E05	Quercus Palustris	Black Oak	Poor	43	10.75	One inch cal. Per 4" DBH removed
E06	Quercus Alba	White Oak	Good	36	9.00	One inch cal. Per 4" DBH removed
E09	Quercus Alba	White Oak	Good	33	0.00	24% Impact
E13	Quercus Palustris	Black Oak	Good	32	0.00	43% Impact
E17	Ulmus americana	American Elm	Fair	39	9.75	One inch cal. Per 4" DBH removed
E21	Acer Rubrum	Red Maple	Fair/Poor	53	13.25	One inch cal. Per 4" DBH removed
E25	Acer Saccharinum	Silver Maple	Good/Fair	59	14.75	One inch cal. Per 4" DBH removed
E29	Prunus Serotina	Black Cherry	Fair	31	0.00	32% impact - 16% actual
E32	Acer Saccharinum	Silver Maple	Fair	40	10.00	One inch cal. Per 4" DBH removed
E34	Acer Saccharinum	Silver Maple	Poor	31	7.75	One inch cal. Per 4" DBH removed
					115.75	Total caliper inches required
					29	Total 4" caliper trees required