



PLANNING & DEVELOPMENT DEPARTMENT COMMUNITY DEVELOPMENT BOARD STAFF REPORT

MEETING DATE: January 20, 2026
AGENDA ITEM: ID#25-1333
CASE: APP2025-12001
REQUEST: Appeal of a denial of a Minimum Standard Development (Tree Removal Permit) in the Medium High Density Residential (MHDR) District for the property located at 1934 Marlinton Way. Requested is approval to remove a shade tree (Live Oak) adjacent to the southeast property line and replace with two accent trees (Crepe Myrtle) adjacent to the southwest property line. (Community Development Code Sections 3-1205 B.2.a. and 4-501.A.4.)

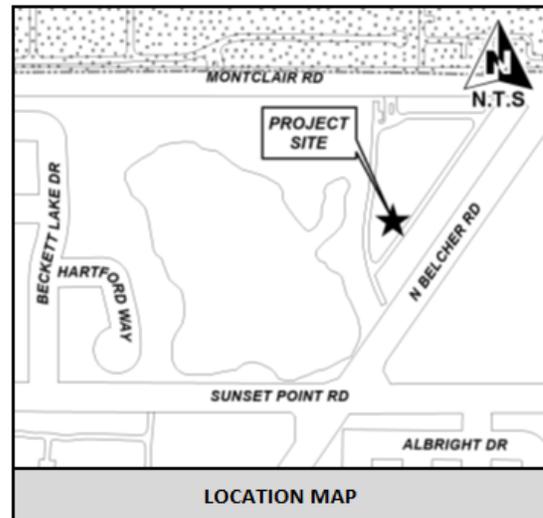
GENERAL DATA:

Owners..... James Brzycki and Christina Brzycki
Location..... Northwest side of Marlinton Way, approximately 165 feet northwest of N. Belcher Road.
Property Size..... 0.08 acres
Future Land Use..... Residential Medium (RM)
Zoning..... Medium High Density Residential (MHDR) District
Special Area Plan.....
Adjacent Zoning... *North:* Medium High Density Residential (MHDR) District
South: Medium High Density Residential (MHDR) District
East: Medium High Density Residential (MHDR) District
West: Medium High Density Residential (MHDR) District
Existing Land Use..... Attached Dwellings
Proposed Land Use..... Attached Dwellings

BACKGROUND:

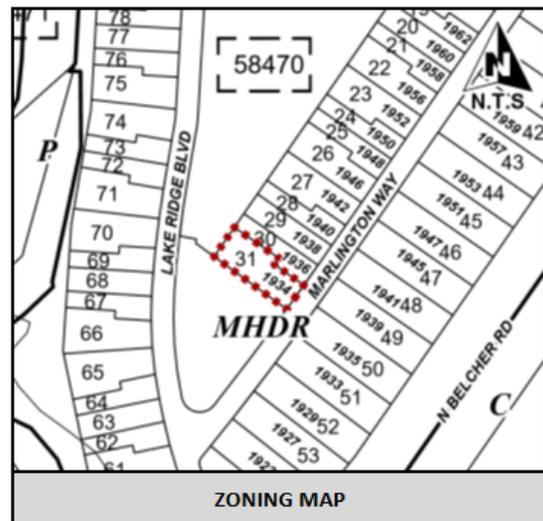
Location and Existing Conditions:

The 0.08-acre site, consisting of an existing 2,283 square foot attached dwelling unit built in 2018, is a portion of the overall development which includes 86 attached dwellings as townhomes called Montclair Lake Estates located on the northwest side of Marlinton Way, approximately 165 feet northwest of N. Belcher Road. The frontage of the parcel is 30 feet along Marlinton Way. The project is within the Medium High Density Residential (MHDR) Zoning District with a Residential Medium (RM) future land use designation. The immediate vicinity is characterized by detached and attached dwellings and commercial uses.



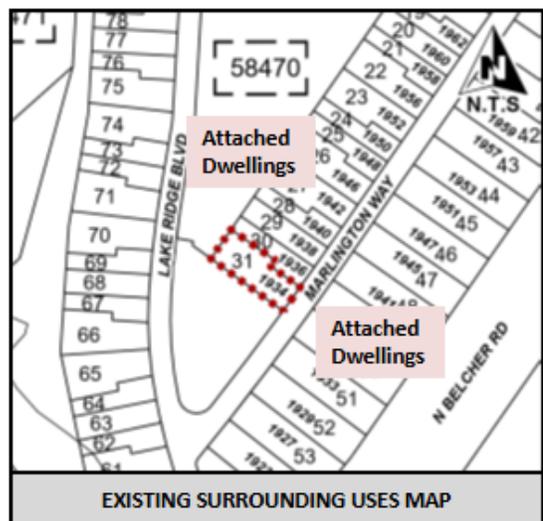
Site History:

- On August 13, 2013, the City Council approved the annexation of the property, ANX2013-04007, which contained a detached dwelling and a tree nursery, with companion cases LUP2013-04002, to designate a RM future land use designation, and REZ2013-04002, to designate a MHDR zoning district.
- In 2016 and 2027, plats were approved - PLT2016-09002, PLT2016-12005 and PLT2017-07002, which subdivided the property into townhome development.
- In 2017, site work, including landscaping plans, and vertical permits were approved for construction. Certificates of occupancy for the development were issued from 2017 to 2019.



Tree Removal Permit:

On November 17, 2025, a tree removal permit application was submitted (TRE2025-11015) to remove a Live Oak shade tree, *Quercus virginiana*, and replace it with two Crape Myrtle accent trees, due to concerns regarding proximity to existing utilities and hardscape improvements, such as paving and sidewalks within the existing attached dwelling development in the Medium High Density Residential (MHDR) District. On December 3, 2015, TRE2025-11015 was denied for reasons including, but not limited to, that the tree removal does not meet the criteria for removal. (Community Development Code (CDC) Section 3-1205.B)



ANALYSIS:

Comprehensive Plan:

The proposal is not supported by applicable Goals, Objectives and/or Policies of the City’s Comprehensive Plan as follows:

Future Land Use Plan Element:

- Goal QP 1, Objective QP 1.1* Ensure programs and investments are designed to support the long-term livability, sustainability, attractiveness, and safety of existing neighborhoods.
- Goal QP 5, Objective QP 2.3* Protect and preserve the character of neighborhoods and corridors.
- Goal CCM 3, Objective CCM 3.1* Support and implement policies and programs that reduce the city’s carbon footprint and protect or improve air quality.

Community Development Code Section 3-1205.B. – Tree Protection

CRITERIA FOR ISSUANCE OF A REMOVAL PERMIT	FINDINGS
<i>No permit shall be granted for removal of a specimen or historic tree.</i>	The subject tree is not considered to be a specimen or historic tree. However, Pursuant to the Community Development Code (CDC), it is considered to be a protected tree, being a shade tree that is part of an approved landscape plan which cannot be removed without due cause.
<i>In determining whether not a required removal permit shall be granted, the community development coordinator shall consider the following:</i>	
<i>a. The condition and location of the protected tree, specimen tree stand, or palm with respect to species, tree structure, competition, disease, insect attack, danger of falling, proximity to existing or proposed structures and interference with utility services.a</i>	<i>a. A tree assessment was conducted by the City’s Land Development Arborist staff, consistent with the requirements of the International Society of Arboriculture (ISA) Tree Risk Assessment Form. This assessment concluded that the condition and the location of the protected tree does not warrant removal.</i>
<i>b. Protected trees, specimen tree stands, and palms shall be preserved to the maximum extent possible and reasonable flexibility in the design of permitted uses shall be granted, within the parameters of the zoning district within which the property is located, in order to ensure such preservation.</i>	<i>b. The subject tree is a protected tree and the City’s Land Development Arborist Staff has determined that the location of the tree does not warrant removal as is indicated in the assessment. The denial serves to preserve the tree to the maximum extent possible. The subject tree was installed in a manner that is not problematic to existing improvements and structures. Further, it was installed in a manner meeting the intent of residential landscape area requirements and as</i>

	such meeting the requirements of the approved site work permit, including, but not limited to, approved landscape plans.
<i>c. Whether protected trees or palms can be successfully relocated on-site in order to accommodate the proposed development.</i>	c. Not applicable – there is no proposed development.
<i>d. If a protected tree or palm must be removed in order to permit an economic use of the property which would otherwise be permitted, the applicant must give the city a reasonable opportunity to relocate the tree to another site in accordance with the provisions of Section 3-1205(C) and replace protected trees on-site in accordance with the provisions of Section 3-1205(D) or pay into the city's tree bank for every protected tree that is removed in accordance with the provisions in Section 3-1205(D).</i>	d. Not applicable – there is no proposed development.

Community Development Code Section 4-504.B. – Community Development Board Appeal Criteria

CRITERIA	FINDINGS
<i>The decision appealed from misconstrued or incorrectly interpreted the provisions of the development code.</i>	The decision appealed was based on correctly interpreted applicable provisions of the Community Development Code (CDC). Pursuant to CDC Section 4-1202.A.5., Section 4-1203, and Section 3-1205.B., no legitimate justification for tree removal has been provided by the applicant.
<i>The decision of the Community Development Board will be in harmony with the general intent and purpose of the development code.</i>	The granting of the requested appeal would not be in harmony with the purpose of the development code, since it is the purpose of the code’s tree protection standards to promote and encourage the preservation of existing trees and to enhance existing development in the City. A decision granting the removal of the protected tree would not be in alignment with this purpose.
<i>The decision of the Community Development Board will not be detrimental to the public health, safety and general welfare.</i>	Decision for approval of the requested appeal would be detrimental to the public health, safety and general welfare. In accordance with the Comprehensive Plan, long-term livability, sustainability, attractiveness, and safety of existing neighborhoods would be negatively affected by removal of the tree.

RECOMMENDATION

After review of the tree removal permit application, inspection of the subject tree and consultation with other department staff, the tree removal permit was denied on December 3, 2025, based upon the following findings of fact and conclusions of law:

Recommended Findings of Fact

1. The 0.08- acre site contains an attached dwelling and is located on the northwest side of Marlinton Way, approximately 165 feet northwest of N. Belcher Road.
2. The property is within the Medium High Density Residential (MHDR) District with a Residential Medium (RM) future land use designation.
3. The request includes the removal of a Live Oak shade tree, *Quercus virginiana*.
4. The Live Oak tree is not a prohibited species.
5. The Live Oak tree does not appear to be structurally compromised or negatively impacted from competition with other trees.
6. The Live Oak tree does not appear to be diseased or suffering from an insect attack.
7. The Live Oak tree does not appear to be in danger of falling.
8. The Live Oak tree's proximity to existing improvements and structures would not be problematic for the tree.
9. The Live Oak tree does not interfere with any existing utility services.
10. An appeal from the above decision was filed by the property owner on December 12, 2025, consistent with the timeframe established for an appeal to be initiated in CDC Section 4-502.A.

Recommended Conclusions of Law

1. The development proposal is not consistent with the applicable components of the City's Comprehensive Plan.
2. Pursuant to Community Development Code (CDC) Section 3-1205.B.2.a, the Live Oak tree does not meet the criteria for issuance of a tree removal permit as the condition and location of the protected tree with respect to species, tree structure, competition, disease, insect attack, danger of falling, proximity to existing or proposed structures and interference with utility services does not exist.
3. Removal of the Live Oak tree is not necessary.
4. Pursuant to CDC Section 4-501.A.4, the Community Development Board (CDB) has the authority to hear appeals from denials of any permit issued under the provisions of this Code. Pursuant to CDC Section 4-504.A, the CDB shall review the application, the recommendation of the Community Development Coordinator, conduct a quasi-judicial public hearing on the application, and render a decision in accordance with the provisions of CDC Section 4-206.D.5 granting the appeal, granting the appeal subject to specified conditions, or denying the appeal.

Based on the above recommended findings of fact and conclusions of law, the Planning and Development Department recommends **DENIAL** of application for appeal APP2025-12001.

Pursuant to CDC Section 4-504.B., the CDB has found based on substantial competent evidence, presented by the applicant or other party that the following criteria have not been met:

1. The decision appealed from misconstrued or incorrectly interpreted the provisions of this development code.
2. The decision of the CDB will be in harmony with the general intent and purpose of this development code.
3. The decision of the CDB will not be detrimental to the public health, safety and general welfare.

Prepared by Planning and Development Department Staff:



Ted Kozak, AICP, Development Review Manager
Robert Robicheau, Land Development Arborist

ATTACHMENTS: Resume, Photographs

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Clearwater, Florida 33756
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ted.kozak@myclearwater.com

PROFESSIONAL EXPERIENCE

- **Development Review Planning Manager** July 2024 – to present
City of Clearwater, FL

Responsible for Direct Development Review activities for the City. Supervising professional planners, land resource specialists and administrative staff. Conduct performance reviews. Serve as staff to the Community Development Board.

- **Chief Planner, Zoning Division** 2020 – July 2024
Orange County, Florida

Section Chief to Board of Zoning Adjustment and the Board of County Commissioners. Responsible for presenting projects to Boards, Committees and other public agencies, meetings and groups. Chief arborist, providing determinations and interpretation of Orange County Arbor Code. Provide zoning determinations and interpretation of Orange County Arbor Code, Provided zoning determinations interpretations of Orange County Zoning Code. Supervised 5 zoning planner, arborists and additional support staff and coordinate workload.

- **Principal Planner, Land Development** 2018 – 2020
Citrus County, Florida

Responsible for reviewing plats, site plans, building plans and landscape plans for compliance with codes. Provided zoning and arborist expertise to internal staff including City Attorney and public interests including homeowners and corporate clients. Supervised three planners and two additional support staff and coordinate workload. Presented projects to planning boards, and other committees.

- **Senior Planner, Zoning – Development Services** 2016 – 2018
City of Coral Springs, Florida

Responsible for reviewing site plans, building plans and landscape plans for compliance with codes. Providing zoning and arborist expertise to internal staff including homeowners and corporate clients. Conducted inspections for compliance with codes, permits, projects and other requests. Presented projects to Code Magistrate, Planning Boards and other committees.

- **Associate Planner, Community Development** 2015-2016
Douglas County, Nevada

Responsible for reviewing site plans, building plans and landscape plans for compliance with codes. Presenting projects to the County Manager, County Board, Planning Boards, and Citizen Committees and Commercial associations.

- **Zoning Administrator** 2008 – 2015
City of Greenacres, Florida

Responsible for managing 4-6 planning and engineering staff and up to 20 consultant engineers. Preparing and implementing department budget of approximately \$450,000. Reviewing site plans, building plans, engineering permits and landscape plans for compliance with regional interlocal agreements with Palm Tran (transit), Palm Beach County (PBC) Traffic, PCB Water Utility District, the City Code and the City Comprehensive Plan. Presenting projects to the City Manager, the City Council, Planning Boards, and Code Enforcement Board and liaison. Citizen Committees and Commercial associations. Chaired Planning & Zoning hearings such as Commission and Board of Adjustments. Preparing and implementing Comprehensive Plan Amendments and Coning Code Amendments. Preparing compliant Site Plans, Landscape Plans for City Agencies, groups, and citizens. Performing site inspections for Zoning, Engineering, Building and Code Enforcement. Preparing Grant application: CDBG Block Grants , Florida Communities Trust, Historic Trust.

- **President & Owner, TPK, LLC** 2007-2008
Orlando, Florida

Responsible for managing an office of up to five employees with a budget of \$100,000. Managing pre-application materials for local planning projects on a consulting basis.

- **Planner** 2006 – 2007
City of St. Cloud, Florida

Responsible for managing advanced single-family and mixed-use residential, commercial, industrial and institutional planning projects requiring multiple entitlements and environmental review. Reviewing building permits for compliance and the calculation of impact fees. Presenting projects to the City Manager and City Council, Planning Board and Citizens Advisory Committees on City projects and programs.

- **Project Management** 2005 – 2006
Dunmore Communities (Home Builder, Sacramento, CA)

Responsible for managing personnel of at least 20 internal and contract employees. Managing projects from due diligence through tentative map and improvement plan. Reviewing and approving internal budgets between \$1 and \$10 million. Participating in local and regional intercompany development studies and improvements. Hiring and managing consultants for project (environmental) studies. Assembling application materials (tentative maps) and studies for project submittal. Submitted appropriate applications and coordinate with local, state and federal agencies. Attended and presented to the public and at community meetings representing the company. Networking with local charities, organizations and businesses for Planning outreach.

- **Associate Planner** 1999 – 2005
City of Sacramento Development Services

Responsible for reviewing highly complex, office, residential, industrial projects. Recommended necessary revisions to satisfy City Code, City Policy, Regional Plan, and Environmental (NEPA and CEQA) requirements. Preparing and implementing amendments to the General Plan, Community Plans and zoning Code and act as technical advisor, and provide research for various development committees.

EDUCATION

Bachelor of Arts Degree (Geography/Urban Planning) University of Alberta

PROFESSIONAL MEMBERSHIPS & QUALIFICATION HIGHLIGHTS

Chief Planner, Zoning Division, Orange county, Orlando, Fl
Principal Planner, Land Development, Citrus County, Lecanto, Fl
Senior Planner, Zoning – Development Services, City of Coral Springs, FL
Zoning Administrator & Engineering Coordinator, City of Greenacres, Fl
Planning and Human Resources Consultant, TPK, Orlando, Fl
City Planner, City of Saint Cloud, Fl
Project Manager, Land Development, Dunmore Communities
Associate Planner, City of Sacramento, Development Services Department
American Institute of Certified Planners (AIXP) distinction, 2012
International Society of Arboriculture Certified Arborist (ISA) distinction, 2011

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Clearwater, Florida 33756
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PROFESSIONAL EXPERIENCE

- **Planning and Development, Land Development Arborist**
City of Clearwater, FL August 2024 – Present

Responsible for examining building construction permits for tree and erosion control impacts, proposed landscaping, and tree removal deficits and replacements. Reviewing tree removal permits, inspect requested tree(s) and determines if tree(s) meets criteria for removal. Assisting the general public with tree preservation and landscape questions and provide education on proper care of trees. Attending pre-construction meetings with site contractors, general contractors, and consulting ISA Certified Arborists to answer questions related to site approval

- **Canopy to Coast Consulting Group, Consulting Arborist**
Clearwater, Florida 2022 – 2024
- **Thompson Consulting, Consulting Arborist**
Las Vegas, New Mexico/Sanibel Island, Florida 2022 - 2023

ISA Certified Arborist with the Tree Risk Assessment Qualification (TRAQ). His expertise in the field of arboriculture includes new development tree inventories, tree preservation, appraised value of trees and tree assessments. He has been instrumental in calculating tree mitigation costs for engineering firms, landscape architects, construction firms and developers. He has personally assessed over 12,000 trees. Additionally, his expertise includes performing hazard tree assessments for FEMA recovery associated with federally declared disasters.

- **Esciences/RES, Field Technician**
Clearwater, Florida 2020 - 2022
- **Frenchys Outpost, Server**
Dunedin, Florida 2017 - 2022
- **Joe Samnik Expert Tree Consultants, Field Technician**
Palm Harbor, FL 2018 - 2020
- **Regency Oaks, Supervisor**
Clearwater, Florida 2014 - 2018

EDUCATION

Students and Early Career Arborists Committee member through the ISA Florida Chapter (2023 – current)

Attended 3 Trees Florida state seminars as well as multiple other seminars amassing 103 CEU's from September 8th, 2022, to date.

Robert Robicheau is an ISA Certified Arborist with the Tree Risk Assessment Qualification (TRAQ). His expertise in the field of arboriculture includes new development tree inventories, tree preservation, appraised value of trees and tree assessments. He has been instrumental in calculating tree mitigation costs for engineering firms, landscape architects, construction firms and developers. He has personally assessed over 12,000 trees. Additionally, his expertise includes performing hazard tree assessments for FEMA recovery associated with federally declared disasters.

Mr. Robicheau's historical knowledge and experience includes:

New Development Tree Inventories — Inventorying over 5,500 trees in the following government entities: City of Bradenton, City of Clearwater, City of Temple Terrace, Hillsborough County, Pinellas County, Sarasota County, Manatee County, City of Tarpon Springs, City of Tampa, City of Safety Harbor and City of St. Petersburg. The inventories were conducted according to the provisions of the government entities tree ordinance and included grand, specimen and historic tree components when necessary. The collected data was utilized by the government entities to determine mitigation during the site plan submittal phase of the project. The inventories consisted of a unique tree number, tree name (common and scientific), size and condition rating. The condition rating was determined by critically observing the subject trees as it relates to health and structure and resulting recommendations including but not limited to pruning. Many of the projects required the use of technological data collection tools to locate trees and populate information with submeter accuracy.

Grand, Specimen, Historic Tree Assessments – Conducting tree assessments including over 150 trees in the following government entities: Hillsborough County, Sarasota County, City of Tampa, and City of St. Petersburg. The tree assessments were conducted according to the provisions of the government entities tree ordinance. The assessments included the collection of the necessary data to calculate the points needed to determine tree status. Data collected included, but was not limited to, diameter at breast height (DBH), overall height and canopy spread, and critical observation of subject tree(s) as it relates to health and structure.

Tree Preservation Plans (TPP) – Developed TPPs for more than 100 trees in the following government entities: City of Clearwater, City of Dunedin, City of Tampa, Hillsborough County, Manatee County and Sarasota County. The TPPs were developed to meet the government entities specifications for final site plan submittal. The TPPs contained all trees on site that were to be impacted by proposed improvements associated with site work, utilities, demolition and/or construction. The resulting TPPs included recommendations regarding necessary methods to preserve trees that were to remain on site.

Eminent Domain – Conducting inventories and appraisals consisting of more than 800 trees and plants. The inventory results were utilized to conduct comparable pricing which was based on the value of the subject plant material in the open marketplace. Industry accepted formulas were utilized to calculate the total value of the subject plant material to prepare final deliverables. Final deliverables defended the value of property taken through the eminent domain process.

Municipal Inventories – Performed municipal inventories including more than 1,500 trees in the following municipalities: City of Clearwater and City of Safety Harbor. The inventories were conducted in accordance with the provisions identified in the Request for Proposals (RFPs). The inventory collection required locating subject trees utilizing GPS receivers and identifying species, size, and condition rating for each tree. Condition rating notes and resulting recommendations were also included.

Federally Declared Disaster Tree Assessments – Conducted post disaster tree assessments including over 5,000 trees after the Hermit's Peak Calf Canyon wildfire in San Miguel and Mora Counties, New Mexico (September 16, 2022-February 28, 2023; September 13, 2023 – December 19, 2023) and Hurricane Ian in Sanibel and Captiva Island, Florida (March 6, 2023 – April 17, 2023). Tree assessments were performed to protect the right of way and private properties. The tree assessments included the collection of necessary data to calculate likelihood of mortality. Data collected included, but was not limited to, species, diameter at breast height (DBH), overall height, distance from right of way, canopy assessments and likelihood of failure threatening the public's safety, health, and welfare.

PROFESSIONAL MEMBERSHIPS & ACTIVITIES

Professional Certifications:

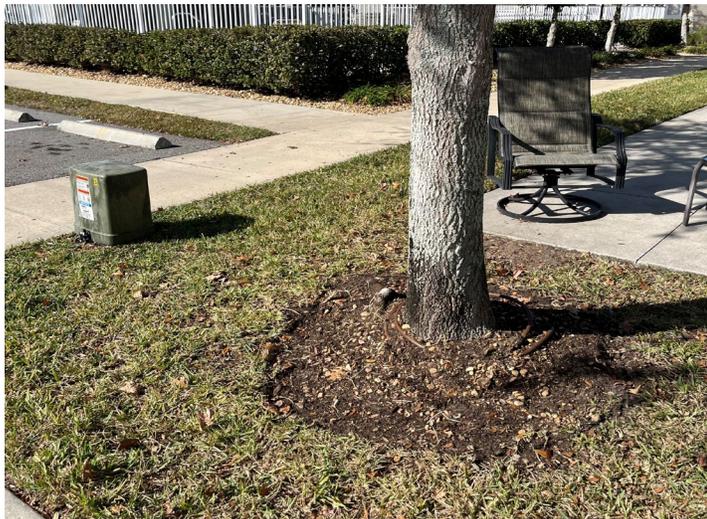
- International Society of Arboriculture (ISA) Certified Arborist FL-9900A
- International Society of Arboriculture Tree Risk Assessment Qualification (TRAQ)
- Prescription Pruning Qualification (PPQ)
- Green Industries Best Management Practices #GV924461-1, Department of Environmental Protection
- OSHA 40-Hour HAZWOPER (2022) (Expired)



Facing towards subject property and tree



Facing north of the property along Marlinton Way



Facing west towards subject tree



Facing north towards subject tree



Facing Marlinton Way to the east towards tree



Facing west south side of dwelling towards proposed Crepe Myrtle tree location

**1934 Marlinton Way
APP2025-12001**