

	<h1>Policies and Community Guidelines</h1>	<p>Policy SP-0005</p> <p>Date: 07-01-2020</p>
<p>Title: Modification of Trees/Vegetation in Common Area</p>		<p>Approved: Final</p>

1. Policy - The SPHOA Board of Directors is responsible for the maintenance and preservation of commonly owned property, including both landscaped and forested areas within Somersby Park for the use and enjoyment of all property owners. Forested areas provide many valuable benefits including aesthetic vistas, privacy screening between neighboring properties, outdoor recreation, slope stability and habitat, shelter, and sources of food for a variety of wildlife which reside in our community. Tree and vegetation removal from the forested areas can have a positive or negative effect on all of these benefits. For example, tree removal in forested areas could improve a property owner’s view, but could also destabilize a slope, increase runoff, promote channelization of water which can lead to erosion and potential slope failures and landslides, causing damage to adjacent community property and homes. Forested area benefits must be weighed against the desire to maintain and/or create long range mountain views to enhance the aesthetic appeal of an individual property. It is the Board’s policy to create a balance which preserves the beauty and safety of our community while managing the forested areas responsibly for the benefit of all property owners.

2. Purpose

2.1. The purpose of this policy is to define the requirements and process for requesting, approving, and implementing modifications to the commonly owned forested areas in Somersby Park to address the creation and management of views for property owners balanced with benefits of existing forested areas. In addition, this policy also applies to requests for removal of hazard trees (dead or diseased) in the forested area which may pose a threat to adjacent residences, and any other request to modify forested areas.

2.2. This policy does not cover modifications to trees and vegetation on private lots. Those requests must be directed to the Architectural Committee (ARC).

3. Definitions

3.1. Green Space – Green space is defined as the forested (vs. landscaped) common areas within Somersby Park which are owned by the Somersby Park Home Owners Association (SPHOA) for the benefit of all property owners.

3.2. ARC – The Architectural Committee (ARC) reports to the Board and is responsible for ensuring compliance with Architectural Guidelines developed for the Somersby Park community. The ARC is responsible for policies governing trees and vegetation on all private lots.

3.3. CAC – The Common Area Committee (CAC) reports to the Board and is responsible for the control and maintenance of all landscaped and green space within Somersby Park. Subject to the terms and conditions of this Policy, the CAC reviews and makes decisions regarding property owner requests for modification of trees and other vegetation in green space.

3.4. SPHOA Board of Directors – The SPHOA Board of Directors is the elected body of the SPHOA and is responsible for administration of the SPHOA. The Board of Directors (Board) has the ultimate authority and responsibility for implementing and enforcing all policies affecting common areas, including this Policy.

3.5. SPHOA Request for Modification of Trees and Vegetation in Common Area – A specific form that has been created and approved which shall be used by property owners to submit requests to the CAC for permission to modify trees or other vegetation in green space, and by the CAC to document its determinations with respect to such requests.

4. Requirements for the modification of trees and vegetation in Common Area.

4.1. Requests to modify the green space under this Policy will be considered and acted upon for property owners with homes on their property. Among other reasons, this limitation exists because it is often difficult to assess the aesthetic impact of tree removal/modification for a home which does not exist. A lot owner without a home on the property may seek an Advisory Opinion under this Policy concerning whether, and under what conditions, a potential request to modify green space may be authorized if a home is thereafter built on the lot.

4.2. Requests must be made in writing to the CAC using the attached **SPHOA Request for Modification of Trees and Vegetation in Common Area** form referenced in 3.5. Appropriate photos and/or sketches shall be provided to clarify the request. If the homeowner consulted with a certified arborist, a copy of the arborist's report should accompany the request. A copy of the complete request must also be sent to the SPHOA board.

4.3. Requests to modify trees and vegetation in the green space may be made to create long range mountain views, remove trees of potential danger to residences, remove dead or diseased trees, or to reduce the density of trees in a specific area to allow more favorable species to grow. Options available include:

4.3.1. Removal of an entire tree(s) or vegetation without replacement.

4.3.2. Removal of an entire tree(s) or vegetation with replacement using more desirable species at locations approved by the CAC.

4.3.3. Limbing to remove branches obstructing view. The extent of the limbing must be clearly noted on the request. Limbing shall generally be limited to no more than 25% of the existing limbs on the tree, except where, in the opinion of a certified arborist, limbing greater than 25% will not materially impact the tree.

4.3.4. Thinning of trees and vegetation. Thinning requests should be accompanied by a certified arborist's report detailing the nature of the thinning.

4.3.5. Topping. Topping a tree places it under considerable stress and will not be approved, except in rare circumstances, where, in the opinion of a certified arborist, the topping will not materially impact the tree.

- 4.4. The request is then reviewed by the CAC which will approve, approve with conditions, approve in part, or disapprove in writing. Applicants are fully responsible for contractors working for them and are responsible for all tree removal expenses and arborists fees, except hazard trees.
- 4.5. The CAC shall provide the Board with a copy of all such decisions prior to them being rendered. Factors which the CAC will take into consideration include but are not limited to:
 - 4.5.1 Impact to the Somersby community - Tree and Vegetation alteration must be evaluated based upon the impact to all property owners, particularly nearby homeowners in the community.
 - 4.5.2. Impact to erosion – Root structures help hold soil in place which reduces erosion. The potential impact on soil erosion / loss is of paramount concern and will be a significant factor when reviewing requests.
 - 4.5.3. Impact to water quality - Vegetation along creek and stream channels helps to reduce stream bank erosion and maintain stable channels during storms and other high flow events. Tree removal within 50 feet of a stream, creek or major waterway must comply with practices described in the **North Carolina Forestry BMP Manual to Protect Water Quality, Chapter 4.**
 - 4.5.4. Impact to the surrounding forest – Tree or vegetation removal or limbing can have a beneficial or detrimental impact to the plants remaining in the forest. For example, large openings in the canopy may allow invasive species to flourish due to increased sunlight. In other circumstances, it may allow more favorable trees or vegetation to flourish by reducing competition for essential resources.
 - 4.5.5. Impact to wildlife – Some species support wildlife by providing both a source of shelter and food (e.g. acorns, berries, etc.). Species which generate food for wildlife will be given preferential treatment for preservation.
- 4.6. Decisions of the CAC on requests are granted on a project basis and do not create binding precedent that will run beyond completion of the project. Future requests must be submitted to the CAC using the **SPHOA Request for Modification of Trees and Vegetation in Common Area** form to the CAC for review and approval. Previous approvals granted to property owners shall not establish precedent, and each request is reviewed based on its own merits and site conditions.
- 4.7. CAC approvals of a request are only valid for the timeframe specified in the approval and must be completed in that timeframe.
- 4.8. Except for emergency situations, CAC approval decisions will be communicated to to all property owners 14 days before commencement of work.
5. **Appeals.** Property owners who do not agree with the assessment or decision of the CAC may appeal the decision to the Board. The decision of the Board is final.
6. **Violations.** Property owners who remove or modify trees or vegetation in the green space without permission will be subject to fines and penalties as specified in the Covenants or North Carolina statutes. Penalties may include replacing each damaged tree or plant with a suitable replacement designated by the CAC. However, this section, and the above described remedy, shall not act to preclude or waive the Board's right and ability to pursue legal recourse against any property owner who blatantly disregards this policy.



Request for Modification of Trees/Vegetation in Common Area

Property Owner:	Date:
Email:	Phone:

This request form shall be used in conjunction with SPHOA policy “**Modification of Trees/Vegetation in Common Area**”. Property owner signature below acknowledges receipt and acceptance of this policy. Property owners are required to provide before and after photos of work performed to confirm the work completed complies with the approved request. Use attachments where needed.

A. Location of tree(s) or other vegetation in the green space. Include or attach photos, maps or diagrams showing affected trees and vegetation.

B. Tree or shrub species: List all, if more than one.

C. Risk Factor / Rationale (Check all that apply)

- Dead / Diseased Tree View Management Improve Road Safety/Visibility Invasive Species Thinning Other (_____) Please Specify

D. Additional Information/Rationale to Assist in the Review Process:

E. Request is for **Decision** **Advisory Opinion**

Signature of Property Owner: _____ **Date:** _____

CAC Review and Decision

Property Owner:	Date:
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CAC Review:

A. Impact on the surrounding forest, erosion control, water quality and wildlife:

B. Impact on other Somersby Park property owners

C. Conditions to mitigate any adverse impact:

CAC Decision:

- Approved
- Approved with Conditions _____
- Approved in Part _____
- Denied
- No decision, Advisory Opinion only, see A, B, and C above. (will require resubmission when a home is built on a property)

Approval Time Frame: Earliest Start date: _____ End Date: _____

CAC Signature:	Date:
Board Review:	Date: