

MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION
STAFF REPORT

Address:	5605 York Ln., Bethesda	Meeting Date:	12/20/2017
Resource:	Contributing Resource Greenwich Forest Historic District	Report Date:	12/13/2017
Applicant:	David Schindel and Kathryn Becker	Public Notice:	12/6/2017
Review:	HAWP	Tax Credit:	N/A
Case Number:	35/165-17C	Staff:	Michael Kyne
PROPOSAL:	Tree removal		

STAFF RECOMMENDATION:

Staff recommends that the HPC **approve with one (1) condition** the HAWP application.

1. **As specified in the Greenwich Forest Historic District Guidelines, the black cherry tree to be removed will be replaced with one canopy species tree already established in the region and one understory/sub-canopy species tree already established in the region.**

ARCHITECTURAL DESCRIPTION

SIGNIFICANCE: Contributing Resource within the Greenwich Forest Historic District
STYLE: Colonial Revival
DATE: 1938

PROPOSAL:

- Remove one understory/sub-canopy 14.5" dbh black cherry tree from the subject property and plant two (2) understory/sub-canopy species trees in its place.

APPLICABLE GUIDELINES

When reviewing alterations and new construction within the Greenwich Forest Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include the historic preservation review guidelines in the approved and adopted amendment for the *Greenwich Forest Historic District (Guidelines)*, *Montgomery County Code Chapter 24A (Chapter 24A)*, and the *Secretary of the Interior's Standards for Rehabilitation (Standards)*. The pertinent information in these documents is outlined below.

Greenwich Forest Historic District Guidelines

A. PRINCIPLES

The preservation of the following essential elements of Greenwich Forest is the highest priority in making decisions concerning applications for work permits. These Principles are not meant to stop or create unreasonable obstacles to normal maintenance, reasonable modifications, and the evolving needs of residents.

A1. Greenwich Forest was conceived of, built, and to a great degree preserved as a park-like canopied forest with gentle topographic contours, in which the presence of houses and hardscape are understated relative to the natural setting. The removal of mature trees and the significant alteration of topographic contours on private property, the Greenwich Forest Triangle, and the public right-of-way in Greenwich Forest should be avoided whenever possible. The Greenwich Forest Citizens Association (GFCA) will continue to support the replacement of trees. In order to protect mature trees and the natural setting of Greenwich Forest, and to limit runoff into the Chesapeake Bay, the creation of extensive new impermeable hardscape surfaces should be avoided whenever possible.

A2. The houses in Greenwich Forest create an integrated fabric well-suited to its forest setting. These Guidelines are intended to preserve this environment by ensuring that approved work permits include appropriate safeguards that protect the following three essential elements of this fabric:

- a. An array of revival American architectural styles that, taken together, make a significant statement on the evolution of suburban building styles.
- b. The scale and spacing of houses and their placement relative to adjacent houses and the public right-of-way. The original developers made decisions on these three elements to understate the presence of structures relative to the forest. For example, minimum side setbacks at the time were 7' but placement and spacing produced distances between houses that far exceeded the minimum 14'. Additions and new houses have, in almost all cases, preserved generous space between houses and minimized visual crowding with plantings.
- c. High quality building materials and high level of craftsmanship.

A3. The neighborhood needs to evolve to meet the needs of its residents while maintaining the charm and architectural integrity that have been maintained since the 1930s. Introducing new architectural styles that are not already present in the neighborhood will detract from its integrated fabric.

A4. A contributing house may not be torn down and replaced unless there is significant/extensive damage that would create an undue hardship to preserve the original structure. Extreme damage like this may be the result of a fallen tree, fire, flood, other natural disaster, or accident.

A5. A non-contributing house may be torn down and replaced as long as the replacement house replicates the architectural style of its predecessor or the style of one of the contributing houses in Greenwich Forest.

B. BALANCING PRESERVATION AND FLEXIBILITY

Greenwich Forest represents a period in the evolution of Montgomery County worthy of preservation, but it has also changed in response to the needs of residents since it was created in the 1930s. These Guidelines seek a reasonable compromise between preservation and the needs of residents in several ways.

B1. Most of the houses in the Greenwich Forest Historic District are designated “contributing” because they contribute to the architectural and historic nature of the district. Contributing structures are shown in the map of the districts. These Guidelines are more specific for contributing structures.

B2. Other houses in the district are designated non-contributing either because (1) they were built more recently than contributing houses with other architectural styles (see Appendix 3) or (2) their original features have been significantly altered by subsequent modifications. Non-contributing structures are shown on the map of the District. The Guidelines provide greater flexibility for owners of non-contributing houses.

B3. These Guidelines reflect the reality that nearly all houses in Greenwich Forest have been modified since their construction. Owners are not expected to return their houses to their original configurations. The modifications they are permitted to make under these Guidelines are based on the current reality in the neighborhood, provided that those modifications are consistent with the Principles in these Guidelines.

B4. Property owners have additional flexibility under these Guidelines to make more extensive changes to the parts of their houses that are less visible from the public rights-of-way in front of their houses. The Guidelines accomplish this by stipulating different levels of review for specific elements on different parts of houses.

The *Guidelines* that pertain to this project are as follows:

Tree removal: The preservation of the large mature trees in Greenwich Forest is a high priority of these guidelines, but there are circumstances in which removal may be unavoidable. Trees smaller than 8” in diameter (measured at 5’ height) may be removed without an application for a work permit. Larger trees may be removed without an application for a work permit if a certified arborist provides documentation to the decision-making body stating that the tree is dead, diseased, dying, or a hazard (e.g., a threat to public safety or the structural integrity of the house). Each tree removed for these reasons should be replaced by one tree in the manner described below.

In planning landscape modifications, additions, and replacement houses, homeowners may propose the removal of trees with diameters greater than 8” (measured at 5’ height). If there is an obvious alternative siting that would avoid removal of mature trees, the application for a work permit should include a brief explanation of why that alternative was rejected. In such cases, the functional needs of the homeowner should be respected. If applications propose the removal of trees larger than 8” in diameter (measured at 5’ height), the site plan for the proposed modification must include the installation of two replacement trees for each tree removed as a result of the modification. These proposals are subjected to strict scrutiny to ensure that homeowners have not overlooked viable options that would avoid tree removal and that the plan for installing new trees adheres to the following guidelines. Each tree removed from the forest canopy must be replaced with two trees chosen from canopy species already established in the region (e.g., White Oak, Nuttall Oak, Scarlet Oak, Greenspire Linden, American Beech, Ash, and Tulip Poplar). If the forest canopy is well established over the site, one of the two replacement trees can be chosen from an understory species that is already established in the region (October Glory Red Maple, Red Sunset Red Maple, Black Gum, and Sycamore.) Ornamental trees such as American Dogwood, Serviceberry or Amelanchier, and Eastern Redbud are native and desirable plantings, but they cannot be counted as replacement trees because they do not contribute to the canopy.

Sec. 24A-8. Same-Criteria for issuance.

- (a) The commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation, enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.
- (b) The commission shall instruct the director to issue a permit, or issue a permit subject to such conditions as are found to be necessary to insure conformity with the purposes and requirements of this chapter, if it finds that:
 - (1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or
 - (2) The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter; or
 - (3) The proposal would enhance or aid in the protection, preservation and public or private utilization of the historic site or historic resource located within an historic district in a manner compatible with the historical, archeological, architectural or cultural value of the historic site or historic district in which an historic resource is located; or
 - (4) The proposal is necessary in order that unsafe conditions or health hazards be remedied; or
 - (5) The proposal is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship; [emphasis added] or
 - (6) In balancing the interests of the public in preserving the historic site or historic resource located within an historic district, with the interests of the public from the use and benefit of the alternative proposal, the general public welfare is better served by granting the permit.
- (c) It is not the intent of this chapter to limit new construction, alteration or repairs to any 1 period or architectural style.
- (d) In the case of an application for work on an historic resource located within an historic district, the commission shall be lenient in its judgment of plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding historic resources or would impair the character of the historic district. (*Ord. No. 9-4, § 1; Ord. No. 11-59*)

Secretary of Interior's Standards for Rehabilitation

The Secretary of the Interior defines rehabilitation as “the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features, which convey its historical, cultural, or architectural values.” The *Standards* are as follows:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

STAFF DISCUSSION

The applicants previously submitted a request to remove a 40.5" dbh red oak tree at the subject property. The applicants' request was accompanied by a letter from a certified arborist, which assessed the red oak tree as being in imminent decline. The HPC authorized the removal of the red oak tree via a waiver letter, which is the policy for trees that can be documented as dead, dying, or a hazard. When assessing the red oak tree, the certified arborist also recommended removing a 14.5" black cherry tree (the subject of this HAWP application) at the red oak tree's base, finding that the removal of the red oak tree would cause irreversible damage to the black cherry tree and require its removal at a later date.

Staff recommends that the HPC approve the applicants' proposal, finding that the removal of the black cherry tree is unavoidable, that the tree canopy is well-established over the subject property, and that the removal of one understory/sub-canopy tree is unlikely to alter the character of the subject property or surrounding historic district; however, staff recommends a condition of approval stipulating that the applicants adhere to the Greenwich Forest Historic District's tree removal and replacement policy, as specified in the *Guidelines*. In accordance with the *Guidelines*, the black cherry tree should be replaced with one canopy species tree already established in the region and one understory/sub-canopy species tree already established in the region.

After full and fair consideration of the applicant's submission staff finds the proposal, as modified by the condition, as being consistent with the Criteria for Issuance in Chapter 24A-(b) 1 and 2, having found the proposal is consistent with the *Greenwich Forest Historic District Guidelines* and the *Secretary of the Interior's Standards for Rehabilitation* outlined above.

STAFF RECOMMENDATION

Staff recommends that the Commission **approve with the condition specified on Circle 1** the HAWP application under the Criteria for Issuance in Chapter 24A-8(b), having found that the proposal will not substantially impact the historic resource(s) and is compatible in character with the *Greenwich Forest Historic District Guidelines* and the purposes of *Chapter 24A*;

and with the *Secretary of the Interior's Standards for Rehabilitation*;

and with the general condition that the applicant shall present the **3 permit sets of drawings, if applicable to Historic Preservation Commission (HPC) staff for review and stamping** prior to submission for the Montgomery County Department of Permitting Services (DPS) building permits;

and with the general condition that final project design details, not specifically delineated by the Commission, shall be approved by HPC staff or brought back to the Commission as a revised HAWP application at staff's discretion;

and with the general condition that the applicant shall notify the Historic Preservation Staff if they propose to make **any alterations** to the approved plans. Once the work is completed the applicant will contact the staff person assigned to this application at 301-563-3400 or michael.kyne@montgomeryplanning.org to schedule a follow-up site visit.



HISTORIC PRESERVATION COMMISSION
301/563-3400

DPS - #8

APPLICATION FOR HISTORIC AREA WORK PERMIT

Contact Email: davideschindel@gmail.com Contact Person: David E. Schindel
Tax Account No.: 00496188 Daytime Phone No.: 202/557-1149
Name of Property Owner: David E. Schindel and Kathryn L. Becker Daytime Phone No.: _____
Address: 5605 Bethesda York Lane 20814
Street Number City Street Zip Code
Contractor: Bartlett Tree Experts Phone No.: _____
Contractor Registration No.: _____
Agent for Owner: NA Daytime Phone No.: NA

LOCATION OF BUILDING/PREMISE

House Number: 5605 Street: York Lane
Town/City: Bethesda Nearest Cross Street: Westover Road
Lot: 1 Block: J Subdivision: Greenwich Forest
Liber: _____ Folio: _____ Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:

☐ Construct ☐ Extend ☐ Alter/Revitalize
☐ Move ☐ Install ☐ Wreck/Raze
☐ Revision ☐ Repair ☐ Revocable

CHECK ALL APPLICABLE:

☐ A/C ☐ Slab ☐ Room Addition ☐ Porch ☐ Deck ☐ Shed
☐ Solar ☐ Fireplace ☐ Woodburning Stove ☐ Single Family
☐ Fence/Wall (complete Section 4) ☒ Other: Tree removal

1B. Construction cost estimate: \$ _____

1C. If this is a revision of a previously approved active permit, see Permit # _____

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 ☒ WSSC 02 ☐ Septic 03 ☐ Other: _____
2B. Type of water supply: 01 ☒ WSSC 02 ☐ Well 03 ☐ Other: _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height _____ feet _____ inches

3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

☐ On party line/property line ☐ Entirely on land of owner ☐ On public right of way/easement

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

David E. Schindel

Signature of owner or authorized agent

17 November 2017

Date

Approved: _____ For Chairperson, Historic Preservation Commission

Disapproved: _____ Signature: _____ Date: _____

Application/Permit No.: _____ Date Filed: _____ Date Issued: _____

Edit 6/21/99

SEE REVERSE SIDE FOR INSTRUCTIONS

820544

7

1. WRITTEN DESCRIPTION OF PROJECT

a. Description of existing structure(s) and environmental setting, including their historical features and significance.

This is a contributing property in the Greenwich Forest Historic District, constructed in 1939. It was the model home for the "Pennsylvania Dutch Farmhouse" style in the development. As a corner house, the canopy trees on this property reinforced the maturity of the forest. When it was purchased from the original owners in 1989 there were four mature canopy oak trees on the property. Three of them became diseased and a safety hazard in the 1990s and had to be removed. As shown on the Site Plan (page 3), we systematically planted seven native canopy trees that are used in the region's parklands: four oaks, one maple, one Katsura and one Parrotia. They were placed on the property to create a complete canopy cover when they reached maturity. The last remaining original oak (labeled "B" on the Site Plan) has been in decline for the past decade and now must be removed. HPC staff has approved the arborist's report and has granted permission to remove the tree (see pages 7 and 8).

b. General description of the project and its effect on the historic resource(s), the environmental setting, and, where applicable, the historic district.

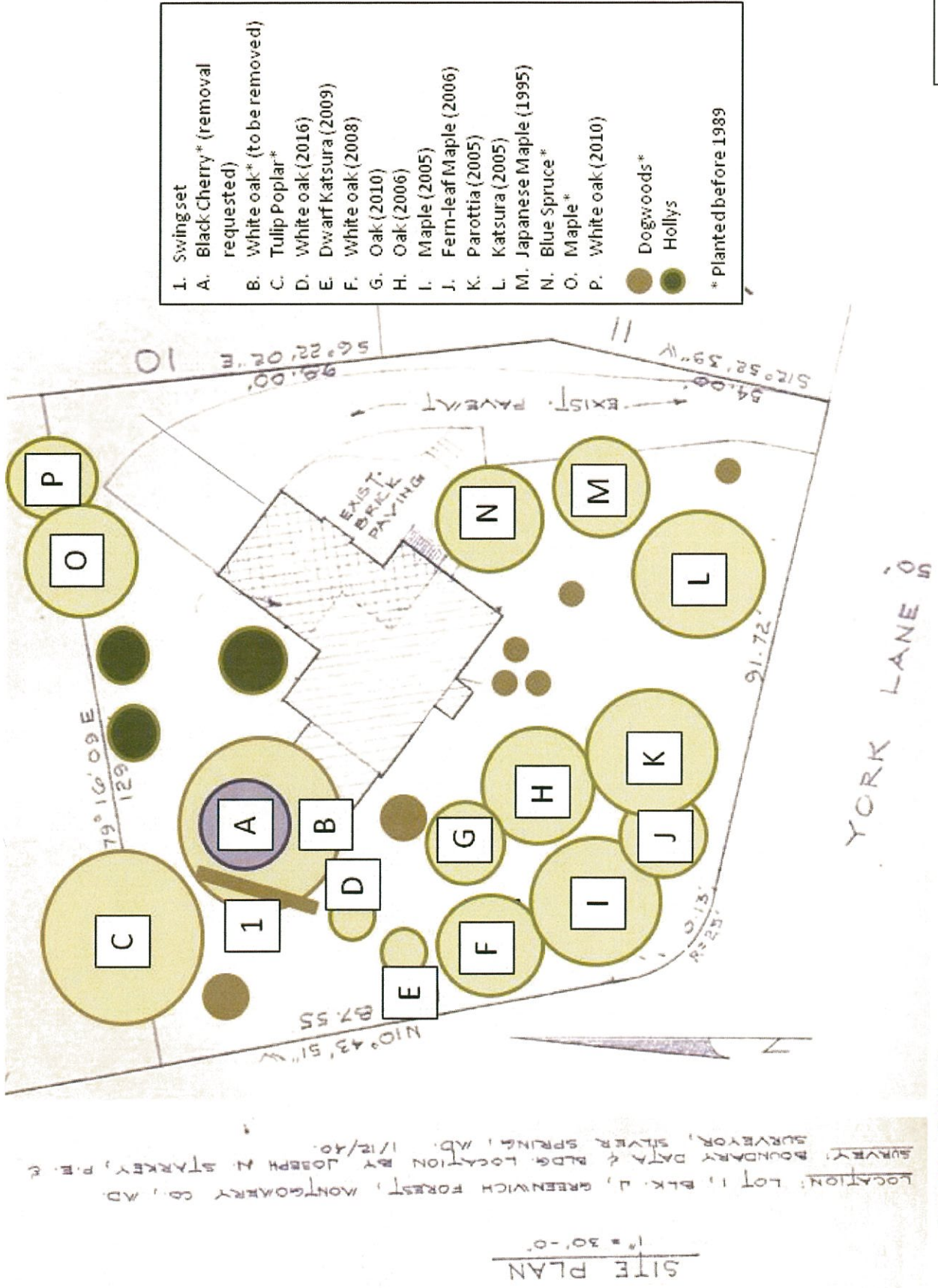
This application requests approval to remove a sub-canopy black cherry tree to make room to plant a new canopy tree.

We plan to replace the diseased oak (B) with another oak that will fill the hole in the canopy, as required by the Greenwich Forest Historic District Guidelines (section D15, first paragraph; see page 4).

Unfortunately a black cherry tree (labeled "A" on the Site Plan) grew up as a "volunteer" just a few feet from the oak to be removed. As noted in the arborist's report, this tree will be damaged in the process of removing the oak and its stump and is likely to die over several years. During that time it would compete with the oak we want to plant for light, water and soil nutrients. For this reason we request HPC's approval to remove the black cherry tree at the same time the oak is removed.

The Greenwich Forest Historic District Guidelines allow the removal of a healthy tree to make way for construction of an addition, but only as a last resort when there are no reasonable alternatives (section D15, second paragraph, page 4). The Guidelines do not address the potential need to remove a healthy sub-canopy tree to make way for a new canopy tree. The black cherry tree is not a canopy tree. Its growth was stunted and its form was impacted as a result of growing so close to a mature oak (see upper photo, page 5). Its trunk divides unusually close to the ground which makes it structurally weak. Most important, it is located where the replacement oak should be planted. As the site plan and photos on pages 5 and 6 show, the rest of the property already has trees that are growing to create complete canopy cover. We believe that removing the cherry tree to make way for a new canopy tree meets the "last resort" situation described in the Guidelines. As required in the Guidelines, we would plant two sub-canopy trees to replace the black cherry.

Site Plan

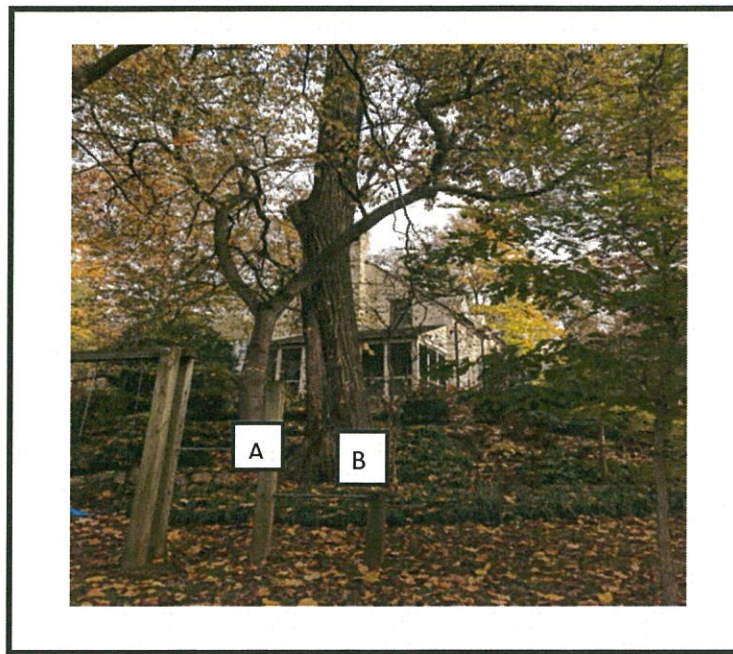


Excerpt from Greenwich Forest Historic District Guidelines

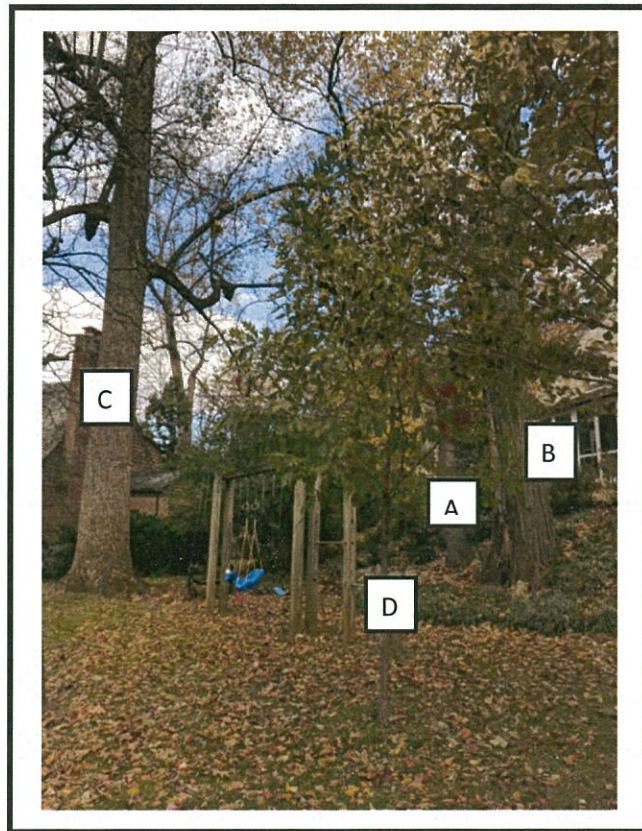
D15. Tree removal: The preservation of the large mature trees in Greenwich Forest is a high priority of these Guidelines, but there are circumstances in which removal may be unavoidable. Trees smaller than 8" in diameter (measured at 5' height) may be removed without an application for a work permit. Larger trees may be removed without an application for a work permit if a certified arborist provides documentation to the decision-making body stating that the tree is dead, diseased, dying, or a hazard (e.g., a threat to public safety or the structural integrity of the house). Each tree removed for these reasons should be replaced by one tree in the manner described below.

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Existing Property Condition Photographs

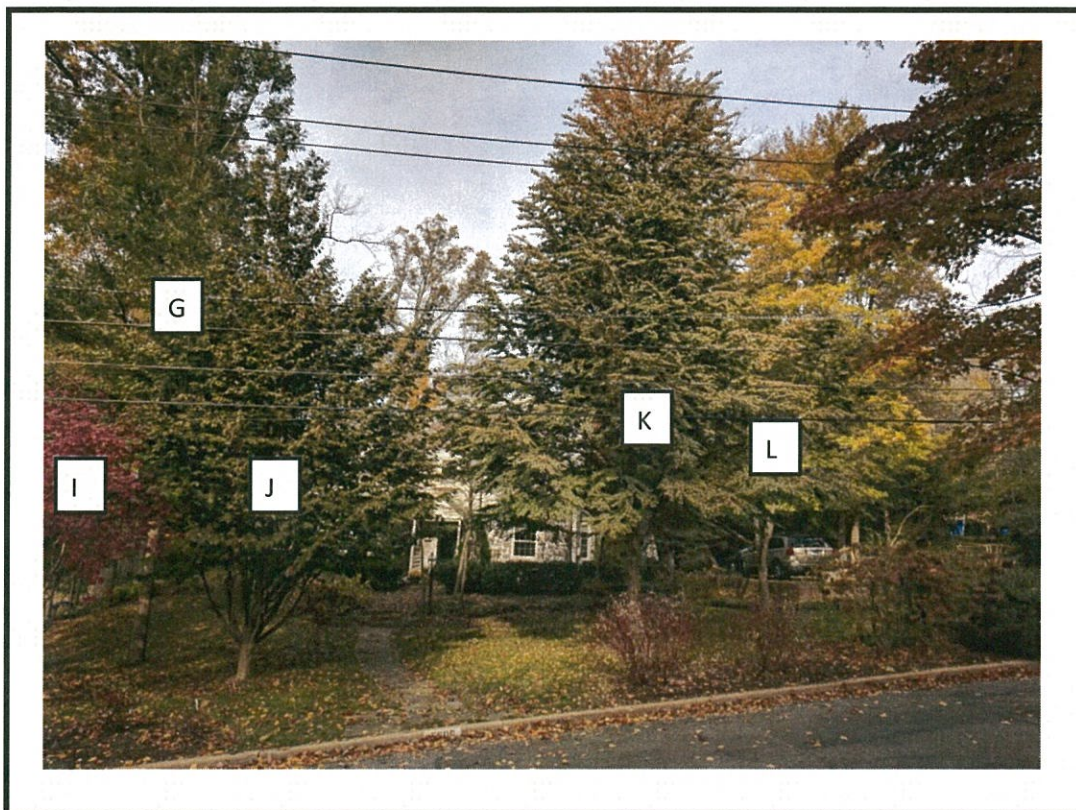


Detail: East-facing view from Westover Road showing White Oak (B) that is approved for removal, and Black Cherry (A) that grew wild next to it. Note the uncharacteristically low split on A that weakens it structurally and will limit its upward growth. See Site Plan for location of labeled trees.



Detail: East-facing view from Westover Road showing the proximity of canopy trees by B and C, and oak tree D that was planted in 2015 to help fill the hole in the canopy that removal of B will create.

Existing Property Condition Photographs



Details: North-looking views of southwest (top) and southeast (bottom) sections of property, showing canopy trees planted over 20 years to replace diseased trees in 1990s.



BARTLETT TREE EXPERTS

1 METROPOLITAN COURT, GAITHERSBURG, MD 20878 • (301) 881-8550 • FAX (301) 881-9063

October 26, 2017

Kevin Manorolla
Senior Administrative Assistant
Historic Preservation
8787 Georgia Ave
Silver Spring, MD, 21090

To: Kevin Manorolla,

I recently reviewed a lightning struck red oak (*Quercus rubra*) located at 5605 York Lane, Bethesda, MD, 20814 which is located within the Greenwich Forest Historic District. The tree measures 40.5" in diameter at breast height. This tree is in imminent decline and should be removed to improve safety on the property and adjacent public space.

In addition to the oak, I would also recommend removing the black cherry (*Prunus serotina*) located at the base of the red oak. This tree measures 14.5" in diameter at breast height and has poor form. Additionally, removal of the oak stump (to allow space for future plantings) would cause irreversible decline of the cherry, requiring its removal at a later date.

I am writing to inform you of our intent to remove the tree and request the permission of the historic planning commission.

Regards,

Ryan Grubb
FA Bartlett Tree Expert Co
ISA Board Certified Master Arborist MA-5195-BT
MD Licensed Tree Expert #1870
301-237-4902 (mobile)
rgrubb@bartlett.com

THE F. A. BARTLETT TREE EXPERT COMPANY
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HISTORIC PRESERVATION COMMISSION

Isiah Leggett
County Executive

William Kirwan
Chairperson

November 7, 2017

Mr. Ryan Grubb
5605 York Lane
Bethesda, MD 20814

Re: Removal of 40.5' Red Oak tree in Greenwich Forest Historic District

Dear Ryan Grubb,

I have received your arborist's report dated 10/26/2017 regarding the above-referenced tree, which documents the assessment that these tree(s) are a dead/dying or a hazard and are in severe decline.

Therefore, due to the health and hazard of the subject tree, the Historic Preservation Commission authorizes the removal of the tree in accordance with the Greenwich Forest Design Guidelines, Guidelines for Specific Elements, D15. Tree Removal. These guidelines require you to replace this tree in the manner described in the guidelines (see reverse).

This letter serves as your permission to remove the tree without further review by the HPC. If you have any additional questions, please do not hesitate to contact me at 301-563-3400.

Sincerely,

Kevin Manarolla,
Senior Administrative Specialist
Historic Preservation Section, M-NCPPC



HAWP APPLICATION: MAILING ADDRESSES FOR NOTIFYING
[Owner, Owner's Agent, Adjacent and Confronting Property Owners]

Owner's mailing address David E. Schindel 5605 York Lane Bethesda, MD 20813	Owner's Agent's mailing address
Adjacent and confronting Property Owners mailing addresses	
Fred and Diane Reinke 8005 Westover Road Bethesda, MD 20814	Dan Kaplan and Kay Richman 8000 Westover Road Bethesda, MD 20814
Robert and Ginger Essink 5606 York Lane Bethesda, MD 20814	