MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION
STAFF REPORT

Address: 7814 Hampden Lane, Bethesda

Meeting Date: 7/15/2020

Resource: Contributing Resource
(Greenwich Forest Historic District)

Report Date: 7/8/2020

Applicant: Dion Rudnicki

Public Notice: 7/1/2020

Tax Credit: N/A

Review: HAWP

Staff: Michael Kyne

Case Number: 35/165-20E

PROPOSAL: Tree removal

STAFF RECOMMENDATION:

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

1. In accordance with the Guidelines, each tree to be removed will be replaced with one established understory species tree.

ARCHITECTURAL DESCRIPTION:

SIGNIFICANCE: Contributing Resource within the Greenwich Forest Historic District

STYLE: Tudor Revival

DATE: 1934

Fig. 1: Subject property.
PROPOSAL:

The applicant proposes to remove four (4) trees from the subject property.

APPLICABLE GUIDELINES:

When reviewing alterations 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 (see D2). 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:

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.

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.

Fig. 2: Levels of Review Applicable to Contributing Properties from the Greenwich Forest Historic District Guidelines.

According to the Guidelines, the three levels of review are as follows:

Limited scrutiny is the least rigorous level of review. With this level, the scope or criteria used in the review of applications for work permits is more limited and emphasizes the overall structure rather than materials and architectural details. The decision-making body should base its review on maintaining compatibility with the design, texture, scale, spacing and placement of surrounding houses and the impact of the proposed change on the streetscape.

Moderate scrutiny is a higher level of review than limited scrutiny and adds consideration of the preservation of the property to the requirements of limited scrutiny. Alterations should be designed so the altered structure does not detract from the fabric of Greenwich Forest while affording homeowners reasonable flexibility. Use of compatible new materials or materials that replicate the original, rather than original building materials, should be permitted. Planned
changes should be compatible with the structure’s existing architectural designs.

Strict scrutiny is the highest level of review. It adds consideration of the integrity and preservation of significant architectural or landscape features and details to the requirements of the limited and moderate scrutiny levels. Changes may be permitted if, after careful review, they do not significantly compromise the original features of the structure or landscape.

**Montgomery County Code; Chapter 24A-8**

(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 ensure 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; 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 the 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 applicable Standards are as follows:
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.

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.

STAFF DISCUSSION:

The subject property is c. 1934 Tudor Revival-style Contributing Resource within the Greenwich Forest Historic District. The applicant proposes to remove the following four (4) trees from the property:

- One (1) 14” DBH black cherry tree with significant rot at its base. This tree is located at the front/right (northeast) side of the property.
- One (1) 36” DBH tulip poplar tree with significant rot at its base. This tree is located at the rear of the property.
- One (1) healthy 9” DBH black cherry tree at the rear/right (northwest) property line.
- One (1) healthy 9” DBH tulip poplar tree at the rear/right (northwest) property line.

Staff supports the removal of the 14” DBH black cherry tree and 36” tulip poplar tree. These trees have been assessed by a certified arborist and determined to have significant rot at their bases, making them likely to fail and fall on the house. Staff also supports the removal of the two 9” DBH trees. As noted in the attached arborist’s report, these trees were assessed as healthy; however, the arborist found that, as these trees grow, they will push over an existing fence on the neighbor’s property to the north.

The Guidelines emphasize the importance of preserving mature trees (defined as trees greater than 8” DBH) within the Greenwich Forest Historic District and state that proposals for tree removal should be reviewed with strict scrutiny. Strict scrutiny is defined as “…the highest level of review. It adds consideration of the integrity and preservation of significant architectural or landscape features and details to the requirements of the limited and moderate scrutiny levels. Changes may be permitted if, after careful review, they do not significantly compromise the original features of the structure or landscape.” Staff finds that the proposal will not significantly compromise original features of the landscape.

For properties where the forest canopy is well established, the Guidelines stipulate that trees assessed as dead, diseased, dying, or a hazard by a certified arborist can be removed but must be replaced with one tree chosen from an understory species already established in the region. Staff recommends that the HPC approve the applicant’s proposal with the condition that the applicant must adhere to this stipulation.

After full and fair consideration of the applicant’s submission staff finds the proposal as being consistent with the Criteria for Issuance in Chapter 24A-(b) 1 and 2, having found the proposal is consistent with the Secretary of the Interior’s Standards for Rehabilitation #2, and 9, and Greenwich Forest Historic District Guidelines outlined above.

STAFF RECOMMENDATION:

Staff recommends that the Commission **approve with the one (1) condition specified on Circle 1** the HAWP application only for alterations to the main house under the Criteria for Issuance in Chapter 24A-8(b), having found that the proposal is consistent with the **Greenwich Forest Historic District Guidelines** identified above, and therefore will not substantially alter the exterior features of the historic resource and is compatible in character with the district and the purposes of Chapter 24A;
and with the Secretary of the Interior’s Standards for *Rehabilitation #2 and 9*;

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.
APPLICATION FOR HISTORIC AREA WORK PERMIT
HISTORIC PRESERVATION COMMISSION
301.563.3400

APPLICANT:

Name: Dion Rudnicki
Address: 7814 Hampden Lane
Daytime Phone: 240-461-7733
E-mail: dionrudnicki@gmail.com
City: Bethesda
Zip: 20814
Tax Account No.: 00496100

AGENT/CONTACT (if applicable):

Name: ____________________________
Address: __________________________
Daytime Phone: ____________________
Contractor Registration No.: ____________

LOCATION OF BUILDING/PREMISE: MIHP # of Historic Property _______________________

Is the Property Located within an Historic District? __________
Yes/District Name: Greenwich Forest
No/Individual Site Name: __________________________

Is there an Historic Preservation/Land Trust/Environmental Easement on the Property? If YES, include a map of the easement, and documentation from the Easement Holder supporting this application.

Are other Planning and/or Hearing Examiner Approvals/Reviews Required as part of this Application? (Conditional Use, Variance, Record Plat, etc.?) If YES, include information on these reviews as supplemental information.

Building Number: ____________ Street: ____________________________________________

Town/City: ____________________________ Nearest Cross Street: ______________________

Lot: ________ Block: ________ Subdivision: ________ Parcel: ______

TYPE OF WORK PROPOSED: See the checklist on Page 4 to verify that all supporting items for proposed work are submitted with this application. Incomplete Applications will not be accepted for review. Check all that apply:

☐ New Construction ☐ Deck/Porch ☐ Shed/Garage/Accessory Structure
☐ Addition ☐ Fence ☐ Solar
☐ Demolition ☐ Hardscape/Landscape ☐ Tree removal/planting
☐ Grading/Excavation ☐ Roof ☐ Window/Door
☐ Other: __________________________

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

Dion Rudnicki

Signature of owner or authorized agent 6/17/2020 Date
Description of Property: Please describe the building and surrounding environment. Include information on significant structures, landscape features, or other significant features of the property:

Single family home within the historic designation neighborhood of Greenwich Forest, Bethesda MD

Description of Work Proposed: Please give an overview of the work to be undertaken:

Request the approval to remove up to four trees.
Work Item 1: **Remove 2 trees with rot**

**Description of Current Condition:** One 14"D black cherry tree has significant rot and could fall on house; One 36"D tulip poplar has significant rot and could fall on property

**Proposed Work:** Request approval to have trees removed

---

Work Item 2: **Remove 2 existing trees**

**Description of Current Condition:** One 9" tulip poplar and one 9" black cherry are healthy but are leaning toward house. There are many other trees in close proximity.

**Proposed Work:** Request approval to have trees removed

---

Work Item 3:

**Description of Current Condition:**

**Proposed Work:**
# HISTORIC AREA WORK PERMIT
## CHECKLIST OF APPLICATION REQUIREMENTS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>New Construction</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Additions/Alterations</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Demolition</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Deck/Porch</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>Fence/Wall</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Driveway/Parking Area</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Grading/Excavation/Landscaping</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Tree Removal</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Siding/ Roof Changes</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Window/ Door Changes</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Masonry Repair/ Repoint</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td>*</td>
</tr>
<tr>
<td>Signs</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>*</td>
</tr>
</tbody>
</table>

* indicates required attachment
36” Tulip Poplar
36” Tulip Poplar
9” Black Cherry

9” Tulip Poplar
June 11, 2020
Dion Rudnick
7816 Hampton Lane
Bethesda MD 20814
240-461-7733
dicnrudnick@gmail.com

Remove, haul all wood and debris: to approve (X)
**Minor turf damage may occur due to grapple machine, T Poplar**
**Access required from address behind above address, small grapple machine**
**S&P Tree Care not responsible for turf repair**
1 Black Cherry 14 inch, hazardous, rot at base, right side house with 7818 Hickory
removal only $1,200.00 ( )
**1 Tulip Poplar 36 inch rear property line**
1 Black Cherry 9 inch? right side house $750.00 ( )
1 Tulip Poplar 9 inch? right side house $750.00 ( )
2 Ash, 3-5 inch right side house $100.00 ( )

Total approved $ ___________________________

Payment due upon completion, check or credit card. Prices valid for 30 days

Regards,
Craig Sullivan Approval Signature Date
Maryland Tree Expert #998
ISA Certified Arborist MA-5349A
President - S & P Tree Care
Paul Staehle ISA Certified Arborist MA-5797A
ISA Tree Risk Assessment Qualified
June 26, 2020
Re: Mr Dion Rudnick
7816 Hampton Lane
Bethesda MD 20814

Report by: Paul Staehle ISA Certified Arborist MA-5797A, ISA Tree Risk Assessment Qualified

- One 14” DBH black cherry tree has significant rot at the base of the tree. It is ~40 feet in height and is significantly leaning toward the rear half of the owner’s home. Given its very close proximity to the house and the condition of the base of the tree, it is subject to falling on the property owner’s home. Failure is likely.
- One 36"DBH tulip poplar tree has significant rot at the base of the tree. It is ~50 feet in height and has a sparse canopy. It is located at the rear edge of the owner’s property and is subject to falling on the property owner’s garage/retaining wall and/or into the rear yards of two other properties. Failure is likely
- The 9” tulip poplar tree and 9” black cherry tree are generally in good health. They are both ~30 feet in height but are in very close proximity to the property owner’s garage and the neighbor’s fence. Failure is unlikely but as trees are no doubt volunteers that came up by seed, they are in an undesirable location and are going to push over the fence as they gain in diameter within the next year of two.

Craig Sullivan
Maryland Tree Expert #998
ISA Certified Arborist MA-5349A
President - S & P Tree Care
Paul Staehle ISA Certified Arborist MA-5797A
ISA Tree Risk Assessment Qualified