

**MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION**  
**STAFF REPORT**

<b>Address:</b>	10209 Capitol View Ave., Silver Spring	<b>Meeting Date:</b>	10/14/2020
<b>Resource:</b>	Nominal (1936-1981) <b>Capitol View Park Historic District</b>	<b>Report Date:</b>	10/7//2020
<b>Applicant:</b>	Jeff Cooper	<b>Public Notice:</b>	9/30/2020
<b>Review:</b>	HAWP	<b>Tax Credit:</b>	n/a
<b>Case Number:</b>	31/07-20M	<b>Staff:</b>	Dan Bruechert
<b>PROPOSAL:</b>	Tree Removal		

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**STAFF RECOMMENDATION**

☒ Approve  
☐ Approve with conditions

**ARCHITECTURAL DESCRIPTION**

**SIGNIFICANCE:** Nominal (1936-1981) Resource to the Capitol View Park Historic District  
**STYLE:** Colonial Revival  
**DATE:** 1936



*Figure 1: 10209 Capitol View Ave. The subject tree is located in the northeast corner of the lot.*

## **PROPOSAL**

The applicant proposes to remove one (1) tree from the subject property.

## **APPLICABLE GUIDELINES**

When reviewing alterations and new construction within the Capitol View Park Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include the *Approved & Adopted Sector Plan for Capitol View & Vicinity (Sector Plan)*, *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.

### **Capitol View Park Master Plan Amendment**

Nominal (1936-1981): These houses themselves are of no architectural or [sic] historical significance, but through their contiguity to the significant resources have some interest to the historic district.

### **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
  - (4) The proposal is necessary in order that unsafe conditions or health hazards be remedied; or
- (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 relevant *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.

## **STAFF DISCUSSION**

The applicant proposes to remove a single 55” (fifty-five inch) d.b.h. white oak tree in the rear of the property. The applicant has had the tree evaluated by an arborist who determined the tree is afflicted with Phytophthora and that 90% of the tree crown is dead (findings attached).



*Figure 2: The subject tree is located in the rear of the property to the right of the house.*

Staff finds that, based on the determination of the arborist, the tree needs to be removed before it becomes a public hazard (under 24A-8(b)(4)). The size of this tree presents an additional question for the HPC: should a replacement tree be required as mitigation? The HPC has the authority to add a condition to re-plant an additional tree or trees to help protect the character of the district. Staff consulted the Capitol View Sector Plan that includes the Master Plan Amendment that established the Capitol View Park Historic District<sup>1</sup> for guidance, however, the Master Plan Amendment is silent on the landscape. The Amendment is singularly focused on how the community is representative of railroad suburbs. Chapter 24A focuses on evaluating the work proposed and does not provide additional guidance for this situation. Finally, Standard #2 is the only relevant Standard for this situation and it dictates that the historic character “will be retained and preserved.” However, Standard 2 does not contemplate work that might otherwise be inconsistent with the Standards as preserving the character of the district.

<sup>1</sup> The sector plan is available here: <http://montgomeryplanning.org/wp-content/uploads/2016/09/CapitolViewVicinitySectorPlan1982ocr300.pdf>.

Because Staff cannot find support for adding a condition to this HAWP in the requisite guidance to require an additional tree planting, Staff encourages the HPC to make a recommendation to the applicant that he plants an additional canopy tree or trees after removing the subject white oak to preserve the mature tree canopy found throughout the district.

### **STAFF RECOMMENDATION**

Staff recommends that the Commission **approve** the HAWP application under the Criteria for Issuance in Chapter 24A-8(b)(4), and (d), having found that the proposal 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 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 [dan.bruechert@montgomeryplanning.org](mailto:dan.bruechert@montgomeryplanning.org) to schedule a follow-up site visit.



APPLICATION FOR  
HISTORIC AREA WORK PERMIT  
HISTORIC PRESERVATION COMMISSION  
301.563.3400

FOR STAFF ONLY:  
HAWP# 926728  
DATE ASSIGNED \_\_\_\_\_

**APPLICANT:**

Name: JEFF COOPER  
Address: 10209 Capitol View Ave  
Daytime Phone: 301-565-9199

E-mail: cooperandhirsh@gmail.com  
City: Silver Spring Zip: 20910  
Tax Account No.: 13-00997364

**AGENT/CONTACT (if applicable):**

Name: Adirondack Tree Experts  
Address: 11304 Rhode Island Ave  
Daytime Phone: 301-595-2827

E-mail: wcallahan@AdirondackTreeExperts.com  
City: Beltsville Zip: 20705  
Contractor Registration No.: \_\_\_\_\_

**LOCATION OF BUILDING/PREMISE:** MIHP # of Historic Property \_\_\_\_\_

Is the Property Located within an Historic District? Yes/District Name Capitol View Park  
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:**

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> New Construction   | <input type="checkbox"/> Deck/Porch          | <input type="checkbox"/> Shed/Garage/Accessory Structure  |
| <input type="checkbox"/> Addition           | <input type="checkbox"/> Fence               | <input type="checkbox"/> Solar                            |
| <input type="checkbox"/> Demolition         | <input type="checkbox"/> Hardscape/Landscape | <input checked="" type="checkbox"/> Tree removal/planting |
| <input type="checkbox"/> Grading/Excavation | <input type="checkbox"/> Roof                | <input type="checkbox"/> Window/Door                      |
|   |  | <input type="checkbox"/> 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.

Signature  
Signature of owner or authorized agent

09/15/2020

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 on 9,450 sf lot.

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

Removal of a dying oak tree at the right rear of the property.

Work Item 1: Tree Removal

Description of Current Condition: Dying tree

Proposed Work: Removal

Work Item 2: \_\_\_\_\_

Description of Current Condition:

Proposed Work:

Work Item 3: \_\_\_\_\_

Description of Current Condition:

Proposed Work:



# ADIRONDACK TREE EXPERTS

Maryland Licensed Tree Experts #769  
11304 Rhode Island Avenue  
Beltsville, MD 20705  
(301) 595-2827 Fax (301) 595-5420  
[www.adirondacktreeexperts.com](http://www.adirondacktreeexperts.com)

## REPORT REGARDING OAK TREE LOCATED 10209 CAPITOL VIEW AVE., SILVER SPRING, MARYLAND

- Date of tree assessment: **Friday, September 11, 2020**
- Address where tree is located: **10209 Capitol View Avenue  
Silver Spring, Md. 20910  
Tree is at the right rear fence-line**
- ID each tree by type and size in DBH: **White Oak (Quercus Alba)  
Approx. 55" DBH**
- Assessment of the tree: **The tree is afflicted with *Phytophthora ramorum*. 90% of the tree crown is dead and as time passes will pose a significant risk to person and property. The tree should be removed in a prudent time frame.**
- Arborist Name & credentials of arborist: **John W. Anna, Jr., Maryland  
Licensed Tree Expert #769/ I.S.A.  
Certified Arborist #MA-4082/I.S.A.  
Certified Tree Risk Assessor/TCIA  
Certified Tree Care Safety  
Professional #01046**





DEPARTMENT OF PERMITTING SERVICES

Marc Elrich  
County Executive

Mitra Pedoeem  
Director

# HISTORIC AREA WORK PERMIT APPLICATION

Application Date: 9/15/2020

Application No: 926728  
AP Type: HISTORIC  
Customer No: 1385404

## Comments

White Oak (Quercus Alba) Approx. 55" DBH afflicted with Phytophthora ramorum. 90% of the tree crown is dead and as time passes will pose a significant risk to person and property. Assessed on September 11, 2020 by John W. Anna, Jr., Maryland LTE #769/ I.S.A. Certified Arborist #MA-4082

## Affidavit Acknowledgement

The Contractor is the Primary applicant authorized by the property owner  
This application does not violate any covenants and deed restrictions

## Primary Applicant Information

Address 10209 CAPITOL VIEW AVE  
KENSINGTON, MD 20895  
Othercontact Adirondack Tree Experts (Primary)

## Historic Area Work Permit Details

Work Type ALTER  
Scope of Work This application is for the removal of a dying oak tree