Government of the District of Columbia
OFFICE OF ZONING

MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Alberto P. Bastida, AICP
Secretary to the Zoning Commission

DATE: May 10, 2002

SUBJECT: Publication for the Office of Zoning

Please publish the following in the D.C. Register on May 17, 2002:

1. Z.C. Notice of Public Hearing (Z.C. Case No. 02-19).

Received By

5/10/02
Date

Attachments

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ZONING COMMISSION
District of Columbia
Case 02-19
Exhibit 25

ZONING COMMISSION
District of Columbia
CASE NO.02-19
EXHIBIT NO.25

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
AMEMDED
NOTICE OF PUBLIC HEARING

TIME AND PLACE: **Thursday, June 27, 2002 @ 6:30 P.M.**
Office of Zoning Hearing Room
441 4th Street, N.W. - Suite 220
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Case No. 02-19 (Text Amendment – Forest Hills Tree and Slope Overlay District)

THIS CASE IS OF INTEREST TO ANC 3C, 3F, and 3G:

On April 5, 2002, the Office of Zoning received a petition from the Forest Hills Citizens Association. The petition requests a text and map amendment to the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The purpose of the petition is to create § 1516, FOREST HILLS TREE AND SLOPE OVERLAY DISTRICT.

The proposed language to amend the Zoning Regulations is as follows (new language shown in **BOLD**):

1516 FOREST HILLS TREE AND SLOPE PROTECTION OVERLAY DISTRICT

1516.1 THE FOREST HILLS TREE AND SLOPE PROTECTION (FH/TSP) OVERLAY DISTRICT IS ESTABLISHED TO PRESERVE AND ENHANCE THE PARK-LIKE SETTING OF DESIGNATED NEIGHBORHOODS BETWEEN CONNECTICUT AVENUE AND THIRTY-SECOND STREET ON THE WEST AND ROCK CREEK PARK ON THE EAST, SOUTH OF FORT CIRCLE NATIONAL PARK AND NEVADA AVENUE, N.W., NORTH OF MELVIN C. HAZEN PARK, AND ADJACENT TO STREAMS AND PARKS, BY REGULATING ALTERATION OR DISTURBANCE OF TERRAIN, DESTRUCTION OF TREES, AND GROUND COVERAGE OF PERMITTED BUILDINGS AND OTHER IMPERVIOUS SURFACES. IT INCLUDES SOAPSTONE VALLEY PARK AS WELL AS MELVIN C. HAZEN PARK.

1516.2 THE PURPOSES OF THE FH/TSP OVERLAY DISTRICT ARE TO:

(A) PRESERVE THE NATURAL TOPOGRAPHY AND MATURE TREES TO THE MAXIMUM EXTENT FEASIBLE IN FOREST HILLS NEIGHBORHOODS.

(B) PREVENT SIGNIFICANT ADVERSE IMPACT ON ADJACENT OPEN SPACE, PARKLAND, STREAM BEDS, OR OTHER ENVIRONMENTALLY SENSITIVE NATURAL AREAS; AND

(C) LIMIT PERMITTED GROUND COVERAGE OF NEW AND EXPANDED BUILDINGS AND OTHER CONSTRUCTIONS, SO AS TO ENCOURAGE A GENERAL COMPATIBILITY BETWEEN THE SITING OF NEW BUILDINGS AND THE EXISTING NEIGHBORHOOD.

1516.3 THE FH/TSP OVERLAY DISTRICT HAS A SIGNIFICANT QUANTITY OF STEEP SLOPES, HAS STANDS OF MATURE TREES, IS LOCATED AT THE EDGE OF STREAM BEDS AND PUBLIC OPEN SPACES, AND HAS UNDEVELOPED LOTS AND PARCELS SUBJECT TO POTENTIAL TERRAIN ALTERATION AND TREE REMOVAL. FEW LOTS ARE DEVELOPED ON A RECTANGULAR GRID SYSTEM, AND THE EXISTING MATURE TREES ARE NEITHER LIMITED TO YARD TREES OR TO STREET TREES.

1517 GENERAL PROVISIONS

1517.1 THE FH/TSP OVERLAY DISTRICT IS MAPPED IN COMBINATION WITH THE UNDERLYING R-1-A OR R-1-B OR R-2 OR R-5-D RESIDENTIAL ZONE DISTRICT, AND NOT IN LIEU OF THE UNDERLYING DISTRICT.

1517.2 WHERE THERE IS A CONFLICT BETWEEN THIS CHAPTER AND THE UNDERLYING ZONING, THE MORE RESTRICTIVE PROVISIONS OF THIS CHAPTER SHALL GOVERN.

1518 GROUND COVERAGE RESTRICTIONS

1518.1 THE PRINCIPAL BUILDING AND ANY ACCESSORY BUILDING ON THE LOT SHALL NOT EXCEED A TOTAL LOT OCCUPANCY OF THIRTY PERCENT (30%).

1518.2 THE MAXIMUM IMPERVIOUS SURFACE COVERAGE ON A LOT SHALL BE FIFTY PERCENT (50%); PROVIDED, THAT THE FOLLOWING CONDITIONS ARE MET:

(A) THIS SUBSECTION SHALL NOT PRECLUDE ENLARGEMENT OF A PRINCIPAL BUILDING IN EXISTENCE AS OF THE EFFECTIVE DATE OF THIS CHAPTER; AND

(B) THIS SUBSECTION SHALL NOT CREATE NONCONFORMITY OF A STRUCTURE AS REGULATED BY CHAPTER 20 OF THIS TITLE.

1519 LIMITATIONS

1519.1 CONSTRUCTION OF A BUILDING, AN ACCESSORY BUILDING, OR AN ADDITION TO A BUILDING, OR THE CREATION OF ANY IMPERVIOUS SURFACE AREA, THE SUBDIVISION OF ANY UNIMPROVED LOT, OR THE SUBDIVISION ANY IMPROVED LOT SO AS TO INCREASE THE NUMBER OF PRINCIPAL STRUCTURES THEREUPON SHALL BE PERMITTED AS A MATTER OF RIGHT ONLY IF THE FOLLOWING TREE REMOVAL LIMITATIONS ARE COMPLIED WITH:

(A) THE RESTRICTIONS OF THIS SECTION AGAINST REMOVING, CUTTING DOWN, OR FATALLY DAMAGING TREES APPLY ONLY TO TREES HAVING A CIRCUMFERENCE OF TWELVE (12) INCHES OR GREATER AT A HEIGHT OF FOUR AND ONE-HALF FEET ABOVE GROUND;

(B) THE PROHIBITIONS OF THIS SECTION SHALL NOT APPLY TO THE REMOVAL OF ANY DEAD OR UNHEALTHY TREE OR A TREE THAT CREATES AN UNSAFE CONDITION. THE NEED FOR REMOVAL OF ANY SUCH TREE SHALL BE CERTIFIED BY AN ARBORIST OR OTHER TREE CARE PROFESSIONAL;

(C) NO TREE THAT HAS A CIRCUMFERENCE OF SEVENTY-FIVE (75) INCHES OR MORE AT A HEIGHT OF FOUR AND ONE-HALF FEET ABOVE GROUND SHALL BE REMOVED OR CUT DOWN;

(D) NO MORE THAN THREE (3) TREES THAT EACH HAS A CIRCUMFERENCE OF MORE THAN THIRTY-EIGHT (38) INCHES AT A HEIGHT OF FOUR AND ONE-HALF FEET ABOVE GROUND SHALL BE REMOVED, AND NONE OF THESE SHALL BE LOCATED WITHIN TWENTY-FIVE (25) FEET OF ANY BUILDING RESTRICTION LINE OR LOT LINE ABUTTING A PUBLIC STREET;

(E) THE TOTAL CIRCUMFERENCE INCHES OF ALL TREES REMOVED OR CUT DOWN ON A LOT SHALL NOT EXCEED TWENTY-FIVE PERCENT (25%) OF THE TOTAL CIRCUMFERENCE INCHES, PROVIDED THAT THIS RESTRICTION SHALL NOT ABROGATE THE RIGHT TO

REMOVE UP TO THREE (3) TREES AS PROVIDED IN PARAGRAPH (D); AND

(F) WHERE REMOVAL OR CUTTING OF TREES HAS OCCURRED THAT WOULD BE PROHIBITED BY THIS SECTION IF A BUILDING PERMIT WERE CONTEMPORANEOUSLY APPLIED FOR, NO BUILDING PERMIT SHALL BE ISSUED FOR A PERIOD OF SEVEN YEARS FROM SUCH REMOVAL OR CUTTING UNLESS A SPECIAL EXCEPTION IS GRANTED BY THE BOARD OF ZONING ADJUSTMENT PURSUANT TO SECTION 1515.

1519.2 THE MINIMUM LOT SIZE FOR HOMES WITHIN THE FH/TSP OVERLAY DISTRICT SHALL BE 12,000 S.F. FOR LOTS SUBDIVIDED AFTER THE EFFECTIVE DATE OF THIS PROVISION.

1519.3 ALL NEW RESIDENTIAL BUILDINGS SHALL HAVE A FRONT YARD SETBACK EQUAL TO OR GREATER THAN THE AVERAGE SETBACK OF ALL STRUCTURES ON THE SAME SIDE OF THE STREET IN THE BLOCK WHERE THE BUILDING IN QUESTION IS LOCATED. WHERE THE RESIDENTIAL BUILDING IS SITED ON A CORNER LOT, THE RESIDENTIAL BUILDING SHALL BE SET BACK FROM EACH STREET ON WHICH IT BORDERS IN AN AMOUNT THAT IS EQUAL TO OR GREATER THAN THE AVERAGE SETBACK OF ALL STRUCTURES ON THE SAME SIDE OF THE STREET IN THE BLOCK WHERE THE BUILDING IN QUESTION IS LOCATED. THE REQUIRED SETBACKS ARE DEPICTED IN THE MAP ENTITLED, "REQUIRED FRONT YARD SETBACKS," WHICH IS A PART OF THIS OVERLAY DISTRICT AND LOCATED IN THE OFFICE OF ZONING AND IN THE ZONING DIVISION OF THE DEPARTMENT OF CONSUMER REGULATORY AFFAIRS.

1519.4 TO THE EXTENT ANY RESIDENTIAL DISTRICT WITHIN THE OVERLAY REQUIRES A SIDE YARD, THE SIDE YARDS REQUIREMENT FOR ALL NEW RESIDENTIAL BUILDINGS WITHIN SUCH DISTRICTS SHALL BE SIXTEEN (16) FEET.

1519.5 NO PERSON, FOR THE PURPOSE OF (I) SUBDIVIDING ANY UNIMPROVED LOT; (II) CONSTRUCTING ANY STRUCTURE ON ANY UNIMPROVED LOT; (III) SUBDIVIDING ANY IMPROVED LOT SO AS TO INCREASE THE NUMBER OF PRINCIPAL STRUCTURES THEREON; OR (IV) CONSTRUCTING AN ADDITIONAL PRINCIPAL STRUCTURE ON A PREVIOUSLY SUBDIVIDED LOT, SHALL ALTER EXISTING TOPOGRAPHY, EXCEPT FOR PLACING A FOUNDATION FOR AN OTHERWISE PERMITTED STRUCTURE. IF THE SOIL IS HIGHLY ERODIBLE, AS DETERMINED BY THE US GEOLOGICAL SURVEY SOILS ANALYSIS, AND THE SLOPE ANYWHERE WITHIN

20 FEET OF THE FOOTPRINT OF THE PROPOSED STRUCTURE IS GREATER THAN 25%, THEN NO BUILDING OR TERRAIN ALTERATION WILL BE PERMITTED.

1520 SPECIAL EXCEPTIONS

1520.1 ANY EXCEPTION FROM THE REQUIREMENTS OF THIS CHAPTER, AS DISTINCT FROM THE REQUIREMENTS OF THE UNDERLYING ZONING DISTRICT, SHALL BE PERMITTED ONLY AS A SPECIAL EXCEPTION, IF APPROVED BY THE BOARD OF ZONING ADJUSTMENT AFTER PUBLIC HEARING, IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN SECTION 3108 OF THIS TITLE, AND SUBJECT TO THE FOLLOWING REQUIREMENTS:

(A) TREE REMOVAL, GRADING, AND TOPOGRAPHICAL CHANGE SHALL BE LIMITED TO THE MAXIMUM EXTENT CONSISTENT WITH CONSTRUCTION OF A BUILDING PERMITTED BY THE STANDARDS OF THIS CHAPTER;

(B) THE APPLICANT SHALL DEMONSTRATE THAT THERE ARE SPECIFIC PHYSICAL CHARACTERISTICS OF THE LOT THAT JUSTIFY THE EXCEPTION;

(C) THE EXCEPTED BUILDING AND OVERALL SITE PLAN OF THE LOT SHALL BE GENERALLY CONSISTENT WITH THE PURPOSES OF THE TSP OVERLAY DISTRICT AND NOT ADVERSELY AFFECT NEIGHBORING PROPERTY; AND

(D) THE BOARD MAY IMPOSE REQUIREMENTS AS TO DESIGN, APPEARANCE, TREE PROTECTION PRACTICES DURING CONSTRUCTION, BUFFERING, AND OTHER REQUIREMENTS AS IT SHALL DEEM NECESSARY TO ACHIEVE THE PURPOSES OF THIS CHAPTER, AND MAY VARY SIDE AND REAR YARD REQUIREMENTS IN ORDER TO ACHIEVE THE PURPOSES OF THIS CHAPTER.

1520.2 BEFORE TAKING FINAL ACTION ON AN APPLICATION, THE BOARD SHALL SUBMIT THE APPLICATION TO THE FOLLOWING AGENCIES FOR REVIEW AND WRITTEN REPORTS:

(A) THE OFFICE OF PLANNING;

(B) THE DEPARTMENT OF TRANSPORTATION; TREE MAINTENANCE DIVISION;

(C) THE DEPARTMENT OF RECREATION AND PARKS;

(D) THE DEPARTMENT OF HEALTH, SOIL EROSION BRANCH; AND

(E) THE NATIONAL PARK SERVICE, U.S. DEPARTMENT OF INTERIOR.

1520.3 AN APPLICANT FOR AN EXCEPTION SHALL SUBMIT AT LEAST THE FOLLOWING MATERIALS:

(A) A SITE PLAN FOR DEVELOPMENT, INCLUDING COMPUTATION AND ILLUSTRATION OF TOTAL LOT OCCUPANCY AND IMPERVIOUS SURFACE RATIO, AND REGULATED TREES PROPOSED TO BE REMOVED; AND

(B) A PLAN AND STATEMENT INDICATING HOW TREES TO BE PRESERVED ON THE LOT WILL BE PROTECTED DURING THE CONSTRUCTION PERIOD, INCLUDING REFERENCE TO PROPOSED PROCEDURES TO GUARD AGAINST LONG-TERM DAMAGE BY SUCH FACTORS AS SOIL COMPACTION.

1520.4 FORMS AND APPLICATIONS PERTAINING TO THE FH/TSP OVERLAY DISTRICT WHICH ARE FILED WITH THE BZA, THE BUILDING AND LAND REGULATION ADMINISTRATION IN DCRA OR THE ZONING ADMINISTRATOR IN DCRA SHALL STATE THAT THE APPLICANT AND THE SIGNER WILL BE SUBJECT TO CRIMINAL PENALTIES FOR FALSE STATEMENTS AND ANY APPROVAL GRANTED ON REVIEW OF A DOCUMENT THAT FAILS TO INCLUDE SUCH STATEMENT SHALL BE NULL AND VOID.

1520.5 REFER TO THE FOLLOWING DEFINITIONS IN 11 DCMR 199.9:

IMPERVIOUS SURFACE COVERAGE - THE PERCENTAGE OF THE LAND AREA OF A LOT THAT IS COVERED BY IMPERVIOUS SURFACES, WHICH PERCENTAGE SHALL BE DETERMINED BY DIVIDING THE GROSS IMPERVIOUS SURFACE AREA OF A LOT BY THE TOTAL AREA OF THE LOT

IMPERVIOUS SURFACE - AN AREA THAT IMPEDES THE PERCOLATION OF WATER INTO THE SUBSOIL AND IMPEDES PLANT GROWTH.

IMPERVIOUS SURFACES INCLUDE THE FOOTPRINTS OF PRINCIPAL AND ACCESSORY BUILDINGS, FOOTPRINTS OF PATIOS, DRIVEWAYS, OTHER PAVED AREAS, TENNIS COURTS, AND SWIMMING POOLS, AND ANY PATH OR WALKWAY THAT IS COVERED BY IMPERVIOUS MATERIAL.

1520.6 AMEND THE ZONING MAP BY INCLUDING THE FOLLOWING SQUARES IN THE TREE AND SLOPE PROTECTION OVERLAY DISTRICT:

SQUARES 2030 THROUGH 2033, 2040 THROUGH 2043, 2046, 2049 EXCEPT FOR LOTS 804 (VAN NESS NORTH), 805 (VAN NESS CENTER), 806 (VAN NESS SOUTH), SQUARE 2231, 2232, 2238, 2239, 2241 THROUGH 2251, 2254 THROUGH 2256, 2258, 2262 THROUGH 2270, 2272, 2274 THROUGH 2277, AND 2282.

Proposed amendments to the Zoning Regulations and Map of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat. 797), as amended, and § 5-413 *et seq.*, D.C. Code, (1994 Repl.).

The public hearing on this case will be conducted in accordance with the provisions of section 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. Pursuant to that section, the Commission will impose time limits on testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210, 441 4th Street, N.W., Washington, D.C., 20001. Please include the number of this particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

CAROL J. MITTEN, ANTHONY J. HOOD, JOHN G. PARSONS, JAMES H. HANNAHAM, AND PETER G. MAY---------- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JERRILY R. KRESS, FAIA, DIRECTOR, AND BY ALBERTO P. BASTIDA, AICP, SECRETARY TO THE ZONING COMMISSION.