

ANC 3F



Advisory Neighborhood Commission 3F NORTH CLEVELAND PARK / FOREST HILLS

3F01 - Phil Kogan
3F02 - Karen L. Perry
3F03 - Robert V. Maudlin
3F04 - David J. Bardin
3F05 - Doug Mitchell
3F06 - Cathy Wiss
3F07 - Todd Strauss

October 7, 2002

Mr. Alberto P. Bastida, AICP
Secretary to the Zoning Commission
Office of Zoning
Suite 210
441 4th Street, N.W.
Washington, DC 20001

ZONING COMMISSION
District of Columbia
Case 02-19
Exhibit 279

Re: Forest Hills Tree and Slope Overlay District
Case No. 02-19

Dear Mr. Bastida and Members of the Zoning Commission:

Having testified in support of the Overlay, I had not planned on writing another letter in this case. But, after hearing the presentation of the Forest Hills Neighbors for Responsible Preservation (FHNRP) and hearing a member of the Commission publicly say his vote was to send the Overlay back to the neighborhood for more meetings, I went home and asked myself many questions including whether anything would be gained by more meetings in the neighborhood, either with or without the involvement of the Office of Planning. In writing this letter, I also felt the need to correct some of the record following FHNRP's submission and testimony. At the beginning of the hearings, Chairman Mitten asked, "Whether an Overlay was enough protection for Forest Hills?" That answer is probably "no," but I believe an Overlay is a positive step in the right direction. Many other protections would require drastic changes to the zoning regulations that would impact all Wards of the City and a lengthy hearing process with the potential for considerable opposition from the zoning law firms. Chairman Mitten also asked the opposition group to testify on what provisions of the Overlay they could support and what provisions they would like to see changed. I did not hear answers to these important questions.

My conclusion was that the process leading up to filing the Overlay submission for our area was more than fair and that some issues just cannot be resolved, no matter how reasonable people may seem to be, at the neighborhood level. If it could, our ANC would not constantly be before the BZA and the Zoning Commission on private school expansions, PUD applications, parking lot expansion cases, and with challenges to building permits and certificates of occupancy. Therefore, I am writing to ask you to vote in support of the Overlay, as amended, and not send it back to the neighborhood. I would encourage the members of the Commission to go back and re-read my testimony, which highlighted the process we used in writing the Overlay, the fact that this Overlay is not an anti-development overlay, but an Overlay designed to protect land areas surrounding the Park and its tributaries as called for in the Ward 3 Comprehensive Plan and the Federal Open Parks Plan for the City, and the fact that previous attempts to secure an overlay were also blocked at the neighborhood level by a small, vocal minority with the promise of meetings to write a better protection plan.

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Forest Hills Neighbors for Responsible Development is a group, according to their own submission, of less than 30 individuals. I listened carefully to their testimony and did not hear anything in the way of amendments to the Overlay before the Commission that would make it more palatable. I am struck by the opposition's claim that there is no basis for an Overlay and that experts should be brought in to first identify the problem and then recommend solutions. They ignore the one-year of work of the joint Forest Hills-ANC Ad Hoc Committee and the testimony of David Murphy, the Casey Trees Foundation, and the Natural Resources Defense Council. Commissioner Kogan chose not to participate in the work of the Ad Hoc Committee. While I heard the two ANC Commissioners say there was some hope and some members of the group would be willing to meet, I also heard many witnesses testify that the current zoning regulations were enough protection.

Since there is no rebuttal case or an opportunity to cross-examine in a rule-making case, I also wanted to provide further information than what was stated by the opponents to the overlay on September 30, 2002.

- Research on Subdivisions, whether you believe the submission of the Forest Hills Citizens Association or the four subdivisions in four years testimony of Commissioner Kogan, do not tell the story of what is happening in North Cleveland Park and Forest Hills. Commissioner Kogan did not reference the 115,000 square foot lot currently on the market in the Overlay area for \$8 million that is a prime candidate for subdivision, nor did he go back further to account for previous subdivisions on which we are now first seeing a home being gutted and replaced by two and three homes. Building permits are more reflective of the activity in the area and that activity has been substantial. Properties are being clear-cut, retaining walls are being constructed, and properties are being regraded for new home construction and homes are being remodeled with two story additions enveloping the existing house. The character of Forest Hills and the diversity of its housing stock is being altered. But, most importantly, the tree cover is being depleted by these changes, slopes are being filled and regraded, and underground streams are being diverted. Over the last year, our ANC has been averaging two to three building permit applications a week for some-type of construction or remodeling activity. Tonight, at a special ANC meeting, we are taking up the remodeling of one home and construction of three additional homes on Chesterfield Place near Broad Branch Road --- all lots subject to review by the Fine Arts Commission since they boarder Parkland.
- The ANC vote not to send the Overlay back to the neighborhood was 5-2-0. There are four commissioners representing property owners in the proposed overlay area --- Commissioner Kogan, Commissioner Maudlin, Commissioner Mitchell, and myself. As evident from previous testimony, Commissioner Mitchell did meet with the residents in his area and they testified in support of the Overlay and offered an amendment to address parts of the R-2 homes in that single member district. I called the property owners in my single member district and received no objections, only support for the Overlay. Commissioners Kogan and Maudlin have repeatedly said they represent 96 percent of the households in the Overlay area and they voted against the Overlay. But, as the testimony has clearly shown, 96 percent of the households do not object to the Overlay. Further, the 96 percent number is not accurate if you take into account the households in the R-2 and R-5 zones also the subject of the Overlay.
- I would encourage the members of the Commission not to exclude the Hillwood Museum Property from the Overlay. The Marjorie Merriweather Post Home is an

asset to the community, to the City, and to visitors to the City. But it is also a property that borders the Park. It is subject to a Variance, but what Fred Fischer neglected to tell the Commission is that Hillwood has already told many of its neighbors and several ANC commissioners, including myself, that Hillwood plans to request an expansion in order to build an auditorium/theater, along with other expansion projects. When I asked Fred Fischer why he was opposing the Overlay, he told me these projects would necessitate removal of a significant number of large trees. The BZA provisions for obtaining a variance do not take into account tree removal or tree preservation.

- Commissioner Kogan is not running for re-election to the ANC in November and has repeatedly indicated that if his name was written in that he would decline the nomination. Commissioner Maudlin is challenged by an opponent supportive of the Overlay in his re-election bid.
- Many property owners in Commissioner Bardin's single member district wanted to be included in the Overlay. He did not redline them out as the opposition testified. The homes were excluded by the Ad Hoc Committee even though they had trees because they had no slope and none of the properties bordered parkland.
- The photographs presented by Mark Baughman with height limits superimposed over the homes to show what would could happen if the Overlay was adopted were quite dramatic. However, the current zoning regulations allow the forty-foot limit and, in reality, from the building permits and plans we have reviewed, people are not building straight up. Rather they are building out and up so the homes maintain their proportion.

In summary, I encourage you to support the Overlay, as amended, including the provision for the 12,000 square foot lot size. I also encourage you to include the R-2, R-5, and the steeply sloped and heavily wooded land behind the one C-3-A property that is partially protected by an existing Zoning Commission Order. The Overlay is needed now to protect the Park and Forest Hills.

Sincerely,



Karen Perry
ANC 3F02