

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

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D.C. OFFICE OF ZONING
102 APR 11 PM 2:05

MEMORADUM

TO: Zoning Commission

FROM:  Andrew Altman, Director
Office of Planning

DATE: April 10, 2002

SUBJECT: Waiver of Rules for Late Submittal of Report on Case No. 02-19-
Emergency Map Amendment for a Tree and Slope Overlay filed by the
Forest Hills Citizens Association

The attached report concerning a proposed map amendment for Emergency Map Amendment for a Tree and Slope Overlay is being submitted less than 10 days prior to the Zoning Commission's consideration of the item and scheduled public hearing. The Office of Planning respectfully requests that the Commission waive its rule and accept the report into the record.

Attachments

AA/

ZONING COMMISSION
District of Columbia

ZONING COMMISSION
District of Columbia
CASE NO. 02-19
EXHIBIT NO. 2

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

RECEIVED
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2002 APR 11 PM 2:05

MEMORANDUM

TO: D.C. Zoning Commission

FROM: 
Andrew Altman
Director

DATE: April 9, 2002

SUBJECT: Case No. **ZC 02-19: Setdown** for a Map Amendment to Title 11, DCMR, Chapter 15, to establish the Forest Hills Tree and Slope Overlay, initiated by citizen petition (the Forest Hills Citizen Association) and supported by the Office of Planning.

RECOMMENDATION

The Office of Planning **recommends setdown** of the proposed map amendment to assign a tree and slope overlay district to 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. and north of Melvin Hazen Park.

BACKGROUND

The Forest Hills Citizens Association petitioned the Zoning Commission to amend Title 11, DCMR, Chapter 15, Miscellaneous Overlay District, to establish the **Forest Hills Tree and Slope Overlay District, Section 1511**. The amendment proposes to implement Section 1403.4 (b) (2) of the Ward 3 element of the District of Columbia's Comprehensive Plan that recommends the mapping of the Tree and Slope Protection Overlay in hilly areas throughout the ward. The proposal covers all or part of Squares 2030 through 2033, 2041 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.

ZONING

The predominant zoning of the neighborhoods in the proposed area is R-1-A, low density residential, with portions zoned R-1-B, R-2 and R-5-D. The Generalized Land Use Map of the District of Columbia categorizes the proposed area as low-density residential land

Tree and Slope Overlay Map Amendment
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use. The applicant indicates that lot size varies from 2,400 square feet or less, to over 1,0604,520 square feet, with several over 20,000 square feet. R-1-A zones permit matter-of-right development of single-family residential uses for detached dwellings.

Section 200 of 11 DCMR sets forth the intent of the R-1 zones:

200 R-1 DISTRICTS: GENERAL PROVISIONS

- 200.1 The R-1 district is designed to protect quiet residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes.
- 200.2 The provisions of this chapter are intended to stabilize the residential areas and to promote a suitable environment for family life. For that reason, only a few additional and compatible uses shall be permitted.

Maintaining the viability of the natural environment through the establishment of the tree and slope overlay ensures protection and preservation of stable residential neighborhoods in the District.

COMPREHENSIVE PLAN

The map amendment is compatible with the Comprehensive Plan goals, including Chapter 4, specifically 405.2 (a), (b) and (c), the policies in support of protecting the quality of the land areas objective that reads as follows:

- (a) Regulate land development activities to protect natural features, prevent further soil erosion, and prohibit construction practices which produce unstable soil and hillside conditions;
- (b) Maintain public space in a manner that prevents soil erosion;
- (c) Ensure that public construction activities do not result in the loss of natural features or in soil erosion and unstable hillside conditions.

CHAPTER 7: Urban Design Element

- 703.1 The natural environment objective is to conserve and protect environmentally valuable and sensitive areas that contribute to the design framework of the District.
- 703.2 The policies established in support of the natural environment objective are as follows:
 - (a) Protect and enhance the natural setting of the District...
 - (b) Encourage appropriate design solutions that contribute to the conservation of the natural resources of the District.

- 704.1 The objective for areas with severe building constraints is as follows:
The objective for areas with severe building constraints is to restrict and sensitively design developments placed on severe slopes and unstable soils.
- (a) Undertake protective design measures;
 - (b) Minimize grading that removes top soil and vegetation, retain vegetation as much as possible, and establish new vegetation where severe erosion damage has already occurred;
 - (c) .
 - (d) .
 - (e) **Restrict development on unstable soils with slopes over 25%, such as Rock Creek Valley and related stream valleys.**
- 705.2 The policies established in support of the streams and stream valleys objectives are as follows:
- (a) Ensure that development in these areas is minimal preserve and respect the natural pattern of the District, where possible. Streams and ravines should not be channeled; these should be retained in their natural conditions;
 - (b) **Preserve land adjacent to streams and ravines as open spaces with dense vegetation cover. These natural flood drainage channels and buffer zones for the watershed should be protected from the adverse effects of urban uses. The affected areas are adjacent to Rock Creek Park and related stream valley parks, Battery Kemble, Glover-Archbold, Watts Branch, and Oxon Run.**

CHAPTER 14 - WARD THREE PLAN; The Ward Three Plan includes several references regarding support for the preservation of the natural environment of the ward including:

- 1403.7 Protecting the quality of the land area objective and policies:
- (a) The overall environmental quality of the ward's land area can be protected by doing the following:
 - (1) Requiring any construction preserve natural features;
 - (2) Promoting extensive planting, especially of trees; if the plantings are a condition to a permit, then there shall be a provision to include a reasonable requirement for landscape maintenance; and

- (3) Minimizing any development adjacent or proximate to the ward's stream valley parks...that infringes on views from the park, creates erosion or sedimentation problems, adversely affects or is plausibly suspected to adversely affect flora or fauna, or that has any negative impact on the parkland.

The applicant submitted its rationale for the adoption of the overlay, including the applicability of the tree and slope overlay to the proposed area and how it may affect development concerns.

PROPOSED TEXT

The applicant has presented text for the overlay zone (Appendix A).

COMMUNITY COMMENTS

The application was submitted by the Forest Hills Association, a community organization in the Ward 3 area. The proposed overlay will affect areas within ANC 3F, 3G and parts of 3E. The ANC's will review the application and provide a formal recommendation to the Board if the application is setdown. If the proposal is setdown for public hearing, the proposal will be formally presented to all community organizations for further discussion. ANC 3E meets on April 16 to discuss the proposal submitted to the Zoning Commission.

CONCLUSION

OP believes the proposed map amendment is compatible with the above goals and objectives of the Comprehensive Plan. OP's preliminary analysis indicates that the overlay zone would assist in the preservation of the natural areas that exist in the Ward.

OP will further analyze the likely impact of the proposed overlay on development, including the ability of residents to develop individual properties, other existing TSP overlays (11 DCMR Section 1565) in the District, and the proposed Tree Bill for the District.

OP **recommends** that the Zoning Commission **setdown** this application for public hearing and further review.

APPENDIX A

FOREST HILLS TREE AND SLOPE OVERLAY REGULATION

[N.B. The following proposed Zoning Overlay Regulation is to be added to 11 DCMR. Section number 1511 et al shown below pertains to the general template and the Normanstone Drive overlays approved by the Zoning Commission (ZC). We retain those numbers in this draft in order to simplify comparison with the ZC's standard template. However, a final Forest Hills regulation would be numbered differently-with its own section numbers.]

Adopt new sections to Chapter 15, to read as follows:

1511 FOREST HILLS TREE AND SLOPE PROTECTION OVERLAY DISTRICT

1511.1 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.

1511.2 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.

1511.3 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.

1512. GENERAL PROVISIONS

1512.1 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.

1512.2 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this chapter shall govern.

1513 GROUND COVERAGE RESTRICTIONS

1513.1 The principal building and any accessory building on the lot shall not exceed a total lot occupancy of thirty percent (30%).

1513.2 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.

1514 LIMITATIONS

1514.1 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 have 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.

1514.2 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.

1514.3 All 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.

1514.4 To the extent any residential district within the Overlay requires a side yard, the side yards requirement for all residential buildings within such districts shall be sixteen (16') feet.

1514.5 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. If the soil is highly erodible, as determined by the US Geological Survey soils analysis, then no building or terrain alteration will be permitted if the slope exceeds 15% anywhere within 20 feet of the footprint of the proposed structure.

1515 SPECIAL EXCEPTIONS

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.

1515.2 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.

1515.3 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.

1515.4 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.

1515.5 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.

1515.6 Amend the zoning map by including the following squares in the tree and slope protection overlay district:

Squares 2030 through 2033, 2041 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.