

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

MEMORANDUM

TO: Zoning Commission
FROM: *JLS for*
Andrew Altman, Director
DATE: October 22, 2003
SUBJECT: Case No. ZC 02-19 Forest Hills Tree and Slope Overlay District
Supplemental #4

10/23/03 6:40

DIRECTIVES:

The Zoning Commission held a public meeting on March 3, 2003 and took proposed action with respect to the originally advertised text for the Forest Hills Tree and Slope Overlay District requesting the Office of Planning to:

- Solicit comments from those neighborhoods over which Tree and Slope Overlay (TSO) Districts have already been mapped, and
- Consider and address issues the Office of Planning has with the template and proposed Forest Hills Tree and Slope Overlay (FHTSO).

The Office of Planning responded to the Commission's request in its July 21, 2003 report¹ recommending a revised text to the original provision submitted by the Forest Hills Citizen's Association. The revision sought to address the protection and expansion of the existing canopy within the proposed overlay, including:

- guiding development activity in the overlay district through the preservation of a percentage of tree canopy on lots, and
- tree replacement specifications and enforcement mechanisms, which involved coordination with the Department of Consumer and Regulatory Affairs (DCRA) and the District Department of Transportation - Urban Forestry Administration (UFA)

At the Commission's September 8, 2003 public meeting, the Office of Planning was directed to seek the cooperation of the District's Urban Forestry Administration (UFA) and DCRA with respect to their roles as described in the report. Subsequently, the Office of Planning met with these agencies, which indicated their willingness to participate in the permit review process.

¹ Corrections attached

ZONING COMMISSION
District of Columbia

Case 02-19
Exhibit 330

ZONING COMMISSION
District of Columbia
CASE NO.02-19
EXHIBIT NO.330

In light of the adoption of the Tree Bill by the District Council as a measure to protect trees greater than 55" in circumference throughout the District and the opportunity for cooperation among agencies, including DDOT's Urban Forestry Administration and enforcement through DCRA, OP was encouraged to review the originally proposed text as advertised.

For these reasons, the Office of Planning is requesting that the Commission advertise for hearing the following text as an alternative to the text published in a Notice of Proposed Rulemaking in the DC Register on December 13, 2002, DC Register 49 DCR 11309.

RECOMMENDATION

1516 FOREST HILLS TREE PROTECTION OVERLAY DISTRICT

- 1516.1 The Forest Hills Tree Protection (FH/TP) Overlay District is established for Forest Hills, which includes all lots in Squares 2030 through 2033, 2040 through 2043, 2046, 2049 except for lots 804 (Van Ness North), 805 (Van Ness Center), 806 (Van Ness South), 2231, 2232, 2238, 2239, 2241, 2242, 2244 through 2251, 2252, 2253, 2254, 2255, 2256, 2258, 2262 through 2270, 2272, 2274 through 2277 and 2282.
- 1516.2 The purposes of the FH/TP Overlay District are to preserve the tree canopy of Forest Hills, to preserve wooded areas in Forest Hills, to promote conservation practices appropriate within an urban context, and to encourage the replanting of trees.

1517 GENERAL PROVISIONS (FH/TP)

- 1517.1 The FH/TP Overlay District is mapped in combination with the underlying zoning district, and not in lieu of the underlying district.
- 1517.2 Any applicant for the construction of a building, accessory building, or an addition to a building shall provide certification from a certified landscape architect or an ISA certified arborist that a tree canopy, resulting from trees within the lot lines of the subject property, will cover the following percentages of the lot after construction is completed or no later than ten (10) years after the date of the application:
- (a) For a lot less than 9,500 square feet in area, twenty percent (20%); or
 - (b) For a lot 9,500 square feet in area or greater, twenty-five percent (25%).
 - (c) For a lot 20,000 square feet in area or greater, forty percent (40%).

- 1517.3 The percentages in § 1517.2 may be reduced by the Board of Zoning Adjustment as necessary to avoid one or more of the following:
- (a) Overcrowding of existing trees;
 - (b) Planting in an unsuitable soil type; or
 - (c) Planting in areas with a lack of adequate root space.
 - (d) Or any other factors, which may jeopardize the health of a tree according to recommendations of the ISA certified arborist.
- 1517.4 Any tree planted to meet the requirement of this section shall be a nursery stock tree of at least a two (2) inch caliper, balled and burlaped, in good health, and shall not be of a species that has been identified as appropriate for removal by regulations promulgated by the District Department of Transportation pursuant to the Urban Forest Preservation Act of 2002.
- 1517.5 The certification required by §1517.2 shall be accompanied by a tree protection plan that will show:
- (a) The location, size, and species of all existing trees measured at four and one half (4½) feet above the ground;
 - (b) The location, size, and species of all trees to be removed;
 - (c) The location, number and species of any trees to be planted in replacement;
 - (d) Proposed grade changes or other potentially injurious work to be performed adjacent to trees to be retained; and
 - (e) Methods to be used to protect existing trees during construction including, but not limited to:
 - (1) Drip line protection, including construction or snow fencing, around all tree preservation areas; and
 - (2) Installation of tree wells, retaining walls or other structures necessary to protect individual trees.
- 1517.6 The Zoning Administrator shall not take final action on a building permit application until a report is received from the Urban Forestry Administration or sixty (60) days have passed since the tree protection plan was submitted to the Urban Forestry Administration.

- 1517.7 The Zoning Administrator shall not grant a building permit if a tree protection report received pursuant to § 1517.5 fails to demonstrate that the tree canopy requirements of this section will be met.
- 1517.8 No earlier than two (2) years and no later than three (3) years after the building permit is issued, the property owner shall present to the Zoning Administrator a certification from an ISA certified arborist or certified landscape architect that the applicable tree canopy percentage has been maintained or will be achieved by the date stated on the original certification. If trees were planted to achieve the canopy requirement, the certification shall also state that the replacement trees met the requirements of §1517.3.
- 1517.9 Failure to present a certification that meets the requirements of §1517.8 within the time provided therein shall be a violation of this section.
- 1517.10 No further building permits shall be issued until certification required by §1517.8 is received by the Zoning Administrator.
- 1517.11 The issuance of a tree removal permit by the Department of Transportation- Urban Forestry Administration does not relieve any person from meeting the requirements of this section.

199 DEFINITIONS

Caliper - the diameter of the trunk of a tree, when measured at a height of four feet, six inches (4'6").

Drip Line - an imaginary line on the ground beneath a tree, which delineates the extent of the tree's canopy.

ISA - International Society of Arboriculture.

ATTACHMENT 1

The following are corrections to the Office of Planning's Report dated July 21, 2003.

- 1) COMMENT: OP includes corrections to:
Page 1, Paragraph 2, and Page 5, Paragraph 2
 - Preserve and **expand**
- 2) COMMENT:
Mr. David Bardin's comments concerning the survey, as referenced in the report, Page 2, Paragraph 1, are as follows:
"There are only four (not six) attachments to the OP memo and none of the four is from Palisades Citizens Association or the Wesley Heights Citizens Association, or ANC 3D05, or ANC 3C08. On the other hand, one of the four is from ANC 3D which the memo does not list and another from Alan Z. Aiches "as a private citizen" whom the memo also does not list. I would appreciate OP's clarifying the discrepancies."

RESPONSE:

The following correction is submitted:

Page 2, Paragraph 1 should read:

Survey questions were sent to **The Chain Bridge Road/University Terrace Preservation Committee, Palisades Citizens Association, ANC 3D, and The Wesley Heights Citizens Association. Comments were received from The Chain Bridge Road/University Terrace Preservation Committee, The Wesley Heights Citizens Association, Mr. John Finney, Chair, ANC 3D and Mr. Alan Aiches, private citizen in response to the Chain Bridge Road/University Terrace and Wesley Heights Tree and Slope Overlay.**

- 3) COMMENT: OP includes corrections to:
Page 3, Paragraph 3: **Tree Provisions**
...Based on a comparative analysis of local area jurisdictions, the Office of Planning recommends that the Overlay District protect all trees, **24 inches or greater in circumference except hazardous trees.**
Page 4, Paragraph 2: **Enforcement**
Corporation Counsel has suggested that if the Zoning Commission authorizes, Counsel will draft a proposed rulemaking for DCRA to propose an amendment to §3229.1 requesting a Class 1 Civil Infraction for failure to certify that the tree planting **was implemented.**
- 4) COMMENT: Based on input from the Urban Forestry Administration, OP includes corrections to:
Page 4, Paragraph 4
...Urban Forestry **Administration** for submission....**DDOT is awaiting the Mayor's Order to have the authority to implement and enforce regulations.**

5) COMMENT:

Shaw Pittman's memo dated July 29, 2003 to the Commission and the Office of Planning identified the error of including Square 2243 in the Overlay District (Page 5).

RESPONSE:

§1516.1 as proposed should read:

The Forest Hills Tree Protection (FH/TP) Overlay District is established for Forest Hills, which includes all lots in Squares 2030 through 2033, 2040 through 2043, 2046, 2049 except for lots 804 (Van Ness North), 805 (Van Ness Center), 806 (Van Ness South), 2231, 2232, 2238, 2239, 2241, 2242, 2244 through 2251, 2252, 2253, 2254, 2255, 2256, 2258, 2262 through 2270, 2272, 2274 through 2277 and 2282.