



COUNCIL OF THE DISTRICT OF COLUMBIA

WASHINGTON, D.C. 20004

Phil Mendelson
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July 22, 2004

Ms. Carol Mitten, Chairman
D.C. Zoning Commission
441 4th Street, NW Suite 200
Washington DC 20001

RE: Case 02-19 (Forest Hills)

Dear Ms. Mitten:

I am writing to reiterate my support for mapping the tree/slope overlay for Forest Hills, and to suggest that the Zoning Commission reject the alternative being proposed by the Office of Planning.

The purposes of the tree and slope protection overlay district are to preserve and enhance the park-like setting of designated neighborhoods adjacent to streams or parks by regulating alteration or disturbance of terrain, destruction of trees, and ground coverage of permitted buildings and other impervious surfaces. (See 11 DCMR 1511.1) The OP alternative falls short of these purposes.

The Council knew the extensiveness of the tree and slope protection overlay district when it adopted the Ward 3 element of the Comprehensive Plan. By that time the TSP overlay district had already been adopted and mapped in the Woodland-Normanstone neighborhood. Multiple statements in the Ward 3 element of the Comprehensive Plan call for tree and slope protection in areas such as Forest Hills. Indeed, specific reference to Forest Hills virtually requires that there be an overlay, with the strongest protection for trees. For instance:

§ 1406.5(a)(6) Neighborhoods developed over hilly terrain or near stream valleys (such as Barnaby Woods, **Forest Hills**, Hawthorne, Palisades, Spring Valley, and Woodland-Normanstone): Urban design should respect and perpetuate the natural features, low density, and usually wooded character of these built areas[.]

§ 1406.12(c) Map the Tree & Slope Protection overlay (11 DCMR § 1511) in hilly areas throughout the ward in addition to Woodland Normanstone, particularly in areas adjacent to federal park lands[.]

§ 1409.4 (b) (2) [The] Tree & Slope overlay should be considered and adapted for other park-like, hilly areas such as the Potomac Palisades and the portions of the **Forest Hills** and Barnaby Woods neighborhoods adjacent to Rock Creek Park and its tributary valleys[.]

The current Office of Planning alternative falls short of the requirements of which the Council was aware when it adopted these statements in the Ward 3 element. The OP alternative:

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- Does *not* preserve the natural topography and mature trees to the maximum extent feasible;
- Does *not* prevent significant adverse impact on adjacent open space, parkland, stream beds, or other environmentally sensitive natural areas; and
- Does *not* limit permitted ground coverage of new and expanded buildings and other construction, so as to encourage a general compatibility between the siting of new buildings and the existing neighborhood. (See 11 DCMR 1511.3)

For example, the OP alternative requires a maximum tree canopy (in 10 years) of 32% of a lot (this is only for the largest lots; the requirement for smaller lots is 25%). Yet the Forest Hills Citizens Association estimates that the current canopy is 40.3%, and the organization American Forests urges that the tree cover should be 50%. (See letters of July 15 and July 19 submitted in this case)

Further, the OP alternative allows any property owner to remove every tree so long as the owner files a certificate promising to be in compliance with the canopy requirements ten years later.

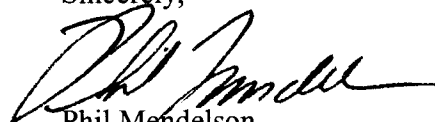
Moreover, the OP alternative is silent as to ground coverage and required perviousness. These are important elements of any regulation intended to preserve natural topography, prevent significant adverse environmental impact, and promote a healthy urban forest.

Finally, I consider the 10-year canopy requirement to be virtually unenforceable. Even when the zoning regulations are clear and present the city's authorities seem incapable of enforcing the zoning regulations – e.g., the Tenley antenna tower, restaurant limitations in the Cleveland Park neighborhood commercial overlay district, PUD violations, and the several appeals which have recently been granted by the Board of Zoning Adjustment. I am confident that the creation of a new regulatory scheme – the certification of a 10-year-hence tree canopy, with a follow-up certification in two or three years – will complicate zoning enforcement. I am also confident that calculating canopy compliance in 10 years on Forest Hill's 650 lots will be difficult and unlikely.

While the Office of Planning's alternative is a retreat in this case, there are aspects of it such as the requirement for a tree plan which are laudable. I also recognize that Advisory Neighborhood Commission 3-F has made recommendations that differ somewhat from that of the Forest Hills Citizens Association. In my view what is important is to craft an overlay for the Forest Hills neighborhood that meets the purposes of the tree and slope protection overlay district.

Thank you for consideration of these views.

Sincerely,

A handwritten signature in black ink, appearing to read "Phil Mendelson", written over a horizontal line.

Phil Mendelson
Councilmember At-Large