

RECEIVED  
D.C. OFFICE OF ZONING  
2002 JUN 17 PM 2:49

17 June 2002

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

Case No. 02-19 Text Amendment, Forest Hills Tree & Slope Overlay

Dear Mr. Bastida:

Please find enclosed the following materials in opposition to the above-referenced zoning amendment:

1. Letter from Mr. Robert Miller in opposition.
2. Letter from Mr. Mark Baughman in opposition.
3. Letter from Forest Hills Neighbors for Responsible Preservation requesting time to be heard at the June 27 hearing.
4. 2 signed petitions requesting the Zoning Commission reject the TSO and refer it back to the community.

Sincerely,



Mark L. Baughman, AIA  
4835 Linnean Ave., NW  
Washington, DC 20008  
202/332-2434 (d)  
202/966-7734(n)  
202/328-4547 (f)

ZONING COMMISSION  
District of Columbia  
Case 02-19 ZONING COMMISSION  
District of Columbia  
Exhibit 71 CASE NO.02-19  
EXHIBIT NO.71

June 13, 2002

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

2002 JUN 17 11 2:49  
OFFICE OF ZONING

Open letter re: Case No. 02-19 Text Amendment, Forest Hills Tree and Slope Overlay

Dear Mr. Bastida:

I am writing as a 27 year D.C. resident, a ten year Forest Hills homeowner of a 1949 house on a 6,000 square foot lot, and a registered architect active in neighborhood and environmental planning.

The proposed overlay, a fairly bald attempt to restrict residential development, uses the "motherhood" issue of saving trees to lull unwary neighbors—successfully, it seems, until now. While D.C.'s green areas deserve serious study, here they are being employed merely as a garnish to make downzoning more palatable.

This measure apparently originated with a minority of Forest Hills property owners—an estimated 20%—hoping to block a few large parcels from being used for new, relatively affordable homes as allowed under existing zoning. These owners' one real objection to development seems to be that they would rather not live next to it.

In a city seeking to attract middle class taxpayers, build affordable infill housing, and foster diversity, this is NIMBYism more typical of a sprawl suburb. Meanwhile the remaining 80% of Forest Hills is being asked not only to endorse this elitist social agenda, but to bear its practical burden—from inconvenience in getting approvals for simple additions and site work, to (assurances notwithstanding) whole properties rendered unbuildable or unmarketable by new lot coverage, setback, slope and tree rules.

Surely there are better ways to achieve responsible development on the very few parcels in dispute. For example, PUD (planned unit development) treatment of multi-lot subdivisions could let developers build more economical house clusters while preserving trees and perimeter open space near neighbors.

Allowing political pressure to override established environmental, planning and zoning controls is not only wrong for one neighborhood today, but sets a bad precedent for all D.C. neighborhoods. Along with every family on southern Linnean Avenue I urge the Commission to reverse this restrictive, dishonest rezoning.

Sincerely yours,



Robert L. Miller, AIA  
4158 Linnean Avenue NW  
Washington, DC 20008  
202 483 4828, RLMADC@aol.com

RECEIVED  
D.C. OFFICE OF ZONING  
2002 JUN 17 PM 2:50

17 June 2002

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

Case No. 02-19 Text Amendment, Forest Hills Tree & Slope Overlay

Dear Mr. Bastida:

My name is Mark Baughman. I live at 4835 Linnean Ave., NW, within the proposed Tree and Slope Overlay. As an architect who has practiced in the district for over 20 years, I am very familiar with how homeowners and developers alike use the D.C. zoning ordinances. My wife and I have spent thousands of dollars cabling and fertilizing and trimming a very large, very old but healthy oak tree that leans completely over our house waiting to crush the roof. We should take this tree down even though we have the right to do so even now, but, out of respect for that tree, we do not.

**I oppose the Tree & Slope Overlay** because its loopholes, inaccuracies, vague language, over-protective prescriptions and overreaching restrictive covenants are bad for our community. They are a sharp knife that developers will use to achieve their ends and a hammer to bludgeon those of us who live here. While I am encouraged by the fact that the Ad Hoc TSPO Committee also agrees that the original version is flawed and needs repair, their suggested "fixes" are insufficient. Therefore, I ask the Zoning Commission to reject the current Overlay and return it to the Forest Hills community for further deliberation so that a recommendation to the Zoning Commission can be made from the entire community and not just one select portion..

#### FIRST, THE STATED RATIONALE IS FLAWED

The TSO presumes that development, if not rigidly controlled, threatens the character of Forest Hills. Its supporters presume that current zoning has failed. The petitioners seem to see the neighborhood as one homogenous ideal, which is incorrect, and they offer no support, no detailed analysis, no impartial calculations, no appropriate studies that show that we even have a problem that requires such severe restrictions.

Even if we grant the rationale, which I do not, the fundamental problem here is that the proposed overlay misuses a single, uniform template for a large area of multifaceted sub-neighborhoods, without carefully considering their differences. Some areas of Forest Hills feature large lots with large houses, and others feature much smaller lots with denser long-standing construction. The regulations governing other DC overlay districts were crafted with great care and understanding at the smallest urban scale. The TSO before us slaps one rigid, uniform standard on a neighborhood that exhibits many differing features.

## THE SPECIFIC TECHNICAL PROBLEMS

### (1) Tree Cutting Limitations

As we all know, the TSO establishes new rules for what trees can and cannot be cut down. These rules assume, incorrectly, that all trees above a given size are good, and that maintaining them will preserve the character of the neighborhood. It does not consider, for instance that thinning out healthy trees might permit others to grow larger and stronger. In addition, the method of enforcement is so convoluted that it defies credulity.

In short, the TSO now puts all of us in the position of having to consider taking down smaller trees before they get so big that we will need a special exception to remove them, or even to clear cut property now so that seven years from now we will have a special exception-free opportunity to do something with our property, if we so choose.

A small community group has claimed eminent domain on the past and future plantings of my house and now I must look at trees as a potential threat to my property rights and value. It is fundamentally wrong that a regulation like this could force property owners to cut down trees to protect their investment, but that is the result.

### (2) Ground Coverage

The TSO reduces the amount of ground a building can cover from 40% to 30%. The 30% number is entirely arbitrary. Why not 25%? Why not 35%? The impact of a house has as much to do with its height as its area. By squeezing the plan you force people to increase height. The petitioners have assured us that they have examined the Sanborne maps and this number feels good to them. I live in a dense neighborhood. Other neighborhoods are more open. Where does this 30% come from? I have not seen any true analysis.

### (3) Impervious Surface

The TSO would restrict the amount of a lot could be covered by impervious surfaces to 50%. This 50% is also arbitrary. I have not read or heard anything from the Department of Public Works that indicates that the City's current stormwater management system for Forest Hills is a problem. I have certainly not heard any other experts present a specific problem here that needs fixing. The suggested amendments provide only vague language alluding to commonplace stormwater management that will have to be sorted out during the Special Exception process. And because this particular issue involves many departments, the process could drag on for months. I appreciate that the petitioners now recommend modifying the definition of impervious surfaces and expanding the kinds of materials that would not presently be counted as impervious. But the current TSO now in effect does not include these changes.

### (4) Lot Size

The TSO would increase the current minimum lot size to 12,000 square feet. In a fascinating cavalcade of numbers, the Committee sets out to use statistics to rationalize the 12,000 SF rule.

Mr. Alberto Bastida  
17 June 2002  
Page 3

Because not all numbers are shared and because there is no qualitative or substantive planning information provided, they are vacant abstractions and still they don't seem to support any change to the current minimum lot size. There seems to be no consideration of the area or mass of the house or how the other regulations would work together with them. So, for example, one might discover after a little thought that with a combination of graduated side-yard restrictions and a fixed front yard equal to the contiguous block, the resulting house on a 7,500 SF lot would be quite satisfactory.

(5) Definition of "New"

The original TSO, now in effect, was written in such a way that no one could put an addition aligning to the existing setbacks on his or her house without getting a special exception. So I applaud the Committee for trying to rectify this problem, created by the haste of the petitioners to put this thing into effect. Unfortunately, however, the new definitions are still vague and clever developers will find ways around it.

(6) Steep Slopes

The slope and soil provisions are completely flawed and I applaud the Committee for recognizing this. Unfortunately the Committee's new language still seems to want to keep the idea in play and the vagueness is an open door for trouble.

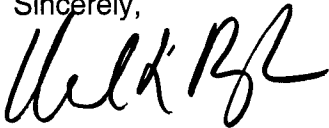
This review is really just the highlights of what is wrong with the TSO, even if amended as suggested by the Committee.

Over the past 3 weeks I have met many of my neighbors to discuss this new zoning and without exception they were not aware that this petition had been filed until after the fact. Very few had read the TSO or knew the details. Without exception they have signed petitions asking for the TSO to be brought back to the neighborhood for inclusive, thoughtful, clearheaded community consensus.

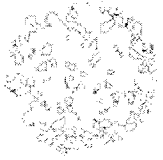
The sad irony is that the community could very easily reach a consensus on most issues. For whatever reason, the Committee is willing to needlessly divide the neighborhood.

I ask the Zoning Commission to let us sort this out and come back with a better regulation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark L. Baughman', written in a cursive style.

Mark L. Baughman, AIA  
4835 Linnean Ave., NW  
Washington, DC 20008  
202/332-2434 (d)  
202/966-7734(n)  
202/328-4547 (f)



Forest Hills Neighbors for  
Responsible Preservation

4835 Linnean Ave., NW Washington, DC 20008

RECEIVED  
D.C. OFFICE OF ZONING  
2002 JUN 17 PM 2:50

17 June 2002

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

Request for Hearing Time: Case No. 02-19 Text Amendment, Forest Hills Tree &  
Slope Overlay

Dear Mr. Bastida:

On behalf of the Forest Hills Neighbors for Responsible Preservation, I request that our group be given time to speak at the hearing on June 27 for the above-referenced case. Our group, which includes over 50 residents, is in opposition to this amendment.

Sincerely,  
FOREST HILLS NEIGHBORS FOR RESPONSIBLE PRESERVATION

Mark L. Baughman, AIA  
4835 Linnean Ave., NW  
Washington, DC 20008  
202/332-2434 (d)  
202/966-7734(n)  
202/328-4547 (f)

10 June 2002

PETITION

We, the undersigned, respectfully request that the District of Columbia Zoning Commission set aside and/or defer the Forest Hills Tree and Slope Overlay Regulation, Case No. 02-19, back to the community for a full consultation with those affected by the bill.

|    |                         |                              |                         |
|----|-------------------------|------------------------------|-------------------------|
| 1  | <u>Michael Berenson</u> | <u>4812 30th St.</u>         | <u>Michael Berenson</u> |
|    | Name                    | Address                      | Signature               |
| 2  | <u>Carol Berenson</u>   | <u>4812 30th St.</u>         | <u>Carol Berenson</u>   |
|    | Name                    | Address                      | Signature               |
| 3  | <u>Claude Fouthain</u>  | <u>3054 Davenport St, NW</u> | <u>Claude Fouthain</u>  |
|    | Name                    | Address                      | Signature               |
| 4  | <u>Ort Freundel</u>     | <u>3054 Davenport St, NW</u> | <u>Ort Freundel</u>     |
|    | Name                    | Address                      | Signature               |
| 5  | <u>John G. Weiss</u>    | <u>3060 Ellicott St NW</u>   | <u>John G. Weiss</u>    |
|    | Name                    | Address                      | Signature               |
| 6  | <u>K Barry Schochet</u> | <u>3060 Ellicott NW</u>      | <u>K Barry Schochet</u> |
|    | Name                    | Address                      | Signature               |
| 7  | <u>WL Horvitz</u>       | <u>4821 Linnean Ave NW</u>   | <u>WL Horvitz</u>       |
|    | Name                    | Address                      | Signature               |
| 8  | <u>Arthur J Brown</u>   | <u>4831 Linnean Ave NW</u>   | <u>Arthur J Brown</u>   |
|    | Name                    | Address                      | Signature               |
| 9  | <u>J. J. FERNANDEZ</u>  | <u>4843 Linnean Ave NW</u>   | <u>J. J. FERNANDEZ</u>  |
|    | Name                    | Address                      | Signature               |
| 10 | <u>Lorraine Brown</u>   | <u>4831 Linnean Ave, NW</u>  | <u>Lorraine Brown</u>   |
|    | Name                    | Address                      | Signature               |
| 11 | <u>Stephen Brown</u>    | <u>4831 Linnean Ave, NW</u>  | <u>Stephen Brown</u>    |
|    | Name                    | Address                      | Signature               |
| 12 | <u>Albert Foer</u>      | <u>2919 Ellicott St NW</u>   | <u>Albert Foer</u>      |
|    | Name                    | Address                      | Signature               |
| 13 | _____                   | _____                        | _____                   |
|    | Name                    | Address                      | Signature               |

10 June 2002

PETITION

We, the undersigned, respectfully request that the District of Columbia Zoning Commission set aside and/or defer the Forest Hills Tree and Slope Overlay Regulation, Case No. 02-19, back to the community for a full consultation with those affected by the bill.

|    |                           |                             |                           |
|----|---------------------------|-----------------------------|---------------------------|
| 1  | <u>MARK L. BAUGHMAN</u>   | <u>4835 LINNEAN AVE</u>     | <u>[Signature]</u>        |
|    | Name                      | Address                     | Signature                 |
| 2  | <u>Laura Baughman</u>     | <u>4835 Linnean</u>         | <u>[Signature]</u>        |
|    | Name                      | Address                     | Signature                 |
| 3  | <u>[Signature]</u>        | <u>4845 LINNEAN AV</u>      | <u>DAVID A REED</u>       |
|    | Name                      | Address                     | Signature                 |
| 4  | <u>Joan Mordling</u>      | <u>5129 Linnean Ave</u>     | <u>Joan Mordling</u>      |
|    | Name                      | Address                     | Signature                 |
| 5  | <u>PAUL WALTERS</u>       | <u>5117 LINNEAN AVE</u>     | <u>[Signature]</u>        |
|    | Name                      | Address                     | Signature                 |
| 6  | <u>Wendy Rudolph</u>      | <u>5030 Linnean Ave</u>     | <u>WS Rudolph</u>         |
|    | Name                      | Address                     | Signature                 |
| 7  | <u>[Signature]</u>        | <u>5030 LINNEAN AV.</u>     | <u>[Signature]</u>        |
|    | Name                      | Address                     | Signature                 |
| 8  | <u>PAUL D. PEARLSTEIN</u> | <u>2928 ELLICOTT ST NW</u>  | <u>[Signature]</u>        |
|    | Name                      | Address                     | Signature                 |
| 9  | <u>Susanna Pearlstein</u> | <u>2928 Ellcott St</u>      | <u>Susanna Pearlstein</u> |
|    | Name                      | Address                     | Signature                 |
| 10 | <u>Adam L. Pearlstein</u> | <u>2928 ELLICOTT ST</u>     | <u>Adam L. Pearlstein</u> |
|    | Name                      | Address                     | Signature                 |
| 11 | <u>ROBERT W. COLL</u>     | <u>2905 DAVENPORT ST NW</u> | <u>Robert W. Coll</u>     |
|    | Name                      | Address                     | Signature                 |
| 12 | <u>Dorothy F. Coll</u>    | <u>2905 Davenport</u>       | <u>Dorothy F. Coll</u>    |
|    | Name                      | Address                     | Signature                 |
| 13 | <u>Tina Picoult</u>       | <u>4843 Linnean Ave</u>     | <u>[Signature]</u>        |
|    | Name                      | Address                     | Signature                 |