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June 14, 2002

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

Re: Case No. 02-19  
(Text Amendment – Forest Hills Tree and Slope Overlay District)

Dear Mr. Bastida:

I am a resident of the Forest Hills neighborhood of the District, and have been a resident of that neighborhood for 26 years. I live at 4926 30<sup>th</sup> Street, NW, and own that property.

I am absolutely opposed to the proposed Forest Hills Tree and Slope Overlay, and urge the Zoning Commission to disapprove it. There are many, many reasons to oppose this proposal. Let me mention only two:

- The District of Columbia needs to expand its tax base. Yet, throughout the District there are moves afoot to limit additional residential development. Some people, with a shortsighted focus on their own immediate surroundings, are proposing restrictions like that in the proposed Forest Hills Overlay, which would expand the minimum lot size for single family residences. This defeats the ability to develop new residences on lots of a size occupied by many existing residences, and deprives the District of Columbia of new tax paying residents. These anti-development restrictions hurt the economy of the entire city of Washington with no evident benefit even to the neighborhoods where some activists demand these restrictive changes.
- If I wanted to have what I do with landscaping on my private property regulated by my neighbors or a governmental bureaucracy, I would move to one of the new towns, such as Reston, which have sprung up around metropolitan Washington. In those new towns, property owners are restricted in the types and numbers of trees they may plant on their property, restricted in the nature of ornamental shrubs they may place on their property, and, in some such places, prohibited from erecting flag poles in their front yards. In contrast, people who choose to live in a well established urban city such as Washington, which was not

ZONING COMMISSION  
District of Columbia

Case 02-19  
Exhibit 75

ZONING COMMISSION  
District of Columbia  
CASE NO.02-19  
EXHIBIT NO.75

Mr. Alberto P. Bastida, AICP  
June 14, 2002  
Page 2

developed as a condominium association or planned unit development, are generally individuals who believe they and not their neighbors should make decisions about the use of their private property, and would agree, if asked, that their neighbors should have the right to do exactly the same with the neighbors' private property even though it might offend the sensibilities of others. For example, the decision to plant and grow a tree, or to chop one down, when the tree is on one's private property is, in the minds of these people, a decision that unquestionably belongs to the owner of the property. These individuals, who I believe constitute a majority of the property owners in the District of Columbia, believe that people who own property may choose, for example, to erect a flag pole or not in their front yard. Those people who believe they, or a series of government agencies, should be able to impose constraints on the removal of trees on property belonging to others are very vocal and active in pursuing their goals but are not, I believe, representative of a majority. Unfortunately, the process being followed with respect to the Forest Hills Overlay is not one which would determine which view, mine or that of the proponents of the Forest Hills Overlay, does constitute the majority view.

The proponents of the Forest Hills Overlay, speaking through Messrs. George Clark and David Bardin, are promoting the Overlay through mailings which selectively state information in a way designed to silence valid objections to the Overlay without straightforwardly dealing with the merits of those objections. A recent mailing, labeled "Update As Of June 9, 2002", from Messrs. Clark and Bardin purports to deal with frequently asked questions about the Overlay. One question is "do I need a permit to take down a sick, hazardous, or diseased tree of any size?" The one word answer given by these gentlemen is "no." In fact, Section 1514.1 of the proposed Overlay Regulation, as mailed April 29, 2002, by the Forest Hills Citizens Association says this about removal of sick, hazardous or diseased trees: "The need for removal of any such tree shall be certified by an arborist or other tree care professional." It seems evident in the context of this extraordinarily detailed Overlay Regulation that the failure to obtain certification by an arborist or other tree care professional would, if the removed tree were of the relevant size, defeat the ability to obtain a building permit within the next seven years. Thus, while the answer given by Messrs. Clark and Bardin is literally true, it is most obviously not the whole truth. If a property owner removes an obviously sick or hazardous tree without having arranged and paid for a certificate from an arborist, that property owner and his or her successors in ownership of the property would be deprived of a clear right to an otherwise available building permit.

Similarly, Messrs. Clark and Bardin answer the question "could 'adding a backyard patio' be prohibited as stated in a recent mailing" by, again, the one word answer "no." The Overlay Regulation as mailed by the FHCA April 29 seems at odds with that answer, and Messrs. Clark and Bardin do not undertake to explain their unconditional negative answer. Section 1513.2 provides that the maximum impervious surface coverage of a lot shall be 50%. On a lot of 7,500 square feet with existing impervious surface coverage (driveways, buildings, swimming pool) of, for example, 3,200 square feet, it appears that no patio greater than 550 square feet of poured concrete could be constructed. If I am not wrong about that reading of the proposed Overlay, the truthful answer to the question is not the one given by Messrs. Clark and

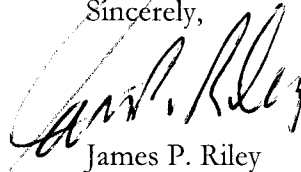
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Mr. Alberto P. Bastida, AICP  
June 14, 2002  
Page 3

Bardin. Instead, adding a patio of the size desired by the property owner may be prohibited by the Overlay, depending upon other features of the property also regulated by the Overlay.

The proponents of this Overlay, speaking exclusively, so far as mailings arriving at my house reveal, through Messrs. Clark and Bardin, seem to believe that property owners in Forest Hills read every column inch of the Northwest Current and attend all meetings of the FHCA and the ANC. Allow me to offer my view that residing in Forest Hills does not obligate me to exhaustively examine the Northwest Current or attend these meetings in order to gain the right to object, at this date, to the proposed Overlay. Allow me also to offer my observation, as a regular reader of the Northwest Current, that the Current has become, unfortunately, a journal whose weekly lead stories are about activist neighbors trying their mightiest to regulate the uses of private property owned by others. This city would be far better off if persons like Messrs Clark and Bardin and those unnamed individuals allied with them developed solitary hobbies like stamp collecting rather than devoting their lives to imposing their wills on the property rights of others.

Sincerely,



James P. Riley

JPR:deb

cc: ANC 3 F  
Philip Kogan  
Robert V. Maudlin  
Douglas Mitchell  
Todd Strauss  
Karen Perry  
David J. Bardin  
Cathy Wiss  
Barbara Simons  
George Clark