Government of the District of Columbia
Office of Zoning

AM 11: 43

MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Alberto P. Bastida, AICP
Secretary to the Zoning Commission

DATE: March 1, 2004

SUBJECT: Publication for the Office of Zoning

Please publish the following in the D.C. Register on March 12, 2004:

1. Notice of Public Hearing (Z.C. Case No. 03-24).

Linda Jenkins
Received By

3-2-04
Date

Attachments

ZONING COMMISSION
District of Columbia
Case No. 03-24
Exhibit No. 45

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ZONING COMMISSION
District of Columbia
CASE NO.03-24
EXHIBIT NO.45

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING

TIME AND PLACE: **Thursday, May 6, 2004, at 6:30 p.m.**
Office of Zoning Hearing Room
441 4th Street, N.W. – Suite 220 South
Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Case No. 02-19 (Forest Hills – Tree Slope Overlay)

THIS CASE IS OF INTEREST TO ANC 3F:

The Zoning Commission for the District of Columbia hereby gives notice of its intent to hold a further public hearing at the above-stated date, time and place concerning the Zoning Commission Case No. 02-19.

On April 5, 2002, the Office of Zoning received a petition from the Forest Hills Citizens Association requesting a text and map amendment to the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The purpose of the petition was to create the Forest Hills Tree and Slope Overlay District. A hearing on the proposal began on June 27, 2002, and was continued on September 5 and 30, 2002. At the time that final action was scheduled for this case, the Commission expressed an interest in finding an alternative to the approach advocated in the petition. The Office of Planning, at a public meeting on November 11, 2003, presented such an alternative, which will be the subject of the hearing advertised by this notice.

For the purposes of 11 DCMR § 3202.5 (also known as the set down rule), the applicable text shall be the text in the notice of proposed rulemaking for this case, as published in the *D.C. Register* on December 13, 2002 at 50 DCR 50.

Title 11 DCMR (Zoning) is proposed to be amended by adding new sections 1516 and 1517, and three new definitions, to read as follows:

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, 2256, 2258, 2262 through 2270, 2272, 2274 through 2277 and 2282.

1516.2 The purposes of the FH/TP Overlay District is 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%);

(b) For a lot 9,500 square feet but not less than 20,000 square feet in area, twenty-five percent (25%); or

(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 for a particular lot by the Board of Zoning Adjustment to avoid one or more of the following:

(a) Overcrowding of existing trees;

(b) Planting in an unsuitable soil type;

(c) Planting in areas with a lack of adequate root space; or

(d) Any other factors that may jeopardize the health of a tree.

1517.4 Any application filed under § 1517.3 shall be referred to the Urban Forestry Administration.

1517.5 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.

1517.6 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.

1517.7 The Zoning Administrator shall not take final action on a building permit application until a report is received from the Urban Forestry Administration or until twenty-one (21) days have passed since the tree protection plan was submitted to the Urban Forestry Administration, whichever is sooner.

1517.8 No building permit shall be granted if a tree protection report received pursuant to § 1517.5 fails to demonstrate that the tree canopy requirements of this section will be met.

1517.9 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. Failure to present a certification that meets the requirements of § 1517.9 within the time provided therein shall be a violation of this section.

1517.10 No further building permits shall be issued for the subject property until the certification required by §1517.9 is received by the Zoning Administrator.

1517.11 No person shall remove a tree identified in the tree plan in § 1517.6 so as to reduce the canopy percentage below the applicable level established in § 1517.2 unless the tree is determined to be dying, diseased or hazardous by an ISA certified arborist.

1517.12 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.

The following definitions are proposed:

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.

Proposed amendments to the Zoning Regulations and Map of the District of Columbia are authorized pursuant to the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01) (2001)).

The public hearing on this case will be conducted in accordance with the provisions of § 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. Pursuant to that section, the Commission will impose time limits on testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210, 441 4th Street, N.W., Washington, D.C., 2001. Please include the number of this particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

CAROL J. MITTEN, ANTHONY J. HOOD, JOHN G. PARSONS, JAMES H. HANNAHAM, AND KEVIN HILDEBRAND -------- ZONING COMMISSION FOR ~~THE DISTRICT OF COLUMBIA, BY JERRILY R. KRESS, FAIA, DIRECTOR,~~ AND BY ALBERTO P. BASTIDA, AICP, SECRETARY TO THE ZONING COMMISSION.