

**Testimony of Justine M. Kingham, AIA
Speaking on behalf of the Dexter Street Coalition,
before the District of Columbia Zoning Oversight Committee, April 24, 2014**

The Dexter Street Coalition is concerned with three aspects of the ZRR.

1. The very nature of the Berkeley and similar neighborhoods, we believe, will be undermined by the proposed changes to the R-1-A zoning and loss of what limited overlay protections we enjoy. We chose not to live in row houses or apartments in Georgetown, Capitol Hill, or other denser neighborhoods, and the OP and Zoning Commission has in the past supported the value of single-family detached zoning through multiple sections of the Comprehensive Plans, and through the Wesley Heights and 24 other overlays. This wholesale rewrite of the Zoning Code automatically up-zones one-family areas to 2-family accommodation, thereby doubling the density and destroying the intent of the Wesley Heights overlay.

2. The community risks being further undermined by the proposed non-residential uses that are to be allowed without ANC review or special exceptions.

We are not the only district to make these two points, but we want to add our voices to those elsewhere in the city. Please reconsider these two aspects of the ZRR.

3. Our greatest concern, however, is the lack of meaningful slope and tree protection throughout the city. Berkeley has experienced repeated and worsening destruction of natural terrain.

First, there was the construction of a 30' wall at 4825 Dexter Terrace, in order to create a level back yard. Federal parkland was damaged, and the owner is now removing the wall under a court order. Having lost all of the original contours and vegetation, the city has approved plans to create a ziggurat of set-back walls. a series of four-foot high walls every four feet back into the property until the original grade height is reached. While this may stabilize the hillside and control water and sediment runoff, it does nothing to reinstate the natural habitat for wildlife, trees and plants. OP told me in an open-house meeting that they find such wall setbacks acceptable in a TSP overlay district. Nearly every source of responsible forestry management will say that artificial contouring is not as successful or environmentally sound as the original slopes, underbrush and trees--which can be reinstated. Just drive to Dulles to see how the Federal government reinstates steep slopes.

4825 Dexter Terrace sparked copy-cats. Others moving into Berkeley got the same idea to level slopes and remove trees. Three instances--a 16' wall at 4801 Dexter Street, a planned but averted leveling at 4804 Dexter Street, and a leveled rear yard for a swimming pool at 4801 Dexter Street--followed within the past five years.

The ^{fourth} ~~fourth~~ and most recent destruction of slope and trees is occurring at 4833 Dexter Terrace, undertaken without a permit and with only limited intervention from the city. Look at the pictures of what happened in three days. The new landfill rises half way up the height of many of the trees, burying the trunks with up to 20 feet of dirt. The trees will not survive. The dirt is not stabilized. The next pictures show the result in before and after shots. The downhill neighbors on 49th Street suffered massive sediment in their backyard, pool and koi pond.

The OP didn't consult Wesley Heights on the proposed changes to the TSP Overlay. However, we hope that the Zoning Commission will consider adding tree and slope protections across all zones of the city. To quote OP's original summary, "The TSP Overlay District is designed for residential neighborhoods that have a significant quantity of steep slopes, have stands of mature trees, are located at the edge of stream beds or public open spaces, and have undeveloped lots and parcels subject to potential terrain alteration and tree removal." Dexter Street and Dexter Terrace are poster children for why this is an important protection, but unfortunately it does not apply to them. They lie on the other side of Battery Kemble Park, which is protected by the Chain Bridge Overlay.

Had the TSP been applied throughout the city, instead of neighborhood-by-neighborhood, the city would be in a much stronger position to protect and enforce the purpose of the overlay. In responding to the loudest, most organized voices of neighborhoods, OP is losing sight of the forest in terms of policy. We can define "slope" to mean any gradient greater than 30%-- pick your number--and protect our terrain, habitat, park-like setting and residents.

The Chain Bridge Road/University Terrace (CB/UT) Overlay District was established to preserve and enhance the park-like setting of the Chain Bridge Road/University Terrace area by providing for widely-spaced residences and by regulating alteration or disturbance of terrain, destruction of trees, and ground coverage of permitted buildings and impervious surfaces. The intent of the overlay is to preserve the natural topography and mature trees to the maximum extent feasible in a residential neighborhood; prevent significant adverse impact on adjacent open space, parkland, stream beds, or other environmentally sensitive natural areas; 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 or construction and the existing neighborhood; and limit the minimum size of lots so as to prevent significant adverse impact on existing infrastructure.

or Forest Hills:

The Forest Hills Tree and Slope Protection (FH/TSP) Overlay District was established to preserve and enhance the park-like setting of certain designated neighborhoods including Soapstone Valley and Melvin C. Hazen Park. The overlay is meant to preserve the natural topography and mature trees to the maximum extent feasible in the Forest Hills neighborhood. The overlay limits permitted ground coverage of new and expanded buildings and other construction so as to encourage a general compatibility between the location of new buildings or construction and the existing neighborhood.

Tree & Slope Overlay

The Tree and Slope Protection (TSP) Overlay District was established 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. The TSP Overlay District is designed for residential neighborhoods that have a significant quantity of steep slopes, have stands of mature trees, are located at the edge of stream beds or public open spaces, and have undeveloped lots and parcels subject to potential terrain alteration and tree removal. Principal buildings and accessory buildings on a lot shall not exceed a total lot occupancy of thirty percent (30%). The maximum impervious surface coverage on a lot shall be fifty percent (50%) with some exceptions. The construction of a building, accessory building, or an addition to a building or the creation of any impervious surface area is permitted as a matter-of-right subject to tree removal limitations. Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern. For more information, see Sections 1511 through 1515 of the Zoning Regulations.

Wesley Heights:

The Wesley Heights (WH) Overlay District was established to preserve and enhance the low density character of Wesley Heights by regulating construction and alteration of residential and other buildings in the area. The purposes of the WH Overlay are to preserve in general of the neighborhood, allow reasonable opportunities for owners to expand their dwellings, and preserve existing trees, access to air and light, and the harmonious design and attractive appearance of the neighborhood. No structure, including accessory buildings, shall occupy an area in excess of thirty percent (30%) of the lot with some exceptions. The gross floor area of all buildings and structures on the lot shall not exceed the sum of two-thousand (2,000) square feet plus forty percent (40%) of the area of the lot, with a few provisions.

26 Overlays: Uptown Arts-Mixed Use Overlay District (ARTS), Capitol Interest Overlay District (CAP), Chain Bridge Road/University Terrace Overlay District (CB/UT), Capitol Gateway Overlay District (CG), Capitol Hill Commercial Overlay District (CHC), Cleveland Park Neighborhood Commercial Overlay District (CP), Diplomatic Overlay District (D), Dupont Circle Overlay District (DC), Downtown Development Overlay District (DD), Eighth Street Southeast Neighborhood Commercial Overlay District (ES), Foggy Bottom Overlay District (FB), Forest Hills Tree and Slope Protection Overlay District (FH), Fort Totten

Overlay District (FT), Georgia Avenue Neighborhood Commercial Overlay District (GA), H Street Northeast Neighborhood Commercial Overlay District (HS), Hotel/Residential Incentive Overlay District (HR), Langdon Overlay District (LO), Macomb-Wisconsin Neighborhood Commercial Overlay District (MW), Naval Observatory Overlay District (NO), Reed-Cooke Overlay District (RC), Southeast Federal Center Overlay District (SEFC), Sixteenth Street Heights Overlay District (SSH), Takoma Neighborhood Commercial Overlay District (TK), Tree and Slope Protection Overlay District (TSP), Wesley Heights Overlay District (WH), Wesley Heights Overlay District (WH)



4833 Dexter Terrace in foreground, 4825 Dexter Terrace at wall. March 28, 2014



4833 Dexter Terrace, foreground. 4825 Dexter Terrace at and beyond wall. March 29, 2014.



4833 Dexter Terrace, NW, showing no sediment or run-off control at beginning of dumping. March 28, 2014. It still looks much the same, but with more dirt.



View from second floor of adjacent house (4821 Dexter Street, NW) on April 5, 2014.



Koi Pond at 49th Street House down hill from 4833 Dexter Terrace



Koi Pond on April 14, 2014