

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF:	
Text Amendment --	
Forest Hills Tree and Slope	Case No. 02-19
Overlay District	
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Monday,
September 30, 2002

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 02-19 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, Northwest, Washington, D.C., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chair
ANTHONY HOOD	Vice Chair
JAMES HANNAHAM	Commissioner
PETER MAY	Commissioner
JOHN PARSONS	Commissioner

COMMISSION STAFF PRESENT:

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ALBERTO BASTIDA, Secretary
SHARON SANCHEZ
STEPHEN MORDFIN, Office of Planning
JENNIFER STEINGASSER, Office of Planning
KAREN THOMAS, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

ALAN BERGSTEIN

P-R-O-C-E-E-D-I-N-G-S

6:40 p.m.

MS. MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Monday, September 30th, 2002. My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood and Commissioners Peter May, John Parsons, and James Hannaham.

The subject of this evening's hearing is Zoning Commission case number 02-19 and is a continuation of the June 27th and September 5th, 2002 hearings. This application is a request by the Forest Hills Citizens Association for a text and map amendment to the District of Columbia Municipal Regulations Title 11 to create section 1516 the Forest Hills Tree and Slope Overlay District.

Notice of today's hearing was published in the D.C. Register originally on May 17th, 2002 and in the Washington Times on May 15th, 2002. This hearing will be conducted in accordance with the provisions of 11DCMR, Section 3021, which are the procedures for rule-making hearings. Copies of today's hearing announcement are available to you and are located on the table near the door.

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1 We're winding down the hearing tonight, so
2 the order of procedure will be as follows: we'll take
3 up any preliminary matters, and then the only item on
4 the agenda this evening is organizations and persons
5 in opposition. The following time constraints will be
6 maintained: individuals will have three minutes,
7 organizations will have five minutes, only one
8 individual may speak for an organization and claim the
9 five minutes, and we've also given the Forest Hills
10 Neighbors for Responsible Preservation 20 minutes to
11 make a slide presentation.

12 The commission intends to maintain the
13 time limits as strictly as possible in order to hear
14 the case in a reasonable period of time. The
15 commission reserves the right to change the time
16 limits for presentations, if necessary, and notes that
17 no time shall be ceded. Parties may, at any time -□
18 I'll skip that part; we don't have parties. All
19 persons appearing before the commission are to fill
20 out two witness cards. These cards are located on the
21 table near the door as well. Upon coming forward to
22 speak to the commission, please give both cards to the
23 reporter, who is sitting to our right.

24 The decision of the commission in this
25 case must be based on the public record. To avoid any

1 appearance to the contrary, the commission requests
2 that persons present not engage the members of the
3 commission in conversation during a recess or at any
4 other time. Staff will be available throughout the
5 hearing to discuss procedural questions, so you can
6 direct any questions to Mr. Bastida or Ms. Sanchez.
7 Please turn off all beepers and cell phones at this
8 time, so as not to disrupt these proceedings.

9 At this time, the commission will consider
10 any preliminary matters. Mr. Bastida, any preliminary
11 matters?

12 MR. BASTIDA: Madame Chairman, the staff
13 has no preliminary matters. Thank you.

14 MS. MITTEN: Thank you. Any preliminary
15 matters, Mr.

16 MR. CLARK: Thank you.

17 MS. MITTEN: Could you get on the mike,
18 please, and identify yourself for the record?

19 MR. CLARK: George Clark on behalf of the
20 Forest Hills Citizen Association. At the last
21 hearing, there was a request by the commission because
22 there was a reference to a photograph of the overlay
23 area. I've got the large photograph here to my right,
24 which I'd be happy to give to the commission
25 afterwards, but maybe it doesn't want something in

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1 that size. I've also filed a digital version of that,
2 I think, on the 24th of September □-

3 MS. MITTEN: Right.

4 MR. CLARK: -- in an eight and a half, I
5 think, by eleven size.

6 MS. MITTEN: We'll take the large version
7 into the record.

8 MR. CLARK: Okay.

9 MS. MITTEN: You'll have to leave it with
10 us, though.

11 MR. CLARK: I will do that.

12 MS. MITTEN: Okay. Thank you. I think
13 the best thing for us to do is the folks who are sort
14 of joining together as the Forest Hills Neighbors for
15 Responsible Preservation have your slide presentation,
16 and then whatever grouping you want to start, we'll
17 just start with you, and then we'll go through the
18 witness list after that. So we'll give the 20 minutes
19 for the slides, and then five minutes for whoever's
20 going to speak on behalf of the Forest Hills Neighbors
21 for Responsible Preservation, and then we'll go into
22 three minutes on additional witnesses there.

23 I need you on the mike. Please identify
24 yourself for the record.

25 MR. BAUGHMAN: It's Mark Baughman, 4835

1 Linnean Avenue. I wanted to know if, before I went
2 into the slide show, whether we could make brief
3 introductory remarks and sort of follow our briefing
4 book.

5 MS. MITTEN: Who's going to speak for the,
6 who's going to take the five minutes for the
7 neighbors?

8 MR. BAUGHMAN: Bill Kelly.

9 MS. MITTEN: Okay. If you're going to
10 speak, you get three minutes and then that's it.
11 That's it for you then.

12 MR. BAUGHMAN: Okay. I'm 20 minutes on
13 the slide show, and Bill Kelly speaks for the □-

14 MS. MITTEN: Okay. Well, if you want to
15 make introductory remarks, that's three minutes, and
16 then we have the slide show, and then Mr. Kelly gets
17 five, and then everyone else gets three, unless
18 they're representing some other group.

19 MR. BAUGHMAN: We'll just start with the
20 slide show.

21 MS. MITTEN: All right.

22 MR. KOGAN: Can we reserve the three
23 minutes and come back with that?

24 MS. MITTEN: You don't have to have any
25 introduction. You can just start.

1 MR. KOGAN: Okay.

2 MR. BAUGHMAN: Thank you, Madame Chairman,
3 Commissioners. My name is Mark Baughman. I live at
4 4835 Linnean Avenue, Northwest, about the northern
5 center section of this overlay area. I'm an architect
6 with a private practice here in Washington, where I've
7 practiced over 20 years. I'm an active member of the
8 Society of Architectural Historians and a past member
9 of the American Planning Association.

10 My practice is, generally, corporate and
11 institutional, and, for the past five years, I've
12 spent much of my time teaching sustainable design
13 techniques to architects and engineers in Madagascar
14 and Bangladesh and those places where I build our
15 buildings.

16 My master planning in building and design
17 work for the Xerox Training Center in Leesburg,
18 Virginia was honored by the National Arborist
19 Association for the efforts we took to preserve,
20 relocate, and restore the trees in that large, very,
21 very large site. I got a first-hand view of how to,
22 conscientiously, develop housing in heavily-wooded
23 landscape as a young intern working on the then new
24 development of Wintergreen down near Charlottesville.

25 It's been over 20 years since I've had a developer as

1 a client. I don't have that kind of practice.

2 But I'm here speaking on behalf of the
3 Forest Hills Neighbors for Responsible Preservation,
4 of which I'm a member, because I'm opposed to this
5 overlay, and I'm opposed for four reasons. First, the
6 objectives, where they can be discerned, are not based
7 on reality. Second, the problems, quote/unquote
8 problems, asserted by the petitioners are a collection
9 of loosely-organized anecdotes. I believe the real
10 issues that confront our neighborhood have been
11 completely ignored or misunderstood. Therefore,
12 third, the solutions are alternatively
13 counterproductive, unenforceable, irrelevant, or don't
14 address the pressing needs of my neighborhood. But
15 all this comes down to, really the pain point of my
16 remarks today, this regulation is not the result of
17 any kind of serious analysis or planning effort.

18 MS. MITTEN: Let me ask you a question.

19 MR. BAUGHMAN: Sure.

20 MS. MITTEN: Is your slide presentation a
21 series of photographs or □-

22 MR. BAUGHMAN: Yes, it is.

23 MS. MITTEN: -- is it just a PowerPoint
24 presentation?

25 MR. BAUGHMAN: It's a series of

1 photographs.

2 MS. MITTEN: Okay.

3 MR. BAUGHMAN: Okay.

4 MS. MITTEN: We're still holding you to
5 the time, even the time you spend chatting.

6 MR. BAUGHMAN: I understand.

7 MS. MITTEN: All right.

8 MR. BAUGHMAN: First let me start with the
9 petitioners' filing describe Forest Hills as a rural,
10 park-like section of town that needs to be preserved.
11 It is not rural. It is a wooded, urban residential
12 district of some density within walking distance of
13 Metro. There is certainly an environmentally-
14 sensitive zone that borders the neighboring parks, but
15 this is a really rather small portion of the Forest
16 Hills Overlay area, and Forest Hills is hardly a
17 homogeneous neighborhood.

18 When I read the petitioners' preamble, I
19 started to wonder what neighborhood they were talking
20 about. Certainly, most of us, when we drive through
21 Forest Hills and some of the arteries, see Forest
22 Hills as large Tudor estates, great homes, lots of
23 ivy, lots of ground cover, stately mansions, large
24 trees, very old. But Forest Hills is a remarkably
25 diverse area. We have Italian duplexes. We have a

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1 lot of one-story ramblers. We have California
2 bungalows of every type. We have our suburban-looking
3 areas here. We have a great deal of housing stock
4 like this, which are one- and one and a half-story
5 houses that are near the end of their useful life.
6 And what's going to happen with this property is a big
7 question, and it's one of the areas I'm very, very
8 concerned with and one of the areas that this overlay
9 does not address whatsoever.

10 We certainly have our New England
11 colonials. We have a few very interesting little
12 bungalows of the Sears genre. Well, this is kind of a
13 trick question because you see that these houses are a
14 mile or two west of the overlay area, but they look
15 identical to the houses in the neighborhood that we're
16 talking about, which brings me to this big point. The
17 kind of tree cover that my neighbors and I enjoy so
18 much extends far beyond the lines that the petitioners
19 said. What that tells me is that it's kind of a
20 flippant use of a concept of tree protection makes me
21 suspicious that the proponents are really trying to
22 use trees as an angle to try to monitor and
23 micromanage construction going on.

24 Further entry, when I try to understand a
25 little bit more about how the boundaries were set, and

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1 I'm not sure what to make of it, but the ANC
2 commissioners that voted for this pretty much
3 eliminated any of their residential constituents out
4 of it, and the two ANC commissioners that voted
5 against it are pretty much completely involved in it.

6 In fact, the tree committee chair managed to slice
7 out that one little notch in the northwest portion
8 there in the pink, yellow area there. And these are
9 two of the houses that got taken out of that, and I
10 can't, for the life of me, understand why these two
11 got distinguished from the houses directly across the
12 street or adjacent to them. There's definitely no
13 difference in character.

14 But anyways, what I really want to
15 emphasize is that this is a remarkably diverse
16 neighborhood, and that's one of its really charming
17 qualities. It's a diversity that distinguishes Forest
18 Hills from Wesley Heights, AU Park, and any other
19 neighborhood in our area. This could have never
20 happened with design review boards or other intrusive
21 committees of self-appointed taste police that could
22 have been suggested by the TSO and its proponents.

23 Where I'm having a lot of difficulty with
24 the overlay is where I believe that the idea of
25 getting rid of the McMansions, quote/unquote, has been

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1 misunderstood and oversold. This is one of the poster
2 children for the overlay for the petitioners. You
3 have seen it; it's been brought to the ANC. This was
4 a vacant lot at the northeast corner of Davenport and
5 30th Street.

6 What was here was no trees, there was a
7 big ugly shrub, there were a lot of weeds, there were
8 a lot of clean-it or lien-it signs. There was,
9 apparently, a family of rats and, for at least five
10 years that I walked by, I live around the corner, it
11 was a vacant lot.

12 So, eventually, a developer bought the
13 lot; he put a house on it. That house could have been
14 substantially larger, it could have been substantially
15 taller, more massive, and when you start taking a
16 cursory look at this house, you notice that he chose
17 30th Street to be his front yard, and he aligns with
18 the adjacent houses, there's only one other house on
19 that block. He runs the face of his house as the same
20 set-back as the other one.

21 Coming up Davenport, if you look
22 carefully, in the right-hand corner, you'll see the
23 face of the house on Davenport. Go up a little bit
24 further, and careful inspection will show that he's
25 pretty much following, he is following the same set-

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1 backs that are already established. So, for the life
2 of me, I can't figure out why this has become one of
3 the poster children of a house. It could have been
4 considerably worse.

5 When I stand on the 2900 block of
6 Brandywine, and I look to the southeast corner, I see
7 a pink brick house with a lot of vegetation in the
8 front yard in the right-of-way, and I look across the
9 street, and I see a much newer house, but it's built
10 with the same material, same scale; it just doesn't
11 have the vegetation in the front that the one on the
12 left does, but, otherwise, it is very similar in
13 appearance and presence on the street, and this is
14 another one of the poster children.

15 Careful scrutiny will show you that it
16 aligns with the same set-backs as the other houses on
17 Brandywine. Where it fails, I believe, is that on 30th
18 Street, it stands about four feet in front of the
19 other houses on 30th Street set-back, but this house
20 also could have been bigger. It could have been a
21 story higher, it could have been a lot more massive on
22 the street, but, yet, this is one of the houses that
23 proponents rail out as this must have to stop, and I
24 don't think that they've done anything that would have
25 stopped this. This house would have existed, and I

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1 think that they just don't like the house.

2 Now there are a lot of houses, as I've
3 said, that are quite like this, very modest, old
4 families built in the 60's. They're one-story, one
5 and a half story, cut into a hill with a little garage
6 underneath there. This house, there was a relief made
7 on the side yard set-back, so this house, which is
8 eight feet from the side yards on either side, is
9 ready to be torn down, put a new house in its place.
10 It's a one-story house. Imagine a façade as big as
11 that yellow rectangle, that is permitted, and then
12 that volume of house going back. The overlay doesn't
13 deal with any of them.

14 One of my favorite places in the
15 neighborhood, these little bungalows on 30th Street,
16 they're one-story with those frame attics and their
17 little dormers up there. This would be permitted
18 under the current zoning, and it wasn't dealt with. I
19 think it would drastically change and really ruin the
20 neighborhood. All of 30th Street could be like this,
21 and, in fact, the economic forces, given this
22 location, are such that, eventually, this is going to
23 happen.

24 Here, we have a lot of situations where
25 you have buildings that sit up on severe retaining

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1 walls and so forth, so even a two-story house, you get
2 a three-story house on top of that, it makes big
3 walls, big canyons. This has nothing to do with trees
4 and saving that neighborhood from this. Saving our
5 trees has nothing to do with what will probably ruin
6 our neighborhood.

7 This house accommodated at least two
8 generations, I know, of families. But I know first-
9 hand, because this is my house, that there is no way a
10 family could have children and live in this house
11 because the floor plan. The house was built in 1931,
12 the floor plan is completely obsolete, and people live
13 completely differently. We don't have children; it's
14 not a problem for us.

15 Somebody will want to buy this house.
16 They will have, under the current overlay, the ability
17 and the driving force to do this, to have a façade
18 that big and move backwards. Ironically, because of
19 the maximum footprint area restriction, people are
20 actually forced to do this; they're forced to go up.
21 The petitioners have only looked at the plan, they
22 haven't looked at bulk plan, they haven't looked at
23 FAR, or any of the things that really make, three-
24 dimensionally, what makes our neighborhood.

25 I listened very intently to testimony

1 about trees. I try to understand the problem with
2 trees because, as I tried to indicate in my opening
3 remarks, I have spent a lot of time dealing with
4 trees, saving trees, and so forth, and I wanted to
5 understand what the problem was with the trees. I
6 heard some interesting stories about how much room we
7 needed for the drip line and so forth, and I'm
8 familiar, out in Montgomery County, how housing
9 developments happen, and they pour too much, put too
10 much dirt on top of roots, they dug out, and then
11 three years after the housing was done, all the trees
12 died.

13 I'm very familiar with that situation
14 here, but I listened to the Park Service and Casey
15 Trees, intently listening for facts, and then I walk
16 through my neighborhood, and I'm wondering are we
17 talking about the same trees? Perhaps we have a
18 special sort of hardy Forest Hills-kind of tree, but
19 as I think you can see that it's very hard to find a
20 house that doesn't have some canopy growing over it.
21 I think when you walk through the neighborhood, you
22 see that the trees and the construction have come to
23 quite a nice understanding with each other.

24 Now I also listened very carefully to the
25 stories told at the last hearing about trees falling

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1 down because of new construction, and I'll tell a
2 story of my own. We have a huge Oak tree ready to
3 crush our slate roof in our backyard. It's leaning
4 over it. The reason it's leaning is because the tree
5 next to it finally died. Now I could say that the
6 tree died because somebody put an addition on the
7 back. Well, that's not what happened. The tree got
8 sick, it died. It collapsed and took of a piece of my
9 tree, and now this huge 100-year-old Oak is about to
10 crush my roof.

11 Well, you know, trees die, get old. You
12 could understand or believe that story either way,
13 whether it was an addition caused the death of the
14 tree and it's causing all these bad things or just the
15 natural course of nature. But, again, I looked
16 through our neighborhood, and I don't see this crisis
17 of the houses that are there killing the trees.

18 The new house here, I'm not sure which
19 came first, the tree or this porch, but they have sort
20 of a strange, symbiotic relationship. Right now, when
21 you go to file for a building permit now in our area,
22 there's a kick-out point that says is any part of the
23 construction under a tree canopy, and you would be
24 very hard to find any house or anything in Forest
25 Hills that isn't under tree canopy, so that kicks out.

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1 People have to go do all sorts of studies and so
2 forth, and I haven't seen exactly what the problem is
3 that caused us to get into that kind of situation.

4 What our community needs, lawyers are my
5 best clients, by the way, so I love lawyers, but what
6 our community needs is leadership to build consensus
7 as to what the real problems are and the best ways to
8 deal with them. What our community does not need is a
9 team of lawyers bullying their will on the rest of us
10 and scorching the earth that was once a nice community
11 to live in. We're counting on you, the Zoning
12 Commission, to have a cooler head and prevail on this,
13 to say, look, you have to go back, you have to get
14 real experts, you have to look at the real issues and
15 the real problems.

16 If soil is really a problem, you have to
17 go through this issue of going to get a soils report
18 to prove that there is a soils problem when there was
19 never reason to believe that there was one in the
20 first place. Is slope really an issue? In my
21 submitted testimony, you'll find that, easily, over
22 40% of the built housing in Forest Hills is over a 25%
23 slope area, so that's clearly not a problem. The
24 houses are not washed away. The slope is not a
25 problem that we're concerned with. And every time we

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1 challenge and try to understand from the petitioners
2 why did you do this, it was, well, it was in the
3 template, and we had to hurry up, and it was in the
4 template, and we had to hurry up. And then they say,
5 well, you guys had lots of time, this has been in the
6 works for years and so forth, and I'm not sure which
7 way they want it.

8 But I've been desperate for facts to
9 understand because I know my neighbors that I've
10 gotten to know during this, and they want to do the
11 right thing. We are all drawn to this neighborhood
12 because we love it. We love all the same things that
13 the petitioners love about it, and we want to do the
14 right thing, but we just want to know what the right
15 thing is. I think it's too important to us to just,
16 you know, go willy-nilly into this and not solve real
17 problems and oversell problems that aren't there.

18 So I'm mindful of your time. I'd be happy
19 to answer any questions that you have.

20 MS. MITTEN: Thank you, Mr. Baughman. And
21 you'll be happy to know that no one on the commission
22 is a lawyer. Any questions for Mr. Baughman on the
23 slide presentation? I should have said this at the
24 beginning, but we are very grateful and impressed with
25 the quality of the submission from the Forest Hills

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1 Neighbors for Responsible Preservation. It was very
2 helpful to the commission to have this in advance, and
3 it was very clearly presented. Any question?

4 MR. PARSONS: I do have one, and maybe a
5 subsequent witness is going to deal with it. I think
6 your third slide looked like this and shows a buffer
7 zone on the east side of the neighborhood. What is
8 the meaning of that?

9 MR. BAUGHMAN: Well, my point, as I said
10 in the written text in here, was that I think that
11 everybody in our neighborhood could agree that there
12 is definitely an environmentally-sensitive zone that
13 separates the housing where people live and the park.
14 What the width of that is, what the definition of that
15 is, you know, I'm not sure. I think that we'd have to
16 really look at it carefully because when I've done
17 projects where we've had these, we've had to really go
18 and survey carefully and see what's contributing and
19 not contributing to that buffer zone. But I think my
20 point is, ultimately, that it's a very small portion
21 of the whole neighborhood that has been hit with all
22 these requirements.

23 MR. PARSONS: So this implies you've come
24 to some conclusion about the need for a buffer zone or
25 need for special treatment in that area?

1 MR. BAUGHMAN: I think that that is pretty
2 obvious to everybody that lives in the area that there
3 is a transitional zone, and if we were starting this
4 conversation by saying where is that width, can we set
5 some rules about this particular area alone, we'd have
6 a lot better conversation.

7 MR. PARSONS: And its characteristics are
8 very steep slopes, I assume?

9 MR. BAUGHMAN: Some, some not, yes.

10 MR. PARSONS: And trees, but existing
11 housing, as well?

12 MR. BAUGHMAN: Some, some not.

13 MR. PARSONS: So this is not a proposal
14 before us. This map is, but it is showing green
15 elsewhere.

16 MR. BAUGHMAN: Showing the park, which is
17 the dark green. And the lighter green, I'm
18 identifying the areas that I think that most of the
19 people in the neighborhood would probably agree what
20 happens on those properties affects what happens
21 downstream in the park.

22 MR. PARSONS: But this has had no public
23 hearing? It's your idea then?

24 MR. BAUGHMAN: Just like the overlay, it
25 has no basis in anything other than walking around.

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1 What the next step would be would be to work with
2 planners and landscape architects and experts in the
3 field and say where is the line where we have to be,
4 what is the end of the buffer zone and what defines
5 that.

6 MR. PARSONS: Okay. Your recommendation
7 is to return the matter to the community?

8 MR. BAUGHMAN: Under the auspices of the
9 Office of Planning and trying to get real experts that
10 are dispassionate and don't have an axe to grind in
11 this and try to educate the community and force us to
12 work this out together in a consensus.

13 MR. PARSONS: Okay. So the Neighbors for
14 Responsible Preservation would not intend to be
15 leading this effort, you would rely on the Office of
16 Planning?

17 MR. BAUGHMAN: We'd look to the Office of
18 Planning because they're the experts, and they seem to
19 have been interested in helping us with that.

20 MR. PARSONS: Thank you.

21 MS. MITTEN: Any other questions? Mr.
22 May?

23 MR. MAY: Yes. It's hard to remember
24 whose written testimony was whose, but I remember
25 reading, and maybe yours did not include this

1 statement, but some of the statements included a, you
2 know, if you don't vote to turn down the overlay, then
3 at least exclude the following squares or something
4 like that.

5 MR. BAUGHMAN: That wasn't me.

6 MR. MAY: That was not you? Okay. I'll
7 save that for somebody who said that. Thanks.

8 MS. MITTEN: Anyone else? All right.
9 Who's next up?

10 MR. BAUGHMAN: Thank you.

11 MS. MITTEN: Thank you, Mr. Baughman. I
12 can go to my list, it's up to you. Are you Mr. Kelly?

13 MR. KELLY: I'm Bill Kelly.

14 MS. MITTEN: Okay. Mr. Kelly's going to
15 get the five minutes, right?

16 MR. KELLY: Well, actually, I thought I
17 only had three so --

18 MS. MITTEN: Turn the mike on if you're
19 going to speak to us, so we get it on the record. You
20 were saying?

21 MR. KELLY: I actually spent some time
22 today boiling what I had down to three minutes because
23 I thought I had three.

24 MS. MITTEN: That would be great. Three's
25 fine.

1 MR. KELLY: I'll stick to three but,
2 hopefully, you'll have some questions that will take
3 up the other two or else I'll pitch in on some of what
4 my colleagues are saying.

5 MS. MITTEN: Okay.

6 MR. KELLY: My name is Bill Kelly. My
7 wife and I built our home in the overlay district in
8 1984. In 2000, we bought the lot adjacent to our home
9 to protect it. It's the only undeveloped lot on the
10 outside of Lenore Lane, which I don't know if you've
11 become familiar enough with the neighborhood, but it's
12 a small cul-de-sac down at the end of Upton Street.

13 What I'm going to give you now is just a
14 brief summary of my written statement, which was in
15 the package. Forest Hills Neighbors for Responsible
16 Preservation is an ad hoc group of about 30 core
17 members that have homes in the overlay district. We
18 oppose the overlay and urge the commission to send it
19 back to the community for reconsideration. We believe
20 that special restrictive regulation should be imposed
21 on a neighborhood only where a consensus of residents
22 supports that special imposition. The Office of
23 Planning advises us that there was a 95% community
24 support for the Wesley Heights Overlay, a precedent
25 that the petitioners have cited repeatedly.

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1 In this case, rather than consensus, we
2 have widespread opposition. Why? We have widespread
3 opposition, we believe, because the overlay would
4 change rather than preserve the character of our
5 neighborhood. It would bear down unfairly on us and
6 our neighbors and would entangle us in multiple
7 agencies, BZA proceedings, and eventual litigation.

8 Forest Hills is not a pristine forest but
9 a leafy urban neighborhood, parts of which are
10 adjacent to a national park. Forest Hills is also
11 near two metro stops and several local bus lines. It
12 should bear its share of the infill development that
13 is needed to build our tax base and reduce the social
14 and environmental impacts of long-distance auto
15 commuting. I believe that that concept has been
16 reflected in most of the current debate by urban
17 planners about the proper strategy for urban
18 districts.

19 The overlay would cover an area far
20 larger, far more diverse, and far more dynamic than
21 the area covered by, for example, the Woodland
22 Normanstone Terrace Overlay. Lot size, home size, and
23 architectural style vary enormously, as you can see
24 from Mark's slide show.

25 Building a consensus then would require

1 broad public exploration of alternatives before any
2 filing. Instead, in this case, there was a rush to
3 judgment and to a filing. Once the commission had set
4 down the proposed overlay for a hearing, the
5 petitioner would no longer consider broad alternatives
6 but only changes in small details.

7 I'd like to make one other point. We are
8 a city under financial stress and struggling to
9 deliver basic services in a timely fashion to our
10 citizens. For example, the city has one arborist, as
11 I understand it, one person. Do we really want that
12 single arborist to waste his limited time reviewing □-

13 MS. MITTEN: You've got two more minutes
14 on your five.

15 MR. KELLY: -- on a lot-by-lot basis and
16 tree-by-tree basis the plans for development of
17 single-family lots in Forest Hills. This at a time
18 when the public trees and the overall treescape in
19 D.C. have been sadly neglected for decades.

20 Can't the city in this community be
21 creative enough to develop an approach that does not
22 treat the typical case as a special exception for the
23 BZA? I, for one, believe that with the support of the
24 Office of Planning, we can do just that.

25 Let me close with a technical point. My

1 testimony in several places cites sections of the
2 overlay using the original numbering scheme that the
3 petitioner had supplied. The petitioner revised that
4 scheme, so some of these citations are wrong or
5 confusing, and what I'll do is, after the hearing
6 today, re-submit the brief with the citations that
7 will tie the comments to the new sections in the
8 revised overlay. I think they should all have been
9 clear, but if there's any confusion, I apologize for
10 that, and I'll correct it.

11 MS. MITTEN: Thank you.

12 MR. KELLY: Thank you.

13 MS. MITTEN: Why don't we just go through
14 the panel, and then we'll take questions at the end.
15 Mr. Kogan?

16 MR. KOGAN: My name is Phil Kogan. I'm
17 ANC commissioner in ANC 3F. My single-member district
18 is 3F01. This commission has the authority to
19 implement a Forest Hills overlay, if it so chooses.
20 There is no debate on that question. The debate in
21 the Forest Hills community and before this commission
22 is whether this authority should be exercised. My
23 conclusion and my firm recommendation to you is that
24 you vote down the overlay.

25 Here are my reasons. An overlay, by

1 definition, is a neighborhood-specific regulation. It
2 implements zoning rules that apply to only one
3 neighborhood. Such a regulation should be implemented
4 only when it reflects a consensus within the affected
5 neighborhood. No consensus exists in the Forest Hills
6 neighborhood today around the overlay.

7 While there is support for the overlay in
8 Forest Hills, there's no question about that, there's
9 also strong opposition, and there shouldn't be any
10 question about that, as well. By voting to implement
11 an overlay in Forest Hills, the Zoning Commission
12 would be imposing its will on a divided community.
13 This would benefit neither the community nor the
14 commission.

15 Our system of democracy is based on the
16 concept that government is granted sovereignty by the
17 people. The people can bestow sovereignty on
18 governmental bodies, and they can take it back. This
19 means that public agencies bear the burden of ensuring
20 that policy decisions are connected to the public
21 will. It is clear that there is a sharp division in
22 the public will of the Forest Hills community
23 regarding the overlay. By stepping into this
24 division, the Zoning Commission puts at risk the
25 legitimacy of its decision on this matter and,

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1 perhaps, on other matters, as well.

2 The overlay was presented as a way to
3 protect trees and slopes, yet I think there is strong
4 evidence to suggest that the real purpose of the
5 overlay is to control development. Before this
6 commission implements such regulation, it should
7 address the gap between intent and affect. A rule
8 that is adopted to protect trees and slopes but is, in
9 fact, designed to control development will not work
10 for the makers of the rule, the implementers of the
11 rule, or those who must live under the rule.

12 The overlay is built on the false
13 assumption that controlling and constraining owner
14 residents of relatively small lots will somehow
15 preserve Forest Hills. This assumption completely
16 misses the fact that Forest Hills is a mature, urban
17 neighborhood with a fully-developed system of asphalt
18 and concrete streets and sidewalks. Building this
19 infrastructure and the housing stock supported by it
20 permanently changed the landscape of Forest Hills.

21 MS. MITTEN: You need to wrap it up now
22 Mr. Kogan.

23 MR. KOGAN: I'm almost there. Limiting
24 improvements on the small lots of existing homeowners
25 can yield only marginal and insignificant changes in

1 existing conditions when compared with the enormous
2 landscape changes that occurred when the neighborhood
3 was built. Placing restrictions on these small
4 landowners may create a sense that a public good is
5 being advance, but the reality is that few gains are
6 to be realized by restrictions on building a driveway,
7 a walk, or a porch on existing properties. Thank you.

8 MS. MITTEN: Thank you. Mr. Maudlin?

9 MR. MAUDLIN: My name is Robert Maudlin.
10 I'm ANC commissioner 3F03, and my single member
11 district, as shown on the slide, includes
12 approximately 60% of the homes in the Forest Hills
13 Overlay District. Commissioner Kogan and I filed the
14 ANC Minority Report in this proceeding, which is
15 Exhibit Number 82 in the commission's files. We
16 requested, in our minority report, that the Zoning
17 Commission reject the petition for the overlay.

18 As you know from the filings in this
19 proceeding, the ANC and the community are sharply
20 divided on the overlay issue. This split is based on
21 process, as well as content of the overlay. I would
22 like to address the process.

23 Last year in July, ANC 3F established an
24 ad hoc committee to study and report to the ANC on the
25 subject of a tree and slope overlay for the Forest

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1 Hills area. I was a member of that committee. The ad
2 hoc committee held its first meeting in October, 2001.
3 This was followed by a series of committee meetings to
4 obtain information and included meetings with
5 representatives of agencies and groups interested in
6 preserving trees and also meeting with the staff of
7 the Office of Planning.

8 By March of this year, the ad hoc
9 committee started to review various scenarios for a
10 tree and slope overlay but had not reached any
11 conclusions or a consensus on a proposed Forest Hills
12 overlay. On March 20th, Ron Slotkin, a member of the
13 ad hoc committee, sent an insightful e-mail to the
14 committee members with a number of concerns and
15 listing problems with what was being considered for
16 the overlay. A copy of his e-mail is attached to the
17 statement I filed with this committee. To the best of
18 my knowledge, the committee did not respond to the
19 questions and concerns in Mr. Slotkin's e-mail.

20 The work of the committee took a dramatic
21 change on April 5th of this year when the Forest Hills
22 Citizens Association filed a petition for the overlay
23 that is the subject of this hearing. There is no
24 indication in the petition that the overlay or the
25 filing had been approved by the members of the Forest

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1 Hills Citizens Association, the executive committee of
2 the association, or the officers of the association,
3 yet the filing was made in the name of the
4 association. In fact, it was not until 11 days later,
5 on April 16th, that the Forest Hills Citizens
6 Association held a meeting to present the overlay to
7 its members and the community.

8 MS. MITTEN: Mr. Maudlin, you're going to
9 need to wrap it up. I think this was covered in
10 pretty good detail in your submission.

11 MR. MAUDLIN: All right, fine. I'll just
12 wrap it up with that I'm asking the Zoning Commission
13 to put the process back on track by sending the
14 overlay issue back to the community. Thank you.

15 MS. MITTEN: Thank you, Mr. Maudlin. Any
16 questions from the commission for this panel? Mr.
17 Parsons?

18 MR. PARSONS: I'd like to ask both
19 commissioners how are we to know that this concern
20 you're expressing and the desire to send it back to
21 the community is really in earnest? That is, is the
22 organization that's evolved simply going to oppose
23 anything anyway, and this is a guise to get it out of
24 this forum into one that maybe you'll have more
25 control over? I mean, do you think there's a real

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1 sense of awareness now in the community, that there's
2 a potential to do something positive here, or if we
3 were to do what you are suggesting, would it be
4 victory declared and no further debate?

5 MR. MAUDLIN: Mr. Parsons, I think, number
6 one, it would depend upon how you sent it back to the
7 community.

8 MR. PARSONS: Well, suppose we did it the
9 way you wanted to do it, just what you're asking us
10 tonight, that we set this matter aside and have the
11 Office of Planning conduct some public meetings. Will
12 people still be there with the pink badges saying we
13 don't want any of this, or are people aware now that
14 maybe there's a sense of community need?

15 MR. MAUDLIN: Hopefully, we'll stop
16 talking past each other and start talking to each
17 other, the opponents and the proponents, decide what
18 the issues are, what the problems are in the
19 community, and the best way to address those. And
20 hopefully, we can reach a consensus of a majority of
21 the community on what should and needs to be done to
22 preserve what we all love in Forest Hills.

23 MR. PARSONS: So you do think there's a
24 desire in the community to do something?

25 MR. MAUDLIN: I believe firmly that there

1 is a desire, yes.

2 MR. PARSONS: Thank you.

3 MR. KOGAN: May I respond to that? I
4 think you addressed it to both of us.

5 MR. PARSONS: (Off microphone.)

6 MR. KOGAN: I'll be brief. I think it's a
7 good question. It's one I struggled with because
8 we've come this far, and there's now a history of
9 dispute, and then that becomes something you have to
10 overcome if you really want to get to achieve some end
11 goal. But I have heard from neighbors who are part of
12 the Forest Hills Neighbors for Responsible
13 Preservation, I've heard discussion and suggestion
14 that they would like to sit down, they would like to
15 discuss this. I think there are others who don't want
16 to sit down.

17 I think there are others who fall into
18 that other category you described. But I would think
19 that the big difficulty, the big task would be getting
20 past the rupture, the dispute. And then I think once
21 you get past it, I think those two camps that are now
22 in the community are going to be the same two camps
23 that were there before we got into this dispute.
24 You're going to have two very different views on how
25 that neighborhood should be regulated under the zoning

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1 code, but that's really the starting point. And I
2 think that's the challenge I would throw back to you
3 is to let us go back to that starting point.

4 MS. MITTEN: Thank you. Mr. Hannaham?

5 MR. HANNAHAM: I would really hope that,
6 in the event that that is our decision, that you do
7 get it together because all of this brilliant work,
8 this beautiful stuff that you did in this report in
9 opposition, should be a part of a dialogue, you know,
10 because you actually brought it down to a real
11 analytical basis, which had not been presented by the
12 proponents. It would be a shame if you guys didn't
13 get it together in an unusual neighborhood where
14 you've got all this talent, you've got talent galore.
15 I'd like to take some of that and siphon it off into
16 other parts of this city. It would really be a shame
17 if you didn't get it together. My feeling right now,
18 my disposition really is to give you a chance to do
19 that. I had questions, I had reservations about what
20 I'd heard earlier, and I asked some questions with an
21 attempt to try to come to grips with some of this
22 stuff, some of the facts, and I think you answered
23 some of the questions that I didn't get answered
24 before. But it doesn't make any sense for us to go
25 forward without a community agreeing because this

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1 can't succeed without a community that has agreed that
2 this is important and should be done and they're going
3 to make it work. I really don't think we have very
4 much choice, except to hope that that can happen.
5 Thank you, Madame Chair.

6 MS. MITTEN: Thank you, Mr. Hannaham.

7 MR. HANNAHAM: That was a comment. I
8 didn't have a question.

9 MS. MITTEN: You're entitled to have that.

10 MR. HANNAHAM: Sorry about that.

11 MS. MITTEN: Mr. May?

12 MR. MAY: Looking back through the
13 testimony and then the written statement you just
14 handed us, Mr. Kogan, you had the reference to these
15 other blocks that should be excluded. And the way I
16 read it, this is essentially the will of the people
17 who live in those blocks that you have written, I
18 don't know, votes, if you will, from all the people
19 who live on those, or 80% of each of the ones in those
20 squares, that they don't want to be in it no matter
21 what; is that right?

22 MR. KOGAN: Yes, that is correct. They
23 went out and collected, spent several weekends
24 collecting petitions, and that was the final tally, I
25 think, was that 80% of the property owners were asking

1 to not be included, but I think there were a number of
2 people who weren't available, who weren't home when
3 they went around, so I think that tally might even be
4 higher, if all of the occupants were there.

5 MR. MAY: Okay. Let me follow-up on one
6 other aspect of this. Based on your expressed desire
7 to have this issue returned to the community, I would
8 interpret that as essentially saying that you all
9 agree that some form of protection, some form of
10 overlay is desirable; is that correct, incorrect? Do
11 opinions on that vary, or do you have a substantial
12 number of people who want no additional protection
13 whatsoever?

14 MR. KELLY: If I may answer the question,
15 I think that your ladder statement is correct, that
16 there are a number of people who do not want to have
17 any further regulation, but there are also large
18 numbers of people that oppose this overlay that are
19 interested in pursuing some other form of overlay that
20 would more narrowly address, define the problems more
21 carefully, address them more narrowly, and especially
22 avoid the heavy reliance on the BZA process for
23 essentially every construction project.

24 MR. KOGAN: Can I comment on that?

25 MR. MAY: Please.

1 MR. KOGAN: This case is very difficult
2 for me. Look, I've been on the other side of this
3 issue. The first major case I was involved with when
4 I came onto the ANC was 4512 28th Street. I worked
5 very closely with George Clark, who was in
6 development, that should not have gone ahead. There
7 were mistakes made in DCRA, but it was also the wrong
8 kind of development. It was the kind of development
9 that the proponents would like to get a handle on, and
10 I would, too. There is that problem in the community,
11 and, yes, I would like to find some way to get at that
12 problem. Obviously, we don't think this is the way,
13 but I think there are some issues, and I think there
14 is a need to do something. I can't be much more
15 specific here with you, but I would leave my remarks
16 right there.

17 MR. MAUDLIN: Let me add just one thing.
18 In the slides that Mr. Baughman showed, he showed
19 pictures of houses and then showed what envelope was
20 possible where those houses are in height and so
21 forth. And as he pointed out in his testimony, this
22 overlay does not address that problem, and I think
23 this is a problem that we are facing and will continue
24 to face in the Forest Hills area, particularly in the
25 smaller houses that were built in the 60's and so

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1 forth that have lived their useful life. The cost of
2 land and so forth, people are going to come in, take
3 them down, and put in something else, and I think we
4 need to have control over that something else.

5 MR. MAY: A broader aspect of this
6 question, I'll throw this out for just one answer; I
7 don't want to delay this forever. I mean, is there
8 indication, having jumped into this issue with both
9 feet, and I guess I'll just direct this at you,
10 Commissioner Kogan, that this is a broader issue that
11 needs to be addressed on a city-wide basis, as opposed
12 to something that should be specific to this overlay?

13 MR. KOGAN: Yes, my reading is that it's
14 more of a national issue, from what I see. I'm not
15 sure □-

16 MR. MAY: Our authority is limited.

17 MR. KOGAN: -- I'm not sure it needs a
18 national remedy. Let's not dive into that one. But
19 it appears in communities across the nation, but it
20 certainly is an issue here in this region and in this
21 city. I think we're having enough difficulty trying
22 to figure out how to get at it in the neighborhood.
23 I'm not sure I'm ready to really start to look at and
24 think about city-wide methods, but maybe that's one
25 way to start to get at it is to bring in some of the

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1 better thinking around the city because there are
2 other people outside of Forest Hills who've looked at
3 this, who've suffered with this problem. So, you
4 know, that's a fair approach.

5 MR. MAY: Thank you.

6 MR. HANNAHAM: Madame Chair, might I just
7 follow one?

8 MS. MITTEN: Certainly.

9 MR. HANNAHAM: We did have testimony to
10 that effect, if you remember. There was a gentleman,
11 was it the Natural Resources Defense Council?

12 MR. KELLY: Yes, it was Natural Resources
13 □-

14 MR. HANNAHAM: Natural Resources Council,
15 who suggested that that might be the way to go,
16 certainly in the tributaries around the city area.
17 And there's a lot of private trees, as well, you know?

18 So, collectively, that could be a big problem and
19 that might be a way to energize the public, generally,
20 and the government, as well. Thank you, Madame Chair.

21 MS. MITTEN: Thank you. I'll just make a
22 comment, too, because there's not a whole lot left
23 unsaid here, but one of the things I'm appreciative of
24 is your effort to extract the things that are targeted
25 towards tree and slope protection and the other

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1 aspects of trying to control development. Since I sat
2 on the case that you and Mr. Clark were involved in at
3 the BZA, and I sat on a case recently that had to do
4 with what could arguably be poor enforcement of an
5 existing tree and slope overlay, so I'm sensitive to
6 the fact that we don't want to do something that will
7 give the impression that there will be controls in
8 place, and, yet, the city is unable to actually
9 implement that because that is absolutely the worst.
10 So Mr. Hood, did you have something to follow-up with?

11 MR. HOOD: I just wanted to ask Mr. Kogan,
12 and I know we're beating this to death, did you have a
13 single-member district meeting on this issue?

14 MR. KOGAN: When you say single-member
15 district meeting □-

16 MR. HOOD: You have your public meetings
17 with all the ANC commissioners there, but, a lot of
18 times, you have a single-member district meeting,
19 which means it would be your meeting. You as the
20 commissioner and just those particular people that
21 live within your boundaries?

22 MR. KOGAN: Not in the formal sense, no.

23 MR. HOOD: What about your, Mr. Maudlin?

24 MR. MAUDLIN: No, sir, Mr. Hood. It has
25 not been the practice of 3F to hold single-member

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1 district meetings as it is in other ANC's. I know
2 I've talked to some ANC commissioners in Ward 4, and I
3 think, typically, they operate more on single-member
4 district meetings, but, in 3F, we do not, sir.

5 MR. HOOD: Okay. I guess I'm just trying
6 to understand how this whole thing evolved.
7 Apparently, the whole overlay, I read, I think it was
8 95% is in you guys, between the two of you, and the
9 other 5% is in Commissioner Bardin's area.

10 MR. MAUDLIN: No, sir. Commissioner Perry
11 has most of the balance to get us to 100%.

12 MR. HOOD: So the two ANC commissioners at
13 the table, it is your testimony that you've heard loud
14 and clear from your constituents that they're ready to
15 do what Mr. Parsons said, they're ready to go back,
16 with the exception of those few Mr. Kogan that you
17 said just are not going to come back to the table
18 period. I hate to exclude them, but I'm not talking
19 about them right now. I'm talking about those who are
20 ready to come back to the table and do some reasoning
21 for the best interests of your neighborhood?

22 MR. KOGAN: Yes, I think there is a
23 constructive nucleus there that is ready, willing, and
24 able to go to work.

25 MR. HOOD: And Commissioner May was asking

1 a question, and I'm going to ask it so I can
2 understand it. It may have come out in another form,
3 but I'm going to ask it in a form so I can understand.

4 The squares in which you've asked to be omitted in
5 the overlay, you have additional squares in your
6 single-member district, in your area. Why weren't
7 those included?

8 MR. KOGAN: I think, in the case of these
9 squares, this is a situation where the concerned
10 neighbors actually went out and drew up petitions. A
11 lot of this occurred around the Memorial Day weekend.
12 I think there was a neighborhood picnic at that time,
13 and one of the neighbors who's very concerned took
14 petitions to the picnic, and that kind of started that
15 set of events moving along. It was initiated at the
16 citizen level, to answer your question.

17 MR. HOOD: And just, unfortunately, no one
18 in other squares attended the picnic? I'm just trying
19 to see how we got to just those squares without maybe
20 having some consideration for the rest of your area.
21 I'm just trying to figure out the rationale of how we
22 even got there.

23 MR. KOGAN: Yes, I didn't personally
24 participate in leading that effort. Again, this was a
25 citizen, a case of citizen involvement. I have 2,000

1 constituents, and I can tell you there are enough
2 issues there to keep me pretty busy, and so, you know,
3 the idea of going around and starting to get people
4 involved in petition drives, the time is just not
5 there for me to do that.

6 MR. HOOD: Well, Mr. Kogan, I would have
7 to commend you because I don't see too many, and I'm
8 not throwing anything into any ANC's commissions, a
9 lot of them don't even listen to the constituents.
10 For what I see in front of me, that's impressive. I
11 don't see that very often, including my own
12 commissioner. Thank you.

13 MS. MITTEN: Thank you. Any further
14 questions for this panel? Thank you. Now do you have
15 other folks that are going to come up with the Forest
16 Hills Neighbors for Responsible Preservation, or
17 should I just start calling the names? Is it sort of
18 a continuation of your presentation or □

19 MS. MITTEN: Okay. Let's keep going
20 there. All right. And maybe while you all are coming
21 up, I will just say for those few folks who signed up
22 as proponents on this list, the time for proponents to
23 testify has passed and tonight is only the opponents,
24 so we won't hear from any proponents this evening.
25 Who's going to go first? All right. Just to remind

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1 you that you'll have three minutes.

2 MS. FOREIT: Yes, thank you. My name is
3 Antonia Jenny Foreit. I live at 5112 Connecticut
4 Avenue, Northwest, which is just outside of the
5 proposed overlay district. I have an MPH in
6 international public health policy, and I'm a policy
7 analyst for a D.C. based NGO. I'm speaking here today
8 in support of the Office of Planning's recommendation
9 to delete the proposed minimum lot size of 12,000
10 square feet in Section 1519.2 and maintain the minimum
11 lot area of 7,500 square feet.

12 You've probably already read the testimony
13 prepared by Dr. Karen Foreit showing that the FHCA
14 proposal is based on a series of faulty analyses. She
15 couldn't be here today, but I'm prepared to answer any
16 questions you might have on that testimony.

17 I'm going to confine my remarks tonight,
18 though, to two conclusions. The first is that raising
19 the minimum lot size will damage the existing
20 character of the neighborhood by making 63% of all
21 existing lots non-compliant. And the second point is
22 that raising the minimum lot size fails to address the
23 major potential for subdivision in Forest Hills.

24 The written testimony submitted clearly
25 shows that 50% of developed R-1-A lots in the proposed

1 overlay district are between 7,500 and 12,000 square
2 feet and that the typical lot is very close to the
3 current standard of 7,500 square feet. And that's the
4 first chart we have over there, 63%. I'm sorry, it's
5 the next one. Forest Hills is predominantly owner-
6 occupied housing. Raising the minimum lot size to
7 12,000 square feet would make 63%, as illustrated, of
8 developed, privately-owned properties non-compliant.

9 What that means is that it would force
10 nearly two-thirds of homeowners to receive an
11 exemption from the BZA just to rebuild exactly the
12 same house that they're living in already.

13 The FHCA argues that raising the minimum
14 lot size to 12,000 square feet is needed to protect
15 the neighborhood from tear-down, subdivision, and
16 infill. What they fail to mention is that the
17 prevailing standards protect all lots already up to
18 15,000 square feet from subdivision, which is 25%
19 large than the proposed new minimum. Seventy-eight
20 percent of the currently developed privately-owned
21 lots already cannot be subdivided because they are
22 smaller than 15,000 square feet.

23 Any new zoning that is done should focus
24 on lots of more than one acre and, in particular,
25 seven developable R-1-A lots that are larger than five

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1 acres. Half of those lots are north and half are
2 south of Soapstone Valley. All but one, which is
3 Harvard University Law, are presently owned by foreign
4 governments, and only two of those are undeveloped.
5 Their combined size measures nearly 3.6 million square
6 feet or more than 82 acres. Raising the minimum lot
7 size would provide the neighborhood little protection
8 if any of these seven large parcels came on the
9 market.

10 MS. MITTEN: You need to wrap it up.

11 MS. FOREIT: Yes, I'm wrapping it up.
12 What we need are specific focused measures that keep
13 the future development in line with the existing
14 character of Forest Hills. What we don't need is an
15 across-the-board regulation that would make nearly
16 two-thirds of existing homes non-compliant, especially
17 when more than three-quarters of those homes are
18 already protected under the existing subdivision
19 requirements.

20 MS. MITTEN: Thank you.

21 MS. FOREIT: Thank you.

22 MS. MITTEN: Sir?

23 MR. FOREIT: Okay. I'm going to ☐-

24 MS. MITTEN: Would you identify yourself,
25 please?

1 MR. FOREIT: Yes. I'm James Foreit, 4140
2 Linnean Avenue, Northwest, inside the proposed
3 overlay. I'm going to continue talking about numbers
4 and facts and figures.

5 I'm against the overlay and have filed
6 testimony with the ZC demonstrating that Section
7 1519.1 of the proposed TSO has at least six serious
8 flaws which should send it back to the drawing board.

9 I will summarize only two points from my written
10 testimony. According to 1519.1, I am entitled to take
11 down a healthy tree without appealing for an
12 exemption, exception, excuse me, only if I demonstrate
13 that the tree is not protected by the TSO. Before I
14 can put down that unsuitable Bradford pear in my
15 backyard and replace it with a native sycamore, I must
16 measure every tree and do 17 calculations. In my
17 specific case, for my 11,000-foot lot, I have to take
18 47 measurements and figure out how to put them
19 together. I do this and find that I'm entitled to
20 remove my tree. Now where do I file all these
21 calculations if, three years from now, I want a permit
22 to finish my basement? If four years from now, I want
23 to cut down another tree, do I have to measure all
24 over again? In making my calculations, do I include
25 or exclude the tree I cut down four years ago? How

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1 about the trees that have grown to four inches since I
2 made my first calculations? Perhaps, I can cut down
3 25% of my canopy every month. The regulation does not
4 say.

5 My second point is that 1519.1 has
6 anomalies injurious to the canopy. Consider two
7 neighbors with a building restriction line of 15 feet.
8 Neighbor A has three white oaks, each 70 inches in
9 circumference, all located 50 feet from the street,
10 all are prime canopy trees. Neighbor B has eight
11 immature silver maples, each 50 inches in
12 circumference, also located 50 feet from the street.
13 Under 1519.1D, neighbor A is entitled to cut down his
14 magnificent canopy for a total circumference loss of
15 210 inches. Under 1519.1E, his neighbor is entitled
16 to cut down only two of his eight less-desirable trees
17 for a total of 30 inches. Cutting three trees would
18 result in a loss of 45 inches and violate the 25%
19 circumference rule. Neighbor B would be required to
20 obtain an exception from the BZA for building permit
21 with supporting analyses from five agencies.

22 Before you vote to inflict all this on us,
23 I have a workbook here, and perhaps you could take
24 this home and try it on your own lot and see exactly
25 how practical all this is, and I think you'll find

1 that this is really a pain. Thank you.

2 MS. MITTEN: Thank you. You must have
3 interesting conversations around the dinner table.
4 Any questions for these folks? We'd love to see your
5 workbook. Thank you. Oh, is it what you submitted?
6 You need to give it to staff down at the end. There
7 we go. Thank you. Anybody else on the continuation
8 of the written materials? All right. I'll go back to
9 the witness list then that we had from, you know, a
10 few hearings ago, and if the person isn't here and you
11 know they're not here, if you could just call that out
12 to help me out. I have Jane Halpern, Warren Watts,
13 Laura Baughman. We'll just have three at a time.

14 Ms. Halpern, you want to go ahead?

15 MS. HALPERN: Thank you. My name is Jane
16 Halpern. I live at 3054 Harrison Street, Northwest,
17 which is in the very northern edge of the proposed
18 tree and slope overlay, and I've been associated with
19 the Forest Hills Neighbors for Responsible
20 Preservation. I'm also a dues-paying of the Forest
21 Hills Citizens Association, and I have been since
22 moving to this neighborhood in 1996. Like many other
23 people, I was unaware that this organization that I
24 support had submitted the proposed overlay until well
25 after the fact.

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1 In general, I'm very supportive of efforts
2 to preserve the environment. Friends call me a tree
3 hugger. But I don't believe that the current tree and
4 slope overlay in either its original or amended form
5 is the right approach to take, which is why I wanted
6 to speak tonight. There are a number of legitimate
7 and, I think, sensible concerns regarding the tree and
8 slope overlay that have been or will be raised here
9 tonight, as well as in the written testimony supported
10 by the Neighbors for Responsible Preservation, so I
11 don't want to be redundant and go over them again. I
12 just wanted to add my voice as being generally
13 concerned about how the overlay came to be and also
14 how it evolved into its current form.

15 The proposed overlay did seem to have been
16 submitted in a hurry and uses the word "emergency" in
17 its filing. When I first heard this was an emergency,
18 I was very surprised. The suggestions that
19 development is running rampant in Forest Hills seem
20 very contradictory to my own perception. Until this
21 year, I walked daily to the Van Ness Metro and I
22 frequently take long walks because of my two large
23 dogs. I cover a lot of Forest Hills in this walking,
24 and I had not seen vast amounts of construction or
25 development, such as might be implied by the term

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1 "emergency." And I think you've gotten some data in
2 our briefing book that indicates that development is
3 proceeding at a relatively slow pace. Much of it is
4 initiated by homeowners rather than developers, and
5 it's hard for me to see why this development justifies
6 the need for a rapid and emergency implementation of a
7 controversial overlay.

8 I just want to end and say that because I
9 think there is no emergency and because the tree and
10 slope overlay has now been amended and re-amended,
11 resulting in a relatively complicated document, I
12 really believe that the best approach would be to set
13 the current overlay aside and let the community, in
14 conjunction with the appropriate experts, develop a
15 plan that has more broad-based support.

16 To address some of your questions earlier
17 and to address a gentleman at the last hearing, who
18 suggested that the major reason for opposition was an
19 objection to any additional regulation, I want to say
20 that I don't disagree with the need for any additional
21 regulation. I'd be in support of a plan. I'm not the
22 one to put a plan forward. I'm not an expert. I know
23 nothing about planning, but I would be willing and I'm
24 strongly committed to working with the appropriate
25 experts to try to put forward a plan that I think

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1 preserves Forest Hills but also addresses the
2 legitimate concerns that have been raised. Thank you.

3 MS. MITTEN: Thank you, Ms. Halpern. Mr.
4 Watts?

5 MR. WATTS: My name is Warren Watts. I
6 also live at 3054 Harrison Street in Forest Hills.
7 I'm also a member of the Forest Hills Citizens
8 Association and the Forest Hills Neighbors for
9 Responsible Preservation. I object to the current
10 tree and slope overlay for a number of reasons, as
11 I've stated, and I would like to emphasize one
12 particular aspect of my objections. The FHCA
13 president filed this petition and claims the FHCA
14 supports and sponsors it. As a member of the FHCA, I
15 was surprised to learn about this. I didn't receive
16 any requests from the FHCA executive committee to take
17 part in this process, to provide any input, or to
18 comment on sponsorship or filing with the Zoning
19 Commission. FHCA members were made aware of these
20 events after the fact and in a letter on FHCA
21 letterhead to the Forest Hills community as a whole,
22 not specifically the FHCA members. To date, there has
23 been no direct communication from the FHCA executive
24 committee on the overlay to FHCA members.

25 On September 12th of this year, I sent a

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1 letter to the FHCA president requesting meeting
2 minutes and any related materials in which the overlay
3 was discussed. I received a reply dated September 28th
4 of this year that those materials were being gathered
5 and compiled. As a result, I still have no written
6 documentation on the process leading to FHCA
7 sponsorship and filing or any rationale behind
8 excluding direct member involvement.

9 The overlay can hardly be considered a
10 routine matter. This sponsorship and filing were not
11 done in the spirit or intent of the community
12 association's involvement in community affairs. There
13 appears to me to have been a deliberate attempt to
14 avoid and prevent involvement of FHCA members with the
15 overlay petition. With about 900 members, the FHCA
16 represents a significant portion of Forest Hills
17 residents. It's puzzling to me why the FHCA president
18 would fail to inform and include FHCA members in this
19 process but still claim the FHCA not only supports but
20 sponsors this overlay.

21 For this and reasons previously submitted,
22 I object to this overlay as it currently stands. The
23 ends do not justify the means.

24 MS. MITTEN: Thank you, Mr. Watts. Ms.
25 Baughman?

1 MS. BAUGHMAN: Thank you, Madame Chairman
2 and commissioners. My name is Laura Baughman. I live
3 at 4835 Linnean Avenue, Northwest, within the tree and
4 slope overlay. I love trees in Forest Hills as much
5 as anyone, but I oppose this overlay for many reasons.
6 I echo the complaints that have already been
7 expressed, but because time is short, I'll focus my
8 remarks on the tree provisions.

9 The commission should reject the overlay
10 for at least two reasons related to its tree
11 provisions alone. First, it would promote tree
12 destruction, not tree preservation. Second, its
13 enforcement relies on neighbors ratting out neighbors,
14 which is ineffective, at best, and will go a long way
15 to making Forest Hills an unpleasant place to live.

16 The overlay will promote tree destruction
17 by encouraging property owners who think they might
18 one day want to put an addition on their house or to
19 expand their patios to take down trees now that are
20 almost big enough to cause them trouble if they get
21 any bigger. As you know, the overlay would permit us
22 to take down any tree without restriction as long as
23 it is not bigger than 12 inches in circumference, just
24 under four inches in diameter. After that, there are
25 hoops to jump through and special exceptions to

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1 negotiate, so if you're looking out your kitchen
2 window and thinking, "Gee, wouldn't it be nice to put
3 on a deck," but there's this 10-inch circumference
4 tree in the way, you can't help but think that the
5 smart thing to do is to take the tree down now before
6 it grows and gives you any trouble later.

7 Similarly, suppose someone moves into a
8 home in Forest Hills and knows that in a few years, he
9 will have the money to put a two-story addition off
10 the back, but there are all these trees in the way.
11 The smart thing to do would be to take them down now
12 and wait seven years, which is probably how long it's
13 going to take you to get the money to do the addition
14 anyway. Then he can apply for a building permit
15 without any tree problems. So, you see, the overlay
16 encourages homeowners to destroy trees now to
17 forestall headaches and neighbor objections later.

18 And that brings me to the second major
19 problem with the tree provisions of the overlay. It
20 presumes that neighbors will be the first line of
21 enforcement. As I read it, if my neighbor chops down
22 trees in violation of the overlay, I will be
23 responsible for calling the zoning office to make sure
24 they know about it and keep a record of it.
25 Inevitably, there will be disputes between neighbors

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1 about the actual circumference of the trees taken down
2 with the neighbor insisting that the tree was bigger
3 than 12 inches in circumference and the owner
4 insisting it was not. The only way to avoid such
5 disputes would be for some official government agency
6 to conduct a survey of everyone's lots and trees to
7 ensure the overlay's 25% rule is not violated.
8 Clearly, not a feasible option with today's city's
9 resources. So disputes and bad community relations
10 are inevitable as the overlay is now written.

11 The overlay now in effect cannot be fixed
12 with an amendment here and an amendment there. It
13 needs major work, and we, as a community, need to
14 start from scratch, and we're ready to do it. Thank
15 you.

16 MS. MITTEN: Thank you. Any questions for
17 this panel? Thank you all for coming down. Fred
18 Fisher, James Riley, Cindy Kelly. Mr. Fisher's going
19 to get five minutes. He represents Hillwood. And you
20 can begin whenever you're ready.

21 MR. FISHER: My name is Frederick Fisher.
22 I am the resident executive director of Hillwood
23 Museum and Gardens located at 4155 Linnean Avenue,
24 Northwest. The property, square 2245, lot 800, is
25 bounded by Broadbranch Road to the northeast, Rock

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1 Creek Park to the southeast, and Linnean Avenue to the
2 west. The museum is cited in the R-1-A district,
3 which is the most restricted residential zone in the
4 District of Columbia. The cite contains approximately
5 24.5 acres of land and was formerly the estate of
6 Marjorie Merriweather Post. It houses the
7 internationally-renowned collection of pre-
8 Revolutionary Russian artifacts, the largest in the
9 world outside Russia, and superlative 18th century
10 European fine and decorative arts. The museum employs
11 80 full-time staff, is supported by a volunteer body
12 of 250 people, and is visited by approximately 55,000
13 people annually. The entire site operates similar to a
14 historic site museum. Hillwood is a non-profit
15 501(c)(3) organization and is administered by the
16 Board of Trustees of Hillwood Museum and Garden
17 Foundation. The museum currently operates pursuant to
18 a variance from the Board of Zoning Adjustment. The
19 BZA order has 19 conditions governing the use of the
20 property, making it one of the most complicated
21 museums to operate in America.

22 The extensive gardens associated with the
23 property are an essential part of the museum's
24 mission. We greatly value the open space on the site,
25 including the ornately landscaped gardens. The

1 property is significantly sloped, allowing only 12
2 acres to be formally landscaped with the surrounding
3 13 acres heavily wooded. In fact, the site is
4 developed to a fraction of the density that would be
5 permitted were the site devoted to a single-family
6 use. There are nearly 1,000 trees with a caliper of
7 three inches to much larger in the landscaped areas
8 and approximately 4,500 trees in our woodlands. The
9 site also contains 13 structures, including Mrs.
10 Post's large mansion and a parking deck for 70
11 automobiles.

12 In the 12 years that I have been directing
13 Hillwood, we have invested nearly \$8 million in land
14 maintenance and land restoration. We take our
15 responsibilities for stewardship of this property very
16 seriously, addressing all facets of plant health,
17 water drainage, and soil erosion. In fact, our 12-
18 member horticulture staff is supervised by an
19 individual formally trained at the University of
20 Delaware's Longwood Gardens Program for Public
21 Horticulture with more than half of her staff,
22 likewise, holding horticulture degrees.

23 Annually, we spend nearly \$35,000 just in
24 tree maintenance alone, protecting such significant
25 species as our 13 giant American elms that are major

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1 landscape features. Also, in the past 12 years, we
2 have invested some \$15 million both in the restoration
3 of our historic structures and in the construction of
4 new museum buildings. Going forward, we anticipate
5 additional construction projects to further enhance
6 our educational and interpretive mission.

7 Having been very personally involved in
8 all of Hillwood's construction projects during the
9 past 12 years, which have been under the purview and
10 approval of the Advisory Neighborhood Commission, ANC
11 3F, the National Park Service, the Fine Arts
12 Commission, and the Board of Zoning Adjustment, I can
13 say, unequivocally, that there are, indeed, sufficient
14 regulations and procedures already in place for the
15 ongoing oversight and management of our property.
16 Adding additional burdensome regulations to the
17 proposed tree and slope overlay only compounds our
18 responsibility.

19 While we, at Hillwood, take no position on
20 the proposed overlay in concept, our request is
21 simple. The imposition of the overlay on our 24.5 acre
22 site will further complicate the numerous regulatory
23 processes to which Hillwood is already subject.

24 The Board of Trustees of the Hillwood
25 Museum and Gardens unanimously passed a resolution in

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1 their September 17th, 2002 board meeting directing me
2 to appeal to you, the members of the Zoning
3 Commission, to consider removing our site from the
4 Forest Hills Tree and Slope Overlay. Our property is
5 located at the border of the overlay area. We would
6 appreciate your considering withdrawing the boundaries
7 such that the Hillwood Museum and Garden site is not
8 located within the overlay. As the Board of
9 Adjustment found in granting the original youth
10 variance, our site is unique. It deserves special
11 treatment in this report. Based on the current number
12 of regulatory review processes that already govern our
13 property, we feel that adding additional rules and
14 restrictions will only complicate the ongoing
15 management of the museum.

16 MS. MITTEN: Can you wrap it up, Mr.
17 Fisher, please?

18 MR. FISHER: Yes. As I noted above, we
19 have a proven track record of conscientious
20 stewardship. Compounding our operations with even
21 more encumbrances is unnecessary. It only means
22 additional expenses to our operations and further
23 burdens our institution in carrying out its
24 educational mission. On behalf of my Board of
25 Trustees, I strongly urge that you take their appear

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1 into consideration. Thank you.

2 MS. MITTEN: Thank you, Mr. Fisher. Mr.
3 Riley?

4 MR. RILEY: Thank you. My name is James
5 Riley. I live on 30th Street, Northwest, in the
6 northern stretch of Forest Hills and have lived there
7 and owned that house for 26 years. My children grew
8 up there. We think it's a wonderful neighborhood. It
9 was a wonderful neighborhood when we moved there, and
10 it's a wonderful neighborhood today, but it should not
11 be preserved like a block of amber.

12 Forest Hills is an urban neighborhood with
13 plentiful trees and leaves. It's a neighborhood,
14 though, that warrants development according to the
15 present zoning plan. The District needs it. If
16 simply 100 additional homes were built in Forest Hills
17 over the next 10 years, without any accounting for
18 inflation, given the incomes of persons in Forest
19 Hills and the real estate taxes imposed on properties
20 in Forest Hills, the District would enjoy another four
21 to five million dollars annually in tax revenue. It's
22 implausible to me that the Zoning Commission would
23 ignore the needs of the District of Columbia based on
24 what I see presented here by the proponents,
25 inadequate scientific basis for the proposed very-

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1 restrictive tree and slope overlay and false data or
2 irrelevant data.

3 I saw members of the Zoning Commission
4 having their attention attracted to what seemed to be
5 surprisingly large minimum lot sizes in other East
6 Coast cities in the facts presented by one of the ANC
7 commissioners. You'll learn, as you explore this
8 further, but you might not think to explore it, what
9 the density is of those cities. Do any of you now
10 know what Richmond's density is? And I don't ask that
11 as a question, except rhetorically; I don't expect
12 answers. But the density of Richmond, Virginia is
13 one-third the number of dwellings per square mile that
14 we have here in the District of Columbia, and yet the
15 minimum lot size presented by that ANC commissioner
16 was something less than twice the minimum lot size,
17 that in one neighborhood, trying irrelevantly to
18 extract a Richmond neighborhood and say it parallels
19 Forest Hills. We all know from this process that
20 Forest Hills is a particular neighborhood in
21 Washington. We have no knowledge of what that
22 neighborhood in Richmond is like. One fact, not
23 presented by that commissioner but I would present it
24 to you, is that in Richmond, if you stretch the city
25 wall-to-wall, on average, there is one-third the

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1 number of dwellings per square mile there are in D.C.
2 They ought to have a minimum lot size, on average,
3 throughout the city three times larger than we have,
4 let's say 22.5, but that was not the number she gave
5 you. I mean, my fact is irrelevant, but her fact was
6 irrelevant.

7 MS. MITTEN: You need to wrap it up now,
8 Mr. Riley.

9 MR. RILEY: I would simply say that much
10 of what you heard from the proponents was based on
11 inadequate science, it's irrelevant to what's under
12 consideration here. What has been presented tonight
13 shows you that Forest Hills has particular needs, but
14 the District of Columbia has great needs. You can't
15 stop development in Forest Hills.

16 MS. MITTEN: Thank you. Ms. Kelly?

17 MS. KELLY: My name is Cindy Kelly, and
18 I'm a member of the Forest Hills Neighbors for
19 Responsible Preservation. My family lives at 4205
20 Lenore Lane, and we own the vacant lot next to us.

21 To sum up, we urge the Zoning Commission
22 to reject the overlay or exempt the southeast area of
23 Forest Hills, where 80% of the residents have
24 petitioned to be exempted. Alternatively, the Zoning
25 Commission should call for a new process that begins

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1 with clearly-defined problems and designs reasonable
2 and appropriate solutions.

3 I have a case study for you. For most of
4 us, our houses and lots are our largest investments.
5 Two years ago, we put substantial amounts of our
6 savings into buying a lot next door to us. Our plan
7 was to keep the lot until we needed to sell it for
8 economic reasons. However, the tree and slope overlay
9 essentially eliminates the potential for residential
10 use on that lot in our residential neighborhood
11 without going through a time-consuming, inevitably
12 expensive, and uncertain process of seeking special
13 exemption. First, provisions that prohibit removal of
14 one large tree or more than three medium-sized trees
15 within 25 feet of the building restriction alone make
16 the building up a residence on the lot virtually
17 impossible. Several large tulip poplars, and I'm
18 afraid you may not be able to see this, but the blue
19 dots that are solid are the tulip poplars, which are
20 very, you know, hit the 75-inch mark, and the ones
21 with crosses in them are the 38-inch or greater. You
22 can see where the building restriction line is, and 25
23 feet back from there would be where we could begin to
24 build. Of course, we have a slope that begins here.
25 That would mean you'd have to put the house on the top

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1 of a slope and take down these other tulip poplars.
2 There's no way to build on this lot without triggering
3 the special exception provisions.

4 Once in that process, we would find
5 ourselves hiring multiple experts, a lawyer, and an
6 expeditor. Because the overlay directs the BZA to
7 limit tree removal and grading to the maximum extent
8 possible, we face a serious risk of crippling
9 requirements and then potential litigation. This puts
10 the value and liquidity of our investment in jeopardy.

11 The irony is that we bought the land to preserve the
12 trees.

13 If the commission does not reject the
14 overlay, the majority of the lot owners in our
15 neighborhood have petitioned to be exempted. We
16 believe that many of the zoning rules needed to
17 protect our neighborhood are already in place. Please
18 exempt our neighborhood or send the overlay back to
19 the Forest Hills communities for a more reasoned
20 approach. Thank you for your consideration.

21 MS. MITTEN: Thank you. I'm going to need
22 to ask you to leave that with us now. All right.
23 Thank you. Any questions for these folks? Mr.
24 Hannaham?

25 MR. HANNAHAM: Mr. Fisher, I just wanted

1 to ask you since you're asking to be opted out, in the
2 event that the commission decides that we will throw
3 this back to the community for re-consideration, would
4 you and the resources of your facility be put in
5 support of those community efforts?

6 MR. FISHER: Yes, we would certainly be
7 very much part of the voice. We're a chunk of this
8 community, and if, indeed, there was some reason put
9 in this process, I think we would be very much of a
10 participator.

11 MR. HANNAHAM: Okay. I'm glad to hear
12 that because I know that you could make a really
13 important contribution. And the lady □- I've just
14 forgotten your name -- Ms. Kelly, would you also, you
15 also indicated that, rather than just opting out, you
16 would like to have this brought back to ground zero
17 again, not ground zero, I'm sorry □-

18 MS. KELLY: My husband and I have already
19 spent hundreds of hours on this process.

20 MR. HANNAHAM: -- a new beginning.

21 MS. KELLY: And we, you know, we believe
22 in making the effort to try to get a consensus
23 approach that will work.

24 MR. HANNAHAM: Okay. That's great.
25 That's very positive, and I'm very happy to hear that.

1 Thank you very much.

2 MS. MITTEN: Thank you, Mr. Hannaham.
3 Anyone else? Anymore questions? Thanks, folks.
4 Roberta Colton. Okay. M.A. Jones. The last name I
5 can read is M-A-G-H-E-R. E.A. Carter. We'll start
6 with Mr. Jones, whenever you're ready.

7 MR. JONES: I'm Michael Jones, and I live
8 at 2605 Tilden Place. I shall confine my criticism to
9 four points because of time restraints.

10 First, I live in square 2244. The owners
11 of my square and those squares 2239, 2245, and 2246,
12 you've heard all this, we have submitted petitions to
13 you to be exempted. I want to clarify one point here
14 that, actually, of the people that were presented
15 these petitions, 94% said they wanted out. Only two
16 people said they wanted in, to stay in the overlay,
17 and we strongly urge you to listen to our petition.

18 Point two, I moved here from Connecticut,
19 where I was on the Darien Zoning Board of Appeals.
20 The main principle that governed our decision there, I
21 believe, should govern yours also. It is that a
22 person has the right to do with his property what he
23 likes provided, and this is the key word, provided he
24 does not harm his neighbors. It is clear from what
25 was said by the proponents of the overlay that the

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1 purpose of this is to protect a society from
2 subdivision of large lots and infilling of smaller
3 ones. Since that's the goal, let's drop this general
4 overlay and create a new provision, which will attack
5 these concerns directly. Let's have certain specified
6 events trigger activation of anti-development
7 regulations rather than have a broad-brush set of
8 regulations which prevent existing homeowners from
9 landscaping their gardens and making minor
10 alterations. Kathy Patterson said publicly that she
11 "has serious reservations about regulating individual
12 owners trying to improve their properties. It is not
13 right to penalize people for what they do in their own
14 backyard." But that is exactly what this overlay
15 does.

16 Point three, the steep slope restriction,
17 the term "steep slope" is a misnomer. It is defined
18 as a 25% grade. That is a drop of two and a half feet
19 over a distance of 10. Look at something 10 feet
20 away, here, and drop your eyes two and a half feet to
21 about here, and that's a steep slope. If you had a
22 sled on snow, it wouldn't even move.

23 The proponents have now seen how
24 unreasonable this provision is and have virtually
25 eliminated it by amending paragraph 1519.5 but not

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1 entirely. They say in 1502 revised version that
2 property owners "will follow best GO technical
3 structure engineering" when building on such a slope.

4 Isn't that what the building inspectors require
5 anyway? So let's delete section 1519.5 and other
6 references to steep slopes, such as paragraph 1520.1E.

7 Fourth, the impervious surface restriction
8 is designed to prevent excess storm run-off. This
9 goal is commendable and can be achieved by cisterns
10 and other control devices, which will still allow the
11 addition of a patio or swimming pool while not
12 increasing flooding. However, if you insist on
13 keeping an impervious surface restriction, delete
14 swimming pools from the definition because they catch
15 rain, they don't add to the run off.

16 MS. MITTEN: Mr. Jones, you need to wrap
17 it up.

18 MR. JONES: I'm finished. We in the above
19 squares wish to be let go, and this thing will
20 certainly impact the innocent existing homeowners but
21 may not even stop development.

22 MS. MITTEN: Thank you. Sir? I don't
23 know how to pronounce your name, so I'm going to avoid
24 it.

25 MR. MAGHER: My name is George Magher. I

1 own two houses in Forest Hills within blocks. You've
2 already seen one up on the screen tonight, rather
3 large. I'm here, basically, to speak to the fairness
4 of the way this thing was put together, more
5 specifically, the unfairness, and some of the
6 deceitful things that were done. That's the most
7 annoying part.

8 What we have in front of us is a very
9 serious proposal. I mean, we're not talking about
10 making a judgment on speed bumps or determining the
11 size of a dance floor here. We're talking about
12 creating new and harsher laws, imposing them on
13 thousands of people, without ever really having
14 informed them. A newspaper article under tree and
15 slope is just not going to get it. Look at tree and
16 slope. Where does it say zoning? Zoning is the heart
17 of this proposal before you, the heart and soul of it,
18 and we all know it. People saw tree and slope, it
19 didn't bother them.

20 Next, we have a situation, you have a
21 chart in front of you with the ANC, the area that they
22 command under them, and the various districts that are
23 involved. I want you to pay attention to one in there
24 that's under Mr. Bardin. Mr. Bardin is 3FO4. You'll
25 see that Mr. Bardin was heading up the ad hoc

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1 committee to determine the boundaries of that TSO, and
2 he red-lined his entire district east of Connecticut
3 Avenue that contains more than 30 homes worth probably
4 in excess of 20 million bucks. And then he turned
5 around and voted for the TSO. How's that for
6 fairness, folks?

7 Now the chairman on the night that they
8 were going to vote on this thing was specifically
9 asked by a gentleman in the audience how much
10 representation does everybody have here in the TSO
11 because he was going to ask them to, please, you know,
12 could you just stay out of the vote if you're not in
13 the TSO. The chairwoman responded that everybody say
14 one is in the TSO, and she knew she wasn't in it, and
15 she knew Bardin wasn't in it, and she also knew that
16 they were both going to vote for that proposal that
17 night.

18 MS. MITTEN: Mr. Magher, you need to wrap
19 it up.

20 MR. MAGHER: Okay. Basically, more than
21 half of the programs or problems that we've had in our
22 neighborhood in the past have really come from zoning
23 not really enforcing the laws on the books, and I
24 think if this were returned to the ANC and some of the
25 interplay that's already gone on outside of public

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1 meetings that a much better solution can and will be
2 found. It will be found.

3 MS. MITTEN: Thank you.

4 MR. MAGHER: Thank you.

5 MS. MITTEN: Mr. Carter?

6 MR. CARTER: Thank you. Good evening. My
7 name is Andre Carter, and I live at 2747 Brandywine
8 Street, just off Broadbranch. We bought our house
9 about three years ago, and the reason we moved from
10 the other side of Rock Creek Park on 28th Street is
11 because I wanted a swimming pool, and we found an old
12 Tudor that I said, "Oh, well, it's a little old, it's
13 a little tired, but we can revive it," so, I mean, I
14 would no more turn my house into a McMansion than I
15 would break a stained-glass window. At the same time,
16 one of the obvious things with the lot, like every lot
17 in Forest Hills almost, is that it's on a slope and
18 that my lot actually comes down into the house, and
19 I've got a French drain that we paid, you know, \$4,000
20 to deal with the water run-off. I've got a back patio
21 that's got a wall that's caving in, and, at some
22 point, you know, I'd like to get those things fixed.
23 We've got a lot of trees on the lot, which we've done
24 a lot to maintain and trim and, you know, where we
25 could save them. I guess the real point here is that

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1 when it comes down between trees and the slope and my
2 house, I'm going to choose my house. That doesn't
3 mean I don't love trees and I wouldn't like to see
4 something done to curtail bad development or ugly
5 development or, you know, 14-million square-foot homes
6 on 7500 square-foot lots. I think we're all in
7 agreement with that. But, I think, at the same time,
8 in the rush to make this happen, something that was
9 aimed at developers, and it may hurt developers
10 ultimately, I don't know that it will stop them, will
11 certainly kill or hurt a lot of homeowners because a
12 developer, it's just a spreadsheet calculation, "Well,
13 if I've got to go through five agencies, that's going
14 to add another \$40,000; it's the bank's money anyway."

15 For a homeowner, that's savings. Now Leslie and I,
16 we've been saving to re-do our backyard and our patio
17 since we moved in three and a half years ago now, and,
18 you know, we're about \$7,000, \$8,000 from where we
19 think we need to be to kind of get the first stage
20 going. Well, as I look at it, going through five
21 agencies, calling around, talking to architects and
22 landscapes who don't really know what's going to
23 happen with this overlay or where it will go, no one's
24 going to give me a flat price on dealing with getting
25 this through BZA, and all I want is a patio and a

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1 swimming pool, which I think, as a native
2 Washingtonian and the person who pays the mortgage
3 every month, if I have to look at my neighbors'
4 swimming pools, who aren't here tonight because
5 they've got their work done, I think I should be able
6 to have one. And I think there's a spirit to make
7 something happen here, there's a spirit to protect
8 trees, but I think this overlay is wrong because it
9 doesn't separate developers from homeowners. It puts
10 homeowners in the way of the path of fire at
11 developers. It creates two kinds of citizens in
12 Forest Hills, those at a different stage of life
13 who've done the work to their home, who've already got
14 it as they want it, so why not make it pristine, and
15 those of us who've just bought our homes and would
16 like to bring it into the 20th century and do things in
17 a tasteful manner to make it what we want. And I
18 think it's those elements that make this approach
19 wrong, but I think there's great spirit in the
20 community, certainly in my heart to work with my
21 neighbors. That's what I love about the neighbors is
22 that they get involved and that they care about trees.

23 You know, I love trees. I spent two weeks
24 in the Amazon in 1997 on a working farm that was
25 tagging trees and doing floral studies. I mean, I

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1 don't know much, I was just kind of helping. I also
2 spent some time in Africa two years ago in the bush
3 doing plant, tree, and wildlife stuff. I mean, it's
4 kind of a trip, but I enjoy it; I appreciate wildlife,
5 and trees are a part of that, but we need a sensible
6 approach. Thank you.

7 MS. MITTEN: Thank you, Mr. Carter. Any
8 questions for this panel? Any questions? Thank you
9 all. Leslie Ross?

10 UNIDENTIFIED SPEAKER: She's not here.

11 MS. MITTEN: Okay. I have another Magher
12 on the list. Is there a Mrs. Magher who wants to
13 testify? Did you want to testify, ma'am? Okay. Karen
14 Surenko? Andrew Stevenson? Leonard Zax? Ms. Surenko,
15 you can go first.

16 MS. SURENKO: Good evening. My name is
17 Karen Surenko. I live at 3001 Audubon Terrace within
18 the overlay, and I oppose the petition as it stands.
19 I do not see that there is a clear public good, nor a
20 valid neighborhood character rationale behind these
21 restrictions. They are, in fact, arbitrary, and, in
22 fact, I feel like I'm being punished through them.

23 Let's start at the start. I believe in
24 restrictions that actually transparently serve the
25 public good. I enjoy the benefits of trees, and,

1 actually, we have planted about 17 trees in our
2 backyard. However, I don't see the public good
3 benefit of these restrictions, as I've said before.

4 Much has been said about the neighborhood
5 character. Now the current zoning requirements have
6 actually allowed the neighborhood character to develop
7 over the years. Neighbors have been able to make
8 responsible tree management decisions. They have been
9 able to cover their lots up to 40% of the lot size,
10 and there were no impervious surface restrictions.
11 Now why not? My question is who are really the
12 beneficiaries of these restrictions at this time?

13 Secondly, not only is the rationale for
14 this overlay unclear, the percentages seem a tad
15 arbitrary. Now, you know, why 50%? Why 30% as opposed
16 to the 40% that neighbors have been happily living
17 with over the last 40 years? Where is the evidence
18 that this new restriction is necessary? Now I know
19 some of these numbers actually come from other
20 overlays that are enforced, but still those numbers
21 are a little bit meaningless, they haven't been
22 tested, and I really want to understand what the true
23 justification behind some of these percentages are.

24 Now thirdly, without a clear basis for
25 these new restrictions, I truly feel like I'm being

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1 punished. Now in the medium and short term when I want
2 to upgrade my house and property, and in the long term
3 when I want to sell the property. Now we bought into
4 our property about four and a half years ago. We
5 looked around. We were planning a family. We
6 thought, "Well, this house can do with a little bit of
7 work, and there's still some room for expansion to
8 care for the needs of our future family." Now,
9 however, for example, there's a 50% restriction, and I
10 cannot even put in a driveway, potentially, that match
11 the standards of the rest of the neighborhood without
12 going through an onerous BZA exception process.

13 Also, although the language of the
14 petition seemed to allow me to expand my existing
15 dwelling beyond the 50% impervious surface, as it
16 reads now, it actually doesn't allow me to expand the
17 house beyond 30%. So we still need some clarity on
18 the language, as was proposed.

19 Were these restrictions in place four
20 years or four and a half years ago when we bought,
21 actually, we would have probably thought twice about
22 it, and I would dare say that people who buy now,
23 especially people with children, would probably think
24 twice about this, too. And reduced marketability of
25 any property in the neighborhood is really not good

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1 for the neighborhood as a whole.

2 MS. MITTEN: You need to wrap it up now.

3 MS. SURENKO: Yes. Indeed, all that I
4 want to say is that I oppose the petition, and I
5 recommend you do the same, and I just want to say that
6 I'm also a dues-paying member of the Citizens
7 Association, and I echo the concerns being expressed
8 before.

9 MS. MITTEN: Thank you. Mr. Stevenson?

10 MR. STEVENSON: Thank you. Ladies and
11 gentlemen of the commission, my name is Andrew
12 Stevenson. I'm a registered architect in the District
13 of Columbia. My wife and I and our two children live
14 at 2955 Albemarle Street in a house built in 1908,
15 which we continue to carefully renovate. We consider
16 ourselves conservationists and preservationists, and
17 we are members of several like-minded institutions,
18 including the Audubon Society, Nature and Conservancy,
19 the CR Club, and the National Trust. We live in the
20 overlay district, the proposed overlay district.

21 I'm opposed to the Forest Hills Tree and
22 Slope Overlay, which I believe is an unnecessary,
23 unwelcome, and unwarranted intrusion into the private
24 affairs of the citizens of Forest Hills. This
25 proposal seeks to limit development, it's been said

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1 before, and at a time when we've had so much success
2 in getting people to move back into the city, it's
3 kind of ironic, I find it ironic, that we should even
4 consider additional regulations that run counter to
5 this highly-desirable goal. We should be trying to
6 see to it that more families, not fewer, have the same
7 opportunities we've had to live in Washington. We
8 should encourage people to live closer to urban
9 centers and, thereby, reduce driving distances to
10 work, services, and amenities.

11 Since its beginning, this neighborhood has
12 experienced increasing density as vacant land has been
13 subdivided and built on by homeowners and
14 developments. This overlay proposal reflects a desire
15 of those who want to slow or stop this ongoing process
16 by introducing more restrictive regulations. The
17 process that brought us here and produced everyone's
18 house in Forest Hills is now deemed to be flawed,
19 apparently, because they're producing even more homes
20 than some would like to see in the neighborhood or
21 houses that they don't like the look of. But
22 esthetics or a private homeowner's preferences are not
23 the subject of zoning regulations, and those
24 regulations should not be cast in such a fashion so as
25 to allow one individual or group to oppose their

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1 esthetics or preferences on other individuals in the
2 neighborhood or to exclude additional families from
3 living in the neighborhood. To expose property owners
4 to the public hearings required by this proposal will
5 have exactly this undesirable and intrusive effect.
6 Public hearings should not be distorted into
7 opportunities for neighbors to meddle in each other's
8 reasonable personal affairs and living arrangements.
9 Neighbors should not be given the opportunity to
10 extort concessions from other neighbors, builders, or
11 developers. To the extent that this is allowed to
12 occur, community relations will suffer, and I think
13 others have spoken to that dynamic that happens when
14 you do this. And it's in my belief that the existing
15 zoning law is easily adequate to protect the property
16 rights and also guide the general use and density
17 patterns in this neighborhood. Thank you.

18 MS. MITTEN: Thank you, Mr. Stevenson.
19 Mr. Zax?

20 MR. ZAX: Thank you. My name is Leonard
21 Zax, and my wife and I and our son and daughter live
22 at 4511 28th Street, Northwest, and our home is part of
23 the proposed overlay district. I have a master in
24 city planning from Harvard University, where I also
25 served as a lecturer and member of the faculty in the

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1 department of city and regional planning.

2 We've lived now in Forest Hills for almost
3 15 years, and we chose to live in this neighborhood
4 because of the trees that gave the neighborhood its
5 name and because of the diversity of urban residential
6 development that gives the neighborhood its special
7 character. Forest Hills was the first residential
8 neighborhood I came to know in Washington because my
9 college roommate lived on Linnean Avenue. His father,
10 an architect who taught at Howard University, was then
11 president of the Forest Hills Citizens Association.
12 One of my early visits to the neighborhood, on all of
13 my early visits to the neighborhood, actually, I was
14 awed by the most wonderful experience of entering a
15 residential community in a great city by driving up
16 through a national park, Rock Creek Park, and walking
17 along tree-lined streets.

18 Since I was attracted to Forest Hills
19 because of the trees, when I initially heard of
20 proposed land use restrictions to preserve trees, I
21 assumed I'd want to testify in favor of the proposal
22 at a hearing like this. But that was before I
23 actually read the proposal, which is fraught with
24 problems and laden with fatal defects.

25 I don't want to take the commission's time

1 this evening by simply repeating everything that has
2 been said, but I do want to emphasize the following
3 points: First, the process by which this proposal was
4 developed was fundamentally flawed. And second, the
5 reason why city planners emphasize the important of
6 process is because improving the process of citizen
7 participation and collaboration with government
8 officials and experts is the best hope we have of
9 increasing the likelihood of better substantive
10 results. What we have here is just the opposite, a
11 fundamentally flawed process produced a fundamentally
12 flawed proposal.

13 Third, as a result, we now have
14 regulations whose stated purpose is preserving the
15 character of the neighborhood but which cause more
16 than three-quarters of the applicable properties to be
17 either non-confirming lots and/or non-conforming
18 structures.

19 Finally, we now have regulations whose
20 stated purpose is preserving trees but which will
21 force many residents to cut down young trees planted
22 in recent years, and my wife has been responsible for
23 planting a good number on our property, in order to
24 avoid the draconian effects of the regulations when
25 the trees grow larger.

1 MS. MITTEN: Thank you. Any questions for
2 this panel from the commission? All right. Thank you
3 very much. I'm to the end of my list. Is there
4 anyone that I missed that would like to testify? Sir,
5 come forward. Now this is testimony in opposition
6 only.

7 Just before we go to the last panel, Mr.
8 Riley, Mr. Carter, and Mr. Zax, you need to fill out
9 witness cards for the court reporter, two witness
10 cards, and make sure that the court reporter gets it.

11 And they're on the table by the door, if you need
12 some. All right, sir?

13 MR. SLOAME: My name is Stuart Sloame, and
14 I live at 4508 28th Street, Northwest, and have lived
15 there since 1985. I am not on the list. I wasn't
16 planning to speak until I came here tonight, so you
17 have no prepared testimony from me. Let me explain
18 why I'm going to testify. I was one of the three
19 plaintiffs in the infamous case involving the infill
20 at 4512 28th Street, which has been mentioned, and I'm
21 sure the Chairperson remembers me.

22 MS. MITTEN: I thought you looked
23 familiar.

24 MR. SLOAME: I'm not invisible. And the
25 other plaintiffs are the Clarks and the Bakers. One

1 would expect that, given my experience with this
2 infamous infill developer, that I would be in favor of
3 the tree and slope overlay, but I'm not, and I'm going
4 to explain to you why.

5 My house adjoins 4512. We have a common
6 property line, and there are only five-foot side yards
7 because my house is non-conforming, 4512, before it
8 was knocked down, was non-conforming, and, for reasons
9 I won't go into, the replacement structure was
10 grandfathered in. At the time of the construction,
11 there was a huge tree, beech tree, on the other side
12 of the property line. The developer, in the process
13 of construction, exposed the roots, cut off many of
14 them on his side, and removed all the branches on that
15 side, leaving only the branches over the property line
16 on my side, which shaded the canopy. All that was
17 totally legal. He did nothing wrong under the
18 proposed overlay, and that's the point, that is the
19 point. I called in an arborist, who said that, within
20 five years, that tree would fall on my house because
21 it was imbalanced, and I implored the developer to
22 remove it, as sad as I was because I enjoyed the
23 shade, and he did so.

24 The point is the concept of the overlay is
25 conceptually flawed because what it does try to do is

1 a wonderful result, which is protecting the trees and
2 the canopy of Forest Hills, but using a site-based
3 mechanism. In other words, it's a lot-based
4 mechanism, and my example shows you how that can't
5 possibly work. He cuts his roots, did nothing wrong
6 under the overlay, and if I hadn't done something, the
7 tree would have fallen on my house, overlay to the
8 contrary notwithstanding.

9 I would suggest that a better approach
10 might be to look at the entire Forest Hills area and
11 come up with some overall grander scheme of trying to
12 protect the canopy, such as by looking at density and
13 other areas, other things, and I'm not an expert, so I
14 wouldn't know how to propose one, but it seems to me
15 that the whole concept of assigning enforcement of it
16 to specific lots is fatally flawed. Thank you.

17 MS. MITTEN: Thank you, Mr. Sloame. Mr.
18 Lourenco?

19 MR. LOURENCO: Good evening, Chairperson
20 Mitten, members of the Zoning Commission, my name is
21 Armando Lourenco. I'm a homeowner residing at 3055
22 Harrison Street. My property is within the zone of
23 the proposed parcels tree and slope overlay district.

24 I'm also a private consultant on building and land
25 use regulatory matters, and immediately prior to my

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1 working as a private consultant, I served as
2 administrative building and land regulation as part of
3 Consumer Regulatory Affairs. I also served as the
4 acting zoning administrator of the District of
5 Columbia from July, 1998 to August, 1999. Talk about
6 a broad coalition, I guess this gentleman and I were
7 on opposite sides on the case he just mentioned.

8 MR. SLOAME: I knew you looked familiar.

9 MR. LOURENCO: And I'm also a member of
10 the Mayor's Building Code Advisory Committee,
11 currently serving a third term on that board, but I'm
12 the chair of the issues and policy subcommittee.

13 Today, I'm testifying in my double
14 capacity as an interested homeowner affected by the
15 amendments you are considering and as a concerned
16 taxpayer of the District of Columbia. Given my past
17 experience and my background as a regulatory officer
18 in land use matters in the District of Columbia, I
19 believe it's my duty to share with you some of the
20 concerns that the proposed regulations brings to my
21 mind. For the record, I would like to state that I'm
22 not currently engaged as a consultant by any property
23 owner or developer on any case within the boundaries
24 of the proposed Forest Hills district. I'm not a
25 member of the Forest Hills Neighbors for Responsible

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1 Preservation, even though I'm certainly a Forest Hills
2 neighbor for responsible preservation. I have read
3 their published positions on the matter of the overlay
4 district, and I support them. In addition, I would
5 like to express a couple of other points for your
6 consideration.

7 The reduction of allowable lot occupancy
8 from 40% to 30% is, in my view, misguided and has the
9 unwanted effect of affecting disproportionately
10 current owners of smaller lots. It also affects
11 disproportionately elderly homeowners and those with
12 mobility impairments. One of the reasons my wife and
13 I decided to relocate to Harrison Street was to be
14 able to have all the home amenities necessary for the
15 enjoyment of our home located on the ground floor.
16 This is a necessity that is dictated by health
17 reasons, and it will become more and more critical as
18 we age inside that home. Any meaningful expansion of
19 our home and the full enjoyment of our property in the
20 future will require adding space to the ground floor.
21 Adding space vertically is not a simple option for
22 aging homeowners or those with disabilities. While my
23 house is far from occupying 40% of the lot, a limit of
24 30% would, basically, impose upon us a burden that is
25 disproportionate in relation to younger, healthier

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1 owners of larger lots. I oppose, therefore, as
2 discriminatory, a reduction in the lot occupancy rates
3 currently prescribed for R-1-A districts.

4 MS. MITTEN: You're going to need to wrap
5 it up, if you can bring it to closure.

6 MR. LOURENCO: The three-dimension
7 criteria, where there's a new existing survey of all
8 the material trees in the overlay district, present an
9 almost impossible task for the limited enforcement
10 resources of the district. The criteria for front set
11 back based on an elusive average of fronts that will
12 evolve every time a homeowner adds to the front of the
13 house is a certain recipe for trouble. In a year of
14 contraction of expenditures, where the options facing
15 the homeowners are an increasing tax or a reduction in
16 services of the taxpayer, I urge you to fully consider
17 the fiscal impact of cumbersome enforcement criteria,
18 such as those included in the proposed regulations. I
19 will give you a copy of my notes for the record.

20 MS. MITTEN: That will be great. Thank
21 you. Any questions for these folks? Thank you both.

22 Anyone else wishing to testify in opposition? All
23 right. I also need to ask Ms. Kelly, the large
24 exhibit that you brought, we need to have that
25 reduced, we need a copy that's reduced, no larger than

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1 11 by 17, if you can provide that to us. I think what
2 we need to do is just maybe close the record at the
3 end of the week to allow these □-

4 MR. BASTIDA: You can close the record for
5 those things that you are requesting because,
6 basically, we have it. What we'd want is to do it as
7 part of the permanent record, so 10 years from now,
8 people can go and find it on the record.

9 MS. MITTEN: And Mr. Lourenco's testimony,
10 we're going to get □-

11 MR. BASTIDA: I just got it.

12 MS. MITTEN: Oh, you just got it. Okay,
13 fine. So the record will be closed, except we just
14 need that reduced version. Mr. Clark, did you have
15 something?

16 MR. CLARK: Chair Mitten, I know you said
17 that only opponents were going to testify tonight. We
18 have one proponent who was out of the country at the
19 last meeting □-

20 MS. MITTEN: I'm sorry, Mr. Clark.

21 MR. CLARK: I just wanted to ask that
22 question.

23 MS. MITTEN: Thank you. All right. I
24 think, unless there's anything else □

25 MR. BASTIDA: No, Madame Chairman, staff

1 has no other matters.

2 MS. MITTEN: All right.

3 MR. CLARK: We have one other document,
4 which we'd like to put into the record.

5 MS. MITTEN: Please do. Ms. Steingasser,
6 did you have --

7 MS. STEINGASSER: Madame Chairman, would
8 the record remain open for an Office of Planning
9 supplemental report, as well?

10 MS. MITTEN: We weren't planning on that.
11 Is there something that you want to address?

12 MS. STEINGASSER: There are several issues
13 that we've been asked to address by both the
14 proponents and the opponents.

15 MS. MITTEN: How much time do you need?

16 MS. STEINGASSER: Probably a week, we
17 could get it in within a week.

18 MS. MITTEN: A week from today?

19 MS. STEINGASSER: Yes, ma'am.

20 MS. MITTEN: All right. So a week from
21 today, the 7th? Okay. All right.

22 MR. CLARK: Chairperson Mitten, if the
23 record is being held open for the Office of Planning,
24 can it be held open for a week in general?

25 MS. MITTEN: We really don't want a whole

1 new flurry of submissions, if we can ☐-

2 MR. CLARK: Nor do I want to do that.

3 MS. MITTEN: All right. Anyone who didn't
4 get a chance to testify, if they want to submit
5 written testimony and so forth. All right. I'd like
6 to thank you all. I know this was sort of a long
7 journey for us to get to this point. I'd like to
8 thank you all for your participation in coming out yet
9 again tonight. The record in this case will be closed
10 on Monday, October 7th, a week from today, and all
11 filings are to take place no later than 3:00 p.m.,
12 Suite 210, next door, in this building. The
13 commission will make a decision in this case at one of
14 its regular monthly meetings following the closing of
15 the record. It looks now like that will be the
16 October meeting, which is quite near the end of the
17 month on Oct 28th. The meeting will be held at 1:30 on
18 the 28th. It is certainly open to the public, and
19 you're encouraged to attend if you're interested. And
20 if you have any questions, you can contact Mr. Bastida
21 regarding the status of the case.

22 You should also be aware that should the
23 commission propose affirmative action, the proposed
24 action must be published in the D.C. Register as a
25 proposed rule-making with a period of time for

1 comments. In addition, the proposed rule-making will
2 be referred to the National Capital Planning
3 Commission for federal impact review. The Zoning
4 Commission will then take final action at a public
5 meeting following receipt of public comments and the
6 NCPC comments, after which a final rule-making and
7 order will be published.

8 I now declare today's public hearing
9 adjourned.

10 (Whereupon, the foregoing matter was
11 concluded at 8:39 p.m.)

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