

WILMER CUTLER PICKERING
HALE AND DORR LLP

ORIG

March 30, 2005

Patrick J. Carome

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patrick.carome@wilmerhale.com

By Hand

Ms. Gerrily Kress
Director
District of Columbia Office of Zoning
441 4th Street, N.W.
Suite 210 South
Washington, DC 20001

Re: *BZA Appeal No. 17285*

Dear Ms. Kress:

Enclosed for filing and inclusion in the above-referenced Appeal, and for distribution to the members of the Board of Zoning Adjustment, are an original and twenty-two copies of the following items:

1. Photocopies of plan for Walled Platform Structure (Appellant's oversize Exhibit 23) modified to highlight areas of yard occupied by geogrid portions of structure (in green) and areas of yard occupied by elevated platform/terrace portion of structure (in red). These correspond to a visual aid used by Appellant during the March 15, 2005 hearing.
2. Selected Documents from the Zoning Commission file for Case No. 90-5, which resulted in the promulgation of the Wesley Heights Overlay District regulations.
3. "Wesley Heights Zoning Overlay: A Guide for Homeowners, Real Estate Professionals, and Architects," prepared in 1993 by the Wesley Heights Historical Society, the Petitioner in Zoning Commission Case No. 90-5.
4. Selected excerpts of the Office of Zoning's Official Zoning Map, reflecting the zoning classifications for properties that, according to the Economides' erroneous claims, supposedly contain "retaining walls" that are similar in type and location to the structure at issue in this Appeal.
5. Second Affidavit of Patrick J. Carome, providing information responding to Board Members' questions about location of the neighboring Tate property.

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BZA

Case No. 17285

Exhibit No. 56

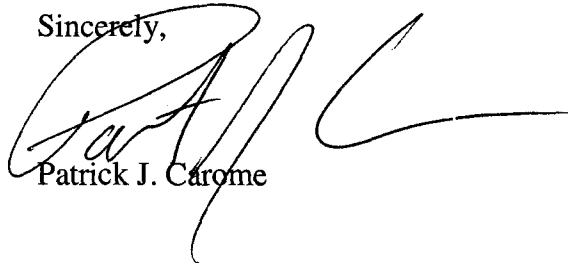
Board of Zoning Adjustment
District of Columbia
CASE NO. 17285
EXHIBIT NO. 56

Ms. Gerrily Kress
March 30, 2005
Page 2

Please circulate this set of materials to the members of the Board of Zoning Adjustment in advance of next Tuesday's continued hearing in this Appeal.

Please return to my courier one of the copies with a date-stamp confirming its filing. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick J. Carome', with a long horizontal flourish extending to the right.

Patrick J. Carome

Enclosures

cc w/ enclosures (by hand):

Richard L. Aguglia, Esq., Hunton & Williams

Alma Gates, ANC

David Murphy, U.S. Park Service

Jeffrey Bernstein, U.S. Dept. of the Interior

Lisa Bell, DCRA

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Government of the District of Columbia

Office of the
Director



Office of Planning
415 12th Street, N.W.,
Washington, D.C. 20004

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ZONING SECRETARIAT
DISTRICT OF COLUMBIA

90 JUL 27 AM 28

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M E M O R A N D U M

TO: D.C. Zoning Commission

FROM: Fred L. Greene
Director

SUBJECT: Zoning Case No. 90-5, The Proposed Wesley Heights
Zoning Overlay District (WHZOD), Status Report

This memorandum is intended to provide the Commission with the status of the proposed Wesley Heights Zoning Overlay District.

The Wesley Heights Historical Society (WHHS) has petitioned the Zoning Commission to amend the D.C. Zoning Regulations and Map in accordance with the provisions of the proposed Wesley Heights Zoning Overlay submitted on April 11, 1990.

In addition, on May 1, 1990, the Committee to Protect Spring Valley petitioned the Zoning Commission to extend the proposed WHZOD to include the R-1-A areas of Spring Valley as delineated on Exhibit No. 1 (included).

Location

The area that would be covered by the proposed overlay zone is essentially the Wesley Heights and Spring Valley neighborhoods. A majority of the area is zoned R-1-A, the remainder R-1-B.

Neighborhood Character

Neighborhood character in Wesley Heights has been described by petitioners as a low-density residential area covering 27 city blocks; housing is well spaced including only 20 percent lot occupancy on average, with extensive front and rear yards.

ZONING COMMISSION

CASE No. 90-5

EXHIBIT No. 14

ur 7/27

Houses typically have 4,000 s.f. of floor area in the R-1-A District and 2,500 s.f. in the R-1-B District. The lots have substantial tree coverage and preservation of the natural vegetation of the area. There is a grid street pattern and modest slopes.

Purpose

The purpose of the proposed WHZOD is to preserve and enhance the low density character of Wesley Heights (WH) and the "park-like" setting of the neighborhood by regulating construction and alteration of residential and other buildings in order to reduce the potential height and bulk, by increasing side and rear yards, by establishing a front yard, maximum floor area, a height limit, and a minimum roof pitch, and by reducing the percentage of lot occupancy.

A very specific purpose of the overlay is to prevent infill construction -- either a house or a very large addition to a house -- that is much larger than other houses on the block front. The issues are design/aesthetics, privacy, light and air, and trees/open space. Apparently, some of the newer houses are extremely bulky, with front yard extensions as well as minimum yards all around. In some cases, demolition of an older, sound house has made way for a larger, new house. In other locations, additions to an existing house have approximately doubled the size of the house to one of bulky proportions, according to petitioners. The bottom line issue on this is the high de facto FAR permitted in R-1 zones of 1.2. Typical houses are .3 to .6 FAR, and the maximum envelope has rarely been used. But in luxury neighborhoods in the past few years, there has been a market for such houses.

In summary petitioners aim to protect neighborhood character from the following:

- Redevelopment potential destructive to the established character in WH.
- Bulkier houses not in scale with existing houses.
- Higher lot occupancy, greater heights and FAR.
- New buildings sited in violation of traditional standards which preserve front yard open space character.
- Loss of mature trees and expansive rear yards.

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- Diminution of natural growth/environment and open space park-like quality.
- Reduction of light and air.

WHZOD - Key Provisions

The key provisions of the suggested overlay zone are summarized below:

Maximum FAR space	2,500 sq ft + 50% lot area
Lot occupancy	27%/R-1-A; 30%/R-1-B
Front yard	30 ft/R-1-A; 25 ft/R-1-B
Rear yard	35 ft
Side yard	2-story/8ft; 3-story/10 ft
Building height (max)	35 ft
Corner lot, 2-story house.	16 ft/side and rear yards
Corner lot, 3-story house.	20 ft/side and rear yards

OP Comment

The petitioners have undertaken a large amount of study over the past year or more. This has included a review of some of the better updates of low-density zoning done in other jurisdictions. The Office of Planning has periodically met with the architect who did much of the technical work for petitioners. We have provided him and petitioners with material we have been developing regarding the updating of R-1 zoning provisions in the D.C. Zoning Regulations as well as materials we have from other jurisdictions. We have emphasized that we are interested in these factors at least as much from the citywide text amendment perspective as from the immediate neighborhood perspective. Specifically, we are of the opinion that the de facto FAR permitted in the R-1 zones is inappropriately high. This has not mattered in the past because development rarely used the full envelope permitted (a 1.2 FAR house on a minimum R-1-A lot of 7,500 s.f. is 9,000 s.f. of living area). It may well prove feasible and desirable to establish a sliding FAR standard for R-1 development that will control the oversized houses beginning to be built in some of the higher priced neighborhoods of the city, while not penalizing the great majority of new homes or additions in these neighborhoods or around the city.

The other standards proposed by petitioners also are worthy of examination. Petitioners in this case have prepared a sophisticated analysis and documentation of proposals. OP is preparing a package of residential text amendments to be

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submitted to the Zoning Commission in the Fall. Our first preference is to include justifiable provisions or variations/ substitutes in the R-1 zones generally, rather than to create another overlay, especially if the timing of controls is similar. Regarding overlay vs. citywide amendments, we note that the development conditions in most of this neighborhood area are more akin to R-1-A and R-1-B conditions citywide than is the case in the Woodland-Normanstone area.

To summarize, we are not recommending a setdown of this case, but rather plan to address it as part of a package of proposed citywide text amendments to be submitted to the Commission in the Fall.

Attachment

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SPRING
VALLEY
AREA



WESLEY
HEIGHTS

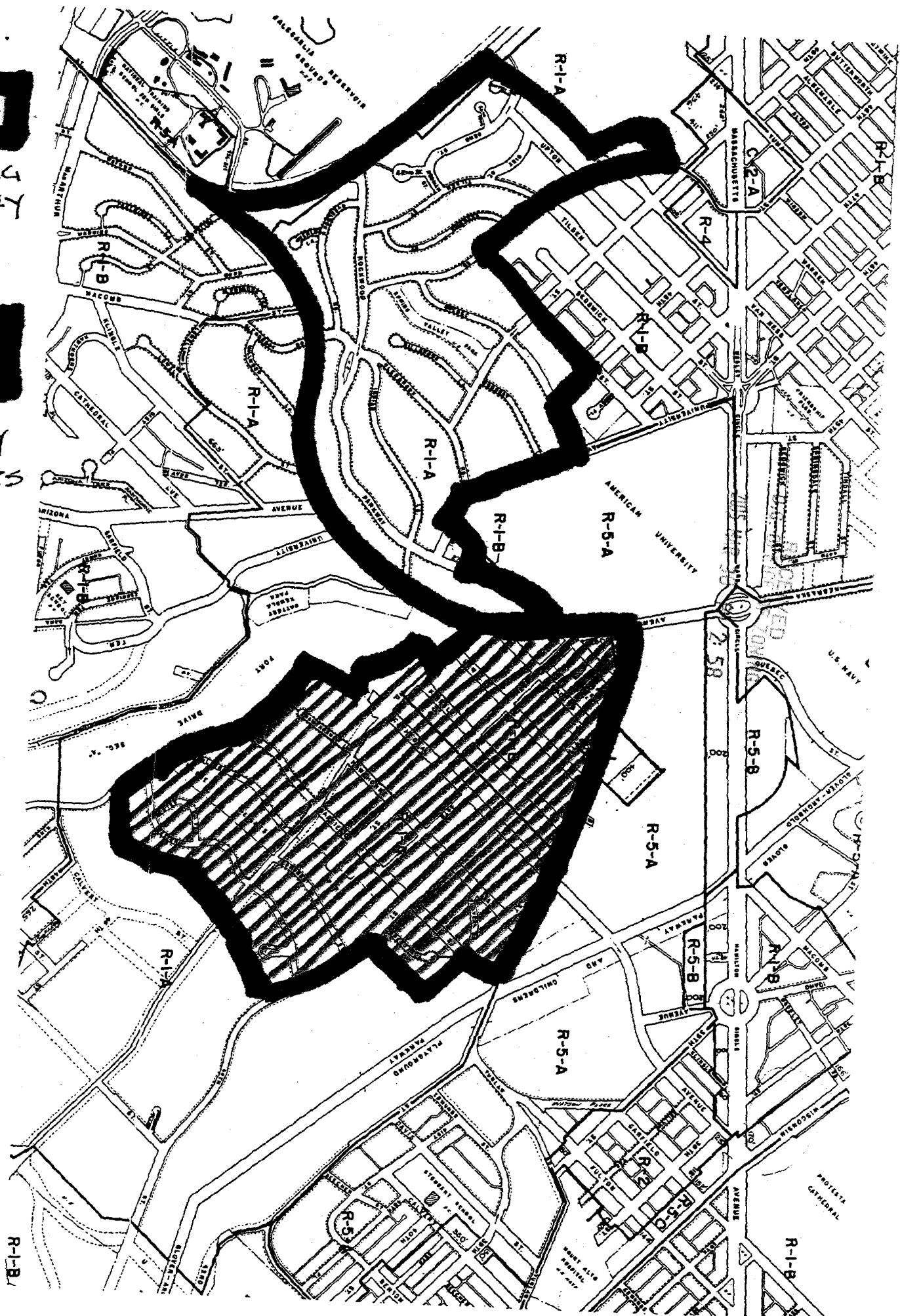


EXHIBIT
1

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A PLANNING ANALYSIS
OF THE
PROPOSED WESLEY HEIGHTS ZONING OVERLAY DISTRICT

Case No. 90-5

Wesley Heights Historical Society, Petitioner

91 NOV 25 P2:37
ZONING SECRETARIAT
DISTRICT OFFICE

December 5, 1991

ZONING COMMISSION
CASE No. 90-5
EXHIBIT No. 41

Wesley Heights Historical Society
4433 Klinge Street, N.W.
Washington, D.C. 20016

November 21, 1991

Mrs. Maybelle Taylor Bennett, Chairperson
Zoning Commission of the District of Columbia
District Building, Room 11
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Re: Z.C. Case No 90-5
(Wesley Heights Overlay)

Dear Chairperson Bennett
and Members of the Commission:

The accompanying report summarizes basic information about the proposed zoning overlay and includes streetscape drawings and photographs to facilitate the Commission's consideration of the Wesley Heights neighborhood's petition. On December 5 we will present a brief 35mm slide presentation.

Wesley Heights neighbors have worked long and diligently to craft this proposal that successfully addresses the problem of overbuilding and loss of neighborhood character, is consistent with sound planning principles, and is fundamentally fair and equitable to property owners.

During the last two years, we have simultaneously investigated a zoning solution and historic district status. In the latter matter, we engaged the services of a professional historical review team to assist us. The consultant has advised us that a substantial proportion of the houses in Wesley Heights do not meet threshold criteria for historic district designation. Additionally, there is no consensus in the neighborhood in support of historical district status. For these reasons, we have decided not to pursue historic district designation further at this time.

On behalf of the board of directors and the members of the Historical Society, I respectfully request an early, favorable response to our petition.

Sincerely yours,

Sandra M. Rennie
Sandra M. Rennie
President

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I. Introduction

The Wesley Heights Historical Society is a nonprofit volunteer organization with 170 of the approximately 400 Wesley Heights households as members. It was formally organized in 1989 to combat community deterioration and promote the general welfare of Wesley Heights.

Although it is legally separate from the Spring Valley-Wesley Heights Citizens Association, the two organizations work together on matters of common interest. Wesley Heights is part of the Advisory Neighborhood Commission area 3D.

II. Background—Wesley Heights: A Planned Community

Wesley Heights was built in the 1920s as a development created and controlled by WC & AN Miller. It was planned around the concept of single family detached homes with large private yards and lush landscaped streets.

To enhance the development's rural character, great emphasis was placed on preserving the virtual forest of existing trees by not changing the topographic presentation—trees, streams, and ground water run-off—in order to make Wesley Heights a "garden of homes." The Miller Company built this modern subdivision "about as close to nature as modern man can make it" (W.C. Miller, "Modern Trends in Subdividing" *Annals of Real Estate Practice* (1930) p. 302).

The Miller Company joined the efforts of a talented architect, Gordon E. MacNeil, and landscape architect, John Small III, who were responsible for controlling the total appearance of the subdivision.

MacNeil saw architectural perfection as a picture rather than as a group of individual homes. It was seldom that he planned a single home. Instead he planned a street. Together, MacNeil and Small developed the community block by block, creating harmonious relationships among homes and between the home and its landscape. To maintain this balance, homes were designed to cover, on average, 20% of their lots.

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III. The Problems

For the nearly sixty years since the original Wesley Heights community was built by the Miller Company, the basic character of the neighborhood has been maintained. In most cases, additions were made without expanding the homes to the maximum size allowed under the District's zoning ordinance; reasonable setbacks from the street were observed. Remodeling, construction and design plans reflected an appreciation for the garden-like quality of Wesley Heights. In the past few years, however, the unique character of the neighborhood has been violated:

- HOMES HAVE BEEN ENLARGED BEYOND THE EXISTING NEIGHBORHOOD SCALE .
- AS LOCAL LAND VALUES HAVE SOARED, STRUCTURALLY SOUND HOMES HAVE BEEN TORN DOWN AND REPLACED WITH MUCH LARGER HOUSES THAT OFTEN NEARLY DOUBLED LOT COVERAGE.
- HOUSES NEIGHBORING THE NEW CONSTRUCTION HAVE BEEN DWARFED AND LIGHT AND PRIVACY HAVE BEEN LOST.
- THE ORIGINAL SETBACKS HAVE BEEN IGNORED. HOUSES HAVE BEEN BUILT FORWARD TO THE STREET, DOMINATING AND HIDING THE FAÇADES OF ADJACENT HOUSES.
- THE STREETScape HAS BEEN BLIGHTED BY THE REMOVAL OF TREES, AND NATURAL ARBORS HAVE BEEN DESTROYED.

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IV. The Solution—The Wesley Heights Overlay Proposal

The current D. C. Zoning Regulations have not been effective in maintaining the character and quality of the community. The provisions of the proposed overlay zone are designed to supplement the current R-1-A and R-1-B zoning regulations. The intent of the overlay zone proposal is to limit new construction to a scale and proportion compatible with the character of the neighborhood as it was before recent large scale additions and new construction were initiated.

The current D. C. Code restricts construction within residential neighborhoods to a limit of 40% of the area of the lot; 40 feet on building height; and requires a backyard setback of 25 feet. The code also contains a height restriction of three stories. There is no front yard setback prescribed. At present, houses can be built forward to the front lot line, which is typically is about 45 feet from the center line of the street, or about 18 feet back from the sidewalk.

The Wesley Heights Overlay proposal would impose the following additional restrictions:

LOT OCCUPANCY: Only 30% of the lot can be covered by livable structures, except for smaller lots. Houses on lots with 6,667 square feet or less would be permitted to occupy a higher percentage of the lot—up to 40 percent for lots 5,000 square feet or less.

As an example, under current R-1-A zoning regulations, a house on a 10,000 square foot lot may occupy 4,000 square feet of the lot; under the proposed overlay requirements, a house on a 10,000 square foot lot would be allowed to occupy up to 3,000 square feet.

FLOOR AREA RATIO (FAR): The Overlay proposal also provides for a limitation on the livable space in each residence. The gross livable floor area will be restricted to less than the sum of 2,000 square feet plus 40% of the area of the lot. The formula will apply to all residences regardless of the size of the lot. The intent of this restriction is to limit the overall bulk of a building.

Under current R-1-A zoning regulations, for example, a house on a 10,000 square foot lot may occupy 4,000 square feet of the lot and contain 12,000 square feet of livable floor area (4,000 square feet on each of three floors). Houses built to these maximums

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would dwarf most existing homes in Wesley Heights. Under the Wesley Heights Overlay proposal, the same house would be limited to 6,000 square feet of livable floor area on two floors. If the footprint of the house were less than 3,000 square feet, a third floor would be permitted to accommodate the full 6,000 square feet of allowable floor area.

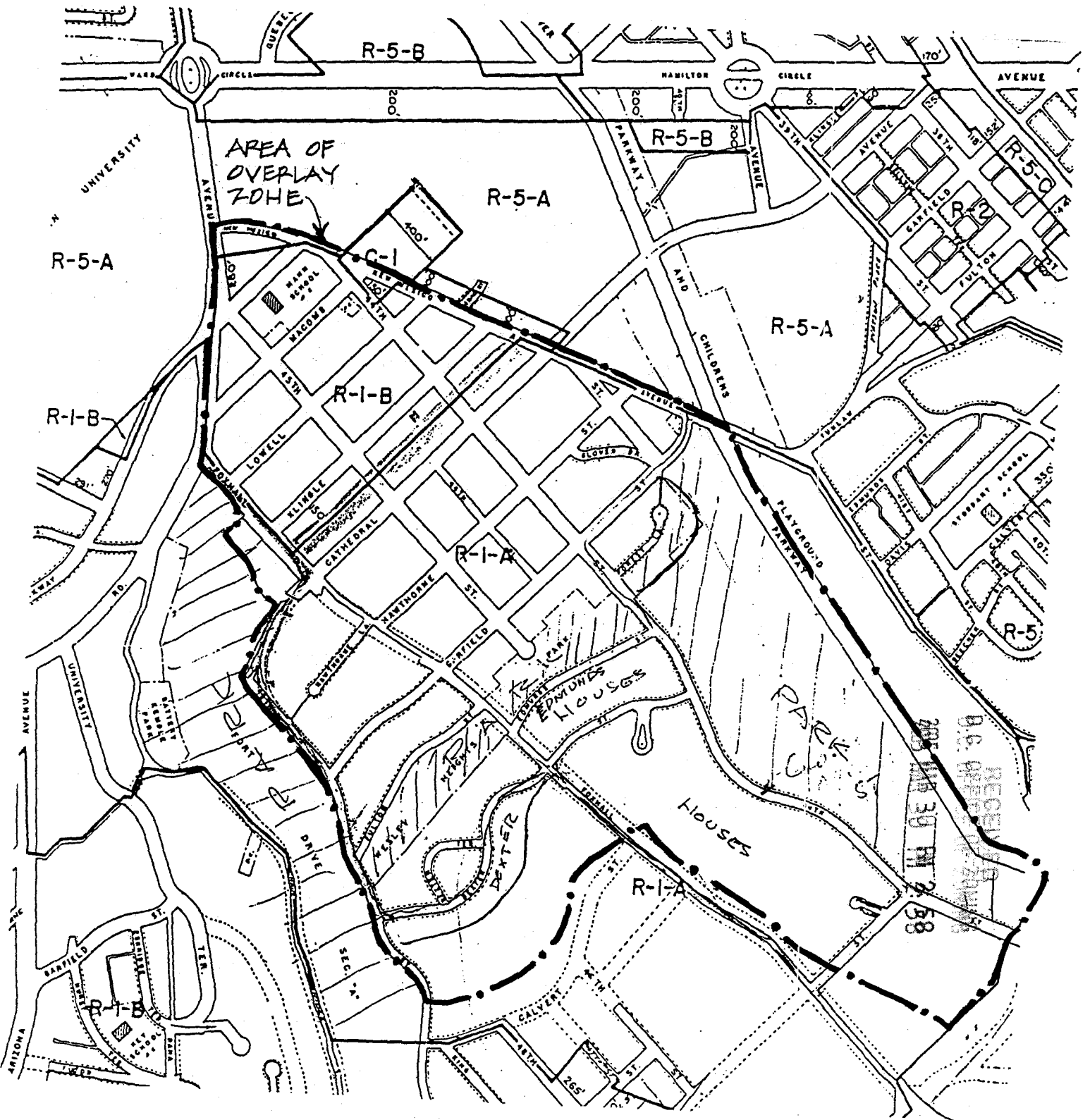
FRONT YARD SETBACK: The Overlay proposal includes a front yard setback, consisting of the average setback on each side of the street in each block. Construction would be allowed up to the average distance from the street of the fronts of other houses on the same side of the street in that block. The effect of this limitation would be to prevent additions from extending ahead of neighboring houses toward the street.

V. Conclusion

The Wesley Heights Historical Society believes that the overlay proposal is a reasonable approach to alleviating the problems described in its petition and summarized here, balancing the rights of homeowners who wish to expand their dwellings with the desire of the community to preserve the traditional character of the neighborhood. In a formal vote, the proposal received a clear cut endorsement from the more than 400 families who reside in Wesley Heights.

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MAP OF WESLEY HEIGHTS





4400 BLOCK OF KLINGLE STREET, N.W.

A broad tree canopy and expansive green space on both sides of the street give a distinctive character to Wesley Heights.

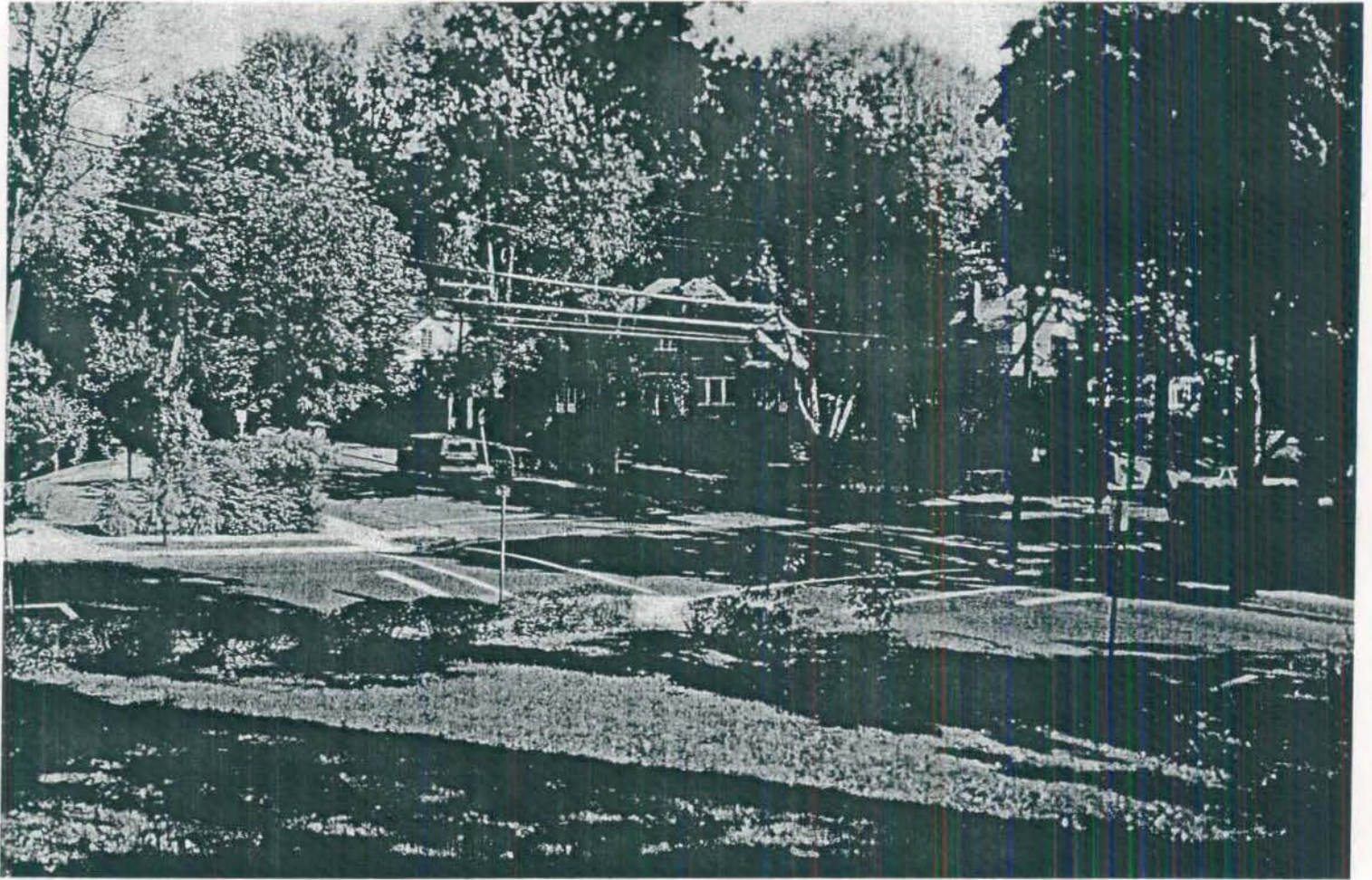
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3000 BLOCK OF 44TH PLACE, N.W.

The neighborhood was planned in such a way as to preserve existing trees, streams and the natural topography of the land.

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**INTERSECTION OF CATHEDRAL AVENUE, N.W. AND
44TH STREET, N.W.**

This intersection was designed as a gateway to Wesley Heights, with large corner houses set back on their lots to create a natural surrounding of trees, shrubbery and a meandering stream.

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NORTHWEST CORNER OF CATHEDRAL AVENUE, N.W.
AND 44TH STREET, N.W.

Recent development at this intersection has violated the original design; a natural gulley and stream have been filled in, and two large houses have been placed on what had once been an open natural landscape.

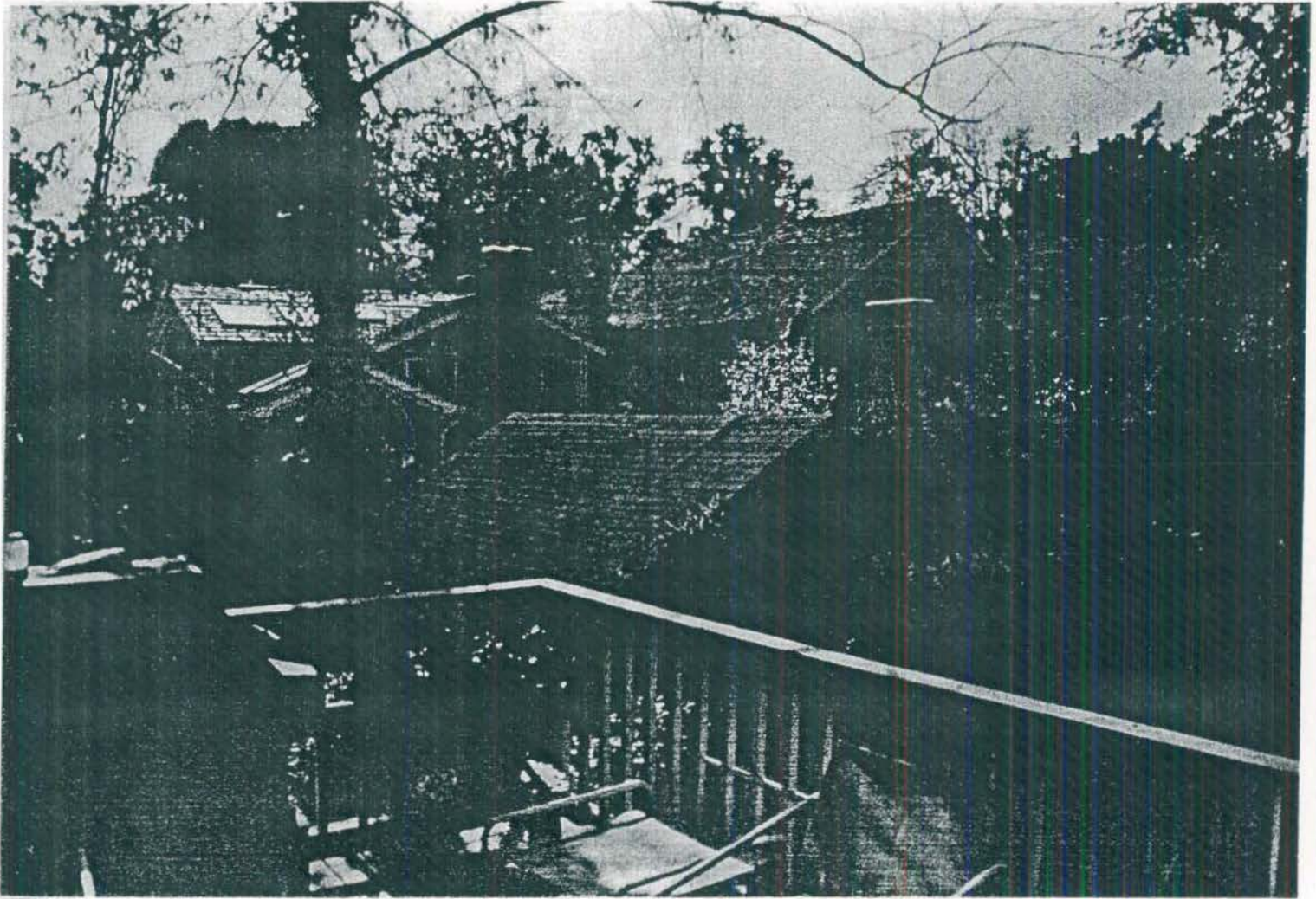
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**REAR YARDS OF THE 4400 BLOCKS OF CATHEDRAL
AVENUE, N.W. AND KLINGLE STREET, N.W.**

In a typical Wesley Heights vista, back yards come together to
create a park-like setting.

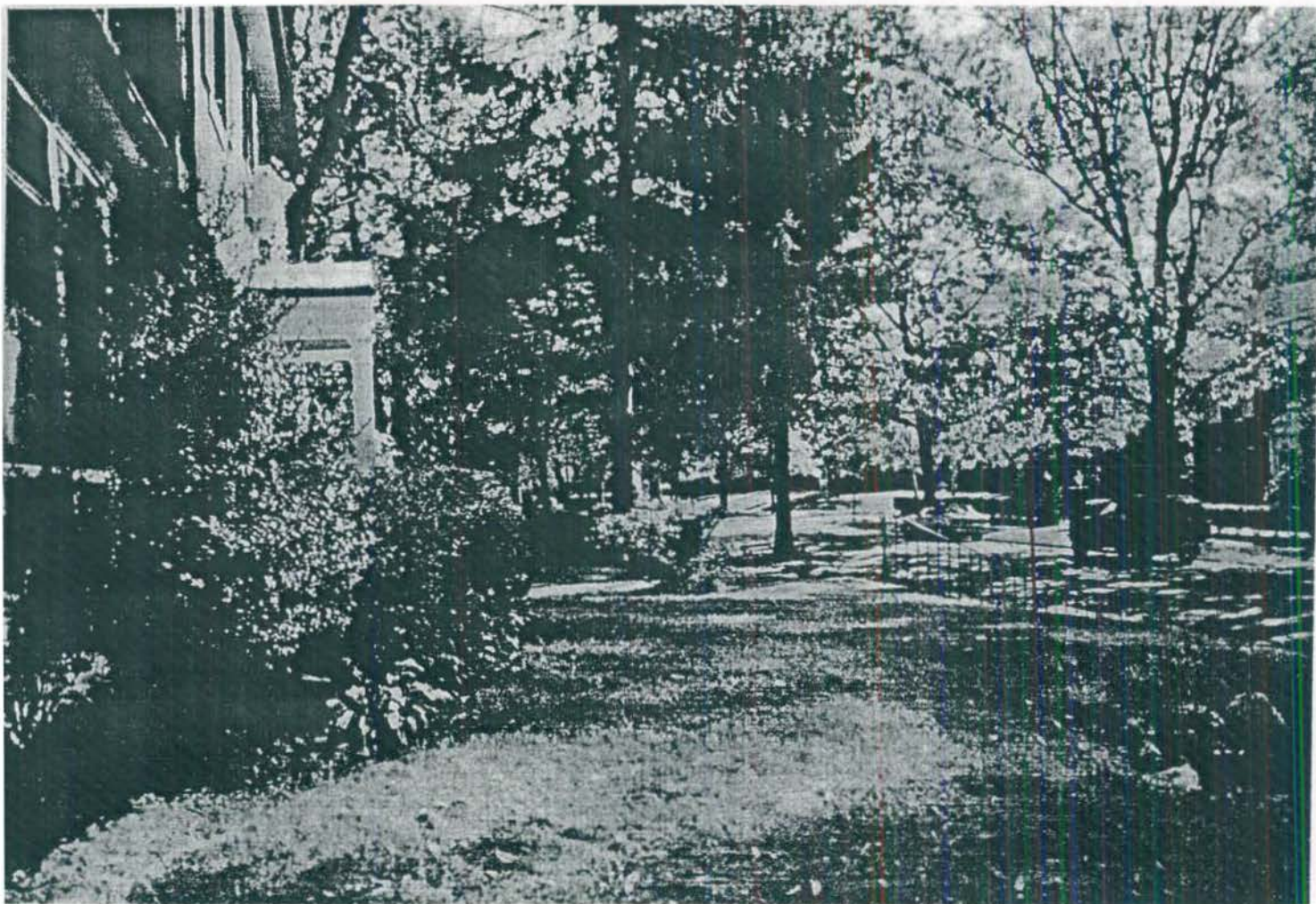
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**REAR YARDS OF THE 4400 BLOCKS OF KLINGLE AND
LOWELL STREETS, N.W.**

With no limit on the bulk of houses (no FAR), the backyard "park" has become cluttered with building additions; pleasing views have been lost, as well as light and air.

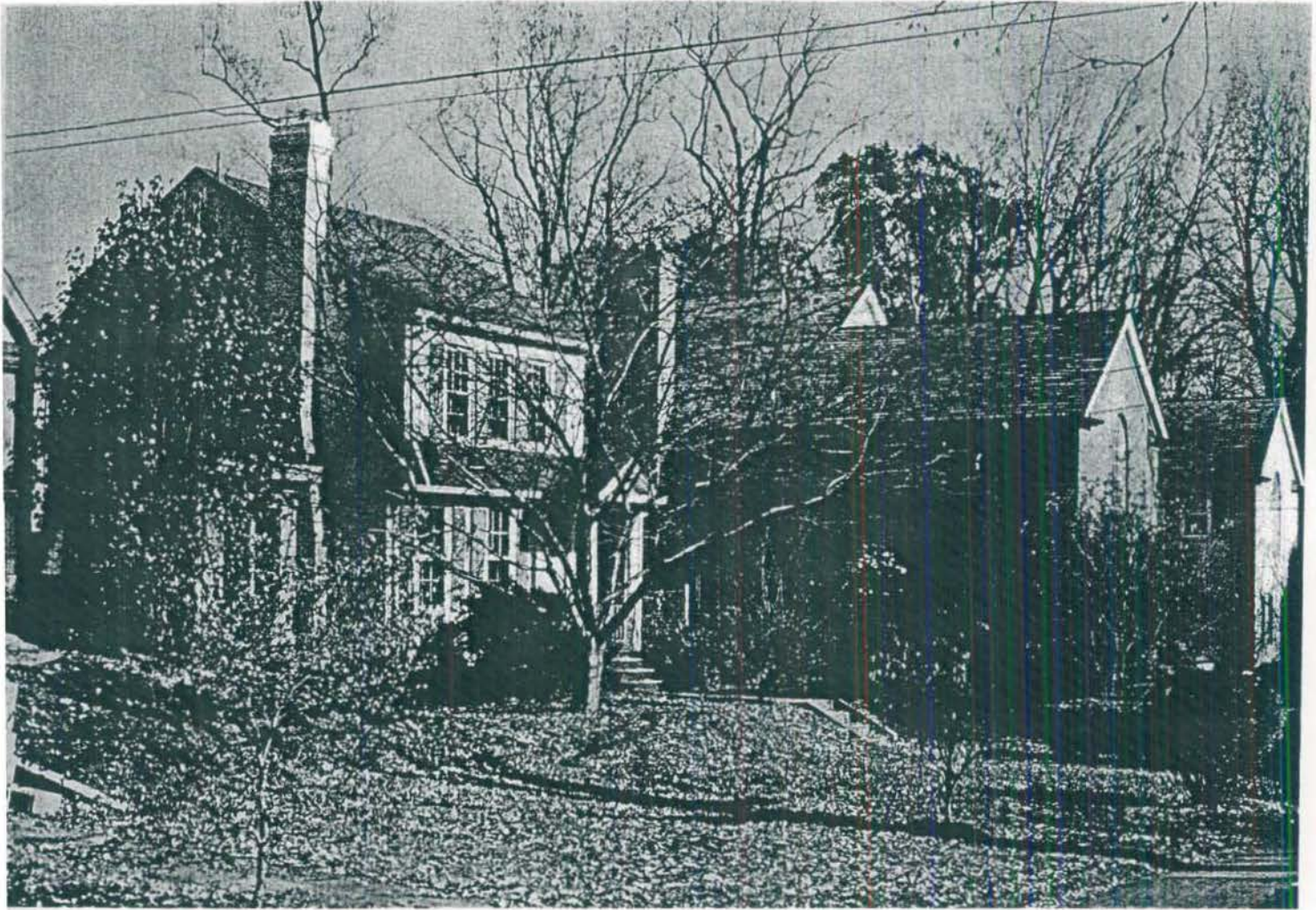
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4400 BLOCK OF HAWTHORNE STREET, N.W.

When front yard setbacks are maintained, each house enjoys a view up and down the block.



4400 BLOCK OF KLINGLE STREET, N.W.

When existing setbacks are violated by one or more houses built forward toward the street, adjacent houses are dwarfed.

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CLOSE-UP OF 4400 BLOCK OF KLINGLE STREET, N.W.

Views up and down the block are obstructed when a neighboring house is extended forward, beyond the existing planned setback.

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HOUSE ON 2900 BLOCK OF 44TH STREET, N.W.

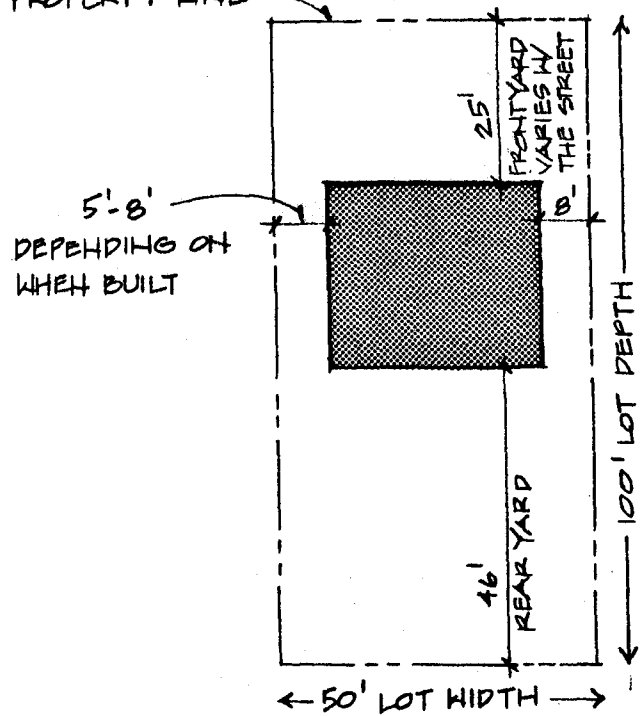
The distinctive character of Wesley Heights is violated when the natural green space beside the street is covered with pavement and when new houses are built with a mass that is out of proportion to the existing neighborhood.

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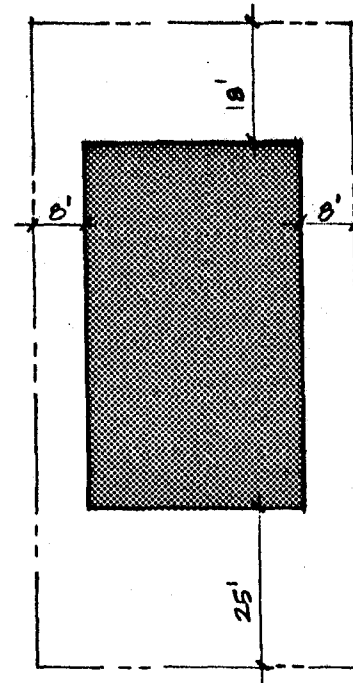
R-1-B ZONE WESLEY HEIGHTS

COMPARISON STUDY OF LOT COVERAGE, SET BACKS AND MAXIMUM LIVABLE AREA OF HOUSES BUILT ON A MINIMUM LOT ALLOWABLE IN THE R-1-B ZONE (5000 S.F.)

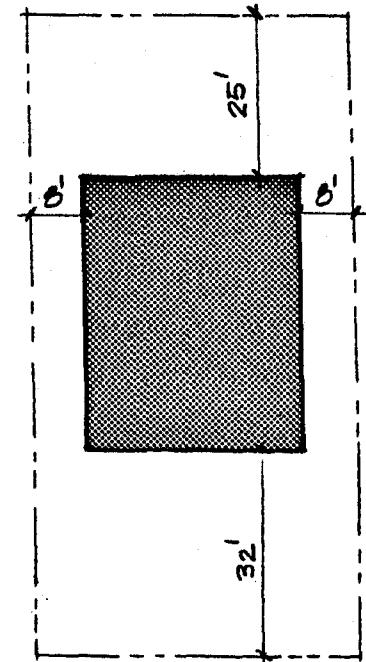
FRONT
PROPERTY LINE



AS ORIGINALLY BUILT



PERMISSIBLE UNDER
CURRENT ZONING



SCALE: 1"=30'

PERMISSIBLE UNDER
PROPOSED OVERLAY ZONE

LOT COVERAGE:

20%

40%

30%

LIVABLE AREA @

30' HT. TO ROOF,
2 STORIES:

1800 S.F.

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1800 S.F.

3000 S.F.

LIVABLE AREA @

40' HT. TO ROOF,
3 STORIES:

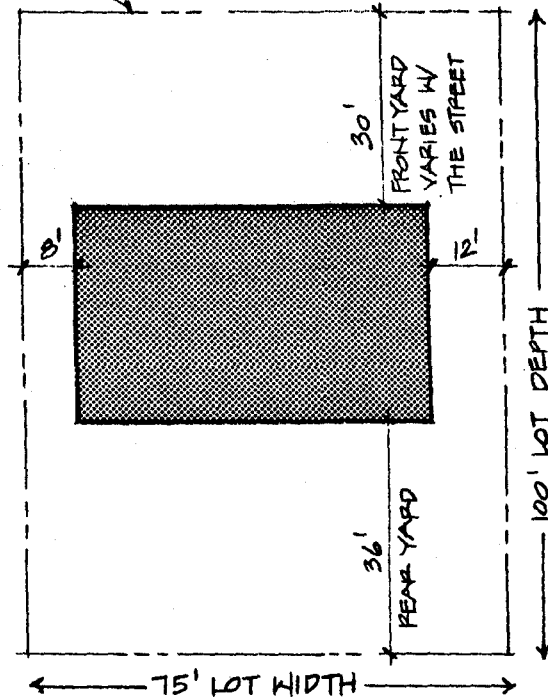
6000 S.F.

4500 S.F.

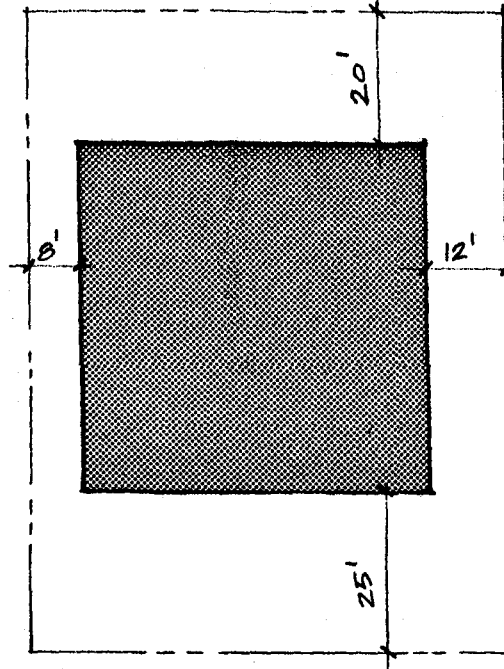
R-1-A ZONE WESLEY HEIGHTS

COMPARISON STUDY OF LOT COVERAGE, SET BACKS AND MAXIMUM LIVABLE AREA OF HOUSES BUILT ON A MINIMUM LOT ALLOWABLE IN THE R-1-A ZONE (7500 S.F.)

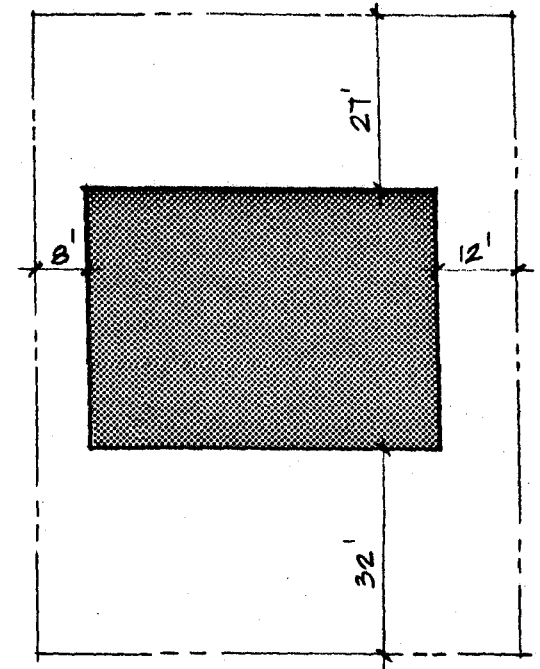
FRONT
PROPERTY LINE



AS ORIGINALLY BUILT



PERMISSIBLE UNDER
CURRENT ZONING



PERMISSIBLE UNDER
PROPOSED OVERLAY ZONE

LOT COVERAGE:

23%

40%

30%

LIVABLE AREA @

30' HT. TO ROOF,
2 STORIES:

3000 S.F.

6000 S.F.

4500 S.F.

LIVABLE AREA @

40' HT. TO ROOF,
3 STORIES:

9000 S.F.

6750 S.F.

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R-1-B ZONE WESLEY HEIGHTS

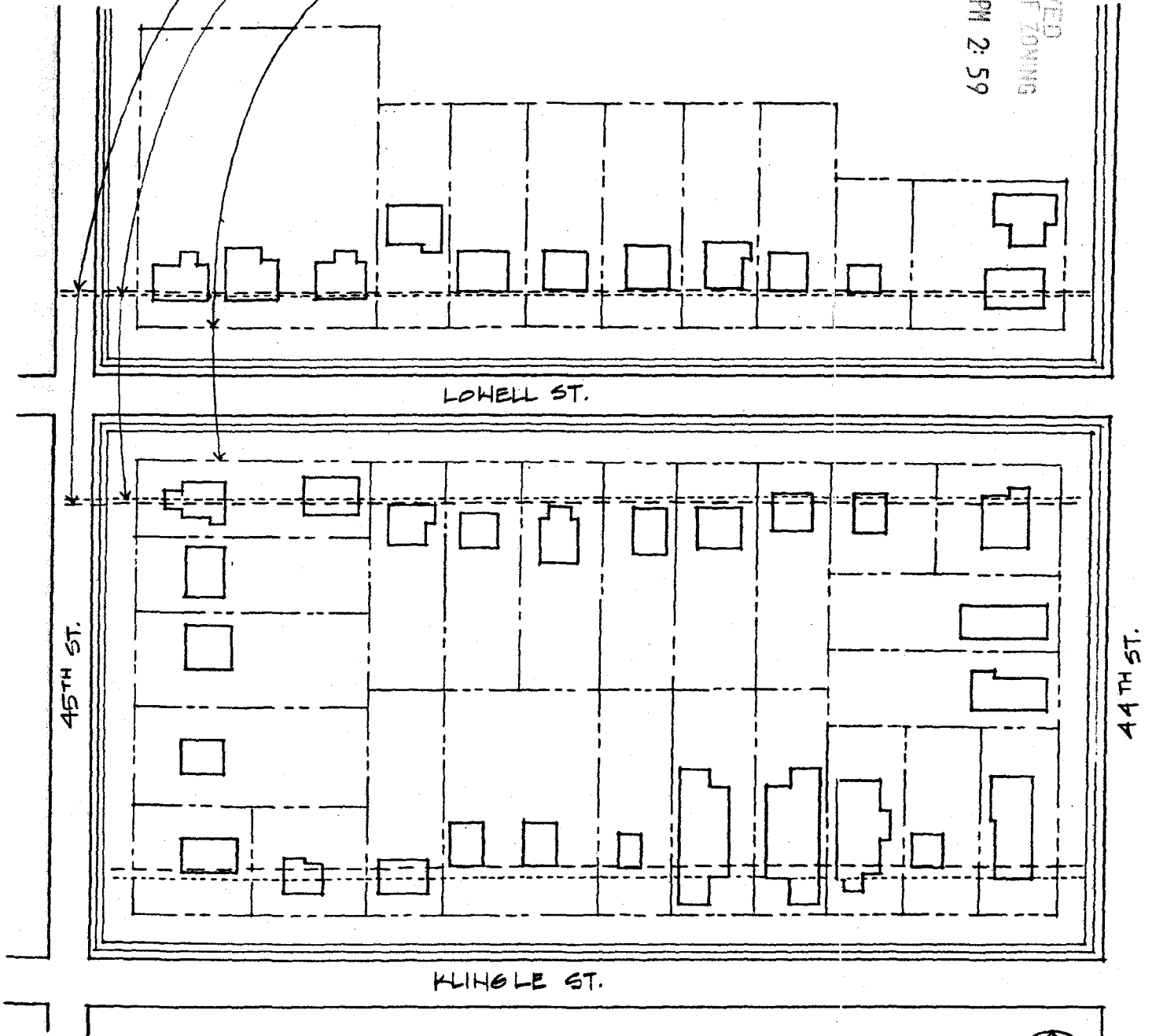
FRONT YARD SETBACK STUDY

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EXISTING IMPLIED SETBACK

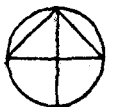
PROPOSED AVERAGE SETBACK

PERMISSIBLE SETBACK UNDER
CURRENT ZONING



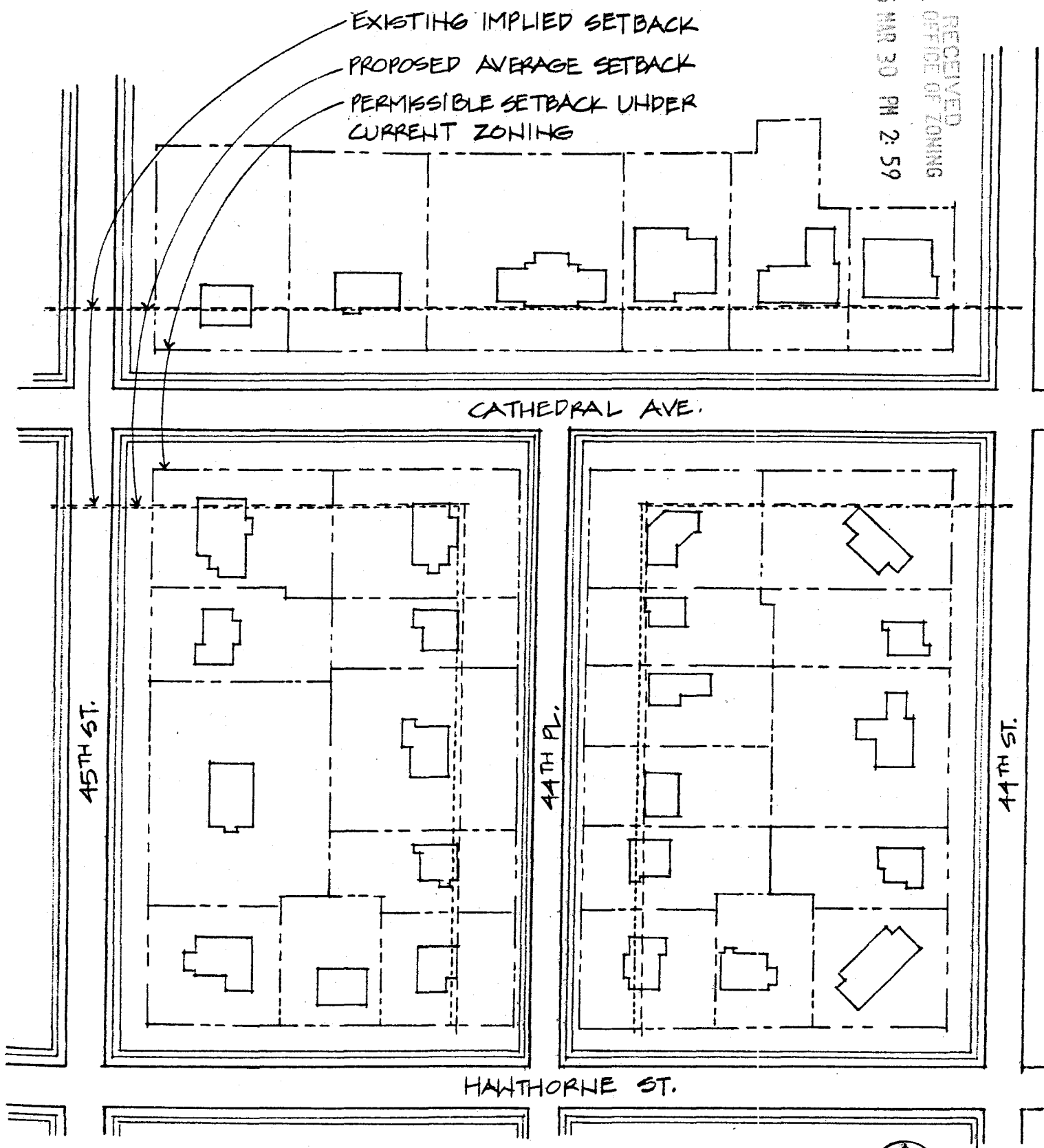
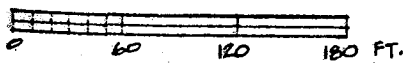
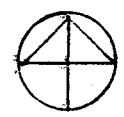
0 60 120 180 FT

SOURCE: 1991 SANBORN MAP



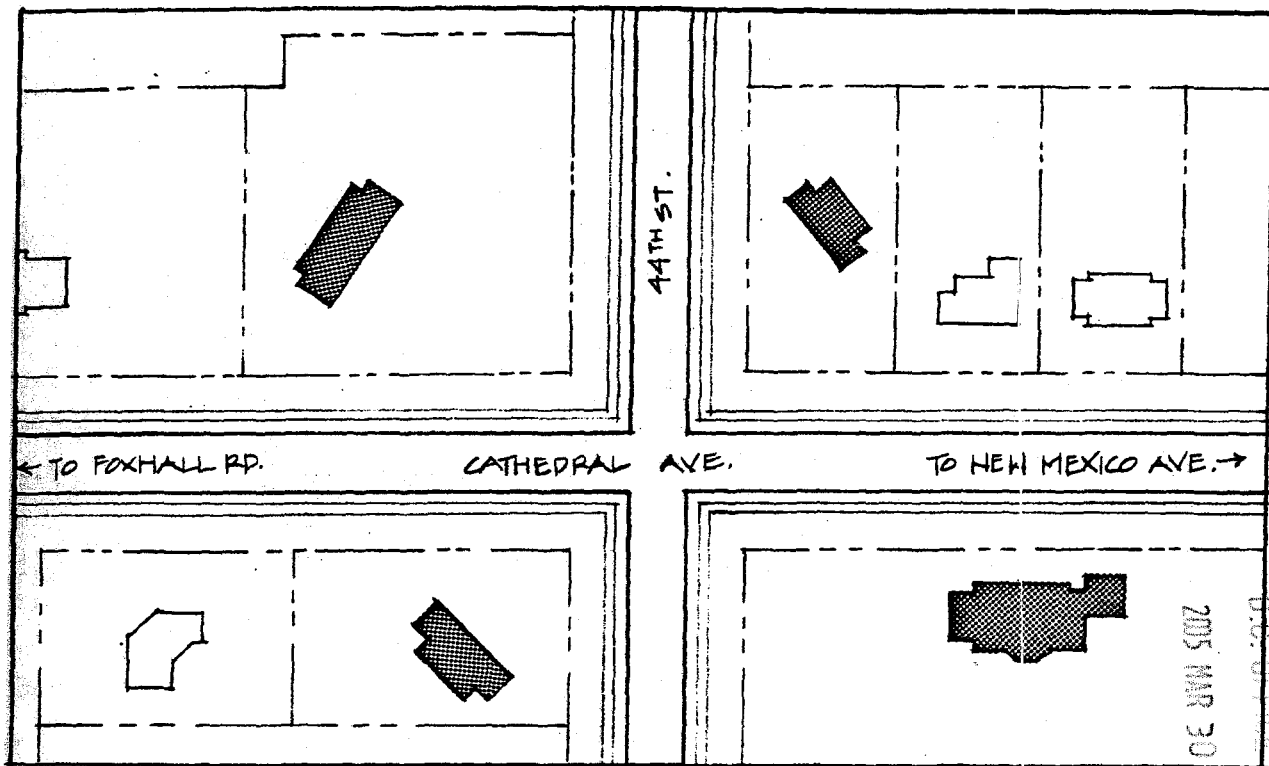
R-1-A ZONE WESLEY HEIGHTS
FRONT YARD SETBACK STUDY

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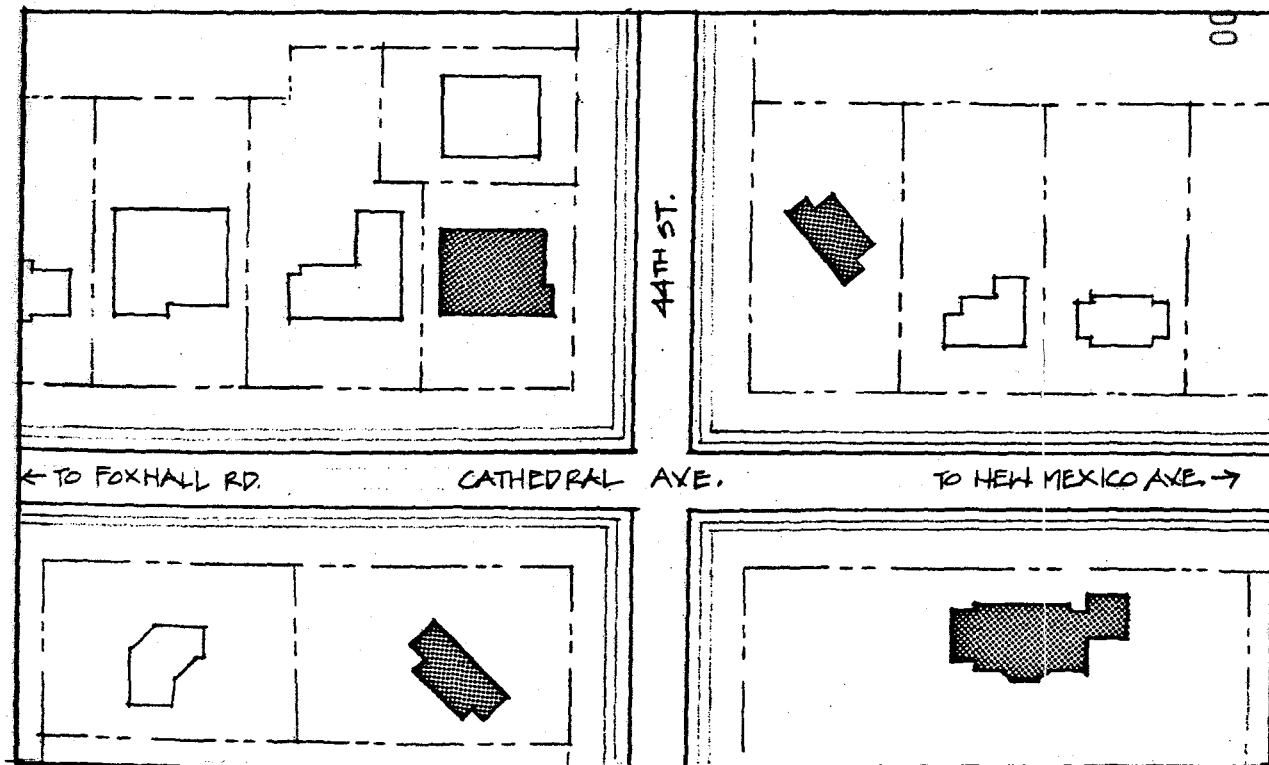
GATEWAY TO WESLEY HEIGHTS

A STUDY OF DEVELOPMENT AT THE INTERSECTION
OF CATHEDRAL AVENUE AND 44TH STREET

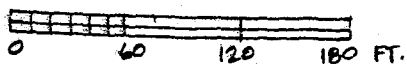


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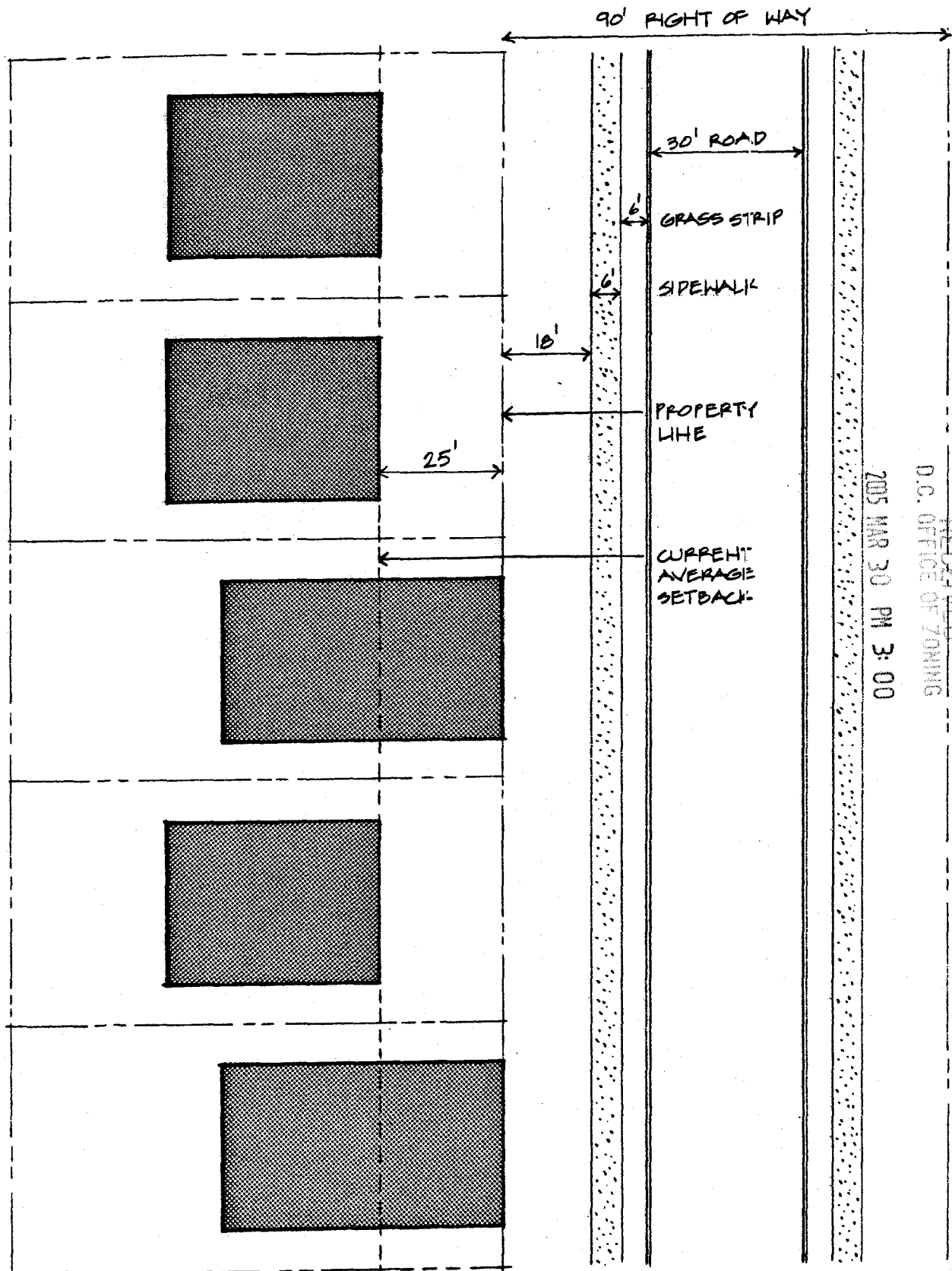


PRESENT CONDITION



R-1-B ZONE WESLEY HEIGHTS

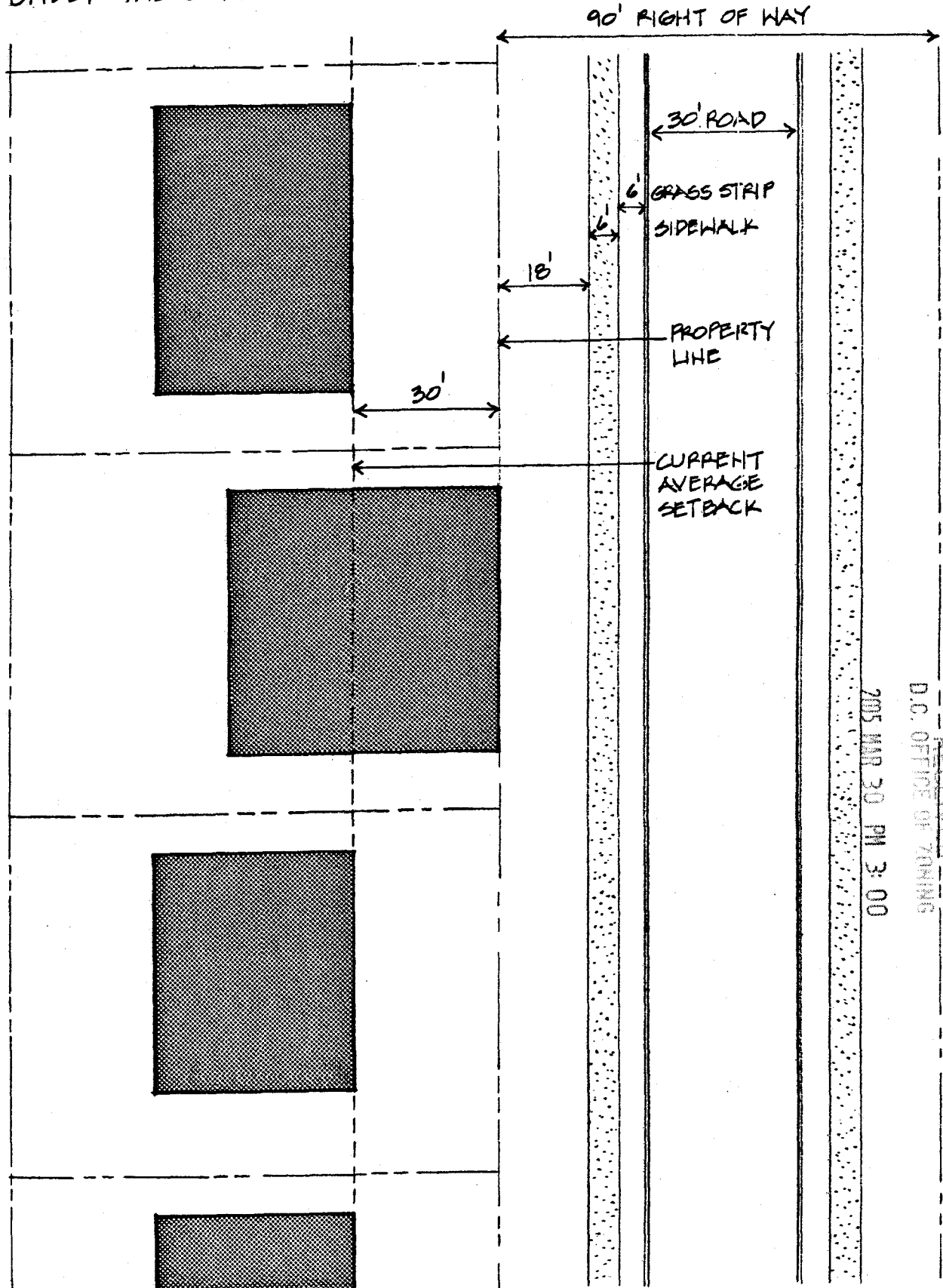
STUDY OF THE STREETSCAPE CONSEQUENCES OF BUILDING
UNDER THE CURRENT ZONING FOR THE R-1-B ZONE



SCALE: 1" = 30'

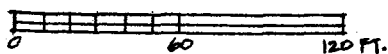
R-1-A ZONE WESLEY HEIGHTS

STUDY OF THE STREETScape CONSEQUENCES OF BUILDING
UNDER THE CURRENT ZONING FOR THE R-1-A ZONE



SCALE: 1" = 30'

4400 BLOCK OF KLINGLE STREET
STUDY OF OVERBUILDING UNDER CURRENT ZONING



SOURCE: 1991 SANBORN MAP



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APPENDIX

COMPARISON TABLE OF LOT SIZES, LOT OCCUPANCY AND GROSS LIVABLE FLOOR AREAS UNDER THE PRESENT ZONING ORDINANCE AND THE WESLEY HEIGHTS OVERLAY PROPOSAL

The comparisons on the following pages are made for a range of lot sizes in both the R-1-A and R-1-B districts, and have been prepared in accordance with the restrictions described in section IV of the attached text, "The Solution—The Wesley Heights Overlay Proposal" (*see page 3*).

The lot sizes listed are provided only for comparison and understanding purposes. The proposed overlay does not limit nor change the lot sizes as specified under the Zoning Ordinance. Under the Zoning Ordinance, the minimum lot size in the R-1-A district is 7500 square feet; in the R-1-B district, it is 5000 square feet. There are also a few non-conforming lots.

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Zone District (Typical)	Lot Area Sq. Ft.	ZONING ORDINANCE W/O OVERLAY ZONE			WITH OVERLAY ZONE	
		Lot Coverage Sq. Feet @ 40%	Living Area Square Feet		Lot Coverage Sq. Feet @ 30%	Living Area 2 or 3 Stories
			2 Story	3 Story		
Non-Conforming	4,000	1,600	3,200	4,800	1,600 ⁽¹⁾	3,600 ⁽²⁾
R-1-B Typical	5,000	2,000	4,000	6,000	2,000	4,000
	6,000	2,400	4,800	7,200	2,000	4,400
	6,666	2,666	5,332	8,000	2,000	4,660
	7,000	2,800	5,600	8,400	2,100	4,800
R-1-A Typical	7,500	3,000	6,000	9,000	2,200	5,000
	8,000	3,200	6,400	9,600	2,400	5,200
	9,000	3,600	7,200	10,800	2,700	5,600
	10,000	4,000	8,000	12,000	3,000	6,000

NOTES:

- (1) Lots under 5000 sq. ft. may occupy 40% of lot
- (2) This area may only be achieved with unusual topography, configuration and unusual house design

Government of the District of Columbia

Office of the
Director



Office of Planning
415 12th Street, N.W.,
Washington, DC. 20004

NOV 25 1991

ZONING SECTION
DISTRICT 1

91 NOV 25 P5:18

MEMORANDUM

TO: D.C. Zoning Commission

FROM: Albert G. Dobbins, III 
Acting Director

SUBJECT: Zoning Case No. 90-5, Wesley Heights (WH) Overlay District

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This memorandum responds to the request to the Zoning Commission from the Wesley Heights Historical Society to establish a residential overlay zone in the Wesley Heights neighborhood. The proposed overlay zone is entitled the Wesley Heights Overlay District, or WHOZD. Neighborhood representatives propose the zone as a means of preserving the character of the neighborhood by means of stricter zoning controls over the size and siting of new and expanded residential buildings in their area.

The stated purposes of the zone are:

- To preserve in general the current density of the neighborhood;
- To allow reasonable opportunity for owners to expand their dwellings; and
- To preserve existing trees and access to air and light, as well as the harmonious design and the attractive appearance of the neighborhood.

ZONING COMMISSION

CASE No. 90-5

EXHIBIT No. 42


11/26/91

Specific development activities raising neighborhood concerns in recent years include:

- Very bulky houses not in scale with existing buildings scale due to excessive lot occupancy and FAR.
- New buildings sited in violation of traditional standards resulting in reductions of front and rear yards.
- Loss of mature trees.
- Diminution of natural growth and open space, park-like quality.
- Reduction of light and air.
- Panic property sales.

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Location

The Wesley Heights neighborhood is generally bounded by Nebraska Avenue, New Mexico Avenue, Garfield Street, 44th Street, the rear property lines south of Dexter Street and Foxhall Road, N.W.

Background

The original development of Wesley Heights featured large wooded lots and detached houses of similar scale and setting but with varied designs. Typically, the houses are well set back from the street, providing a pattern of landscaped and tree-covered front and rear yards. Houses generally occupied about 20 percent 30 percent of the lots, creating a very low density character in this neighborhood. Over the years, this pattern has been maintained and a homogeneous neighborhood of homes blending into the environment in a park-like setting generally continues.

With steady increases in land values, Wesley Heights has become an attractive, upper income area with a stable population. This low-density area covers about 27 city blocks developed with well-spaced housing, typically constructed with 4,000 square feet of floor area in the R-1-A zone District and 2,500 square feet in the R-1-B zone. Lots have substantial tree coverage and much of the natural vegetation is preserved. There is a grid street pattern, primarily, and modest slopes, resulting in scenic variety. This development pattern is the focus of the Wesley Heights preservation effort.

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Recent Development Activity

Petitioners generally describe relevant trends in the neighborhood as follows.

Recent changes in development, which are inconsistent with traditional patterns, are creating neighborhood concerns. For example, smaller homes have been significantly enlarged, and because of the value of the lots relative to improvements, structurally sound and well-maintained houses have been torn down and replaced with larger houses inconsistent with the existing houses and traditional setbacks. Purchasers of small properties, capitalizing on a market for larger homes in a desirable neighborhood like Wesley Heights, enlarge or replace those homes for economic gain. Some newly constructed houses cover nearly 40 percent of the lot and are out of character with the rest of the neighborhood. They have small front and rear yards and their scale dwarfs nearby homes. In some cases, light and privacy are reduced for neighboring houses. In some sections, the streetscape has changed dramatically. Large, stately trees have been cut down to facilitate new construction; the traditional set-back of the houses is disappearing. In order to maintain the environmental character of the neighborhood, it is essential that massive over-building be prevented.

Inflated prices for enlarged homes have tended to drive up the value of adjacent houses. This in turn, has driven up assessments. Most homeowners have had five tax increases in the last five years. In the last four years, assessments have increased 115 percent for some properties. Moreover, real estate brokers have been calling or writing residents of the neighborhood with frequency, urging them to sell to take advantage of inflated prices. This has panicked some owners. Also, people on fixed incomes have been selling their homes in order to realize current profits and to escape the rapid tax increases, thus diminishing the real value of a neighborhood like Wesley Heights with its stability and charm. As the stability and charm are diminished through increased density, loss of green space and displacement of long-time residents, the long term economic value to the city may be seriously jeopardized.

Neighborhood Involvement

The revised overlay zone (i.e., the zone as advertised in this case) responds to neighborhood concerns and is supported by a majority of the residents of Wesley Heights. Extensive community dialogue resulted in modifications to the overlay. In a letter to the Zoning Commission dated December 19, 1990, the Wesley Heights Historical Society states that the revised Wesley Heights Overlay Zoning District has the full-fledged support of the Spring Valley-Wesley Heights Citizens Association.

The petitioners have undertaken substantial study over the past year or more. This has included a review of some of the better updates of low-density zoning done in other jurisdictions. The Office of Planning (OP) has periodically met with the architect who did much of the technical work for the petitioners. OP has provided him and petitioners with material it has developed regarding the updating of R-1 zoning provisions in the D.C. Zoning Regulations as well as materials it has from other jurisdictions. OP has emphasized that it is interested in these factors at least as much from the citywide text amendment perspective as from the immediate neighborhood perspective. Specifically, OP is of the opinion that the de facto FAR permitted in the R-1 zones is inappropriately high. This has not mattered in the past because development rarely used that full envelope permitted (a 1.2 FAR house on a minimum R-1-A lot of 7,500 s.f. is 9,000 s.f. of living area). It may well prove feasible and desirable to establish a citywide sliding FAR standard for R-1 development that will control the oversized houses beginning to be built in some of the higher priced neighborhoods of the city, while not penalizing the great majority of new homes or additions in these neighborhoods or around the city.

Overlay Zone Provisions

The key provisions of the suggested overlay zone are summarized below:

Maximum FAR space	2,000 sq. ft. + 40% lot area
Lot occupancy	30% or 2000 sq. ft.
Front yard	existing average on the applicable block face

As stated previously, the proposed provisions aim to protect existing neighborhood character from new houses and additions that are much bulkier than existing housing and utilize higher lot occupancy, greater heights and large floor areas. A very important feature of the zone is protection of the extra front yard setbacks that were a conscious part of the original neighborhood design. Some of the new or expanded houses result in loss of mature trees, and are sited in contradiction to traditional front setbacks and expansive rear yards. The overall concern is loss of design character and reduction of light, air and vegetation.

OP is fully supportive of the proposed FAR standard for R-1-A and R-1-B zones, which was developed in part by information sharing between OP and neighborhood representatives. OP has recommended this FAR formula for citywide effect in R-1 zones as part of the Zoning Consistency Project.

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A review by OP of information in the Lusk Real Estate Directory reveals that there are approximately 31 vacant lots in private ownership within the overlay area. A significant number of these are nonconforming as to lot size and would accordingly require Board of Zoning Adjustment approval for construction. The provisions of overlay zone would provide guidance to the Board in reviewing these projects. In the case of conforming lots, of course, the overlay provisions would ensure that new development and additions are generally consistent with neighborhood character.

In order to protect the expansive front setbacks that are an important feature of the neighborhood, the overlay would use the average of existing houses on the applicable block face as the front setback line. This appears to be a workable and effective means of preserving the park-like amenity of the area's streetscape. Additions and new houses would need to be more oriented to the rear of the lot, but there still would be ample floor area and lot occupancy permitted within the overlay's provisions. Petitioners' documentation shows this quite clearly. OP also did a sample survey of 43 houses in Wesley Heights and found that 80 percent have 3,000 s.f. of floor area or less. It would thus appear that the overlay provisions will reduce potential bulk, lot occupancy and front setbacks to ensure increased compatibility of new construction with existing neighborhood character; however, ample opportunity for expansion is also allowed. Note the information in the following chart:

<u>Lot Area (s.f.)</u>	<u>Gross Livable Area-Overlay</u>	<u>Gross Floor Area Standard R-1 Zones</u>
5,000	4,000	6,000
7,500	5,000	9,000
9,000	5,600	10,000
15,000	8,000	18,000

Lots of 15,000 s.f. and larger can be subdivided into two or more lots under standard zoning or the overlay. The main point is that the potential house sizes and bulk under standard R-1 zoning are huge; under the overlay houses can still be very large, but the lot occupancy, front setback and total bulk are restricted so as to be more compatible with existing neighborhood character.

Recommendation

OP believes that the three key provisions of the proposed overlay zone are well-conceived and relate constructively to the character of the Wesley Heights neighborhood and threats to that character in recent years. An important factor is that the original neighborhood subdivision plan provided wider-than-usual front setbacks, resulting in an ample streetscape character and openness in front yards. The overlay's requirement for averaging other houses or additions seems appropriate in this context. Lot sizes in the neighborhood as well as the lot occupancy and gross livable area provisions of the overlay will still permit comfortably large houses and additions.

The present controls of the R-1 zones as to density, especially the combination of 40 percent lot occupancy and three-story height limit, have been identified in the past to represent unnecessarily bulky development -- a de facto 1.2 FAR. As the Commission is aware, OP has proposed that a sliding scale FAR limit be adopted as a text amendment affecting R-1 development citywide. Our research on houses in a wide variety of R-1-A and R-1-B zones has found that a significant, but not onerous, reduction in permitted bulk can be adopted while allowing the great majority of new houses and additions to proceed as of right. Neighboring properties will in many cases benefit from more favorable conditions regarding light, air and privacy. In Wesley Heights itself, OP has found that there are a significant number of vacant lots as well as existing houses sited on large lots with potential for additions or subdivision. Thus, the overlay zone's provisions can have an important and favorable impact on future neighborhood character.

The level of community involvement in the preparation and modification of the overlay zone has been unusually high over an extended time period, approximately two years.

OP recommends adoption of the overlay zone. OP may, in response to substantive testimony or questions from members of the Commission, recommend technical adjustments at the conclusion of the case.

Attachment

100-410-7-PM 3-0

**WESLEY HEIGHTS OVERLAY DISTRICT
SUBMITTED BY: WESLEY HEIGHTS HISTORICAL SOCIETY
DECEMBER 19, 1990**

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CHAPTER 00

0000 PREAMBLE

- 0000.1** The Wesley Heights (W-H) Overlay District is established to preserve and enhance the low density character of Wesley Heights by regulating construction and alteration of residential and other buildings in the area.
- 0000.2** The W-H Overlay District encompasses the area mapped on Attachment A.
- 0000.3** The purposes of the W-H Overlay District are the following:
- (a) To preserve, in general, the current density of the neighborhood;
 - (b) To allow reasonable opportunity for owners to expand their dwellings; and
 - (c) To preserve existing trees and access to air and light, as well as the harmonious design and the attractive appearance of the neighborhood.

0001 GENERAL PROVISIONS

- 0001.1** The W-H District is an Overlay District and shall be mapped in combination with two other Districts (R-1-A and R-1-B) and not instead of the underlying Districts.
- 0001.2** All uses, buildings and structures permitted in accordance with this chapter and the appropriate regulations of the underlying District with which the mapped W-H District is combined, shall be permitted in the combined Districts.
- 0001.3** All restrictions and prohibitions provided with respect to either of the Districts combined in accordance with this chapter shall also apply, except as specifically modified by this chapter. Where there is a conflict between this chapter and the underlying zone the more restrictive provisions shall govern.

0002 RESTRICTIONS: MAXIMUM LOT OCCUPANCY, FLOOR AREA RATIO AND FRONT YARD SETBACK

0002.1 The following restrictions will apply to both the R-1-A and the R-1-B Zone Districts, within the W-H Overlay Zone District.

0002.2 No structure, including accessory buildings, shall occupy an area in excess of 30% of the lot; except that:

- (a) Structures on lots between 5,000 and 6,667 square feet may occupy up to 2,000 square feet; and
- (b) Structures on lots of less than 5,000 square feet may occupy up to 40% of the area of the lot;

0002.3 The gross livable floor area of a structure may not exceed the sum of 2,000 square feet plus 40% of the area of the lot.

0002.4 Gross livable floor area is defined as the aggregate habitable square footage of all the floors of the residence. Gross livable floor area includes:

- (a) That portion of a finished floor below the first floor of the house having a total wall area no more than five times the fenestration area and having a floor to ceiling height in excess of 7'6";
- (b) If accessible by a permanent stair, that portion of the attic space (whether or not the floor has been laid) providing structural headroom greater than 7'6";
- (c) All but the first 200 square feet of an open porch; and
- (d) All but the first 600 square feet of garage, attached or detached.

0002.5 All residential buildings shall have a front yard setback equal to or greater than the average setback of all structures on the same side of the street in the block where the building in question is located.

10-18-1984

RECORDED

A detailed street map of a residential neighborhood in Massachusetts. The map shows a grid of streets with numerous house numbers. A large, irregularly shaped area in the center-left is shaded in black, possibly indicating a specific zone or a redacted area. A north arrow is located in the lower right quadrant, pointing towards the top of the page. The map includes various street names such as Garfield, Lowell, Calvert, and Ashby. At the top, the word "MASSACHUSETTS" is written across the top edge. The map also shows some larger buildings, possibly schools or public buildings, and a reservoir in the bottom right corner. The overall layout is typical of a city street map, with streets intersecting at right angles and house numbers clearly marked.

ATTACHMENT "A"

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SUBJECT

NATIONAL CAPITAL PLANNING COMMISSION
801 PENNSYLVANIA AVENUE, N.W., SUITE 301
WASHINGTON, D.C. 20576

NCPC File No. Z.C. 90-5

WESLEY HEIGHTS DISTRICT OVERLAY
AN AMENDMENT TO THE ZONING REGULATIONS
AND MAP OF THE DISTRICT OF COLUMBIA
TO PRESERVE AND ENHANCE THE LOW DENSITY CHARACTER OF WESLEY HEIGHTS

Report to the Zoning Commission for the District of Columbia

April 2, 1992

The Commission, pursuant to Section 5 of the Act of June 20, 1938, as amended by the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, 1981 edition, sec. 5-417), has reviewed the proposed amendment to the Zoning Regulations and Map of the District of Columbia creating a Wesley Heights Overlay District (WHOD). The WHOD is generally bounded by Nebraska and New Mexico Avenues, Glover-Archbold Parkway, Garfield and 44th Streets, the rear property lines south of Dexter Street, and Foxhall Road, N.W. The Commission finds that the objectives of the proposed text and mapping would not adversely affect the Federal Establishment, nor be inconsistent with the Comprehensive Plan for the National Capital.

* * *

BACKGROUND AND STAFF EVALUATION

Description of Amendment

The proposed initiative of the Zoning Commission for the District of Columbia responds to a request from the Wesley Heights Historical Society to consider an amendment to Title 11 of the District of Columbia Municipal Regulations and to the Zoning Map. The proposed amendments provides the text and map for the Wesley Heights Overlay District (WHOD). The Wesley Heights neighborhood is generally bounded by Nebraska and New Mexico Avenues, Glover-Archbold Parkway, Garfield and 44th Streets, the rear property lines south of Dexter Street, and Foxhall Road, N.W. The boundaries are indicated on Map A, attached.

The proposed overlay is mapped in combination with the existing R-1-A and R-1-B zone. The intent of the proposed WHOD is to preserve the low density character of Wesley Height and the "park-like" setting of the neighborhood, as follows:

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- (a) To preserve the current density of the neighborhood;
- (b) To allow reasonable opportunities for owners to expand their dwellings; and
- (c) To preserve existing trees, access to air and light, and the harmonious design and appearance of the neighborhood.

Within the proposed WHOD, the following restrictions will apply to both the R-1-A and R-1-B zone districts:

No structure, including accessory buildings, shall occupy an area in excess of thirty percent of the lot; except that:

- (a) Structures on lots between 5,000 and 6,667 square feet may occupy up to 2,000 square feet; and
- (b) Structures on lots of less than 5,000 square feet may occupy up to 40 percent of the area of the lot.

The gross floor area of all buildings shall not exceed the sum of 2,000 square feet plus 40 percent of the area of the lot; provided, that the following modifications of gross floor area shall apply in the WHOD:

- (a) The total floor area shall not include the first 200 square feet of an open porch or the first 600 square feet of a garage.
- (b) Basement or cellar floor area shall count in gross floor area if a finished floor is provided, if the floor to ceiling height is in excess of six feet six inches, and shall count only up to a floor area equal to five times the total fenestration area for the cellar or basement floor.

The front yard setback requirements shall be equal to or greater than the average setback of all structures on the same side of the street in the block where the building in question is located.

Effect of the Proposed Overlay

Wesley Heights is currently zoned R-1-A and R-1-B. As the proposed amendment is mapped in combination with the existing matter-of-right zones, it continues to permit low-density residential uses. Table - 1 summarizes the general standards of development permitted as matter-of-right under the R-1-A and R-1-B zones, as well as the key provisions of the proposed WHOD:

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TABLE - 1

	R-1-A	R-1-B	WHOD
Height	40 feet	40 feet	40 feet
Lot Coverage	40 %	40 %	30% + 2000sf
FAR	None	None	2000sf + 40% lot
Front Yard Setback	None	None	existing average on block

The purpose of the proposed overlay is not to preclude development; rather, to promote responsible development, sensitive to maintaining the unique physical character of Wesley Heights. Specifically, the proposed overlay aims to protect the visual character of the neighborhood from new construction that is bulkier than what currently exists, utilizes higher lot occupancies, greater heights, and large floor area ratios. A very important feature of the zone is the protection of the front yard setbacks that were a part of the original neighborhood design. Some of the new or expanded houses result in loss of mature trees, and are sited contrary to traditional front yard setbacks with expansive rear yards. The overall concern is loss of design character and reduction of light, air, and vegetation. The proposed overlay helps to maintain uninterrupted view corridors within the streets of Wesley Heights and minimize the perceived visual bulk and height of new development.

District of Columbia Office of Planning Report

The Office of Planning (OP) in their reports to the Zoning Commission, dated November 25, 1991, and January 10, 1992, recommends adoption of the proposed overlay zone. OP is fully supportive of the proposed FAR standard and has recommended this FAR for citywide effect in R-1 zones as part of the Zoning Consistency Project.

Historic Preservation

The Wesley Heights area is not located in a designated historic district, nor are any of the sites and structures contained within the boundaries listed on or eligible for listing on the National Register of Historic Places. The Glover Archbold Parkway, however, is one of the defining boundaries of Wesley Heights and is listed in the District of Columbia Inventory of Historic Sites and is potentially eligible for listing on the National Register.

Comprehensive Plan for the National Capital

The proposed Overlay District will encompass a portion of the Glover-Archbold Parkway and all of Federal Park Reservation 529. These parklands are designated as Natural Parks in the Parks, Open Space and Natural Features element of the Comprehensive Plan. The Federally owned Palisades Park borders the proposed Overlay District on the west. The proposed WHOD is consistent with several policies contained in the Parks, Open Space and Natural Features element of the Comprehensive Plan, particularly the following:

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The green landscape and parklike character provided by trees, grass and other abundant plant materials in the National Capital should be protected and enhanced and should be kept particularly evident in relation to rivers and urban areas.

The narrow threads of natural green area throughout the District like Whitehaven Parkway, Klinge Valley Parkway, Glover-Archbold Park, Soapstone Valley Park or Piney Branch Parkway should be protected and maintained to provide green background and open space amenity for the residential areas of the city...

Additionally, the District of Columbia's Urban Design Element contains a policy that calls for the protection and enhancement of the green landscape and parklike setting of trees, grass areas, and plants in the National Capital Region.

The Comprehensive Plan's Generalized Land Use Map designates the area for low density residential use. The proposed WHOD is consistent with this land use designation.

Federal Interest

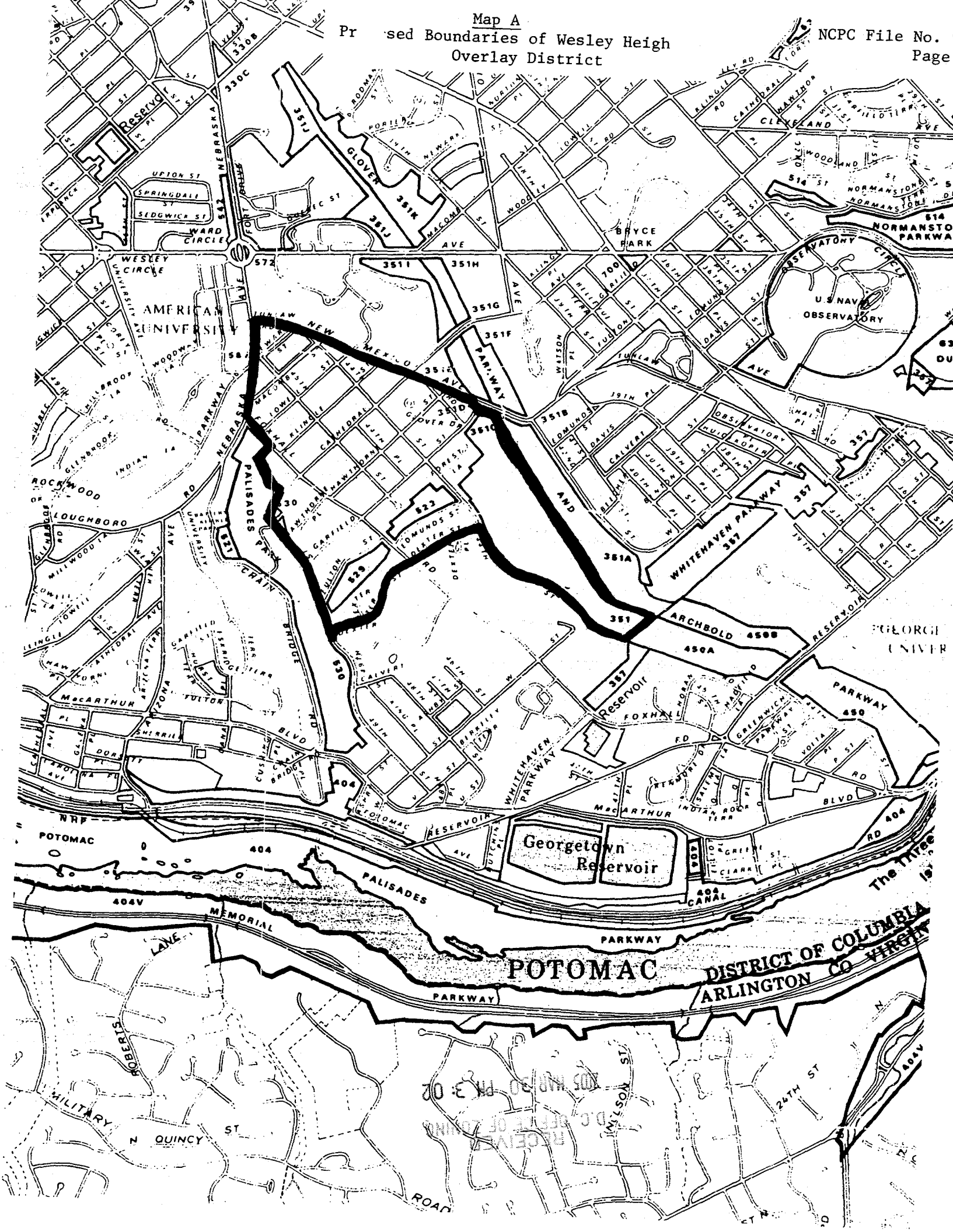
The identified Federal interests are the Glover-Archbold Parkway and the Palisades Park which are titled in the United States and under jurisdiction of the National Park Service. The proposed overlay contributes to protecting Federal parks and open space in the area and enhancing the green city setting. The proposed overlay aims to maintain uninterrupted view corridors within the streets of Wesley Heights, minimize the perceived visual bulk and height of new development, and preserve existing trees. This will further reduce congestion, as well as, mitigating any potential adverse impacts on views from Glover-Archbold Parkway and Palisades Park. To this end, the general objective of the proposed WHOD is not inconsistent with the Comprehensive Plan for the National Capital and would not have an adverse affect on the Federal interests.

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Map A
Proposed Boundaries of Wesley Heights
Overlay District

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Page



WESLEY HEIGHTS ZONING OVERLAY

A GUIDE FOR HOMEOWNERS, REAL ESTATE PROFESSIONALS, AND ARCHITECTS

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**Prepared by the
Wesley Heights Historical Society
June 1993**

Wesley Heights Historical Society

*P.O. Box 40217
Washington, D.C. 20016*

June 7, 1993

Dear Neighbor:

We are pleased to provide you with this guide to the Wesley Heights Zoning Overlay regulations which were adopted by the District of Columbia Zoning Commission July 13, 1992.

This guide begins with a summary of those regulations and includes a map of Wesley Heights, with comprehensive information on front yard setbacks, as well as a copy of the regulations.

This project represents the culmination of several years work by the Wesley Heights Historical Society (WHHS), a group comprised of neighborhood residents who are deeply committed to maintaining the beauty and character of our community. Special thanks go to Sandra Rennie, WHHS past President, and Zoning Committee Chair Mort Press for preparing this guide.

We hope you will keep the guide in a convenient place so that you can consult it as needed in connection with any construction or development projects which may affect our neighborhood.

Merribel S. Ayres
*WHHS President
July 1992 - June 1993*

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INTRODUCTION

The District of Columbia Zoning Commission created the Wesley Heights Overlay District (WHOD) on July 13, 1992, in response to requests by residents of Wesley Heights for a method of preserving and enhancing the low density character of Wesley Heights.

This guide describes the requirements of the WHOD, includes a copy of the ordinance and a map of the district, provides a brief history of the citizen action that led to adoption of the WHOD, and identifies contacts within the neighborhood and at the District offices where one can go for more information.

The Wesley Heights Historical Society (WHHS) was formed in 1989 by Wesley Heights neighbors to address the problems of neighborhood overbuilding that occurred in the late 1980's. The WHHS is dedicated to the consistent application of the requirements of the WHOD in permits and rezoning applications. WHHS sponsors projects to preserve the character of Wesley Heights, including tree conservation and historic research on neighborhood residents and structures.

PROVISIONS OF THE WESLEY HEIGHTS OVERLAY DISTRICT

The provisions of the WHOD apply to all properties within the boundaries of the district, regardless of their ownership. These provisions modify the general D.C. Zoning Code and only apply to Wesley Heights.

Provision: Lot Occupancy

Only 30 percent of the lot can be covered by any structure, except for smaller lots. Structures on lots of between 5,000 and 6,667 square feet may occupy up to 2,000 square feet; and structures on lots up to 5,000 square feet may occupy up to 40 percent of the area of the lot.

Explanation: The D.C. Zoning Code allows 40 percent lot coverage in residential zones. The topography of Wesley Heights and the high quality of the open space within the neighborhood could not be maintained if 40 percent lot coverage was achieved. The exemption for smaller lots recognizes the need to allow some leeway for all property owners to make improvements to their property. The exception generally applies only to a few properties in the higher density (R-1B zone) portion of the neighborhood. The R-1B zone encompasses the area bounded by Klinge Street, New Mexico Avenue, Nebraska Avenue, and Foxhall Road.

Provision: Floor Area Ratio

Livable floor space in a residence is limited to the sum of 2,000 square feet plus 40 percent of the area of the lot. Included in this amount are: all but the first 200 square feet of an open porch; all but the first 600 square feet of any garage; and any finished attic or basement space with headroom greater than 6'6" that has adequate windows.

Explanation: An open porch is one that is not enclosed on its four sides; most front porches in Wesley Heights are open. An enclosed screen porch is not considered an open porch. A garage of 600 square feet is equivalent to an oversized double car garage. Floor Area Ratio is a unique provision of the residential building code that is found only in the WHOD. In order to be counted a "livable space," each room or other space must meet standard definitions of livable

space that are in the Zoning Code. For example, basement head room must be at least 6'6" high and have window space at least equal to 20 percent of the wall area. Finished basements not meeting these requirements are not considered livable space, cannot legally be occupied as such, and are not included in the calculation of Floor Area Ratio. Consult the Zoning Code for details on the definition of livable space.

Provision: Front Yard Setback

A front yard setback equal to or greater than the average setback of all structures on the same side of the street on the same block is required.

Explanation: The District Zoning Code allows structures to be built out to the front property line. The actual placement of a house relative to the front property line is called a "front yard setback." Typically, Wesley Heights houses were originally set well back from the property line. Throughout the neighborhood, the open space created by this typical placement contains mature trees and plantings that are central to the beauty and character of the neighborhood.

The District of Columbia owns outright a right-of-way extending from the center line of each street back 30-45 feet, depending upon the street and block. On most streets, this measure is 18 feet inside the sidewalk. This point, not the sidewalk or the curb, is the front property line of the lot.

The WHOD requires that houses (or garages or other structures) not be placed farther forward than the average of the other houses on each side of the block on each street as they existed on July 13, 1992, the date the WHOD was adopted by the Zoning Commission. This approach recognizes the diversity of existing placement of structures within the neighborhood. The block-by-block numbers are based on a field survey conducted by a licensed professional engineer.

Front Yard Setbacks by Street: Following is a chart of the average front yard setbacks on each side of each block and street within the WHOD. This is the distance back from the front lot line (not the curb or the sidewalk) to which a structure's forward most portion may extend.

TABLE OF AVERAGE FRONT YARD SETBACKS FOR EACH SIDE OF EACH BLOCK OF EACH STREET WESLEY HEIGHTS NEIGHBORHOOD (IN FEET)				
Block/Street	North	South	East	West
2900 43rd Street			18.0	
3000 43rd Street				21.3
2300-2600 44th Street				62.5
2700 44th Street				36.0
2800 44th Street				16.5
2900 44th Street			35.3	25.0

**TABLE OF AVERAGE FRONT YARD SETBACKS
FOR EACH SIDE OF EACH BLOCK OF EACH STREET
WESLEY HEIGHTS NEIGHBORHOOD
(IN FEET)**

Block/Street	North	South	East	West
3000-3030 44th Street			22.9	24.2
3036-3039 44th Street			13.0	20.0
3100 44th Street			26.3	12.0
3200 44th Street			2.0	4.9
2900 44th Place			45.2	35.9
3000 44th Place			38.0	47.8
2900 45th Street			42.3	29.7
3000-3011 45th Street			33.2	41.7
3014-3028 45th Street			25.5	28.1
3100 45th Street			24.1	5.0
3200 45th Street			4.6	1.2
3300 45th Street				18.3
2700 49th Street			69.6	
2800 49th Street			26.3	
2900 49th Street			25.0	
4300 Cathedral Avenue	19.1	12.8		
4400 Cathedral Avenue	30.6			
4500 Cathedral Avenue	28.6	31.1		
4600 Cathedral Avenue	112.6	2.0		
4400-4500 Dexter Street	45.2	43.0		
4600-4800 Dexter Street	42.2	44.1		
4800 Dexter Terrace	25.3	32.5		
4400-4500 Edmunds Street		41.0		
even numbers Forest Lane		44.2		
odd numbers Forest Lane	29.8			
2400-2600 Foxhall Road			88.6	30.4
2700 Foxhall Road			76.4	28.3

**TABLE OF AVERAGE FRONT YARD SETBACKS
FOR EACH SIDE OF EACH BLOCK OF EACH STREET
WESLEY HEIGHTS NEIGHBORHOOD
(IN FEET)**

Block/Street	North	South	East	West
2800 Foxhall Road			8.4	22.8
2900 Foxhall Road			52.3	78.5
3000-3027 Foxhall Road			34.0	87.5
3040-3070 Foxhall Road			15.3	3.1
3100 Foxhall Road			14.5	3.1
3200 Foxhall Road			19.3	
4600-4700 Fulton Street	38.5			
4200 Garfield Street	24.0			
4300 Garfield Street	34.8	31.5		
4400 Garfield Street	26.3	37.5		
4500 Garfield Street	28.2	57.7		
4600 Garfield Street	43.1	43.5		
2900 Glover Driveway	14.9	55.0		
4200 Hawthorne Street	8.0			
4300 Hawthorne Street	26.5	23.4		
4400-4426 Hawthorne Street	24.3	20.2		
4434-4448 Hawthorne Street	21.3	20.2		
4500 Hawthorne Street	41.7	32.8		
odd numbers Hawthorne Lane	36.0			
even numbers Hawthorne Lane		32.1		
4300 Klinge Street	19.8	44.1		
4400 Klinge Street	19.2	22.6		
4500 Klinge Street	13.2	16.1		
4300 Lowell Street	0.0	17.0		
4400 Lowell Street	23.2	20.5		
4500 Lowell Street	22.5	12.6		
4400 Macomb Street		16.7		

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**TABLE OF AVERAGE FRONT YARD SETBACKS
FOR EACH SIDE OF EACH BLOCK OF EACH STREET
WESLEY HEIGHTS NEIGHBORHOOD
(IN FEET)**

Block/Street	North	South	East	West
4500 Macomb Street	20.2	19.8		
3300 Nebraska Avenue	4.5			
2900 New Mexico				21.0
3014-3036 New Mexico				7.4
3100 New Mexico				25.7
3200 New Mexico				3.8
4500 Newark Street		5.0		

**CITIZEN ACTION THAT LED TO THE ADOPTION
OF THE WESLEY HEIGHTS OVERLAY DISTRICT**

During the 1980's, residential land values in Wesley Heights increased dramatically, creating economic pressure to increase the ratio of building to lot. One result was the purchases of many properties by developers who greatly expanded the existing houses or, after tearing them down, replaced them with vastly larger houses that were legal under the zoning code. For example, the D.C. Zoning Code allows structures in residential zones that include Wesley Heights to be 40 feet high (the equivalent of a 4-story building). Yet, four-story buildings are not compatible with the character of the neighborhood and its topography. As a result of these and other significant developments, the character of the neighborhood began to change.

Wesley Heights was built in the 1920s as a development created and controlled by WC & AN Miller. It was planned around the concept of single family detached homes with large private yards and lush landscaped streets. For nearly sixty years, the basic character of the neighborhood had been maintained. Additions usually were made without expanding the homes to the maximum size allowed under the District's zoning ordinance. Reasonable setbacks from the street were observed. Remodeling, construction and design plans reflected an appreciation for the unique garden-like quality of Wesley Heights. Stately trees were preserved, sloping contours of the land were maintained, and natural springs and ponds were saved.

The original Wesley Heights architects strongly valued balance--between a home's design and the topography of the home's lot--as well as balance between each home and the whole neighborhood. For nearly sixty years, subsequent Wesley Heights architects honored this balance. Situated as it is among four parks, Wesley Heights imparted a special sylvan quality that was successfully maintained while still providing the flexibility to meet the changing needs of those who live in the neighborhood.

Alarmed by the loss of some of the loveliest properties in the neighborhood, a group of neighbors met in 1989 under the auspices of the Spring Valley-Wesley Heights Citizens Association. A series of open neighborhood meetings resulted in a commitment to pursue

obtaining a zoning overlay district. The Wesley Heights Historical Society was incorporated to direct the effort.

After study of other cities' solutions to similar problems, a zoning overlay was designed by residents of Wesley Heights. Included in this effort were land use planning experts, architects, real estate professionals, and other neighbors. The objective of the overlay zone was to find an appropriate balance between the desire to do with one's property what one will, and the desire of neighbors to maintain their privacy and quality of living. In addition, there was a desire to honor the overall objectives of the Miller vision. The overlay zone went through several iterations in an attempt to respond to the wide variety of circumstances affecting various property owners. Once perfected, the proposal was put to a formal, written vote of all owners of Wesley Heights property. The turnout was high and the response overwhelmingly supported adoption of the zoning overlay proposal.

The Wesley Heights Historical Society then petitioned the District of Columbia Zoning Commission to adopt the zoning overlay. After multiple public hearings, the Commission adopted the overlay zone on July 13, 1992. The overlay took immediate effect.

WHO TO CONTACT FOR MORE INFORMATION

Prior to undertaking any construction in the District of Columbia, a building permit is needed. Anyone contemplating construction within Wesley Heights must meet the requirements of the WHOD. For further information, contact the following office in the District:

Zoning Review Branch (Planning Department)
(202) 727-7369; (202) 727-7374

Representatives of the Wesley Heights Historical Society will be glad to answer general questions about the WHOD. The chair of the society's zoning committee also maintains a map of the district and a complete listing of the front yard setbacks for all houses within the district as of July 13, 1992. For further information contact:

Mort Press	(202) 966-5616
Barbara Wierzynski	(202) 363-3874
Sandra Rennie	(202) 363-1072

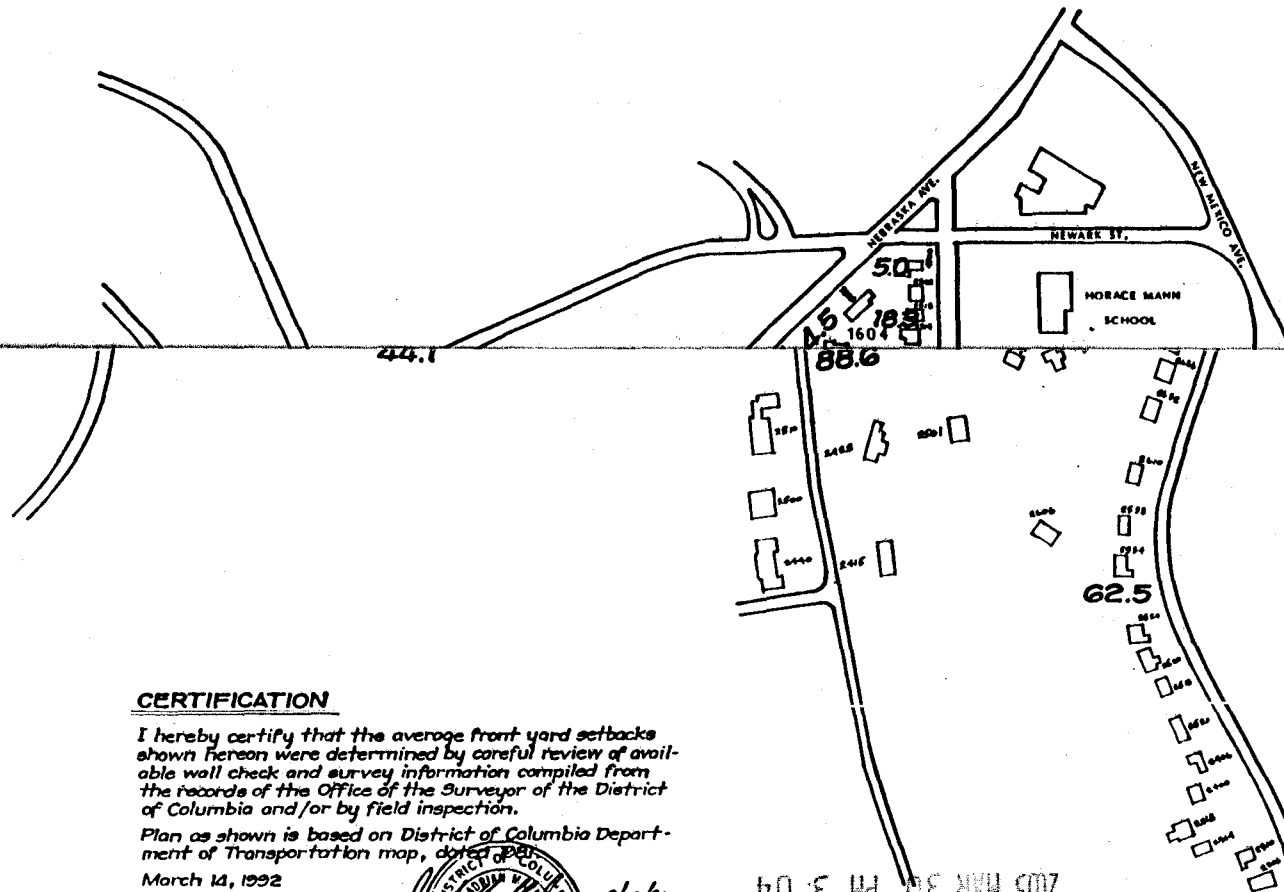
Our Thanks

The Wesley Heights Historical Society is grateful for the assistance of the many people in the neighborhood in the design and adoption of the WHOD, particularly including the following individuals:

Merribe Ayres (President 7/92-6/93), Stephen Boyd (President 6/89-2/90), Susan Boyd, Susan Bralove, Wayne Coy, Nancy Duncan, Barbara Franklin, Charles Guggenheim, Marion Guggenheim (President Pro-Tem 2/90-7/90), David and Margaret Hensler, Kathleen Kester, Arnold Kronstadt, Joanne Lawson, Wingate Lloyd, Mort Press, Sandra Rennie (President 7/90-6/92), Kate Sedgwick, Roy and Sara Schotland, Jim Singer, Ellen Stewart, George Watson, Doug Wheeler, Barbara Wierzynski, and Duncan Whitaker.

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AVERAGE FRONT YARD SETBACK WESLEY HEIGHTS WASHINGTON, D.C.



CERTIFICATION

I hereby certify that the average front yard setbacks shown hereon were determined by careful review of available wall check and survey information compiled from the records of the Office of the Surveyor of the District of Columbia and/or by field inspection.

Plan as shown is based on District of Columbia Department of Transportation map, dated 1981.
March 14, 1992



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PREPARED BY:
LANDTECH ASSOCIATES, INC.
7307 BALTIMORE AVENUE SUITE 214
COLLEGE PARK, MARYLAND 20740

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 718

Case No. 90-5

(Text & Map Amendment - Wesley Heights Overlay District)

July 13, 1992

Pursuant to notice, a public hearing was held by the Zoning Commission for the District of Columbia on December 5, 1991. At that hearing session, the Zoning Commission considered a petition from the Wesley Heights Historical Society (WHHS) to amend the text of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning, and the Zoning Map of the District of Columbia, pursuant to the provisions of 11 DCMR 3021.

By petition dated April 11, 1990, the president of the WHHS requested the Zoning Commission to authorize a public hearing to consider amending the Zoning Regulations and the Zoning Map to create and map the Wesley Heights Overlay District (WHOD). The purpose of the WHOD is to preserve and enhance the low density character of Wesley Heights by regulating construction and alteration of residential and other buildings in the area.

A majority of the Wesley Heights neighborhood is zoned R-1-A and the remainder is R-1-B with the general boundaries being Nebraska Avenue, New Mexico Avenue, Garfield Street, 44th Street, and the rear property lines south of Dexter Street and Foxhall Road.

The R-1-A District permits matter-of-right development of single-family residential uses for detached dwellings with a minimum lot area of 7,500 square feet, a minimum lot width of 75 feet, a maximum lot occupancy of forty percent, and a maximum height of three stories/forty feet.

The R-1-B District permits matter-of-right development of single-family residential uses for detached dwellings with a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, a maximum lot occupancy of forty percent, and a maximum height of three stories/forty feet.

The District of Columbia Generalized Land Use Map of the Comprehensive Plan for the National Capital, as amended, designates the area for low density residential use.

The District of Columbia Office of Planning (OP), by report dated July 27, 1990, stated the following in its recommendation:

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"The Office of Planning has periodically met with the architect who did much of the technical work for petitioners. We have provided him and the petitioners with material we have been developing regarding the updating of R-1 zoning provisions in the D.C. Zoning Regulations as well as materials we have from other jurisdictions. We have emphasized that we are interested in these factors at least as much from the citywide text amendment perspective as from the immediate neighborhood perspective. Specifically, we are of the opinion that the de facto FAR permitted in the R-1 zones is inappropriately high. This has not mattered in the past because development rarely used the full envelope permitted (a 1.2 FAR house on a minimum R-1-A lot of 7,500 s.f. is 9,000 s.f. of living area). It may well prove feasible and desirable to establish a sliding FAR standard for R-1 development that will control the oversized houses beginning to be built in some of the higher priced neighborhoods of the city, while not penalizing the great majority of new homes or additions in these neighborhoods or around the city.

To summarize, we are not recommending a setdown of this case, but rather plan to address it as part of a package of proposed citywide text amendments to be submitted to the Commission in the Fall."

On August 6, 1990, at its regular monthly meeting, the Zoning Commission considered the OP status report dated July 27, 1990 concerning the case. After discussion, the Commission concurred with the OP recommendation that Z.C. Case No. 90-5 be considered as part of the OP city-wide Comprehensive Plan rezoning initiative and the Chairman so ruled.

By letter dated December 19, 1990, the President of the Wesley Heights Historical Society indicated that after a series of meetings within the Wesley Heights community, the neighbors re-evaluated the petition of April 11, 1990 and revised and simplified the proposal that has the full-fledged support of the neighborhood. The organization urged the Commission to set the revised proposal down for hearing at the earliest possible date to prevent further erosion of the character of the neighborhood.

By letter dated May 17, 1991, Councilmember James E. Nathanson indicated his support for the revised proposal and urged the Commission to schedule a hearing on the matter as soon as possible.

On July 8, 1991 at its regular monthly meeting, the Commission considered the above-mentioned letter and also considered OP's statement indicating that OP was incline to support a seperate hearing action on the matter, as opposed to including the matter with the city-wide Comprehensive Plan rezoning initiative. The

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Chairperson requested OP to report to the Commission at a later time with a recommendation on whether this should be set down for a hearing.

By memorandum dated July 26, 1991, OP stated that it is fully supportive of the proposed FAR standard for R-1-A and R-1-B zones, which was developed in part by information sharing between OP and neighborhood representatives. Accordingly, OP recommended that a public hearing be scheduled.

The Office of Planning indicated that the proposed overlay zone represents substantial technical analysis of zoning factors affecting development in the Wesley Heights neighborhood, and that there has been extensive and intensive neighborhood participation in reviewing and developing the proposed overlay zone.

The specific proposal to create and map the WHOD was published as a notice of public hearing and appeared in the October 25, 1991 edition of the D.C. Register (38 DCR 6490).

The Wesley Heights Historical Society (WHHS), the petitioners, by its prehearing submission dated September 9, 1991 and by testimony at the public hearing, indicated that the provisions of the proposed overlay zone are designed to supplement the current R-1-A and R-1-B regulations. The WHHS further stated that the intent of the overlay zone proposal is to limit new construction to a scale and proportion compatible with the character of the neighborhood as it was before recent large scale additions and new construction were initiated.

The petitioners indicated that the overlay proposal would impose the following additional restrictions beyond those that are already required in R-1 zone districts:

LOT OCCUPANCY: Only 30 percent of the lot can be covered by livable structures, except for smaller lots. Houses on lots with 6,667 square feet or less would be permitted to occupy a higher percentage of the lot - up to 40 percent for lots 5,000 square feet or less.

FLOOR AREA RATIO (FAR): The overlay proposal also provides for a limitation on the livable space in each residence. The gross livable floor area will be restricted to less than the sum of 2,000 square feet plus 40 percent of the area of the lot. The formula will apply to all residences regardless of the size of the lot. The gross livable area shall include all but the first 200 square feet of an open porch, all but the first 600 square feet of any garage, any attic space with headroom greater than 7'6" (if accessible by a permanent stair), and any basement space with a finished floor, a

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ceiling height greater than 7'6" and window area that equals at least 20 percent of the wall area.

FRONT YARD SETBACK: The overlay proposal includes a front yard setback, consisting of the average setback on each side of the street in each block. Construction would be allowed up to an average distance from the street of the fronts of other houses on the same side of the street in that block. The effect of this limitation would be to prevent additions from extending ahead of neighboring houses toward the street.

OP by memorandum dated November 25, 1991 and by testimony presented at the public hearing, recommended that the WHOD be approved. OP stated the following:

"The present controls of the R-1 zones as to density, especially the combination of the 40 percent lot occupancy and the three-story height limit, have been identified in the past to represent unnecessarily bulky development -- a de facto 1.2 FAR. As the Commission is aware, OP has proposed that a sliding scale FAR limit be adopted as a text amendment affecting R-1 development citywide. Our research on houses in a wide variety of R-1-A and R-1-B zones has found that a significant, but not onerous, reduction in permitted bulk can be adopted while allowing the great majority of new houses and additions to proceed as of right. Neighboring properties will in many cases benefit from more favorable conditions regarding light, air and privacy. In Wesley Heights itself, OP has found that there are a significant number of vacant lots as well as existing houses sited on large lots with potential for additions or subdivision. Thus, the overlay zone's provisions can have an important and favorable impact on future neighborhood character."

Advisory Neighborhood Commission (ANC) 3D, by letter dated February 14, 1991 and by testimony presented at the public hearing, unanimously voted to support the Wesley Heights Overlay zone proposal at its January 22, 1991 regular monthly meeting.

A representative of ANC-3D also testified at the public hearing that the Spring Valley-Wesley Heights Citizens Association also voted unanimously to support the proposal.

Several persons testified at the public hearing and several letters were received in support of the proposal. In addition to the aforementioned, other reasons for supporting the proposal include, but are not limited to, the following:

- a. The proposed overlay is consistent with the goals of the Comprehensive Plan for retention of the natural

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environment and encouragement of appropriate design solutions;

- b. The proposed overlay represents an extraordinary effort by existing property owners to limit the development potential of their property in order to maintain overall neighborhood quality;
- c. The proposed overlay restrictions represent a compromise between environmental preservation and the need for broad-based community support. To achieve the latter, the proposal does not limit tree cutting or the creation of impermeable surfaces (driveways, tennis courts, pools, patios, walkways, etc.); and
- d. The residents of the neighborhood do not want their 60-year old houses dwarfed by shiny new palaces, do not want housing stock that is affordable for families replaced by mansions, and do not want the recreational charms of the neighborhood obliterated by overdevelopment.

Testimony was also received from an individual representing the trustees of property at 2620 Foxhall Road which recommended that the southern boundary of the overlay follow the rear lot lines of properties fronting on Dexter Street instead of following an arbitrary line 200 feet south of Dexter Street.

Several persons testified at the public hearing and several letters were received in opposition to the proposal. Reasons for opposing the proposal include, but are not limited to, the following:

- a. The proposed restrictions need to be justified by a very convincing case, since they are not needed to protect the physical environment or public health but instead are advanced largely on aesthetic grounds or on grounds related to philosophies about the desirability of allowing economic forces to cause change in the composition of communities;
- b. Insofar as aesthetics are concerned, the rebuilding and enlargement of houses in Wesley Heights during the past decade has in most cases made the houses and neighborhood more attractive;
- c. The existing R-1-A and R-1-B zoning restrictions are adequate. (Property owners wishing to restrict their own property rights in accordance with the proposed WHOD zoning restrictions are already free to add irrevocable covenants that encompass WHOD zoning restrictions to their own property deeds);

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- d. If the Zoning Commission adopts the proposal, the District of Columbia will be deprived of much needed property tax revenue that will be derived from future Wesley Heights construction projects; and
- e. The proposed overlay is not adequate to preserve the trees, topography, and natural drainage patterns of Wesley Heights.

On February 10, 1992, at its monthly meeting, the Zoning Commission discussed the case including, but not limited to, clarifying the boundaries of the proposed overlay, proposing alternative language regarding the definition of gross liveable floor area and gross floor area, and clarifying language concerning the front yard setback standards.

The Commission concurs with the position and recommendations of the petitioners, ANC-3D and the Office of Planning. The Commission does not concur with the position of the opponents to the proposal. The Commission believes that after considering and balancing all of the issues for and against the proposal, the WHOD is an appropriate means of preserving the character of the community.

The Commission believes that the proposed overlay will preserve, in general the current density of the neighborhood, allow reasonable opportunity for owners to expand their dwellings and preserve existing trees and access to air and light, as well as the harmonious design of the neighborhood.

The Zoning Commission believes that the proposed decision to approve the Wesley Heights Overlay District is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and the Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital.

The proposed decision to approve the WHOD was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by report dated April 2, 1992, found that the objectives of the proposed zoning amendments would not adversely affect the Federal Establishment, nor be inconsistent with the Comprehensive Plan for the National Capital.

The Zoning Commission has accorded ANC-3D the "great weight" consideration to which it is entitled.

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A notice of proposed rulemaking was published in the D.C. Register on March 20, 1992 (39 DCR 1922). A letter from the petitioner dated April 22, 1992, and a memorandum from the Secretary to the Zoning Commission dated April 6, 1992 were received into the record.

The petitioner in the above-mentioned letter submitted a certified study map of the existing setbacks of all the houses that are included in the WHOD as requested by the Commission for establishing the average front yard setback. The petitioners also submitted information that would clarify the boundaries of the proposed overlay and revised Section 0002.4(a) of the notice of public hearing.

The April 6, 1992 memorandum from the Secretary to the Zoning Commission recommended, in addition to the description of the boundaries of the WHOD in Section 1541.2 of the notice of proposed rulemaking, that it would be useful to identify the squares and portions thereof that are included within the WHOD boundaries. The above-mentioned memorandum recommended the following:

1. Renumber subsection 1541.2 to read 1541.2(a).
2. Create a new subsection 1541.2 and a preamble sentence thereto and to read as follows:

1541.2 The WHOD will apply to the area and properties contained in this subsection.

3. Create a new subsection 1541.2(b) to list the squares and portions thereof that are contained in the boundaries that are described in subsection 1541.2(a) and to read as follows:

- (b) The properties that are contained within the boundaries of the WHOD, as set forth in subsection 1541.2(a) include all of squares 1338-1340, 1380, 1381, 1406, 1408, 1521, 1523, 1524, 1603-1612, 1614, 1615, 1619-1622, 1625, 1626, 1700, and 1701; and a portion of squares 1341, 1397, and 1601 (those portions include lots 11, 12, 15-18, 24, 25, 28-34, 36, 37, 800, 804, 805, 807, 810, 814, 819, 821, 824, 825, and 868, and a portion of lots 35, 857 and 869 in Square 1341; lots 4-6, 814-816, 818, 820-824, and 826 in Square 1397; and lots 804 and 805 in Square 1601).

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4. Correct the reference to "Loughboro Road" in the last two sentences of subsection 1541.2 of the notice of proposed rulemaking. Use the phrase "New Mexico Avenue" instead of "Loughboro Road". Although Loughboro Road is the western extension to New Mexico Avenue, it only becomes so at a point that is west of the intersection of Foxhall Road and New Mexico Avenue.

On May 11, 1992 at its regular monthly meeting, the Zoning Commission considered draft Zoning Commission Order No. 718 for final action and the comments that were received in response to the publication of the notice of proposed rulemaking. The Commission referred the petitioner's letter dated April 22, 1992 to OP for further analysis and requested OP to report its findings to the Commission at a subsequent meeting. The Commission decided to incorporate the suggestions of the Secretary to the Zoning Commission, as outlined in the April 6, 1992 memorandum. The Commission also requested the Office of Zoning to prepare a graphic illustration of the WHOD boundaries for the Commission's understanding.

By memorandum dated May 13, 1992, the Office of Zoning prepared a graphic illustration of the boundaries of the proposed WHOD, which also highlights the southern boundary of the WHOD as the zone boundary lines gerrymanders through squares 1341 and 1397.

On July 13, 1992 at its regular monthly meeting, the Zoning Commission discussed the OP memorandum dated July 6, 1992, which analyzed the requested front yard setbacks of the WHOD. The Commission found that the average frontyard setback, as recommended by OP, for each street front was a reasonable setback requirement for new construction or additions.

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of the amendments to the Zoning Regulations and Map to create and map the Wesley Heights Overlay District (WHOD). The specific amendments to the Zoning Regulations and Map are as follows:

Adopt new sections to Chapter 15, to read as follows:

WESLEY HEIGHTS OVERLAY DISTRICT

The Wesley Heights Overlay District (WHOD) is established to preserve and enhance the low density character of Wesley Heights by regulating construction and alteration of residential and other buildings in the area.

The WHOD will apply to the area and properties contained in this subsection.

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- (a) The area is generally bounded by a line which begins at the intersection of Nebraska and New Mexico Avenues and runs southeast along the centerline of New Mexico Avenue N.W. to the western boundary of Glover Archbold Park. The line then runs south and west along the west boundary of Glover Archbold Park to a point east of the southernmost point of Lot 33 of Square 1341. The line then runs west across 44th Street to the southwest boundary of Lot 33. The line then runs in a northerly direction along the rear lot lines of the properties on the west side of 44th Street, to the southern boundary of Lot 15 of Square 1341, inclusive of Lot 33. (For those lots with narrow frontages on the west side of 44th Street, the WHOD boundary line shall cross those narrow lot frontages by connecting the rear lot lines of the adjacent lots across the narrow lot frontage.) The line then runs west along the southern boundary of Lot 15; then runs northwest along the west boundary of Lot 15; then runs in a westerly direction along the right-of-way of the Dexter Court cul-de-sac excluding lots 19-21 and then runs southwest along the south boundary of Lot 18. The line then runs north along the west boundary of Lot 18 to the southern boundary of Lot 805. The line then runs west along the southern boundaries of lots 805 and 800; then runs north along the west boundary of Lot 800; then runs west to Foxhall Road along the southern boundary of Lot 804. The line then runs south along the centerline of Foxhall Road; then runs west along the northern boundary of Lot 813 of Square 1380; then runs southwest along the rear of lots 4, 5 and 820 of Square 1380; then runs west to 49th Street along the southern boundaries of lots 820-824, 826 and 6 of Square 1380. The line then runs north along the western boundary of 49th Street right-of-way; continues east along the northern boundary of Cathedral Avenue right-of-way; and turns north along the property line at the rear of the properties on the west side of Foxhall Road (including all of Square 1523, and lots 28 and 29 of Square 1521). The line then runs east along the northern property line of Lot 28 of Square 1521 to Foxhall Road, then runs north along the west boundary of the Foxhall Road right-of-way to New Mexico Avenue. The line then runs northeast along the centerline of New Mexico Avenue to the point of origin at the intersection of New Mexico and Nebraska Avenues N.W.
- (b) The properties that are contained within the boundaries of the WHOD, as set forth in subsection 1541.2(a) include all of squares 1338-1340, 1380, 1381, 1406, 1408, 1521, 1523, 1524, 1603-1612, 1614, 1615, 1619-1622, 1625, 1626, 1700, and 1701; and a portion of squares 1341, 1397, and

1601 (those portions include lots 11, 12, 15-18, 24, 25, 28-34, 36, 37, 800, 804, 805, 807, 810, 814, 819, 821, 824, 825, and 868, and a portion of lots 35, 857, and 869 in Square 1341; lots 4-6, 814-816, 818, 820-824, and 826 in Square 1397; and lots 804 and 805 in Square 1601).

1541.3 The purpose of the WHOD is as follows:

- (a) To preserve in general the current density of the neighborhood.
- (b) To allow reasonable opportunities for owners to expand their dwellings; and
- (c) To preserve existing trees, access to air and light, and the harmonious design and attractive appearance of the neighborhood.

1542 GENERAL PROVISIONS

1542.1 The WHOD is an overlay district and shall be mapped in combination with one of two underlying districts (R-1-A and R-1-B) and not instead of the underlying districts.

1542.2 All uses, buildings and structures permitted in accordance with this chapter and the appropriate regulations of the underlying district with which the mapped WHOD is combined, shall be permitted in the combined districts.

1542.3 All restrictions and prohibitions provided for by either of the underlying districts combined in accordance with this chapter shall also apply, except as specifically modified by this chapter. Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern.

1543 RESTRICTIONS: MAXIMUM LOT OCCUPANCY, FLOOR AREA RATIO AND FRONT YARD SETBACK

1543.1 The following restrictions will apply to both the R-1-A and the R-1-B zone districts, within the WHOD.

1543.2 No structure, including accessory buildings, shall occupy an area in excess of thirty percent (30%) of the lot; except that:

- (a) Structures on lots of between 5,000 and 6,667 square feet may occupy up to 2,000 square feet; and

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- (b) Structures on lots of less than 5,000 square feet may occupy up to forty percent (40%) of the area of the lot;

1543.3 The gross floor area of all buildings and structures on the lot shall not exceed the sum of 2,000 square feet plus forty percent (40%) of the area of the lot; provided, that the following modifications of gross floor area shall apply in the WHOD:

- (a) The first 200 square feet of an open porch, or total open porch space if there is more than one open porch, and the first 600 square feet of a garage shall not count in gross floor area; and
- (b) Basement or cellar floor area shall count in gross floor area if a finished floor is provided, if the floor to ceiling height is in excess of six feet six inches (6' 6"), and shall count only up to a floor area equal to five (5) times the total fenestration area for the cellar or basement floor.

1543.4 All residential buildings shall have a front yard setback equal to or greater than the average setback of all structures on the same side of the street in the block where the building in question is located. The required setbacks are depicted in the map entitled, "Required Front Yard Setbacks," which is a part of this overlay district and located in the Office of Zoning and in the Zoning Division of the Department of Consumer and Regulatory Affairs.

2. Amend the Zoning Map to map the Wesley Heights Overlay District as described in Section 1541.2 of this chapter.

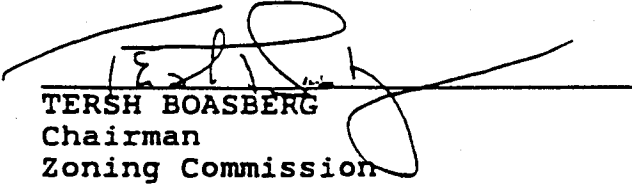
Vote of the Zoning Commission taken at the regular meeting on February 10, 1992: 3-0 (John G. Parsons, William L. Ensign and Maybelle Taylor Bennett, to approve - Tersh Boasberg, not voting having recused himself and Lloyd D. Smith, not voting, not having participated in the case).

This order was adopted by the Commission at its monthly meeting on July 13, 1992 by a vote of 3-0 (John G. Parsons, William L. Ensign and Maybelle Taylor Bennett to adopt as amended - Tersh Boasberg, not voting, not present and having recused himself and Lloyd D. Smith, not present, not voting).

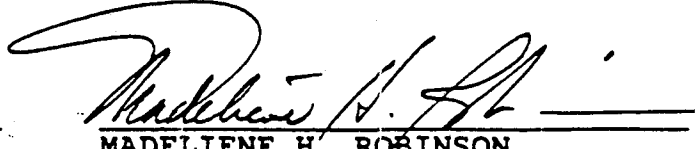
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Z.C. ORDER NO. 718
CASE NO. 90-5
PAGE NO. 12

In accordance with 11 DCMR 3028.8, this order is final and effective upon publication in the D.C. Register; that is, on



TERESH BOASBERG
Chairman
Zoning Commission



MADELIENE H. ROBINSON
Acting Director
Office of Zoning

zco718/LJP

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D.C. Zoning Map (printed from Internet 3/30/2005)

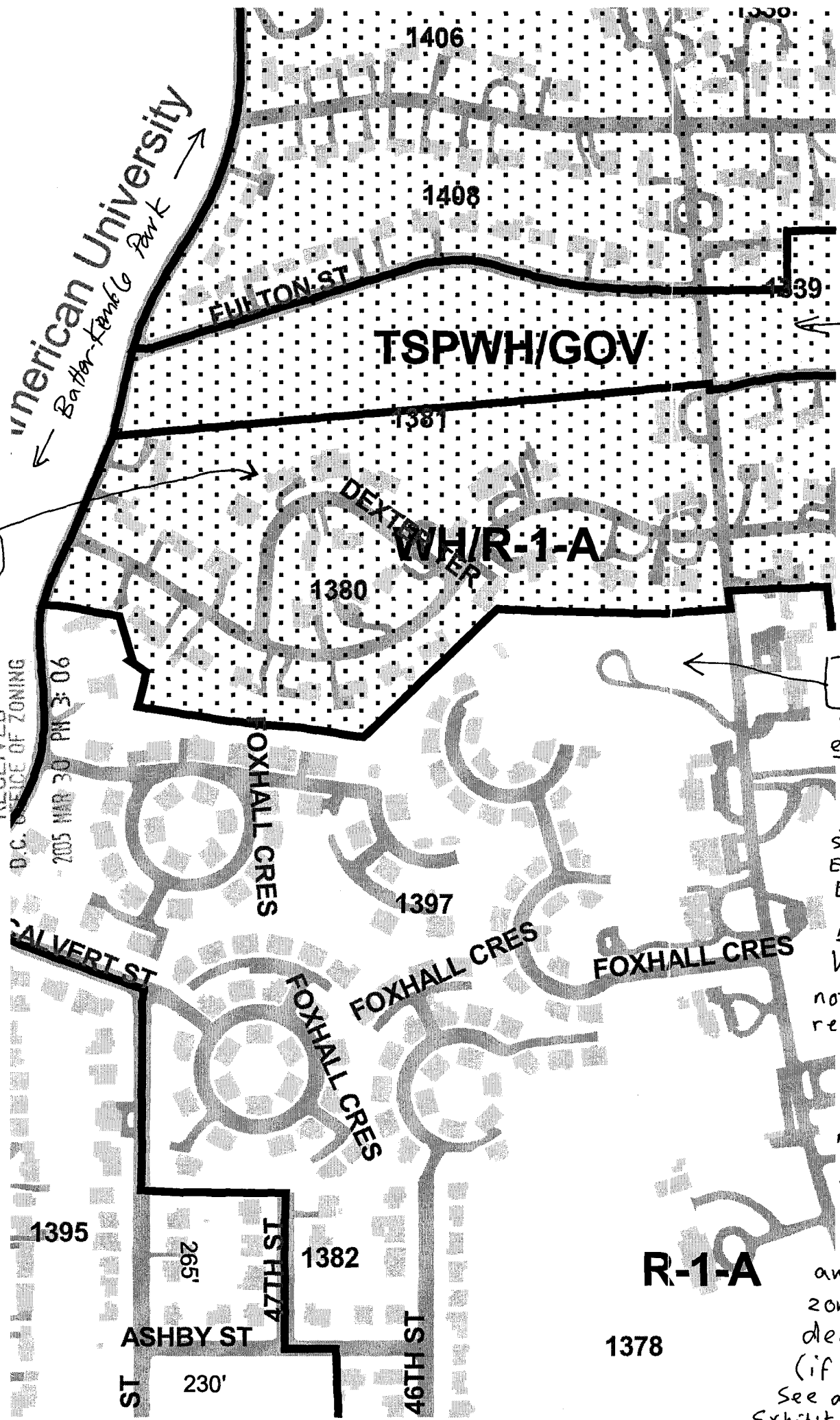
American University
Batter-Kempe Park

Wesley Heights Park

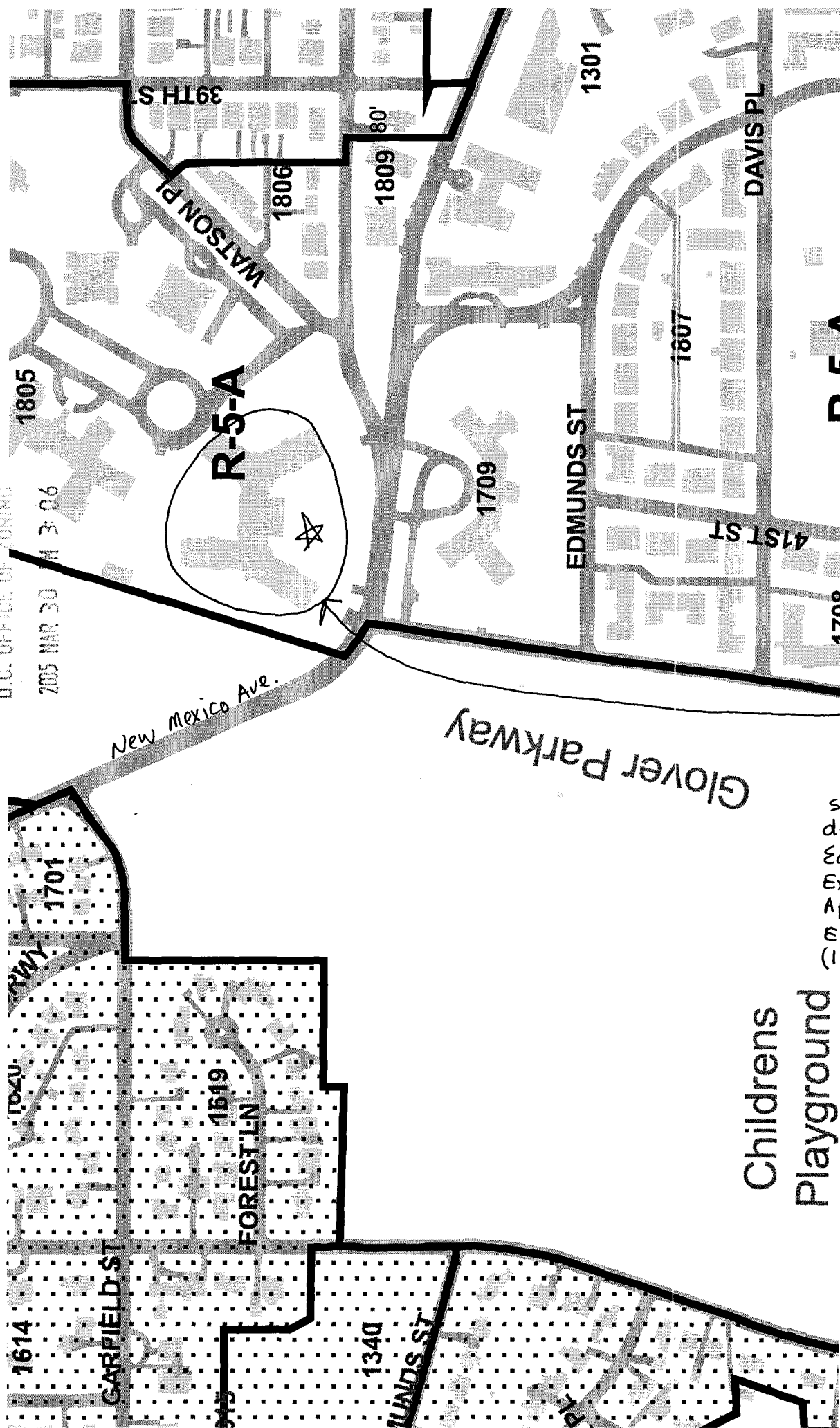
4825 Dexter Terrace

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2620 Foxhall Rd.
Site of elevated tennis court platform shown in Economides' Exhibit E -
Not in WHOD -
nothing in record shows that platform structure is in a required yard or otherwise reflects nature of any pertinent zoning decision (if any).
See also Carome Exhibit Vol. 3, #84



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D.C.
Zoning
Map
(printed
from
Internet
3/30/2005)

2801
New Mexico Ave.
Site of
high-rise
apartment
complex and
parking garage

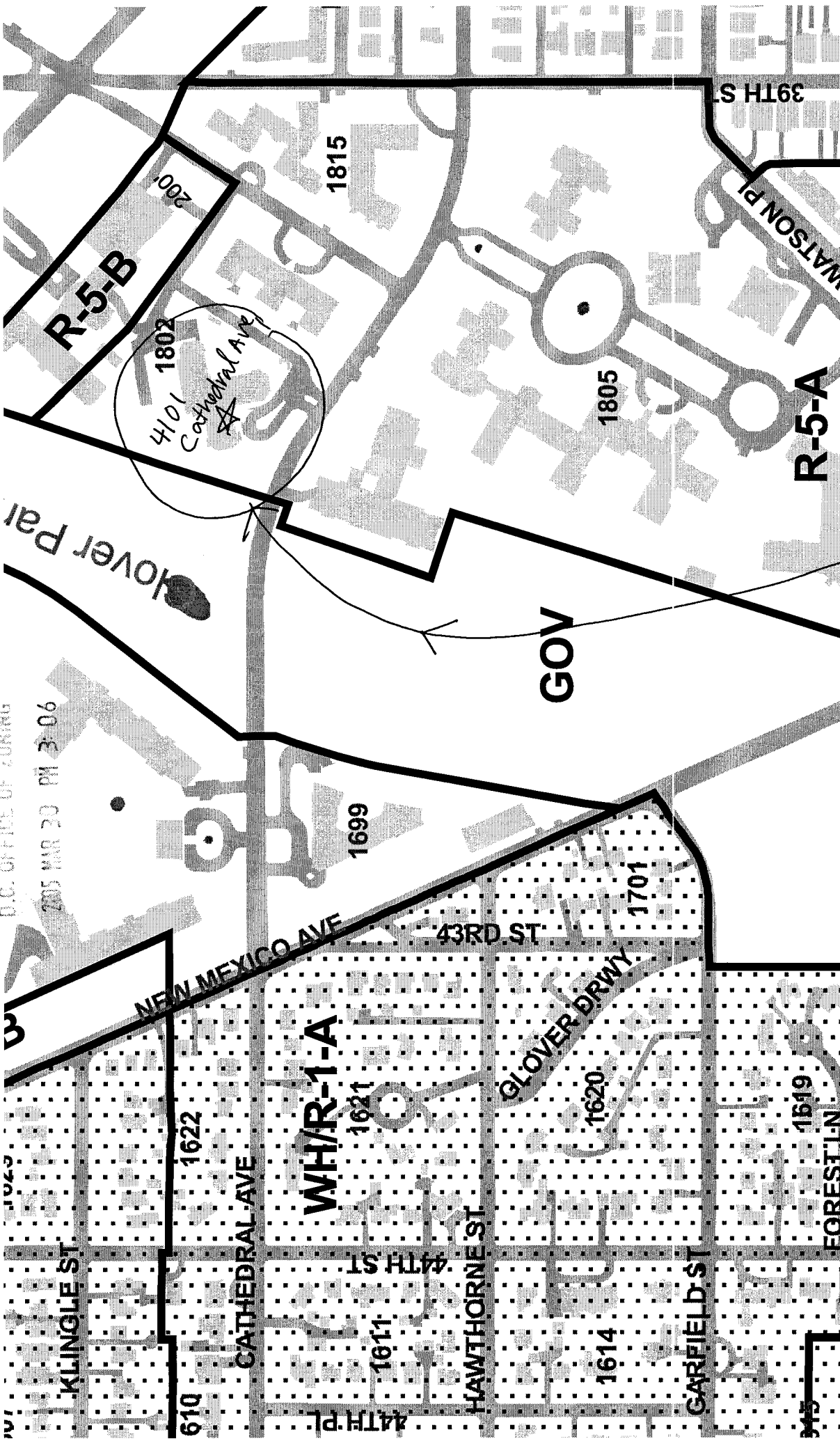
structure
depicted in
Economides'
Ex. E and
Appellant
Exhibit 82
(1st 3 pages).

Zoned R-5-A.
Not in
WHOD.
Nothing in
record
shows that
any structure
here is in
a required
yard or
otherwise
reflects
nature of
any
pertinent
zoning
decision.

Childrens
Playground

D.C.
Zoning Map
(printed
from
Internet
3/30/2005)

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4101
Cathedral Ave
Site of
12-story
hi-rise
apartment
complex
and of
swimming
pool
structure
depicted in
Economides'
Exhibit E
and
Appellant
Exhibit 82.
Zoned
R-S-A.
Not in
WHOD.
Nothing in
record shows
that any
structure is
in a
required yard
or otherwise
reflects
nature of
any
pertinent
zoning
decision.

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Appeal of Patrick J. Carome

of Building Permit
No. B460927

4825 Dexter Terrace, NW
Frank & Dina Economides, Owners

BZA Appeal No. 17285

Hearing Date: March 1, 2005

SECOND AFFIDAVIT OF PATRICK J. CAROME

I, Patrick J. Carome, being duly sworn, depose and say:

1. I am submitting this affidavit to provide information responsive to a question posed at the hearing in this matter on March 15, 2005, concerning the proximity of the structure at issue in this Appeal (the "Walled Platform Structure") to the neighboring Tate residence at 2715 49th Street, N.W.
2. On March 29 and March 30, 2005, I made observations of the location of the Walled Platform Structure in relation to the Tate house and Tate property. These observations indicated the following facts:
 - A. There is a simple wood and wire mesh fence that I understand is located just inside the border of the rear yard of the Tate's property. One of the tallest walls of the Walled Platform Structure is very close to this fence. At their nearest points, the Walled Platform Structure is less than four (4) feet from the Tate's fence.
 - B. The distance between the Tate's house and the Walled Platform Structure, at their nearest points, is approximately sixty-five (65) feet.
 - C. The top of the exterior walls of the Walled Platform Structure, and the sodded surface of the Walled Platform Structure, are at least several feet higher in elevation than the elevation of the highest portion of the roof of the Tate's house. In other words, someone standing on the top of the Walled Platform Structure would have to look down in order to see the roof of the Tate's house.
3. Attached as Exhibit A hereto is a diagram that depicts the approximate locations of the Walled Platform Structure and the Tate's property and residence. The basis for this diagram is a page from the administrative file for Zoning Commission Case No. 90-5,

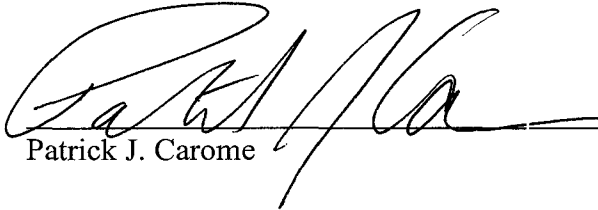
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which is the case in which the Zoning Commission adopted the regulations for the Wesley Heights Overlay District. I have made notations on that page to indicate the approximate locations of the Walled Platform Structure and the Tate house.

4. Attached as Exhibit B hereto are two versions of a photograph that I took yesterday that fairly and accurately depicts the location of the Walled Platform Structure to the Tate's property and residence. I took this photograph while standing on the steps outside the kitchen door at the front of my family's house at 4747 Fulton Street, N.W. The second version of the photograph is the same as the first, except that it contains annotations highlighting the locations of the Tate's house, the new Economides' House, and the Walled Platform Structure.

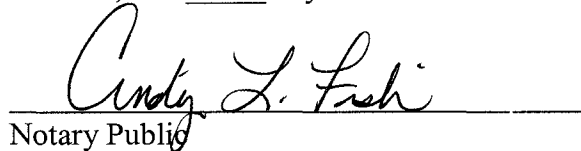
I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 30th day of March, 2005.

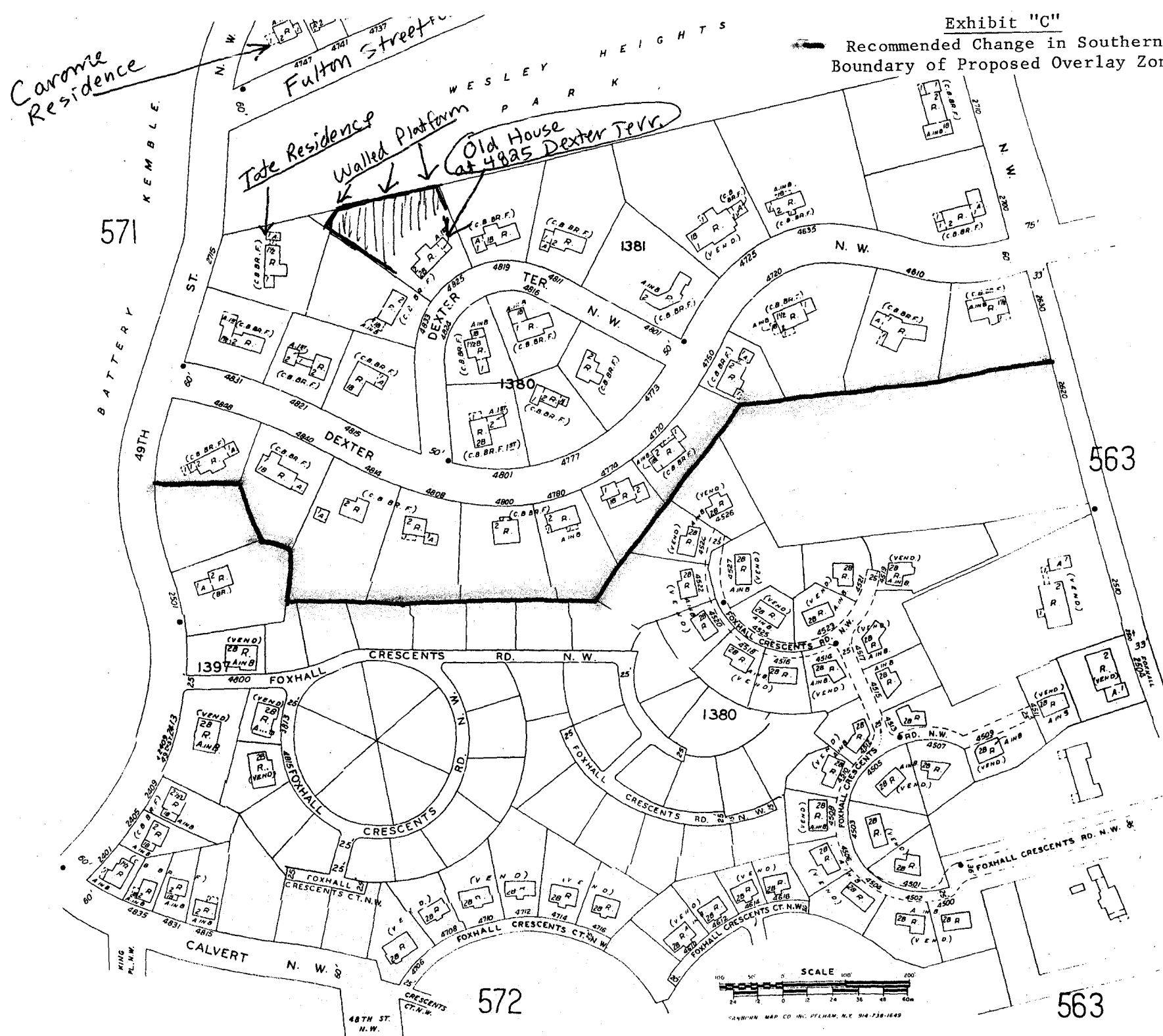

Patrick J. Carome

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SUBSCRIBED AND SWORN TO before me, this 30th day of March 2005.


Cindy L. Fish
Notary Public

CINDY L. FISH
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires June 14, 2007



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New
Economides
House

Walled Platform Structure

Tate
House

Wesley Heights Park

Fulton Street



CASE 17285

EXHIBIT 56

HAS OVERSIZED DOCUMENTS

SEE FILE AT ZONING COMMISSION