

No one ever said at any time that there were spaces in the parking garage that were designated or could be designated as “non-required.” It is not until this Zoning proceeding that I have ever heard WHCA even use the term “non-required” in describing some of the parking spaces. Apparently, this term was first used and applied to specific spaces in late 2006 by Emily Vaias, Esquire, of the law firm of Linowes and Blocher, which has been representing WHCA in this matter. The drawing submitted in late 2006, disclosed to me for the first time at the July 17 hearing, is the first time that the distinction was ever made between “required” and “non-required” spaces. It cannot be found in any prior documents. In fact, there is not a single official document of WHCA that makes any such reference or distinction.

The actions of Linowes and Blocher in deciding which Unit Owners would enjoy “required” status and which would be denigrated as “non-required” was never authorized by the Condominium. It was certainly never put to a vote of the Unit Owners, never approved by the Owners of the parking spaces that were designated “required” and “non-required,” and never voted on or approved by the Condominium Board of Directors.

In fact, Linowes and Blocher has been acting without any authority to do so. The Board of Directors has provided a letter stating as follows: “On June 27, 2007, the Board of Directors for the Washington Harbour Condominium Unit Owners Association, Inc. (the ‘Association’), voted unanimously to engage Linowes and Blocher LLP to represent the Association with respect to all zoning and permitting issues related to the parking spaces that are the subject of the Appeal.” This means that the Board gave Linowes and Blocher the authority to act on behalf of WHCA only from June 27, 2007 on.

When Linowes and Blocher had its multiple meetings with the Zoning Administrator in 2006 and 2007, enlisting the Zoning Administrator to act as advocate for the position it wanted

to take in this proceeding (without notice to me or anyone else), it had no authority to prepare or submit any drawing showing what it said were “required” or “non-required” spaces. The Unit Owners who actually own the spaces never gave Linowes and Blocher the authority to do that, either. I never authorized Linowes and Blocher to make any designation of “required” or “non-required” for the parking spaces I own, and neither did any other Unit Owner as far as I am aware. Nor do I believe that the Board of Directors ever considered this issue. The Board President, Kenneth Joy, testified on July 17 that he was not even aware of the entire “required” and “non-required” terminology. If the Board made a decision as to whether to call parking spaces “required” or “non-required,” in a way that would affect the interests of the Owners of those spaces, it would have had to have been put to a vote of the Unit Owners and would have been reflected in official minutes showing Board actions – this was never done.

Washington Harbour Condominium Association was developed by Herbert Miller, through two companies, Washington Harbour Associates Limited Partnership and Georgetown Potomac Company. Those two companies were the original Owners of the Condominium when it was built and sold. When the finished Residential and Parking Units were sold, a Public Offering Statement was provided to me and other purchasers to disclose to us information about the Condominium. A copy of the Certificate of Owners from the 1983 Public Offering Statement is attached as Exhibit “A.” Included within the Public Offering Statement was a drawing entitled, “Parking Facility Plan of Condominium Subdivision.” A copy of it is attached as Exhibit “B.”

The drawing produced by Linowes and Blocher for the first time on July 17 was clearly taken from the “Parking Facility Plan of Condominium Subdivision,” with various handwriting added to it by Linowes and Blocher. The original “Parking Facility Plan of Condominium

Subdivision,” which appears to be the Plan that was ultimately approved and created, does not have any delineation of “non-required” parking spaces. When they created the Condominium, the then Owners, Washington Harbour Associates Limited Partnership and Georgetown Potomac Company, did not designate any parking spaces as “non-required.” When they sold parking spaces, they did not make any such designation. Nor have the Owners who bought those spaces ever made or authorized such a designation.

This handwritten unauthorized modification to the original “Parking Facility Plan of Condominium Subdivision,” done by counsel acting without authority and not on behalf of the then Owners, is and was invalid. Equally invalid is the suggestion by Linowes and Blocher that it can make the “non-required” designation at any time, and for any spaces it chooses. At page 4, footnote 2 of its prehearing statement, Linowes and Blocher said as follows:

It is important to note that no regulatory procedure is required to “select” which individual spaces are deemed to be “required” because this is not the aim of the Zoning Regulations. The Zoning Regulations seek to ensure that a particular use in a particular zone maintain a minimum number of “required” parking spaces, which comply with applicable standards. Washington Harbour has not “selected” which parking spaces are “required” spaces in perpetuity, but instead simply illustrated that the subject parking garage contains a requisite number of “required” parking spaces that meet the applicable standards—an ongoing legal obligation of Washington Harbour.

Neither Linowes and Blocher nor WHCA has the right to make any designation of parking spaces as “non-required.” Only the Owners of the parking spaces can make that designation. Normally, this is done by the Developer, when it is the Owner and submits drawings for approval and to obtain a Certificate of Occupancy. It cannot be done years later after the parking spaces have been approved, created, and sold to Unit Owners. WHCA is not the Owner of the parking garage or the spaces within it. It has no right to decide which parking spaces it might want to call “required” or “non-required.”

Linowes and Blocher stated in its prehearing statement that the twelve spaces it now relies on are different from those it identified to the Zoning Administrator in 2006: "In any event, it is clear that Washington Harbour has chosen to illustrate this point logically, using twelve (12) parking spaces along the main garage entry aisle." Basically, they are stating that they can pick any twelve spaces, at any time, and designate them as "required" – meaning that all of the other spaces are "non-required" and are not subject to any of the protections of the Zoning Regulations. This is a flat out deprivation of my rights and those of the other Unit Owners, and it should not be allowed.

FIRST AMENDMENT

CONDOMINIUM BOOK PAGE
SHEET 1 OF 18

PLAT AND PLAN OF CONDOMINIUM SUBDIVISION
LOT 102 SQUARE 1175
WASHINGTON HARBOUR CONDOMINIUM
GEORGETOWN
 WASHINGTON DISTRICT OF COLUMBIA

CERTIFICATION OF OFFICE OF THE SURVEYOR

Office of the Surveyor, D.C. 1986

These plat is accepted for recordation in accordance with the Condominium Act of 1976 (D.C. Law 1-80)

DISTRICT OF COLUMBIA SURVEYOR

Recorded Date _____ Time _____
 Condominium Book _____ Page _____

CERTIFICATE OF OWNERS

In accordance with the District of Columbia Condominium Act, the undersigned owners of Lot 102, Square 1175, as recorded in Plat Book 172 of Page 84 in the Office of the Surveyor of the District of Columbia, hereby subdivide part of the building shown herein into eighty-five (85) condominium units with certain general and limited common elements as more fully set forth in the Declaration and By-Laws of the project recorded in the Office of the Recorder of Deeds of the District of Columbia as Instrument Numbers 23729 and 23730 on the first day of July, 1986 and as recorded in Condominium Book 24 at Page 26, as amended by Instrument Numbers _____ and recorded on the _____ day of _____, 1986.

The undersigned owners further request that the Condominium Project, as shown on the attached plat, consisting of thirteen (13) sheets be accepted for recordation in the Office of Surveyor of the District of Columbia.

The undersigned owners, being first duly sworn, certify, depose and say that they are the owners in fee simple of the above-mentioned property and improvements; that no persons other than the undersigned have any legal interest or claim therein except for existing trusts noted below; that the undersigned are in peaceful occupation thereof; that there are no suits or actions pending affecting the title to said property including the improvements; that there is a trust on said property; and that the use of the individual units conforms to the applicable laws and regulations of the District of Columbia.

Witness our Hands and Seals this 10th day of July, 1986

Ann V. Stuchlik
 WASHINGTON HARBOUR ASSOCIATES, LIMITED PARTNERSHIP
 PARTNER

GEORGETOWN (TOWNSHIP COMPANY) (BOL)

Donald J. Diller
 BY _____
 Subscribed and Sworn Before Me this 10th day of July, 1986
Reg. J. J. J. My Commission Expires 12/14/87

We Assent:

TRUSTEES FOR WIDE WORLD BANK, S.A.

Subscribed and Sworn Before Me this _____ day of _____, 1986
 My Commission Expires _____

 Subscribed and Sworn Before Me this _____ day of _____, 1986
 My Commission Expires _____

CERTIFICATION OF PROFESSIONAL ENGINEER - CIVIL

I hereby certify that this plat represents a field survey made under my direction and that the information shown herein is accurate and in conformity with the records of the Office of the Surveyor of the District of Columbia.

I further certify that all units depicted herein have been substantially completed and that the plat complies with the requirements of D.C. Law 1-80.

Given under my hand on the second day of January, 1986

CERTIFICATION OF DEPARTMENT OF FINANCE AND REVENUE

Department of Finance and Revenue

Ownership correct according to the records of this office

Annual Taxes paid to _____

Unpaid Arrears _____

Unpaid Special Assessments _____

ASSISTANT DIRECTOR, FINANCIAL ADMINISTRATION

LENN MARK (IRS Department of Public Works)
 2 of 4th Hydrant at the Northwest Corner of
 Street N.W. and 30th Street, N.W.
 Washington, D.C.

[Signature]

CERTIFICATION OF DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Department of Consumer, Investigation and Inspections

I certify that this subdivision complies with the Zoning Regulations of the District of Columbia.

Zoning _____

DIRECTOR, CONSUMER INVESTIGATION DIVISION

DON DYER ASSOCIATES, INC.
 ENGINEERS - SURVEYORS
 ONE METRO PLAZA
 800 PROFESSIONAL PLACE
 LANDOVER, MARYLAND 20785
 PHONE (301) 452-7500

REG. EFB
 J-10103
 HQ#25682

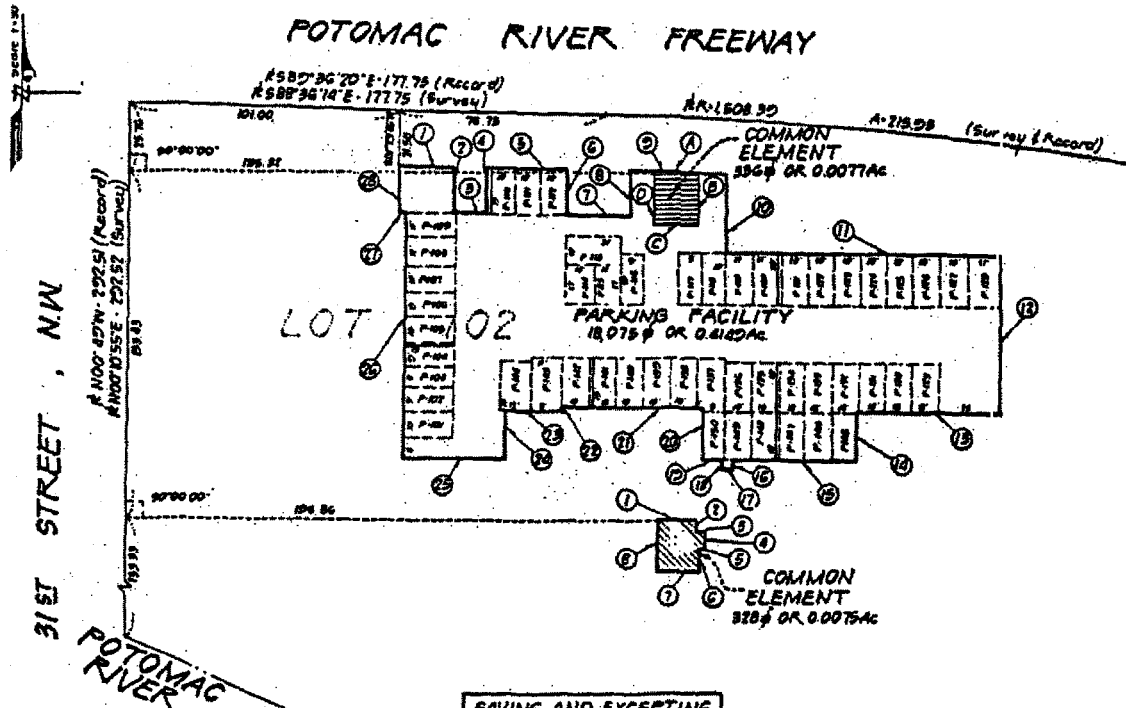
PARKING FACILITY PLAN OF CONDOMINIUM SUBDIVISION

LOT 102 SQUARE 1175

WASHINGTON HARBOUR CONDOMINIUM GEORGETOWN

WASHINGTON

DISTRICT OF COLUMBIA



PARKING FACILITY		COMMON ELEMENT		COMMON ELEMENT	
ELEVATIONS: UPPER LIMIT - 10.7 LOWER LIMIT - 0.2		ELEVATIONS: UPPER LIMIT - 11.8 LOWER LIMIT - 1.7		ELEVATIONS: UPPER LIMIT - 11.8 LOWER LIMIT - 1.7	
METES AND BOUNDS		METES AND BOUNDS		METES AND BOUNDS	
88° 38' 14" E - 20.75	15 N 82° 48' 50" W - 42.50	A R. 1486.85 A. R. 880	1	S 82° 48' 50" E - 15.00	1
20° 11' 10" W - 10.00	16 S 00° 11' 10" W - 9.25	Chd. S 87° 30' 56" E - 16.82	2	S 00° 11' 10" W - 4.00	2
33° 48' 50" E - 12.00	17 N 82° 48' 50" W - 7.27	B S 00° 11' 10" W - 12.55	3	S 82° 48' 50" E - 3.67	3
00° 11' 10" E - 14.81	18 N 00° 11' 10" E - 4.34	C N 82° 48' 50" W - 16.88	4	S 00° 11' 10" W - 6.50	4
88° 38' 14" E - 20.75	19 N 82° 48' 50" W - 7.00	D N 00° 11' 10" E - 20.21	5	N 82° 48' 50" W - 7.67	5
20° 11' 10" W - 10.00	20 N 00° 11' 10" E - 10.00	AREA - 336 sq ft OR 0.0077 AC	6	S 00° 11' 10" W - 2.17	6
33° 48' 50" E - 12.00	21 N 82° 48' 50" W - 23.25		7	N 82° 48' 50" W - 15.00	7
00° 11' 10" E - 14.81	22 S 00° 11' 10" W - 1.58		8	N 00° 11' 10" E - 13.67	8
1486.85 A. R. 880	23 N 82° 48' 50" W - 20.67			AREA - 328 sq ft OR 0.0075 AC	
10° 58' 35" 35" E - 36.40	24 S 00° 11' 10" W - 17.83				
20° 11' 10" W - 30.75	25 N 82° 48' 50" W - 37.91				
33° 48' 50" E - 103.75	26 N 00° 11' 10" E - 23.25				
20° 11' 10" W - 60.00	27 N 82° 48' 50" W - 2.17				
33° 48' 50" E - 37.00	28 N 00° 11' 10" E - 18.00				
00° 11' 10" W - 18.00					
R. 411 sq ft S AND EXCEPTING - 336 sq ft OR 0.0077 AC					
TOTAL AREA - 18,075 sq ft OR 0.4122 AC					

DEN DYER ASSOCIATES, INC.
ENGINEERS - SURVEYORS
ONE METRO PLAZA
800 PROFESSIONAL PLACE

