

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14369, of Century Financial Corporation, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for special exceptions under Paragraph 3105.42 and Sub-section 3307.2 to allow a subdivision and residential development of a group of forty-eight dwellings and to allow this group of dwellings with division walls from the ground up to be deemed a single building and for variances from the floor area ratio requirements (Sub-section 3302.1) and the landscaping requirements for open parking spaces (Paragraph 7206.91) in a R-5-A District at premises 1832-1846, 1848-1862 and 1864-1878 Bryant Street, N.E. and 1833-1847, 1849-1863 and 1865-1879 Channing Street, N.E., (Square 4112, Lots 19 and 20).

HEARING DATE: December 11, 1985  
DECISION DATE: January 8, 1986

FINDINGS OF FACT:

1. A public hearing was scheduled for Application No. 14307 on July 10, 1985, at which time the Board determined not to proceed as a significant number of property owners within 200 feet of the subject site had not been notified of the public hearing on the application. The applicant subsequently withdrew the application but refiled it later as Application No. 14369. The subject matter of both applications is the same.

2. The subject property was originally part of a planned subdivision and new residential development comprising a group of thirty-two flats and ninety-six row dwellings, approved by decision dated September 3, 1980, in BZA Application No. 13267. The development was to be known as the Channing Court Condominium, and was to be constructed in two phases. The first phase of the Channing Court Condominium was completed on the western half of the 4.095 acre site covered by Application No. 13267, consisting of sixteen flats and forty-eight row dwellings aggregating sixty-four residential units. The Channing Court Condominium is bounded on the west by 18th Street, N.E., and on the north and south by Channing and Bryant Streets. Because of financial difficulties, the developer of the Channing Court Condominium never completed the second phase.

3. The subject site for phase two is known as premises 1832-1846, 1848-1863 and 1865-1879 Channing Street, N.E. It

is located in the blocks bounded by Channing, Bryant, 18th and 20th Streets, N.E., and the western boundary is on the property line of the Channing Court Condominium. The site is located in an R-5-A District.

4. The subject site consists of 2.123 acres and is rectangular in shape. It has a frontage of approximately 301 feet along Channing Street and 308 feet along Bryant Street.

5. The site has been cleared, rough-graded and prepared for residential development. The rough-grading preparation for residential development was completed over three years ago. The site's present condition is overgrown and vandalized.

6. The area surrounding the subject site between Rhode Island Avenue on the north, South Dakota Avenue on the east, the Baltimore and Ohio railroad tracks on the south and Montana Avenue on the west is generally zoned R-1-B, with C-1 and C-2-A zoned land along and south of Rhode Island Avenue on the north, C-M-1 zoned land along the railroad tracks on the south, one square of R-3 land a block from the subject site and a strip of four squares zoned R-5-A adjacent to the C-M-1 zoned land to the south.

7. The area is generally developed with single-family detached homes with the exception of light industrial structures along the railroad tracks, commercial structures along Rhode Island Avenue, a few apartments and 48 townhouse structures. The area also contains Langdon Park, a very large landscaped open area three blocks to the north, Langdon Elementary School and grounds south of the park and the 14 acre landscaped grounds and three to four story buildings of the District's 307 unit Washington Center for Aging Services (formerly the National Lutheran Home) adjacent to the subject site on the north, across Channing Street. This portion of Channing Street is not improved. Abutting the subject site to the east are five single-family detached dwellings which front on 20th and Bryant Streets. Across Bryant Street to the south are the 3.75 acre Loomis Park and a relatively new one-story brick industrial structure housing Cameron Linens and Uniforms Rental. Abutting the site to the west are the 48 townhouses of the Channing Courts project approved in BZA Application No. 13267 in 1980.

8. The applicant has entered into a contract to sell the undeveloped site to Windson Development Corporation ("Windson"). Windson is a townhouse developer, with substantial experience in Virginia and Maryland. The applicant's contract of sale to Windson is contingent on the grant of the subject application.

9. Windson intends to complete the original 1980 proposal, with certain modifications. There will be forty-eight townhouse units in six clusters in the second half of the "original project" rather than sixty-four. There will also be forty-eight parking spaces provided in two lots rather than sixty-four spaces. The buildings will measure approximately 17 feet by 32 feet rather than 16.5 feet by 40 feet. The three-story units will be located at the ends of each cluster rather than collected at the center of the site. The pedestrian circulation system will be completed as a three-foot wide circular path rather than by continuing the existing twelve foot wide east-west spine. The five-foot high brick walls which screen the parking areas from Channing and Bryant Streets will not be continued.

10. The applicant is seeking a special exception under Sub-section 3307.2 to have groups of dwellings with division walls from the ground up to be deemed single buildings. The Board of Zoning Adjustment must also review and approve the site plan (R-5-A) in accordance with Paragraph 3105.42. Finally, the applicant is seeking a variance from the floor area ratio requirements (Sub-section 3303.1).

11. The Zoning Regulations require that each building in an R-5-A District have a maximum floor area ratio (FAR) of 0.9. Six of the proposed buildings have FAR's slightly in excess of 0.9 ranging from 0.918 to 0.995. However, given the size of the site and limited frontage on public streets, the applicant has chosen to develop with theoretical lots. Such lots are necessary as limits for the application of the Regulations, but site plan review provides the opportunity for a comprehensive assessment of the complete project. For the site as a whole, the proposed FAR is 0.886. From an overall site planning perspective, granting the variance necessary to permit some theoretical lots to be smaller than required (on an individual basis) will achieve other public objectives which further the worth of the project as a whole.

12. The applicant testified that the landscape plan for the subject site meets the landscaping requirement for all open parking spaces provided in the R-5-A zone, as required by Sub-section 7206.91. The plans do provide appropriate screening between the parking areas and the streets, and do lessen the visual effect of the asphalt parking areas. To the extent that a variance from the landscaping requirement of Sub-section 7206.91 is required, the variance is necessary from an overall site planning perspective so as to permit development of the site as a whole, noting particularly that the project does meet the one-to one parking requirement for residential development in the R-5-A District, and also the five percent landscaping requirement for parking lots.

13. Sub-section 3307.2 states in pertinent part that in the R-5-A and R-4 Districts, if approved by the Board of Zoning Adjustment, a ground of one-family dwellings, flats, apartment houses, or a combination thereof, with division walls from the ground up or from the lowest floor up, may be erected and be deemed a single building for the purpose of the regulations, subject to the conditions specified below:

- a. No rear or service entrance abuts a street, front yard, or front court unless below the main floor.
- b. No exterior stairway is constructed above the level of the joists of the main floor unless located entirely within the building area.
- c. The erection of such groups will not affect adversely the present character or future development of the neighborhood.

14. In the subject application, the proposed structures' rear entrances have been screened where appropriate so as not to negatively affect properties. All stairs above the main floor are interior stairs. The proposed structures will be screened from the single family detached dwellings to the east by a six foot high cedar fence and Channing Court Condominiums to the west by a five foot high cedar fence.

15. Paragraph 3105.42 states in pertinent part that in R-5-A Districts all new residential developments, except those comprising all one-family detached and semi-detached dwellings, shall be reviewed by the Board in accordance with the following:

- a. The Board shall refer the application to the D.C. Board of Education for comment and recommendation as to the adequacy of existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project;
- b. The Board shall refer the application to the District of Columbia Department of Transportation and the District of Columbia Department of Housing and Community Development for comment and recommendation as to the adequacy of public streets, recreation and other services to accommodate the residents of the project and the relationship of the proposed project to public plans and projects;
- c. The Board shall refer the application to the District of Columbia Office of Planning for comment and recommendation on the site plan,

arrangement of buildings and structures, provisions of light, air, parking, recreation, landscaping and grading as they relate to the future residents of the project and the surrounding neighborhood; and

- d. In addition to other filing requirements, the developer shall submit to the Board with the application, four site plans and two sets of typical floor plans and elevations, grading plans (existing and final), landscaping plans, and plans for all new rights-of-way and easements.

16. Six buildings are proposed for the subject site. Each building will contain seven town house units each measuring approximately 16 feet by 32 feet. All buildings will have the same configuration and dimensions. The building will contain four two-bedroom, two story units in the center flanked by four three-bedrooms, three story units on the ends.

17. The material to be used for the exterior of the proposed structures will be a combination of brick with wood siding, aluminum siding, composition board siding or a drivet material. The exteriors will be all brick.

18. Each of the proposed units will have a front yard located directly off a parking area.

19. Each of the proposed units will have a rear yard which will be separated from adjacent rear yards on the sides by a privacy fence.

20. The rear and side yards of twelve of the proposed units will front on the eastern boundary of the existing development. A landscaped and lighted walkway bisects the development at this point. The front entrances of the existing condominiums face east toward the proposed rear yards.

21. The fence erected at the request of the existing Condominium Association to separate the developments will not be brick or masonry since the cost would be prohibitive adding 12,000 to 15,000 dollars to the cost of each unit when the goal is to provide affordable housing.

22. The highest point of the proposed units is five feet lower than the adjacent Channing Court units. Typical proposed units will be 14 feet lower than existing units.

23. The pole lighting, which was originally installed to the east of the existing units on the undeveloped parcel

of land, will be moved at the developers expense onto the condominium property.

24. The north parking lot accessed by Channing Street for the proposed units will contain 9,272 square feet with 920 square feet, or 9.9 percent of landscaped area. The south parking lot accessed by Bryant Street will contain 9,272 square feet with 800 square feet, or 8.6 percent, of landscaped area.

25. Trash dumpsters for the proposed units will be located adjacent to the parking areas and will be screened and have gates.

26. The developer of the proposed units will comply with all conditions of Order No. 13267. Curbs, gutters, drainage structures and sidewalks will be installed or extended on the north side of Bryant Street between 18th and 20th Streets and on both sides of Channing Street between 18th Street and the driveway for the proposed development. Curb and gutter and paving will be put in the cul-de-sac which is already in place at the dead-end of Channing Street.

27. By memorandum dated June 11, 1985 and September 24, 1985, the Office of the Superintendent of the District of Columbia Public Schools reported that they have no opposition to the subject application and that ample capacity is available at elementary, junior and senior high school in the vicinity to accommodate any student population generated by the new housing.

28. The Department of Public Works recommended approval of the application in a memorandum dated July 3, 1985, subject to their recommendations originally made in 1980 and subsequently established as conditions number one through three in Order No. 13267. The DPW further reported that the proposed development will have little impact on the street system. The site is located in a sparsely populated area where the competition for curb-side parking should be minimal. Therefore, the provision of one parking space per dwelling unit should be sufficient to accommodate the development. The DPW recommended that the proposed parking lots be landscaped. The Board concurs.

29. By memorandum dated June 14, 1985, the District of Columbia Department of Housing and Community Development reported that the proposed development is consistent with the housing policies of the District and that it had no objection to the granting of the application. The Board concurs.

30. By memorandum dated July 3, 1985 and Addendum dated December 4, 1985, the Office of Planning (OP) reported its

conditional approval of the proposed development. The OP reported as to the following conditions affecting the planned units:

- a. Arrangement of Buildings: Office of Planning recommended that the wall treatment separating the existing and proposed developments be continued for the length of the western boundary so as to afford privacy to the new units' rear yards and to respect the integrity of the existing units' front entrances at this location.
- b. Light and Air: There will be ample natural light and air afforded the future residents of the project. The yard setbacks and arrangement of the buildings and provision for open walks and common areas lend an interesting and spacious feeling to the development.
- c. Parking: The development meets the one to one parking requirement for residential development in the R-5-A District. With the applicant's development of the street and curb as proposed by DPW, additional spaces will be created for overflow resident parking needs and visitor accommodations.
- d. Landscaping In assessing the landscaping needs for the proposed development, OP looked to the existing and adjacent development for guidance. The most glaringly apparent need for beefed up landscaping in the existing development is the parking lots. Without interior landscaped islands on these lots the barren asphalt expanse is an eyesore to the residents and passersby. The sparse peripheral planting around these lots makes it clear that heavier landscaping is needed on the interior and periphery of the parking lots in this application. The applicant's plans show landscaping on sheet No. 1 - LA. The plans show 17 trees located throughout the site, no foundation plantings (traditionally ever-greens), low growing boxwoods around the perimeter of the parking areas, and periwrinkle ground cover in the public space at the entrance to the parking lot. The Office of Planning reported that this plan is far from adequate in addressing the needs of a 48 unit development on a two acre tract of land. The applicant's plans should provide for an increase in the number

of trees and foundation plantings. The landscape plan submitted does not include a schedule of planting materials, number of plants, types of plants, planting methods and maintenance, as it should.

The Office of Planning further reported that the existing development's trash dumpsters are sited on the outside wall of the parking lots. These dumpsters are a constant eyesore, as they are not enclosed, or landscaped in any way from view. The driveways leading to the dumpsters are flanked by large, water-filled truck tire and ruts in the lawn adding to this objectionable situation. The OP recommended that the proposed development first specify on the plans where the trash dumpsters will be located and show how they will be shielded from view and accessed by trucks so as not to damage its environs.

- e. Grading: Water run off during and after construction is an issue in this case. The subject site slopes to the east where there exist single family dwellings along 20th Street. The applicant should be required to specify how water run off will be diverted away from these dwellings and facilitated by the City's sewer system. There is evidence of soil erosion beginning to occur on the existing development. Exterior stair foundations and buildings walls are beginning to show the effects of erosion where foundation plantings or alternative grading may have avoided this situation.
- f. Recreation: Each of the 48 dwelling units proposed is designed to include a rear or side yard. These yard areas are available for private on-site recreational activities, as dictated by the individual occupants' life styles. The plans do not show the provision for any paved patio areas, or privacy fencing to separate the exterior recreational areas of each unit. The plans do indicate that the end units will have a brick wall enclosed yard area.
- g. Impact on Surrounding Neighborhood: The proposed project will have a generally positive impact on the surrounding neighborhood. It will complete the proposed development initiated in 1980. While there are some

changes in the number of units, design and site plan, the proposed project will be generally consistent with the first phase. Also, new residential development in that location is consistent with the Comprehensive Plan for the area, acts as a transition between the industrial area to the south and the detached dwellings to the northeast and will likely contribute to the stability of the area. On the other hand, a few specific impacts, mentioned previously, could occur without some mitigation of the visual presence of the parking areas as seen from the street and some screening of the clustered units as seen from the five detached homes on the east.

31. The Office of Planning further commented on the special exception the applicant is seeking under Sub-section 3307.2. OP reported that the rear entrances are all internal and do not abut front yards or courts, all stairs above the main floor are interior stairs, and the grouping of the dwellings should not adversely impact the character of the neighborhood.

32. The Office of Planning further reported on the variance requested from the FAR requirement of Sub-section 3302.1. The OP confirmed Finding No. 10.

33. The Office of Planning concluded that the application generally meets the criteria for the requested special exceptions and variance. The OP recommended that the approval of the application be subject to the following conditions:

- a. That the applicant provide a wood stockade fence or other screening between the site and the single-family detached dwellings along the eastern boundary and (b) provide walls or other appropriate screening between the parking areas and the street(s) and (c) locate and screen any additional trash dumpster such that it will not adversely impact the neighboring and (d) comply with the three conditions in the DPW report which were contained in the original order for the site.

34. The Board concurs with the general reasoning and recommendation of the OP. The Board finds that the applicant has agreed to comply with all conditions suggested by the OP. The Board further finds that the developer has submitted revised plans indicating heavier landscaping including foundation planting for the site. Although no

interior landscaping islands are indicated for the parking lots, there are substantial peripheral plantings. The Board notes that the applicant is required to submit storm water management plans and erosion control plans to the District Department of Environmental Control for their approval.

35. In a letter dated December 4, 1985, Advisory Neighborhood Commission (ANC 5B) reported that it was not opposed to the building of any properties that will relieve the housing conditions in the District of Columbia. The ANC did express concern about the following items:

- A. Allowing a group of dwellings with division walls from the ground up to be deemed a single building as this may cause a fire hazard.
- B. Allowing the floor area ratio to be reduced according to the Century Financial Corporation ideal, not D.C. Regulations.
- C. Will problems with the deterioration of condos already constructed in the areas of Bryant Street, N.E. and Channing Streets also occur in the new structures.
- D. The impacts on neighborhoods, schools and streets.
- E. The proposal's compliance with the D.C. Comprehensive Plan.
- F. The lower part of the premises as marsh land with a possible spring of stream running underground.
- G. The environmental conditions such as erosion and inadequate drainage at Channing Courts and the possibility of worse conditions in the lower grounds of the new development.

The ANC further reported that there was wide spread opposition to the subject application by residents and property owners in the vicinity of the site and that to grant a special exception would not be in accordance with Sub-section 8207.2.

36. The Board is required by statute to give "great weight" to the issues and concerns of an ANC reduced to writing and resulting in a recommendation on an application. The Board accords "great weight" only to pertinent zoning issues. In the subject application, the Board finds that it can not assume the jurisdiction of other D.C. Government agencies such as the Fire Department or Environmental

Services. For a building permit to issue, the application must meet the requirements of these other departments in addition to the zoning requirements. The Board finds that items B through E have already been addressed in the governmental reports discussed above. The Board further finds that the allegation of wide spread opposition to the subject application is not substantiated by the record. Finally, the Board finds that many of the concerns expressed by the ANC will be allayed through the conditions imposed below by the Board in the granting of the application.

37. Channing Court Condominium presented written comment, and also the testimony of some of the condominium, co-owners. Concerns included the fact that Phase I lighting had erroneously been placed to the east of the Channing Court Condominium property line; Channing Court Condominium did not wish pedestrian access between the proposed development and its property; and Channing Court Condominium was concerned about the exterior building material for the proposed development. The developer agreed to relocate at its expense the Phase I lights onto Channing Court Condominium property, at locations to be designated by the Condominium; to erect a five foot high cedar fence along the common border of the Condominium and proposed development, and would eliminate a contemplated sidewalk at the boundary line; and specified aluminum siding and stucco as building materials for the exterior of its townhouses, so that the townhouses will be compatible with the Channing Court Condominium and the surrounding neighborhood.

38. One Channing court unit owner testified that when she bought her unit she thought that the subject site would be developed as part of Channing Court Condominiums since those were the plans approved by BZA Order No. 13267. The New development is a total change from the original plan. The Board finds that this issue is outside the scope of the Board and the Zoning Regulations which do not govern condominium operations.

39. At the public hearing, a neighbor living in one of the detached houses to the east, questioned how the developer would handle the storm water run-off during and after construction on the site, noting that the site slopes to the east. The original site development plan, prepared at the time of the application in No. 13267, and used for the development of the Channing Court Condominium, provided for acceptable drainage both during and after construction. The developer has adopted the original site development plan and the rough grading and preparation for residential development has already been completed. As shown by the original plan, yard drains would be constructed to carry storm water run-off at the east of the site south into the Bryant Street storm sewer.

40. As a post hearing submission, the Channing Court Condominium Association submitted a statement that a redwood fence separating the condominiums from the proposed townhouses would not be acceptable to them as they preferred a brick or iron fence. The Board notes that the proposed fence will be cedar and will be visually harmonious with the existing and proposed structures as well as providing adequate screening between the buildings.

CONCLUSIONS OF LAW AND OPINION:

The applicant is seeking two special exceptions and two variances. In order for the two exceptions to be granted, the applicant must demonstrate that it has complied with the requirements of Paragraph 3105.42 and Sub-sections 3307.2, and that the relief requested can be granted as in harmony with the general purpose and intent of the Zoning Regulations and that the relief will not tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met its burden of proof as demonstrated in the above findings of facts.

The Board further concludes that the granting of the area variances from Sub-section 3302.1 and 7206.91 of the regulations requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. The Board concludes that the applicants have met their burden of proof. The Board notes that the applicant has created a plan, so that for the site as a whole the proposed FAR is only 0.886, less than the 0.9 maximum floor area ratio of Sub-section 3302.1. The Board concludes that from an overall site planning perspective, granting the variance necessary to permit some theoretical lots to be smaller than required (on an individual basis) will achieve other objectives which further the worth of the project as a whole, and permit the development of affordable housing at a lower density than originally approved in Application No. 13267. The Board notes that the applicant's plan meets the one-to-one parking requirement for residential development in the R-5-A District, and that with the applicant's development of the street and curb as proposed by DPW, additional spaces will be created for overflow resident parking needs and visitor accommodations. The Board further notes that the applicant's project will meet the five percent landscaping requirements for parking lots, and that the plan adequately treats landscaping of the parking lots to lessen the visual effect of the asphalt parking areas. Accordingly, the Board concludes that the requested variance from the landscaping requirement for all

open parking spaces should be granted, to the extent that a variance may be required under Sub-section 7206.91. Further, the relief granted for both variances will be without substantial detriment to the public good and without substantial impairment of the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps.

The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled by statute. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

- a. The applicant shall construct totally at its expense, in accordance with the Department of Transportation's specifications and grades and subject to the Department's approval, curbs, gutters, drainage structures, and sidewalk on the north side of Bryant Streets, N.E., between Eighteenth and Twentieth Streets, N.E.
- b. The applicant shall construct totally at its expense, in accordance with the Department's specifications and grades, and subject to Department approval, curbs and gutters, drainage structures, and sidewalk on both sides of Channing Street, N.E., between Eighteenth and Twentieth Streets, N.E. and the driveway for the development's eastern-most parking lot.
- c. The applicant shall construct a cul-de-sac turnaround at the resulting deadend of Channing Street, N.E.
- d. The applicant shall provide a six foot high fence between the site and the single-family detached dwellings along the eastern boundary.
- e. The applicant shall provide a five foot high fence between the site and the Channing Court Condominium along the western boundary.
- f. The applicant shall provide screening between the parking area and street in accordance with the plans marked as Exhibit No. 35A of the record.
- g. The applicant shall locate and screen additional trash dumpsters, in accordance with the plans marked as Exhibit No. 35A of the record.

- h. The applicant shall provide landscaping in accordance with its revised landscape plan marked as Exhibit No. 35A of the record.
- i. The applicant shall, at its expense, move the lights belonging to the Channing Court Condominium from the subject site onto the property of the Channing Court Condominium, at locations to be specified by the Channing Court Condominium.
- j. The applicant shall use exterior building material for its proposed townhouses as specified in the revised plans marked as Exhibit No. 35A of the record.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; John G. Parsons to grant by proxy; Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
EDWARD L. CURRY  
Acting Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

30 MAY 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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