

# Government of the District of Columbia

## ZONING COMMISSION



ZONING COMMISSION ORDER NO. 526

Case No. 86-28

April 13, 1987

(Phylmar Plaza - Map Amendment)

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on March 16, 1987. At that hearing session, the Zoning Commission considered an application from John K. Hoskinson, on behalf of Phylmar Tenants Association, Inc. and Phylmar Plaza Development Corporation, for review and approval of a map amendment, pursuant to Section 102 of the District of Columbia Municipal Regulations (DCMR, Title 11, Zoning). The public hearing was conducted in accordance with the provisions of Chapter 30 of Title 11.

### FINDINGS OF FACT

1. The application was filed on December 5, 1986 and requested review and approval of a map amendment from R-1-B to R-5-A for lot 111 in Square 1318, including part of an extension of an undeveloped street which is proposed to be closed.
2. The site is located at 4100 W Street, N.W., is triangular in shape, and abuts 42nd Street to the west, W Street to the north and U.S. Reservation No. 357 to the south. The area of the site contains 69,121 square feet, including the undeveloped portion of the 42nd Street which proposed to be closed.
3. The applicants requested the change of zoning to make an existing multi-family residential use conforming, and thereby facilitate the resolution of insurance and financing problems.
4. The existing structure on the site was erected in 1956 under the prior zoning ordinance.
5. 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.

6. The R-5-A District permits matter-of-right single-family detached and semi-detached dwellings, and, with the approval of the Board of Zoning Adjustment, low density development of general residential uses, including rowhouses, flats, and apartments to a maximum floor area ratio (FAR) of 0.9, a maximum lot occupancy of forty percent, and a maximum height of three-stories/forty feet.
7. The Generalized Land Use Map of the Comprehensive Plan for the National Capital shows the property in a moderate-density residential land-use category.
8. The zoning pattern in the area includes R-5-A to the north; federal unzoned park land to the immediate west, south, and southeast; R-1-B farther south and southeast; R-5-C far south; and R-3 farther east.
9. The zoning history for the site consists of the following:
  - a. The land use map of 1955 showed the property as vacant;
  - b. The proposed zoning map dated May 1, 1956 shows the property as unzoned, and, incorrectly, as part of the federally-owned Whitehaven Parkway;
  - c. The "Lewis Plan" dated November 9, 1956 shows the property as an R-1-B District, without explanation of the rationale for that classification; and
  - d. The property was zoned R-1-B without an explicitly-stated intention to render the structure a non-conforming use or an explicit recognition of that effect.
10. The applicants are jointly converting the building from a rental apartment status to condominium ownership. The applicants have had substantial difficulty in obtaining insurance and financing for the purchasers of the individual units, because of the status of the property as a nonconforming use. Such difficulties would be substantially lessened if the property were rezoned to R-5-A, with the use thereby becoming a conforming one.
11. The applicants intend to request the Council of the District of Columbia to approve the closing of the unbuilt extension of 42nd Street to the west of the site. The applicants maintain that the only purpose of

the closing is to ensure that certain parking spaces become legally and functionally a part of the condominium. The bulk of the land obtained from the street closing will go to the U.S. National Park Service (NPS).

12. The District of Columbia Office of Planning (OP), by memorandum dated March 5, 1987 and by testimony presented at the public hearing, recommended approval of the application. OP observed that the change in zoning to R-5-A would render the existing use a conforming one.
13. The Advisory Neighborhood Commission (ANC) 3B, by report dated January 15, 1987, unanimously supported the zoning change from R-1-B to R-5-A.
14. There were no other parties or persons in support of or opposition to the application.
15. The Commission concurs with the recommendation of OP and the position of ANC-3B, and finds that zoning the site to R-5-A is appropriate.
16. The Commission recognizes that the applicants and NPS are negotiating to determine the amount of land that will be ceded or conveyed to the applicants, pursuant to the conclusion of the street closing process. In this decision, the Commission has provided that the zoning of the land which is conveyed to the applicants will be effective upon the conveyance of that land.
17. Upon consideration of all relevant elements of the Comprehensive Plan, the Commission finds that R-5-A zoning for the site is not inconsistent with the Comprehensive Plan for the National Capital.
18. The proposed decision of the Zoning Commission in this application 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, 1987, found that the proposed rezoning would not adversely affect the Federal Establishment or other Federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.
19. The Zoning Commission finds the applicant has satisfied the criteria of Chapters 1 and 30 of DCMR, Title 11, Zoning.

CONCLUSIONS OF LAW

1. Zoning to R-5-A as set forth herein is in accordance with the Zoning Act (Act of June 20, 1938, 52 Stat. 797) by furthering the general public welfare and serving to stabilize and improve the area.
2. Zoning to R-5-A will promote orderly development in conformity with the entirety of the District of Columbia zone plan as set forth in the Zoning Regulations and Map of the District of Columbia.
3. Zoning to R-5-A will not have an adverse impact on the surrounding neighborhood.
4. Zoning to R-5-A is appropriate for the site.
5. Zoning to R-5-A would not be inconsistent with the Comprehensive Plan for the National Capital.
6. Approval of this application is consistent with the Declaration of Major Policies of the Housing Element of the Comprehensive Plan.
7. The Zoning Commission has accorded ANC-3B the "great weight" to which it is entitled.

DECISION

In consideration of the findings of fact and conclusions of law herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of the following amendments to the District of Columbia Zoning Map:

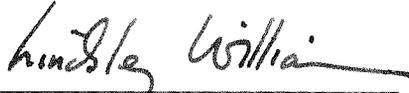
1. Change from R-1-B to R-5-A lot 111 in Square 1318, located at 4100 W Street, N.W., as shown on the plat marked as Exhibit No. 5 of the record; and
2. Change from unzoned to R-5-A that portion of the undeveloped extension of 42nd Street which is proposed to be closed. The R-5-A zoning of this unzoned land shall be effective upon the filing in the records of the Zoning Commission of documentation of the conveyance of said land to the applicants.

Vote of the Zoning Commission at the conclusion of the public hearing held March 16, 1987; 4-0 (Commissioners John G. Parsons, Patricia N. Mathews, Lindsley Williams and Maybelle T. Bennett, to approve R-5-A - George M. White, not present, not voting).

This order was adopted by the Zoning Commission at its public meeting held on April 13, 1987, by a vote of 4-0: (John G. Parsons, Patricia N. Mathews and Lindsley Williams, to adopt as amended and Maybelle T. Bennett, to adopt by absentee vote - George M. White, not present not voting).

Z.C. ORDER NO. 526  
CASE NO. 86-28  
PAGE 5

In accordance with 11 DCMR, Section 3028, this order is  
final and effective upon publication in the D.C. Register;  
that is on 08 MAY 1987.



LINDSLEY WILLIAMS  
Chairman  
Zoning Commission



EDWARD L. CURRY  
Acting Executive Director  
Zoning Secretariat

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