

WESLEY HEIGHTS ZONING OVERLAY

**A GUIDE FOR HOMEOWNERS,
REAL ESTATE PROFESSIONALS,
AND ARCHITECTS**

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*

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 Klingle 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		

**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:

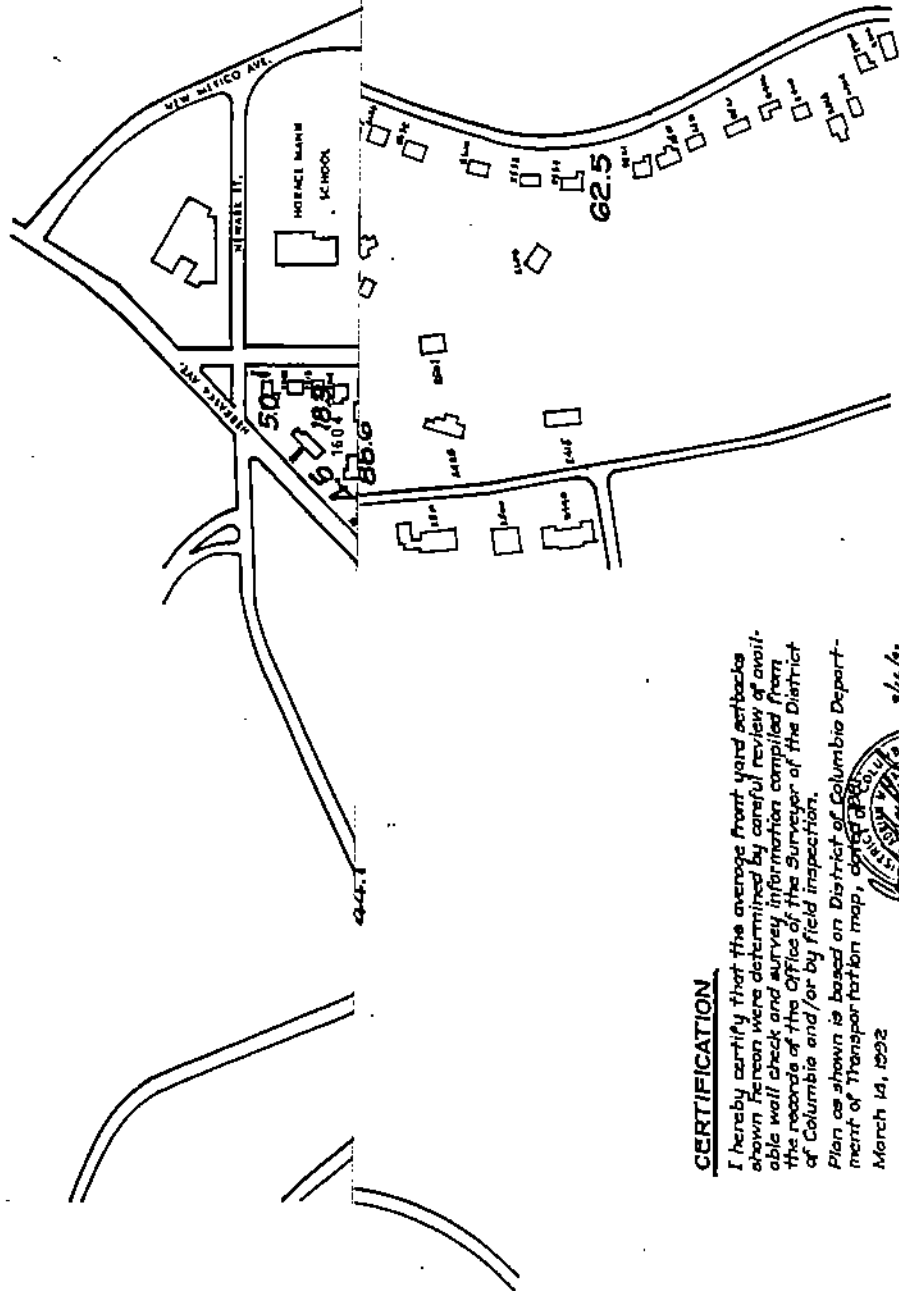
Mort Press	(202) 966-5616
Barbara Wierzynski	(202) 363-3874
Sandra Rennie	(202) 363-1072

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:

Merribel 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.

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

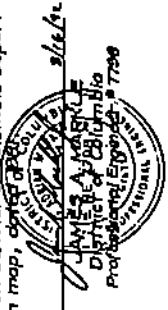


CERTIFICATION

I hereby certify that the average front yard setbacks shown herein 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 8/20/81.

March 14, 1992



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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:

Z.C. ORDER NO. 718
CASE NO. 90-5
PAGE NO. 2

"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 inclined to support a separate hearing action on the matter, as opposed to including the matter with the city-wide Comprehensive Plan rezoning initiative. The

Z.C. ORDER NO. 718
CASE NO. 90-5
PAGE NO. 3

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

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

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);

- 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.

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).

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:

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

1541 WESLEY HEIGHTS OVERLAY DISTRICT

- 1541.1 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.
- 1541.2 The WHOD will apply to the area and properties contained in this subsection.

- (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

- (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.

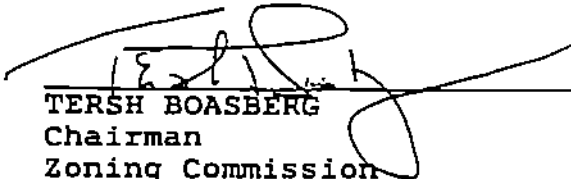
2. Amend the Zoning Map to map the Wesley Heights Overlay District as described in Section 1541.2 of this chapter.

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).

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



TERAH BOASBERG
Chairman
Zoning Commission



MADELIENE H. ROBINSON
Acting Director
Office of Zoning

zco718/LJP