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July 25, 2005

BY MESSENGER

Ms. Carol Mitten
Chairperson
D.C. Zoning Commission
441 4th Street, N.W., Suite 210
Washington, D.C. 20001

Re: Proposed Mount Vernon Triangle (Overlay) District,
Z.C. Case No. 04-18

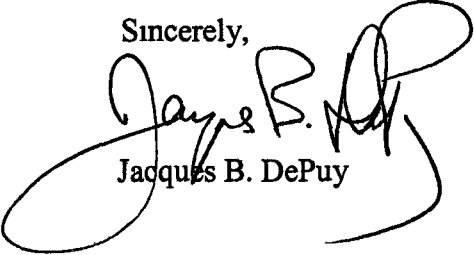
Dear Ms. Mitten and Members of the Commission.

In furtherance of the testimony of Messrs. Robert M. Gladstone, Charles C. Wilkes, Louis J. Slade and Graham Davidson given at the public hearing on June 30, 2005, I enclose an original and twenty (20) copies of an outline of the testimony of Robert M. Gladstone and Charles C. Wilkes and two exhibits to such testimony. Exhibit "A" contains four (4) recommended substantive revisions to the proposed Overlay and Exhibit "B" contains several recommended technical revisions to the Overlay.

We respectfully request that these materials be reviewed and given consideration, as appropriate, by the Commission and included in the record.

Please ask the Office of Zoning staff to contact me if you or they have any questions.
Thank you.

Sincerely,


Jacques B. DePuy

JBDmac
Enclosures

~~ZONING COMMISSION~~
District of Columbia

CASE NO. 04-18
EXHIBIT NO. 24

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District of Columbia
CASE NO. 04-18
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Carol Mitten

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**cc: Mr Robert M Gladstone
Mr Charles C Wilkes
D. Graham Davidson, FAIA
Louis J. Slade, PE
Ms Jennifer Steingasser
Mr. Stephen Cochran
[All copies w/encl by mail]**

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OUTLINE OF TESTIMONY OF ROBERT M. GLADSTONE
AND CHARLES C. WILKES

ON BEHALF OF MOUNT VERNON PLACE, LLC TO
ZONING COMMISSION REGARDING MVT OVERLAY

Z.C. CASE NO. 04-18

Panel members: (A) Robert M. Gladstone and Charles C. Wilkes, Mount Vernon Place, LLC, (B) Graham Davidson, FAIA, Hartman-Cox Architects (C) Louis J. Slade, P.E., Gorove-Slade Associates, and (D) Jacques B. DePuy, Esquire, Greenstein DeLorme & Luchs

1. Owners and developers of “Mount Vernon Place” – mixed used development involving 4 squares and 2.2 m square feet, including Square 516 on K Street which is subject to proposed MVT Overlay;

2. Active participants in Mount Vernon Triangle Task Force with OP and other property owners resulting in Action Agenda;

3. Support many of the concepts and general thrust of the proposed MVT Overlay;

4. Nevertheless, believe that several of the provisions of the proposed Overlay are too restrictive or reflect an unreasonable and inappropriate approach to implementing broad policy goals.

5. After carefully reviewing proposed Overlay, have prepared (i) general comments and recommendations [SEE Exhibit "A"] and (ii) technical revisions [SEE Exhibit "B"]. **Principal concern is proposed total prohibition of any curb cuts in the eastern half of Square 516.** This is (a) inappropriate and arbitrary since K Street in this location is not identified by OP as a pedestrian-oriented street with required ground floor retail uses and (b) burdensome and unreasonable because such a prohibition will result in a bottleneck condition in the narrow 15 foot N-S alley that leads to the interior of Square 516. In addition, proposal will adversely affect our ability to attract a non-profit association which will require access to its parking garage from K Street.

Exhibit "A" to Testimony of Robert M. Gladstone and
Charles C. Wilkes

RECOMMENDED REVISIONS TO MVT OVERLAY SUBMITTED
BY MOUNT VERNON PLACE, LLC WITH EXPLANATORY
COMMENTS

1. Restrictions on Driveways. Proposed section 1730.2 would prohibit any driveways that provide access to parking spaces or loading facilities on the south side of K Street between 4th Street and 7th Street. Mount Vernon Place, LLC property in Square 516 would be adversely affected by this proposal.

First, Square 516 is much longer -- and has more street frontage -- than most other squares in downtown. Because of this atypical length, we plan as many as three (3) buildings within the eastern half of Square 516.

Second, since projects in the eastern half of Square 516 are not required by the proposed overlay to provide ground floor retail uses and since OP agreed with us in the Mount Vernon Triangle Task Force that retail uses at this location were unlikely, there is no justification for a policy that prohibits all curb cuts in an area that is not planned to be pedestrian-oriented.

Third, the north-south alley that provides access to the interior of Square 516 is narrow. Given the heavy use of the interior alleys by the INS and in view of the fact that as many as 5 or 6 large buildings will likely be constructed in Square 516, the north-south alley would become a bottleneck.

Fourth, we cannot agree with OP's view that a special exception should be sought for any driveway in Square 516. Since retail uses are not contemplated in the eastern half of this block, it is inappropriate and unnecessary, as well as expensive and time-consuming, to be forced to seek approval from the BZA for a curb cut.

Based on the foregoing, we recommend that, if section 1730.2 is included in the final MVT Overlay, it should be revised to read as follows: "No driveway may be constructed on the south side of K Street between 7th Street and the north-south public alley that is located in the center of Square 516 approximately 375 feet west of 4th Street...." Alternatively, if the Zoning Commission does not agree with this recommendation, we urge that a minimum of one (1) curb cut be allowed in the eastern half of Square 516. We prefer greater flexibility than would be provided by a single curb cut, but believe that one (1) curb cut would at least allow us to

provide a garage entrance to one of the three buildings we propose on K Street to be accessed off 4th Street, the garage to the second building to be accessed on K Street and the garage to the third building to be accessed from either the north-south or the east-west alley in Square 516. Such an arrangement (i) will reduce congestion in the narrow north-south alley more effectively than if no curb cut on K Street is allowed and (ii) will result in only a single curb cut in a stretch of 375 linear feet.

2. Definition of "Office" Use. Our property in Square 516 is located in an area labeled by OP as a "Secondary Use Sub-area." Buildings in such areas may provide ground floor retail, service or **office** use. Allowing office use in such areas was discussed in some detail in the Task Force and endorsed by OP because the eastern half of Square 516 is not close enough to the intersection of 5th and K, the area in which retail uses are to be concentrated, to expect retail use to be successful.

However, the list of allowable office uses set forth in section 1732.3 is far too specific and far too restrictive. Thus, an "architect" is specifically allowed -- but a "surveyor", "professional engineer" or "urban planner" is apparently not permitted. A "stockbroker" is allowed -- but a "financial planner" is not allowed. A "public Agency Office" is allowed -- but a "public relations" firm or an "advertising" firm is excluded. This is the wrong approach. This approach doesn't apply elsewhere in the DD District. It was also specifically rejected by the Zoning Commission in the SP zones when the Commission allowed "general office" to replace a limited list of permitted non-profit and other office uses. We recommend that "general office use" replace the specific list of authorized office uses proposed by OP.

3. Depth of Required Streetwall Design Requirements. We support the streetwall design requirements -- such as those that pertain to display windows, low-emissivity glass and building entrances -- to a depth of 36 feet from K Street on 4th Street in Square 516 as contained in the Notice of Public Hearing. In other words, we support the advertised proposal. However, we cannot support the recommendation made by OP, in "Comment No. 1" to the June 20th OP report, that such depth should be revised --and extended -- to 72 feet. We take this position because 4th Street in our master plan for "Mount Vernon Place" and in the Action Agenda is a quiet residential street. As a result, building design on 4th Street should reflect this important objective.

4. Office of Planning Review of Permit and C. of O. Applications and Moratorium on Action by Zoning Administrator. Proposed sections 1721.1 and

1721.2 contain requirements regarding review of applications for building permits and certificates of occupancy within the MVT District that are substantially different from, and much more restrictive than, similar provisions that apply to all other properties located in the Downtown Development District.

The proposals for the MVT District would require all applications for a building permit and all applications for a certificate of occupancy to be submitted to OP. By contrast, elsewhere within the DD District, only those building permit and C. of O. applications involving more than 10,000 square feet of GFA require OP review.

Furthermore, the MVT provisions propose to establish a seventy-five (75) day *moratorium* on any action by the Zoning Administrator on such applications. There is no comparable provision that is applicable elsewhere in the DD District.

We submit that it is fundamentally unfair and discriminatory to property owners and building tenants in the MVT District to inexplicably burden them with requirements that do not exist elsewhere in the DD District. We also submit that it is unnecessary and burdensome to have every application for a building permit, including those for minor tenant fit-out work, and every application for a C. of O., without regard for the size of a tenant's space, reviewed by OP and subject to a moratorium by the Zoning Administrator. We strongly recommend that these provisions be deleted.

Exhibit "B" to Testimony of Robert M. Gladstone and Charles C. Wilkes

ADDITIONAL RECOMMENDATIONS FOR TECHNICAL REVISIONS TO PROPOSED DD/MVT OVERLAY DISTRICT SUBMITTED BY MOUNT VERNON PLACE, LLC

1 Proposed sections 1722 2 and 1722 3 refer to "(e)ach building on a lot that fronts on a pedestrian street..." However, these sections fail to define which streets within the MVT area are designated as pedestrian streets Furthermore, and of greater concern, such language could be interpreted to apply to the entirety of a building that fronts on a designated street, rather than only that portion of the building that is located within the MVT District We recommend that these provisions be revised to read "The portion of any building that is subject to section 1722 1 shall devote . " Proposed section 1722 4 refers to "Each building ...", has the same deficiencies as Sections 1722 2 and 1722 3 and should be revised in the same manner as such sections.

2. The special exception standards proposed in section 1731.6 are unduly restrictive They are so restrictive that it is difficult to imagine that any application for a special exception that applies such standards would ever be granted We suggest that more general standards, such as those that pertain to the Arts Overlay District or the Neighborhood Commercial Overlay Districts, be inserted in lieu of proposed section 1731.6