

BOASBERG & NORTON

ATTORNEYS AT LAW

1233 20TH STREET, N.W., SUITE 501

WASHINGTON, D.C. 20036

(202) 828-9600

TERSH BOASBERG
THOMAS A. COUGHLIN
ELIZABETH LANGER
JULIA H. MILLER
JOHN MULLER
EDWARD W. NORTON

March 27, 1987

1987 MAR 30 PM 3:44
ZONING SECRETARIAT
DISTRICT OF COLUMBIA

Mr. Fred L. Greene, Director
Office of Planning
415 12th Street, N.W.
Washington, DC 20004

re: Cleveland Park: Coordination of Zoning and
Historic Preservation

Dear Fred:

I am glad that if the requested grant from the National Trust is funded, it will enable you to study in more detail the desirable zoning approach to urban low density, local commercial centers such as those on Connecticut and Wisconsin Avenues in Cleveland Park. Central to this study should be the coordination of zoning and historic preservation concerns under the City's Comprehensive Plan, since the Connecticut strip lies wholly within the new Cleveland Park Historic District and the east side of Wisconsin Avenue (zoned for high rise apartments) also is within the District.

I am greatly concerned that unless O.P.'s recommended zoning classifications respect historic preservation essentials (compatible height, scale and appearance), our historic preservation law will be eviscerated, much to the detriment of our neighborhoods and our City. There is potential here for a head-on collision between zoning and historic preservation: politically, philosophically and legally. Nowhere is this better illustrated than in Cleveland Park.

1. Cleveland Park Particulars

A. Connecticut Avenue

The commercial strip between Macomb and Porter Streets contains 57 small, older commercial buildings. Forty of the buildings are only one-story high; 5 have 3 stories; and 11 have

ZONING COMMISSION
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District of Columbia
CASE No. 96-26
EXHIBIT No. 23

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two.^{1/} The street is not only low in height, but it is quite small in scale and size as well. For example, the entire retail and apartment square footage of the two blocks on the east side of Connecticut between Macomb and Porter is only 175,000. These small scale, neighborhood oriented shops and buildings, in the words of the D. C. Historic Preservation Review Board's (HPRB) Staff Report, greatly contribute to Cleveland Park's ". . .unique character as a livable in-town suburban community of single houses, apartment houses and small businesses."^{2/} In other words, the size, scale, and historic nature of the Connecticut buildings were essential reasons why Cleveland Park was designated by the HPRB as an Historic District under Law 2-144 and nominated to the National Register of Historic Places.^{3/}

Current zoning for these blocks is C-2-A, allowing for 50 feet and a 2.5 FAR. Already one developer (Park and Shop site) has announced plans to request a PUD (beyond even current zoning) to construct a 65-foot, 178,000 sq. ft. office building: a height, density and use which are clearly incompatible with the character of the existing historic district (to say nothing of the historic building which would be demolished in the process). Moreover, another party has assembled approximately 50,000 square feet across Connecticut from the Park and Shop site and has announced (at the first meeting of the Connecticut Avenue Corridor Committee) that she intends to request a PUD for development to its full potential. In addition, the Uptown Theatre and the Macklin-Four Provinces sites could be economically developed to and beyond C-2-A.

B. Wisconsin Avenue

The one-story commercial strip on the west side of Wisconsin from Lowell to Idaho (Giant, Murphy's) has very deep lots, is currently zoned C-2-A, and is in immediate danger of

^{1/} The Uptown Theatre is the 57th. There are also 8 older apartment houses ranging from 3 to 5 stories.

^{2/} HPRB Staff Report, Designation Case No. 85-10 at p. 4 (1986). Report enclosed.

^{3/} A 111-page detailed historical and architectural examination of the commercial properties on Connecticut Avenue is enclosed, The Development of Connecticut Avenue in Cleveland Park by Cherrie Anderson and Ned W. Dearborn (1986).

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rapid assembly and development. It is directly opposite the residential Wisconsin boundary of our Historic District.

The east side of Wisconsin is within the District and contains portions zoned for R-5-B and R-5-C (60 and 90 foot apartments) -- a terrific incentive to demolish the few historic houses left. Witness the demolition of the residence at 3217 Wisconsin on March 14, 1986 (two days after our historic district hearing), the building permit for which calls for a 7 story, 25 unit apartment house. A demolition permit also has been requested for the corner house on Wisconsin and Macomb (3620 Macomb) but, fortunately, a landmark application will delay demolition until HPRB hearing.

Thus, it is amply clear that both on Connecticut and Wisconsin current zoning classifications create powerful economic incentives to demolish historic structures, encourage new construction and, consequently, greatly undermine the efficacy of the District's important and much copied Law 2-144.

2. Historic Preservation and Zoning: The Policy Challenge

The expansion of the historic preservation movement in the last ten years has been truly spectacular as cities and citizens revitalize their communities and come to respect the history, diversity and human scale of their built environment. Since 1976, the National Park Service reports that 16,000 projects totalling over \$11 billion have qualified for federal rehabilitation tax incentives.^{4/} In this same period, listings on the National Register have grown from 13,492 to 46,967, including 5,800 historic districts (like Cleveland Park) containing over 500,000 contributing structures.^{5/} There are now over 1,200 local historic preservation commissions around the country and every state and virtually every large and medium sized city has enacted laws like 2-144 encouraging historic preservation.

Often the relatively recent historic preservation laws (ours was 1978) have not been fully coordinated with earlier enacted

^{4/} Telephone conversation with H. Ward Jandl, Chief, Technical Preservation Services, National Park Service, Department of Interior, Washington, D.C.

^{5/} Telephone conversation with John Burns, statistician, National Register of Historic Places, Department of Interior, Washington, DC.

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municipal zoning laws. As a consequence, D.C.'s zoning, like that of other cities, does not take historic preservation into serious account.

On the other hand, cities that have recently reexamined the interplay between their zoning and historic preservation laws have integrated the two in a mutually supportive manner. For example, the City of Roanoke, Virginia aided by a grant from the National Trust, recently enacted a comprehensive development plan that created two new historic preservation zoning categories. As the Roanoke report noted:

"While some of elements of the new plan and ordinance are innovative, the purpose was not merely to devise new techniques, but rather to revise and coordinate all aspects of the city's official land development policies and regulations to promote preservation, design quality and neighborhood conservation. . . . The success of this approach in Roanoke shows that other cities can also take the lead in developing a cooperative approach that makes preservation and neighborhood concerns important elements of the land use decision-making process."^{6/}

Similarly in San Francisco, Denver, Seattle, and Dallas, zoning laws are being revised to enhance the gains made by recent historic preservation designations in both residential and commercial neighborhoods and in downtown areas as well. I am enclosing two short articles illustrating the advantages of coordinating zoning and historic preservation. The first is an excerpt from (Washingtonian) Chris Duerksen's note on historic preservation in 1984 Zoning and Planning Law Handbook (Clark Boardman Co., Ltd.), and the second is from my own chapter on local ordinances in Boasberg, Coughlin and Miller's Historic Preservation Law and Taxation (Matthew Bender and Co.). I hope you will find these helpful.

3. Historic Preservation and Zoning: The Legal Challenge

Not only do we have a real political and philosophical problem with zoning laws which encourage demolition of historic structures, but under D.C. law we have a potentially irreconcilable legal conflict as well. For example, in Cleveland Park, the

^{6/} Roanoke Vision, Zoning: A Process for Balancing Preservation and Change, 1986, at p. 6. Copy enclosed.

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Park and Shop developer would have to first go to the Zoning Commission for a PUD (or if he wanted to stay within C-2-A limits, he could do so as a "matter of right"). However, the developer would then have to go through an entirely separate historic preservation review process under 2-144.

Even though the developer may have Zoning Commission approval for a PUD (or have "matter of right" zoning), still he would have to prove, under 2-144, that the proposed new construction was both (1) a project of "special merit" in order to demolish the old Park and Shop (D.C. Code § 5-1003, 1004), and (2) compatible in "design" with the "character of the historic district" (§ 5-1007). Since the term "design" includes "height" and "appearance" (i.e., bulk, scale) under § 5-1002(4), it is quite possible that the HPRB (or the Mayor's agent) would hold that the height and bulk allowed by the Zoning Commission (or by "matter of right") were not proper under 2-144. This potential conflict between the two commissions could not be resolved under current law.

4. The Solution

We hope your study will recommend one of three possible solutions to the dilemma in D.C.

A. A new "historic preservation zoning" classification for low density, historic, commercial areas like those on Connecticut and Wisconsin which could be tailored in height, FAR and use to their surroundings;

B. An historic district "overlay" zone on Connecticut and Wisconsin which would impose the same constraints on compatibility of new construction as does D.C. Law 2-144; but would be administered in a joint fashion by the Zoning Commission and the HCRB; or

C. A rezoning to C-1 on Connecticut and the west side of Wisconsin, with R-5-A on Wisconsin's east side.

All these suggestions would fully accommodate existing businesses. The new zoning categories would serve to discourage demolition and non-adaptive reuse by reducing the economic incentives for inappropriate, large-scale development. At the same time, by furthering historic preservation, the City would greatly encourage rehabilitation and adaptive use (helped by Federal tax incentives) of existing commercial structures -- thereby increasing the City's tax revenues. It would also stop the

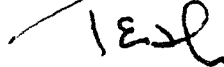
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deterioration in property values of nearby residential parcels on the side streets; further enhance the livability of our older urban neighborhoods; significantly lessen traffic congestion, noise and pollution; and direct new office construction to other parts of the City where it is desired and appropriate.

I have stated only the historic preservation concerns for rezoning in Cleveland Park. My next letter will direct itself to the other reasons for rezoning as expressed in the Comprehensive Plan, and by the ANCs and citizens' organizations.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tersh", with a long, sweeping horizontal line extending to the left.

Tersh Boasberg, President
Cleveland Park Historical Society

TB/ach
Enclosures

cc: Councilman James Nathanson
James T. Speight, Jr.
Lindsley Williams
Carol Thompson
Nate Gross
Ken Karkeet