

DISTRICT

00 APR 27 12:12

Historic Preservation Review Board  
801 North Capitol St. NE  
Washington, DC 20001

April 27, 2000

There are important issues raised by, and serious problems associated with, the proposed Yale Laundry Hotel Towers development, located fully within the Mount Vernon Square Historic District, which is currently under review by the DC Historic Preservation Review Board (HPRB) on behalf of the Mayor's Agent for Historic Preservation (Mayor's Agent).

As per the direction of the HPRB at its 23 March, 2000 hearing, a meeting of the residents of the Mount Vernon Square Historic District Neighborhood (MVSHDN) was held with the Developer.

However, contrary to the direction of the HPRB, there was no coordinating effort done on the part of the Historic Preservation Division (HPD) to effect such dialogue between the Developer and the Community, and the Community was pretty well left on its own to initiate and arrange this dialogue.

The results of that meeting were as follows:

1) The Developer, notwithstanding his prior "concession" before the HPRB on 23 March, 2000, to lower the height of the twin proposed towers to 90 feet in height, nonetheless came before the public with a new "conceptual design" that included both 110-foot and 100-foot in height towers.

This alleged "height concession", which was actually an increase in height over what had been offered as a "concession" to the HPRB at its 23 March, 2000, hearing, is still, however, totally unacceptable.

The Developer should be made to follow, and comply with, the wording, intent, and guidelines of the Historic Preservation Law, as would anyone else seeking review and approval before the HPRB and Mayor's Agent for Historic Preservation.

In order to be compatible with the Mount Vernon Square Historic District, with an average height of 42 feet, and the historic Yale Laundry buildings themselves, which

are, at most, only 35 to 40 feet in height, the height of any New Construction should fall into the range of from 35 to 45 feet.

The basis of these determinations as to compatibility are none other than the Historic Preservation Divisions own published Guidelines, which are quite clear and specific on the subject.

It is totally inconsistent that aforesaid Guidelines appear to be only enforced against small home-owners, while large developers can violate them at will.

As other cases before this very HPRB today will show, the apparent perception created before the public is that there are greater adverse consequences, and much greater scrutiny, for a homeowner putting in new windows or a new door, than for a large developer building 100-plus feet tall towers that would totally obliterate forever the character of a Historic District.

2) Developer's new "conceptual design" now fully utilizes land for additional new construction that is legally not part of the original "Lot 6" of Square 514, this land still being subject to a Mayor's Agent Subdivision Public Hearing.

Aforesaid Mayor's Agent Subdivision Public Hearing, originally scheduled for 18 April, 2000, has been postponed indefinitely at the Developer's request. There are serious questions raised as to how the Developer's "conceptual design" can be "reviewed" at this point in time without first knowing with any degree of certainty that aforesaid subdivision will or will not be approved by the Mayor's Agent.

Since any "review" of the Developer's new "conceptual design" is contingent upon prior action being taken by the Mayor's Agent, if today's HPRB Hearing is to have any relevance and credibility, it should first allow the Mayor's Agent to issue a ruling on the matter. Any prior findings by the HPRB could circumvent the intent of the Historic Preservation Law, as well as undermine the intended final authority of the Mayor's Agent under the law.

To defer any finding today on the Yale Laundry Project is totally consistent with recommendations made by the HPD on three other large projects under review today before the HPRB, specifically, the "Old Hecht's Department Store" Project, the 910-916 F Street NW Project, and the 915-917 E Street NW Project, ALL which recommended "further conceptual design review".

3) As was raised by others at the HPRB hearing of 23 March, 2000, the aforementioned subdivision has already been illegally performed, as of 2 February, 2000, in violation of the Historic Preservation Law (DC Law 2-144). As of this date, there is no indication that this illegal action has been remedied.

4) The Developer's new "conceptual design" additionally still relies upon the usage of a proposed "sky bridge" over a public alley.

Since this "skybridge" is the only means of connecting both the eastern and western portions of the proposed hotel, without the "skybridge" there would essentially exist two separate hotels, in that one could not reasonably expect hotel guests to be required to walk outside, walk to the sidewalk, cross the public alley, and enter the other part of the proposed hotel, each and every time they wanted to access the other portion of the proposed hotel. The "skybridge" is therefore crucial to the design of the proposed hotel, and the hotel would not work without it.

However, this "skybridge" still requires approval by the DC Zoning Commission. Once again, the Developer failed to appear at the scheduled Zoning Commission Hearing of 14 February, 2000, and instead requested an indefinite postponement. The Zoning Commission reluctantly agreed to a postponement on the issue until 8 May, 2000.

Again, there are serious questions raised as to how the HPRB can fairly "conceptually review" the Developer's "conceptual design" without knowing with any degree of certainty that aforesaid "skybridge" will or will not be approved by the Zoning Commission, since it such a critical element to the very viability, and design, of the proposed Hotel Project

To do so would not only be a disservice to the public, but also to the Developer as well, creating "false expectations" that could very easily be dashed by the Zoning Commission's rulings, and therefore require this project to essentially "start over from scratch" again.

5) A representative for the Developer also implicitly implied, and/or stated, that the actions of the HPRB, specifically those of Chairman Boasberg, were "unprecedented", in that "this is the first time that the Historic Preservation Review Board has not honored its prior conceptual approval", or words to that effect, and that the HPRB's subsequent actions were a "surprise" in that Chairman Boasberg, and the HPRB, would "follow the procedures under the law", further stating, to the shock of those in attendance, "that is not how things were done in the past."

The Developer has a long history of representing to the public that the project had been "approved", somehow leaving out the crucial modifiers of "conceptual design".

After the issue was raised by the public that since "conceptual design review" held no meaning under the Historic Preservation Law (DC Law 2-144), it would be inappropriate to hold the HPRB at task for merely complying with the Historic Preservation Law, and that any such actions on the part of the HPRB should not come as any "surprise" to the Developer.

6) The Developer continued his litany as to the sole justification for the height, scale, massing, etc. of the proposed hotel towers being that he "had to have over 400 rooms to make the project work financially", or words to that effect, and that he had conducted an "economic analysis" to that effect. In other words, the sole justification given for the "conceptual design" presented was allegedly only economic in nature, and solely based on a never-introduced "economic analysis".

Notwithstanding that alleged "economic issues" are legally irrelevant with respect to Historic Preservation Review, and should therefore, under the Historic Preservation Law, have no bearing on the issue, and not to be considered at all by the HPRB, the Developer nonetheless had "opened the door" to the line of questioning regarding his alleged "economic analysis" that required over 400 hotel rooms, and which was used as his justification for the height, scale, massing, etc. of the proposed hotel project.

The Developer had also raised this issue before the HPRB at its 23 March, 2000, hearing, and therefore additionally "opened the door" to the public to comment on allegations and justifications made before the HPRB by the Developer.

To that effect, the issue was raised that there are numerous other hotels being developed in the District with much fewer rooms, and subsequently at much much lower heights, and that they were somehow "economically feasible".

Specifically mentioned was the new hotel being developed at the old Tariff Commission Building (which also happens to be a historic landmark), on the entire square between 7th, 8th, E and F Streets NW, that would have only 120 rooms of the style and luxury that the Developer stated his hotel would have (ironically reduced in number to 120 rooms from the originally planned 172 rooms).

In addition, despite renovation costs projected to be above \$40 million dollars, the Hotel Group operating the Tariff Building Hotel would not even own the building, only leasing it from the GSA at a cost of \$50 million.

The Tariff Building Hotel (a historic landmark) sits on a 64,299 square foot lot (Square 430 Lot 800), with 120 rooms in 170,000 square feet of Gross Floor Area building space. It is only 3 floors in height.

In marked contrast, the Yale Laundry (a DC historic landmark) site sits on 52,516 square feet of land (including the proposed subdivision), with a proposed 408 rooms in 288,760 square feet of Gross Floor Area. To accomplish this, the Developer proposes a 100-foot and a 110-foot tower.

This discrepancy is glaring and blatant with respect to the Developer's "economic feasibility" argument as justification for the Developer's "conceptual design", and when directly asked to provide the public with a copy of aforesaid "economic analysis" which

supports the Developer's allegations, the Developer flatly and vehemently refused to do so, essentially stating that it "was none of your business", or words to that effect.

In addition, the Developer admitted that his only prior experience with hotels was that he had "owned a few small hotels", not in the District, and the Architect admitted that the firm had "never designed a hotel before" and that their experience was "mostly residential". These qualifications should cause one to have great pause in considering the veracity and feasibility of whatever "economic analysis" the Developer may or may not have performed.

7) The Developer also reiterated, as his representative had already done before the HPRB at its 23 March, 2000, hearing, that "New York Avenue was commercial", as well as making allusions to "what was going on across the street in the NoMa-Mount Vernon Square Triangle", or words to that effect, as somehow being legal justification for the Developer's proposed height, scale, massing, etc. of his "conceptual design".

Again, notwithstanding that the alleged "commercial nature of New York Avenue" (which could be argued the other way for the area in question) and what was allegedly "going on across the street" (which has yet to be determined) are both legally irrelevant with respect to Historic Preservation Review, and should therefore, under the Historic Preservation Law, have no bearing on the issue, and not to be considered at all by the HPRB, the Developer nonetheless had "opened the door" to this line of questioning regarding his "conceptual design" that included two grossly-tall twin towers, and which was additionally used as his justification for the height, scale, massing, etc. of the proposed hotel project.

Comments made by several members of the HPRB at the 23 March, 2000, hearing regarding "matter of right", the alleged "commercial nature" of New York Avenue and/or the site, and what has been unofficially proposed by some as to "what was going on across the street" in the Mount Vernon Square "Triangle" in NoMa, would strongly indicate to the public that these factors are being taken into consideration in the "conceptual design" review process.

First of all, the Yale Laundry site, in addition to being a DC Historic Landmark, is fully located within the boundaries of the Mount Vernon Square Historic District, while what it is being compared to is not, so the issues raised are not only mute, but irrelevant under the Historic Preservation Law.

Secondly, with respect to "what is going on across the street", there is currently under review by the District the issue of the application of a "transition zone" to that area of NoMa and the Mount Vernon Square Triangle, which would be "a zoning district that permits uses compatible with uses permitted in two adjacent zones that, without the transition zone, could be considered incompatible to each other... Examples of transition

zones are low-density, multifamily zones between commercial and single-family zones. Transition zones may serve as buffers."

The Developers "conceptual design" additionally appears to violate the Districts plans for the area, and would stand in marked contrast to anticipated future development of the area.

With respect to the alleged "commercial nature" of New York Avenue and the site, one does not have to look to far to find other "commercial areas" in the District that are part of an Historic District, and which abut an historic residential neighborhood.

One such highly appropriate comparison would be that of M Street NW, between 26<sup>th</sup> and 35<sup>th</sup> Streets NW in Georgetown, while another would be the Georgetown stretch of Wisconsin Avenue NW, both which are highly commercial, both which serve as "Gateways" to the city, and both which abut historic residential neighborhoods. In both instances, one would be hard-pressed to find any commercial structure of 3 floors in height... in fact, almost all appear to be only 2 floors in height.

The comparison of the Mount Vernon Square Historic District to the Georgetown Historic District is highly appropriate, since a "historic district is a historic district", unless, to paraphrase George Orwell's book "Animal Farm", the case is that "All Historic Districts are created equal... but some Historic Districts are created more equal than others".

In both cases, the same historic standards and guidelines apply, and should be equally, rigorously, and consistently enforced.

The Developer's height, scale, massing, and design might be appropriate... for Las Vegas, but they are totally inappropriate for Washington DC, which is, after all, our Nation's Capital lest one forget, and especially inappropriate for the Mount Vernon Square Historic District.

No only is the Developer's proposed height totally incompatible with the surrounding residential character and nature of the Mount Vernon Square Historic District, it having been referred to previously before the HPRB as being "grossly, grossly too high", such a height, scale, massing, and design would constitute "taking without compensation" the views, sunlight, breezes, and "quiet enjoyment" currently enjoyed by "Mount Vernon Square Historic District" residents that 110-foot and 100-foot in height towers would forever and irrevocably destroy or obliterate.

8) The Developer implied that any future adverse actions on the part of the HPRB (and presumably, by inference, future adverse actions on the part of the Mayor's Agent) would so severely undermine his proposed project that it would be unfeasible, and that he would be "forced" to build a "cheap hotel" or "commercial" on the site instead.

The Developer then acted that his project was somehow doing the "neighborhood a favor" in that he wanted to "improve" what he called a "fringe area".

Notwithstanding the Developer's blatant posturing and implied threats, and the fact that the Developer acquired the Yale Site in August of 1984 through purchase from the Bankruptcy Courts, and has continuously held the "Yale Laundry Site" for the ensuing 15 ½ years to present day, with ample opportunity to "improve" the property those numerous years, the Developer defied logic in wanting to build a "luxury hotel" in an area he had just referred to as being "fringe".

In addition to the Developer's remarks essentially insulted the residents by referring to the Mount Vernon Square Historic District as being a "fringe area", which is no longer the case, with no thanks to any actions on the part of the Developer in the present or in the many years he had owned the Yale Laundry site.

The area is in fact "turning around" rapidly, but this is due to the influx of homeowners (the Mount Vernon Square Historic District is after all a Residential Neighborhood) and not due to anything the Developer has done.

In fact, the Mayor himself has publicly stated that the residential sector provides much more to the Districts Tax Base, and Revenues, than any Commercial, Retail and Hotel development does.

The Developer's veiled threats, and promises of the "economic resurgence" that his hotel would bring to the neighborhood, are non-issues. If the Developer feels that he cannot build his Hotel project within the guidelines and constraints of the Historic Preservation Law, then the Developer should instead consider selling the site to a Developer who could make it work, and still remain compatible with the Historic character and nature of the area.

For being in a so-called "fringe area", I do not think the Yale Site would remain on the market for long if put up for sale.

9) The Developer was asked, point-blank, as to whether or not he was aware of the fact that the Mount Vernon Square neighborhood was to become a Historic District when plans were first developed for the project. After some hesitation, the Developer conceded that he had.

The Developer also conceded publicly that he had made no objections when the review process was underway for the designation and listing of the Mount Vernon Square Historic District in the National Register.

This would be expected, in that the Developer had, in September of 1998, contacted the Zoning Administrator with respect to exempting the site from the normal housing requirement that the Comprehensive Plan and the Zoning Overlay would have otherwise required. In that memorandum, it was quite clear that the Developer, or his agents, knew full well that the Mount Vernon Square residential neighborhood was to become a Historic District, to the point of being specifically addressed.

In fact, the Developer was counting on the historic designation, not only for the Yale Laundry buildings as a DC Historic Landmark, but the Mount Vernon Square residential neighborhood to be listed as a Historic District as well, to make his plans work, and to reap the tax and other benefits associated therewith.

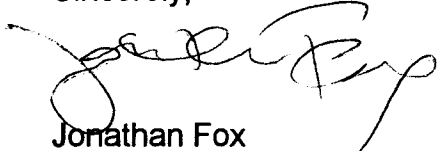
One cannot have it both ways. By accepting, and even actively seeking, historic designation, one places oneself subject to the historic preservation guidelines and constraints. One cannot expect to reap the benefits of historic designation without complying with the historic preservation laws. The Developer, however, is trying to have it both ways. The HPRB should not allow that to occur.

To summarize several crucial issues:

- 1) There are serious questions regarding the violation, and improper application, of the D.C. Historic Landmark and Historic District Protection Act of 1978 [DC Law 2-144 and DC Code Section 5-1001 et seq] with respect to the Yale Laundry Hotel Towers proposed development.
- 2) In addition to the zoning issues already raised by others, and that you are already aware of, there is an additional zoning issue that raises serious questions regarding the violation, and improper application, of DCMR Sections 1707.1(b) and 1707.1(c), that make direct reference to historical preservation considerations, and that which would be applicable to the Yale Laundry Hotel Towers proposed development.
- 3) Given the current low-level of progress of the proposed Yale Laundry project through the regulatory application and review process by the Developer, specifically that of the Mayor's Agent Subdivision Hearing and the Zoning Commission's hearing, and the inadequate level of detail and specifics provided by the Developer, there are serious questions regarding whether it would be premature, at this point in time, to review of the Yale Laundry Hotel Towers proposed development at the HPRB Hearing of 27 April, 2000.
- 4) The HPRB, in its capacity as advisor to the Mayor's Agent, who himself represents the Mayor, needs also to carefully consider the Mayor's publicly stated deep concerns regarding Historic Preservation issues, if it is, in the Mayor's own words, "to prevent a train wreck".



Sincerely,



Jonathan Fox

Responses can be forward via [MVSDC@SoftHome.net](mailto:MVSDC@SoftHome.net)

The letterhead of this letter depicts the relative height differential between the proposed Yale/Norwitz Towers projects (130 feet in height) and the average height of the surrounding residential units that border them (42 feet in height) within the Mount Vernon Square Historic District.

CC:

Councilmember Sharon Ambrose, Chair, Committee on Consumer and Regulatory Affairs  
Councilmember Jack Evans, Ward 2, and Chair, Committee on Finance and Revenue  
Councilmember Charlene Drew Jarvis, Chair, Committee on Economic Development  
Councilmember Phil Mendelson, At-Large

Mayor Anthony Williams  
Rohulamin Quander, Mayor's Agent for Historic Preservation  
Andrew Altman, Director, Office of Planning  
Ellen McCarthy, Deputy Director, Office of Planning

Lloyd Jordan, Director, Department of Consumer and Regulatory Affairs  
Armando Lourenco, Administrator, Building and Land Regulation Administration, DCRA  
Stephen Raiche, Division Chief, Historic Preservation Division, DCRA  
Steve Calcott, Historic Preservation Division, DCRA

Anthony Hood, Commissioner, Chair, Zoning Commission  
Carol Mitten, Commissioner, Zoning Commission  
Anne Renshaw, Board of Zoning Adjustment  
Jerrily Kress, Director, Office of Zoning