

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OFFICE OF ADJUDCIATION  
941 NORTH CAPITOL STREET, N.E., SUITE #9100  
WASHINGTON, D.C. 20002**

**IN THE MATTER OF** :  
**910 F Street, N.W.** : **H.P.A. # 00-110, 00-111**  
**912 F Street, N.W.** :

**912 F Street Associates, L.P.**  
**Property Owner and Applicant**

**FINAL DECISION AND ORDER**

**Background**

On April 4, 2000, this matter came before the Honorable Rohulamin Quander, Administrative Law Judge and the Mayor's Agent for Historic Preservation, (the Mayor's Agent), for D.C. Law 2-144, the Historic Landmark and Historic District Protection Act of 1978, codified at D.C. Code, Section 5-1001, et seq. (1994 repl.) (the "Act"), and pursuant to D.C. Code, Sec. 5-1004(c), based on applications for partial demolition of the buildings located at 910 and 912 F Street, N.W., Lots 847 and 848, respectively, in Square 377. Upon receipt of the Applicant's Proposed Findings of Fact and Conclusions of Law, the record closed on April 14, 2000.

Persons present and testifying on behalf of the Applicant at the hearing were: R. Donahue Peebles, owner and developer, representing 912 F Street Associates, L.P. (the Applicant); Peder A. Sulerud of Brennan Beer Gorman Monk/Architects, project architect and witness for the Applicant; and Anne Adams of Wilkes Artis, Chartered, Architectural Historian. The Applicant was represented by Norman M. Glasgow, Jr., Esq. of Wilkes Artis, Chartered. Also present but not testifying were: Stephen Raiche and David Maloney, Historic Preservation Division staff, DCRA; Mark Boekenheid, Architect; and Joseph Schechtel, the site owner's representative.

Because the project site is located within a designated historic district, the applications were referred to the Historic Preservation Review Board (the Board)

for its review and recommendation, pursuant to D.C. Code Section 5-1004(b). At its November 18, 1999, meeting, the Board reviewed in concept the Applicant's proposal to construct a new hotel at 910 – 916 F Street, N.W., on the south side of the street, between the old Riggs Bank Building (now a Courtyard by Marriott Hotel) and the National Union Building.

As noted in the Board's Staff Report and Recommendation:

The proposed development would combine preservation and new construction. The main portions of the three old rowhouses [at 910, 912, and 914 F Street, N.W.] would be preserved. The non-contributing structure [916 F Street, N.W.] and the two-story rear wings of the three rowhouses would be demolished. A twelve-story hotel would be built behind the rowhouses, spanning the full width of the combined lots. A low entrance wing would replace the non-contributing building [at 916 F Street, N.W.] and there would be an atrium between the historic buildings and the new high-rise. The historic buildings would be rehabilitated as part of the hotel.

The Staff further stated that this proposal promises to become a model preservation project for downtown, and after several other favorable comments, the Staff Report concluded with noting that the staff is fully supportive of this approach.

The Staff then recommended that “the Board support the project in concept, and encourage the project team to return to the Board as plans develop.” At this meeting, the Board adopted its Staff Report and Recommendation.

The Applicant returned to the Board on December 16, 1999, for approval of a subdivision, further conceptual approval of the project, and for consideration of raze and partial demolition applications. The Staff recommended that “the Board find that demolition of 916 F Street, the brick rear addition at 914 F Street, and the concrete block rear addition at 912 F Street (all non-contributing structures), is consistent with the purposes of the preservation law.”, and that the Applicant continue developing conceptual plans for the new hotel, with the notion of maximizing incorporation of historic features into the project and that the Board approve the undertaking of archaeological investigations on the site. The Board adopted its Staff Report and Recommendation, including recommending approval of the proposed subdivision.

The Applicant returned to the Board on January 27, 2000, for further conceptual review of its hotel project and for consideration of partial demolition applications for the rear wings of 910 and 912 F Street. At that time, the Staff recommended that the Board find the proposed partial demolition *not* (emphasis added) consistent with the purposes of the Act, and also recommended that the Board reaffirm its prior action encouraging the Applicant to continue developing the conceptual plans with the aim of incorporating maximum preservation of historic features into the project. However, the Board specifically elected not to adopt its

Staff Report and Recommendation regarding the partial demolition. Rather, the Board found that the partial demolitions were consistent with the purposes of the Act, and the demolition applications were forwarded to the Mayor's Agent for consideration.

As a preliminary matter, the Applicant was granted permission to substitute into the record a corrected page 75 of the Transcript of the Board's January 27, 2000, meeting which clearly reflected the Board's action of approving the proposed demolition as consistent with the purposes of the Act.

### **FINDINGS OF FACT**

Based on the evidence presented and the record as a whole, the Mayor's Agent makes the following findings of fact:

1. These two applications seek partial demolition of structures on Lots 847 and 848 in Square 377, known as 910 and 912 F Street, N.W., respectively, located on the south side of F Street between 9<sup>th</sup> and 10<sup>th</sup> Streets, in the Downtown Historic District. These partial demolitions are sought for the purpose of incorporating three late-nineteenth century buildings, at 910, 912 and 914 F Street, into a proposed hotel development. The Board has made a recommendation to the Mayor's Agent that the proposed partial demolitions are consistent with the purposes of the Act.

2. R. Donahue Peebles testified on behalf of the Applicant. Based upon his testimony, the Mayor's Agent makes the following Findings of Fact:

a) The Applicant has a history, both in the District of Columbia and in other jurisdictions, of preservation, rehabilitation, and restoration of historically significant buildings, including most recently converting the landmark Riggs Bank Building (located immediately adjacent to this site) into a Courtyard by Marriott Hotel; and

b) The instant project for which partial demolitions are sought and deemed to be necessary was initiated as an office development, providing only for preservation of the facades of 910-914 F Street. However, the Applicant significantly changed its proposal, both in terms of program (from office to hotel) and scope of preservation. The present design for the project seeks to incorporate all of the existing historic fabric at 914 F Street, and all but the secondary rear wings of 910 and 912 F Street, N.W.

3. The Applicant's architect, Peder A. Sulerud, who was qualified as an expert in architecture, presented the plans for the project as reviewed by the Board, and testified as to the physical limitations of the site, the proposed project for the site, the building mass and

density, and the design constraints of the project. Based upon his testimony, the Mayor's Agent makes the following Findings of Fact:

- a) The site is intended to be developed as a twelve-story hotel;
- b) The main blocks of the three historic buildings at 910, 912 and 914 F will be preserved and the non-contributing building at 916 F Street will be demolished and replaced with sympathetic infill construction to provide an entrance to the project;
- c) The retained blocks of the historic buildings will be separated from the hotel tower by a glass atrium;
- d) The three historic buildings will be utilized as public spaces at the ground level and as hotel rooms on the upper levels;
- e) New construction will be set back from the streetscape and is designed in a very background-oriented manner, sympathetic to its historic surroundings, and will be largely hidden from view at street level by the old Riggs Bank Building to its east and the National Union Building to the west;
- f) In order to support this high level of preservation; to provide an economically feasible room arrangement for the hotel; and to address such design constraints as an unusually configured rear lot line, a public sewer line running diagonally across the properties, and a significant grade change from north to south, the Applicant cannot both provide the necessary interior functions and components of the project, *and* (emphasis added) also retain the rear wings of 910 and 912 F Street;
- g) These same physical constraints greatly challenge the necessity required of providing on-site parking, and consequently portions of the Applicant's loading area and parking level are included in the Floor Area Ratio ("FAR"), which is very unusual in the District, and is the result of a steep fall in grade, from north to south, affecting the site;
- h) Because of the unusual rear lot line configuration, the Applicant is unable to use all of its rear lot without detrimental impacts on its interior configurations; and
- i) In order to construct a viable project, with its significant preservation elements, including archaeological work, the proposed project will

exceed the density allowed under the Zoning Regulations by approximately 1.0 FAR.<sup>1</sup>

4. The Applicant's Architectural Historian, Anne Adams, who was qualified as an expert in architectural history and historic preservation, discussed the context of the buildings located at 910-916 F Street, N.W., their history, and the nature of their contributions to the historic district. Based upon her testimony, the Mayor's Agent makes the following Findings of Fact:

- a) The buildings, while originally constructed as residences, have been used for commercial purposes for most of their existence;
- b) 910 F Street was constructed circa 1867, but was converted to retail use within little more than a decade; 912 F Street was constructed circa 1875, but was converted to commercial use by the early 1890s. The Applicant's proposal with regard to these two buildings is in keeping with the commercial history of these buildings;
- c) Regarding the appearance and condition of the rear wings of 910 and 912 F Street, N.W., the secondary parts of these buildings were built of brick, with little design articulation or expression, and are not part of the F Street public aspect of the buildings, and thus have not and do not make a contribution to the F Street streetscape within the Downtown Historic District as one of the city's early commercial/retail streets;
- d) She submitted several photographs documenting those alterations to the rear wings, much of which can be seen from the outside, and also discussed the removal of the west wall of the second floor of 912 F Street and portions of other walls that have occurred as part of various commercial renovations of the building. The poor condition of the wings, especially at 910 F Street, and associated structural problems were also visible in the photographs; (Applicant's Exhibits #2-a through 2-t)
- e) The preservation benefits of the Applicant's proposal are significant, including retention of the main block of three contributing buildings in the Downtown Historic District, appropriate adaptive reuse of those buildings and the retention of significant historic fabric, including the intact features of the front second floor room of 914 F Street, restoration of facades utilizing the best available documentation, archaeological investigation of the site, and a

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<sup>1</sup> Presumably a BZA variance would be required in order to construct this project in the manner described.

sensitive design relationship between the historic buildings and new construction; and

f) The proposed demolitions are consistent with the purposes of the Act because: 1) they allow for the construction of a project that retains and enhances the portions of 910 and 912 F Street, N.W., that contribute to the character and significance of the F Street retail corridor and adapts them for current use; 2) the proposed restoration of the facades is compatible with the character of these historic buildings; and 3) the proposed new construction is compatible with the character of the Downtown Historic District.

5. No representatives of public agencies appeared at the hearing. A letter of support from Advisory Neighborhood Commission 2-C was introduced into the record as Applicant's Exhibit #5, which letter reflected that, at its December 1, 1999, meeting, ANC 2-C, by a vote of four (4) in favor, zero (0) opposed, unanimously passed a resolution supporting the project as consistent with the preservation law.

6. There was no opposition noted in the record, and none stated at the hearing.

## **DISCUSSION**

### **Jurisdiction**

This historic preservation case was referred to the Mayor's Agent, accompanied by the Applicant's request for an administrative hearing, upon the Board's recommendation to the Mayor's Agent that the partial demolition applications were consistent with the purposes of the Act, and as such, should be approved.

D.C. Code, Sec. 5-1004 sets forth the Mayor's authority (which has been delegated to the Mayor's Agent) and procedures with respect to issuing demolition permits. Before the Mayor may issue a permit to demolish a historic landmark or a contributing building or structure in a historic district, the Mayor shall review the permit application in accordance with D.C. Code, Sec. 5-1004. Sec. 5-1004(c) provides, in pertinent part, that the "Mayor shall, after a public hearing, make the finding required by subsection (e) of this Section." Further, Sec. 5-1004(e) provides that, "[n]o permit shall be issued unless the Mayor finds that issuance of the permit is necessary in the public interest, or that failure to issue a permit will result in unreasonable economic hardship to the owner."

### **Necessary in the Public Interest**

In the instant case, the Applicant is requesting demolition permits as consistent with the purposes of the Act and as necessary in the public interest. "Necessary in the public interest" is a term of art defined in D.C. Code, Sec. 5-1002(10), as meaning "consistent with the purposes of this subchapter as set forth in Sec. 5-1001(b).

Section 5-1001(b) specifies the purposes of the subchapter with respect to properties in historic districts as:

"(A) To retain and enhance those properties which contribute to the character of the historic district and to encourage their adaptation for current use;

(B) To assure that alterations of existing structures are compatible with the character of the historic district; and

(C) To assure that new construction and subdivision of lots in an historic district are compatible with the character of the historic district."

Based upon this enunciated standard, the proposed partial demolitions of the rear wings of the buildings at 910 and 912 F Street, N.W., meets these tests, as has been determined in the Findings of Fact, and this position should be adopted by the Mayor's Agent as his official conclusion.

### **CONCLUSIONS OF LAW**

Based upon the total record herein, including the testimonial evidence, and the many documents submitted by the Applicant as a part of its case, the Mayor's Agent concludes that:

1. The Applicant has sustained its burden of proof, in that the issuance of partial demolition permits in this case is necessary in the public interest and is consistent with the purposes of the Act.

2. The Mayor's Agent further concludes that the proposed partial demolitions of the rear wings of the buildings at 910 and 912 F Street, N.W., meets the legal standards for obtaining a demolition permit as enunciated in D.C. Code, Sec. 5-1004, and that the Applicant should be granted the demolition permits sought by this application.

3. The Mayor's Agent further concludes that imposing a requirement that would force the retaining of the rear wings of the two contributing buildings of 910 and 912 F Street to be preserved, would render the project economically infeasible, but that conversely, the effect of preserving the main block of the three contributing buildings (910, 912, and 914 F Street, N.W.), and the impact on the project of the proposed atrium separating the retained buildings from the hotel tower, will

contribute significantly to making the project economically viable and would likewise support the extensive preservation benefits of the project.

4. The Mayor's Agent further concludes that the granting of this application is necessary in the public interest as described in relevant part at D.C. Code, Sec. 5-1001(b), noting that this project will contribute to the existing character of the historic district, is an adaptation of the site for current use, and that both the proposed alternation of the existing structures and the proposed new construction are each compatible with the current character of the historic district.

### **ORDER**

The foregoing having been considered, it is this **23<sup>rd</sup> day of May, 2000**,

**ORDERED** that the petition for partial demolition of 910 and 912 F Street, N.W., H.P.A. Nos. 00-110 and 00-111 is hereby, **GRANTED**, as necessary in the public interest and consistent with the purposes of the Act.

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**Rohulamin Quander,  
Administrative Law Judge, D.C., and  
Mayor's Agent for Historic Preservation**

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 23<sup>rd</sup> day of May, 2000, that I mailed or otherwise caused to be delivered the foregoing Decision and Order by regular U.S. first class mail or D.C. Government Interoffice mail to the following persons:

912 F Street Associates, Applicant  
C/o Norman M. Glasgow, Esquire, and  
Dennis R. Hughes, Esquire  
Wilkes, Artis, Hedrick, and Lane  
1666 K Street, N.W., Suite #1100  
Washington, D.C. 20006-2897

Steve Raiche, Chief  
Historic Preservation Division, BLRA  
D.C. Department of Consumer and Regulatory Affairs  
941 North Capitol Street, N.E., Suite #2W15  
Washington, D.C. 20002

and

Lawrence W. Thomas, Chairman  
Advisory Neighborhood Commission, 2C  
1200 S Street, N.W., #201  
Washington, D.C. 20009

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Certifying Officer, DCRA, OAD