

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
THE OFFICE OF PLANNING
HISTORIC PRESERVATION OFFICE
801 NORTH CAPITOL STREET, N.E. THIRD FLOOR
WASHINGTON, DC 20002**

IN RE: Application for Subdivision

**HPA No. 05-042
(SO No. 18801)**

In The Matter Of :

**YALE STEAM LAUNDRY
437 and 443 NEW YORK AVENUE, N.W.
WASHINGTON, D.C.**

DECISION AND ORDER

Background

Pursuant to District of Columbia Official Code § 6-1106(c)(2001 ed.), Subdivisions, a public hearing was held on April 14, 2005, before Rohulamin Quander, Senior Administrative Law Judge and the Mayor's Agent for Historic Preservation (the "Mayor's Agent"), on the application of IBG Investors 2, LLC, (the "Applicant"), for subdivision of the now abandoned Yale Steam Laundry site complex. This administrative review was conducted in accordance with the requirements of the District of Columbia Municipal Regulations (the "DCMR"), Title 10, Chapter 25, and in accordance with the D.C. Administrative Procedure Act, D.C. Official Code § 2-501 *et seq.*

Notice of the public hearing was published in the D.C. Register on March 18, 2005, which was three days short of the 30-day notice required under 10 DCMR Section 2616.1. However, the Mayor's Agent takes note of the fact that on March 3, 2005, the Historic Preservation Office issued a letter to Advisory Neighborhood Commission ("ANC") 2C, the affected ANC, advising them of the pendency of this application and when it was to be considered at the public hearing. No response to the notice was filed. Further, the Mayor's Agent takes administrative notice that ANC 2C voted unanimously in both 1998 and 2002 to support the redevelopment project for which this subdivision is being sought. Accordingly, the Mayor's Agent granted a waiver from the 30-day notice requirement as allowed in 10 DCMR Section 2601.

John T. Epting, Esq., of Pillsbury Winthrop Shaw Pittman represented the Applicant. Anne H. Adams, Architectural Historian, of Pillsbury Winthrop Shaw Pittman, and Scott Fuller of IBG Partners, LLC, were also present at the hearing. Ms. Adams has previously been

In Re: Yale Steam Laundry, HPA No. 05-042

qualified by the Mayor's Agent as an expert in Architectural History and Historic Preservation. The Applicant requested that the Mayor's Agent find the proposed subdivision necessary in the public interest because it is consistent with the purposes of the Historic Landmark and Historic District Protection Act of 1978, D.C. Law 2-144, codified at D.C. Official Code § 6-1101, *et seq.*, (2001), (the "Act"), as defined in the Act. Because the Yale Steam Laundry site is the property proposed for subdivision, and is a historic landmark listed in the D.C. Inventory of Historic Sites (the "Inventory") a hearing before the Mayor's Agent is required under the Act. The site is also listed in the National Register of Historic Places (the "NRHP"), as well as within the boundaries of the Mount Vernon Square Historic District (the "Historic District"), which is also listed in the Inventory and the NRHP.

The Applicant is seeking approval of a subdivision that combines existing record Lots 78 and 91 in Square 514 into a single record lot. This subdivision will facilitate the construction of a project that has already been recommended for approval by the Historic Preservation Review Board (the "HPRB") and approved by the Mayor's Agent.¹ The centerpiece of the project is the restoration of the Yale Steam Laundry and its smokestack. The project also includes the construction of additions to the laundry and adjacent new construction, which the HPRB already approved in 2001. This subdivision will allow two previously approved new buildings to be combined into a single structure. The façade of this single structure will continue to look like two separate and distinct buildings, each with different façade treatments, as originally approved.

However, the single lot will allow for the elimination of one elevator, which results in the further elimination of one of the two approved penthouses and of one of the two approved curb cuts and garage entrances on the New York Avenue, N.W. façade of the building. These changes will improve the New York Avenue façade of the new construction, as well as the greater New York Avenue streetscape, by allowing the first floor of the façade immediately adjacent to the Yale Steam Laundry to be designed without a garage entrance. The design changes that will be possible because of this subdivision will improve the overall design of the approved project and be a significant preservation benefit to both the landmark and the Historic District. In all other ways the project remains as approved pursuant to the Act.

Because the Yale Steam Laundry is an individually-designated landmark listed in the Inventory, the application for subdivision was referred to the HPRB for its review and recommendation to the Mayor's Agent pursuant to D.C. Official Code, § 6-1106(b). At its public meeting on November 18, 2004, the HPRB unanimously adopted the Staff Report and Recommendation of the Historic Preservation Office of the District of Columbia Office of Planning, which found the proposed subdivision "... not inconsistent with the purposes of the preservation law."²

¹ On June 6, 2000, the Mayor's Agent previously heard an earlier related version of this matter in HPA #2000-26, SO #7310/File # 2000-01, and issued a decision allowing several adjacent lots to be subdivided into a large single lot of record. Now the Applicant seeks to join that particular lot with another adjacent lot, into a still larger single lot of record.

Prior to the public hearing, the Applicant submitted a written statement outlining its request and the reasons the proposed subdivision is consistent with the purposes of the Act with respect to both landmarks and buildings in historic districts. That statement is part of the record in this matter. At the outset of the hearing, the Mayor's Agent offered the Applicant the option of waiving the necessity of calling witness for a presentation of sworn testimony, and instead electing to stand on the record which had been previously filed with the Mayor's Agent. The Applicant accepted the offer and elected to stand on the record, noting that the previously filed data and counsel's pre-hearing submission address the significance of the Yale Steam Laundry complex, how the proposed subdivision meets the tests for approval established by the Act, and the approval by the Mayor's Agent of an earlier, similar subdivision involving the Yale Steam Laundry. Based upon a review of the entire record taken as a whole, including the documentation presented for the Mayor's Agent's consideration, this Application is **GRANTED**.

ISSUE

The issue to be decided is whether Applicant has met the burden of proof to establish that the requested subdivision involving the landmark property known as the Yale Steam Laundry is necessary in the public interest because it is 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 now makes the following Findings of Fact:

1. The issue presented before the Mayor's Agent is the Application for Subdivision of two lots of real property, Lots 78 and 91 in Square 514, on the site of the Yale Steam Laundry, an individually-designated landmark located at 337 and 443 New York Avenue, N.W., listed in the District of Columbia Inventory of Historic Sites and within the Mount Vernon Square Historic District, which is also listed in the Inventory and the NRHP.
2. The proposed subdivision will combine two existing record lots into one new record lot with the same perimeter boundary and square footage as the two existing lots.
3. Such a subdivision of the landmark will facilitate the construction of an approved project, the centerpiece of which is the restoration of the Yale Steam Laundry, that retains and enhances the landmark and encourages its adaptation for current use.
4. The proposed subdivision will allow for design changes to an approved project that will further enhance the landmark and the Historic District by the elimination of an elevator and its associated penthouse, a curb cut, and a garage entrance in the New York Avenue façade of approved new construction on the site. All other aspects of the project will remain as approved pursuant to the Act.
5. No individuals or organizations applied for party status in this matter, and no persons or organizations filed any opposition to the proposed subdivision.

DISCUSSION

Jurisdiction

This historic preservation case was referred to the Mayor's Agent for an administrative hearing upon the HPRB's review of and recommendation that the application should be approved because it is consistent with the purposes of the Act. D.C. Official Code § 6-1106 sets forth the Mayor's authority, which has been delegated to the Mayor's Agent, and the procedures with respect to approving applications for subdivision. In the matter at hand, subdivision would enhance the Yale Steam Laundry site by facilitating the construction of a project that adapts the landmark for current use and restores its façade and smokestack and assures that new construction is compatible with the character of the Historic District within which the landmark is located. Such a subdivision can be necessary in the public interest by virtue of being consistent with the purposes of the Act.

D.C. Official Code § 6-1106(b) provides that before the Mayor may admit to record any subdivision of an historic landmark or of a property in an historic district, the Mayor shall review the application and refer it to the HPRB for its recommendation. Under § 6-1106(c) "Within 120 days after the Review Board receives the referral the Mayor shall, after a public hearing, make a finding required by subsection (e) of this section; provided that the Mayor may make such finding without a public hearing in the case of a subdivision of a lot in an historic district if the Review Board advises him that such subdivision is consistent with the purposes of this subchapter."

Necessary in the Public Interest

Applicant is requesting that the proposed subdivision be approved as necessary in the public interest by virtue of being consistent with the purposes of the Act. The standard of review of a subdivision to be admitted to record under D.C. Official Code § 6-1106(e) requires that no subdivision subject to this subchapter shall be admitted to record unless the Mayor finds that admission to record is "necessary in the public interest."

The term "necessary in the public interest" is defined in § 6-1102(10) as "... consistent with the purposes of this subchapter, as set forth in Section 6-1106(b) or necessary to allow the construction of a project of special merit." The Applicant is making no claim that the subdivision is necessary to construct a project of special merit, but rather claims only that the subdivision is consistent with the purposes of the Act. The Applicant bears the burden of proof to establish that the proposed subdivision of the landmark is necessary in the public interest.

With respect to historic landmarks, pursuant to § 6-1106(b)(2), the purposes of the Act are as follows:

- to retain and enhance historic landmarks in the District of Columbia and to encourage their adaptation for current use; and
- to encourage the restoration of historic landmarks.

With respect to buildings in historic districts, and pursuant to Section 6-1106(b)(1), the relevant purposes of the Act are as follows:

- to retain and enhance those properties which contribute to the character of the historic district and to encourage their adaptation for current use; and
- to assure that new construction and subdivision of lots in an historic district are compatible with the character of the historic district.

The Mayor's Agent determines that the proposed subdivision will enhance the significant character of the Yale Steam Laundry because it will facilitate construction of a project that will retain, restore, and adaptively reuse the landmark. The Mayor's Agent further determines that the proposed subdivision will facilitate construction of a project that will also retain and enhance properties that contribute to the character of the Mount Vernon Square Historic District and allow new construction to be even more compatible with the character of that Historic District than previously approved. The Mayor's Agent concurs with the findings of the HPRB as outlined in its Staff Report and Recommendation adopted on November 18, 2005, and adopts said staff report as a component of this decision.

CONCLUSION OF LAW

Based on the entire record in this matter, including the provision of the Act and testimony and evidence submitted by the Applicant, the Mayor's Agent concludes as a matter of law, that the Applicant has sustained its burden of proof that the approval of the subdivision is necessary in the public interest because it is consistent with the purposes of the Act.

ORDER

The foregoing having been considered, it is this 3rd day of May, 2005, **ORDERED** that the Application for Subdivision of 437 and 443 New York Avenue, N.W., Square 514, Lots 78 and 91, HPA No. 05-042 (SO No.18801), be and the same is hereby, **GRANTED**, because the subdivision is necessary in the public interest because it is consistent with the purposes of the Act.

Rohulamin Quander,
Senior Administrative Judge, DC, and
Mayor's Agent for Historic Preservation

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing decision and order was served this 3rd day of May, 2005, by mailing a copy of the same via e-mail or U.S. Mail, postage prepaid, or both, to the following:

Scott Fuller
IBG Partners, LLC, Applicant
Via email to: sfuller@ibgpartners.com

John T. Epting, Esq., Counsel for Applicant
Pillsbury Winthrop Shaw Pittman
2300 N Street, N.W.
Washington, D.C. 20007-1128, and
Via email to: john.epting@pillsburylaw.com

Anne H. Adams
Via e-mail to: andi.adams@pillsburylaw.com

Lisa Burcham, Program Manager
Historic preservation Office
Via email to: lisa.burcham@dc.gov

David J. Maloney
Historic Preservation Office
Via email to: david.maloney@dc.gov

Stephen J. Callcott
Historic Preservation Office
Via email to: steve.callcott@dc.gov

Tersh Boasberg, Chair
Historic Preservation Review Board
Via email to: tershboasberg@aol.com

Bruce Brennan, Esq.
Office of the Attorney General of the District of Columbia
Via email to: bruce.brennan@dc.gov

Ellen McCarthy, Acting Director
D.C. Office of Planning
Via email to: ellen.mccarthy@dc.gov

Janette Anderson
Associate Director for Technical Services
Georgetown University Law Center Library
Via email to: anderjan@law.georgetown.edu

Certifying Officer