



1051 29th Street, NW

Testimony before the Old Georgetown Board

6 April 2017

Members of the Board,

My name is Sally Berk. I'm testifying today on behalf of the Committee of 100 on the Federal City, Washington's city-wide planning and preservation advocacy organization. In April of 2015, the Committee of 100 testified at the DC Historic Preservation Review Board hearing in support of individual landmark designation for the West Heating Plant. In so doing, C100 recognized that the West Heating Plant is not simply a contributing building in the Georgetown Historic District, but a building that is significant in its own right as 1) indicative of the industrial role that Georgetown played in the history of the nation's capital for more than two centuries; 2) an exemplar of late Art Moderne design as applied to an industrial building; 3) a monumental presence in Georgetown that has served as a familiar landmark of the waterfront.

C100 is opposed to the proposal before you today, which seeks to demolish the West Heating Plant. This would not only violate the city's preservation ordinance, but also the historic and cultural preservation easement that conveyed with the property when it was purchased from the US Government Services Administration. That easement stipulates that any plans for the building must meet the Secretary of Interior's Standards for the Treatment of Historic Properties. Those standards, obviously, do not provide for demolition.

The owner of the property has already violated the covenant, to which he had agreed, by appearing before HPRB as a party in opposition to individual landmark designation of the building rather than "acknowledging that the West Heating Plant is individually eligible for listing in the National Register of Historic Places and the District of Columbia Inventory of Historic Sites." According to the covenant, any violation is subject to suit.

Last year, at the request of the DC Preservation League, the National Register of Historic Places reaffirmed that the West Heating Plant is eligible for listing as an individual landmark. Such a listing, however, requires the consent of the owner, the owner who illegally contested the eligibility.

In response to those who would say, "Let's just move ahead with a project that will use this site to the benefit of Georgetown and to the city as a whole," the Committee of 100 responds, "It is possible to do so while also retaining the historic building." Claims that the building in its current condition cannot be adapted for any use are negated by the fact that:

- In an independent evaluation of the condition of the building, requested by the Commission of Fine Arts, the structural engineer concluded that it is theoretically possible to retain the exterior of the building enclosure without substantial demolition of it, given a reasonable program of repair and maintenance. (This report was forwarded to the owner of the West Heating Plant and is on file at CFA.)
- Buildings with similar solid to void (i.e. fenestration) ratio have been adapted for new uses in other cities, as well as in Washington. A superb example of such an adaptive use in recent years is the old Hecht Company Warehouse on New York

Avenue, NE, which has been repurposed as apartments; apartments that sold rather quickly and, further, have revitalized a neglected area of the city.

The proposal before you promises to bring in many hundreds of millions of dollars, but it has not been shown that a different proposal, such as use of the building for offices or moderate rate housing, would not also show a profit, albeit, in fewer hundreds of millions.

In the Penn Central decision by the Supreme Court in 1978, it was determined that denial of the highest use of an historic building (or site) is not to be considered a taking. Simply put, the owner is not entitled to the most profitable project if it threatens the historic integrity of the building (or site). After twenty-five years, the decisions of the Supreme Court and the lower federal and state courts have reaffirmed that this is the case. Applying that ruling to the West Heating Plant translates to the fact that the owner is obligated to propose a use for the building that does not threaten its original design or iconography.

A critical reason for denying this proposal and encouraging the owner to propose a program that will require minimal alterations to the building is that such a proposal could go through the review process quickly. The current proposal, which is a demolition, will be denied by HPRB, as dictated by the city's preservation ordinance. It will then go to the Mayor's Agent for Historic Preservation, who can issue a demo permit on only three basis:

- That failure to issue the demo permit would cause an unreasonable economic hardship on the owner. This claim has never been granted to a speculative venture.
- That it is necessary in the public interest, which means consistent with the purposes of the preservation law, or necessary to allow the construction of a project of special merit.
- Special merit cannot be claimed for luxury housing. Nor would this design qualify as exemplary architecture. Exemplary design must be innovative, such as the East Wing of the National Gallery of Art or the National Museum of African American History and Culture. This design is simply a watered down version of the original bold design.

Should the Mayor's Agent determine that the demolition permit can be issued, his decision will be appealed. Therefore, the proposal before you faces years of approval process. During those years, according to the preservation ordinance and the city's building regulations, it is incumbent upon the building's owner to maintain the building. Neglect to do so, perhaps in an effort to eventually obtain a condemnation permit, will be closely scrutinized.

We urge the owner to proceed with, in the words of the structural engineer, a *reasonable program*, one that could proceed expeditiously through the approval process, thereby putting the building back in use as soon as possible. Thank you for the opportunity to comment.

Cc: David Maloney, DC State Historic Preservation Officer