

Kevin Smith
Testimony to the Zoning Board
October 4, 2006

1. The developers have not met, in good faith, with the community.
 - a. In April of 2005, they presented demolition plans at a general meeting. Members voted to oppose. So far so good.
 - b. In December of 2005 they presented an overbuild sketch to some Neighborhood Council board members (show sketch). They would not leave a copy of the sketch nor allow it to be copied or photographed. I pulled this copy from the Historical Commission records.
 - c. In January of 2006 they presented a modified overbuild sketch to some Neighborhood Council board members (no copy). Again they would not leave any materials. MNC could not make any determination about the project based on the very limited information. The developers indicated they did not plan to meet with us again and expected our support.
 - d. We have never, at any point, been shown any plans.
2. MNC has always held the position that re-use is the best use. We did however, at one point suggest that some form of expansion or overbuild might be preferable to demolition. In no way can this be construed as pre-approval or an obligation to approve an overbuild or any other design no matter how inappropriate.
3. I was surprised by the renderings unveiled (for the first time to anyone) at the June 2006 Historical Commission hearing. I did remark that picture represented the best thing we had seen to date. It was in fact the only vaguely realistic view of the project ever shown. After the hearing we were able to review plans, at the Historical Commission (again we were never given plans). The perspectives chosen for the renderings are extremely misleading and hide the degree to which the building will dwarf and overshadow the surrounding buildings.
4. There is no hardship
 - a. Mr Labov has stated that he was unable to rent the space and received no credible offers at his \$1,000,000 asking price. No details are provided. How was the building advertised for rent? What was the asking price? What offers were made to purchase the property "credible" or otherwise. Should we consider the withdrawn \$800,000 offer a ceiling? Did Richards Apex make an offer? What was it?
 - b. Mr. Labov claims a carrying cost of \$34,000/year. 2/3 of that (\$22,000) is debt service on a mortgage from 1995. The rest is insurance, maintenance, utilities and property tax. Costs common to any property in the city.
 - c. Property tax is less than half that of 2 Rector, directly across the street.

- d. The accumulated carrying costs cannot be a hardship as they are the direct result of how the owner chose to market and price the building and they are the normal costs of owning a building.
 - e. In June 2005, the developers' architect testified that the building was "sound secured and maintained" but in February 2006, Mr. Feldman, attorney for the developers, "laments the deteriorating conditions of the building". Are they allowing the building to deteriorate and creating their own hardship? Interior and exterior photos show the building in good condition.
 - f. There is no question that the existing building can be re-used. I have identified 61 businesses, in the immediate neighborhood, that could operate from 3 Rector with little or no modification to the building. A perfect example of commercial reuses are Bourbon Blue, directly across the street and Venturi Scott Brown Architects in the adjacent building. A perfect example of industrial re-use it Richards Apex directly behind and adjacent to the building.
5. The support of former councilman Nutter and the 4th Councilmatic District Office, for this project, appears to be unconditional and unrelated to the scope, size, and details of the project. They have supported every plan proposed by the developer, from demolition to the five story overbuild. They have identified the developer as Switzenbaum and Associates when, to the best of our knowledge they are not the developer. They have represented the building as deteriorating when it clearly is not. They have gone so far as to say retail reuse of the building would be undesirable. (Introduce our letter to Chapman and the Nutter and Chapman letters)