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May 14, 2001

BY HAND

Ms. Sheila Cross-Reid
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

BZA
Case No. 16702
Exhibit No. 74

Re: BZA Case No. 16702; Georgetown Incinerator; 3100 South Street, N.W.; Square 1189, Lot 88

Dear Ms. Reid and members of the Board:

At the conclusion of the hearing in the above-referenced matter, the Board requested that the Citizens Association of Georgetown ("CAG") submit a copy of the legislation approving the sale of the Incinerator site to Millennium Georgetown Development LLC ("Millennium"). By cover letter dated May 10, 2001, CAG submitted the requested legislation to the Board. The following is Millennium's response to CAG's submission.

The Board's request for the legislation was based upon CAG's representations that the "glorious open space" envisioned by the Council in transferring the property to MGD has been eliminated. CAG cites to Exhibit C (pages 2-5) of the legislative materials as a description of the public park/open space that was envisioned. Contrary to CAG's assertions that this open space has been eliminated, the open space described in Exhibit C to the legislative materials is precisely the same open space that is being provided by Millennium. *See* Prehearing Statement at 6 through 9; *compare* Prehearing Statement Exhibit C with plans attached to Exhibit A of legislative materials. Indeed, the open space has been increased, as requested by the Commission of Fine Arts to protect the numerous historic buildings being rehabilitated.

Likewise, the NCPC report attached to the legislative materials which CAG cites to also describes the project as proposed by Millennium, with the exception of the relief requested in the above-referenced case. It should be noted that the NCPC at page 4 of its report recommends that

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Millennium consider the feasibility of providing "additional public parking to accommodate the surrounding public uses, including the waterfront." Millennium is doing so, but this additional parking would be unusable if, as explained in our submission of May 4, 2001, the theater use was replaced by another retail use.

CAG also cites to the Community Participation Plan submitted to the Council as Exhibit D to the legislative materials and alleges that many of the elements of the Community Participation Plan have not come to fruition. This allegation is without merit. First, as testified to by Millennium and the Office of Planning and recognized by the Board, the project has received extensive review from both government agencies, as well civic organizations. As to the cultural enrichment program referred to by CAG (Legislation Exhibit D at page 11), this aspect is to commence upon completion of the Incinerator project. Naturally, therefore, this aspect has not yet occurred and cannot occur, as the project has not yet been completed.

As illustrated by the testimony on behalf of Millennium at the hearing in this matter, as well as the documents provided to the Board following the hearing, CAG's opposition is unsupported by the evidence in the record. Accordingly, as Millennium has met its burden of proof with regard to the requested variances, Millennium respectfully requests that the Board grant the two (2) area variances requested by the instant application.

Thank you for your consideration.

Very truly yours,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler
Jeannine Rustad Zigner

cc: Mr. Andrew Altman, Office of Planning (By Hand)
Ms. Barbara Downs, Citizens Association of Georgetown (By Hand)
Advisory Neighborhood Commission 2E (By Hand)
Mr. Anthony Lanier (By Hand)