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December 27, 2002

Mr. Geoffrey Griffis, Chairman
Board of Zoning Adjustment
Room 210
441 4th Street, N.W.
Washington, DC 20001
By fax and mail

Re: BZA Case No. 16920, 1629 21st Street, N.W. (Square 93, Lot 122) Reply to Responsive Argument by Opponents

Dear Mr. Griffis:

I have reviewed Mr. Saltzburg's "Responsive Argument by Opponents." Since most of what we might say in response is already contained in our testimony and my closing remarks, I would confine this letter primarily to his argument that the neighborhood is overrun with commercial development and is at a "tipping point". We believe he has failed to make such a case:

1. Much of the commercial activity cited by the opposition is on property outside of the residential neighborhood in the DD/C-3-B area on and adjoining Connecticut Ave.
2. No evidence was presented showing that a residential zone district could not remain strong next to a commercial district. The opposition points to no place in the city where R-5-B controls have failed to protect residential properties. Mr. Micone tried to advance such an argument by referring to N Street between Thomas Circle and Conn. Ave. but it was later determined that N Street was never zoned residential.
3. No evidence was presented that demand for residential properties in the neighborhood is flat or in decline. In fact, there is evidence from the SNAP Plan that the amount of residential has increased between 11990 and 2000.
4. The opposition's argument that non-residential uses are changing the character of the neighborhood focuses only on the area below R Street and East of 21st Street. It assumes, without foundation, that the residential strength above R Street or West of 21st Street has no effect on maintaining residential cohesion. This is also

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Exhibit No. 77

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EXHIBIT NO.77

unsupportable. The subject property is in the center of the R-5-B district should be considered as a unity.

5. Too little attention was paid to the fact that the use of the property will reinforce the residential character of the neighborhood by retaining approximately the same number of residents and living units while converting 1,200 square feet of the approximately 3,000 square feet to gallery use.
6. 65 residents of the neighborhood believe that this gallery will enhance the quality of residential life in their neighborhood. Whether or not a neighborhood remains residential is largely a function of attitude and perception. What is at stake is the willingness of people to buy and live in the neighborhood. The prospect of having another small gallery has obviously not dimmed that willingness. The opposition's speculation that people signed the document because they want to sell their properties to galleries is unsupported. Nor was there evidence that 65 Dupont Circle residents signed the document by mistake or misdirection. One would have thought that they would be motivated to so testify weeks later when the opposition put on its case?
7. The opposition has yet to demonstrate that a gallery in a private house with nothing more to signify its presence than a one square foot name plate will do anything to reduce residential feel of the neighborhood. The Zoning Commission understood that galleries were one commercial enterprise which enhanced rather than detracted from the residential feel.
8. Finally, Mr. Williams' reference to the SNAP Plan was simply to point out that the District found no problem with the numbers of galleries in residential areas. Rather, the galleries and the Phillips were expressly regarded as positive elements.

With respect to the number and size of events, as well as traffic and parking problems, we proposed several conditions which would assure that those kinds of impacts would be kept to an acceptable minimum. Surely, OP was being inconsistent in stating on the one hand that conditions could not be enforced, and, on the other hand, justifying its support of the Phillips' variances by the fact that significant conditions would be imposed. Nor was there a satisfactory explanation for the disparate treatment.

Yours very truly,

Stephen N. Gell

cc: Andrea Marinkovich, William Bass, Vince Micone, Steve Saltzburg.