ALEXANDER M.
PADRO
COMMISSIONER
ANC 2C01

July 29, 2003

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT
OFFICE OF ZONING
441 4TH ST NW STE 201S
WASHINGTON DC 20001

Dear Board Members:

Regarding BZA Case No. 17035, Application of Howard University Hospital, pursuant to 11 DCMR § 3103.2, for a variance from the lot area requirements under subsection 401.3, to allow the conversion of a vacant building (formerly a clinic) to an eleven unit apartment house in the R-4 District at premises 915 Rhode Island Avenue, NW (Square 364, Lot 839):

This morning, I find myself in an unusual position, Rather than appearing before this board to present my commission's opinion regarding a case, or to provide additional information in support of the applicant, I am instead here to impeach the ANC report before you and, for the first time, to oppose an application for zoning relief for a project in my ANC single member district.

The reason I have been placed in this position is that for the first time in my service as an ANC commissioner, an applicant in a BZA case has refused to abate the negative impacts of proposed development for which relief has been requested, or to offer any community benefits or amenities to mitigate said impacts. Indeed, in this case, the applicant has done little more than acknowledge the concerns, and engaged in deceit in order to attempt to prevent community concerns that have been raised from being taken into consideration by this board.

I will first address the circumstances surrounding the ANC report.

BZA
Case No. 17035
Exhibit No. 41

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Board of Zoning Adjustment
District of Columbia
CASE NO. 17035
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The letter from Chairman Thorpe dated December 10, 2003, describes a vote in support of the conversion of 915 Rhode Island Avenue, NW into an apartment building. At the November 6, 2002, ANC 2C meeting at which Edward M, Johnson, representing the applicant, presented information on the project to the commission, no information on the specific relief that would be required for the project was presented. No BZA application had been filed. There was therefore no opportunity to discuss the specific relief that would be requested to allow the project to proceed. There was no basis on which to apply objective criteria in evaluating the zoning relief to be requested by the property owner.

No such information was available to the commission at the December 4, 2002 meeting when a vote was taken regarding the project. The commission's support, therefore, is for the conversion of 915 Rhode Island Avenue, NW, in concept only. ANC 2C has taken no position on the BZA application filed on May 13, 2003. You need only review the letter in question to verify that no support of the BZA application that was filed five months later is stated in the letter.

Further, you have in your files a letter from my commission colleague, ANC 2C04 Commissioner Lydia Goring, detailing the circumstances under which ANC 2C came to vote to support the project in question on December 4, 2002. Not only did the commission not have jurisdiction over the subject premises at the time, the most immediately affected residents and institutions located near 915 Rhode Island Avenue, NW had no notice that the commission would take any action on the matter at that meeting. At the meeting, Chairman Thorpe acknowledged that he had learned, presumably from the applicant's representative, that the French Street Neighborhood Association had expressed concerns about the project at its meeting two days earlier, but refused to allow a vote on the matter to be postponed for one month until the commission had jurisdiction and a BZA application could be filed, as had been agreed at the previous month's meeting. He refused to allow for a postponement in order to permit residents of the affected area to appear before the commission to present their concerns, and further refused to allow me to present to the commission the concerns that had been raised at the French Street Neighborhood Association meeting. Mr. Thorpe's actions subverted the ANC process and indeed, prevented rather than facilitated the consideration of the community's position on this matter by the means provided in the act that established the ANCs.

You might ask why Mr. Thorpe would undertake such a course of action. The answer is simple. Redistricting and the results of November 5, 2002 election made it clear to Mr. Thorpe that after January 1, 2003, he would not longer have a majority of the commission reliably voting to support his positions, as had been the case in the past. After becoming aware of the concerns of the French Street Neighborhood Association, he insisted on moving forward with a vote on the matter in order to prevent opposition from being heard, in order to ensure Howard University Hospital would have an affirmative vote from the commission on this project.

Three final points on the ANC 2C letter in your files. First, the vote of the commission is incorrectly stated as being three votes in favor, and two against. As is noted in Commissioner Goring's letter to the board, she actually voted to abstain rather than oppose the motion, so the actual vote was three in favor, one against, and one abstention. Secondly, the minutes for the meeting at which the vote was taken have never been approved by the commission, so there is no official record of the vote, and no validation of said vote. Lastly, since redistricting, the composition of the commission has changed. As noted in Commissioner Goring's correspondence, if the commission were to take up this matter now, without concessions being made by the applicant to address community concerns, the commission would be expected to deadlock, with two votes in favor, and two against.

Moving on to the specific concerns expressed by the community, related to parking and the possible conversion of the building in question into a college dormitory, the letters in your files from the French Street Neighborhood Association and Shaw Junior High School explain in detail the causes for their opposition to the application. I would add that in addition to the already difficult weekday parking situation in the neighborhood, and the extreme difficult in finding parking on street cleaning days and when street construction is underway, double parking and blocking of fire hydrants by churchgoers on Sundays is a persistent problem that threatens public safety.

It is most unfortunate that the applicant, having been advised through its representative of the parking impact and dormitory use concerns, chose not to respond to the specific remedies that the association recommended, instead making vague representations on those matters. It is even more disturbing that the applicant's representative sought to deceive me, an elected official responsible for coordinating community input into governmental decisions affecting this neighborhood, into believing that no further action needed to be taken regarding 915 Rhode Island Avenue, NW.

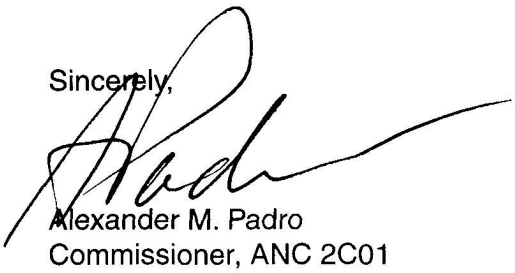
In December 2002, Edward M. Johnson, representing Howard University Hospital, advised me that since changes in the university's plans resulted in the number of parking spaces required under zoning being accommodated at the rear of the building, no zoning relief was required for the project. Relying on this statement, and the fact that I had received no notice of a zoning application being filed, I advised the French Street Neighborhood Association that there would not be an opportunity to obtain any guarantees from Howard University Hospital to address their concerns.

As we now know, Howard University Hospital did indeed still need a variance from lot area requirements in order to allow their project to move forward. And were it not for the fact that the copy of the filing that was sent to me by the Office of Zoning was lost in the mail, and the fact that the office used an old address to send the commission's copy of the filing, resulting in its not being received by the commission, we might today be discussing abatement or mitigation measures agreed upon by the applicant and the community. In the two months since the filing, opponents and the applicant could have met to negotiate abatement or mitigation measures that could have allowed the community's concerns to be addressed and for no opposition to be presented at today's hearing.

My constituents and I support the renovation and adaptive reuse of buildings like 915 Rhode Island Avenue, NW so that they can return to productive use. But such development must not proceed without restrictions or compensation to the community for negative impacts. Balance must be achieved, and both sides must be willing to make sacrifices in order to allow the renaissance that is underway in Shaw to proceed. The community must not be expected to suffer in silence, the only party required to concede.

In conclusion, in light of the circumstances, the letter purporting to provide ANC 2C's position on this application should be dismissed. And since neither the commission nor the ANC SMD representative received the filing provided under the notice requirements, the record in this case should be kept open until after the commission's next meeting in September to allow ANC 2C to take formal action on the application. This would also allow time for the community and the applicant to negotiate an agreement regarding the opponents' concerns in this case. If such an agreement is not forthcoming, if the applicant refuses to negotiate in good faith, or if the board chooses not to delay its decision, either to allow the commission to formally take up this matter or for negotiations between the opponents and the applicant to seek a resolution, then I urge the board to reject the application.

Sincerely,



Alexander M. Padro
Commissioner, ANC 2C01