Advisory Neighborhood Commission 1C
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Andrea Broaddus (1C06)

December 12, 2003

Hon. Geoffrey Griffis, Chairperson
Board of Zoning Adjustment
441 4th Street, NW – Suite 210 South
Washington, DC 20001

Re: BZA Application No. 17094 – Application of Lujan Lujan Lujan Columbia Road LLC for FAR and Off-Street Parking Variances at 1834 Columbia Road, NW (Square 2551, Lot 27)

Dear Chairperson Griffis:

Pursuant to 11 DCMR 3115, Advisory Neighborhood Commission 1C ("ANC 1C") submits the following report on the above-referenced application for a variance from the floor area ratio (FAR) requirements under section 771, and a variance from the off-street-parking requirements under subsection 2101.1, to allow commercial (restaurant/public hall) use of the third floor at 1834 Columbia Road, NW, located in a C-2-B District:

3115.1(a) – The application under review is identified above.

3115.1(b) – The application was considered at a public meeting of ANC 1C on Wednesday, December 3, 2003.

3115.1(c) – Proper notice of the meeting was given by ANC 1C in the form of publication in a community newspaper, transmittal of e-mail and Internet notice approximately 1,000 neighborhood residents and stakeholders, and posting of notices in individual single member districts (SMDs).

3115.1(d) – ANC 1C has eight SMDs. However, due to the recent resignation of one Commissioner, only seven are currently represented. A quorum of four Commissioners is therefore required for action. All seven sitting Commissioners were present at the December 3, 2003 meeting.

3115.1(e) – ANC 1C's major concern relates to section 720.8 of the Zoning Regulations, which provides: "In the C-2-B District, building use may be entirely residential or a mixture of commercial and residential uses." In the C-2-B districts of Adams Morgan, it has long

Case No. 17094
Exhibit No. 23

Board of Zoning Adjustment
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been understood that this provision requires at least one floor of residential use even on the main commercial strips of 18th Street and Columbia Road.

The applicants wish to use the third floor of their building for commercial purposes, i.e., expansion of their existing restaurant and use of premises as a public hall. Because of the unique configuration of their building – in which the stairwell connecting the first, second, third and fourth/storage floors are all interior to their business premises and could not feasibly or economically be reconfigured to provide private residential access to the upper floors – ANC 1C believes the applicants do meet the legal requirements for an *area variance*. That is, the building's peculiar and exceptional layout would make it genuinely difficult for the owner to build out the third floor for residential purposes in compliance with the Zoning Regulations. Moreover, because the applicant's principals/owners have a long track record in the Adams Morgan neighborhood as distinguished residents, business owners, and community participants, ANC 1C believes that granting an *area variance* in this case would not be of substantial detriment to the public good. Finally, given the high density of commercial uses already in place in the vicinity, it would not be inconsistent with the general intent and purpose of the Zoning Regulations.

However, if the owner's use of the third floor – and hence the entire building – only for commercial purposes also requires a variance from subsection 720.8, that might constitute a *use variance* subject to a stricter burden of proof – namely, that the owner would suffer serious financial hardship if the variance were denied. Because this particular application is limited to what appear to be area variances, ANC 1C did not delve into the question of whether the applicant could meet the more stringent use variance test. However, due to concern for the application of subsection 720.8 throughout the neighborhood and the potential implications for other property owners of a variance granted at this location, ANC 1C respectfully directs the Board of Zoning Adjustment's (BZA) attention to the question of whether a use variance is required in this case. If so, ANC 1C respectfully requests the BZA either to postpone further consideration of the application to give us an opportunity to explore the separate and more complex issues raised by a use variance or, if that procedure is not permissible, to reject the application at this point (without prejudice to the resubmission of a more complete application).

3115.1(f) – ANC 1C approved the following motion: "That ANC1C support the application of Habana Village for (1) an area variance from the FAR limitation to permit the use of its third floor for commercial purposes, and (2) for a parking variance for the establishment to obtain a public hall license," *provided that* "if the BZA or Office of Zoning concludes that a use variance is also necessary to permit commercial operations on the third floor (due to the separate requirement that a portion of a premises in this zone be residential), the ANC requests the BZA either to give the ANC additional time to comment on the necessary use variance or to reject the pending application."

3115.1(g) – The motion above was approved by a roll call vote of 7-0.

3115.1(h) – ANC 1C Chairperson Alan Roth and/or Commissioner Andrea Broaddus, who chairs the ANC's Planning, Zoning, and Transportation Committee, and/or SMD 1C03 Commissioner Bryan Weaver, in whose SMD the three premises in question are located, are authorized to present this report.

3115.1(i) – The signature of ANC 1C Chairperson Alan Roth is presented below.

Please feel free to contact me at 347-3030 (W) or 667-7812 (H) if you have any additional questions.

Thank you for your consideration of our views.

Sincerely,

Alan J. Roth
Chairperson

cc: Andrea Bagwell, Esquire