GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: ALS for Andrew Altman
Director

DATE: January 28, 2004

SUBJECT: Supplemental report for BZA Application 17094
1834 Columbia Road N.W.

APPLICATION
Lujan Lujan Lujan Columbia Road, LLC seeks a variance from the floor area ratio (FAR) provisions of §771 to allow 1.59 FAR of commercial use and from the parking space provisions of §2101.1 for a total of 2 parking spaces. The applicant seeks to expand the existing restaurant use to the third floor for a total of 3320.9 square feet while adding no further parking.

SUPPLIMENTAL ANALYSIS
OP has reviewed the additional information submitted by the applicant's representative and the testimony made at the public hearing on January 13, 2004. The applicant's proposed findings of fact are attached for reference. The applicant has amended the FAR calculations to exclude the basement bringing the requested variance to 0.1 over the 1.5 allowed. In light of this change OP accepts the applicant's assertion that using the remaining space on the third and fourth floors for residential would represent a significant practical difficulty. However, the applicant's representative has as yet failed to supply evidence that the basement extends less than four feet above ground level. This documentation should be required prior to approval of the application.

OP also accepts the applicant's arguments for granting the parking variance. This neighborhood in general and this property in particular were not built with off-street parking in mind. With no opportunity on-site or in the immediate vicinity to provide more parking, requiring additional parking for any further use of this building, be it residential or commercial, would remove any opportunity for the applicant to use the top half of the building.

RECOMMENDATION
OP finds that the application meets the standards of §3103.2 for an area variance on this property. Subject to the provision by the applicant of documentation showing that the basement does not count toward the floor area of the commercial use, OP recommends approval of the application.

Attachment: Applicant's submittal

BZA
Case No. 17094
Exhibit No. 28

Board of Zoning Adjustment
District of Columbia
CASE NO. 17094
EXHIBIT NO. 28

District of Columbia Board of Zoning Adjustment
441 4th Street, N.W.
Washington, D.C. 20001

In the Matter of
LUJAN LUJAN LUJAN COLUMBIA RD, LLC
REQUEST FOR A
VARIANCE FROM THE
FLOOR AREA RATIO

1834 COLUMBIA ROAD, N.W.
WASHINGTON, D.C.
DETAILED STATEMENT OF INTENDED USE

Application No. 17094 (ANC-1C) Application of Lujan Lujan Lujan Columbia Road, LLC pursuant to 11 DCMR Section 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, to allow commercial (restaurant/public hall) use of the third floor in the C-2-B District at premises 1834 Columbia Road, N.W., (Square 2551, Lot 27).

Hearing Date January 13, 2004

Decision Date February 3, 2004

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

BACKGROUND

The Applicant requested two variances from District of Columbia Municipal Regulations. The first variance is governed under Section 771 Floor Area Ratio[1] [C] to expand the business operations to the third and fourth floors of the property. The second variance being requested is from the off-street parking requirements under subsection 2101.1, to allow commercial (restaurant/public hall). The Hearing was held on January

[1] Floor area ratio- a figure that expresses the total gross floor area as a multiple of the area of the lot. This figure is determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

13, 2004 and seven witnesses testified in support of the Application.[2] A technical issue concerning the posting of the Board of Zoning Adjustment requirements was raised by Staff in that the Notice was not posted for the full fifteen days. It was determined that due to the proper notice in the D.C. Register as well as Applicant presentations before the Advisory Neighborhood Commission 1C on November 5, 2003, November 19, 2003 and December 2, 2003, the Board of Zoning Adjustment waived the three day non-posting error.

FINDINGS OF FACT

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 reconfigured to provide private residential access to the upper floors, the Applicant is requesting an area variance. The Applicant's property is zoned C2B which requires the following table specifications:

C2B	Apartment House or Other Retail Use	Other Permitted Use	Maximum Permitted
	3.5	1.5	3.5

The Applicant, Lujan Lujan Lujan Columbia Road, LLC, is a District of Columbia corporation incorporated in the District of Columbia in November 22, 2002 and is in Good Standing with the District of Columbia government. The corporate officers are Mr. Pedro Lujan, President, Mr. Peter Lujan, and Mr. Percy Lujan. The corporation purchased the 1834 Columbia Road, N.W., property in December 2002. The property is located in the Kalorama section of the District of Columbia. Prior to the purchase the owners leased the property for over ten years.

The building was constructed in 1900 the calculations are as follows:

Site Area: 2,085.44 sq. ft.

F.A.R. 1.5 allowed = 3,128.16 sq. ft.

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[2] Pedro Lujan, Sr.; Peter Lujan; Enrique Rivera, Latino Affairs Coordinator, D.C. Metropolitan Police Department; Rodrigo Leiva, Director Membership Services, Council of Latino Agencies; Robert Newland, Architect; Sonia Gutierrez, Executive Director Carlos Rosario International Career Center & Public Charter School; and Alan Roth Chairperson, ANC 1C.

Existing Building:

Basement	N.A.
First Floor	1,106.97 sq. ft.[3]
Second Floor	1,106.97
Third Floor	1,106.97
Total Existing	3,320.9 sq. ft.
Difference	+ 192.84 sq. ft.[4]

The building is four-story with basement structure. The most recent tax assessed value is $596,600 which is comprised of $250,000 for the land and $345,400 for improvement.

The owners operate a successful restaurant known as "Habanna Village". Currently the business is operated on the basement, first and second floors. The basement is where the kitchen, bathrooms, and administrative office are located. The first floor is where patrons may dine at tables or sit at the bar. The first floor layout includes thirteen (13) tables, fifty (50) seats and twelve (12) stools. The second floor contains another bar and a small dance floor. The third floor is open space with two bathrooms, a separate heating and air conditioning units with ducts, separate electric panel, fire alarm system, exit lights and a fire escape. The fourth floor is open space which includes a slopping roof/ceiling. The front ceiling height is seven feet-two inches (7'2") and the back ceiling height is six feet (6'0").

There are many reasons why it would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property to utilize the third and fourth floors as residential space. First, the staircase poses an exceptional practical difficulty because of its current location. This staircase extends from the first floor to the fourth floor. Hence, prospective residential tenants and restaurant patrons would be required to utilize the same entrance and exit, via the same staircase. To

[3] The Bay Window at the front was not included in this calculation as it protrudes over the property line onto public property.

[4] The amount of square footage allowed is exceeded by 192.84 square feet. The use of this square footage for a residential use would be totally consumed in the stairway required for access to the third level.

constrict an additional staircase would cost a minimum of $75,000 to $100,000. Another exceptional practical difficulty is that the building is narrow and if the owners were to construct another staircase, most of the entire front area of the building would be utilized. thereby significantly diminishing the available first floor restaurant area.

Another practical difficulty is on the fourth floor, which is really an attic and not living space. The fourth floor has a weak floor structure. The floor joists are composed of 2x6, which cannot support every day living space loads. An additional practical difficulty with the utilization of the fourth floor for residential space is that the ceiling height is insufficient for apartment use. According to the regulations, the legal height is seven feet (7"0"). Only the first twelve feet (12'0") of the fourth floor has a seven foot (7'0") ceiling clearance. The financial commitment required to bring the fourth floor into compliance for residential use to support every day use is approximately $100,000, a cost that would create a financial hardship on this small business.

The granting of this Variance will not adversely affect the use of the neighboring property --, i.e. traffic, noise, lighting, etc. The business has operated at this address for many years and has had a positive effect on the neighborhood. Moreover, the variance if granted will be consistent with the general intent and purpose of the Zoning Regulations and Map.

CONCLUSIONS OF LAW

Subsection 3103.2

As set forth in D.C. Code Ann Section 5-424(g)(3)(1981), "[w]here be reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulation, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code Ann. Section 5-413 to 5-432 (1981)l would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon and appear relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; Provided, that the relief can be granted without substantial detriment to

the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations Map.

Subsection 2100.1

All buildings or structures erected on or after May 12, 1958 shall be provided with parking spaces to the extent specified I Section 2101, except as permitted by Sections 2101 through 2108

The design of the building on the 1800 block of Columbia Road is similar to the other structures on the block. The many of the buildings are four stories. Because the establishment is considered an institution in the Adams Morgan neighborhood, with a positive track record with respect to code compliance issues, public safety and community relations the granting of the third floor will not adversely affect the quality neighborhood. Moreover, the property owners are faced with a financial hardship by meeting the existing financial obligations, mortgage, taxes, upkeep, etc without the ability to operate on the third floor. There is an exceptional or extraordinary situation or condition related to the property, which creates an undue hardship for the owner in complying with the Zoning Regulations.

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 Adams Morgan neighborhood as distinguished residents, business owners, and community participants and the granting of this area variance and parking variance would not be of substantial detriment to the public good. Moreover, given the high density of commercial uses already in place in vicinity, it would be inconsistent with the general intent and purpose of the Zoning Regulations.

The Applicant is seeking a variance from the parking requirements to operate a public hall. The public hall will enable the applicant to charge an admission at the door to compensate the live entertainment featured at Habanna Village. Music is a huge component of the unique cultural exchange at Habanna Village, which features, authentic

Cuban cuisine, music, and dancing. With respect to the parking variance for the public hall, the Applicant believes that the Palmer case is not controlling because this case involved a Special Exception involving the location of accessory parking. This case is distinguishable from the instant case in that the Applicant is seeking a variance; the building was constructed before the 1958 parking requirements were mandated by the District, hence, the construction did not take parking into account.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on the 23rd day of January, 2004 of copy of the Proposed Findings of Fact and Conclusions of Law were e-mailed and mailed, first class to Mr. Travis Parker, D.C. Office of Planning, 801 North Capitol Street, N.E., Washington, D.C. 20001

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