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September 28, 2006

Zoning Commission of the District of Columbia
441 4th Street, NW
Washington, DC 20001

**Case No. 05-42 Sibley Hospital – Consolidated Planned Unit Development and
Related Zoning Map Amendment**

Request to Participate as a Party

Dear Members of the Commission:

I hereby request to appear and participate as a party in the above proceeding. I am requesting status as an individual party, and am also requesting party status for Sibley Neighbors for Responsible Growth, a group of residents living near Sibley Hospital who have come together to form an unincorporated association dedicated to preserving the quality of residential life in our neighborhood and evaluating proposed developments to ensure that they serve local and citywide public interests.

Members of Sibley Neighbors for Responsible Growth include **two members whose homes are within 200 feet of the hospital**, Mr. Edward L. Lennard, 5266 Loughboro Road, and myself, residing at 5224 Loughboro Road. Among our other members are two families residing within two blocks of the hospital: Parker and Adele Harrell, 4920 Palisade Lane; Catherine and Michael Farrell, 4919 Palisade Lane.

If accepted as parties, we will speak as opponents of the proposed Medical Office Building. We will make coordinated presentations at the October 12, 2006, highlighting the distinctive impacts of this proposed zoning change on our residential areas and will speak of the overall impact on the larger affected community. We would hope to cross examine witnesses presented by Sibley Hospital in order to elucidate important aspects of this application, and call witnesses of our own. We would expect our coordinated presentation to take less than an hour.

ZONING COMMISSION
District of Columbia

CASE NO. 05-42
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EXHIBIT NO. 88
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Pursuant to 11 DCMR § 3022.3(e), we provide the following list of witnesses who will testify at the hearing on our behalf:

1. Mr. Leonard S. Spector, uniquely impacted home-owner
2. Mr. Adele Harrell, uniquely impacted home-owner
3. Mr. Paul Hagan, uniquely impacted home-owner
4. Mr. Edward Lennard, uniquely impacted home owner
5. Mr. George Oberlander (expert witness, planning)
6. Mr. Joseph Mehra, PE (expert witness, traffic)

We will not be formally represented by counsel, but will be advised by counsel prior to the October 12 hearing. I will act as representative for myself, and for Sibley Neighbors for Responsible Growth.

All of the members of Sibley Neighbors for Responsible Growth will be more significantly, distinctively, and uniquely affected in character and kind by the proposed zoning action than other persons in the general public because of their close proximity to Sibley Hospital. Those adjacent to the hospital will suffer the impact of new, intensive commercial activities within sight of our homes, including the associated vehicular traffic, noise, emissions, and “hubbub” that detracts from the peaceful enjoyment of our properties – as well as the diminution of our property values. Those slightly farther away but within several blocks of the campus will suffer similar impacts, and in addition will suffer from cut-through traffic and illegal parking.

We believe the District of Columbia Department of Transportation’s metric for assessing traffic impacts – level of service – is not relevant in assessing the effect of traffic on the quiet enjoyment of our residential property.. As the applicant’s own traffic study demonstrates, *the number of new vehicle trips daily caused by the new Medical Office Building that will be made past our homes, on residential streets* – 4,600 new trips daily according to the Sibley traffic survey – will result in, a sudden traffic increase equivalent to 14 years of anticipated normal traffic growth in the area. The area has no access to Metrorail, and is poorly served by any form of mass transit, leaving only the residential streets to absorb this exponential increase in traffic. The impact on residents will be severe in that the traffic will disrupt and pollute at unprecedented levels, significantly detracting from the residential quality of the neighborhood.

In addition, the proposal would allow the development of an over-sized office complex that is completely out-of-scale with the surrounding low-density residential area. The project would have a de-stabilizing effect on the character of the neighborhood where our members live, reduce the value of their property, and erode the character and quality of life in this stable residential neighborhood.

As the Commission considers the pending application, we wish to bring the following points to the Commission’s attention:

I. The new Sibley Medical Office Building will have significant negative impacts on the residential character of the neighborhood, measurably greater than the combined impact of the largest existing, purely commercial enterprises in the area.

All members of our group have great regard for Sibley, not only for its excellent medical services, but also for the attention it devotes to being a “good neighbor.” All of us use the hospital and have high respect for its staff, and many of us can point to specific instances in which Sibley has extended itself to mitigate the impact of its operations on the neighborhood.

The result has been an institution that has retained its community character and, while providing outstanding health care, has minimized the impact of its operations on its neighbors. Among other measures, it has placed the more institutional/heavier use facilities and eyesores like parking garages at the back of the Sibley campus, deployed extensive landscaping, and adjusted lighting to reduce impacts that mar the residential nature of the surrounding area.

We believe, however, that the scale of the proposed Medical Office Building and the nature of the activities that it will house will substantially change the character of the Sibley campus and with it the character the single-family home residential areas where we live. A small institution whose impacts have been manageable to date will change into a de facto commercial zone, with significant traffic and an intensified level of activity that amounts to a major enlargement and alteration of hospital operations.

In effect, the Medical Office Building is large enough and its activities different enough from existing operations at the site that we believe it will tip the balance and transform a hospital campus that is currently compatible with the residential zone in which it is situated into a hospital campus that is so busy and so heavily used that it will profoundly change its surroundings and threaten their essential character.

To be sure, the new building will be providing medical services, in line with the work of the hospital. What will be different is the “throughput” rate of the new facility, which will have a greater hourly flow of patients and staff than is experienced in typical hospital operations. *In fact, the single new building will draw thousands of new patients and staff into the hospital campus every day.* Specifically, the likely number of additional individuals on site, daily, can be estimated to be well in excess of 3,000 persons.

We base this on the traffic study prepared for the Medical Office Building facility, which states that Medical Office Building will generate 4,600 vehicular trips every day. This means 2,300 arrivals and 2,300 departures. If only 30 percent of the vehicles arriving have more than one rider, e.g., a parent and a child or a carpool of two workers, the new population attracted to the site each day will exceed the 3,000 persons noted above.

How many explicitly commercial enterprises in the area generate such customer traffic? We doubt that the largest such commercial enterprises – the MacArthur Boulevard Safeway, Balducci’s, MacArthur Liquor, and Ace Beverages – *combined* have three

thousand customers daily. Thus the Medical Office Building will create a new high-intensity commercial zone within the Palisades-Kent-Wesley Heights-Spring Valley area of the District.

While the commercial Medical Office Building, like the hospital, will offer medical services, it will be totally unlike the hospital in that the occupants of the building will be *for profit* practices. Every occupant will be paying market rates for his/her suite and will be seeking to maximize profits by maximizing throughput. The Medical Office Building will be just like those embedded in major commercial zones, such as the medical office buildings on K or 19th Streets or in Friendship Heights, where the ethos of “the more patients, the better” prevails. What is more, as Sibley often states in its public presentations, the doctors in the Sibley commercial Medical Office Building will have the added burden of District of Columbia malpractice insurance premiums, said to be the highest in the area – another driver for them to increase throughput.

Thus, the new structure should not be benignly viewed as a mere “Medical Office Building” but should be recognized for what it really is -- a “Commercial Office Building with Commercial Medical Tenants.” Such uses are not permitted as a matter-of-right in even the more lenient SP zone district which Sibley seeks to secure.

Although we are still developing our quantitative analysis, the real measure of impact of the Medical Office Building is not the comparison of added vehicular traffic in the neighborhood, as damaging as this is, but the added activity of individuals at the Sibley hospital site. Presented simply, the construction of the Medical Office Building, because of its fundamentally commercial nature, is really like the placement of multiple, new, supermarket-scale commercial enterprises in a residential setting. As stated, the neighborhood can absorb the current level of hospital activities, but the neighborhood will be profoundly changed by the Medical Office Building, as now configured.

II. Given the level of impact described above, we believe Sibley has the burden of establishing, through clear and convincing evidence, that the community benefits of the commercial Medical Office Building more than offset these impacts. We believe that Sibley has not met this burden.

A. The Zoning Commission is not the competent authority within the District of Columbia Government to make the essential preliminary finding on this matter. For hospitals seeking to expand, the finding of community benefit is made by the District of Columbia Department of Public Health in a Certificate of Need proceeding; then the Zoning Commission must work to match hospital needs with community requirements. The Zoning Regulations specifically require, as a condition of permitting the location of Health Care Facilities in even the SP zone, that the facility “meet all applicable code and licensing requirements.” 11 DCMR §§ 358.5, 359, 513(b). **We seriously question the use of the PUD process to make an end-run around the special exception standards normally applicable in even the SP zone.**

Until the Department of Health has provided a Certificate of Need, we believe the Zoning Commission will not be in a position to begin to evaluate whether the asserted benefits of the Sibley Medical Office Building might outweigh its impacts on the residential character of the community. This area of Washington is hardly underserved by medical office buildings, all of which are in *existing* commercial zones, and, prior to Sibley's application, to the best of our knowledge, there was no community request for additional buildings offering medical services.

B. If the Commission determines that it is competent to weigh the need for the Sibley Medical Office Building, we believe the application must fail because it does not contain an adequate examination of alternatives with lesser impacts.

A central justification for the Medical Office Building is that it will generate revenue that will ensure the financial health of Sibley Hospital. We all strongly hope Sibley will thrive and recognize the benefits it provides the community.

But surely there are less onerous means to achieve the needed revenue stream. The most obvious would be to build or acquire a commercial medical office building with commercial medical tenants off-campus, in an area already zoned for commercial uses. Apparently Suburban Hospital, among other community-based hospitals in the area, has taken this route. Acquiring an existing medical office building would have little or no impact on the community above pre-existing levels, while still providing the revenue Sibley declares it requires. In its community presentations, Sibley has never described the alternatives, if any, it has examined. The Zoning Regulations governing Health Care Facilities of this size require that the applicant demonstrate that "there is no other reasonable alternative to meet the program needs *of that area of the District.*" 11 DCMR § 359.3.

C. If the Commission determines that it is competent to weigh the need for the Sibley Medical Office Building, we believe the application must fail because it contains no examination of a deferral of the project.

In its community presentations, Sibley has not provided annual revenue and expenditure data to establish that the commercial Medical Office Building will be needed on the schedule Sibley suggests and that it could not be deferred for many years. Without a clear and convincing showing of Sibley's need for the facility at this time, based on annual projected revenue requirements, we believe the hospital has not sustained its burden in demonstrating the need for the facility. In this case, the measurable impacts of the Medical Office Building on its surrounding residential neighborhood would outweigh the asserted, but unsubstantiated benefits of the project, and there would be no basis for the change in zoning requested.

D. If the Commission determines that it is competent to weigh the need for the Sibley Medical Office Building, we believe the application must fail because it contains no examination of reduced-scale alternatives to the project.

The Ward 3D Advisory Neighborhood Commission has examined the pending application and recommended that Sibley commercial Medical Office Building be reduced in scale so that the impacts of the facility will be mitigated.

Many in the community, including many members of Sibley Neighbors for Responsible Growth, believe that this is a reasonable approach for considering the project, which takes cognizance of the impacts of the Sibley Medical Office Building in a way that will reduce the likelihood of its having a dire impact on the neighborhood around the hospital.

But based on its community presentations, Sibley has not considered this alternative. Without doing so, we believe Sibley has not sustained its burden that the benefits of the commercial Medical Office Building it seeks outweigh the new facility's impacts on the community.

III. Comprehensive Plan for the District of Columbia

The Plan states that the Palisades, Kent, Wesley Heights, and Spring Valley are to be protected as residential areas. The proposed Medical Office Building is clearly contrary to the Plan in that it will introduce commercially oriented activities well beyond those now in the community, unquestionably eroding the community's residential character. As noted, the scale of commercially oriented activities will be greater than that of numerous large-scale, purely commercial enterprises in the area and it will bring such commercial activities to a new locus in the Palisades-Kent-Wesley Heights-Spring Valley area.

IV. Traffic Impacts

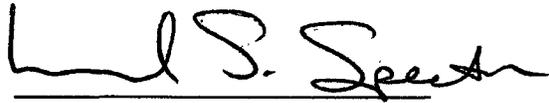
As indicated above, 4,600 vehicular trips, per day, will be imposed on our neighborhood. This represents the equivalent of 14 years of expected traffic growth for this area. We believe that the measure of traffic impact used by the District Department of Transportation is flawed: for requests for commercial zoning in residential areas the correct measure of impact should not be "level of service" but *volume of traffic through the neighborhood*.

Conclusion

We believe the foregoing analysis and argument provide an ample basis for our being granted party status in this proceeding.

We believe that through a careful balancing of the needs of Sibley Hospital and of the neighborhood, the Commission can reach a decision that serves both sides well.

We call the Commission's attention to the recommendations of the Ward 3D Advisory Neighborhood Commission, in particular, as a focus for reshaping the Medical Office Building project to ensure that the Sibley campus remains compatible with the residential community in which it is embedded.

A handwritten signature in black ink, reading "L. S. Spector". The signature is written in a cursive style with a horizontal line underneath.

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