BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA
September 14, 1998

Re: Motion to stay final order for Application No. 16370, an application for a special exception under Section 203.10 for a home occupation permit to conduct a Consulting/ Strategic Planning business in a CAP/R-4 District at premises 434 New Jersey Avenue, S.E. (Square 694, Lot 811).

Comes now THE CAPITOL HILL RESTORATION SOCIETY, INC., party in the above matter, by the Chair of its Zoning Committee.

The Society respectfully requests that the Board stay a final order in Application 16370 pending a decision on an appeal filed this day (BZA No. 16404).

The Society is appealing a decision on February 5, 1998 by the Zoning Administrator to issue a home occupation permit to Jack Milton Fields, DBA Twenty-First Century Group, at 434 New Jersey Avenue. If our appeal is successful, it will also be dispositive of Application 16370.

The Board, when discussing Application 16370 in public meeting on September 2, 1998, did not rule on the Society's contention that the applicant was not qualified to hold a home occupation permit because 434 New Jersey Avenue, SE is not the applicant's principal residence and that the home occupation is not clearly secondary to residential use of the premises. The Board relied on the Zoning Administrator's February 5, 1998 decision to issue a home occupation permit to mean that those issues were considered by the Zoning Administrator and resolved in the applicant's favor.

It is our contention that the Zoning Administrator either was unaware of the facts that indicate that 434 New Jersey Avenue, SE was not applicant's principal residence, or, if she was aware of those facts, erred in interpreting the terms "principal residence," (Sec. 203.2) and "secondary to the use of a dwelling unit for residential purposes (Subsec. 203.4(a)).

Our appeal, therefore, will test the Zoning Administrator's decision to grant <u>any</u> home occupation license. If successful, it also will be dispositive of Application 16370.

The Society urges the Board to act favorably on this request.

Respectfully submitted,

Lyle R. Schauer, Zoning Chair
Capitol Hill Restoration Society, Inc.
420 Tenth Street, SE
Washington, DC 20003
(202)543-0425

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DISTRICT OF COLUMBIA
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BZA
CASE No. 16370
EXHIBIT No. 35

Board of Zoning Adjustment
District of Columbia
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CERTIFICATE OF SERVICE

BZA APPLICATION NO. 16370

I hereby certify that on September 14, 1998 a copy of a motion to stay the final order in this matter was served on the parties listed below by the means indicated.

By mailing a copy by first-class mail:

Ellen M. McCarthy
Director of Planning and Land Use Services
Robins, Kaplan, Miller & Cirese, L.L.P.
1801 K Street, NW, Suite 1200
Washington, DC 20006-1301

By Hand Delivery:

Advisory Neighborhood Commission 6B
921 Pennsylvania Avenue, SE
Washington, DC 20003

Lyle R. Schauer
Chair, Zoning Committee