positive affect of helping to reduce the automobile traffic during bus tours.

16. A community liaison committee is needed to work with area residents and facilities on issues related to Hillwood.

17. A matter of right development of single-family dwellings on the site would create a greater traffic impact than the proposed use.

18. The museum use is not so intrusive as to be inconsistent with the residential zoned district in which it is located.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking a variance from the use provisions to allow additions to and modifications of existing structures, new construction and modifications of certain conditions of previous Board orders. The granting of such a variance requires a showing through substantial evidence of an undue hardship on the owners arising out of some unique or exceptional shallowness, shape or topographical condition. The Board must find that the property cannot be used for any purpose allowed as a matter of right. Further, the Board must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan. The Board concludes that the applicant has met this burden of proof.

The Board concludes that the property is subject to the provisions of the will of Marjorie Merriweather Post requiring that the site be used as a museum to display her art collection and the grounds. The use has been established and the proposed additions, new construction and operating changes are necessary for the continued viability of the museum use. Therefore, the Board concludes that the owner of the property would face an undue hardship if the variance relief is denied.

The Board concludes that granting the application will not be of substantial detriment to the public good, nor will it substantially impair the intent, purpose and integrity of the zone plan for the R-1-A District.

The Board concludes that it has afforded the ANC the "great weight" to which is entitled. In light of the foregoing, the Board concludes that the application is hereby GRANTED, SUBJECT to the following CONDITIONS:

Board of Zoning Adjustment
District of Columbia
CASE NO. 17229
EXHIBIT NO. 34A2

1. The facility shall be open five days per week for regular daily visits. Sundays are not to be included in this schedule.

2. The hours of operation for regular daily visits shall be from 8:30 a.m. to 6:00 p.m.

3. A maximum of 250 persons shall be allowed to visit the site each day of regular operation.

4. A maximum of 50 persons shall be allowed inside of the museum at any one time.

5. Visitors shall be admitted by appointment only.

6. All parking shall occur on the premises.

7. The applicant shall be allowed to have a maximum of 16 educational evening activities per year.

8. The educational evening activities shall end no later than 10:00 p.m.

9. The applicant shall be allowed to have four Sunday afternoon events in the first year, with one additional event being added each year with an ultimate maximum of ten Sunday afternoon events.

10. A maximum of 100 persons shall be allowed to attend each Sunday afternoon event.

11. The applicant shall be allowed to have one annual fundraiser.

12. No more than 350 people shall be allowed to attend the annual fundraiser.

13. No amplified outdoor concerts shall be allowed at the site.

14. The applicant shall establish a liaison committee made up of the ANC, area residents and institutions to coordinate the activities of the applicant's facility and nearby institutions. The committee shall meet at least quarterly to resolve any problems raised by its members.

15. No outside groups or individuals shall be allowed to rent the applicant's facility.

16. The applicant shall provide security at the site 24 hours a day, seven days a week.

17. A "No right turn" sign shall be installed at all vehicular exits from the site.

18. The applicant shall request that visitors exit from the facility toward Tilden Street.

19. All construction equipment, supplies and parking shall be located within the boundaries of the applicant's site.

VOTE: 4-0 (Susan Morgan Hinton, John G. Parsons, Laura M. Richards, and Craig Ellis to grant; Angel F. Clarens not voting, having recused himself).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Madeliene H. Dobbins
Madeliene H. Dobbins
Director

Final Date of Order: OCT 26 1995

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord16019/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16019

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on OCT 26 1995 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Whayne S. Quin, Esquire
Wilkes, Artis, Hedrick and Lane
1666 K Street, N.W., Suite 1100
Washington, D.C. 20006

Frederick J. Fisher
4155 Linnean Avenue, N.W.
Washington, D.C. 20008

Jody R. Olmer
2700 Upton Street, N.W.
Washington, D.C. 20008

Grace Moe
4700 Connecticut Avenue, N.W.
Washington, D.C. 20008

Bernard Koteen
2604 Tilden Place, N.W.
Washington, D.C. 20008

Douglas Mitchell, Chairperson
Advisory Neighborhood Comm. 3F
3400 International Drive, N.W.,
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Tersh Boasberg, Esquire
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Stephen Paterson Belcher
2935 Tilden Street, N.W.
Washington, D.C. 20008

Madeliene H. Dobbins

MADELIENE H. DOBBINS
Director

DATE: OCT 26 1995

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16019 of the Marjorie Merriweather Post Foundation of the District of Columbia, pursuant to 11 DCMR 3107.2, for a variance (Subsection 201.1) to allow additions to and modifications of existing structures, new construction and modification of certain conditions of previous Board orders governing the operation of an approved museum in an R-1-A District at premises 4155 Linnean Avenue, N.W. (Square 2245, Lot 800).

HEARING DATE: January 18, 1995
DECISION DATE: March 1, 1995

DISPOSITION: The Board GRANTED the application with conditions by a vote of 4-0 (Susan Morgan Hinton, John G. Parsons, Laura M. Richards and Craig Ellis to grant; Angel F. Clarens not voting, having recused himself)

FINAL DATE OF ORDER: October 26, 1995

RECONSIDERATION ORDER

The Board granted the application, subject to 19 conditions, by its final order dated October 26, 1995. By letter dated November 7, 1995, an opponent to the application (movant herein) filed a motion for reconsideration of the Board's decision. The movant assigns error to the Board's decision in three main respects: (a) The Board applied an incorrect legal standard in granting the use variance; (b) There is an inadequate factual record to allow an increase in the operating hours or to allow Sunday events, and (c) The Board did not give great weight to the ANC's recommendation of no Sunday events.

A. The Undue Hardship Standard

The movant argued that this is a use variance case where the applicant must show that it faces an undue hardship if the relief is denied. The movant argued that the Board erred in relying on the will of Marjorie Merriweather Post to justify the use of the property because to do so would amount to a self-created hardship on the part of the applicant.

The movant also argued that in the case where the museum use was initially granted, the applicant did not assert the terms of the will as justification. Therefore, the Board should not rely on the will in the subject case.

The movant argued that the Board's initial grant of the application does not automatically extend that use variance to future applications for variance relief, nor does it modify the test that applies in these applications.

The movant maintains that the Hillwood Museum enjoys vast wealth and would not suffer undue hardship or a practical difficulty if the variance relief were to be denied. In the movant's view, it is simply the desire of the applicant to expand. Expansion is not necessary. Thus the Board erred when it stated that the use has been established and the proposed additions, new construction and operating changes are necessary for the continued viability of the Museum's use (BZA Order No. 16019, p. 21).

By letter dated November 17, 1995, counsel for the applicant (respondent) filed a statement in opposition to the motion. On the use variance issue, the applicant noted that in BZA Order No. 12297, as made permanent by BZA Order No. 13668, the Board granted a use variance for the subject property to be used as the Hillwood Museum. Contrary to the assertions made by the movant, a use variance runs with the land. The applicant only needs to comply with the conditions which also run with the land under the Court of Appeals decision in National Black Child Development, Institute, Inc. v. District of Columbia Board of Zoning Adjustment, 483 A.2d 687 (D.C. 1984). Therefore, Hillwood is not required to re-establish the basis for granting the underlying use variance each time a change in operating conditions is sought.

The respondent asserts that in the subject application, it sought changes to certain operating conditions that have become too restrictive given the demands of operating a public, nonprofit museum in the 1990s. The conditions originally included in the Board's 1977 order were added to ensure that its grant of the use variance met the third part of the variance test - that there would be no harm to the public or zone plan. Accordingly, in modifying these conditions pursuant to National Black Child Development, the applicant needs to address only the third part of the variance test regarding impact. The first two parts of the test were satisfied in the original order granting the use variance to allow the operation of a museum on the site.

The respondent maintains that the movant's legal argument has been specifically raised and rejected by the Board at the hearing. The motion presents no additional reasons for the Board to reconsider its ruling on the legal standard governing its decision regarding the Hillwood.

(B) The Factual Record

The movant maintains that the factual record does not support the Board's conclusion that the museum's application satisfied the

"undue hardship" burden as it relates to an increase in the hours of operation and the allowance of Sunday events. The applicant only showed a preference for more hours and the ability to serve more people. There was no evidence to demonstrate that the museum needed these changes for financial reasons in order to continue operating. She further argued that there is evidence that the Hillwood's immediate neighbors oppose the request to hold events for 100 people on Sundays. Neither the Department of Public Works nor the museum's traffic consultant seriously considered or studied the potential impact of weekend traffic during Sunday events.

Finally, the movant argued that because the Board approved the Levine School application after granting the variance in Hillwood, the Board should reconsider its decision in the instant case. The movant believes that the two institutions operating in such close proximity to one another will have an adverse affect on the community.

The respondent stated that the changes requested in this application are based on the museum's long history of operation under the current restrictions. These years of experience combined with the long-range plan have provided a strong and well-reasoned basis for the requested changes. It was also noted that Hillwood substantially modified several of the initially requested conditions to address community concerns.

With regard to Sunday events, the respondent made note of the movant's argument that there is no factual support for finding that Sunday events will not have an adverse impact on the zone plan. In response to this position, the respondent stated that the current BZA conditions do not prohibit Sunday functions. Under the original conditions, Hillwood is permitted to operate on Saturdays and Sundays as long as it is only open a total of five (5) days a week. Thus, the change was not requested to permit use of the museum on Sundays since that was already allowed. Hillwood is essentially seeking to expand the number of days during the week that the museum may operate. The Board's order addresses the rationale for Sunday events (Finding No. 7), the screening of the site to mitigate any impacts (Finding No. 5), and traffic and parking concerns (Finding Nos. 11, 12, 13, 14 and 15). The Board also found that the matter of right development would have far greater impacts than the museum use (Finding No. 17). The Board also specifically conditioned the Sunday events to minimize any impacts. Therefore, the respondent argued that the Board need not reconsider its decision on this issue.

(C) Great Weight to the ANC

The moving party argued that the Board failed to give "great weight" to the ANC's recommendation that no events should be permitted on Sundays. She stated that the ANC proposed the

following condition related to the museum's request for increased hours of operation:

> "The museum shall be made available to the public no more than five days a week, retaining the present schedule of Tuesday through Saturday."

She stated that the Board failed to discuss with specificity its rationale for rejecting the ANC's recommendation that the museum should be closed to the public on Sundays.

The respondent stated that the Board carefully considered the ANC's recommendation and the opposition of the movant as well. The Board addressed those concerns by crafting conditions designed to minimize any impacts from Sunday events. For example, Condition No. 9 allows for four Sunday afternoon events in the first year with one additional event being added yearly. Condition No. 10 limited the number of persons who can attend Sunday events to 100. Condition No. 6 requires all parking to be on the premises and Condition No. 13 prohibits amplified outdoor concerts. The respondent stated that all of these conditions serve to mitigate any adverse impacts on the area. Therefore, the Board addressed the ANC's concerns by adequately conditioning Sunday events.

(D) Impact on the Community vs. Viability of the Museum

The movant maintains that the museum will be viable without the Sunday events, but allowing the Sunday events will impair the zone plan by destroying the residential character of the neighborhood. She noted that the Hillwood can come back to the Board at a later date once it has held special events while the Levine School is operating and impacts can be assessed. Then the museum might be able to assert with particularity the demand for such events and the neighborhood will have had experience with the manner in which the museum has conducted its increased operations.

The respondent is of the view that the need for the operational changes has been established and the Board's conditions will limit the impact on the neighborhood.

The Board's Analysis

The Board has considered the record in the application, its final order, the motion for reconsideration and the response. In reviewing the order in this case, the Board notes that Condition No. 1 provides as follows: "Use of the property is subject to the terms of the previous owner's will which requires that the museum operate at the site." The Board concludes that the motion for reconsideration is based in part on this finding which addresses the basis for use of the site. The Board concludes that in analyzing the subject application, its focus was not on establish-

ing the underlying museum use. It is the Board's view that this use was previously established with a use variance in BZA Application No. 12297 and 13668. The Board viewed the instant application as one where a long-standing use seeks changes in its operations rather than one where a new use is being sought. The Board concludes that it is unnecessary to consider the museum as if it were a new use because the previously approved use variance runs with the land. The Board finds that evidence of the will was not introduced at the hearing in this application and that the finding related to the will is erroneous. However, because the Board had a separate and adequate basis (addressed below) for granting the application, it considers Finding of Fact No. 1 to be harmless error.

In deciding the subject application on the issues raised in the motion, the Board considered all of the evidence submitted by the applicant and opposing parties on extended operations and Sunday events. The Board determined that the applicant established hardship by demonstrating that it is unable to meet the growing public demand for the facility and that it needs to make changes to comply with the Americans with Disabilities Act. The Board concludes that it carefully crafted specific conditions to address the concerns of opposing parties and limit the impact of the expanded use on the community. The Board finds that while the movant continues to oppose the application, she alleges no error that would warrant reconsideration by this Board. Therefore, the motion for reconsideration is DENIED.

VOTE: 4-0 (John G. Parsons, Susan Morgan Hinton and Laura M. Richards to deny; Craig Ellis to deny by absentee vote; Angel F. Clarens not voting, having recused himself).

DECISION DATE: December 6, 1995

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Madeliene H. Dobbins
Director

Final Date of Order: JUN 26 1996

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

16019ORD/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16019

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUN 26 1996 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Whayne S. Quin, Esquire
Wilkes, Artis, Hedrick and Lane
1666 K Street, N.W., Suite 1100
Washington, D.C. 20006

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Anthony Knight
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Baltimore, Maryland 21217

Scott Strauss, Chairperson
Advisory Neighborhood Commission 3F
3400 International Drive, N.W.
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Stephen Paterson Belcher
2935 Tilden Street, N.W.
Washington, D.C. 20008

Madeliene H. Dobbins

MADELIENE H. DOBBINS
Director

DATE: JUN 26 1996

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16019 of the **Marjorie Merriweather Post Foundation of the District of Columbia**, pursuant to 11 DCMR 3107.2, for a variance from Subsection 201.1 to allow additions to and modifications of existing structures, new construction and modification of certain conditions of previous Board Orders governing the operation of an approved museum in an R-1-A District at premises 4155 Linnean Avenue, N.W. (Square 2245, Lot 800).

HEARING DATE: **January 18, 1995**
DECISION DATE: **March 1, 1995**

DISPOSITION: By Order dated October 26, 1995, the Board GRANTED the application by a vote of 4-0 (Susan Morgan Hinton, John G. Parsons, Laura M. Richards and Craig Ellis to grant; Angel F. Clarens not voting, having recused himself).

By Order dated June 26, 1996 the Board DENIED an opponent's motion for reconsideration by a vote of 4-0 (John G. Parsons, Susan Morgan Hinton and Laura M. Richards to deny; Craig Ellis to deny by absentee vote; Angel F. Clarens not voting having recused himself).

MODIFICATION ORDER

The Board initially granted Application 16019 by its order dated October 26, 1995 to allow additions to and modifications of existing structures, new construction and modification of certain conditions of previous Board Orders governing the operation of the Hillwood Museum. By letter dated November 30, 1998, counsel for the applicant filed a motion to waive the six-month filing requirement and a waiver to allow the current Board Members to decide this motion for modification of approved plans.

THE WAIVER REQUESTS:

Pursuant to 11 DCMR 3301.1, the Board may waive its rules where good cause is shown and where the Board determines that granting the waiver will not prejudice the rights of any party.

In this case, the applicant is requesting that the Board waive Section 3335.3 which requires an applicant to file for a modification of plans within six months of the final date of the Board's order. Under the Board's Rules, to be timely this motion should have been filed by April 26, 1996. The motion was filed on November 30, 1998, after the six month time limit had run. It is the applicant's position that to waive this rule will not prejudice any party to the application.

The Board **granted** the waiver of the six-month filing requirement and thereby implicitly determined that good cause had been shown and that granting the waiver would not prejudice the rights of any party.

The applicant is also requesting waiver of Section 3335.6 which states that a Board Member shall not vote on a request for a modification of plans unless that member participated in the original decision. The make-up of the Board has changed since the original decision on Application 16019. It is the applicant's position that to waive this rule will not prejudice any party to the application.

With regard to this waiver request the Board notes that the record was provided to all of the current members of the Board to allow them to participate and make an informed decision on the motion. None of the other parties submitted a statement addressing this waiver request. Therefore, the Board determines that no party to the application would be prejudiced by the granting of this waiver. Consequently, the Board hereby grants the waiver of Subsection 3335.6.

The Board allowed for the submission of the modification motion.

THE MOTION FOR MODIFICATION OF PLANS:

The motion for modification of approved plans must meet the requirements of Section 3335. Specifically, the test for review under Subsection 3335.7 states "Approval of requests for modification of approved plans shall be limited to minor modifications that do not change the material facts the Board relied upon in approving the application."

The modification of approved plans requested by the applicant will allow the applicant to (1) renovate the currently existing guardhouse at the main entrance to the Hillwood Museum into a restroom; (2) construct a new guardhouse directly across from the proposed restroom facility at the main entrance and; (3) replace the existing guardhouse at the service entrance with a newly constructed guardhouse.

The applicant stated that the requested modifications will ease access to the Hillwood Museum thereby reducing traffic congestion at the Hillwood Museum's entrances. Also, the additions will greatly improve the working conditions for several of the Hillwood Museum's employees and add to the aesthetics of the Hillwood Museum grounds as a whole. The applicant also stated that the newly created restrooms will be ADA accessible.

The renovation of the main guardhouse into restrooms will not increase the size of the structure. The newly constructed main guardhouse will be 100 square feet, while the newly constructed service entrance guardhouse will be 140 square feet.

Finally, in the applicant's letter dated November 30, 1998, the applicant requested that the Board grant it the flexibility to move the exact location of the **service entrance guardhouse** up to four feet to the east. The applicant indicated that such flexibility is necessary because the applicant is currently completing a survey of the property to determine the precise location of the property

lines. Once the survey is complete, the applicant will know exactly where it must build the service entrance guardhouse in order to comply with the building restriction line.

By letter dated December 11, 1998, the applicant amended the motion for modification by **eliminating the request for flexibility** in the location of the guardhouse.

None of the parties to the application submitted comments on the proposed modification of plans.

Upon consideration of the motion, the lack of response from the parties and the record in this case, the Board concludes that the proposed modifications to the approved plans are minor in nature and do not materially change the facts relied upon by the Board in deciding the initial application.

In light of the foregoing, it is **ORDERED** that the motions for waiver and modification of plans are **APPROVED, SUBJECT** to the **CONDITION** that construction shall be in accordance with the letter from Wilkes, Artis, Hedrick & Lane, dated November 30, 1998 with attached plans **(Exhibit No. 87)**, and the supplementary letter from Wilkes, Artis, Hedrick & Lane, dated December 11, 1998 **(Exhibit No. 88)** with attached plans. In all other respects, the previous orders of the Board shall remain in full force and effect.

DECISION DATE: February 3, 1999

VOTE: **4 - 0** (Sheila Cross Reid, Betty King, Jerry H. Gilreath to grant; John G. Parsons to grant by absentee vote; Anthony Hood not voting, not having heard the case)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Sheri M. Pruitt-Williams
SHERI M. PRUITT-WILLIAMS
Interim Director

FINAL DATE OF ORDER: MAR - 3 1999

PURSUANT TO D.C. CODE § 1-2531 (1987), SECTION 267 of D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF

APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

16019ord/twr/ljp

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16019

MAR - 3 1999

As Interim Director of the Office of Zoning, I certify and attest that on _____ a copy of the order entered on that date in this matter before the Board of Zoning Adjustment was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Whayne S. Quin, Esquire
Allison Prince, Esquire
Wilkes, Artis, Hedrick and Lane
1666 K Street, N.W., Suite 1100
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3400 International Drive, N.W., Suite 2J21
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Stephen Paterson Belcher
2935 Tilden Street, N.W.
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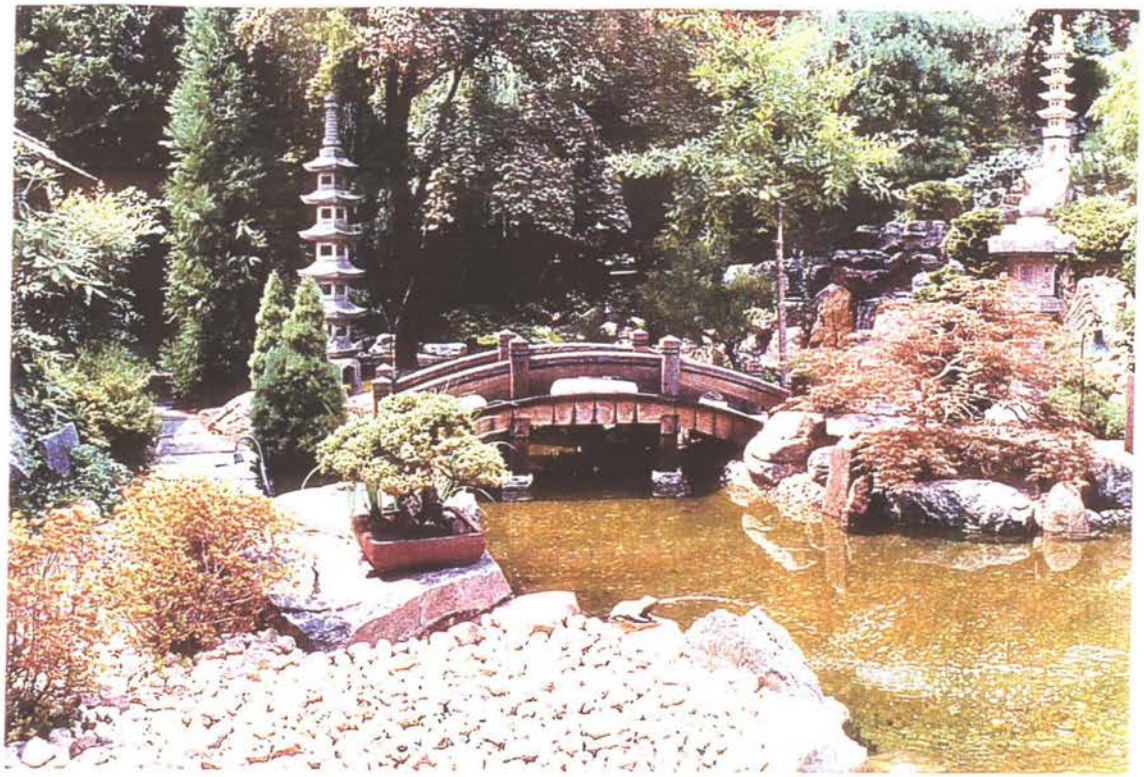
Attested By: Sheri M. Pruitt-Williams
SHERI M. PRUITT-WILLIAMS
Interim Director

Attest/ljp

G

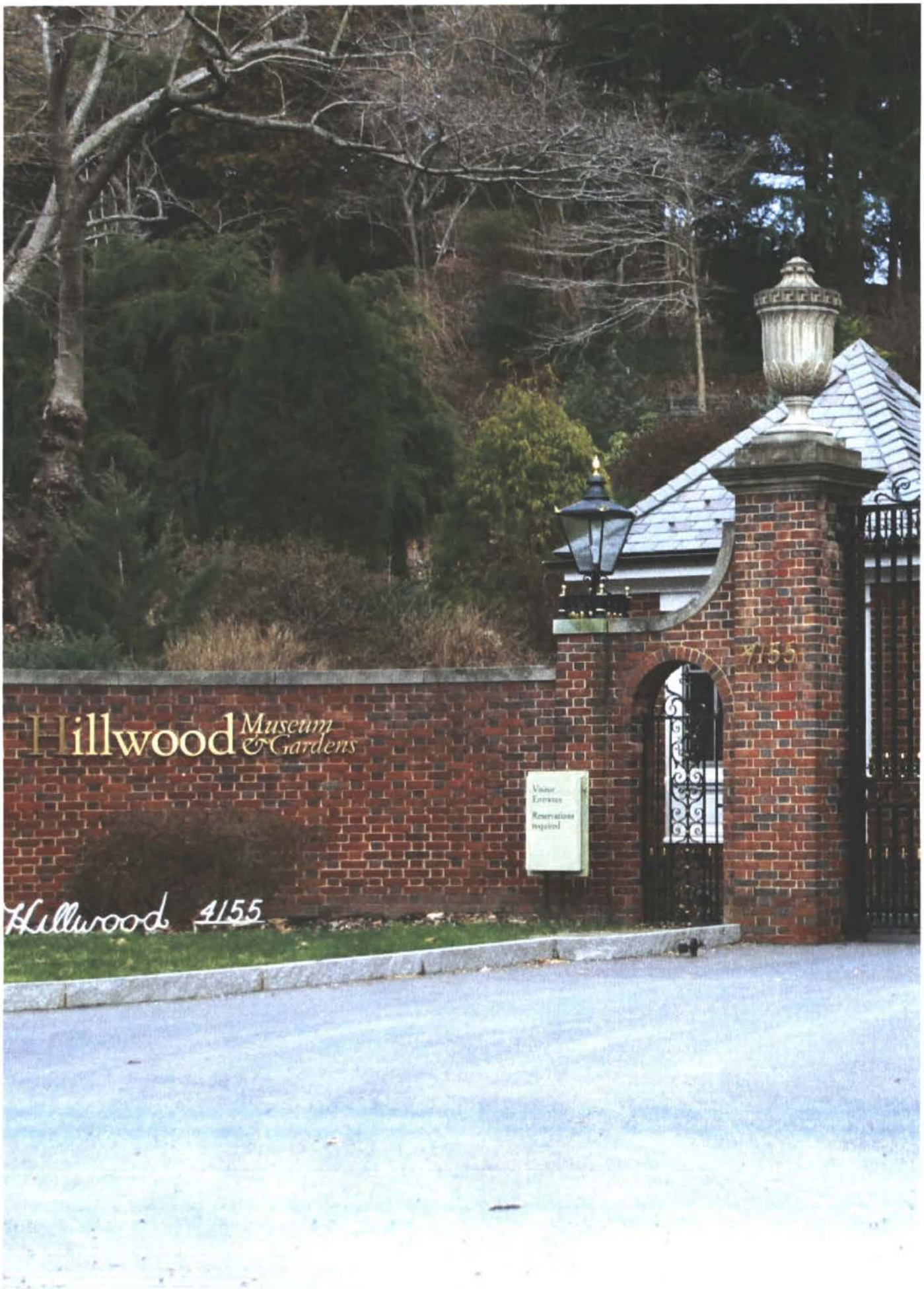







Café
Café




Hillwood Museum & Gardens
4155
Visitor Entrance
Reservations required
Hillwood 4155


Museum
& Gardens
4155

H

NEIGHBORHOOD COOPERATION AGREEMENT

THIS AGREEMENT, made as of this ____ day of _____, 2005, by and among Hillwood Museum and Gardens Foundation, a District of Columbia nonprofit organization, (hereinafter referred to as "Hillwood"), and the undersigned neighbors of Hillwood (hereinafter collectively referred to as the "Neighborhood Parties") their successors, heirs, devisees, and alienees:

WITNESSETH:

WHEREAS, Hillwood is the owner of a museum at 4155 Linnean Ave, N.W., in the District of Columbia, which is formally known as Lot 1 in Square 2244; and

WHEREAS, Hillwood operates as a museum in an R-1-A Zone District pursuant to BZA Orders No. 12297, 13668, 14735, and 16019, incorporated herein by reference; and

WHEREAS, Hillwood has filed Application No. 17229 with the Board of Zoning Adjustment seeking to modify certain conditions in the applicable BZA Orders to expand the numbers of visitors and events permitted on the premises; and

WHEREAS, the Neighborhood Parties are owners of real property within 200 feet of the Project; and

WHEREAS, many owners of property in the immediate vicinity of Hillwood have expressed concerns about the effect of the increase in activity at Hillwood on traffic and street parking in the area; and

WHEREAS, Hillwood desires to address the various concerns raised by the Neighborhood Parties, recognizes the importance of living in harmony with its neighbors, and seeks to contribute toward the improvement of its surroundings; and

WHEREAS, Hillwood intends to minimize the quantity and impact of traffic on the community arising from its expanded operations; and to maintain communication with neighbors to the fullest extent possible; and

WHEREAS, Hillwood desires to obtain the support of Neighborhood Parties for its application;

NOW, THEREFORE, in consideration of the foregoing and of the agreements herein contained, and for other good and valuable consideration, as further described herein, the mutual receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

I. Normal museum operations.

A. Hillwood will seek to eliminate parking on the street through the following measures:

1. Attendance and parking will be by reservation only.

2. At time of reservation, visitors will be asked how they intend to arrive. If they plan to drive, they will be denied a reservation unless there is adequate space in the lot for their car, considering the anticipated demand from visitors (defined herein as anyone who is not an employee) and employees (defined herein as paid staff and volunteers.)

3. There shall be no charge for parking.

4. Reservations shall be made for no more than 110 cars in the morning and 110 cars in the afternoon, including limousines, whether or not they remain on site.

5. No more than two buses will be permitted to enter the property in the morning and two in the afternoon.

6. Hillwood shall take reasonable measures to assure that employees and visitors do not park on the street. These will include, at a minimum, the following:

   a. Guards will refuse admittance to all visitors arriving on foot unless the guards are reasonably satisfied that they did not park on the street.

   b. Signs will be placed at the entrances to Hillwood similar to the following:

   c. "All employees and visitors arriving by car must park on the premises."

   d. Off-street parking will be provided to employees who drive on a regular or emergency basis.

   e. If requested by one or more of the parties to this agreement, Hillwood will consult with the parties to this agreement and will use best efforts to institute special measures recommended by them.

II. Overflow events: Up to four overflow events per year may be held without limit on numbers of cars or attendees, under the following conditions:

A. The event is either a fundraising event for Hillwood or is primarily related to Hillwood's educational mission.

B. Sufficient off-street parking is provided so that no vehicle needs to park on the street.

C. Hillwood takes all reasonable measures to assure that visitors do not park on the street. These must include, at a minimum, the following:

1. Invitations and other advertising media will direct visitors not to park on the street.

2. Signs will be placed at the entrances to Hillwood similar to the following:

3. "All employees and visitors arriving by car must park on the premises."

4. Free valet parking will be provided for off-site parking.

5. Drop-off and pickup for valet parking will be adjacent to the visitors' center or another main building on the premises.

6. Contracts with valet parking companies will expressly prohibit drivers from parking on the street.

7. There may be no more than two bus arrivals including drop-offs and pickups

8. Space shall be provided for bus parking on the property. To the extent practicable, Hillwood will not schedule overflow events on days when other nearby institutions are having large events. Such institutions include Levine School of Music, the Embassy of the Netherlands, and Howard Law School, or their successors.

9. If requested by one or more of the parties to this agreement, Hillwood will consult with the parties to this agreement and will use best efforts to institute special measures recommended by them.

III. Evening and Sunday Events: In addition to the four "overflow" events discussed in Paragraph II, evening and Sunday events shall be limited as follows:

A. Sunday hours will be from 12:30 p.m. – 6:00 p.m. There shall be no Sunday evening events.

B. There may be up to 41 evening and Sunday events per year. All events shall be primarily educational events related to Hillwood's mission or fundraising events for Hillwood.

C. No more than 18 Sunday events may be held in any calendar year.

D. No more than three Sunday events shall be held in any calendar month, nor may Sunday events be held on consecutive Sundays. In print and

electronic media, Sunday events shall be characterized as special programs.

E. No more than two evening events shall be held in any calendar week.

F. There shall be a limit of 75 cars at evening events and 100 at Sunday events, including limousines, whether the cars are parked on or off the property.

G. Visitors will not arrive by bus on Sundays except for two buses on each of two Sundays per year.

H. Visitors will not arrive by bus to evening events except for up to five evening events per year. At such events, there may be no more than five bus arrivals including both drop-offs and pickups.

I. Space shall be provided for bus parking on the property.

J. Hillwood will take all reasonable measures to assure that visitors do not park on the street. These must include, at a minimum, the following:

1. Invitations and other advertising media will state that all parking must be in the museum's parking facility and street parking will not be permitted.

2. Signs will be placed at the entrances to Hillwood similar to the following:

3. "All employees and visitors arriving by car must park on the premises."

4. Free valet parking will be provided for off-site parking.

5. Drop-off and pickup for valet parking will be adjacent to the Visitors' Center or another main building on the premises.

6. Contracts with valet parking companies will expressly prohibit drivers from parking on the street.

7. If requested by one or more of the parties to this agreement, Hillwood will consult with the parties to this agreement and will use best efforts to institute special measures recommended by them.

IV. Measures to reduce the queue on Linnean:

A. At no time shall Hillwood permit a street queue of more than three cars at the upper entrance or two at the lower entrance.

B. During all events, both gates will be opened for ingress.

C. If requested by one or more of the parties to this agreement, Hillwood will consult with the parties to this agreement and will use best efforts to institute special measures recommended by them.

D. At no time shall Hillwood permit a street queue of more than one bus.

V. Buses and taxis

A. All buses and taxis which park or wait must do so on the property. For purposes of this Agreement, a bus measuring 25 feet or less will be considered a car.

VI. Complaints

A. Hillwood will provide the parties to this agreement with the names, telephone numbers, and email addresses of staff persons responsible for taking complaints about parking or other perceived violations of this agreement.

VII. Previous BZA conditions which continue in substantially the same form:

A. The facility shall be open five days per week for regular daily visits. Sundays are not to be included in this schedule.

B. The hours of operation for regular daily visits shall be from 8:30 a.m. to 6:00 p.m.

C. Evening events shall end no later than 10:00 p.m. Sunday events shall begin no earlier than 12:30 and end no later than 6:00 p.m.

D. No amplified music or speech shall be allowed at the site that can be heard off the premises.

E. No outside groups or individuals shall be allowed to rent the applicant's facility.

F. The applicant shall provide security at the site 24 hours a day, seven days a week.

G. A "No right turn" sign shall be installed at all the vehicular exits from the site.

H. Hillwood agrees to maintain its quarterly neighborhood meetings.

I. Hillwood will meet quarterly with the Neighborhood Parties to discuss matters of concern. If the BZA Order requires quarterly meetings with neighbors, such meetings will serve for the Neighborhood Parties as well.

Nothing herein will prevent Hillwood from meeting with the Neighborhood Party or Parties as often as reasonably necessary to resolve a dispute.

VIII. Enforcement and other provisions

A. Each March, June, October, and December, by e-mail or letter, Hillwood shall provide the Neighborhood Parties with an updated list of events planned for the following three months, including the date, type of event (whether evening, Sunday, or overflow), and whether buses are anticipated. Unless impracticable, this report will be included with the invitation to the quarterly meeting.

B. Each March, June, October, and December, by e-mail or letter, Hillwood shall provide the Neighborhood Parties with a report of the previous three months showing date, type of event, (whether evening, Sunday, or overflow), whether valet parking was utilized and whether it was a bus event. The March report will also separately cover the previous calendar year with the same breakdown.

C. Within two weeks of receiving a request from a Neighborhood Party, Hillwood shall make available for viewing and copying the following records: (a) the gate log for the period requested for daily and event traffic; (b) reservation records showing number of cars expected for daily visitors; (c) sufficient information to distinguish between visitor and employee cars; and (d) with respect to Sunday, evening, and overflow events, numbers of visitors (if available), as well as numbers of cars, and numbers of buses per event.

D. Any Neighborhood Party may bring complaints to Hillwood of violations of this agreement. Before initiating a formal proceeding, the Neighborhood Party making the complaint will attempt to adjust and resolve the matter with Hillwood. Hillwood shall use best efforts to resolve the issue as promptly as possible, preferably within 30 days of notice by the Neighborhood Party. As part of such effort, Hillwood will consider modifying its operations in such a way as to avoid repetitive violations. During this process, all participants shall work in good faith toward resolution of the problem.

E. If the issue is not resolved, any Neighborhood Party may initiate arbitration, To the extent that the violation is covered by a condition in the BZA Order, and if alternative remedies are available through the BZA, the Neighborhood Party will not seek arbitration unless approved by Hillwood.

F. If the Neighborhood Party or Parties and Hillwood cannot agree on an arbitrator within 30 days after notice to Hillwood that Arbitration is being

sought, they will each select a member of the American Arbitration Association or similar body who will select a third person to act as arbitrator.

G. If an arbitrator is chosen as provided above, the Arbitrator shall conduct a proceeding on as expeditious a schedule as possible, and with minimum formality. The Arbitrator will hear and determine the complaints, decide whether relief shall be granted and issue an appropriate order. The ruling of the Arbitrator shall be made within 30 days after conclusion of the hearing and shall be binding and conclusive and shall not be subject to appeal. It may be entered by any party as a judgment and be enforceable through the Superior Court of the District of Columbia as provided by D.C. Code § 16-4313, as amended from time to time.

H. If the Arbitrator finds against Hillwood, it may impose penalties deemed appropriate by the Arbitrator, with consideration for the following guidelines:

1. For a substantial or continuing violation (that is, other than a minor non-compliance) a fine will be imposed of up to $1,000 per infraction for the first three infractions in any one calendar year; up to $2,000 per infraction for each of the next three infractions in said year; and up to $4,000 per infraction for each subsequent infraction in said year; and/or

2. The arbitrator may issue a direction to Hillwood similar to an injunction or cease and desist order to refrain from certain conduct or to undertake certain conduct, consistent with the Agreement in cases of substantial and repeated violation.

I. Whether or not a matter is referred to the Arbitrator for the imposition of penalties or other relief, parties may seek actual damages in court.

J. If the arbitrator rules against Hillwood, the Arbitrator's fees and the legal fees of the Neighborhood Parties shall be paid by Hillwood. If such a proceeding results in a ruling in favor of Hillwood, the arbitrator's fees shall be paid one-half by Hillwood and one-half by the party which initiated the proceeding, with each party bearing its own legal fees. However, if the arbitrator determines that the position of the initiating party was frivolous, the arbitrator may impose the Arbitrator's and Hillwood legal fees on the party who initiated but did not prevail. If a fine is imposed on Hillwood, Hillwood will reimburse the Neighborhood Party for any expenses they incurred in bringing and prosecuting the enforcement action, to the extent not otherwise reimbursed as provided above. Any remaining fines will be will be donated by Hillwood to a 501(C)(3) charity selected by the Neighborhood Parties.

K. The parties hereto agree to request that the BZA incorporate as many of the terms of this Agreement as possible as conditions of any Final Order.

L. As requested, the Neighborhood Parties will support in writing and in testimony Hillwood's application before ANC 3F, the BZA, and other appropriate District agencies, provided it is consistent with this agreement.

IX. General Provisions

A. It is understood that this Agreement does not limit the ability of any party at any time to enforce existing law or the Zoning Regulations or to seek or oppose any change in any existing law or the Zoning Regulations.

B. The provisions of this agreement will stay in force indefinitely until and to the extent that the BZA grants modifications to the operational limitations herein. Hillwood will not seek a significant change in these operating conditions for a period of 10 years, beginning August 10, 2004, including, without limitation, any change in the numbers of evening, Sunday, and overflow events or numbers of cars and buses, except that Hillwood may seek such changes no more than once every two years as long as such changes are approved in writing by at least all but one of the households represented by the Neighborhood Parties. Insignificant changes may be requested once per year and will be granted if a majority of the Neighborhood Parties agree in writing that the change is insignificant and that they concur with the change.

C. If any provision of this Agreement or any application thereof shall be declared to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof and any other application thereof shall not in any way be affected or impaired, and such remaining provisions shall continue in full force and effect. Nothing herein will supersede the laws and regulations of the District of Columbia or prevent the parties hereto from seeking enforcement of said laws and regulations.

D. This Agreement constitutes the entire agreement between the parties with respect to the subject matter described herein. It will be recorded among the land records of the District of Columbia and run with the land.

E. All parts of this Agreement shall be governed by and construed in accordance with the laws of the District of Columbia.

F. The terms of this Agreement contained herein are binding on Hillwood, its subcontractors, agents, assigns and other successors in interest and on Neighborhood Parties, their successors, heirs, devisees and assigns.

G. All exhibits attached to this Agreement, if any, are incorporated into and made a part of this Agreement, except as modified by this Agreement.

The parties shall carry out the obligations set forth in the Exhibits as fully as though such obligations were set forth in the body of the Agreement.

H. Except as provided in Paragraph IX B above, no change or modification of this Agreement or any waiver of the provisions hereof shall be valid unless same is in writing and signed by all of the parties. Waiver from time to time, whether by action or inaction, of any provision or of any default hereunder shall not be deemed to be a full waiver of such provision or waiver of any other provision hereunder or a waiver of any earlier or later default. In addition, this agreement shall only take effect on the issuance of an order in BZA Case No. 17229 granting the expansion of numbers of visitors, cars, buses, or events at Hillwood. If a condition imposed by the Board so conflicts with any provision herein that both cannot be followed simultaneously, then the parties will use their best efforts to revise this agreement as necessary. Moreover, if the BZA rejects limitations on cars, in favor of limitations on visitors, the parties will revise this agreement accordingly, so long as the outcome with respect to cars is substantially the same. All notices and communications hereunder shall be in writing and deemed duly given if personally delivered or delivered by facsimile or certified mail, return receipt requested, postage prepaid as follows:

1. If to Neighbors:

   a. Robert Axelrod and Christy Wise
   2610 Tilden Place Tel. ___ Fax. ___

   b. Burton and Gail Schonfeld
   4101 Linnean Ave Tel. ___ Fax. ___

   c. Bernard and Shirley Koteen
   2604 Tilden Place Tel. ___ Fax. ___

   d. Christopher and Ann Sheldon
   4024 Linnean Ave Tel. ___ Fax. ___

   e. James and Karen Foreit
   4140 Linnean Avenue Tel. ___ Fax. ___

   f. Daniel and Mona Szente
   4100 Linnean Ave. Tel. ___ Fax. ___

   g. William and Cynthia Kelly, Jr.
   4205 Lenore Lane Tel. ___ Fax. ___

   with a copy to:

   Stephen N. Gell, Esq.
   Fifth Floor, 1101 30th Street, N.W.

Washington, DC 20007
Fax: 703-522-5503

2. If to Hillwood:

Mr. Fred Fisher
Hillwood Museum and Gardens
4155 Linnean Ave, N.W.
Washington, DC 20009
Fax:

with a copy to:

Allison Prince, Esq.
Shaw Pittman LLP
2300 N Street, N.W.
Washington, DC 20037

I. The parties hereto shall be responsible for notifying each other of any change of address or change of parties to be notified.

J. Any reference herein to the singular shall include the plural and reference to the male, female, or neuter gender shall include reference to all other genders.

K. Time shall be of the essence with regard to all matters contained within this Agreement.

L. The date on which this Agreement is accepted by the last party to accept and sign this Agreement shall be inserted as the effective date of this Agreement under the first paragraph. This Agreement may be executed in counterparts, such that all counterparts when read together shall constitute one instrument.

Executed in one original and eight counterparts, each to have the same force as the original.

Hillwood

_____
Director

Neighborhood Parties

_____ _____

Robert A. Axelrod
2610 Tilden Place

Christy N. Wise

Burton Schonfeld
4101 Linnean Ave

Gail Schonfeld

Bernard Koteen
2604 Tilden Place

Shirley Koteen

Christopher Sheldon
4024 Linnean Ave

Ann Sheldon

James R. Foreit
4140 Linnean Avenue

Karen Foreit

Daniel Szente
4100 Linnean Ave.

Mona Szente

William C. Kelly, Jr.
4205 Lenore Lane

Cynthia Kelly

IN WITNESS WHEREOF, on the day and year first above written, Hillwood has caused these presents to be signed by _____, Chairman of the Board, Hillwood and in its name to acknowledge and deliver these presents as its act and deed.

WITNESS:

HILLWOOD

By: _____
Director
Frederick J. Fisher
Executive Director
1/7/05

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that, _____, Director, Hillwood, who is personally well known to me (or satisfactorily proven to me) to be Director, Hillwood, a party to the foregoing Agreement, bearing date on the ____ day of _____, 2005, appeared before me in said District, and as such acknowledged the same to be the act and deed of Hillwood.

Given under my hand and seal this _____ day of _____, 2005.

_____
Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, _____ has executed these presents.

Witness:_____ _____
Robert A. Axelrod

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Robert A. Axelrod personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that he executed the foregoing instrument as his free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____
Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, Christy N. Wise has executed these presents.

_____ _____

Witness Christy N. Wise

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Christy N. Wise personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that she executed the foregoing instrument as her free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____

Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, Burton Schonfeld has executed these presents.

_____ _____

Witness Burton Schonfeld

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Burton Schonfeld personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that he executed the foregoing instrument as his free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____
Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, Gail Schonfeld has executed these presents.

_____ _____
Witness Gail Schonfeld

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Gail Schonfeld, personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that she executed the foregoing instrument as her free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____
Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, Bernard Koteen has executed these presents.

_____ _____

Witness Bernard Koteen

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Bernard Koteen, personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that he executed the foregoing instrument as his free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____

Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, Shirley Koteen, has executed these presents.

_____ _____

Witness Shirley Koteen

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Shirley Koteen, personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that she executed the foregoing instrument as her free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____

Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, Christopher Sheldon has executed these presents.

_____ _____

Witness Christopher Sheldon

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Christopher Sheldon, personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that he executed the foregoing instrument as his free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____

Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, Ann Sheldon has executed these presents.

_____ _____

Witness Ann Sheldon

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Ann Sheldon, personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that he executed the foregoing instrument as his free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____

Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, James R. Foreit has executed these presents.

_____ _____

Witness James R. Foreit

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that James R. Foreit, personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that he executed the foregoing instrument as his free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____

Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, Karen Foreit has executed these presents.

_____ _____

Witness Karen Foreit

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Karen Foreit, personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that she executed the foregoing instrument as her free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____

Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, Daniel Szente has executed these presents.

_____ _____

Witness Daniel Szente

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Daniel Szente, personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that he executed the foregoing instrument as his free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____

Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, Mona Szente has executed these presents.

_____ _____

Witness Mona Szente

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Mona Szente, personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that she executed the foregoing instrument as her free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____

Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, William C. Kelly, Jr. has executed these presents.

_____ _____

Witness William C. Kelly, Jr.

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that William C. Kelley, Jr., personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that he executed the foregoing instrument as his free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____
Notary Public

My Commission Expires:_____

IN WITNESS WHEREOF, on the day and year first above written, Cynthia Kelly has executed these presents.

_____ _____
Witness Cynthia Kelly

DISTRICT OF COLUMBIA) ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that Cynthia Kelly, personally known to me (or satisfactorily proven to me) a signatory of the above agreement bearing date of _____, 2005, who being by me first duly sworn, did acknowledge that she executed the foregoing instrument as free act and deed for the purposes set forth herein.

Given under my hand and seal this ____ day of _____, 2005.

_____
Notary Public

My Commission Expires:_____

I

Current (BZA Order 16109)	Filed with BZA	Agreed
1. Open 5 days/wk (not including Sun); 8:30 am – 6:00 pm	1. Open Tues – Sat; 8:30-6 pm	1. No change
2. Visitors admitted by appointment only.	2. Visitors admitted by appointment only, except ten walk-in visitors shall be permitted each day. Appointments shall be limited by parking availability as described in Condition 3 below.	2. Visitors admitted by appointment only; reservations made for no more than 110 cars in morning and 110 cars in afternoon. No walk-ins permitted. At time of reservation, visitors will indicate how they will arrive at Hillwood.
3. Maximum of 250 visitors per day; maximum of 50 persons inside the museum at any one time No bus limit.	3. Visitors limited to the facility's parking capacity of 110 to 125 cars at any one time. No bus limit.	3. Visitors limited to the facility's parking capacity of 110 cars at any one time. No more than 2 buses each morning and afternoon.
4. All parking shall occur on premises.	4. Parking on premises only with the exception that for the maximum of 5 events per year, 75 cars may park on the property of a neighboring institution as long as the facility has arranged to accommodate all of it excess parking at neighboring institution.	4. Parking on premises only with the exception that the capacity limit will be suspended for 4 events per year ("overflow events") as long as the facility has arranged to accommodate all of it excess parking at neighboring institution.
5. Maximum of 26 educational events per year, including evening and Sunday events.	5. Maximum of 75 educational events per year, including evening and Sunday events; number of attendees based on parking capacity; all must park in site's parking lot	5. Maximum of 41 educational events per year (includes evening and Sunday events, but not overflow events); no more than 2 evening events per week. Attendance limited to 75 cars at evening events. Visitors not to arrive by bus except for 5 evening events per year.
6. Educational evening activities shall end no later than 10:00 p.m.	6. Same	6. Same
7. 4 Sunday afternoon events in year 1, with one additional event added each year with an ultimate maximum of 10 per yr.	7. 25 Sunday afternoon events annually	7. 18 Sunday afternoon events between the hours of 12:30 – 6; no more than 3 Sunday events in any one calendar month, Sunday events may not be held on consecutive

Current (BZA Order 16109)	Filed with BZA	Agreed
		Sundays.
8. Maximum of 100 persons may attend each Sunday event.	8. Number of attendees based on parking capacity; all must park in site's parking lot	8. Attendance limited to 100 cars at Sunday events.
9. 1 annual fundraiser permitted, with no more than 350 guests.	9. Condition eliminated.	9. Condition eliminated.
10. No amplified outdoor concerts.	10. Same	10. No amplified music or speech that can be heard beyond the site.
11. Applicant shall establish liaison committee.	11. Liaison committee made up of ANC, area residents and institutions to coordinate the activities of the applicant's facility and nearby institutions.	11. Same
12. No rental to outside groups or individuals.	12. No rental to outside groups or individuals unrelated to its mission.	12. No rental to outside groups or individuals.
13. Hillwood to provide security 24/7.	13. Same	13. Same
14. Install "no right turn" sign at all exits.	14. Maintain signs	14. Same
15. Hillwood to request that all visitors exit toward Tilden Street.	15. Same	15. Same
		NEW: Hillwood to take reasonable measures to assure that employees and visitors do not park on street.
		NEW: No more than 2 buses each morning and afternoon
		NEW: Implement measures to reduce queue on Linnean; no street queue of more than 1 bus at any time.
		NEW: Arbitration procedure
		NEW: No requests for significant changes to operating conditions for 10 years without consent of all but one household that signed the Neighborhood Cooperation Agreement.

J

OUTLINE OF TESTIMONY
FREDERICK J. FISHER, EXECUTIVE DIRECTOR OF THE HILLWOOD MUSEUM & GARDENS

I. Introduction

A. Introduction and Brief Description of Hillwood Museum & Gardens

B. Discussion of Goal: Maintain Viable Museum Operation While Maintaining Continued Good Relationships with Neighbors

II. Status of Museum

A. Increased Recognition of Site and Need to Expand Visitorship

B. Limitations of Current Operating Conditions

III. New Operating Conditions

A. Visitorship Based on Number of Cars, Rather than Persons

B. Increased Evening and Sunday Afternoon Events

C. New Bus Restrictions

D. Other

IV. Relationship with Neighbors; Community Outreach

A. Scope and Number of Meetings with ANC and Neighbors

B. Negotiations and Neighborhood Cooperation Agreement

C. No Adverse Impacts on Neighboring Properties

V. Conclusion

K

OUTLINE OF TESTIMONY OF MARTIN WELLS; TRAFFIC ENGINEER WELLS & ASSOCIATES, INC.

I. Introduction

A. Martin Wells; Traffic Engineer, Wells & Associates, Inc.

B. Experience in the District of Columbia and Surrounding Jurisdictions

II. Traffic and Parking Study Performed for the Hillwood Museum & Gardens

A. Project Background

B. Study Scope

1. Traffic and Trip Generation Analysis
2. Parking Analysis

III. Roadway and Parking Conditions

A. Site Location

B. Existing Traffic Conditions

C. Existing Parking Situation

IV. Impact Assessment of Proposed Project

A. Vehicular Trip Generation and Parking Considerations

B. Proposed Transportation Management Plan ("TMP")

V. Conclusion and Recommendations