BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

STATEMENT OF THE BURDEN OF PROOF

This is an application of the Hillwood Museum and Gardens (the "**Applicant**" or "**Hillwood**"), pursuant to 11 DCMR § 3103.2, for a variance (Subsection 201.1) to allow the modification of certain conditions governing the operation of the museum located at 4155 Linnean Avenue, N.W.(Lot 1 in Square 2245) (the "**Property**"), as shown on Exhibit A.

I.
Nature of Relief Sought

The Applicant only seeks modifications to its operating conditions established in prior Board of Zoning Adjustment ("**BZA**" or "**Board**") cases and requests no new construction. In its 1998 reconsideration order pertaining to the most recent Hillwood BZA Case (No. 16019A), the BZA held that a use variance runs with the land. The BZA stated that based on *National Black Child Development Institute, Inc. v. District of Columbia Board of Zoning Adjustment*, 483 A.2d 687 (D.C. 1984), an Applicant is not required to reestablish the basis for granting the underlying use variance each time a change in operating conditions is sought. Accordingly, in modifying operating conditions, 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 and need not be addressed here. Therefore, the Applicant will only address in detail the third prong of the variance test regarding impact. The proposed modifications to the operating conditions and Applicant's satisfaction of the third prong of the variance test regarding impact, are discussed further in Sections IV and V of this statement.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17229
EXHIBIT NO. 6

Board of Zoning Adjustment
District of Columbia
CASE NO. 17229
EXHIBIT NO. 6A1

II.
Jurisdiction of the Board

The Board of Zoning Adjustment ("**BZA**" or "**Board**") has jurisdiction to grant the variance relief requested herein pursuant to § 8 of the Zoning Act, D.C. Code, 2001 Ed. § 6-641.07(g)(2) and (g)(3).

III.
Background

A. Description of the Property and Surrounding Area

The Hillwood Museum and Gardens is a 24.5 acre site located at 4155 Linnean Avenue, N.W. (Lot 1 in Square 2245), in the Forest Hills neighborhood. The Site is zoned R-1-A (as shown on Exhibit B). The Building is situated in a residential neighborhood comprised primarily single family homes. The predominant zone classifications are R-1-A and R-1-B. The Property is located close to the Intellsat building and the federally owned "chancery" campus, Howard University School of Law, the Selma M. Levine School of Music, and the Edmund Burke School. It is located east of Connecticut Avenue and west of Rock Creek Park.

The site operates as a museum pursuant to BZA Orders 12297, 13668, 14735 and 16019 (attached as Exhibits C, D, E and F). The Site is currently improved with a Georgian style mansion, a visitor center, an Indian Artifact Collection Building, an administrative building, various greenhouses, cutting gardens, other open spaces and woodlands. The estate grounds contain extensive botanical gardens with over 3,500 plant species. The Property serves as a showcase for Marjorie Merriweather Post's collection centered on the art of the 18th century France and Imperial Russia. The collections include paintings, porcelain, glass, jeweled articles, textiles and furniture.

B. History of the Building

The Georgian-style mansion was designed by John Deibert in 1926 and originally used as a private residence by Henry Parsons Erwin. In 1955, Marjorie Merriweather Post, the heir to the Post cereal fortune, bought the Hillwood estate to serve both as her residence and as a future museum. In decorating Hillwood, Marjorie Merriweather Post hired the New York architect Alexander McIlvaine to redesign and expand the old mansion completely so that visitors could view her by-now extensive art collection with greater ease. In renovating the mansion and gardens in the 1950s, Mrs. Post was reviving a forty-year-old practice of estate building now known as the American country house tradition. By 1958 she had hired Marvin Ross, a Harvard trained art historian, to catalogue her collections, advise her on acquisitions, and implement standard museum practices at Hillwood.

In 1968, Mrs. Post deeded the estate and collections to the Smithsonian Institution, subject to her retention of a lifetime interest. Her intention was to ensure that her estate and collection would "benefit future generations." Upon her death in 1973, the Smithsonian began preparations to operate the estate as a public museum. On July 1, 1976, the Smithsonian, being unable to resolve all of its operational problems, returned Hillwood and its collections to the Marjorie Merriweather Post Foundation of D.C. (the "Foundation"). The Foundation itself, following the desires set forth in Mrs. Posts's will, then determined to pursue the operation of Hillwood as a museum.

Since 1977, the Foundation has operated the estate as a specialized public museum with the endowment left by Mrs. Post for that purpose, pursuant to unanimous BZA approval in BZA Application No. 12297. This approval, which became final on April 15, 1977, was limited to a period of five years.

In 1982, the Foundation again sought and received unanimous Board approval pursuant to BZA Order No.13668, to continue the use of Hillwood as a museum on a permanent basis, and to construct two additional accessory buildings on the site: a Tea Room/Gift Shop and an Indian Artifact Collection Building. In 1988, Hillwood received approval to construct additions to the Library and Gift Shop (BZA Order No. 14735 attached as Exhibit E).

In 1995, the Foundation again sought and received unanimous Board approval to allow additions to and modifications of existing structures, new construction and modifications of certain conditions of previous Board Orders governing the operation of the museum. (BZA Order No. 16019 attached as Exhibit F).

IV.
Applicant's Requested Changes to Operating Conditions

Overall, the Applicant is not seeking any major changes to the operating conditions. The conditions the Applicant is requesting will allow the museum to operate more effectively in response to a changing climate of museum visitorship. These changes will enable the museum to fulfill its overall mission and better serve its constituency. The Applicant requests the following fourteen (14) conditions in place of the conditions set forth in BZA Order No. 16019:

1. The facility shall be open five days per week, Tuesday through Saturday, for regular daily visits.

    - The Applicant is not requesting any substantive change to the former condition governing days of operation. The Applicant is simply clarifying which five days of the week Hillwood will be open to the public. With the exception of the time when Hillwood suspended operations, in all its years of operation, Hillwood has been open to the public Tuesdays through Sundays. Hillwood plans to remain open to the public on those same days of the week.

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

    - No change.

3. Visitors shall be admitted by appointment only except that up to ten walk-in visitors may be accepted each day without advance reservations. Appointments shall be limited by parking availability as described in Condition 4 below.

    - Currently, the Applicant permits a limited number of walk-in visitors each day. This condition memorializes and limits this practice.

4. Visitors will be limited to the facility's parking capacity of 110 to 125 cars at any one time. For up to five events each year the parking capacity limit will be suspended as long as the facility has arranged to accommodate all of it excess parking on the property of another neighboring institution.

    - The Applicant proposes to control visitorship in a way that is directly related to parking impacts. The Applicant seeks to serve all visitors who wish to visit the museum and gardens, without increasing noise or traffic, or creating any other adverse condition that would affect the neighborhood. Accordingly, the daily visitor cap will reflect the amount of available parking on the site. Further, as stated in condition number three, visitors will continue to be admitted by appointment only.

5. All parking shall occur on the premises with the exception that for the maximum of five events per year, parking for an additional 75 automobiles may occur on the property of a neighboring institution.

    - This condition will not adversely affect the neighborhood. As the visitors will be required to park at a neighboring institution, rather than on the street, such events will not result in street congestion, and will have only a minimal, if any, impact on traffic.

6. The applicant shall be allowed to have a maximum of 50 extended educational evening activities per year.

    - This is a change from the condition set forth in the original order, which allowed 16 educational evening activities each year, plus one additional educational evening activity event each subsequent year of operation. The Applicant requests this condition because it is an ideal way for Hillwood to reach out to its audience without adversely affecting the neighborhood. Since Hillwood began its evening events, pursuant to the last BZA Order, there has never been a complaint from any neighbor stemming from an evening activity at Hillwood.

    - The additional evening activities will not have any adverse effects on the neighborhood, as the amount of attendees will be limited based on parking capacity. Furthermore, based on past experience, only approximately 130 and 150 persons on average attend such educational evening activities, and visitors will be required to park in the site's parking lot.

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

   - No change.

8. The applicant shall be allowed to have 25 Sunday afternoon educational activities annually.

   - This is a change from the condition set forth in the original order, which allowed 10 Sunday afternoon educational activities each year. The Applicant requests this condition because it is an ideal way for Hillwood to reach out to its audience without adversely affecting the neighborhood.

   - The additional Sunday afternoon educational activities will not have any adverse effects on the neighborhood, as the amount of attendees will be limited based on parking capacity and visitors will be required to park in the site's parking lot.

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

   - No change.

10. The applicant shall continue to maintain 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 continue to meet at least quarterly to resolve any problems raised by its members.

    - No change.

11. The facility shall not be available for rental for events unrelated to its mission.

    - The Applicant has never permitted members of the public to use the site for any event unrelated to the mission of the Hillwood Museum and Gardens.

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

    - No change.

13. The existing "No right turn" sign shall be maintained at all vehicular exits from the site.

    - No change.

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

    - No change.

V.

The Application Meets the Requirements for Variance Relief Under 11 DCMR § 3103.2

The Application meets the requirements for variance relief under Section 3103.2 of the Zoning Regulations. The burden of proof for area variance relief is well established. The applicant must demonstrate that the Property is affected by an exceptional or extraordinary situation or condition, that the strict application of the Zoning Regulations will result in a practical difficulty to the applicant, and that the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. *Palmer v. District of Columbia Board of Zoning Adjustment*, 287 A. 2d 535, 541 (D.C. 1972). In two prior BZA applications, the Application met the three-part test for area variance relief. As mentioned above, since the Applicant only seeks to modify the operating conditions and has already satisfied the use variance standard in the previous cases, it is only necessary to address in detail the third prong of the use variance test regarding impact.

A. Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan

Hillwood has operated as a museum for 27 years. Based on its experience, the Applicant believes that the proposed changes will not be of a substantial detriment to the public good or frustrate the goals of the Zoning Regulations in any way. This project does not involve any sort of physical or structural alteration, and the Applicant is simply proposing to regulate Hillwood in a meaningful way. It should also be noted that Hillwood is the only museum in the District of Columbia that has a daily cap on the number of people who may visit the museum. Hillwood is an inherently quiet use, and will continue as such. Further, based on the traffic study performed by Wells and Associates Inc., the traffic impacts associated with the proposed changes will be negligible. Thus, the proposed changes to the operating conditions will not create any

objectionable noise or other impact on surrounding properties, and the requested variance relief can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zone Plan.

VI.
Community Outreach

The Applicant has met with area residents regarding the proposed modifications to the operating conditions. The Applicant will continue to meet with individual neighbors and will present its application to Advisory Neighborhood Commission 3F at one of its regularly scheduled meetings in the near future.

VII.
List of Witnesses Expected to Testify

The following witness is expected to testify at the public hearing on behalf of the Applicant:

1) Frederick J. Fisher, Executive Director of the Applicant

2) Martin Wells, Wells & Associates Inc., Traffic Engineer

VIII.
Exhibits in Support of the Application

Exhibit A: Portion of the Sanborn plat showing the Subject Property outlined in red

Exhibit B: Portion of the Zoning Map showing the Subject Property outlined in red

Exhibit C: BZA Order No. 12297

Exhibit D: BZA Order No. 13668

Exhibit E: BZA Order No. 14735

Exhibit F: BZA Order No. 16019

IX.

Conclusion

For all of the above reasons, the Applicant is entitled to the requested variance relief in this case. Accordingly, the Applicant respectfully requests the Board to grant the application.

Respectfully submitted,

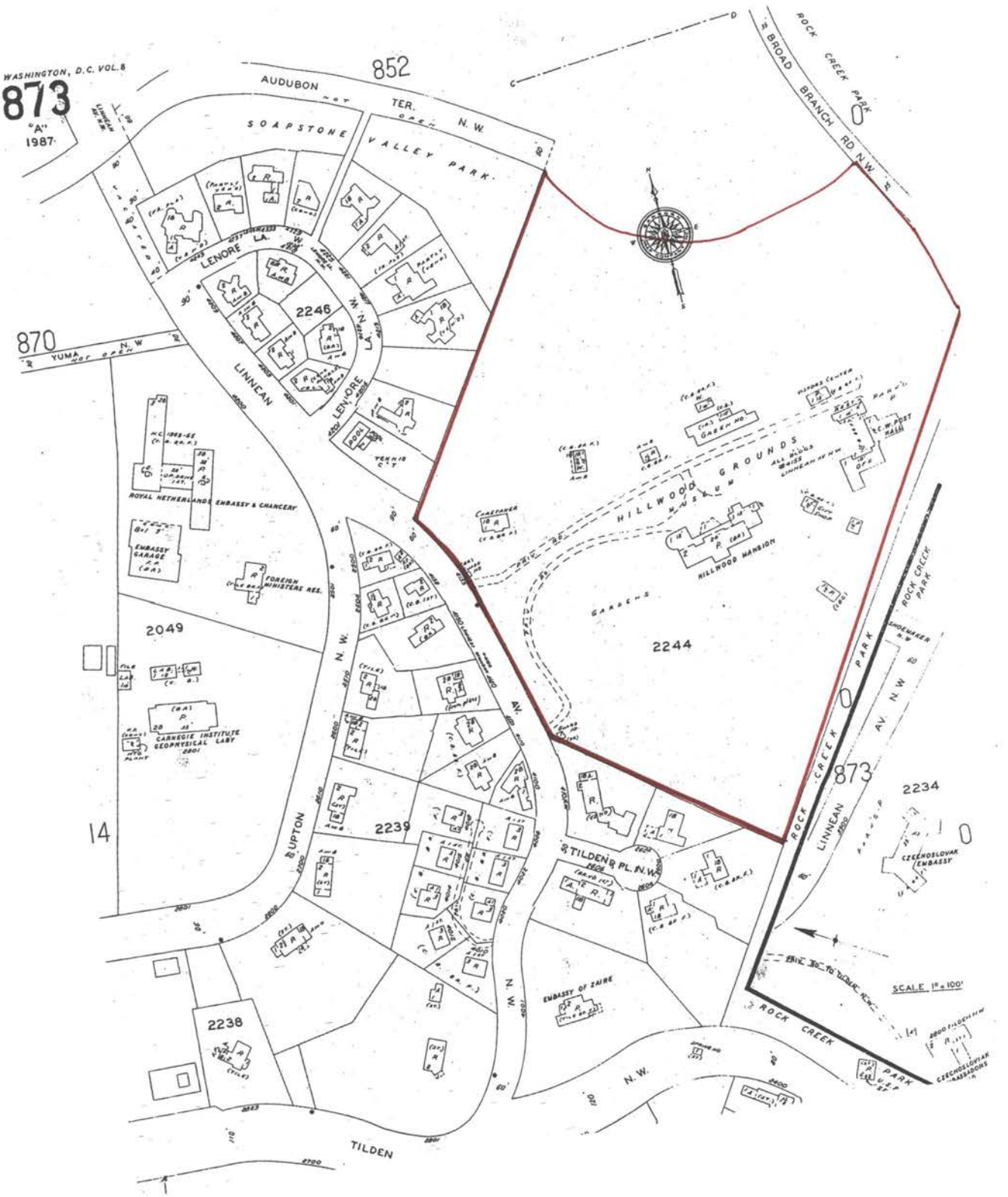
SHAW PITTMAN LLP

By: _____
Allison C. Prince

By: _____
Heidi N. Sachs

August 9, 2004

A


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"A"
1987
852
AUDUBON TER. N.W.
SOAPSTONE VALLEY PARK
ROCK CREEK PARK
BROAD BRANCH RD. N.W.
LENORE LA.
2246
870
YUMA N.W.
LINNEAN
ROYAL NETHERLANDS EMBASSY & CHANCERY
EMBASSY GARAGE
FOREIGN MINISTERS RES.
2049
CARNEGIE INSTITUTE GEOPHYSICAL LABY
HILLWOOD GROUNDS
HILLWOOD MUSEUM
HILLWOOD MANSION
GARDENS
2244
ROCK CREEK PARK
SHOEMAKER N.W.
LINNEAN AV. N.W.
873
2234
CZECHOSLOVAK EMBASSY
14
UPTON
2239
TILDEN PL. N.W.
EMBASSY OF ZAIRE
2238
TILDEN
ROCK CREEK PARK
SCALE 1" = 100'

B


R-1-A
GOV
HARRISON ST
GARRISON ST
FESSENDEN ST
GRANT RD
GLOVER DR
RIDGE RD
CHESAPEAKE ST
CHESTERFIELD PL
ELLICOTT TER
LINNEAN AVE
GATES RD
APPLETON ST
ALLENDALE PL
AUDUBON TER
PUD122
Rock Creek Park
Soapstone Valley Park
LENORE LN
WINDOM PL
R-5-D
R-2
UPTON ST
TILDEN PL
TILDEN ST
MATHEWSON DR
Center
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C

Before the Board of Zoning Adjustment, D. C.

Application No. 12297

Application No.12297 of The Marjorie Merriweather Post Foundation of D. C., pursuant to Section 8207.11 of the Zoning Regulations, for a use variance from the strict application of Section 3101.1 of the Regulations to permit the operation of a museum in the R-1-A District at the premises 4155 Linnean Avenue, N. W., Lot 800, Square 2245.

HEARING DATE: January 25, 1977

DECISION DATE: April 6, 1977

FINDINGS OF FACT:

1. The subject property is located in the R-1-A District which is the most restricted residential zone in the District of Columbia. The purpose of the R-1 District is to protect quiet residential areas, to stabilize such areas and to promote a suitable environment for family life. For these reasons, there are only a few uses, besides residential and compatible uses, which are permitted in the R-1-A zone. Uses permitted as of right in the R-1 District include churches, embassies and public schools.

2. The subject property consists of a large estate of approximately 24.5 acres and includes the main residence building, miscellaneous dependency buildings on the estate, and several formal gardens, as well as other open space and woodland. The estate was the residence of the late Marjorie Merriweather Post. Mrs. Post developed the estate to be a museum for her collections centered on the art of 18th Century France and that of Imperial Russia. The collections include paintings, porcelain, glass, jeweled articles, textiles and furniture.

3. In 1968, Mrs. Post deeded the estate and collections to the Smithsonian Institution, subject to her retention of a life-time interest. Upon her death in 1973, the Smithsonian began preparations to operate the estate as a public museum. On July 1, 1976, the Smithsonian, being unable to resolve all of its operational problems, returned Hillwood and its collections to The Marjorie Merriweather Post Foundation of D. C. (the Foundation) and the estate of Mrs. Post. The Foundation has decided to operate the estate as a specialized public museum with the endowment left by Mrs. Post for this purpose.

4. Parking for more than 300 automobiles exists on the estate. Prior to Mrs. Post's death in 1973, the estate employed between 50 and 60 persons. When operated as a museum,

there will be approximately 14 employees performing administrative, curatorial, security, housing and building maintenance functions, six employees to tend the gardens and grounds, plus occasional temporary help for those purposes, and a volunteer docent staff of six.

6. The foundation plans to operate the museum on a pre-arranged group tour basis. Visitors will only be allowed on the grounds by arranging in advance a space on scheduled daily tours. Such daily tours will be limited to no more than eight (8), with each tour accommodating a maximum of 25 people. Each tour will be further broken down into three or four individual groups each accompanied by a trained guide. The hours of operation will be from 9:00 A.M., when the first tour will be scheduled, to approximately 6:00 P.M., five days a week. Current plans are to close Hillwood for maintenance on Tuesdays and Thursdays. All parking will be on the spaces already on the estate. These spaces are not visible from Linnean Avenue.

7. Hillwood will be used to display the art collections, gardens, and associated buildings which constitute the estate as a whole. The museum and grounds will only be used for such activities as directly support that purpose. Hillwood will not be available to any outside group for any type of social function.

8. This application has been reviewed by the Municipal Planning Office. That office has recommended conditional approval of the application. In addition, Advisory Neighborhood Commission 3-F, which encompasses Hillwood within its bounds, has adopted and submitted for the record a resolution supporting this application. The Forest Hills Citizens Association, which includes Hillwood within its area, at a general meeting on October 18, 1976, approved a resolution supporting the Foundation's application for a variance to operate Hillwood as a museum.

9. There was no opposition to the application and numerous letters of support were filed.

OPINION AND CONCLUSION OF LAW:

Based on the above Findings of Fact and the record, the Board is of the opinion that the requested use variance would be compatible with the R-1-A District. The proposed mode of operation of Hillwood will not constitute any greater intrusion in that residential district than uses permitted as of right such as churches, embassies and public schools. The requested variance will allow the preservation of this unique civic asset and its extensive grounds in their existing form.

The unique character of this museum, which could not be duplicated, derives from the combination of the collections, the buildings on the estate in which they are housed, and the surrounding gradens and grounds, all of which constitute a unified whole. The extraordinary and exceptional situation and condition of Hillwood results in peculiar and exceptional practical difficulties to and undue hardship upon the Foundation if the zoning regulations are strictly applied. Grant of a variance to operate the property as a museum will alleviate the hardship to the owners of the property, will not be a substantial detriment to the public good, and will not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations. Rather, it will be a positive contribution to the public good and promote the intent, purpose and integrity of the zone plan by promoting an attractive, livable and interesting city.

It is therefore ORDERED that the application be GRANTED FOR FIVE (5) years subject to the following conditions:

1. All parking shall be on the premises and not visible from public streets.

2. Visitors shall be admitted by appointment only.

3. No more than 200 visitors shall be allowed on any single day.

4. Visitors shall be limited to no more than 25 persons for each visitation period which shall be scheduled on a staggered basis during the hours of operation.

5. The museum shall open no earlier than 8:30 A.M. and no tour shall be scheduled to end later than 6:00 P.M.

6. The museum shall be open to the public no more than five (5) days a week.

7. The premises shall not be made available to any outside group for any type of social function.

8. Security for the premises shall be provided 24 hours a day, seven days a week.

VOTE: 3 and 1 - 0 (William F. McIntosh, Leonard L. McCants, Esq., Richard L. Stanton, and Lilla Burt Cummings, Esq.,) Lilla Burt Cummings, Esq., voting to grant for five (5)

years subject to conditions 1, 2, 3, 4, 5, 6, and 8 supra; condition seven (7) to be modified to state, "There should be a reasonable use of the premises for social funcitons".

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

ATTESTED BY: Arthur B. Hatton
ARTHUR B. HATTON
Executive Secretary

FINAL DATE OF ORDER: April 15, 1977

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

D

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13668 of the Marjorie Merriweather Post Foundation of D.C., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3101.1) to continue the operation of a museum and the construction of two buildings in an R-1-A District at the premises 4155 Linnean Avenue, N.W., (Square 2245, Lot 800).

HEARING DATE: February 10, 1982
DECISION DATE: February 10, 1982 (Bench Decision)

FINDINGS OF FACT:

1. By letter dated November 20, 1981, the applicant requested an expedited hearing on this case. The Board, at its public meeting of December 2, 1981, denied the request because it did not find the applicant's reasons to be of sufficient merit to warrant an advance of this application over other applications filed prior to this one.

2. The subject site is located between Linnean Avenue to the west and Broad Branch Road and Rock Creek Park land to the east. It is known as premises 4155 Linnean Avenue, N.W. It is in an R-1-A District.

3. The site consists of a large estate of 24.5 acres and includes the main residence building (the Hillwood Museum), gift shop building, dacha (the Russian Art collection), C.W. Post exhibit building and other miscellaneous buildings, formal gardens, open space and woodland.

4. In 1968, Mrs. Marjorie Merriweather Post deeded the estate and collections to the Smithsonian Institution, subject to her retention of a life-time interest. Upon her death in 1973, the Smithsonian began preparations to operate the estate as a public museum. On July 1, 1976, the Smithsonian, being unable to resolve all of its operational problems, returned Hillwood and its collections to the Marjorie Merriweather Post Foundation of D.C. The Foundation then decided to operate the estate as a specialized public museum with the endowment left by Mrs. Post for this purpose.

5. In BZA Order No. 12297, dated April 15, 1977, the Board granted the applicant permission to use the site as a museum. Among other conditions, the approval was limited to

a period of five years. The applicant is now seeking a permanent variance for the operation of the museum. In addition, the applicant is seeking a variance for the construction of two buildings to be accessory to the museum operation. The applicant plans to build a structure to house an Indian artifacts collection and a structure to serve as a tearoom gift shop. The Indian artifacts collection building is designed as a rough cut adirondack style cabin, built of log siding. The building will be located to the northeast of the existing Dacha building. The Indian artifacts collection building is proposed to be approximately thirty feet by fifty feet in dimension. The proposed tearoom/gift shop building will add a necessary service to the visitors of the estate not previously provided. The tearoom building would be constructed to blend with the other buildings on the estate, architecturally. The building will be a place for Hillwood visitors to rest, view the grounds and eat light refreshments served from a proposed kitchen. Restrooms will also be provided in the building. The building will be located in the center of the complex between the main residence to the west and an existing office building and parking area to the east.

6. There is adequate parking on the site for visitors and staff in compliance with Article 74 of the Zoning Regulations. There are two driveways leading to the parking area from Linnean Avenue. The applicant proposes to widen the driveway entrances and two bus bays will be provided in the parking area to eliminate bus-unloading impacts on Linnean Avenue and to discharge visitors closer to the museum. The site's heavy tree cover screens the development from neighboring properties and streets.

7. The Foundation will continue to operate the museum on a pre-arranged group tour basis. Daily tours will be limited to no more than eight. BZA Order No. 12297 limited the number of visitors to the site per day to 200 and the number of people per tour to twenty-five. The applicant proposes to increase the number of people per tour to thirty. The applicant does not propose to increase the number of visitors per day. Each tour group is separated into three or four individual groups, each group accompanied by a trained guide. The hours of operation will be from 9:00 a.m. to 6:00 p.m., five days a week.

8. Hillwood will be used to display the art coleections, gardens, and associated buildings which constitute the estate as a whole. The museum and grounds will only be used for such activities as directly support that purpose. Hillwood will not be available to any outside group for any type of social function.

9. The Office of Planning and Development reviewed this application and recommended approval. The OPD was of the opinion that the previous Board findings in Order No. 12297 express the still valid hardship justification necessary to grant a use variance. The OPD further reported that the continued operation and construction of the two additional dwellings will not cause substantial adverse impacts on the surrounding area and will not sutstantially impair the intent, purpose and integrity of the Zoning Regulations. The Board concurs in the OPD report.

10. The applicant submitted a letter from Advisory Neighborhood Commission 3F dated September 15, 1981 in which the ANC recommending that the variance be extended on a permanent basis. However, the letter was unsigned. (Ex. #42-H-1). The Board is required by statute to give great weight to the issues and concerns of the ANC when the recommendation is reduced to writing and signed. This is not the situation in the subject application.

11. The Forest Hills Citizens Association, by letter dated November 9, 1981, supported the application on the grounds that the museum has proven to be an asset to the community and the requested tearoom and small shop will enable it to serve its clientele more generously.

12. There was no opposition to the application. Numerous letters of support were submitted for the record. Several neighbors appeared at the public hearing in support of the application. The basic grounds for support were:

a. The museum is a unique and valuable cultural asset to the community.

b. The use has existed for five years and has not presented a traffic problem or interfered with the residential character of the neighborhood.

c. The proposed construction will enhance the enjoyment of the museum by visitors.

d. Security at the museum adds to the protection of the neighborhood.

CONCLUSIONS OF LAW AND OPINION:

Based on the above Findings of Fact and the evidence of record, the Board is of the opinion that the requested use variance and the construction of two buildings would be compatible with the R-1-A District. The proposed continued operation of Hillwood and the construction of two buildings will not constitute any greater intrusion in that residential district than uses permitted as a matter of right such as churches, embassies and public schools. This

conclusion is based on the five year operating experience of Hillwood. A permanent variance will allow the preservation of this unique civic asset and its extensive grounds in their existing form. The construction of the tearoom and the small building to house an Indian artifacts collection will enhance the existing ambience of the site. The unique character of this museum, which could not be duplicated, derives from the combination of the collections, the buildings on the estate in which they are housed, and the surrounding gardens and grounds, all of which constitute a unified whole. The extraordinary and exceptional situation and condition of Hillwood results in peculiar and exceptional practical difficulties to and undue hardship upon the Foundation if the Zoning Regulations are strictly applied. Grant of a variance to operate the property as a museum will alleviate the hardship to the owners of the property, will not be a substantial detriment to the public good, and will not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations. Rather, it will be a positive contribution to the public good and promote the intent, purpose and integrity of the zone plan by promoting an attractive, livable and interesting city.

It is therefore ORDERED that the application be GRANTED subject to the following CONDITIONS:

1. All parking shall be on the premises and not visible from public streets.

2. Visitors shall be admitted by appointment only.

3. No more than 200 visitors shall be allowed on any single day.

4. Visitors shall be limited to no more than thirty persons for each visitation period which shall be scheduled on a staggered basis during the hours of operation.

5. The museum shall open no earlier than 8:30 a.m. and no tour shall be scheduled to end later than 6:00 p.m.

6. The museum shall be open to the public no more than five days a week.

7. The premises shall not be made available to any outside group for any type of social function.

8. Security for the premises shall be provided twenty-four hours a day, seven days a week.

VOTE: 5-0 (Walter B. Lewis, Douglas J. Patton, Connie Fortune, William F. McIntosh and Charles R. Norris to grant with conditions).

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

ATTESTED BY: _____
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: APR 12 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "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 LICENSES, INVESTIGATIONS AND INSPECTIONS.

E

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14735, of the Marjorie Merriwether Post Foundation, pursuant to 11 DCMR 3107.2, for a variance (Sub-section 201.1) to allow additions to accessory buildings (library and gift shop) of a museum originally approved under BZA Order No. 12297, dated April 15, 1977 and BZA Order No. 13668 dated April 12, 1982, in an R-1-A District at premises 4155 Linnean Avenue, N.W., (Square 2245, Lot 800).

HEARING DATE: January 27, 1988
DECISION DATE: January 27, 1988 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located between Linnean Avenue to the west and Broad Branch and Rock Creek Park to the east. It is known as premises 4155 Linnean Avenue, N.W. It is zoned R-1-A.

2. The site consists of a large estate of 24.5 acres and includes the main residence building (the Hillwood Museum), gift shop building, dacha (the Russian Art Collection), C.W. Post exhibit and other miscellaneous buildings, formal gardens, open space and woodland.

3. In 1968, Mrs. Marjorie Merriwether Post deeded the estate and collections to the Smithsonian Institution, subject to her retention of a life-time interest. Upon her death in 1973, the Smithsonian began preparations to operate the estate as a public museum. On July 1, 1976, the Smithsonian, being unable to resolve all of its operational problems, returned Hillwood and its collections to the Marjorie Merriweather Post Foundation of D.C. The foundation then decided to operate the estate as a specicialized public museum with the endowment left by Mrs. Post for this purpose.

4. In BZA Order No. 12297, dated April 15, 1977, the Board granted the applicant permission to use the site as a museum. Among other conditions, the approval was limited to a period of five years.

5. In BZA Order No. 13668, dated April 12, 1982, the Board approved a permanent variance allowing museum use, as well as the construction of two accessory buildings, a tea room/gift shop and an Indian Artifacts Collection building. Only the Indian Artifacts Collection building was constructed.

6. The Foundation seeks approval from this Board for variance relief to allow construction of a modest addition of approximately 900 square feet to the current gift shop building; and to remodel an existing vacant accessory building, formerly the chauffeur's quarters for the original estate, to allow it to be used to house the museum's library. The Applicant does not propose to change the mode of operation of the museum as approved by this Board in Application No. 13668.

7. In conjunction with its operation of Hillwood as an art museum with a sizeable collection of Russian art, the Foundation currently maintains a library of approximately 4,000 volumes also concentrating primarily on Russian art. These volumes are currently stacked in unsuitable space along the walls of the curator's offices in the cellar of the administration building at Hillwood. This situation has resulted in a lack of usefulness of the library due to the lack of ready access for researchers, as well as extremely cramped conditions within which the curatorial staff must oversee and coordinate museum operations. In addition, the building in which the gift shop is currently housed is too small to adequately display the collection of gifts and souvenirs, that are all related to items or exhibits in the museum collection itself, being offered for sale to museum visitors.

8. The applicant proposes to renovate the long vacant structure which previously housed the chauffer's quarters to accommodate the library. The proposed renovation includes remodelling, structural work, HVAC work, and the addition of a small dormer which will add approximately fourteen square feet to the building. The proposed library will provide for a protected location for the preservation, storage and viewing of the library volumes, as well as relieve the cramped conditions currently existing in the curatorial staff offices were the volumes are currently stored.

9. The applicant proposes to construct an addition of approximately 900 square feet to the existing gift shop to allow for proper display of the items related to the collections which are offered for sale at the museum. The structure in which the gift shop is housed was formerly an accessory dwelling for two people. The museum entertains approximately thirty-five visitors at a time. Due to the small size of the gift shop, inventory cannot be properly displayed and museum visitors are sometimes unable to visit the shop. The proposed addition will provide adequate space for the gift items and to accommodate the modest number of visitors expected to patronize the shop during each museum visit.

10. The art collections, buildings and grounds of the estate constitute a unified whole and could not easily be duplicated elsewhere. There is no suitable space currently available on the premises to adequately display the inventory

of items offered for sale in the gift shop, nor to properly accommodate the Russian Book Collection. The unique character of Hillwood, derived from combination of the collections, the buildings on the estate in which they are housed, and the surrounding gardens and grounds, constitutes an exceptional situation or condition affecting the site.

11. The site's heavy tree cover screens the proposed additions from neighboring properties and streets. Hillwood will continue to be used to display the art collections, gardens, and associated buildings which constitute the estate as a whole. The museum and grounds will only be used for such activities as directly support that purpose. Hillwood will not be available to any outside group for any type of social function.

12. The Office of Planning (OP) by memorandum dated January 6, 1988, recommended that the application be approved. The OP was of the opinion that the project would not create any adverse impacts on the surrounding properties or streets. The Board concurs with the recommendation of OP.

13. Advisory Neighborhood Commission (ANC) 3F made no recommendation on the subject application.

14. Several letters of support were submitted for the record. The letters generally stated that Hillwood has been an asset to the community, and that the proposed additions are needed, will enrich the museum, and will not prove detrimental to the surrounding neighborhood.

15. There was no opposition to the application, either of record or at the public hearing.

CONCLUSIONS OF LAW AND OPINION:

Based on the above Findings of Fact and the evidence of record, the Board is of the opinion that the requested use variance and the additions to two accessory buildings would be compatible with the R-1-A District. The proposed continued operation of Hillwood and the proposed additions will not constitute any greater intrusion in that residential district than uses permitted as a matter-of-right such as churches, embassies and public schools. This conclusion is based on the ten year operating experience of Hillwood. The unique character of this museum, which could not be duplicated, derives from the combination of the collections, the buildings on the estate in which they are housed, and the surrounding gardens and grounds, all of which constitute a unified whole. The extraordinary and exceptional situation and condition of Hillwood results in peculiar and exceptional practical difficulties to and undue hardship upon the Foundation if the Zoning Regulations are strictly applied. Grant of a variance to allow construction of additions to

two of the museum's accessory buildings will alleviate the hardship to the owners of the property.

The Board concludes that granting the proposed relief will not cause substantial detriment to the public good, and will not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations. Accordingly, the application is GRANTED SUBJECT to the condition that construction shall be in accordance with the plans marked as Exhibit No. 8 as modified by Exhibit No. 20 of the record.

VOTE: 3-0 (Paula L. Jewell, John G. Parsons and Charles Norris to grant; William F. McIntosh and Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: MAR 28 1995

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.

14735order/LJP32

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

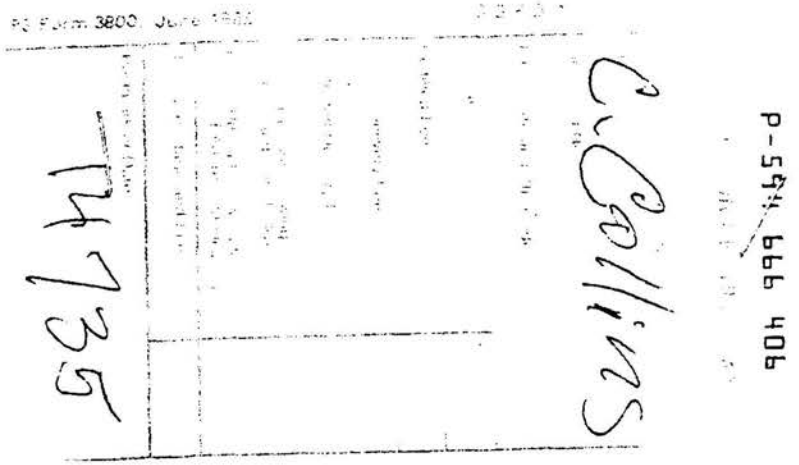
APPLICATION No. 14735

As Acting Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated MAR 28 1988, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Chrristopher Collins, Esq.
Wikles, Artis, Hedrick & Lane
1666 K Street, N.W., Suite 1100
Washington, D.C. 20006

EDWARD L. CURRY
Executive Director

DATE: MAR 28 '88



GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14735 of the Marjorie Merriwether Post Foundation, pursuant to 11 DCMR 3107.2, for a variance (Sub-section 201.1) to allow additions to accessory buildings (library and gift shop) of a museum originally approved under BZA Order No. 12297, dated April 15, 1977 and BZA Order No. 13668 dated April 12, 1982, in an R-1-A District at premises 4155 Linnean Avenue, N.W., (Square 2245, Lot 800).

HEARING DATE: January 27, 1988
DECISION DATE: January 27, 1988 (Bench Decision)

DISPOSITION: The Board GRANTED the application by a vote of 3-0 (Paula L. Jewell, John G. Parsons, and Charles R. Norris to grant; William F. McIntosh and Carrie L. Thornhill not voting, not having heard the case).

FINAL DATE OF ORDER: March 28, 1988

ORDER

By letter dated March 23, 1990, counsel for the applicant requested the Board to waive its six month filing requirement to accept the applicant's request for a modification of the plans approved by the Board in its Order dated March 28, 1988. Counsel for the applicant indicated that construction in accordance with the approved plans was completed in June 1989 and the facility began operations shortly thereafter. The proposed modification of plans is being sought at this time due to problems which have only become evident after experience in operating the facility. The Board waived its Rules to accept the request for modification of plans at its public meeting of May 2, 1990.

The Board granted the application by its Order dated March 28, 1988 subject to the condition that construction be in accordance with the plans marked as Exibit No. 8, as modified by Exibit No. 20 of the record. The applicant is requesting permission to modify those plans. The proposed modification of plans provides for a new doorway centrally located on the north elevation of the existing building. The new doorway will be convenient to an existing pedestrian path, will provide direct access to the display area of the gift shop as opposed to the current entry through the staff

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION No. 14735

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated JUN 8 1990, and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Christoper Collins, Esquire
Wilkes, Artis, Hedrick and Lane
1666 K Street, N.W.
Suite 1100
Washington, D.C. 20006

Majorie Merriwether Post Foundation
4155 Linnean Avenue, N.W.
Washington, D.C. 20008

Stanley Steinman, Chairperson
Advisory Neighborhood Commission 3-F
4401 Connecticut Avenue, N.W., Suite 205
Washington, D. C. 20016

EDWARD L. CURRY
Executive Director

DATE: JUN 3 1990

F

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

ORDER

SUMMARY OF EVIDENCE OF RECORD:

The property which is the subject of this application is located at 4155 Linnean Avenue, N.W. It is bounded by Broad Branch Road to the northeast, Rock Creek Park to the southeast and Linnean Avenue to the west. The site contains approximately 24.5 acres of land, and was formerly the estate of Mrs. Marjorie Merriweather Post. The property includes the main residence building, miscellaneous dependency buildings, several formal gardens, as well as other open space and woodlands. The estate served as a showcase for Mrs. Post's collections which centered on the art of 18th century France and Imperial Russia and also included Native American artifacts. The collections include paintings, porcelain, glass, jewelled articles, textiles and furniture. The estate grounds contain extensive botanical gardens with over 3,500 plant species.

In 1968, Mrs. Post deeded the estate and collections to the Smithsonian Institution, subject to her retention of a lifetime interest. Her intention was to ensure that her estate and collections would "benefit future generations." Upon her death in 1973, the Smithsonian began preparations to operate the estate as a public museum. On July 1, 1976, the Smithsonian, being unable to resolve all of its operational problems, returned Hillwood and its collections to the Marjorie Merriweather Post Foundation of D.C. ("the Foundation".) The Foundation itself, following the desires of Mrs. Post, then determined to pursue the operation of Hillwood as a museum.

The property is located in an R-1-A zone district which permits matter of right development of single-family residential uses for detached dwellings with a minimum lot area of 7,500 square feet, a minimum lot width of 75 feet, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet. Because the R-1-A District does not allow the proposed use as a matter of

right, the applicant is seeking variance relief to continue the use of the property as a museum. The applicant seeks approval to allow new construction, additions to and modifications of existing structures, as well as the modification of certain conditions to Board Orders previously issued on the property.

The Board initially granted variance relief for use of the property as the Hillwood Museum in BZA Order No. 12297 dated April 15, 1977. Approval was for a five year period. Further relief was granted on a permanent basis for continued use of the site in BZA Order No. 13668 dated April 12, 1982. In BZA Order No. 14165, the Board granted permission to build a gardener's staff facility and tool storage addition to an accessory building. In BZA Order No. 14735, the Board granted variance relief to allow additions to the library and gift shop. This order was later modified to address a change in the location of the doorway in the gift shop.

The subject application involves a number of physical and operational changes at the site to address the immediate and long-term needs of the museum. The changes are as a result of the facilities Master Plan which was undertaken by an architectural and engineering consulting team in tandem with the Foundation Board and staff committees. It was completed in concept and accepted by the Foundation Board in June of 1993.

The plan addresses five areas that are critical for the museum's future operations:

1. to provide the necessary capital improvements to protect the collections, structures and grounds;

2. to comply with the Americans With Disabilities Act (ADA) in making Hillwood more accessible;

3. to improve operational efficiencies;

4. to improve the quality of the visitor experience to match the quality of the facility and the collection; and

5. to improve the educational and public requirements of the museum.

As a result of the planning process, this application involves a request for several changes to the physical plant. These changes are critical to the continued viability of the museum and are typical of upgrades necessary for museums of this type. Chief among the various projects to be undertaken are the upgrading of the heating, ventilation and air conditioning systems of some structures and the upgrading of the electrical and security systems to ensure compliance with the Building Code. Also, changes to the

existing buildings are required in order to achieve compliance with the ADA. The planned projects requiring Board approval are as follows:

- Through interior reconfiguration and a small addition, the current sales shop (the former Chief Butler's House) will become a small exhibition building.

- The library (former Chauffeur's House) will have a small addition to house offices for the museum curators and storage for a growing book collection.

- The Administration Offices/CW Post Wing/Cafe will be reconfigured to house conference rooms and space for public education activities, in addition to existing administration and cafe functions.

- The Grounds building will be razed to make way for a slightly larger structure that will be more adequate for the grounds department's needs and will contain a new boiler and mechanical room to service other structures. It will be attached to the current greenhouse complex, which will be upgraded to achieve handicapped accessibility and improved working and storage efficiency.

- New wiring and fire suppression equipment will be installed in the Main House and a small space added at the front to improve access and security at the front entry.

- A new parking area will be added for up to 70 automobiles. This lot will have two levels, each carefully set into the hillside to reduce the exposed portion.

- An existing unused building will be razed and a new Orientation Center constructed in its place, of similar materials, size and appearance. The building will provide a continuous, fully accessible link between the new parking area and the tour route to the Main House.

The following proposed changes do not require BZA approval:

- The Visitor's Center (former Carmellia House) will be transformed into office and work space for the maintenance department.

- The Dacha will have the basement improved for art storage and will have new HVAC equipment and a new fire suppression system.

- The Native American building will have the basement upgraded to allow for art storage and a replacement fire suppression system.

Implementation of the facilities Master Plan has already begun. It is anticipated that all the projects will be completed within a five to seven-year period. The estimated cost for the plan is approximately $7.5 million.

Concurrent with the plans for improving Hillwood's facilities is the Hillwood Foundation Board's resolution to seek a selective modification of the conditions contained in the 1977 Board of Zoning Adjustment order. Hillwood's Board has concluded that some provisions inhibit Hillwood's ability to meet its mission. Consequently, the applicant seeks to make the following changes to the conditions in the original Board of Zoning Adjustment order:

Increase in the Limit on Visitors per Day

- Currently, a maximum of 200 visitors per day is allowed. Hillwood seeks to change this limit as follows:

  a) Weeks during peak months (April, May, October)

     - Thursday through Friday - maximum of 300 visitors per day
     - Saturday - maximum of 325 visitors per day
     - Sunday - closed to the public

  b) Weeks during non-peak months (January and February -- closed to the public; March, June, July, August, September, November, December).

     - Weekdays - Tuesday through Friday - maximum 250 visitors per day - 50 person increase above the current limit
     - Saturday - maximum of 300 visitors per day
     - Sunday - closed to the public

Increase in the Number of Visitors per Visitation Period:

- Currently, there is a limit of 30 visitors for each visitation period for tours of the mansion. Hillwood seeks to increase the limit to 50 visitors for each visitation period, consistent with the increased attendance limits that are being sought, the physical capacity of the main mansion and the need for efficiency of operation.

Extension of hours to allow evening and Sunday functions:

- Currently, Hillwood is restricted to operating hours of 8:30 a.m. - 6:00 p.m., five days weekly, thereby eliminating the possibility of evening educational functions. Although Hillwood has generally operated on a Tuesday through Saturday schedule, the current BZA restrictions would allow Hillwood to remain open both Saturdays and Sundays as long as it is not open for more than five days each week. Rather than operating for both days every weekend, Hillwood seeks to increase its availability to the public by conducting a maximum of 40 evening educational functions throughout the year, each of which would have a maximum attendance of 100, and ten Sunday events that would be held from 1:00 p.m. to 6:00 p.m., each with a maximum attendance of 100. In addition, Hillwood seeks permission to conduct one annual fundraiser with a maximum attendance of 500.

Other conditions:

- Several conditions will remain unchanged. All parking will continue to be on the premises and will not be visible from public streets, the Hillwood facilities will not be available for social function rentals and the museum will provide 24-hour security for the site and the immediate neighborhood.

ISSUES AND ARGUMENTS

1. Whether the owner of the property faces a unique or exceptional situation or condition related to the property? Whether the condition creates an undue hardship for the owner in making use of the property in compliance with the Zoning Regulations?

The applicant stated that the Board in its previous order recognized that the Hillwood is truly unique. The applicant noted that the former owner of this large estate expressed in her will the intent to have the property used as a museum to display her art collections. The current owner of the property has operated such a museum consistent with the wishes of Mrs. Post. However, the applicant maintains that some changes are necessary to ensure the efficient operations of the museum.

The applicant submits that the size of the subject site and the existing buildings on the site, the present use of the property, the lack of suitable space in the existing buildings on the property for properly fulfilling the use already approved by the Board, the modest size of the proposed additions and new buildings relative to the size of the estate as a whole and the

need to comply with the Americans with Disabilities Act (ADA), all combine to create a unique situation or condition affecting the property.

The applicant stated that the proposed renovation and expansion of certain buildings and the construction of some new buildings will remedy the substantial impediments to the museum use already approved by the Board. These changes are all reasonably necessary for Hillwood to fulfill its mission and to continue the use established by the Board for the property.

Therefore, strict application of the regulations prohibiting such a use would result in an undue hardship to the Hillwood Museum.

The applicant's statement included an analysis of the museum's financial circumstances. The Director of the Museum testified that the operating expenses exceed the endowment and operating income, therefore, the museum needs to increase its income by increasing attendance by visitors. The applicant maintains that without such increases, the financial viability of the museum is in jeopardy.

The Upton Street Preservation League, Advisory Neighborhood Commission (ANC) 3F and Margaret Miller, a neighbor residing at 4101 Linnean Avenue, N.W. appeared along with other parties in opposition to the application. These opponents argued that the financial information presented by the applicant was offered as evidence of an undue hardship in the instant case. However, the applicant denies that this is the reason for offering the financial information, that this is not a financial hardship case.

The opponents maintain that this is a financial hardship case, but that the applicant has failed to meet the burden of proving a financial hardship would result if the proposed changes and increases are not allowed. The opponents presented information from the Foundations tax records in 1993 to demonstrate that Hillwood's income was more than adequate to offset the deficit between the foundation's earnings from Hillwood's operations and its expenses.

The opponents also argued that the applicant does not need to increase the maximum number of visitors because there have been times when the number of people visiting the museum failed to meet the maximum. Therefore, it will not create a hardship if the maximum is not increased.

2. Whether the proposed changes will be of substantial detriment to the public good or an impairment to the intent, purpose and integrity of the zone plan.

The applicant stated that Hillwood has operated as a museum for 17 years. Based on this experience, the applicant believes that the continued operation of the museum, the addition of two accessory buildings and the modification of certain buildings will not be of a substantial detriment to the public and will not frustrate the goals of the Zoning Regulations in any way.

The Visitor Orientation Center:

The applicant stated that one of the most important improvements proposed for Hillwood is the addition of a new Visitor Orientation Building which will be constructed on the site of the existing head gardener's house, next to the greenhouse. The scale of the building will be in keeping with the existing architecture. Currently, visitor orientation is conducted in what was Mrs. Post's Camellia House. The existing orientation building is small and cannot accommodate all of Hillwood's visitors. As a result, it does not meet the operational standards of similar museums. The new orientation structure will house a room to show the orientation film, a small exhibit area, space for the museum's retail shop, accessible public restrooms and an interior elevator to transport visitors to the street level across from Mrs. Post's home.

By relocating the visitor orientation and retail sales activity into a new structure, there will be reconfiguration of space and function usage in the several other structures. The addition of exhibition and storage space is essential to Hillwood's ability to fulfill its mission.

The other proposed changes to the physical plant described in this order will address the needs for accessibility, efficiency in operation and enhanced display space. These changes are the product of a detailed planning process and 17 years of operational experience. They address Hillwood's immediate deficiencies and its projected needs for the next two decades.

The applicant stated that the proposed physical changes will have no adverse impact on the surrounding community. The total amount of square footage that is being added is extremely small when considered in the context of the 24.5-acre site. There are substantial setbacks from all surrounding lot lines.

The office of planning stated that the total foot print of the proposed new construction on the site is not significant in view of the fact that the site is comprised of 24.5 acres of land.

The USPL and Margaret Miller noted the proposed physical changes to the property and indicated that they do not object to the museum's physical plant. In not objecting to the request for the physical additions and modifications the area residents relied

on the applicant's representations that it could provide adequate screening between the subject property and adjacent residents.

Parking:

The applicant's architect testified about the parking conditions and proposal for the site. The applicant stated that the primary focus of the Hillwood master plan is to replan the visitors orientation and circulation.

Currently, visitors must drive all the way through the site and park at the most remote location on the site, which creates some pedestrian-vehicular circulation problems. There is also a limit to the parking that is available for anticipated and proposed growth.

The space that is currently used for visitors' cars will be designated for staff and bus parking. The current staff parking consists of 44 automobile spaces. That will be increased to 52 spaces. There will be three bus parking spaces.

For visitor parking, the applicant proposes to construct a 70-car, two-story parking deck that blends into the sloping hillside that is at the center of the site and immediately adjacent to the primary visitor access to the main house. The applicant will cut through the two entry drives to provide direct access to the new parking lot. Visitors will continue to be brought through the main entry.

In providing for the parking, the applicant will lose some parking spaces to make the site more pedestrian-oriented and to make it safer for pedestrian circulation on the paved roadway areas. There are currently 48 visitor spaces, which will be increased to 54 spaces. Under the overall master plan, 106 automobiles spaces and three bus parking spaces will be provided.

The applicant maintains that the parking spaces being provided will be adequate based on their parking study which indicates a need for 44 staff spaces and 48 visitor spaces under normal circumstances. Because the parking plan will provide 52 staff spaces and 54 visitor spaces, there will be 14 more spaces than the parking study says is required.

The applicant testified that there will be 14 overflow parking spaces to be used for educational events which would primarily occur outside of the normal museum day.

The Board inquired about the applicant's ability to handle parking for a 500-person fundraiser. In response, the applicant stated that they would park as many people as possible on the grounds and there would be a valet parking program off-site. This

parking could take place on Linnean Avenue or Hillwood might be able to work with the University of the District of Columbia, Howard Law School or some other nearby facility for parking space.

The Office of Planning stated that the proposed parking area is designed to provide a centralized and fully accessible facility for both visitor and staff automobiles. Currently, parking spaces are scattered throughout the site, creating safety hazards and visual discord, and complicating access for the disabled. The centralized parking facility is imposed by the Board's order, the demands of its visitors and to comply with the federal mandate of the Americans With Disabilities Act.

The applicant stated that the proposed parking deck will be located 330 feet from the nearest residence. Further, there will be substantial screening associated with the parking deck and all lighting associated with the site will be sensitive to houses in the surrounding neighborhood.

The applicant stated that it is committed to preserving the 14 to 17 acres of natural woodlands. There is a service drive that goes through the woodlands that will assist the applicant in preserving this area for Hillwood and for the neighborhood.

The applicant stated that it will connect the service lane to the entry gate to ensure that fire and other emergency vehicles have access to the site.

With regard to parking, ANC 3F requested that the Board impose conditions requiring all parking to be located on the premises and not visible from public streets. Also, during construction, cars or vehicles of construction workers and others involved in the construction process shall be parked on the Hillwood property, not on public space or adjoining streets. Visitors' cars and buses shall continue to be parked on the property during the construction process.

Opposing neighbors were concerned about how the applicant would handle visitors who have parked on the street rather than the lot. The applicant indicated that if a visitor walks up to the entry gate, the attendant will inquire about the location of the visitor's car. If it is parked on the street, the attendant will ask the visitor to bring it onto the property. The applicant noted that generally visitors understand the parking situation because they call to make appointments. The applicant testified that the annual fundraiser is the only event for which on-street parking is planned. This event will only occur once a year and neighbors will be notified in advance.

Traffic:

The applicant maintains that the proposed changes will not have an adverse impact on traffic in the area. The applicant's traffic engineer submitted a report related to the traffic conditions in the vicinity of the site. The traffic engineer stated that Hillwood Museum is located on Linnean Avenue, north of Tilden Street in northwest Washington. He noted that the proposed changes to the facility include modified site access and parking. A traffic analysis was conducted to determined the appropriateness of these modifications.

The report noted the current conditions at the site. There are two entrances from Linnean Avenue to Hillwood Museum, referred to herein as the north entrance, which is normally for service vehicles, buses and staff, and the south entrance, which is primarily for visitors. The south entrance provides for ingress only; the north entrance is used for both ingress and egress.

Visitors enter the property at the south gate and work their way through the museum grounds to the 18-space parking lot on the east side of the site. Visitors leave through the north gate. There is also parking for three buses adjacent to the visitors parking lot. Surveys of the travel mode of visitors to Hillwood were made on three days, Friday, October 8, Friday, October 15, and Thursday, October 28, 1993. The survey results showed that the peak accumulation of parked visitors cars was approximately 50 percent of the daily total. A more extensive survey of vehicles entering and leaving the site was conducted by the guards at the two entrances during the month of October 1994. The tabulations were accorded by the hour between 6:00 a.m. and 5:00 p.m. The rounded averages are as follows:

Vehicles Entering			Vehicles Leaving		
Time		No. of Cars	Time		No. of Cars
8:00 a.m.	-	15	1-2 p.m.	-	8
9-10 a.m.	-	12	2-3 p.m.	-	16
10-11 a.m.	-	15	3-4 p.m.	-	23
11-12 *noon*	-	14	4-5 p.m.	-	20
12-1 p.m.	-	11	5-6 p.m.	-	14

During the same month of October 1994, 32 buses brought 819 people to Hillwood, for an average of 1.5 buses per day, with an average of 25.6 people per bus. Combining the data, approximately 19 percent of the visitors arrived by bus.

Measurements that were made on May 27, November 25, and November 26, 1994 found the following distribution of traffic approaching and leaving Hillwood:

From Upton Street - 23 percent
From Tilden Street - 77 percent
To Upton Street - 29 percent
To Tilden Street - 71 percent

This distribution of traffic is what should be expected by comparing the two approaches. Upton Street is narrow with parking on both sides; passing of vehicles moving in opposite directions must be done slowly and with caution. There is no signal control at the intersection of Upton Street and Connecticut Avenue, so southbound left turns onto Upton Street must contend with on-coming traffic. Tilden Street, by contrast, has a broad, grassy median that separates opposing traffic movements; there is no feeling of constraint. Further, the intersection of Tilden Street with Connecticut Avenue has a traffic signal with a left-turn arrow for southbound vehicles, permitting a free and safe left turn.

Using the percentages shown above, the Hillwood traffic that currently uses Upton Street, on an average day, is:

Time:	8-9 a.m.	9-10 a.m.	10-11 a.m.	11-12 p.m.	12-1 p.m.
#Vehicles Eastbound	3	3	3	3	3
Time:	**1-2 p.m.**	**2-3 p.m.**	**3-4 p.m.**	**4-5 p.m.**	**5-6 p.m.**
#Vehicles Westbound	2	5	7	6	4

On a typical weekday there are 50 full-time and 20 part-time employees on the site, who, with some car-pooling, arrive in a total of 44 cars. There are currently 45 spaces for staff members' cars, scattered about the site.

The traffic report discussed the effects of the proposed modifications. It noted that if the requested modifications to Hillwood's operation are approved, the maximum number of permitted visitors per day would increase from 200 to 300 on weekdays and 325 on Saturdays in peak months. For evening or Sunday events there could be 100 visitors.

Examining a worst-case condition, with 325 visitors in a day, compared with the current maximum of 200, there could be an increase of 62.5 percent in daily trips. (This assumes, for the purpose of this analysis, that there would be corresponding increases in staff. As a practical matter, there would be

essentially no increase in staff, so that the assumption represents a substantial overstatement of actual trip generation.)

Currently, the volume of traffic entering Hillwood during the peak hour (8:00-9:00 a.m.) is 15; a 62.5 percent increase would add 9 trips. The number of vehicles leaving during the peak hour (3:00-4:00 p.m.) is 23; a 62.5 percent increase would add 14 trips.

Distributing these new peak hour trips, there would be:

From Upton Street	-	2
From Tilden Street	-	7
To Upton Street	-	4
To Tilden Street	-	10

To determine the parking requirements for visitors, it has been assumed that:

- o 20 percent would arrive by bus, so that there would be 67 percent by car/van (plus 13 percent by taxi);
- o with a longer visiting day, visitors would be encouraged to stay longer, so that the peak accumulation of parked vehicles could be 60 percent of the daily total.

Using these data, the traffic engineer determined that the required number of visitor parking spaces on a peak day would be 52. The proposed visitors parking facility is located directly behind the new visitors center. Access for visitors would be much improved over the current situation, with direct ingress from the south gate to the parking. With 54 spaces allocated for visitors, and a provision for 15 additional on-site parked vehicles, there would be adequate space to provide for all visitors on peak days.

For staff members, the future parking would be more consolidated than at present, with 52 spaces to meet a demand for 44 spaces.

The traffic engineering report concluded that the proposed modifications to site access and parking for Hillwood would considerably improve on-site traffic conditions. Visitors' cars would no longer be driven through much of the grounds, including around the circular driveway in front of the historic mansion. There would be a substantial reduction in the number of conflicts between pedestrians and vehicles on the museum grounds. Visitor access would be simple and direct to the well-designed parking facility which has the capacity for normal peak conditions.

Staff parking would be consolidated, further reducing on-site vehicle movements. From a traffic engineering viewpoint, the

proposed master plan recommendations for Hillwood Museum would be both appropriate and desirable.

By memorandum dated February 15, 1995, the Department of Public Works (DPW) addressed the transportation elements of the applicant's proposal.

DPW noted the proposed changes indicating that they include the addition of a new visitor orientation building and the construction of a new parking area to accommodate approximately 70 automobiles.

The report stated that the site is located on the east side of Linnean Avenue, south of Tilden Street and north of Upton Street.

-Linnean Avenue is a local street with a 30-foot wide pavement in the vicinity of the site. Parking is unrestricted on both sides of the street. Access to the museum is from Linnean Avenue.

-Upton Street is a two-way local street with a paved width of 30-feet. Parking is allowed on both sides of the street.

-Tilden Street is a two-way minor arterial with a paved width of 52 feet and an average daily traffic volume of 16,000 vehicles near the site. Parking is allowed on both sides of the street.

To determine the effect of the proposal on the parking circulation and traffic conditions in the vicinity of the site, DPW examined and assessed the existing road network serving the area, the available public transit in the area, the number of additional trips generated by the project and the parking supply to accommodate visitors to the site.

With regard to the road network, DPW noted that the project fronts on Linnean Avenue, a local street. Access to the museum is from Linnean Avenue via two driveways. The main approach to the site from the east, south and the north is Tilden Street, a minor arterial as stated previously. A secondary approach to the site from the west is Upton Street a local roadway.

With regard to mass transit, the site is not directly served by the Metrobus or Metrorail system. The nearest Metrobus route is on Connecticut Avenue, approximately 2,900 feet from the site. The lack of sidewalk along Linnean Avenue would be another barrier to pedestrian-oriented visitors who would be inclined to use the Metrobus system. For all practical purposes, it can be stated that the site is only accessible by automobile.

With respect to trip generation, DPW noted first that admission to the museum is by advance reservation. According to the applicant's survey of visitors' travel modes, 45 percent arrive by cars/vans, 41 percent travel by bus and 14 percent travel by taxi service. Assuming that the number of visitors is increased from 200 to 300 on weekdays, applying the above modal split, there will be 23 cars with a car occupancy of two persons, two buses with 22 persons per bus and 14 taxis with one person per taxi for a total number of 39 vehicles per average day. Assuming conservatively that 40 percent of these trips will occur during the morning and evening peak hours, there will be 16 vehicles added to the external street system. Based on the existing distribution of traffic approaching the site, 26 percent, or five vehicles, will use Upton Street while 11 will use Tilden Street during the peak hour. In DPW's judgement, this amount of traffic will have a negligible impact on the street system in the area. However, DPW noted that the applicant has some control over how visitors approach the site since admission to the museum is by advance reservations. To minimize or eliminate the use of Upton Street by visitors, the applicant could instruct visitors to use Tilden Street as the most direct approach to the site.

DPW noted that in conducting this analysis, it did not consider the impact of visitor traffic on weekends because from the standpoint of capacity and level of service of the area street system, weekends are not critical. With respect to parking supply, DPW believes that the 70 parking spaces to be provided will be adequate to support the project.

Finally, DPW concluded that from a transportation standpoint, the proposal will not result in an adverse impact on the local transportation system. Therefore, DPW has no objection to the proposal.

In its memorandum, OP stated that it defers to DPW's review and recommendation on the issue of traffic impacts.

Advisory Neighborhood Commission (ANC) 3F expressed concerns about the traffic impacts and recommended conditions to address these concerns. The ANC believes that with the large number of visitors proposed for the site, the impact on traffic conditions will be adverse to the immediate neighborhood. If an additional 150 people attend the annual fundraiser and 75 cars are added to the site, it will take longer for the attendees to exit the site and the community. The ANC noted the concerns of neighbors that Linnean Avenue is a hill and traffic trying to go up Linnean Avenue would have a difficult time doing so if there are several cars leaving the museum site at the same time. Parked cars on both sides of the street make it narrow, sometimes impassable except in one direction. They are concerned that if Linnean Avenue is not passable and there is a back-up for cars heading toward Tilden

Street, the cars would turn right onto Upton Street, creating difficulties there. Therefore, the ANC requested that "No Right Turn" signs would be placed where cars exit the site.

The ANC was also concerned that traffic problems would be created by cars queuing up at the entrance if the applicant checks attendance.

The Upton Street Preservation League (USPL) also expressed concerns that the traffic will adversely affect the neighborhood. USPL stated that there will be a three-fold increase in traffic in the neighborhood. Area residents have complained about cars queuing up on their streets. Based on the information provided USPL maintains that the proposal will generate 380 or more car trips daily.

The opposing neighbor who resides at 4101 Linnean Avenue, N.W. stated that at times visitors to the museum que up in front of her property to enter the site. At present, this queuing poses no serious problem because it only occasionally, results in a line of more than three cars. She is concerned that a doubling in the number of visitors will result in cars blocking her driveway and the entrance to Tilden Place. While the guards at this gate process the cars quickly, some substantial queuing will inevitably occur on the occasions when 100 people arrive at the same time even if they arrive two to a car. She stated that the museum's director would not consider processing visitors in cars either at the north gate where the queuing starts or at a point inside the museum property so as to avoid queuing that blocks access to her driveway or Tilden Place.

To alleviate these concerns the opposing neighbor requested that the Board prevent the museum from allowing more than three cars to que on Linnean Avenue if the Board allows a substantial increase in visitors.

On rebuttal, the applicant's traffic consultant testified that the increase in traffic will only amount to 15 additional trips per day, four of which would use Upton Street. He maintains that this small increase will not have an adverse impact on traffic in the area.

Hours of Operation:

Currently Hillwood is restricted to operating hours of 8:30 a.m. to 6:00 p.m. five days per week. While the current BZA order allows the museum to operate on weekends, Hillwood has generally operated on a Tuesday through Saturday schedule.

Through this application, the museum seeks to make certain changes to its schedule (See the discussion of extension of hours on page five of this order.

The Office of Planning was of the opinion that the number of evening and Saturday functions would not result in substantial non-traffic related adverse impacts on the immediate neighborhood. However, other parties to the application expressed concerns related to the applicant's proposal.

The ANC noted that the current BZA order does not specify which days the museum is to operate. However, the ANC recommended that there be a condition limiting the days of operation to Tuesday through Saturday to allow the community one weekend day of peace and quiet. The ANC also recommends that the annual fundraisers end at 10:00 p.m.

The Upton Street Preservation League recommended the following related to hours of operation: - The museum shall be open to the public no earlier than 8:30 a.m. and no tour shall be scheduled to end later than 6:00 p.m. Twelve evening events may be held on the conditions that they are scheduled for Monday through Thursday and are schedule to end by 9:00 p.m.

Number of Events and Visitors:

The applicant's proposal includes an increase in the number of events and the number of visitors allowed at the site.

Peak vs. non-peak Months.
During the peak months - April, May and October - the applicant proposes to operate Tuesday through Friday with a maximum of 300 visitors and Saturday with a maximum of 325 visitors. The facility would be closed on Sunday.

During non-peak months - March, June, July, August, September, November and December - the applicant proposes to operate Tuesday through Friday with a maximum of 250 visitors and Saturday with a maximum of 300 visitors. The facility would be closed to the public on Sundays and during the entire months of January and February.

The applicant seeks to increase its availability to the public by conducting a maximum of 40 evening educational events throughout the year, each of which would have a maximum attendance of 100, and ten Sunday events to be held from 1:00 to 6:00 p.m. also with a maximum attendance of 100.

The applicant proposes to host one annual fundraiser with a maximum attendance of 500.

The applicant requests that the limit on the number of visitors allowed at the site during each visitation period be increased from 30 to 50 visitors.

The Upton Street Preservation League wishes to limit the museum's operations to Tuesday through Saturday, with 100 persons maximum including staff. The UPSL is willing to allow 12 evening events scheduled two per month for April, May and October, and one per month in other months. A maximum of 100 persons shall attend and the events shall end no later than 9:00 p.m. Finally, USPL agrees to the one fundraiser annually, but with a maximum of only 350 persons.

The ANC proposes the following conditions related to number of events and visitors:

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

B. Visitors shall be admitted by appointment only.

C. No more than 250 visitors shall be allowed on any single day with the following exceptions:

    1. Peak months of April, May and October - 275 visitors.
    2. Annual Fundraiser - 350 visitors.

D. Visitors shall be limited to no more than 50 persons for each visitation period, which shall be scheduled on a staggered basis during the hours of operation.

E. The museum shall open no earlier than 8:30 a.m., and no tour shall be scheduled to end later than 6:00 p.m. with the following exceptions:

    1. 16 evening educational events (limited to 100 attendees) a year (with no more than two a month) ending at 9:30 p.m.
    2. One annual fundraiser ending at 10:00 p.m.

The one opposing neighbor stated that the museum has traditionally closed on Sundays and neighbors fear that the applicant will schedule events every Sunday in the spring and fall months when they most enjoy being outside. The witness stated that she and the area residents appreciate their Sundays when they are quiet and free from museum traffic. Therefore, they request that the Board restrict the museum from opening to the public on Sundays. They believe that it is fair to restrict such activities

because the museum is a public facility operating in an R-1 residential neighborhood and it should accept such limitations on its public activities.

On rebuttal, the applicant stated that it has sought to increase the number of people allowed at the annual fundraisers to 500 because there is a membership program called "Friends of Hillwood" and it has 375 members. If the members attend fundraisers with their spouses, more people would need to be accommodated.

The applicant also explained the need to increase the number of persons per tour to 50 persons by stating that tour buses carry about 46 persons and usually bus drivers are on a schedule and cannot wait for the museum to split the group into two separate tours of smaller groups. With a group of 50, the whole bus group can be accommodated in one tour.

Use of Hillwood by Outsiders:

Parties in opposition to the application requested that the applicant not rent out the museum to outsiders for so called "educational" events, fundraisers, or social events.

The applicant has agreed not to make the premises available to outside groups for any type of social functions.

Community Liaison:

Opponents requested that a liaison be established to work with the community. The applicant stated that a "Neighborhood - Hillwood Committee" will be established. The Committee will meet quarterly to monitor Hillwood activities and resolve any problems that arise in relation to the facility.

Security:

The applicant agreed to provide security at the site 24-hours per day, seven days per week, as requested by the opponents.

Outdoor Concerts:

Responding to concerns of opposing neighbors, the applicant agreed not to have amplified concerts on the museum grounds.

3. Whether granting the application will substantially impair the zone plan?

The applicant stated that the Board has concluded in previous orders that the operation of the museum at Hillwood would be compatible with the R-1-A District and that the proposed mode of operation would not constitute any greater intrusion in that

residential district than uses permitted as a matter of right such as churches, embassies or public schools.

For example, Hillwood could be developed with 84 single-family houses on 10,900 square foot lots. Such a use would generate 840 trips on an average day, almost four time more traffic than the existing use. A development with 7,500 square foot lots would result in 142 houses and over 1,420 trips per day. Clearly, Hillwood Museum's impact is far less intensive than many alternatives including the residential development of the site. The applicant noted that in past orders involving the site, the Board's standard for determining impact on the zone plan was to compare the proposed use with possible matter of right uses.

The Office of Planning was of the opinion that the applicant's proposal would continue to meet the test discussed in earlier orders and that it would not impair the intent and purpose of the Zoning Regulations and Map.

The Upton Street Preservation League stated that Hillwood has been a good neighbor but the present proposal far exceeds existing operations and represents a significant intrusion on the R-1-A District's residential character.

Opposing neighbors maintain that the proposed use will not have less of an impact on the area than constructing single-family houses because the residents of these houses would not be travelling area streets all at once the way that Hillwood visitors do. Therefore, opponents believe that the proposed use will impair the intent and purpose of the zone plan.

FINDINGS OF FACT:

Based on the evidence of record the Board finds as follows:

1. Use of the property is subject to the terms of the previous owner's will which requires that the museum operate at the site.

2. Physical and operational changes at the facility are needed to ensure the continued viability of the museum.

3. The proposed changes to the physical plant will address the need for efficiency in operation and the applicant's obligation to meet the requirements of the Americans With Disabilities Act regarding accessibility for the disabled. The changes will address the museum's immediate deficiencies and its projected needs for the next two decades.

4. The proposed construction will allow for substantial setbacks from all lot lines so as not to adversely affect the nearby residences.

5. The wooded areas on the site provide a substantial natural screening between the site and nearby properties.

6. The increased limit in the number of visitors per day is essential for the applicant to meet the current demands faced by the museum. An increase in visitor limits will also enable Hillwood to enhance its existing outreach programs which are essential to the mission of the museum.

7. The applicant's request to change the days and hours of operation is based on the need to address the interests of individuals who work during the day and are generally unable to visit Hillwood during the week because of its limited hours.

8. The applicant has no need to rent the facilities to outsiders for social functions.

9. The increase in the number of attendees allowed for the annual fundraiser is necessary to accommodate the Friends of Hillwood members and their guests.

10. Because the fundraiser will only occur once annually, traffic and parking associated with the function will not create significant problems for the neighborhood.

11. There is an immediate need for centralized and accessible on-site parking for both visitors and staff cars. The proposed parking facility is critical to the applicant's ability to meet the requirements imposed by past Board orders, the ADA, and to meet the demands of its visitors.

12. The proposed parking deck will provide adequate spaces for those who drive to the museum for tours and educational events. It will help to prevent overflow parking on the streets.

13. The proposed parking deck will be located 330 feet from the nearest residence. This is adequate to buffer the parking facility from the residences nearby.

14. The proposed increases in the peak and non-peak month maximums will add an average of 40 trips per day, spread over several hours. These additional trips will only have a negligible impact on the area street system.

15. By increasing the number of visitors to 50 per visitation period, the applicant will be able to increase the number of bus tours it can accommodate. This will have the

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:**