CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on behalf of the Capitol Police Board, I filed a motion for GRANT OF PARTY STATUS and a motion for a CLOSED HEARING AND SEALED RECORD for all proceedings and documents relating to the issue of security for D.C. Board of Zoning Adjustment Case #17271 and D.C. Zoning Commission Case #05-13 by hand delivery on Tuesday, June 7, 2005 at the District of Columbia Office of Zoning, 441 4th Street, NW, Suite 210 South, Washington, DC 20001.

James W. Joyce
Assistant Counsel
United States Capitol Police
Office of the General Counsel
119 D Street NE
Washington, DC 20510
202-224-9251
DC Bar #477487

James W. Joyce

BZA
Case No. 17271
Exhibit No. 37

Board of Zoning Adjustment
District of Columbia
CASE NO. 17271
EXHIBIT NO. 37

Form 150
(Revised 04/29/02)

Case No. 17271

BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

MOTION

Notice: Click Here for Motion Form Instructions

Applicant, Appellant, Appellee, Party, Intervener*	VS	Applicant, Appellant, Appellee, Party, Intery
JBG/Louisiana Avenue, L.L.C.		U.S. Senate Sergeant at Arms, Capitol Police

Motion of:* (state what you want the Board to do) Please see attached.

The Capitol Police Board requests that all proceedings relating to the issue security be closed to the public and the record concerning these important security matters, as well as the current record relative to the issue of security in the BZA record, including the Applicant's "Security Context Study

Points and Authorities:*
(state the each and every reason why the Board should grant your motion, including relevant references to the Zoning Regulation

MOTION FOR CLOSED HEARING AND SEALED RECORD UNDER TITLE 11 DCMR § 3005.2 and Pub.L. 108-447 § 1009. See attached request. Exhibit 29 in this matter states, "This exhibit from the Applicant is considered confidential and privileged in nature because of national security reasons." Also see attached

CERTIFICATE OF SERVICE

I hereby certify that on this* 7th day of* June 2005 I served a copy of the forgoing M

entity that has requested party status; or entities that have be granted party status – on the above referenced BZA case via*

☐ First-class Mail ☐ Hand Delivery ☐ Other*

(ATTACH A LIST OF PARTIES

Signature:

Print Name:*	William H. Pickle	Firm/Organization:*	Capitol Police Board

Address:*	S-151 The Capitol	City:*	Washington	State:*	DC	Zip:*	20510

* In the event an authorized agent files a motion on the behalf of the maker of the motion, a letter signed by the maker of the motior agent to act on his/her behalf shall accompany the notice of application.

To be notified of hearing and decision:
(Maker of Motion or Authorized Agent)*

Name:*	John T. Caulfield, Esq.						
Address:*	119 D Street NE	City:*	Washington	State:*	DC	Zip:*	20510
Phone No.:*	202-224-9251	Fax No.:	202-228-2405	E-Mail:	james_joyce@		

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM W ACCEPTED.

[redacted]

RECEIVED D.C. Office of Zoning 2005 JUN -7 PM 2:18

RECEIVED D.C. Office of Zoning 2005 JUN -7 PM 2:18

PHONE 225-2341

UNITED STATES CAPITOL POLICE BOARD

S-151 The Capitol
WASHINGTON, DC 20510

June 7, 2005

WILLIAM H. PICKLE, Chairman
WILSON LIVINGOOD, Member
ALAN M. HANTMAN, Member

The Honorable Carol J. Mitten
Chairperson
D.C. Zoning Commission
441 4th Street NW
Washington D.C. 20001

Mr. Geoffrey Griffis
Chairman
D.C. Board of Zoning Adjustment
441 4th Street NW
Washington D.C. 20001

Dear Chairpersons, Commission Members and Board Members:

RE: Zoning Commission Case #05-13
Board of Zoning Adjustment (BZA) for Case #17271, granting a height variance for 51 Louisiana Avenue N.W.

The Capitol Police Board (CPB) supports the D.C. Zoning Commission's unanimous acceptance of the *sua sponte* motion for review regarding the above referenced matter at its April 11, 2005 meeting. In light of this decision, the CPB respectfully requests the following:

MOTION FOR CLOSED HEARING AND SEALED RECORD UNDER TITLE 11 DCMR § 3005.2 and Pub.L. 108-447 § 1009.

The CPB requests that all proceedings relating to the issue of security be closed to the public and the record concerning these important security matters, as well as the current record relative to the issue of security in the BZA record, including the JBG "Security Context Study," presented by any prior entry of evidence in this matter be sealed pursuant to Title 11 DCMR § 3005.2 and Pub.L. 108-447 § 1009 Release of Security Information (December 8, 2004). As you know, Title 11 DCMR § 3005.2 provides that, "matters that are privileged or sensitive and not required to be open by applicable law may be closed at the discretion of the Commission." Indeed, Exhibit 29 in the District of Columbia Board of Zoning file in this matter, filed by the Applicant, appears in the official file as a single sheet of paper with the following notation:

> "This exhibit from the Applicant is considered confidential and privileged in nature because of national security reasons. For this reason, the Office of Zoning has filed this document to a secure location. Please consult the Office of Zoning staff, if you are inquiring about the content of this document."

The Exhibit Log notes the Nature of Exhibit 29 as "Security Context Study, " dated 1/17/05 and consisting of 34 pages.

Much of the information, evidence and testimony that will be submitted and offered in support of the CPB's position in this proceeding will be "security information." Under the federal statute cited above, "security information" is defined as information that "is sensitive with respect to the policing, protection, physical security, intelligence, counterterrorism actions, or emergency preparedness and response relating to Congress, any statutory protectee of the Capitol Police, and the Capitol buildings and grounds" (Pub.L. 108-447 § 1009). The statute further directs that, security information may be released by the CPB to another entity, such as the D.C. Zoning Commission, only if the CPB determines "that the release of the security information will not compromise the security and safety of the Capitol buildings and grounds or any individual whose protection and safety is under the jurisdiction of the Capitol Police." Id. In light of this statutory authority and the responsibility it places on the CPB, the CPB further requests that the D.C. Zoning Commission and the BZA exercise their discretion to close proceedings to the public and seal the record in this matter as to any issue or information relating to the security of the Congress and Capitol complex.

Please advise if you or your staff have additional questions or would like to discuss this request in more detail, including any decision to have the CPB provide security related information. Please contact our General Counsel, John T. Caulfield, at (202) 224-9251. The CPB further requests that Mr. Caulfield be identified and entered into the record as Counsel for the CPB.

Thank you for your cooperation and consideration regarding this extremely important issue.

Respectfully,

William H. Pickle
Chairman
Capitol Police Board

cc: The Honorable Wilson Livingood
The Honorable Alan M. Hantman
Chief Terrance W. Gainer

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION
and
GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

In Re: Variance from Height Limitation for Office Building Addition in the C-3 District at Premises 51 Louisiana Ave. N.W. (Square 631, Lot 17)	**Zoning Commission Case No. 05-13** **Board of Zoning Adjustment Case No. 17271**

NOTICE OF ENTRY OF APPEARANCE

John T. Caulfield
(Under Pub.L. 108-83 § 1002(a))
General Counsel
United States Capitol Police

Gretchen E. DeMar
D.C. Bar No. 423597
Associate Counsel
United States Capitol Police

James W. Joyce
D.C. Bar No. 477487
Assistant Counsel
United States Capitol Police

United States Capitol Police
Office of the General Counsel
119 D Street NE
Washington, DC 20510
Telephone: 202-224-9251
Facsimile: 202-228-2405

2005 JUL -7 PM 2:15

Respectfully submitted,

Dated: June 7, 2005

James W. Joyce
D.C. Bar No. 477487
Assistant Counsel
United States Capitol Police

Form 140
(Revised 03/15/02)

Case No. 17271

2005 JUN -7 PM 2:13

PARTY STATUS APPLICATION

Notice: Click Here for Application Form Instructions

Name:*	William H. Pickle, Chairman, Capitol Police Board, U.S. Senate Sergeant at Arms						
Address:*	S-151 The Capitol	City:*	Washington	State:*	DC	Zip:*	20510
Phone:*	202-224-2341	Fax:		Email:			
I, hereby request to appear and participate as a party.		Signature:		Date:*	6/7/2005		
Will you appear as a(n) ☐	Proponent ☑	Opponent	Will you appear through legal counsel ☑	Yes ☐	No		

If yes, please enter the name and address of such legal counsel.

Name:	John T. Caulfield, Esq., General Counsel, United States Capitol Police						
Address:	119 D Street NE	City:	Washington	State:	DC	Zip:	20510
Phone:	202-224-9251	Fax:	202-228-2405	Email:	james_joyce@cap-po		

Please answer all of the following questions referencing why the above person should be granted party status.
(If you require additional space, please attach an additional sheet.)

1). How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Board?*

Among the significant impacts likely to affect the USCP and the Capitol complex is an increased vulnerability relative to Congressional security and an increased demand on USCP security and taxpayer resources to protect Members of Congress and the Capitol complex(please see attachment).

2). What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)*

I am Chairman of the Capitol Police Board, which is designated by statute as the oversight body for the operations of the United States Capitol Police (USCP) and responsible to protect facilities throughout the Capitol Grounds (please see attachment).

3). What is the distance between the person's property and the property that is the subject of the appeal or application before the Board? (Preferably no farther than 200ft.)*

The Capitol building itself is within 500 yards of the property at 51 Louisiana Avenue NW.

4). What are the environmental, economic or social impacts that are likely to affect the person and/or the person's property if the action requested of the Board is approved or denied?*

Among the significant impacts likely to affect the USCP and cause substantial detriment to the public good, should the variance be granted, is an increased vulnerability relative to Congressional security and an increased demand on USCP security and taxpayer resources (see attachment).

5). Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Board is approved or denied.*

Any granting of a variance in this case will significantly increase the security threat to the United States Capitol (see attached).

6). Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other person's in the general public.*

Please see attached.

PHONE 225-2341

UNITED STATES CAPITOL POLICE BOARD

S-151 The Capitol
WASHINGTON, DC 20510

June 7, 2005

WILLIAM H. PICKLE, Chairman
WILSON LIVINGOOD, Member
ALAN M. HANTMAN, Member

The Honorable Carol J. Mitten
Chairperson
D.C. Zoning Commission
441 4th Street NW
Washington D.C. 20001

Mr. Geoffrey Griffis
Chairman
D.C. Board of Zoning Adjustment
441 4th Street NW
Washington D.C. 20001

Dear Chairpersons, Commission Members and Board Members:

RE: Zoning Commission Case #05-13
Board of Zoning Adjustment (BZA) Case #17271, granting a height variance for 51 Louisiana Avenue NW

The Capitol Police Board (CPB) supports the D.C. Zoning Commission's unanimous acceptance of the *sua sponte* motion for review regarding the above referenced matter at its April 11, 2005, meeting. In light of this decision, the CPB respectfully requests the following:

MOTION FOR GRANT OF PARTY STATUS UNDER TITLE 11 DCMR § 3022.3 and any applicable Commission and BZA regulation and/or procedure relative to party status.

The CPB requests a waiver of any applicable Commission and BZA regulation and/or procedure relative to party status and a granting by the Commission and BZA of party status for the CPB in this proceeding. The CPB is designated by statute as the oversight body for the operations of the United States Capitol Police (USCP) which is responsible to protect Members of Congress, the core processes of the federal legislative branch, as well as employees, visitors and facilities throughout the Capitol Grounds and to police and provide for physical security within the Capitol Grounds (2 U.S.C. §1961; as amended, 2 U.S.C. §1964, as amended; 2 U.S.C. §1966). As you are no doubt aware, the Capitol Buildings and Grounds are located in close proximity to the property in question at 51 Louisiana Avenue N.W. Among the significant impacts likely to affect the USCP and cause substantial detriment to the public good, should the variance be granted, is an increased vulnerability relative to Congressional security and an increased demand on USCP security and taxpayer resources to protect Members of Congress and the Capitol complex, including congressional staff and members of the public. We are extremely concerned that the Decision and Order corresponding to Application No. 17271 creates a significantly greater security risk to the Congress than a denial of such a variance.

Please advise if you or your staff have additional questions or would like to discuss this request in more detail, including any decision to have the CPB provide security related information. Please contact our General Counsel, John T. Caulfield, at (202) 224-9251. The CPB

further requests that Mr. Caulfield be identified and entered into the record as Counsel for the CPB.

Thank you for your cooperation and consideration regarding this extremely important issue.

Respectfully,

William H. Pickle
Chairman
Capitol Police Board

cc: The Honorable Wilson Livingood
The Honorable Alan M. Hantman
Chief Terrance W. Gainer