BEFORE THE DISTRICT OF COLUMBIA ZONING COMMISSION
ZONING COMMISSION CASE NO. 03-16

MOTION FOR RECONSIDERATION

Frederic Schwartz, Jr. and Jill Schwartz respectfully move that the Zoning Commission reconsider its order of March 1, 2004, denying them party status.

It appears that only two sets of parties timely requesting party status were denied. One set, Mr. and Mrs. William Wolf, were also part of a larger group at Watergate East represented by Mr. Wolf. Thus, their party status would be duplicative. It is not entirely clear why Mr. and Mrs. Schwartz were denied party status, except that they were two individuals. Consequently, reconsideration is requested on three grounds.

First, the relevant provisions of the Zoning Commission regulations do not limit parties to organizations or amalgams. Second, as the holders of a proprietary lease for a two bedroom, two story town house within several hundred feet of the subject property, they would ordinarily qualify as having a special interest. This special interest is intensified by the fact that they are or will be users of facilities which will be lost or gained at the subject property. Finally, the District of Columbia Court of Appeals in *Lund v. Watergate Investors Limited Partnership*, 728 A. 2d 77, 82-83 (D.C. 1999) has held that individual residents of Watergate West, such as Mr. and Mrs. Schwartz, can suffer sufficient special damages to enforce a zoning requirement relating to the Watergate Complex. Thus, they should have standing as a party before the Commission as well. The result of the Commission determination is to accord party status to those opposing and those in support of the project at Watergate East, one of the bookend properties, but to accord party status only to those opposing the project at Watergate West, the other bookend property.

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This motion is not moot. While the time for the proponents to testify is now over, the right to cross-exam the opponents has not passed. Mr. Schwartz believes his cross-examination will be helpful. Further, party status will permit intervention in the appeal. Thus, the relief requested is real.

Frederic W. Schwartz, Jr.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing, this 22 day of March, 2004, by hand or by fax on Jack Ollender, Esq., Mr. William Wolf, Richard Aguglia, Esq., and Norman Glasgow, all counsel to the designated parties, and Dorothy Miller, ANC Chair.

Frederic W. Schwartz, Jr.