

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17229-A (originally designated as Application No. 18919) of Hillwood Estate, Museum and Gardens, Motion for Modification of Certain Conditions Established in Order No. 17229, Governing the Operation of an Approved Museum Under § 201, in the TSP/D/R-1-A District at Premises 4155 Linnean Avenue, N.W. (Square 2245, Lot 1), pursuant to §§ 3103.2 and 3129.7 of the Zoning Regulations.¹

Application No. 17229 was pursuant to 11 DCMR § 3103.2, for a variance to allow modification of certain previous conditions of BZA Orders (including BZA Order No 16019), governing the operation of an approved museum under section 201, in the TSP/D/R-1-A District at premises 4155 Linnean Avenue, N.W. (Square 2245, Lot 1).

DECISION DATE (Application No. 17229):	January 11, 2005
FINAL ORDER ISSUANCE DATE (No. 17229):	January 28, 2005
HEARING DATE FOR MODIFICATION:	February 10, 2015
MODIFICATION DECISION DATE:	February 10, 2015

SUMMARY ORDER ON REQUEST FOR MODIFICATION

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

BACKGROUND

¹ This application was originally filed as a new application and designated Case No. 18919, but that designation was amended at the public hearing to 17229-A for administrative efficiency and the caption has been amended to reflect that change. Prior approvals of the use of the subject property are contained in Order Nos. 12297, 13668, 14735, 16019, and 17229. Further, the caption has been amended to reflect the current Zone District, TSP/D/R-1-A. In Order No. 17229, the zoning had been R-1-A. The application (17229-A) requests both a use variance pursuant to § 3103.2 and modification of conditions pursuant to § 3129.7, and the caption cites relief under both subsections accordingly. (Exhibits 1 and 8.)

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On January 11, 2005, the Board of Zoning Adjustment (the “Board” or “BZA”) last approved Hillwood Museum and Gardens’ (the “Applicant”) request for a variance pursuant to 11 DCMR § 3103.2, to allow modification of certain previous conditions of BZA Orders, including BZA Order No. 16019, governing the operation of an approved museum under § 201, in the R-1-A District at premises 4155 Linnean Avenue, N.W. (Square 2245, Lot 1). The site has been operated as a museum pursuant to BZA Order Nos. 12297, 13668, 14735, 16019, and 17229.² (See, Exhibit 8, Tabs C, D, E, F, and G.)

In its statement the Applicant described the history of this case. The Applicant noted that in 1955, Marjorie Merriweather Post bought the subject property to serve as both her residence and as a future museum. In 1968, Mrs. Post deeded the estate and collections to the Smithsonian Institution, subject to her retention of a lifetime interest. Upon her death in 1973, the Smithsonian began preparations to operate the estate as a public museum. However, 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, in keeping with the desires expressed in Mrs. Post’s will, pursued the operation of Hillwood as an independent 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 the BZA’s approval in BZA Application No. 12297. That approval, which became final on April 15, 1977, was limited to a period of five years and eight other conditions.

In 1982, the Foundation sought and received 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. That approval also was subject to eight conditions.

In 1988, the Foundation received Board approval, pursuant to BZA Order No. 14735, to construct additions to the Library and Gift Shop.

In 1995, the Foundation received Board approval, pursuant to BZA Order No. 16019, 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. That approval, which became final on October 26, 1995, was subject to 19 conditions.

² For ease of case research and administrative efficiency, from this application forward, the case record should be cited as Case No. 17229 and add letters to that Case No. for future changes and applications regarding this property and use.

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In 2004, the Foundation received Board approval, pursuant to BZA Order No. 17229, to allow modifications of certain previous conditions governing the operation of the museum. That approval, which became final on January 28, 2005, was subject to 15 conditions.

2015 APPLICATION FOR VARIANCE AND MODIFICATION OF CONDITIONS

On November 5, 2014, the Applicant filed an Application pursuant to 11 DCMR §§ 3103.2 and 3129.7, for a variance to allow modification of certain previous conditions of BZA Orders governing the operation of an approved museum under § 201 at the subject property. This application was deemed Case No. 18919, but subsequently designated as Case No. 17229-A. (Exhibit 1, Case No. 17229-A.) The record reflects that notice by electronic mail and first class mail was given to the Office of Planning (“OP”) and Advisory Neighborhood Commission (“ANC”) 3F, the affected ANC, and to property owners within 200 feet. In addition, the record reflects that notice was provided to the National Park Service and the U.S. Secretary of State. The Applicant indicated that it met with area residents regarding the proposed modifications to the operating conditions and has reached an agreement with several property owners within 200 feet regarding the proposed conditions. (Exhibits 8 and 28.)

The Applicant stated that it does not propose any new structures or expansion of any existing structures. The Applicant proposes to change some of the conditions under which it may operate in order to have greater flexibility with Sunday and evening events so the museum can operate more effectively in response to a changing climate of museum visitors and thereby allowing it to fulfill its overall mission and better serve its constituency. The modified conditions (by the condition number) include: 1. Days of operation, 3. No appointments necessary, 4. Increase to 200 parking spaces, 5. Two buses permitted on two Sundays per year, 6. Increase to seven overflow events, 7. Sundays and evening events, 8. Removing liaison committee requirement, 16. New condition: requiring Applicant to meet with area residents upon request to resolve disputes. More specifically, the Applicant requested the following modifications to the conditions previously approved in Case No. 17229 governing the operations of an approved museum under § 201 in the TSP/D/R-1A District at premises 4155 Linnean Avenue, N.W. (Square 2245, Lot 1):

1. Condition No. 1: change the word “Saturday” to “Sunday”;
2. Condition No. 4: change 110 cars to 200 cars and add a provision that says: “If they plan to drive, they will be denied a reservation unless there is adequate space in the lot for their car, considering the anticipated demand from visitors (defined herein as anyone who is not an employee) and employees (defined herein as paid staff and volunteers). If guests arrive without reservations and there is adequate parking to accommodate them and all guests with reservations, they will be admitted to the museum.”
3. Condition No. 5: changes (in bold) so the condition reads as follows:

On Tuesday through Saturday, no more than two buses shall be permitted to enter the property each morning and each afternoon. **Buses shall not be permitted on Sunday except that two buses on each of two Sundays per year are permitted.**

4. Condition No. 6: change the word “four” to “seven” in the first phrase in the condition and add new paragraphs vi through ix as follows:
 - vi. Signs will be placed at the entrances to Hillwood similar to the following: “All employees and visitors arriving by car must park on the premises.”
 - vii. Drop-off and pickup for valet parking will be adjacent to the Visitors Center or another main building on the premises.
 - viii. Contracts with valet parking companies will expressly prohibit drivers from parking on the street.
 - ix. To the extent practicable, Hillwood will not schedule overflow events on days when other nearby institutions are having large events. Such institutions include Levine School of Music, the Embassy of the Netherlands, and Howard Law School, or their successors.
5. Condition No. 7: change the condition to read as follows:
 7. In addition to the seven "overflow" events discussed in Condition No. 6, evening events shall be limited as follows:
 - a. All evening events shall be primarily educational events related to Hillwood's mission or fundraising events for Hillwood.
 - b. No more than two evening events shall be held in any calendar week, except that up to three times per year there may be three evening events in one calendar week.
 - c. The educational evening activities shall end no later than 10:00 p.m., except that in the summer months there may be one event per week that will end no later than 11:00 p.m. In addition, Hillwood may host three additional events that will end no later than 11:00
 - d. Attendance shall be limited to 200 cars at evening events, including limousines.
 - e. Buses at evening events shall be limited to five evening events per year. At such events, there may be no more than five bus arrivals including both drop-offs and pick-ups. Space shall be provided for bus parking on the property. Signs, invitations and other advertising media will direct visitors not to park on the street.
 - f. Free valet parking will be provided for off-site parking.
 - g. Hillwood will take all reasonable measures to assure that visitors do not park on the street. These must include, at a minimum, the same measures as for overflow events, as described in Condition No. 6(c).

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6. Condition No. 8: add the words “as needed” to 8b so it shall read: “During all events, both gates will be opened for ingress as needed.
7. Condition No. 10: change to read as follows: Hillwood agrees to communicate with area residents and ANC 3F quarterly about events and activities at Hillwood.
8. Condition No. 16: add a new condition to read as follows:

Upon request, Hillwood shall meet with area residents to discuss matters of concern. Nothing herein will prevent Hillwood from meeting with the Neighborhood Party or Parties as often as reasonably necessary to resolve a dispute.

Pursuant to § 3129.7, the Board conducted a hearing on the application for variance and to modify the conditions the museum was operating under on February 10, 2015. OP filed a report dated February 10, 2015 (Exhibit 29) recommending approval of the requested use variance relief to allow the modification of the current operational conditions to reflect an expansion of the operations and appeared at the hearing. The affected ANC, ANC 3F, which was a party in support to the underlying case, filed a report dated November 18, 2014, indicating that at a duly noticed and scheduled meeting on that same date, the ANC, with a quorum present, voted unanimously (7-0-0) in support of the proposed changes and requested relief. (Exhibit 24.)

A memorandum of understanding with the neighbors within 200 feet was submitted for the record. (Exhibit 28.) In addition, a neighbor from across the street testified in support of the application at the public hearing.

Variance Relief

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for a use variance from 11 DCMR § 201. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a use variance from 11 DCMR § 201, the Applicant has met the burden of proof under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Modification of Conditions Request

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11

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DCMR § 3129, that the requested modification of conditions can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. No parties opposed this modification. Accordingly, a decision of the Board to grant this modification would not be adverse to any Party.

The Board concludes that the Applicant's proposed Modification of the conditions cited in this Order are well supported and consistent with requirements of § 3129.7 of the Zoning Regulations and represents a modification that does not change the material facts the Board relied upon in approving the original application.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law.

It is therefore **ORDERED** that this application be **GRANTED AND THAT THE CONDITIONS IN ORDER NO. 17229 ARE MODIFIED TO READ AS FOLLOWS:**

1. The facility shall be open Tuesday through Sunday for regular daily visits.
2. The hours of operation for regular daily visits shall be from 8:30 a.m. to 6:00 p.m.
3. Visitors shall be admitted by appointment. Appointments shall be limited by parking availability as described in Condition No. 4 below.
4. The number of visitors shall be limited to the facility's parking capacity of 200 cars, including limousines, at any one time. Reservations shall be made for no more than 200 cars in the morning and 200 cars in the afternoon. At the time of reservation, Hillwood staff shall ask visitors how they plan to arrive at Hillwood. If they plan to drive, they shall be denied a reservation unless there is adequate space in the lot for their car, considering the anticipated demand from visitors (defined herein as anyone who is not an employee) and employees (defined herein as paid staff and volunteers). If guests arrive without reservations and there is adequate parking to accommodate them and all guests with reservations, they will be admitted to the museum. There shall be no charge for parking.
5. On Tuesday through Saturday, no more than two buses shall be permitted to enter the property each morning and each afternoon. Buses shall not be permitted on Sunday with the exception of up to two Sundays per year, and on those two Sundays, up to two buses are permitted.
6. Up to seven overflow events per year may be held without limit on the number of cars or attendees, under the following conditions:

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- a. The event is either a fundraising event for Hillwood or is primarily related to Hillwood's educational mission;
 - b. Sufficient off-street parking is provided so that no vehicle needs to park on the street;
 - c. Hillwood takes all reasonable measures to assure that visitors do not park on the street. These measures shall include, at a minimum:
 - i. Signs, invitations and other advertising media shall direct visitors not to park on the street;
 - ii. Free valet parking will be provided for off-site parking;
 - iii. During each overflow event, there may be no more than two bus arrivals including drop-offs and pickups;
 - iv. For purposes of this order, buses are defined as passenger vehicles that exceed 25 feet in length;
 - v. Space shall be provided for bus parking on the property;
 - vi. Signs shall be placed at the entrances to Hillwood similar to the following: "All employees and visitors arriving by car must park on the premises";
 - vii. Drop-off and pickup for valet parking shall be adjacent to the Visitors Center or another main building on the premises;
 - viii. Contracts with valet parking companies shall expressly prohibit drivers from parking on the street; and
 - ix. To the extent practicable, Hillwood will not schedule overflow events on days when other nearby institutions are having large events. Such institutions include Levine School of Music, the Embassy of the Netherlands, and Howard Law School, or their successors.
7. In addition to the seven "overflow" events discussed in Condition No. 6, evening events shall be limited as follows:
- a. All evening events shall be primarily educational events related to Hillwood's mission or fundraising events for Hillwood;

- b. No more than two evening events shall be held in any calendar week, except that up to three times per year there may be three evening events in one calendar week;
 - c. The educational evening activities shall end no later than 10:00 p.m., except that in the summer months there may be one event per week that will end no later than 11:00 p.m. In addition, Hillwood may host three additional events that will end no later than 11:00;
 - d. Attendance shall be limited to 200 cars at evening events, including limousines;
 - e. Buses at evening events shall be limited to five evening events per year. At such events, there may be no more than five bus arrivals including both drop-offs and pick-ups. Space shall be provided for bus parking on the property. Signs, invitations and other advertising media will direct visitors not to park on the street;
 - f. Free valet parking shall be provided for off-site parking; and
 - g. Hillwood shall take all reasonable measures to assure that visitors do not park on the street. These must include, at a minimum, the same measures as for overflow events, as described in Condition No. 6(c).
8. Hillwood shall implement measures to reduce the queue on Linnean.
- a. At no time shall Hillwood permit a street queue of more than three cars at the upper entrance or two cars at the lower entrance;
 - b. During all events, both gates will be opened for ingress as needed;
 - c. At no time shall Hillwood permit a street queue of more than one bus; and
 - d. All buses and taxis that park or wait must do so on the property.
9. No amplified music or speech shall be allowed at the site that can be heard off the premises.
10. Hillwood shall communicate with area residents and ANC 3F quarterly about events and activities at Hillwood.
11. No outside groups or individuals shall be allowed to rent the applicant's facility.

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12. The applicant shall provide security at the site 24 hours a day, seven days a week.
13. The existing "No right turn" sign shall be maintained at all vehicular exits from the site.
14. The applicant shall request that visitors exit from the facility toward Tilden Street.
15. All parking shall occur on the premises, except as provided in Condition No. 6 above.
16. Upon request, Hillwood shall meet with area residents to discuss matters of concern. Nothing herein will prevent Hillwood from meeting with the Neighborhood Party or Parties as often as reasonably necessary to resolve a dispute.

In all other respects, approvals in Orders No. 12297, 13668, 14735, 16019, and 17229 remain unchanged.

VOTE ON APPLICATION NO. 17229 ON JANUARY 11, 2005: 5-0-0

(Geoffrey H. Griffis, Ruthanne G. Miller, John A. Mann II, Curtis L. Etherly, Jr., and John G. Parsons to **APPROVE**.)

VOTE ON APPLICATION NO. 17229-A AND MODIFICATION OF CONDITIONS IN ORDER NO. 17229 (FEBRUARY 10, 2015): 4-0-1

(Lloyd J. Jordan, Marnique Y. Heath, Jeffrey L. Hinkle, and Robert E. Miller to **APPROVE**; the third Mayoral appointee vacant.)

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

A majority of the Board members approved the issuance of this summary order.

ATTESTED BY: _____


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: March 4, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.