

# Government of the District of Columbia

## ZONING COMMISSION



ZONING COMMISSION ORDER NO. 106  
CASE NO. 74-7/71-5F  
December 30, 1974

Pursuant to notice, a public hearing was held on September 19, 1974, to consider the final application for a planned unit development and related zone change filed by the Governments of Czechoslovakia, Hungary, Indonesia, and Poland.

### FINDINGS OF FACT

1. The site of the proposed planned unit development is located on the south side of Tilden Street at Linnean Avenue, N. W. , near Rock Creek Park; Square 2231, lots 1, 2, 4, and 5; Square 2232, lots 800-806, 808, and 809; Square 2234, lot 803.
2. The area of the subject site is approximately 18 acres, Baist Atlas No. 3, page 27.
3. The subject site is presently zoned R-1-A (one-family detached dwelling - specifications set forth in the Zoning Regulations).
4. The final application for a planned unit development requests that the zoning of the subject site be changed to R-5-C (medium high density

apartment house - specifications set forth in the Zoning Regulations).

5. The final application proposes the construction of a new Polish Chancery and Embassy and a new Hungarian Chancery and Embassy. The Polish Chancery and Embassy are to be constructed in two separate buildings. The Hungarian Chancery and Embassy are to be constructed as a single building.

6. The site of the proposed planned unit development is surrounded on two sides by public park land. Rock Creek Park and Melvin Hazen Park abut the property on the south and east. There is a steep slope down into Hazen Park from portions of the site. On the west the site is bordered by the embassy/chancery of Kuwait. The portions of Square 2231, not owned by the Government of Hungary, are occupied by a single-family dwelling at the corner of Linnean Avenue and Shoemaker Street and by a largely undeveloped parcel occupied by one large, apparently residential building. The former building is surrounded by the subject property on three sides.

7. There are other nonresidential uses in the immediate vicinity, e.g., the Government of the Netherlands Embassy and Chancery, the Carnegie Institution of Washington and Dumbarton College and other similar institutional uses.

8. There is existing R-5-C zoning in the area, on Connecticut Avenue, 700 feet from the closest edge of the subject site. The remainder

of the area contiguous to the subject site is zoned either R-1-A, or R-Z (one -family semi-detached dwelling - specifications set forth in the Zoning Regulations).

9. Application for the planned unit development was originally filed in this case (71-5) on March 17, 1971, by the Governments of Czechoslovakia, Hungary, Indonesia and Poland. The case was first heard for the Zoning Commission by a hearing officer on October 5, 1971. Prior to and at said hearing, there were submissions in behalf of and against the application. Said submissions were both legal and factual.

10. The Zoning Commission, after reviewing and considering the record and the report of the hearing officer, informally advised counsel for the Governments of Poland and Hungary (by letter dated January 17, 1972), that the application had been approved and that a formal order was being prepared. Said letter stated in pertinent part:

This is to inform you that the Zoning Commission . . . approved your preliminary application for . . . Only those structures which would be permissible under the height, density, floor area ratio and other requirements of Article 75 and those applicable to the R-1-A zone and to no others.

11. Prior to the issuance of a formal order, the United States Court of Appeals for the District of Columbia Circuit rendered its opinion in Allen v. Zoning Commission, 449 F. 2d 1100 (1971), which decision declared invalid an order of the Zoning Commission based on a hearing attended by less than a quorum of said Commission. Additionally, while the effects and complications of the Allen case were being considered, the District of Columbia Court of Appeals, in Capitol Hill Restoration Society v. Zoning Commission, 287 A. 2d (D. C. App. 1972), held that hearings on applications for planned unit developments must be "contested cases" as such are defined by the District of Columbia Administrative Procedure Act (Sec. 1-1500, et seq, D.C. Code, 1973 ed.). The "contested case" procedures were not followed by the hearing officer.

12. The formal order was never issued and the application was reheard by Zoning Commission as a preliminary (or first stage) hearing on March 14 and 21, 1973, pursuant to Article 75 of the Zoning Regulations and the Rules of Procedure for contested cases which were promulgated on July 27, 1972, and preliminary approval of this planned unit development was granted by Zoning Commission Order No. 70.

13. The Office of Planning and Management testified, and the Commission finds, that the final application is in conformance with the development controls established by this Commission in Order No. 70.

14. The Office of Planning and Management concluded, and the Commission finds, that the design of the buildings are consistent with the controls of the R-1-A zone district, though the proposed zoning for said property is R-5-C, and that the proposed structures would be consistent with the type and scale of existing development in the surrounding area.

15. The Zoning Advisory Council concluded, and the Commission finds, that the plans submitted with the final application are in conformity with the requirements established by this Commission in Order No. 70.

16. The Zoning Advisory Council concluded, and the Commission finds, that the use of the subject site as an embassy/chancery is highly appropriate and that the design of the proposed structures is harmonious in height, density, and bulk with the surrounding parks and existing development. The Council found the horizontal character of the proposed structures with interposed small masses separated by open space both vertically and horizontally, to be in keeping with the existing bulk, texture, and low profile of buildings in the immediate neighborhood. The Council concluded, and the Commission finds, that the proposed buildings are attractively designed and blend into the wooded surroundings providing privacy within and outside the site causing minimal intrusion on the aesthetic and environmental qualities of the existing neighborhood.

17. The Zoning Advisory Council recommended final approval of the planned unit development and zone change from R - 1 -A to R -5 -C .

18. The type of development proposed would not be inconsistent with existing development in the area.

19. The traffic generated by the proposed development would not adversely impact the area.

20. There was substantial citizen opposition to this final application appearing in the record and evinced at the public hearing. The opposition of the Forest Hill Citizens Association related only to the proposed embassy/ chancery for the Government of Hungary. The major areas of specific citizen concern appear to be the proposed floor area ratio of the building, screening of the building from adjacent residential property, and the color of the building.

#### CONCLUSIONS OF LAW .

1. The final application does not conflict with the development plans and policies of the District of Columbia.

2. The site as proposed in the final application for a planned unit development is suitable for use as a planned unit development under the specific conditions and guidelines set forth hereinafter.

3. The proposed deviations from the use, height, area, density of bulk provisions of the general provisions of the Zoning Regulations will not have any adverse affect on the neighborhood.

4. Consolidation of the existing diplomatic use of the four foreign governments into one site would be beneficial to the governments involved, and United States of America and the District of Columbia.

5. The planned unit development process is an appropriate means of controlling the type and level of this development.

6. The change of zone from R-1-A to R-5-C (to be accomplished in connection with the approval of the final application for this planned unit development) is appropriate in this case and is required for the final approval of the planned unit development. When property is included in a planned unit development, allowances and restrictions may be imposed with flexibility in any portion of the property comprising the planned unit development.

7. The granting of this final application for a planned unit development and related zone change is in accordance with the Zoning Regulations of the District of Columbia, as amended, and the Zoning Act (Act of June 20, 1938, 52 Stat. 797) as amended.

#### DECISION

The Zoning Commission has carefully reviewed the record herein and given especial consideration to the expressed and implicit concerns of the citizens residing in the vicinity of the subject site as well as to those of residents immediately adjacent thereto. As stated in the decision granting

the preliminary application, the Commission is aware that these concerns must be addressed, but that consideration should also be given to the status of the District of Columbia as this Nation's Capital and that embassies and chanceries are necessary adjuncts to that status.

The Commission has carefully weighed each of these sets of needs and requirements and believes that the planned unit development controls, as set forth herein, that selectively zoned specific portions of the subject site allowing for the construction of embassies/chanceries for the Governments of Hungary and Poland, will satisfy their requirements and will protect the health, safety, and general welfare of those citizens residing on property adjacent to and in the vicinity of the subject site, as well as the District of Columbia as a whole.

The Commission notes with grave concern testimony presented at the public hearing to the effect that a piece of land of approximately 10 acres located to the north of the subject site across Tilden Street bounded by Linnean Avenue, Rock Creek Park extension, Hillwood Smithsonian Museum and adjacent to the Rock Creek and Potomac Parkway (Exhibit No, 39) is presently being advertised for sale for embassy and chancery use, Based upon the testimony and the record in this case, the Commission is of the opinion that embassy and chancery uses should not extend from the subject site north across Tilden Street. This opinion is based on the necessary review of the subject site and the surrounding area,

The Commission has found that the subject site is appropriate for the intended uses as expressed in the preliminary and final applications. We are pleased that the applicants have proposed a level of development that should not be deleterious to the surrounding neighborhood and that is not of the magnitude that would change the characteristics of the area north of Tilden Street.

We recognize the expressed fears that the granting of this application may lay the foundation for the establishment of similar uses to the north. The Commission, however, does not agree that such is the case. The south side of Tilden Street is appropriate for the proposed development, the area to the north is not.

Upon consideration of the findings of fact and conclusions of law herein, the Zoning Commission hereby ORDERS APPROVAL of the following change of zone:

Change from R-1-A to R -5 -C, lot 803 in Square 2234;  
lots 800, 801, 802, 803, 804, 805, 806,  
808, 809 in Square 2232; lots 1, 2, 4, and 5 in Square  
2231; located at 2700 Tilden Street, 2900 Tilden Street  
and 2900 Linnean Avenue, N. W .

Upon consideration of the findings of fact and conclusions of law herein, the Zoning Commission hereby ORDERS APPROVAL of said final

application for a planned unit development, subject to the elements, conditions and guidelines hereinafter set forth:

1. The entire site shall be restricted to use by no more than four foreign governments.

2. All buildings and structures shall be restricted to either embassy or chancery uses.

3. The Governments of Hungary and Poland are permitted to construct embassies and chanceries in accordance with the provisions of this Order.

4. The Governments of Czechoslovakia and Indonesia shall not construct any additional buildings or structures on this property without having applied to this Commission for and have been granted an amendment to this planned unit development.

5. The maximum height of all buildings and structures shall be 40 feet, not to exceed 3 stories.

6. There shall be a maximum floor area ratio of 0.4, and percentage of lot occupancy of 40% for the property owned by the Government of Poland. There shall be a maximum floor area ratio of 0.35 and percentage of lot occupancy of 40% for the property owned by the Government of Hungary.

7. Any buildings or structures constructed by the Government of

Poland shall be set back a minimum of 25 feet from the right of way of Tilden Street, N.W.

8. Any buildings or structures constructed by the Government of Hungary shall be set back a minimum of 25 feet from lot 3 in Square 2231. (The swimming pool, platform, and retaining wall as shown on the site plan for the Hungarian Chancery/Embassy sheet 2, indicates this structure to be closer than 25 feet to the northwest corner of lot 3. Said structure shall be brought into strict compliance with the 25 foot set back requirement established herein).

9. Parking shall be provided at the rate of one space per sleeping room for space devoted to embassy use, and one space per 800 square feet of gross floor area for space devoted to chancery use, not including reception areas, halls, and similar space. All parking spaces shall be underground or screened so as not to be visible from any public property or street,

10. There shall be no change in the wooded character or topography of the area. No tree of a 6" diameter or greater shall be removed unless it is to be covered by a building or structure, or it is necessary to remove it for a primary access road or the tree is diseased or a present danger to occupancy of the site or to the public. Pursuant to Exhibit No. 36, the Government of Hungary shall maintain the buffer of Evergreen trees between

its property and that owned by Mr. Samuel E. Eastman (lot no. 3). If, within two years of the planting of said evergreen trees, any shall die, they shall be replaced immediately with trees of a similar size and type.

11. All areas not devoted to buildings, structures, access drives or above ground parking, shall be appropriately landscaped so as not to change the character of the area.

12. The final design of the building shall be based primarily on the plans submitted with the application for final approval and designated as follows :

Hungary - Exhibit 15 through 21, dated February 25, 1974.  
Poland - Exhibit 7 through 14, dated January, 1973.

13. The applicant shall submit a detailed landscape plan to the Board of Zoning Adjustment at the time of filing an application for Further Processing of the Planned Unit Development.

14. No site grading or other change in the existing character of the property, including removal of existing trees or vegetation, shall take place prior to approval of the detailed site plan by the Board of Zoning Adjustment .

15. Approval of the application by the Zoning Commission and/or the Board of Zoning Adjustment shall not relieve the applicant of the responsibility of conforming to all other applicable codes and ordinances of the District of Columbia.

16. The change of zoning shall not be effective until the recordation of the covenant required by Subsection 7501.2 and completion of the planned unit development process.

WALTER E. WASHINGTON

John Alwin  
JOHN A. NEVIUS

Sterling Tucker  
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George M. White  
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ATTEST:

Martin Klauber  
Martin Klauber  
Executive Secretary