

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application (#16428) of The Republic of Equatorial Guinea, pursuant to section 206 of the Foreign Mission Act ("FMA"), approved August 24, 1982, 96 Stat. 286, Pub. L. 97-241 (22 U.S.C. 4306), D.C. Code §5-1206, and 11 DCMR 1002.1 to permit a new Chancery use by the Embassy of the Republic of Equatorial Guinea in an R-5-D District at premises 2020 16th Street, N.W. (Square 175, Lot 805).

Hearing date: February 17, 1999
Decision date: March 3, 1999

ORDER

PROCEDURAL HISTORY

This application was filed on December 22, 1998, and heard on February 17, 1999. Pursuant to D.C. Code §1206(c)(3)(1994 Repl.), the final determination of the Board must be made no later than June 22, 1999. The application was considered by the Board in accordance with the requirements of section 206 of the FMA and Chapter 10 of the District of Columbia Municipal Regulations. The public hearing was conducted as a rulemaking proceeding under Chapter 33 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment ("BZA") constituted in accordance with section 206(i) of the FMA, D.C. Code §5-1206(i).

FINDINGS OF FACT

1. The government of the Republic of Equatorial Guinea filed an application with the Board of Zoning Adjustment to use 2020 16th Street, N.W., Washington, D.C. (Square 175, Lot 805) for its Embassy/Chancery.
2. The building is located in an R-5-D Zoning District.
3. The subject site is rectangular in shape, and is located in the northwest quadrant near the intersection of New Hampshire Avenue, U Street and 16th Street. The premises are bounded on the North by V Street and on the South by U Street. The lot is occupied by a four-level townhouse building.
4. The finished interior of the building contains 4,457 square feet. The lot size is 2,000 square feet. Located within two hundred feet of 2020 16th St. are two large apartment/condominium buildings, 1603 U Street and 2008 16th Street, and a

series of row houses to the North. 2020 16th Street is a few feet from the intersection of 16th Street, U Street, New Hampshire Avenue and bounded on the North by V Street. The Third District Metropolitan Police Headquarters is directly behind 2020 16th Street and the 9th Fire Engine Company of the District of Columbia Fire Department is located on U Street, across and to the rear of 2020 16th Street.

5. The three-story brick building located at 2020 16th Street is in the 16th Street Historic District, but is not an historic landmark. The Board accepts the assurances of the government of the Republic of Equatorial Guinea that it will maintain the historic character of the building.
6. Recently, the building at 2020 16th Street was occupied as a two-family residence and home office business. There is a self-contained apartment on the first floor and the remaining three levels of the house were used as an office and residence for one family. Excluding the first level apartment, the building has four bedrooms.
7. The previous owner used the town house building as a residence and home office. Five people occupied the premises, including the self-contained, one bedroom apartment on the first floor.
8. The Embassy of the Republic of Equatorial Guinea intends to operate the Chancery at about the same level of intensity and number of persons as used the building previously, between four and six persons. There will be a staff equivalent of four (4) persons occupying the building, including the Ambassador. One person shall reside on the premises.
9. There is one on-site parking space at the rear of the building. Two additional parking spaces have been secured on a long-term basis (a two-year lease with first refusal option to renew for a like term) from the BARAC Company, Washington, D.C. Those spaces are directly behind 2020 and also to the rear of 1603 U Street, an apartment building.
10. The neighborhood includes retail and residential use apartment/condominium and single family residential townhouses or row houses, a mix of nonprofit and commercial businesses, a religious institutions (churches), the Third District Headquarters for the Metropolitan Police Department, and District of Columbia Fire Engine Station #9. It would be inaccurate to describe the neighborhood as totally residential.
11. Typical hours of operation of the Chancery will be from 9:00 a.m. until approximately 5:00 p.m., Monday through Friday. On average there will be one or two visitors per day for diplomatic

or other business purposes. Some days there will be no visitors. Most business with the public will be conducted by telephone, facsimile, mail, express mail, messenger and diplomatic pouch. Most visitors to the Embassy (other than messengers) will probably arrive by taxi or other public transportation. The building at 2020 16th Street is accessible by public transportation, the Metro and bus lines. Citizens of the United States do not need visas to travel to the Republic of Equatorial Guinea.

12. There will be no regularly scheduled deliveries to the Chancery by outside vendors. The administrative staff will purchase supplies and bring them to the chancery.
13. Trash will continue to be stored in containers behind the building as done in the past at the subject location and will be picked up at least twice per week.
14. By memoranda dated February 10, 1999, the Director of the Office of Planning ("OP") for the District of Columbia concluded that the proposed office use (chancery) would have a deleterious impact on the character of this section of 16th Street, which the OP characterized as "totally residential." OP also stated that the proposal would "exacerbate" the existing parking problems of the area. OP recommended denial of the application.
15. The subject site is within the boundaries of Advisory Neighborhood Commission(ANC) 1C. By resolution dated February 9, 1999, a plurality of ANC-1C voted to oppose the application to locate a chancery at 2020 16th Street because of its adverse impact on parking and the residential quality of the neighborhood.
16. The subject site is adjacent to ANC-1B. A majority of ANC 1B's Commissioners voted to support the application to establish a chancery on the premises.
17. By letter dated January 27, 1999, the Office of Foreign Mission of the United States Department of State, on behalf of the Secretary of State, has indicated that: (1) favorable action by the BZA on this application would fulfill the international obligation of the United States to facilitate adequate and secure premises for the applicant; (2) there are no special security requirements with respect to parking; (3) the subject site and area are capable of being adequately protected; and (4) a favorable decision on this application would serve the Federal interest especially because the United States is considering opening an office in Equatorial Guinea to provide consular services to the large number of American citizens who have moved there following the discovery of oil reserves.

18. By letter dated January 29, 1999, the Historic Preservation Review Board ("HPRB"), in response to a December 30, 1998 request from the BZA for the HPRRB review and comment on the application, replied that it would make recommendations concerning the location of the flag pole, the design of the plaque, and other such matters if the BZA takes favorable action upon the application.

CONCLUSIONS OF LAW

Determinations concerning the location of a chancery are to be made pursuant to section 206 of the FMA, D.C. Code §5-1206. Pursuant to D.C. Code §1206(b)(2)(A) a chancery shall be permitted to locate in any area which is zoned medium-high or high density residential subject to disapproval by the BZA. The proposed chancery site meets this threshold requirement since it is zoned R-5-D, which is a district of relatively high height and density.

The sole criteria for determining whether to approve or disapprove the application are set forth in section 206(d) of the FMA, D. C. Code §1206(d), and 18 DCMR 1001.1-1001.8. The BZA makes the following determinations concerning the application of these criteria to this case:

1. D.C. Code §5-1206(d)(1) and 18 DCMR 1001.2. The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.

Evaluation: The international obligation of the United States to facilitate adequate and secure facilities for foreign missions would be fulfilled by favorable action on this application. (Finding of Fact 17).

2. D.C. Code §5-1206(d)(2) and 18 DCMR 1001.3 & 1001.4. Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section: and in order to insure compatibility with historic landmarks and historic districts, substantial compliance with District of Columbia and Federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

Evaluation: The proposed chancery is in a residential area which also contains a mix of other uses including diplomatic, office, club, church, institutional, educational, retail, D.C. Government Third District Metropolitan Police Department and Fire Department operations. The proposed use will be compatible with other uses in the historic district and in the area. The building's historic character will be maintained. (Finding of Facts 5, 10, and 18).

3. D.C. Code §5-1206(d)(3) and 18 DCMR 1001.5. The adequacy of off-site or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to special security requirements as may be determined by the Secretary, after consultation with federal agencies authorized to perform protective services.

Evaluation: With appropriate conditions being imposed upon operation of the Chancery, the proposed chancery use will not create an objectionable impact on traffic and parking in the neighborhood due to the small number of personnel who drive to work, the large amount of public transportation, and the low number of visitors to the chancery. (Finding of Fact 10). There are no security concerns regarding parking. (Finding of Fact 17).

4. D.C. Code §1206(d)(4) and 18 DCMR 1001.6. The extent to which the area is capable of being adequately protected, as determined by the Secretary Of State, after consultation with Federal agencies.

Evaluation: There are no special security requirements and the subject site and area are capable of being adequately protected. (Finding of Fact 17).

5. D.C. Code §1206(d)(5) and 18 DCMR 1001.7. The municipal interest as determined by the Mayor.

Evaluation: The Office of Planning, on behalf of the Mayor, opposes this application because it believes the location of a chancery at this location will have a deleterious effect on the residential character of the community and an adverse impact on parking. (Finding of Fact 14).

6. D.C. Code §5-1206(d)(6) and 18 DCMR 1001.8. The Federal interest, as determined by the Secretary of State.

Evaluation: Favorable action on the application is in the Federal interest. (Finding of Fact 17).

The issues raised by ANC-1C and OP express legitimate concerns. However, the Board concludes, after balancing all the relevant criteria set forth in section 206 of the FMA, and giving the ANC's view the great weight it is due, that this application does not merit disapproval. In light of the concerns raised by ANC-1C, and OP, the Board has imposed the conditions set forth in its decision below.

DECISION

On the basis of the record before it, the Board has evaluated this application in light of the criteria set forth in section 206 of

the FMA and Chapter 10 of Title 18 of the District of Columbia Municipal Regulations and has determined that favorable action shall be taken upon this application. Accordingly, it is **ORDERED** that this application be **NOT DISAPPROVED**.

It is further ORDERED that the following limitations and conditions to the operation of the chancery are approved by the Board:

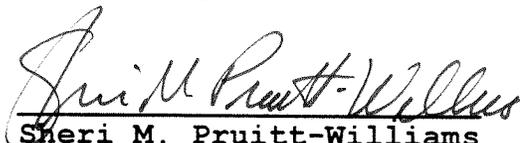
1. Hours of operation Monday through Friday 9:00 a.m. to 5:00 p.m.
2. The chancery shall maintain two(2) off-site parking spaces.
3. There shall be a maximum of four (4) full-time equivalent employees.
4. There shall be one employee residing at the chancery.
5. There shall be no full function entertainment receptions on site.
6. The trash at the chancery shall be picked up at least twice per week.

Vote: 3-1 (Sheila Cross Reid, Chairperson, Reginald Griffith and John G. Parsons not to disapprove the application. Ms Betty King to disapprove the application.)

THE BOARD OF ZONING ADJUSTMENT VOTED TO ISSUE THIS ORDER AT ITS PUBLIC MEETING ON March 3, 1999.

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

ATTESTED BY:


Sheri M. Pruitt-Williams
Interim Director

FINAL DATE OF ORDER: _____

JUN 22 1999

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS UNLESS WITHIN SUCH (PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16428

As Interim Director of the Board of Zoning Adjustment, I certify and attest that on JUN 22 1999
a copy of the order entered on that date in this matter was mailed first class, postage prepaid to each party who
appeared and participated in the public hearing concerning this matter, and who is listed below:

Robert O. Goodman, Esquire
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ATTESTED BY:

A handwritten signature in cursive script, reading "Sheri M. Pruitt-Williams", written over a horizontal line.

SHERI M. PRUITT-WILLIAMS
Interim Director

JUN 22 1999

EFFECTIVE DATE OF ORDER: _____