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September 12, 2003

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BY HAND
Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: Appeal of the Sheridan Kalorama Neighborhood Council Regarding
2319 Wyoming Avenue -- Square 2522, Lot 4
Our File No. 092220.00001

Dear Mr. Griffis:

On behalf of our client, the Sheridan Kalorama Neighborhood Council, a neighborhood non-profit organization, we are hereby submitting an appeal of the Zoning Administrator's decisions dated July 14, 2003. Accordingly, enclosed you will find the original application, with supporting documents, and twenty (20) copies. As a nonprofit association created for civic purposes, pursuant to section 3180.4(c) of the zoning regulation, the Sheridan Kalorama Neighborhood Council is exempt from the filing fee for this application.

Thank you for your attention to this matter.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler
Jeannine Rustad Zigner

Enclosures (as stated)
cc: Chris Chapin (w/encl.)
Office of Planning (by hand; w/encl.)
Zoning Administrator (by hand; w/encl.)

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BZA
Case No. 17086
Exhibit No. 1

Board of Zoning Adjustment
District of Columbia
CASE NO. 17086
EXHIBIT NO. 1

Whenever a property owner seeks to convert the existing non-conforming use to another non-conforming use, the property owner must comply with §2003 of the Zoning Regulations, which provides as follows:

> 2003.1 If approved by the Board of Zoning Adjustment as authorized in §§3105 through 3108, a nonconforming use may be changed to a use that is permitted as a matter of right in the most restrictive district in which the existing nonconforming use is permitted as a matter-of-right, subject to the conditions set forth in this section.
>
> 2003.4 When an existing nonconforming use has been changed to a conforming or more restrictive use, it shall not be changed back to a nonconforming use or less restrictive use.
>
> 2003.5 In Residential Districts, the proposed use shall be either a dwelling, flat, apartment house or a neighborhood facility.

Thus, consistent with the zoning regulations and the grandfathering provision of the Foreign Missions Act, any foreign mission which seeks to locate at a property in a residential district that has been used by a chancery must seek approval from the FMBZA, regardless of the fact that the property had been used by a chancery in the past. The FMBZA is entitled to review each application anew to insure that the criteria for locating a chancery in any location in the applicable residential district are appropriate.

The appellant will prove its case relying on (1) the plain language of the zoning regulations; (2) the plain language and legislative history of the Foreign Missions Act; (3) case law; and (4) such other evidence as is deemed relevant and necessary.

CONCLUSION

For the reasons stated herein and for the reasons provided at the hearing, the July 14, 2003 decision of the General Counsel for DCRA should be overturned and the Yemeni foreign Mission compelled to apply for a special exception for the use and occupancy of the Property for its chancery.

Accordingly, it is respectfully submitted that, upon receipt of all of the appellant's proof and all other support of record for the appeal, the requested relief be granted.

Respectfully submitted,

ROBINS, KAPLAN, MILLER & CIRESI, LLP

By: _____
Richard B. Nettler
Jeannine Rustad Zigner