GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Foreign Missions Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: October 17, 2000

SUBJECT: FMBZA Application 16620 (amended)

APPLICATION
The Embassy of the Republic of Azerbaijan submitted a request to establish a chancery in a single-family residence located at 2741 34th Street, N.W., pursuant to Section 206 (b)(2)(B) of the Foreign Missions Act (Title II, Public Law 97-241, 96 Stat. 286, August 24, 1982), Section 1206 under Title 5 of the District of Columbia Municipal Regulations (DCMR), Building Restrictions and Regulations, and Section 10 under Title 11 of the DCMR, Zoning.

SUMMARY RECOMMENDATION
The Office of Planning recommends denial based a determination that the subject property does not meet the requirements of Section 5-1206 (b)(2)(B) under Title 5 of the DCMR, according to the established standard of 1/3 or more of the land uses on the City square being office and/or institutional uses.

If the Foreign Missions Board of Zoning Adjustment (FMBZA) determines that the referenced standard has been met, then OP recommends denial of the application because:

1. The applicant failed to adequately address the criteria under Section 5-1206 (d)(3) and (5) of Chapter 12 of the DCMR.
2. Establishment of the proposed office use, in a clearly residential neighborhood, is contrary to the goals of the District of Columbia Comprehensive Plan.
3. Establishing the proposed chancery use is a short-term solution without the potential for expansion or significant change in the future.
4. Attempts to accommodate chancery expansion at a later date have the potential to negatively impact the surrounding neighborhood.

#50

Board of Zoning Adjustment
District of Columbia
CASE NO.16620
EXHIBIT NO.50

If the Foreign Missions Board of Zoning Adjustment (FMBZA) determines that this request should be approved, that approval should be subject to the following conditions:

- The number of mission officials and employees on-site at any one time shall not exceed fifteen.
- The number of vehicles on-site for use or driven by embassy officials and staff shall not exceed seven (or arrangements shall be made for additional off-street parking at another location).
- The applicant shall not request diplomat parking along the 34th Street, N.W.
- The number of persons invited to major chancery activities at this facility shall not exceed fifty and the number of major social events will not exceed four per calendar year.
- The chancery shall only be used for activities of the Azerbaijan government.
- A complete set of as-built site plans showing the building exterior and grounds will become part of this approval.
- Variations from the referenced conditions, alteration of the existing landscaping and grounds, and redevelopment or expansion of the existing building shall be subject to (regular) BZA review in accordance Section 1002 under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning.

SITE AND AREA DESCRIPTION

The subject property at 2741 34th Street, N.W., is a triangular corner lot located southwest of the Fulton Street, N.W., intersection with 34th Street. This lot has street frontage on two sides and is developed with a two-story single-family dwelling of masonry construction with twelve rooms, four bathrooms, two lavatories, and a full finished basement including a two-car garage. A semi-circular driveway extends from 34th Street, N.W., to the front entrance. A wide driveway along Fulton Street, N.W, provides access to the rear basement garage. The property is heavily landscaped and surrounded by a metal picket fence and masonry wall. Sidewalks extend along both street frontages. The entire City square is zoned R-1-A and is under the Naval Observatory Precinct and Tree Protection Overlay Districts. The subject property is not included in the Mixed-Use Diplomatic Overlay District that covers most of the square to the south.

The original dwelling was constructed in 1949. According to Finance Office assessment records, the property was reconstructed in 1987 with the addition of a second floor, application of "dryvite" resembling stone to the exterior walls, interior renovations and mechanical system upgrades. A large wire-mesh dish antenna has been installed on the roof.

Properties to the west across 34th Street, N.W. (north and south of Fulton Street, N.W.) are developed with two and three-story dwellings of stone, masonry and wood construction. The Norwegian Embassy is located further south at the intersection with Massachusetts Avenue, N.W. These properties are zoned R-1-B and are under the Naval Observatory Precinct District overlay. The Embassy is also under the Mixed-Use Diplomatic Overlay District. Properties

across Fulton Street, N.W., to the north and east are undeveloped lands owned by the National Parks Service. Further north, southeast of the 34th Street, N.W., intersection with Garfield Street, N.W., is the Belgian Chancery (both the Embassy and the Chancery predate the 1982 Foreign Missions Act). These properties are zoned R-1-A and are under the Tree Protection Overlay District.

APPLICANT'S PROPOSAL

The Government of the Republic of Azerbaijan, the applicant, acquired the subject property between February and March 2000. It would like to establish a chancery on the subject property.

In a Statement of Existing and Intended Used to the Board of Zoning Adjustment (BZA) received July 26, 2000, a separate Summary Description of the Proposed Use of 2741 34th Street, N.W., for a Chancery for the Republic of Azerbaijan (undated), and subsequent discussions, the applicant described the proposed use as consisting of the following:

- A small diplomatic mission of ten to fifteen persons: the Ambassador, their secretary and up to thirteen employees. The current Embassy staff totals eleven.
- The interior would be renovated for office use. Second floor bedrooms, the first floor kitchen, den and library, and the basement would be converted into office space. The garage, restrooms, living and dining rooms would remain unchanged.
- The only exterior changes to the building would be the addition of a plaque next to the front entrance and a flag on the front wall. There would also be no exterior lighting and no additional large antennas would be installed. The applicant stated that the existing antenna was installed by a previous occupant (it will remain).
- On-site parking would be provided inside the two-car garage and on the wide driveway apron off Fulton Street, N.W. Five to seven vehicles will be parked on-site. Vehicles will be used by the ambassador, other embassy officials and by staff to bring employees from residences owned by the Embassy to the site. The Embassy currently owns five vehicles.
- The semi-circular driveway in front will be reserved for occasional short-term visitors, and for dropping-off and picking-up visitors and deliveries.
- The applicant does not plan to request diplomatic parking privileges on 34th Street, N.W.
- There would be occasional social functions on-site. The number of guests at the largest functions would not exceed fifty, and there would be no more than four large functions per year. The applicant stated that these social functions "would pose no greater demand on on-street parking than a similar function in a typical neighborhood residence."

The applicant stated that this property was chosen because of "its strategic location" and because it was affordable. They applicant also stated a willingness to limit use of the property to chancery activities.

EXISTING ZONING AND RELIEF REQUESTED

New chanceries can only be established in the District in accordance with requirements of the Foreign Missions Act (Title II, Public Law 97-241, 96 Stat. 286, August 24, 1982) and corresponding sections of the DCMR, specifically Chapter 10 under Title 11, Zoning, and Chapter 12 under Title 5, Building Restrictions and Regulations.

Section 1002 of the Zoning Regulations includes the following provisions:

> "1002.1 To locate, replace, or expand a chancery in R-5-D, R-5-E, or D Districts, or to reconstruct and existing chancery that is destroyed in an R-1, R-2, R-3, R-5-A, R-5-B, or R-5-C district, application shall be made to the Board of Zoning Adjustment."

Thus, Zoning Regulations include provisions for FMBZA consideration of a request to reestablish a chancery use destroyed in R-1, but no provisions for consideration of a new chancery use in this zoning district. However, Chapter 12 under Title 5, Building Restrictions and Regulations includes the following:

> "5-1206 Location in District:
>
> (a) The location, replacement, or expansion of chanceries in the District of Columbia shall be subject to this section.
> (b) (1) A chancery shall be permitted to locate as a matter of right in ay area that is zoned commercial, industrial, waterfront, or mixed-use (CR).
> (2) A chancery shall also be permitted to locate: (A) In any other area which is zoned medium-high or high density residential; and (B) in any other area, determined on the basis of existing uses, which includes office or institutional uses, including but not limited to, any area zoned mixed-use diplomatic or special purpose; subject to disapproval by the District of Columbia Board of Zoning Adjustment in accordance with this section."

This provision that would allow consideration of a chancery in "any other area" including areas zoned R-1.

Although these provisions appear to conflict, the District of Columbia Court of Adjustment determined (in Dupont Circle Citizen's Association vs. District of Columbia Board of Zoning Adjustment, App. D.C., 530 A.2d 1163, 1987) that Section 5-1206 of Title 5 preempts any otherwise applicable section of the Zoning Regulations.

The placement of a chancery is also subject to the requirements under Section 5-1206:

"5-1206 Location in District:

...

(d.) Any determination concerning the location, replacement, or expansion of a chancery under subsection (b)(2) of this section, or concerning an appeal of an administrative decision with respect to a chancery based in whole or in part upon any zoning regulations or map, shall be based solely on the following criteria:

(1) The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capitol.
(2) Historic Preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and 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;
(3) The adequacy of off-street parking or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary, after consultation with federal agencies authorized to perform protective services;
(4) The extent to which the area is capable of being adequately protected, as determined by the Secretary, after consultation with federal agencies authorized to perform protective services;
(5) The municipal interest, as determined by the Mayor of the District of Columbia; and
(6) The federal interest, as determined by the Secretary."

Based on this information, new chanceries can be considered for property locations zoned R-1, subject to Section 5-1206 (b)(2)(B) and the referenced standards.

ANALYSIS
The applicant's proposal is subject to the following provisions of the DCMR.

Compliance with Section 5-1206 (b)(2)(B):
The proposed chancery must be located in an area "determined on the basis of existing uses, which includes office or institutional uses."

Under the Foreign Missions Act, the responsibility for making this determination was assigned to the National Capital Planning Commission (NCPC). When first passed, the referenced provision

required some interpretation. A consultant report entitled "Planning Report - Revised Foreign Mission and International Organizations Element of the Comprehensive Plan for the National Capital," dated July 28, 1983, outlined a rationale for locating chanceries. NCPC used this rationale to revise the Foreign Missions and International Organizations element of its Comprehensive Plan. This element identified appropriate locations for international agencies.

- The study selected the city square as the unit of analysis and compared lot square footages recorded in the District computer inventory by land use.
- The study found that the average mixed-use ratio for individual squares zoned "Diplomatic" at that time was approximately 2/3 residential and 1/3 office, institutional or other uses.
- This standard was then applied to all squares zoned R-1-A through R-5-B to determine what squares equaled or exceeded that ratio. Each square was also analyzed to ensure that they contained an existing office or institutional use.
- Squares that met or exceeded the standard were determined to be consistent with the referenced provisions of the Foreign Mission Act and included in the plan element as possible chancery locations, subject to disapproval by the FMBZA.
- It was also recommended that chanceries in squares that do not meet this ratio be permitted to remain, but not allowed to expand beyond their current property boundaries.

Subsequent analysis of square 2122 (where the subject property is located) indicated that:

- The portion of the square fronting on Massachusetts Avenue, N.W., 34th Street, N.W. and Fulton Street, N.W. was developed equally with embassy and residential uses.
- The remainder of the square (toward the corner of Fulton and 34th Street, N.W.) was zoned R-1-A and developed with single-family residences.

The Zoning Atlas that was later produced with the amended Foreign Missions and International Organizations Comprehensive Plan Element did not extend the existing "D" District boundary over the northern corner of the square and the subject property.

Subsequent action by the District of Columbia Zoning Commission amended District Zoning Maps accordingly.

The Secretary of State requested NCPC to perform this analysis again for the subject application. In a second letter dated June 21, 2000 Commission staff determined that the subject property meets the original standard used to determine areas eligible for chancery locations under Section 206 (b)(2)(B) of the Foreign Missions Act (refer to Agency Comments below).

OP staff reached a different conclusion. According to the Sanborn Map, square 2122 is divided into ten parcels totaling approximately 3.80 acres (165,700 square feet). Staff reviewed records

of the District of Columbia Tax and Revenue Department (the same database used in the consultant study) to determine: what are the principal and (if applicable) accessory uses on each lot; and which uses were principally office or institutional. It was determined that:

- Five parcels are vacant (two parcels owned by the Apostolic Nunciature are developed with a landscape garden).
- Two parcels (including the subject property) are developed with single-family dwellings.
- One other parcel is developed with a garage (storage building).
- The referenced parcels account for 109,314 square feet of the City square.
- Lots #16 & 17 (3339 Massachusetts Avenue, N.W.) are developed with the Apostolic Nunciature building. Gino DeCassian, an aide to Archbishop Gabriel Montalvo, walked the site with OP staff. Based on this site visit, it was determined that roughly 1/3 of the building floor area is office and 2/3 was used for primarily for residential purposes. There is also a separate dwelling on the property. Thus, the 55,838 lot square feet is used principally for residential purposes with an accessory office use.
- Lot #29 (3301 Massachusetts Avenue, N.W.) is developed with the chancery for the Embassy of Finland. This office use occupies a lot with 29,815 square feet.

Based on this assessment, only 29,815 square feet or approximately 18% of total area of the square is developed with office or institutional uses. While the representative of the Department of State argued at the hearing that the Apostolic Nunciature should be classified as 100% commercial, based on the 1971 determination that it was a chancery, in fact, OP notes, that the Foreign Mission Act uses the standard of "existing use", which can be either "residential", "office" or "institutional".

Based on OP's analysis of these specific categories of uses, OP concluded that this proposal does not meet the standard of 1/3 office and institutional uses on the square. Therefore, OP staff recommends denial of this application.

Compliance with Section 5-1206 (d):
If the FMBZA determines that the site is in compliance with Section 5-1206 (b)(2)(B), then location of a chancery is also subject to the following criteria:

1. **The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capitol.** In a letter to Jerrily Kress, Director of the Office of Zoning and dated October 6, 2000, Theodore E. Strickler, Deputy Assistant Secretary states that a favorable action on this application will fulfill the acquisition of adequate and secure premises for the applicant for its diplomatic mission in Washington. This is particularly "compelling" due to the reciprocal implementation of a treaty with the Government of Azerbaijan.

OP staff agrees that this criterion has been met.

2. **Historic Preservation:** This application was forwarded to The Commission of Fine Arts for their comments (refer to Agency Comments below). The Commission responded that the subject property does not require Commission review. Staff to the Historic Preservation Review Board (HPRB) also noted that the exterior building renovation and addition in 1987 does not merit preservation.

   OP staff agrees that this criterion has been addressed.

3. **The adequacy of off-street parking or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary, after consultation with federal agencies authorized to perform protective services**: In a Statement of the Applicant (unsigned and undated), the applicant provides the following information:

   - A total of seven parking spaces will be provided: two in the basement garage, three on the driveway apron outside the garage, and two in the semi-circular driveway off 34th Street, N.W.
   - The Embassy will continue to ferry employees from their residences to the chancery site.
   - Few visitors are expected. Most of these visitors will be diplomats and businessperson that will "come by taxi" or be driven. Most visa and passport business is done by fax and mail (Embassy staff explained that most of their citizens work in the oil regions of the US such as in Texas and California).
   - They confirm that they may have, on average, four large social functions a year for up to fifty persons.
   - No diplomatic parking will be requested in front of the property. The Embassy also agreed to support extending neighborhood on-street parking restrictions.
   - The site is served by Washington Metropolitan Transit Authority (Metro) transit.

   In the referenced letter to Director Kress, the Deputy Assistant Secretary states that, after consultation with Federal Agencies authorized to perform protective services, it has been determined that there will be no special parking requirements related to the provision of security.

   This information raises the following concerns with OP staff:

   - The Embassy currently has a small fleet of five vehicles. In other documentation and discussions, the applicant indicated that the semi-circular driveway would be

left open to drop off visitors. This raises a concern about there being just-enough parking available on site for the existing fleet with no space for additional vehicles.

- Ferrying employees eliminates the need for employee parking. However, at some point a number of employees will probably acquire personal transportation. Where will they park?
- What will be done to address the need for parking for "large" event parking?

This criterion has not been adequately addressed.

4. **The extent to which the area is capable of being adequately protected, as determined by the Secretary, after consultation with federal agencies authorized to perform protective services:** In the referenced letter to Director Kress, the Deputy Assistant Secretary states that the subject site and area can be adequately protected.

   OP staff agrees that this criterion has been addressed.

5. **The municipal interest, as determined by the Mayor of the District of Columbia**: The Office of Planning, representing the Mayor of the District of Columbia, has concerns that the proposal would impair the integrity of the District zoning plan.

   The R-1 district is designed to protect quiet residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes. It is intended to stabilize the residential areas and to promote a suitable environment for family life. For that reason, only a few additional and compatible uses are permitted. Office is not listed among the permitted uses.

6. **The federal interest, as determined by the Secretary**: In the referenced letter to Director Kress, the Deputy Assistant Secretary explains in greater detail the reciprocal treaty with the Government of Azerbaijan.

   OP staff agrees that this criterion has been addressed.

Other Issues

The community and OP staff share other concerns about this request:

- Approval of this application will allow non-residential (office) uses to further encroach into a clearly residential neighborhood.
- The community expressed concern about the number of employees on-site. OP staff visited the property and thinks that it can accommodate fifteen persons working in an

> office environment. However, it is unclear how many more persons would be accommodated in this building or on this site without significant changes.

In summary, this proposal will initially make maximum use of the site. This is a short-term solution that does not appear to provide any potential for expansion or significant change. There also appears to be insufficient space in the building for the anticipated, relatively modest, "large" social functions. Attempts to accommodate expansion later have the potential to negatively impact the surrounding neighborhood. The applicant also has not adequately addressed the parking needed for "large" events.

COMPREHENSIVE PLAN

The Comprehensive Plan Generalized Land Use Map designates the general surrounding area for Low Density land uses, predominantly single-family detached and attached housing. The lots east of Fulton Street are designated Parks and Recreation Open Space since they are part of the National Parks Service (along the Normanstone Parkway tributary valley).

The Comprehensive Plan, which is the legal basis for zoning in the District, enunciates, as its first principle, the importance of stability for residential neighborhoods. Under Section 101, Major Themes, the plan states:

> "The successful and creative functioning of neighborhoods is a fundamental concern. Citizen participation in civic improvement starts from the interest that people have in their neighborhood blocks and the day-to-day relationships therein. District services are primarily directed to homes and their environs. …
>
> The District elements of the Plan propose that the residential character of neighborhoods be maintained and improved. …
>
> Ensuring good quality neighborhoods is of utmost importance to the District."

In Title 11, the Land Use Element, the Plan gets quite specific. Section 1103, Objectives for Residential Neighborhoods, states:

> "The residential neighborhood objectives are to conserve the essentially satisfactory qualities of the District's many stable residential neighborhoods, to enhance other neighborhoods to improve and achieve stability, to redirect public and private initiatives to neighborhoods most in need of improvement and stability, to encourage development of adequate neighborhood shopping and support services in all sections of the District, to protect residential neighborhoods from disruptive uses and to prevent concentrations of non-residential uses in residential neighborhoods."

Policies in support of these objectives include three that are directly relevant to this case:

"(1) Promote the conservation, enhancement and revitalization of the residential neighborhoods of the District for housing and neighborhood-related uses;

(2) Conserve and maintain the District's sound, established neighborhoods through the strict application and enforcement of housing, building, and zoning codes and the maintenance of the general level of existing residential uses, densities, and heights. ..."

Major themes for Ward 3 include the following under Section 1400.2:

"(a) Protecting the Ward's residential neighborhoods:

(1) Ward 3's most outstanding characteristic is its low density, stable residential neighborhoods. Although the ward's communities retain individual and distinctive identities, a shared concern from American University Park and Friendship Heights to Woodley Park and throughout is one of pride and commitment to neighborhood and home; and

(2) Residents seek to ensure that stability is maintained. ..."

In terms of community urban design, Section 1406.2 (d) states that "Land use and future development must be carefully controlled to protect the existing scale and low density character, and to enhance the maintenance and improvement of existing natural open spaces and other qualities of the ward."

All this guidance is aptly summarized under Section 1409, Ward 3 Land Use, by this statement:

"1409.2 Relation of Ward 3 to the declaration of major policies in the Land Use Element of the Comprehensive Plan. The objectives and policies for land use/zoning in Ward 3 are as follows:

(a) Maintain the existing land use character of the ward;
(b) Protect existing residential neighborhoods and enhance their qualities. ..." [parentheses and dittos added]

COMMUNITY COMMENTS

This proposal was considered by the Advisory Neighborhood Commission (ANC) 3C on September 25, 2000. The ANC recommended that this request be denied for the following reasons:

- The predominant low-density single-family use in the R-1-A zone where the proposed chancery would be located.
- The prohibition of commercial office use in R-1-A.

The applicant was not invited and did not request to be heard at this meeting. Note that a previous application making the identical request (Zoning Case Number 16589) was considered by the ANC on June 19, 2000. The applicant was represented at that hearing. The ANC also recommended denial for the reasons stated above. Subsequent to this meeting, this application was withdrawn.

Scott Blake Harris and Barbara Straughn Harris, who own and reside in a single-family dwelling at 3409 Fulton Street, N.W., filed a Statement of Opposition dated September 17, 2000. They indicated that their property would be affected by increased traffic, parking difficulties and a change in the character of the neighborhood.

Residential parking zones only allow nonresidents to park in the neighborhood for a limited period of time. However, they stated that these zones have not cured the parking problem created by existing chanceries.

They questioned whether the proposed car-pooling of employees and parking all vehicles on-site would continue. Concern was also expressed about the number of employees, wondering whether the number would increase beyond the stated maximum of fifteen. In closing, they proposed the following conditions:

1. Parking will be provided on the chancery property for all employees and others expected to work at or visit the chancery during the day;
2. No social events should be permitted at the chancery whatsoever after 5:00 p.m.;
3. The number of employees shall be limited to ten; and
4. No construction, other than a flagpole, that would be atypical for a residential property will be permitted (this includes, but is not limited to, satellite dishes, bright lights, and security fences).

In a Statement of Opposition dated October 3, 2000, owners and residents of nearby properties expressed their opposition based on the following concerns:

- Increasing the number of occupants at 2741 34th Street, N.W., above reasonable occupancy levels for single-family houses.
- Creating traffic and parking problems in (their) neighborhood; and
- Adversely changing the residential character of (their) neighborhood (noting the condition of the Liberian Embassy and the many cars that park in the neighborhood during functions at existing chanceries).

They also complained that houses were available for purchase along Massachusetts Avenue, N.W., when the Embassy of Azerbaijan purchased the subject property. Attached to this letter was a petition signed by eighteen persons residing within two blocks of the subject property.

In another Statement of Opposition dated October 16, 2000, four neighboring residents and property owners expressed views contrary to the responses provided by the applicant in their

Statement of the Embassy of Azerbaijan in Support of its Application to Establish a Chancery at 2741 34th Street, N.W.

In a letter dated October 12, 2000, Archbishop Montalvo stated that:

- The Apostolic Nunciature owns the house at 2735 34th Street, N.W., that serves as residence for a number of the members of the Mission;
- It also owns the property at 3339 Massachusetts Avenue, N.W., that contains Nunciature offices and residences of other Mission members; and
- It is their belief that the presence of the proposed chancery "would (not) in any way undermine the character or quiet enjoyment of our residential space."

After speaking to the ambassador, the Mission "as neighborhood residents" supports the proposal to locate a chancery on the subject property.

AGENCY COMMENTS

The Commission of Fine Arts determined that the subject property is outside the boundaries of the Shipstead-Luce Act, and does not require Commission review.

The National Capitol Planning Commission (NCPC) commented on this proposal in two letters dated February 22, 2000 and June 21, 2000, with opposing conclusions. In the earlier letter, NCPC stated that the chancery proposal was "Not permitted in this location (2741 34th Street, N.W.) because of its inconsistency with location criteria and/or applicable policies in the Foreign Missions and International Organization Element of the Comprehensive Plan." An attachment explained that the proposed site was outside the Mixed-Use Diplomatic Overlay District along Massachusetts Avenue, NW.

A subsequent letter reversed that position. Commission staff stated that the subject property meets the original standard used to determine areas eligible for chancery locations under Section 206 (b)(2)(B) of the Foreign Missions Act based on site visits and a phone conversation with a representative of the Archbishop concerning the Apostolic Nunciature site.

During the FMBZA Public Hearing on October 17, 2000, representatives of the State Department requested the OP report not be accepted into the public record. They stated that:

- The OP report was filled with legal and factual errors.
- It was submitted after the deadline of October 6, 2000, thus the representatives did not have sufficient time to review and respond to its contents.

The FMBZA deferred consideration of the OP report until October 23, 2000 to allow the representatives to discuss their concerns. OP staff requested that comments be in writing, but none had been received by Friday, October 20, 2000. OP staff has carefully reviewed its report and found no substantive errors, while correcting some small typographical mistakes. OP stands by its report, particularly since the Department of State has not forwarded its concerns.

RECOMMENDATION

The Office of Planning recommends denial based a determination that this location does not meet the requirements of Section 5-1206 (d)(2)(B) under Title 5 of the DCMR, according to the established standard of 1/3 or more of the land uses on the City square being office and/or institutional uses.

If the Foreign Missions Board of Zoning Adjustment (FMBZA) determines that the referenced standard has been met, then OP recommends denial of the application because:

1. The applicant failed to adequately address the criteria under Section 5-1206 (d)(3) and (5) of Chapter 12 of the DCMR.
2. Establishment of the proposed office use in a clearly residential neighborhood is contrary to the goals of the District of Columbia Comprehensive Plan.
3. Establishing the proposed chancery use is a short-term solution without the potential for expansion or significant change in the future.
4. Attempts to accommodate chancery expansion at a later date have the potential to negatively impact the surrounding neighborhood.

If the Foreign Missions Board of Zoning Adjustment (FMBZA) determines that this request should be approved, that approval should be subject to the following conditions:

- The number of mission officials and employees on-site at any one time shall not exceed fifteen.
- The number of vehicles on-site for use or driven by embassy officials and staff shall not exceed seven (or arrangements shall be made for additional off-street parking at another location).
- The applicant shall not request diplomat parking along the 34th Street, N.W.
- The number of persons invited to major chancery activities at this facility shall not exceed fifty and the number of major social events will not exceed four per calendar year.
- The chancery shall only be used for activities of the Azerbaijan government.
- A complete set of as-build site plans showing the building exterior and grounds will become part of this approval.
- Variations from the referenced conditions, alteration of the existing landscaping and grounds, and redevelopment or expansion of the existing building shall be subject to (regular) BZA review in accordance Section 1002 under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning.

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