GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

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MEMORANDUM

DATE: September 2, 2003

TO: District of Columbia Board of Zoning Adjustment

THROUGH: AS for
Andrew Altman, Director OP
Ellen McCarthy, Deputy Director OP

FROM: David J. McGettigan, AICP

SUBJECT: Board of Zoning Adjustment Case No. 17050
Government of the United Arab Emirates Property
2209 Massachusetts Avenue, N.W.
Square 2512 Lot 5

Summary

The applicant seeks a variance from the use provisions of §320.3 to allow a professional consulting office use in the D/R-3 zone. The applicant seeks a variance to use the existing four-story, vacant, former chancery for an office for an international consulting business. The applicant does not intend to change the existing structure. Section 320.3 does not permit office uses.

Recommendation:
The Office of Planning recommends denial of the variance based on the following findings:

- The applicant has not shown an exceptional situation. The structure, currently vacant since May of 2002, has been in use as a chancery by the Government of the United Arab Emirates since 1984. Its current interior configuration is designed for office use, which, except for chanceries, is not permitted in this zone. However, many other buildings in the area are residential structures that have been converted to chanceries. The precedent to allow conversion of a chancery to an office use would have a detrimental effect on the existing residential character of the neighborhood.

BZA
Case No. 17050
Exhibit No. 27

Board of Zoning Adjustment
District of Columbia
CASE NO. 17050
EXHIBIT NO. 27

office use would have a detrimental effect on the existing residential character of the neighborhood.

- ❖ The applicant has not substantiated that the strict application of the zoning regulations results in an undue hardship. Although the applicant's architect estimates it would cost approximately $2,000,000 to convert back to a residential use, the applicant's arguments that this structure would not be easily converted to residential use falls short when it was built and used as a residential structure for most of its existence.
- ❖ The use of this property as an office building will be a substantial detriment to the intent of the zone plan and the residential character of the D/R-3 zone. The presence of so many foreign missions already heavily impacts the area. The conversion of chanceries to office uses would further alter the residential nature of the neighborhood.

Background

The applicant, the Government of the United Arab Emirates, owns 2209 Massachusetts Avenue, N.W. (Square 2512 Lot 5). The property lies in the D/R-3 Zoning District and contains approximately 2,500 square feet of land. The lot is improved with a four-story building. The residential building was built in 1911 and has been used as a chancery since 1984. The area contains a mix of permitted and special exception uses including foreign mission, non-profit office, and multi-family residential as well as single-family row houses (Attachment 1).

The existing structure is vacant. An alley abuts the rear of the property. The Government of Turkmenistan uses the row house to the southeast along Massachusetts Avenue, while the Government of Greece owns the properties to the northwest. The majority of the square is used for foreign mission uses.

Project Description

The applicant seeks to use the existing three-story as a professional law office including: government relations, non-governmental and business consulting. The applicant does not propose any major renovations, since the building is historic and the existing interior use as a chancery is comparable with the proposed law office use.

Comprehensive Plan

The property is identified as Low Density Residential on the General Land Use map (See Attachment 2). The Low Density Residential land use category includes single-family detached and semi-detached housing as the predominant uses.

Generally, the Comprehensive Plan seeks to stabilize and improve the District's neighborhoods. Commercial encroachments in residential neighborhoods will tend to destabilize them. The Land Use Element of the Comprehensive Plan, §1104.1, sets forth

policies to meet the residential neighborhoods objectives that includes conserving and maintaining 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 (§1104.1(b)).

The Ward 1 Element of the Comprehensive Plan (which covered this area prior to the 2002 redistricting) recommends the following actions to support the housing objectives of the Ward 1 Plan (1207.1(g)):

> To address the erosion of the housing stock that has resulted from increasing numbers of Community-Based Residential Facilities, bed-and-breakfast inns, private clubs and clinics by *enforcing existing zoning* and other regulations and enacting zoning and other corrective measures *to prevent the saturation of any neighborhood with non-residential* or institutional uses, or uses of large size, or incompatible facilities and services;

Encouraging the further incursion of non-residential uses into this neighborhood by granting a use variance would be contrary to these goals.

Zoning

The proposed use is not permitted in the D/R-3 Zone District and the applicant is seeking relief under 11 DCMR §3103 for a use variance from the provisions of §320.3. The Mixed Use Diplomatic Overlay District provides for the mapping of suitable locations for chancery uses.

The R-3 District sets forth the following purposes:

> The R-3 district is designed essentially for row dwellings, but there shall be included in an R-3 district areas within which row dwellings are mingled with one-family detached dwellings, one-family semi-detached dwellings, and groups of three (3) or more row dwellings. To maintain a family-life environment, permitted related uses are the same in R-3 districts as in R-l districts.

The combination of Mixed Use Diplomatic Overlay and R-3 preserves or encourages new development of row house-type structures and lots, but permits foreign missions to use these structures as offices.

Analysis

In accordance with §3103.2, which gives the Board the authority to grant a variance if, by reason of exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property. In addition, there should be no harm to the public or to the zone plan.

Extraordinary or Exceptional Situation

According to the applicant the interior of the existing structure is currently only suitable for office use. The applicant's statement presents these arguments to address this test:

1) The existing interior configuration of the building is not suitable for residential due to plumbing , a small kittehcn, and an existing large center stairwell.
2) The rear of the property does not provide suitable yard area for a residence;
3) The context of the site with the neighboring uses. The site is surrounded by other chancery uses on the square including the governments of Greece, Turkmenistan, Niger, Guatemala, Central African Republic, and the offices of the National Society of Daughters of the American Colonists, and the American Society of International Law.

The Office of Planning disagrees that the interior of the existing historic structure, which was originally built as a single-family residence and functioned as a residence for many years, is unsuitable for return to a residential use. Despite the security concerns, which have not driven away other chanceries and embassies in the area, the continued use of this property, as a chancery or residential use would be preferred.

Undue Hardship

The hardship identified by the applicant that results from the strict application of §320.2 . are:

1. The high cost of renovation at over two million dollars precludes a reasonable residential use of the property;
2. The applicant documented that the property was on the market for a lengthily period of time with no offers;
3. The increased security requirements of chanceries since 9-11 have made this property unattractive for continued chancery use.

These factors are provided by the applicant to support the contention that the property owner is deprived of reasonable use of the property. The Office of Planning is supportive of adaptive reuse of this historic building, which would provide for its long-term maintenance and care, but OP is not convinced that all reasonable use of the property is lost. OP did not find the evidence compelling that the structure, which was built and used as a residence prior to 1984, could not be converted to a residential use as a single unit or flat. As other residential areas of the city are experiencing pressures from incursions of foreign mission use, it seems counterproductive to lose the opportunity for this property to be a chancery. No evidence has been provided that would show this property to be a greater security risk than other similar properties in the neighborhood that are currently used for foreign missions. In fact, because this property is on Massachusetts Avenue it enjoys a wider setback from the street than chancery uses on nearby R Street.

Substantial Detriment

In addition to the above tests, §3103.2 further requires that the relief requested could be granted, provided that it will not be a substantial detriment to the public good or

substantially impair the intent, purpose and integrity of the zone plan. The application proposes that the following points address this standard:

1) The proposed use as small professional office will not generate noise, traffic or other objectionable conditions that would negatively impact the neighborhood;
2) The use will be compatible with the adjoining uses and structures.
3) The small number of employees, the proximity to a transit station and the rarity of visitors for the proposed use with create less traffic than the previous chancery use.

OP cannot conclude that the expansion will not impair the intent of the Zoning Regulations or the integrity of the Plan. The proposed office use is in an existing structure that was initially developed as a residence. The R-3 zone is predominately a residential zone and granting the variance would encourage further non-residential incursion of small professional offices.

Community Comments

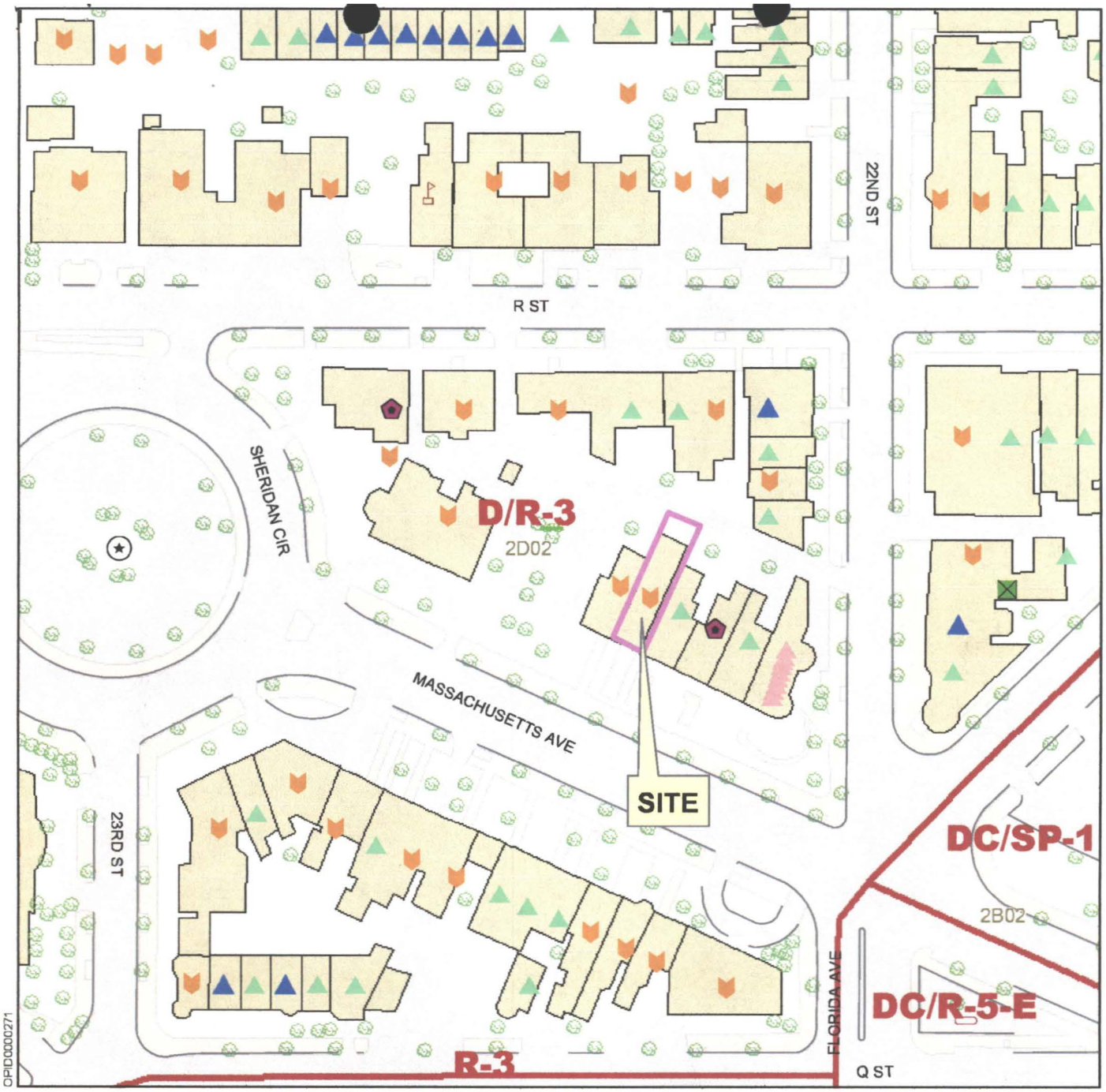
ANC 2D has asked for a continuance to allow time to respond to the application. Neighborhood groups, including the Sheridan-Kalorama Historical Association and the Sheridan-Kalorama Neighborhood Council, have expressed opposition to the variance and feel strongly that granting the variance would be detrimental to the residential character of the neighborhood.

Recommendation

The applicant has not met the burden of proof for a use variance and the Office of Planning recommends the application be denied. The Office of Planning is very concerned about establishing a precedent that enables a residential property to become a commercial office use through a variance based on a previous use as a chancery. It is contrary to the provisions of the Diplomatic Overlay District that all restrictions and prohibitions provided by the underlying districts shall apply and the underlying R-3 zone is intended for residential row dwellings.

Attachments:

1. Zoning and Use Map
2. Comp Plan Map
3. Aerial Photo



Zoning and Land Use
BZA Application #17050

N

Feet

0 50 100 150

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Anthony A. Williams, Mayor

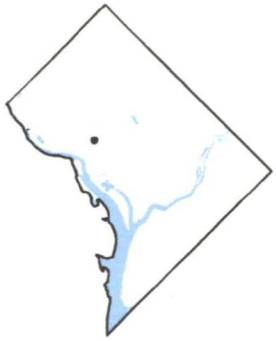
Office of Planning ~ August 25, 2003

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

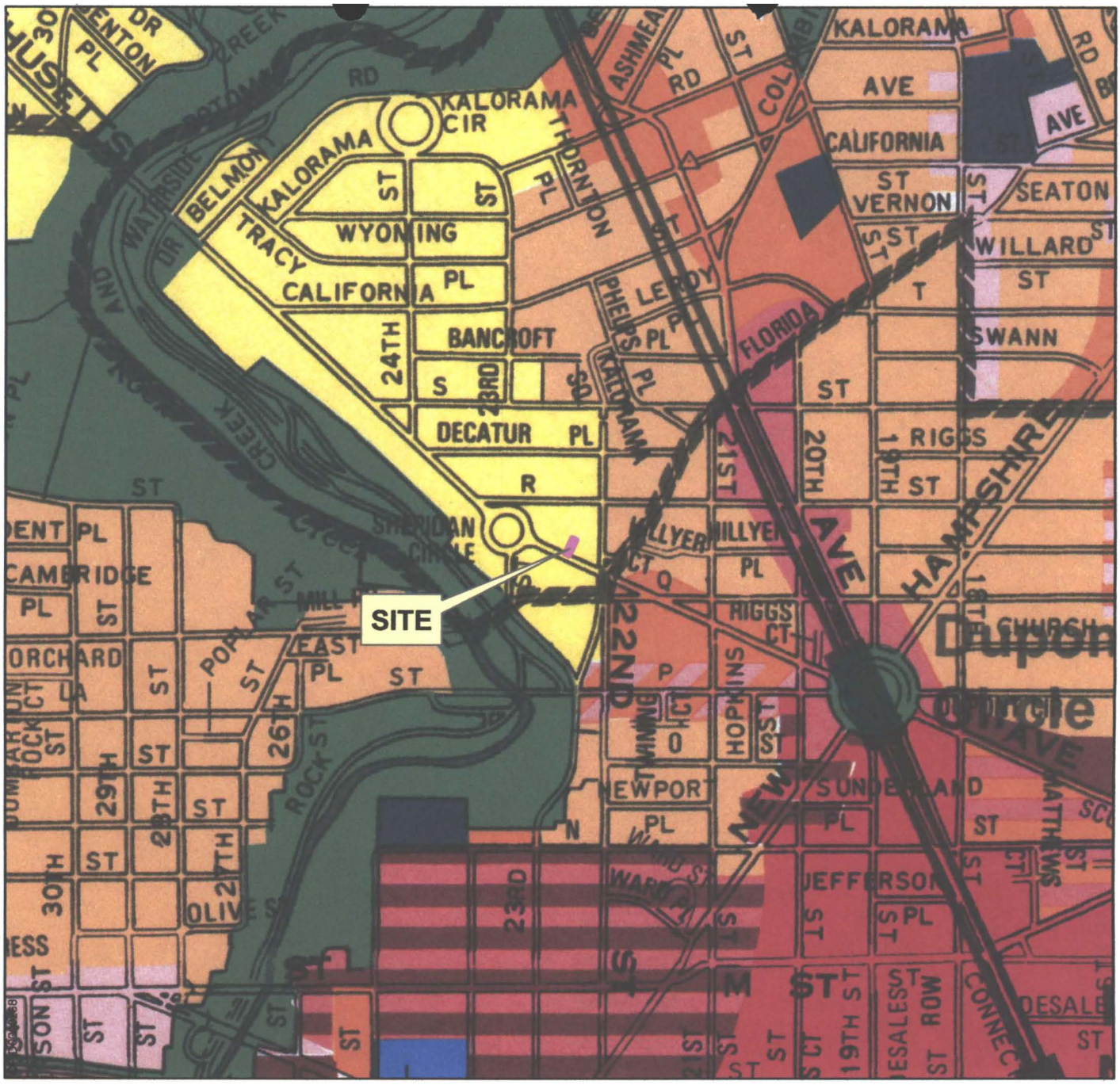
Note: Land Use Info based on OTR records.

Land Use Legend

- Single Family Dwelling/Flat
- Res. Condo
- Multi-family Dwelling
- Private Club
- Office
- Parking Garage/Lot
- Educational
- Foreign Mission
- Memorial
- Vacant



Attachment 1



N

Feet

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Comprehensive Plan Map
BZA Application #17050

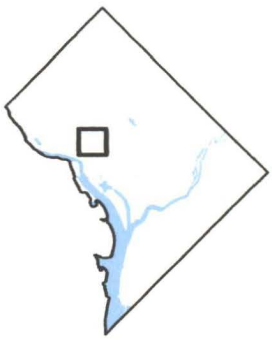
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Generalized Land Use Key

- Residential Low Density
- Residential Moderate Density
- Residential Medium Density
- Residential High Density
- Water
- Commercial Low Density
- Commercial Moderate Density
- Commercial Medium Density
- Commercial Med.-high Density
- Commercial High Density
- Federal
- Institutional
- Local Public
- Parks, Recreation and Open Space
- Production and Technical Employment



Attachment 2

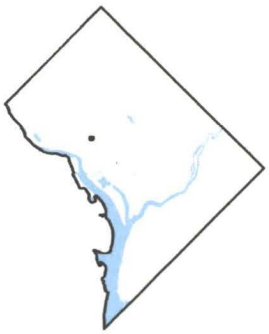


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Feet

0 25 50 75

Aerial Photo
BZA Application #17050



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Attachment 3