



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Jennifer Steingasser, Deputy Director for Development Review & Historical Preservation

DATE: February 1, 2011

SUBJECT: **BZA Case 18162** - Request for special exception relief at 1720 16th St NW

I. SUMMARY RECOMMENDATION

The Office of Planning (OP) **cannot make a recommendation** at this time. OP is unable to determine whether granting: special exception relief requested per § 1002 to allow the proposed chancery use for The Embassy of the Republic of Congo on the subject property; relief from § 2101.1 to reduce the required parking from 10 to 6 spaces; and relief from § 2117.5 to reduce the minimum parking area drive aisle from 20 feet to 18 feet, is in the municipal interest pending the receipt of:

- a more complete explanation of the provisions for off-site parking for events at this location;
- explanations for criteria not addressed under § 1002 of the Zoning Regulations; and
- plans modified to adequately respond to the Historic Preservation Office (HPO) recommendation to the Historic Preservation Review Board (HPRB) that it find¹ the proposed circular driveway and vehicle parking in public space to be inconsistent with the purposes of the DC Historic Landmark and Historic District Protection Act.

II. SITE AND AREA DESCRIPTION

Address:	1720 16 th Street NW
Legal Description:	Square 0178 Lot 800
Ward:	2B
Lot Characteristics:	A generally rectangular lot with an area of 6,700 square feet (0.15 acre) and frontages along 16 th Street and Riggs Place NW.
Existing Development:	A single five-story detached building of masonry construction with an attached garage on the western (rear) façade. The former “Toutersky Mansion” is a contributing building that was constructed in 1892. It was previously occupied by a bed and breakfast establishment and office uses. Vehicular access to the two-car garage is via a curb cut and driveway along the Riggs Place frontage, and another driveway from the adjacent

¹ HPRB will consider the referenced Historic Preservation Office (HPO) recommendation during its rescheduled public meeting on February 3, 2011.

	15-foot wide alley. The front and side yards are surrounded by an iron picket fence with brick masonry piers that extends east into public space. The balance of the rear yard is surrounded by a continuous masonry garden wall.
Zoning:	D/R-5-D – new chancery uses are allowed if not disapproved by the BZA.
Historic District:	16 th Street
Adjacent Properties:	Three-story and eight-story residential buildings north along 16 th Street; an 8-story residential building to the south across Riggs Place; the Scottish Rite Masonic Temple to the east across 16 th Street; .and continuous two-story row dwellings along Riggs Place west of the adjacent alley.
Surrounding Neighborhood Character:	Medium-high density residential and institutional uses.

III. APPLICATION IN BRIEF

Applicant: Herbert Gonzales and Francisco Gonzales on behalf of The Embassy of the Republic of the Congo.

Proposal: The Pre-hearing Statement (Statement) emailed on January 25, 2011, explained that the property was placed under contract for renovation of the former mansion for a chancery use. The Statement and submitted project plans indicated that the project would involve:

- conversion of the remaining rear yard into a paved parking area for four vehicles including one handicapped-accessible parking space;
- erection of a 30-foot tall flagpole, installation of two new curb cuts and fence gates along the 16th Street and Riggs Place frontages for a circular drive, all in public space; but
- renovation of but no major changes to the existing building exterior.

Access to vehicle parking in the rear yard would be provided by placing a 10-foot wide opening in the rear garden wall.

The Statement and conversations with the applicant indicated that the ten permanent employees would relocate to this site from the existing chancery that has been located at 4891 Colorado Avenue NW since 1961. The existing facility is obsolete and overcrowded. No residential use would be located on the subject property.

Hours of operation would continue to be from 9:00 AM to 5:00 PM, Monday through Friday, with 20 visitors anticipated per week on average. Visits for visa applications are not included because that process is handled exclusively by mail. One official diplomatic social event would also be held monthly for around 50 persons. On-site parking would generally be occupied by the Ambassador's vehicles, although one handicapped-accessible space would be available for visitors. Four diplomatic parking spaces would also be requested along the adjacent street frontages. Valet parking would be provided for guests who are not dropped-off for special events. However, no explanation was provided about where guest vehicles would then be parked.

Use of the circular drive would be limited to the Ambassador on a daily basis. During special events the new driveway would serve as a ceremonial entrance to allow visiting dignitaries to be dropped-off, instead of having to walk to the main entrance from the adjacent streets.

Relief and Zoning: The subject property is located in a D/R-5-D district. Section § 350.6 of the

current Zoning Regulations allows chancery uses subject to BZA disapproval in accordance with the requirements of §1001. Although the existing property appears to have some nonconforming characteristics, the proposed change in use would not increase or extend these characteristics. However this proposal would only provide six on-site parking spaces and not the 12 spaces required under § 2101.1. The drive aisle in new parking area in the former garden would also be 18 feet wide and not 20-feet wide as required in § 2117.5.

Section 4306 (c) of the Foreign Missions Act (Title II, Public Law 97-241, 96 Stat. 286, August 24, 1982) states that, “*If a foreign mission wishes ... to appeal an administrative decision related to a chancery based in whole or in part on any zoning map or regulations, it shall file an application with the Board of Zoning Adjustment ...*”

Section § 4306 (d) also requires that any decision by the BZA concerning an appeal of an administrative decision with respect to a chancery, based in whole or in part upon any zoning regulation or map, shall be based solely on the criteria listed under that section and reflected in corresponding sections of the DCMR Title 11, Zoning.

This request is made pursuant to § 4306 (c) and (d) of the Foreign Missions Act (Title II, Public Law 97-241, 96 Stat. 286, August 24, 1982), and Chapter 10 under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning.

IV. OFFICE OF PLANNING ANALYSIS

Compliance with § 1002

1002.1 The Board shall consider the international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the nation’s capital

To date there is no letter in the case file from the US Department of State (DOS) that addresses this criterion.

1002.2 The Board shall consider historic preservation, as determined by the Board in carrying out this section.

The subject property is located in the 16th Street Historic District. While the proposed change of use does not impact the building exterior, the proposed curved driveway between 16th Street and Riggs Way that would significantly alter the existing streetscape and create 16-foot wide openings in the existing iron and brick fence.

The Historic Preservation Office (HPO) expressed concern that creation of new driveways and parking on or access through public space, would negatively impact the continuous, uninterrupted quality of the existing public space. This continuity is an important character-defining feature of the District’s historic districts. The existing public space front yard is also an important part of the historic mansion’s setting. At the subject location, the streetscape forms a continuous greensward, or park-like strip, that runs in front of and unifies the architecturally diverse buildings along 16th Street.

The HPO recommended to the HPRB that it convey a finding to the BZA that the proposed curb cuts, and creation of a circular driveway in public space would be inconsistent with the purposes of the DC Historic Landmark and Historic District Protection Act (refer to the HPO report in Exhibit 2).

1002.3 To ensure compatibility with historic landmarks and historic districts, substantial compliance with District and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

The HPO expressed concern about the proposed alteration of public space in front of this contributing building and related changes to the perimeter fence.

1002.4 The Board shall consider the adequacy of off-street or other parking, and the extent to which the area will be served by public transportation to reduce parking requirements, subject to any special security requirements that may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.

Embassy officials explained that five of the six on-site parking spaces would primarily be used for the Ambassador's vehicles. One handicapped accessible space would be available for visitors to use. The Embassy would also request four Diplomatic Parking spaces on the streets that would be available to visitors during working hours.

Officials noted that staff members come to work by public transit. Most of the anticipated 20 weekly visitors would also arrive by public transportation. The property is served by several Washington Metropolitan Transit Authority (WMATA) bus lines that travel along 16th Street.

Of greater concern is parking for the frequent special events at the proposed location. Additional information is needed about where guest vehicles would be valet-parked because parking randomly in and around the existing residential neighborhood is not an acceptable option.

Until this issue is resolved it is unclear whether this proposal could not result in adverse impacts on the surrounding neighborhood and roadway network.

1002.5 The Board shall consider the extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.

To date there is no letter in the case file from the DOS that addresses this criterion.

1002.6 The Board shall consider the municipal interest, as determined by the Mayor.

The Director of Planning, on behalf of the Mayor, finds that the proposed chancery would generally be consistent with the Comprehensive Plan. However, until the outstanding issues referenced above have been addressed, including the referenced finding pending before the HPRB, OP cannot determine whether this proposal would be in the municipal interest.

1002.7 The Board shall consider the federal interest, as determined by the Secretary of State.

To date there is no letter from the DOS in the case file that addresses this criterion.

V. COMMUNITY COMMENTS

On January 12, 2011, Advisory Neighborhood Commission (ANC) 2B voted in opposition to this proposal due to the proposed curb cuts and their negative impact on pedestrian and bicycle safety along 16th Street and Riggs Place, as well as the potential harm to the existing tree canopy both in public space and on the subject property. The resolution also stated ANC support for concerns expressed by others about the potential impact of the proposed openings on the integrity of the rear garden wall.

Case Manager: Arthur Jackson

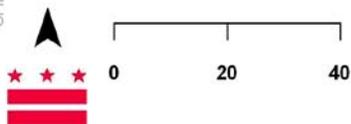
Attachment: Exhibit 1 Aerial Map with Zoning
Exhibit 2 Historic Preservation Review Staff Report and Recommendation dated January 27, 2011

JS/afj



OPI00016577

**BZA Application No. 18162
1720 16th Street NW**



Office of Planning ~ January 5, 2011

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. Oblique imagery © Pictometry International

LEGEND

-  Commercial (CAMA)
-  Property Squares
-  Street Centerlines
-  Water
-  Parks

HISTORIC PRESERVATION REVIEW BOARD
STAFF REPORT AND RECOMMENDATION

Property Address:	1720 16th Street, NW	X Agenda
Landmark/District:	Sixteenth Street Historic District	Consent Calendar Concept Review
Meeting Date:	January 27, 2011	X Alteration
H.P.A. Number:	Referral from BZA	New Construction
Staff Reviewer:	Steve Callcott	Demolition Subdivision

Pursuant to the city's zoning regulations (11 DCMR 1002.7), the Office of Zoning has referred an application to the Historic Preservation Review Board regarding the proposed relocation of the embassy of the Republic of Congo to 1720 16th Street, NW, a property located in the 16th Street Historic District. While the HPRB and HPO do not typically comment on proposed relocations, this application also includes plans for site alterations, including the creation of a circular driveway in public space, two curb cuts (one on 16th Street, one on Riggs Place), removal of portions of an original iron and brick perimeter fence, and alterations to a brick wall in the rear of the property facing the public alley.

Property History and Description

1720 16th Street, NW is a prominent mansion at the corner of 16th Street and Riggs Place, NW. It was constructed in 1892 by Supreme Court Justice Henry Brown, designed by William Henry Miller, a prolific residential and institutional architect from Ithaca, New York. Miller was the first student of architecture at Cornell University, and went on to design several buildings for its campus. Typical of the exuberance of Victorian residential design, the house freely mixes Arts and Crafts, Queen Anne and Romanesque elements, but is perhaps most noteworthy for its picturesque roofline of Flemish stepped gables and red terra cotta tile. It has an imposing presence on the street, and is one of the few surviving free-standing mansions from the 19th century in the historic district.

The house is commonly known in the neighborhood as the Toutorsky Mansion, after its mid-20th century owners Basil and Maria Toutorsky. Mr. Toutorsky, a Russian pianist and music teacher, operated a popular music academy in the building for many years, teaching piano and music appreciation to several generations of Washingtonians.

The house is featured in *Sixteenth Street Architecture, Volume 1* (1978), published by the U.S. Commission of Arts.

Proposal

The project calls for constructing a circular driveway from a new curb cut on 16th Street to a new curb cut on Riggs Place. Representatives of the embassy have characterized it as a largely ceremonial entrance to allow visiting dignitaries to be dropped off at the front door. The driveway would result in removal of portions of the original decorative iron fence. There is an

existing garage facing Riggs Place, however, additional parking will be created in the rear yard through a new opening in the existing rear yard brick wall.

Evaluation

Creating an opening in the rear yard wall, facing the public alley, and paving a portion of the small rear yard for vehicular parking raises no preservation issues or concerns. The Board has regularly approved alterations to rear, alley-facing walls and fences to accommodate rear yard parking.

Conversely, the Historic Preservation Review Board has consistently denied curb cuts, driveways, and parking on or access through public space in the city's rowhouse neighborhoods, finding them to be inconsistent with the character of these historic districts. The Board has cited the continuous, uninterrupted quality of the public space as an important character-defining feature of the city's historic districts, where it forms a continuous greensward, or park-like strip, that runs in front of and unifies the architecturally diverse rows of houses. For properties such as the Toutorsky Mansion, the public space front yard is also an important part of the historic building's setting. Where parking pads and private driveways have been introduced (either illegally or prior to the designation of an historic district) they typically present a major intrusion on the streetscape of an historic district.

In denying curb cuts and vehicular access through public space, the HPRB has often cited the DC Comprehensive Plan. Policy HP-2.5.4 "Landscaped Yards in Public Space" states as a policy: "Preserve the continuous and open green quality of landscaped front and side yards in public space. Take special care at historic landmarks and in historic districts to protect this public environment from intrusions, whether from excess paving, vehicular access and parking, high walls and fencing, or undue disruption of the natural contours or bermed terraces."

The HPRB's policy in denying requests for curb cuts, driveways and parking in public space has been upheld by the Mayor's Agent and the DC Court of Appeals. The Mayor's Agent has upheld the Board's recommendation of denial for curb cuts, driveways and parking pads in public space in many of the city's rowhouse districts (336 Maryland Avenue, NE and 331 Constitution Avenue, NE on Capitol Hill, 1612 18th Street, NW in Dupont Circle, 2225 R Street in Sheridan-Kalorama, and 942 P Street, NW in Shaw). In *Gondelman v. District of Columbia Department of Consumer and Regulatory Affairs* (2002), the DC Court of Appeals upheld the findings of the Mayor's Agent that the applicants' request for a curb cut and excavation of the character-defining front yard berm to build a garage under a Kalorama Triangle historic district residence was inconsistent with the purposes of the preservation law. Based on the consistent recommendations of the HPRB with regard to these and other curb cut cases, the HPO has routinely advised potential applicants that requests for new curb cuts and parking in public space would not be approved.

Recommendation

The HPO recommends that the DC Historic Preservation Review Board find the proposed curb cuts and creation of a circular driveway in public space at 1720 16th Street, NW to be inconsistent with the purposes of the DC Historic Landmark and Historic District Protection Act, and that this finding be conveyed to the Board of Zoning Adjustment.