

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15025, of Eastside Westside Receivership on behalf of the Government of the Commonwealth of the Bahamas, pursuant to 11 DCMR 1002, for permission under Section 1001 to locate a chancery in a D/R-3 District at premises 2131 Massachusetts Avenue, N.W., (Square 2513, Lot 1).

HEARING DATE: April 26, 1989

DECISION DATE: May 3, 1989

INTRODUCTION

This application was filed by Eastside Westside Receivership on behalf of the Government of the Commonwealth of the Bahamas pursuant to Section 206 of the Foreign Missions Act (Title 11, Public Law 97-241, 96 Stat. 286, August 24, 1982) to locate its Chancery at 2131 Massachusetts Avenue, N.W. (Square 2513, Lot 1) in a D/R-3 District. The application was considered by the Board in accordance with the requirements of Chapter 10 of the Zoning Regulations. Chapter 10 was adopted by the Zoning Commission to implement Section 206 of the Foreign Missions Act. The public hearing was conducted as a rule-making proceeding under Chapter 33 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment.

APPLICATION

The subject site is located in an R-3 District within the Mixed Use Diplomatic (D) Overlay District. The site is a triangular lot with Massachusetts Avenue at its apex and Florida Avenue and 22nd Street on its east and west sides, respectively. The lot contains approximately 1,998 square feet of land. It is fully developed with a five-story, plus basement masonry building. There is a semi-circular driveway located on the 22nd Street side of the building.

The building was constructed in 1905 by a physician who used it as his residence as well as his offices and his surgery. Since that time it has been put to a variety of non-residential uses, including a sanitarium, the Bulgarian Legation, the Peruvian Embassy, the original home of the Landon School for Boys and a social club.

In 1967, the Board granted an application to change a nonconforming use of the subject building from a rooming and boarding house to an apartment house (Appeal No. 8997). At that time the Board noted that the "size and shape of the subject property is such that it is impractical for use for construction of a single family dwelling in accordance with existing zoning." The Board concluded that granting the requested relief would result in a significant decrease in density given that the building was capable of accommodating approximately fifty roomers.

The site has been unoccupied on and off since 1985, when it was acquired by a partnership which intended to use the property as an inn. The partnership undertook extensive interior renovation of the building, which had fallen into disrepair, in an effort to restore it to its original condition. In addition, the partnership furnished much of the building with antique furniture and fixtures. Prior to completion of the renovation, however, the partnership was placed in receivership last year. There are over \$2 million in mortgage liens on the property which are in default at this time. The property has been on the market for sale since last Fall.

The Government of the Commonwealth of the Bahamas currently leases facilities for its Chancery in the Watergate complex. The original lease has expired and the Commonwealth of the Bahamas currently occupies the space on a month-to-month basis. Those facilities are no longer large enough to house the Chancery, which employs fourteen people. No increase in the number of employees is foreseen by the Commonwealth of the Bahamas.

The normal hours of operation of the Chancery are Monday through Friday from 9:00 a.m. to 5 p.m. The Chancery typically receives very little visitor traffic that amounts to an average of approximately ten visitors per day for several reasons: U.S. citizens and the citizens of many other foreign countries do not need visas to travel to the Bahamas; all forms of business conducted by members of the public with the Chancery can be conducted by mail (and typically are so conducted); and the Chancery staffing level is relatively low in number compared to that of many other countries, in part because the Commonwealth maintains active consulates in both New York City and Miami. Most visitors travel to the Chancery by public transportation as the Chancery has no parking facilities to make available to them. The average number of visitors is not expected to increase.

Only three automobiles are associated with the operation of the Chancery and are used by the Ambassador and two diplomatic officers. The other eleven persons who work at the Chancery either carpool or utilize public transportation

to travel to and from work and would continue to do so at the new location. The continued use of public transportation will be much more convenient at the new location as the Dupont Circle Metrorail station is only two blocks from the subject premises and the subject premises are served by a dozen bus routes.

Relocation of the Chancery to the subject site will alleviate crowded conditions in the Commonwealth's current quarters and will place the Chancery in closer proximity to a number of other chanceries and embassies with which it has dealings on a regular basis.

The location of a chancery in a D/R-3 District is permitted subject to disapproval of the Board of Zoning Adjustment after review based on the criteria set forth in Section 206(d) of the Foreign Missions Act.

FOREIGN MISSIONS ACT CRITERIA

In considering the subject application, the Board must apply the specific criteria set forth in Section 1001, et seq., of Chapter 10 of the Zoning Regulations. A chancery shall be a permitted use in the Mixed Use Diplomatic District, subject to disapproval by the Board based on those criteria, which are as follows:

1. Section 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.
2. Sections 1001.3 and 10041.4. Historic preservation, as determined by the Board in carrying out this Section; and in order 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.
3. Section 1001.5. 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, 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.
4. Section 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 authorized to perform protective services.

5. Section 1001.7. The municipal interest, as determined by the Mayor.
6. Section 1001.8. The federal interest, as determined by the Secretary of State.

EVALUATION

With respect to the above-referenced six criteria set forth in the Zoning Regulations, the Board states the following:

1. The international obligation of the United States: By letter dated March 22, 1989, the Director of the Office of Foreign Missions of the Department of State, the delegated representative of the Secretary of State, determined that the international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the nation's capital will be met by the approval of this application. According to the Office of Foreign Missions, approval of the application will be consistent with federal interests in the Foreign Missions and International Organizations element of the Comprehensive Plan for the National Capital.
2. Historic preservation: The subject property is located within the Massachusetts Avenue Historic District, although it has not itself been designated an historic landmark. The Commonwealth of the Bahamas proposes no alterations to the exterior of the building. In addition, the Commonwealth of the Bahamas proposes to complete the interior renovation of the building and, to the maximum extent consistent with its proposed use, to maintain the present configuration of the interior and its furnishings so as to enhance the historic and architectural significance of the property. Accordingly, there will be no adverse impact on the historic preservation objectives of the District of Columbia; to the contrary, the Commonwealth of the Bahamas' intentions with respect to the property will have a positive effect on its historic significance.
3. Parking and transportation: The proposed Chancery plans to continue to employ only fourteen people,

of which only three will drive to work. In addition, as previously discussed, the Chancery receives a relatively low number of visitors, most of whom utilize public transportation to visit the Chancery. Moreover, the building's semi-circular driveway will allow for the loading and unloading of passengers and other deliveries off the street; consequently, street traffic will not be interrupted. Finally, the site is extremely well served by public transportation: the Dupont Circle Metrorail station is within two blocks of the site and the intersection on which the site is located, at Florida Avenue, Massachusetts Avenue and 22nd Street, is served by twelve Metrobus routes. According to the District of Columbia Office of Planning, the proposed Chancery "is not expected. . . to create objectionable impacts on the traffic and parking conditions in the general area and will be a less intense use than many of the previous uses of the property." It also is important to note that in an effort to minimize its impact on parking and transportation, the Commonwealth has proposed to park all but the Ambassador's car in one of several private pay garages near the site. According to the Commonwealth, both the nearby Embassy Row Hotel and the Ritz Carlton Hotel have indicated that contract parking is available on a monthly basis. This means that only one car associated with the operation of the Chancery will be parked in the neighborhood. It is reasonable to conclude that any other use of this sizeable property would involve at least one, if not more, vehicles.

4. Protection: The Office of Foreign Missions, in its letter of March 22, 1989, determined that no special security requirements exist beyond those applicable to all facilities of foreign missions in the District of Columbia and that the site and area are capable of being adequately protected.
5. Municipal Interest: The Director of the Office of Planning (OP) for the District of Columbia, the delegated representative of the Mayor, by memorandum dated April 17, 1989, determined that the proposed Chancery location is not inconsistent with the criteria for approval as specified in Sections 1001 and 1002 of the Zoning Regulations. OP is of the opinion that the location of the Chancery as proposed is not expected to create objectionable impacts on traffic and parking conditions in the general area and will be a less intense use than many of the previous uses, and therefore, recommends approval of the application.

6. Federal Interest: By letter dated March 22, 1989 from the Acting Director , and by testimony of the General Counsel, the Office of Foreign Missions has determined that the location of the chancery for the Commonwealth of the Bahamas at 2131 Massachusetts Avenue, N.W., is consistent with Federal interest in the Foreign Missions and International Organizations element of the Comprehensive Plan for the National Capital. Approval of the application would be in the federal interest and that it would be in the best interest of the United States and consistent with bilateral and reciprocal interests of the United States and the Commonwealth of the Bahamas. The United States has for many years maintained diplomatic facilities in the Commonwealth of the Bahamas and continues to maintain both chancery and embassy facilities in the Bahamas at this time. It is therefore not only proper but incumbent upon the United States to provide similar accommodations for the Bahamas here. Such reciprocity constitutes an important element of United States foreign policy.

ADVISORY NEIGHBORHOOD COMMISSIONS

The subject site is located within the boundaries of Advisory Neighborhood Commission (ANC) 1D, which, by letter dated April 13, 1989, recommended that the application be denied. The ANC opposed the application for two reasons. First, the ANC asked the Board to "look at the map indicating chanceries in this district and the effect on residential balance in Sheridan/Kalorama and on the "municipal interest" in the preservation of residential neighborhoods in the District of Columbia." Second, the ANC was concerned that parking would be a problem at the subject site since it contains no off-street parking and because of the prevailing parking conditions on Florida Avenue, Massachusetts Avenue and 22nd Street. The testimony of individual residents from the community and representatives of the Sheridan/Kalorama Neighborhood Council and the Residential Action Coalition expressed similar concerns.

In addition, the property borders ANC 2B. By letter dated April 18, 1989, ANC 2B voted to take no position on the application. According to that letter, the ANC voted to take no position because, following the time of the meeting of ANC 1D, "the applicant made an effort to address the parking problems, and in any event, only three employees drive."

The Board is required by statute to give great weight to the issues and concerns of ANCs. In addressing the concerns of the ANCs and the opposition, the Board agrees

with the applicant and with the District of Columbia Office of Planning that the proposed Chancery use will not create an objectionable impact on traffic and parking in the neighborhood. As more fully discussed elsewhere herein, only three persons who work at the Chancery drive to work; the area is well served by public transportation; the Chancery receives a relatively low number of visitors who, like the Chancery's employees, utilize public transportation; and the semi-circular drive serves the site will permit off-street loading and unloading of passengers and deliveries. Moreover, in an effort to alleviate any possible adverse impact on area parking and traffic, the applicant has offered to park all but the Ambassador's car in private pay garages nearby.

With respect to the ANC's concerns about residential balance, the Board agrees with the Office of Planning that the surrounding area "is characterized as having a mix of uses including office buildings, foreign embassies and chanceries, large apartment buildings, retail establishments, hotels, and older residential rowhouse residences." The Board concludes that the proposed chancery use is entirely consistent with the mix of uses in the neighborhood as well as with the long history of this particular building, which has seldom (if ever) been used solely as a private single-family residence.

In addition, according to Section 1001.1 of the Zoning Regulations, the Mixed Use Diplomatic District was established specifically to implement the Foreign Missions Act, which in turn is concerned with, among other things, providing for the secure and efficient operation of foreign missions in the United States. In such a district, a chancery is a permitted use, subject to disapproval by the Board based on the criteria set forth in the Zoning Regulations. As stated below, the Board has found that the criteria have been satisfied in this case.

The Board concludes that it has accorded "great Weight" to the issues and concerns of the ANCs.

DECISION

On the basis of the record before it, the Board has determined that this application satisfies the criteria set forth in Section 1001 of Chapter 10 of the Zoning Regulations. Accordingly, it is therefore hereby ORDERED that this application is APPROVED, SUBJECT to the CONDITION that, except for the Ambassador's automobile, all vehicles used by the Chancery or belonging to persons employed by the Chancery, shall be parked in commercial garages in order to minimize any adverse impact on parking and traffic in the area.

VOTE: 5-0 (Reginald Griffith, Charles R. Norris, Paula L. Jewell, and Carrie L. Thornhill to approve; John G. Parsons to approve by proxy)

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER:

JUN 23 1988

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15025order/BJW38

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 15025

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated JUN 23 1989, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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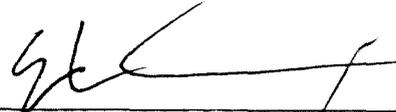
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EDWARD L. CURRY
Executive Director

DATE: JUN 23 1989

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