

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17633 of the Government of the Republic of Montenegro, pursuant to 11 DCMR § 1002.1, to permit the use of a chancery in the DC/SP-1 zone district at premises 1610 New Hampshire Avenue, N.W. (Square 134, Lot 141).

NOTICE OF FINAL RULEMAKING
AND
DETERMINATION AND ORDER

The Board of Zoning, pursuant to the authority set forth in the Foreign Missions Act, approved August 24, 1982 (96 Stat. 283; D.C. Official Code § 6-1306 (2001)); Chapter 10 of the Zoning Regulations of the District of Columbia, 11 DCMR; and Section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2001)), hereby gives notice of the adoption of its determination not to disapprove the application of the Government of the Republic of Montenegro to permit the use of a chancery in the DC/SP-1 zone district at 1610 New Hampshire Avenue, N.W. (Square 134, Lot 141).

Procedural Background

On February 28, 2007, the Government of the Republic of Montenegro (“Applicant”) filed a chancery application with the Board. Pursuant to 11 DCMR § 3134.7, the self-certified application was accompanied by a letter from the United States Department of State certifying that the Applicant had complied with § 205 of the Foreign Missions Act (D.C. Official Code § 6-1305), and that the application could be submitted to the Board.

Notice of the filing of the application and notice of the proposed rulemaking were published in the *D.C. Register* on March 16, 2007, at 54 DCR 2484 and 2377, respectively. In accordance with the Zoning Regulations, the Board provided written notice to the public more than 40 days in advance of the public hearing. 11 DCMR §§ 3113.13 and 3134.9(c). Thus, in compliance with the D.C. Administrative Procedure Act (D.C. Official Code § 2-501 *et seq.*), the Board also provided more than 30 days written notice to the public.

By letters dated March 2, 2007, the Office of Zoning provided notice of the application to the Department of State; the Mayor; the Office of Planning; the Historic Preservation Review Board; the Councilmember for Ward 2; the Department of Transportation; the Commission of Fine Arts; Advisory Neighborhood Commission (“ANC”) 2B, the ANC in which the subject property is located; and the ANC commission for the affected single member district, ANC 2B03.

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By letters dated March 5, 2007, the Office of Zoning mailed notice of the public hearing on the application to the Applicant, ANC 2B, and the owners of all property within 200 feet of the subject property. Notice of hearing was also published in the *D.C. Register* on March 16, 2007 at 54 DCR 2336, and was posted in the Office of Zoning. The notice given to the public complied with the requirements of 11 DCMR § 3134.9.

The Subject Property

The property that is the subject of this application is located at 1610 New Hampshire Avenue, N.W., in the Special Purpose zone district and the Dupont Circle overlay district (DC/SP-1) as well as the Dupont Circle Historic District. The property is improved with a five-story building that is a contributing building to the historic district.

The immediate neighborhood features a variety of uses and building types, including apartments, rowhouses, and institutional uses, including several other chanceries. Building heights range from two to nine stories.

The Applicant's Proposal

The Applicant proposed to establish the Chancery of the Republic of Montenegro in the existing building on the subject property, using the first three floors for offices and the upper two floors for possible apartments for diplomats. The building was previously leased by the Republic of Montenegro Trade Mission to the United States of America, Inc., a non-profit corporation engaged in representing the trade interests of the Republic of Montenegro. Certificates of occupancy were issued in 2001 authorizing use of the basement and first three floors of the building as offices and use of the top two floors as residences. As of December 31, 2006, following the formal recognition of the Republic of Montenegro by the Government of the United States, the Trade Mission ceased operations, and its lease on the building expired.

The Applicant intends to use the building as the chancery for the Republic of Montenegro, consistent with its past use by the Trade Mission. The basement and first three floors will be used as offices to conduct the business of the foreign mission, and the top two floors will remain available for use as residences for diplomats.

The Hearing and Decision

The public hearing was held on May 22, 2007. The Board heard testimony from the Applicant, the Department of State, and the Office of Planning. Both the Department of State and the Office of Planning recommended approval of the application. No reports or comments were received from other government agencies, the affected Advisory Neighborhood Commission, or persons living in the vicinity of the subject property. At the conclusion of the hearing, the Board voted not to disapprove the application for the reasons discussed below.

In making a determination concerning the location of a chancery, the Board is required to consider only the following criteria: (i) the international obligation of the United States to

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facilitate the provision of adequate and secure facilities for foreign missions, (ii) historic preservation, (iii) 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, (iv) the extent to which the area can be adequately protected, (v) the municipal interest, and (vi) the federal interest. D.C. Official Code § 6-1306(d) (2001).

As recommended by the Department of State and the Office of Planning, favorable action on the application will fulfill the international obligation of the United States to facilitate the acquisition of adequate and secure facilities by the Government of Montenegro for its diplomatic mission in Washington, D.C.

The Applicant has not proposed any external alterations to its building, which is contributing to the Dupont Circle historic district. The Historic Preservation Office did not object to the establishment of a chancery at the subject property.

The subject property provides two off-street parking spaces at the rear of the building, accessible from an alley. No new parking is required under the Zoning Regulations, as the building is contributing to a historic district. 11 DCMR § 2100.5. The proposed use of the subject property is not likely to create an adverse effect on parking in the area. The Department of State indicated no special security requirements related to parking.

The Department of State, after consultation with federal agencies authorized to perform protective services, indicated that the subject property and surrounding area are capable of being adequately protected.

The Office of Planning, on behalf of the Mayor, indicated that approval of the application will not be detrimental to the community, and that continued residential use of a portion of the building will be consistent with the character of the area and in the municipal interest. The Board credits the testimony of the Office of Planning that a mixed-use chancery at the subject property will not be inconsistent with the land use designation of the subject property in the Future Land Use Map of the Comprehensive Plan. The subject property is designated “moderate density residential,” which may include institutional uses.

The Department of State indicated that a favorable decision on the application will serve the federal interest.

Accordingly, it is hereby **ORDERED** that the application of the Government of the Republic of Montenegro to permit the use of a chancery in the DC/SP-1 zone district at 1610 New Hampshire Avenue, N.W. (Square 134, Lot 141) is **NOT DISAPPROVED**.

Vote of the Board of Zoning Adjustment taken at the conclusion of its public hearing on the application on May 22, 2007 to **NOT DISAPPROVE** the application:

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(Ruthanne G. Miller, Curtis L. Etherly, Jr., Marc D. Loud, Patricia Gallagher, and John G. Parsons not to disapprove)

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Notice of Final Rulemaking and Determination and Order.

ATTESTED BY:



JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: JUL 18 2007

UNDER 11 DCMR 3125.9, "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 FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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As Director of the Office of Zoning, I hereby certify and attest that on **JULY 18, 2007**, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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ATTESTED BY:



JERRILY R. KRESS, FAIA *J*
Director, Office of Zoning