

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18049 of the Republic of Trinidad and Tobago, pursuant to 11 DCMR §§ 1001 and 1002, and § 4306 of the Foreign Missions Act, to permit the expansion of an existing chancery use in the DC/SP-1 District at premises 1714 Massachusetts Avenue, N.W. (Square 158, Lot 834).

NOTICE OF FINAL RULEMAKING

and

DETERMINATION AND ORDER

The Board of Zoning Adjustment (“Board”), pursuant to the authority set forth in § 206 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 283; D.C. Official Code, § 6-1306) (2008 Repl.), and Chapter 10 of the Zoning Regulations of the District of Columbia, 11 DCMR, and after having held a public hearing, hereby gives notice of the adoption of its determination to not disapprove the application of the Republic of Trinidad and Tobago to permit the expansion of an existing chancery use into premises at 1714 Massachusetts Avenue, N.W.

Specifically, as a result of this determination, the applicant will be permitted to expand its existing chancery use, currently located at 1708 Massachusetts Avenue, into the adjacent building, at 1714 Massachusetts Avenue, located in Square 158, Lot 834, as described in the record.

A notice of proposed rulemaking was published in the January 29, 2010 edition of the *D.C. Register* (57 DCR 1082). No comments were received in response.

Pursuant to § 206(d) of the Foreign Missions Act, D.C. Official Code § 6-1306(d), the Board’s consideration of chancery applications is based exclusively upon the six factors delineated in that provision. For certain of these factors, the provision also indicates who is to make the relevant finding. Those factors and the relevant findings are as follows:

1. The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital

As recommended by the Secretary of State and the Office of Planning, the Board finds that favorable action on the application will fulfill the international obligation of the United States to facilitate the acquisition of adequate and secure premises by the Government of Trinidad and Tobago for its diplomatic mission in the Nation's Capital. Exhibit No. 26, Letter from U.S. Department of State.

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

The Board must first determine whether there has been substantial compliance with applicable historic preservation regulations. While “substantial compliance” is not defined in the Foreign Missions Act or the Zoning Regulations, in *Sheridan-Kalorama Historical Ass’n. v. Christopher*, 49 F.3d 750, 311 U.S. App. D.C. 16 (D.C. Cir. 1995), the United States Court of Appeals for the District of Columbia Circuit noted that “‘compliance’ with these laws is not as much a matter of meeting any specific standard as it is of submitting the proposal to the appropriate regulatory body or bodies for review and comment,” 49 F.3d at 759, 311 U.S. App. D.C. at 25. In that case, the court found substantial compliance through the referral of the application to the Mayor’s Agent for Historic Preservation. At present, the Mayor has made the Director of the Office of Planning his agent for carrying out his historic preservation responsibilities and, as noted, notice of this Application was provided to that Office. Therefore, substantial compliance has occurred.

The building at 1714 Massachusetts Avenue, into which the chancery use is expanding, is located within the Massachusetts Avenue Historic District, but there are no proposed exterior changes to the building, and, as noted by the Office of Planning, no historic preservation issues are raised by this application. Exhibit No. 29, Office of Planning Report.

3. 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 such special security requirements as may be determined by the Secretary of State, after consultation with Federal agencies authorized to perform protective services

Due to limited on-site parking at 1708 Massachusetts Avenue, where the chancery use is currently located, the applicant leases off-site parking spaces at a nearby commercial garage for the use of its staff. The building at 1714 Massachusetts Avenue shares a party wall with 1708 Massachusetts Avenue, but on its other side, has an open, paved, side yard area which will accommodate between five and seven vehicles. This side yard area, or parking area, continues

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the length of the lot and connects Massachusetts Avenue with the public alley at the rear of the property. The building at 1714 Massachusetts Avenue also has a circular drive in front of it, which can be used to park and queue vehicles, although this drive is in public space.

The parking requirement for the chancery use at 1714 Massachusetts Avenue would be five on-site parking spaces, although as a contributing historic building whose gross floor area is not being increased by 50% or more, this requirement technically does not apply. 11 DCMR §§ 2101 and 2120.3. In any event, five to seven parking spaces are being provided on-site, and no significant increase in chancery staff or parking volume is contemplated or expected. Moreover, Massachusetts Avenue is traversed by several Metrobus routes and 1714 Massachusetts Avenue is located two blocks from the Dupont Circle Metrorail Station and four blocks from the Farragut North Metrorail Station. Therefore, the Board finds that adequate parking and public transportation exist to service the expanded chancery use.

After consultation with Federal agencies authorized to perform protective services, the Secretary of State has determined that there exist no special security requirements relating to parking in this case. Exhibit No. 26.

4. 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

After consultation with Federal agencies authorized to perform protective services, the Secretary of State has determined that the subject property and area are capable of being adequately protected. Exhibit No. 26.

5. The municipal interest, as determined by the Mayor

The Director of the Office of Planning, on behalf of the Mayor of the District of Columbia, has determined that favorable action on this application is in the municipal interest and is consistent with the Comprehensive Plan. Exhibit No. 29.

6. The Federal interest, as determined by the Secretary of State

The Secretary of State has determined that a favorable decision on this application would serve the Federal interest. Both the national and municipal governments of Trinidad and Tobago have assisted with the zoning and land use needs of the U.S. Embassy in Port of Spain. Exhibit No. 26.

Having considered and balanced the above factors, it is hereby **ORDERED** that this application is **NOT DISAPPROVED**.

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Vote of the Board of Zoning Adjustment taken at its public meeting on April 6, 2010, to not disapprove the application:

VOTE: 4-0-1 (Meridith H. Moldenhauer, Nicole C. Sorg, Peter G. May, and Marcel A. Acosta to not disapprove; No other Board members participating or voting)

BY THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

ATTESTED BY:


JAMISON L. WEINBAUM

Director, Office of Zoning

FINAL DATE OF ORDER: MAY 14 2010

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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.