

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18564 of the Embassy of the Democratic Socialist Republic of Sri Lanka, pursuant to 11 DCMR § 1002, to allow the location of its embassy and chancery and to permit an improvement in the public space in connection with the embassy/chancery, in the D/R-1-A District at premises 3025 Whitehaven Street, N.W. (Square 2147, Lot 0046).

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 following the June 4, 2013 public hearing, hereby gives notice of the adoption of its determination to not disapprove the application of the Embassy of the Democratic Socialist Republic of Sri Lanka (“Applicant”) to locate its embassy and chancery in the D/R-1-A District at premises 3025 Whitehaven Street, N.W. (Square 2147, Lot 0046) (the “Subject Property”), and to make a related improvement in the public space by erecting a flagpole in front of the Property.¹

Specifically, the Applicant proposed to relocate its embassy and chancery from its current location on 2148 Wyoming Avenue, N.W. (the “Current Location”) to the Subject Property. The Subject Property is presently improved with a three-story structure, a one-story two-car garage, and a one-story conservatory at the rear of the property. The structure will house both the embassy and the chancery uses while the Applicant’s residential use will remain at the Current Location. Eight out of the 18 employees working in the Current Location will be relocated to the Subject Property. The relocated Chancery will operate during weekdays between 9:00 a.m. and 5:00 p.m. The Applicant did not anticipate a change in the number of visitors, which currently is between four to six visitors a day during visitor hours (9:00 a.m. to 3:00 p.m.). A large percentage of these visitors are service workers such as mechanical contractors, equipment

¹ An amendment to the application to include the erection of the flag pole was submitted on June 3, 2013 (Exhibit 34) and was accepted by the Board during the public hearing.

providers, and delivery personnel. With the one exception of an annual open house, all social events will continue to be hosted at the Ambassador's residence on 30th Street, N.W.

The Applicant proposed to provide five on-site parking spaces as follows: two spaces in the aforementioned car garage, one space behind the garage and two in front of it. The embassy also requested three diplomatic parking spaces along the adjacent Whitehaven Street frontage. If approved this would increase the available Mission parking to eight spaces which would equal the requirement. In addition, the Applicant proposed to make an improvement to the public space by erecting a 20-foot flagpole at the front of the property as detailed in the site plans. (Exhibit 41.)

A notice of proposed rulemaking was published in the March 27, 2013 edition of the *D.C. Register*. 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, 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 the Democratic Socialist Republic of Sri Lanka for its diplomatic mission in Washington. (Exhibit 32.)

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.

As confirmed by the Historic Preservation Office, the Subject Property is not listed in the District Inventory of Historic Sites as a landmark nor is it part of an historic district. There is nothing in the record to suggest that the property is listed on National Registry of Historic Places. Accordingly, District and Federal regulations governing historic preservation are not applicable to the Subject Property.

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.

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The Board agrees with the conclusions reached in the reports submitted the Office of Planning (“OP”) (Exhibit 31), and the D.C. Department of Transportation (“DDOT”) (Exhibit 28), that the property is adequately served by sufficient on-site parking and extensive public transportation services. Although the Subject Property presently contains only five of the eight required on-site parking spaces, the Embassy has requested three diplomatic parking spaces along the adjacent Whitehaven Street frontage. If approved this would increase the available Mission parking to eight spaces which would equal the requirement. If the Embassy fails to obtain the three diplomatic parking spaces, this failure would not changes the opinion that the parking would be adequate since the embassy is in close proximity to public transportation that will reduce the demand for parking. Specifically, the Subject Property is within a short walking distance of several Metrobus stops, as well as Capital Bikeshare service stations. In addition, only eight of the Applicant’s 18 employees are expected to work in the relocated chancery and, with the exception of the Ambassador, all employees are required to utilize public transportation, taxis, or carpooling.

In addition, the Applicant’s parking expert did not expect an increase in the number of visitors to the embassy once it is relocated and predicted a total of four to six visitors a day during office hours including persons making deliveries. The low number of visitors is due to the fact that most of the chancery’s services such as visas are processed either online or by service workers such as mechanical contractors, equipment providers, and delivery personnel. The Board accepts DDOT’s conclusion that the relocated chancery use will result in a total of 32 vehicular trips a day and that this relatively low volume would not create any significant traffic impact on the surrounding streets.

In regard to the hosting of social events the Board concludes that no additional parking demand will occur since, according to the Applicant. Except for an annual open house, all social events will continue to take place at the Ambassador’s private residence on 30th Street, N.W. The open house is likely to take place during the month of August on a Sunday. The arrival time for diplomatic guests is staggered so as to limit the number of guests at any given time and the event is open to the community.

The Board heard public testimony describing the current difficult parking and traffic situation in the neighborhood, but concludes that the replacement of the existing residential use with the proposed chancery will not exacerbate these conditions. Nevertheless, the Board urges DDOT to work with the residents to try to resolve these issues, with the understanding that its options may be limited.

Following consultation with Federal agencies authorized to perform protective services for foreign missions, the Secretary of State has determined that there exist no special security requirements relating to parking in this case. (Exhibit 32.)

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 the area are capable of being adequately protected. (Exhibit 32.)

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 the proposed chancery use is not contrary to the municipal interest and is not inconsistent with the existing neighborhood character or the Comprehensive Plan. (Exhibit 31.)

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

As stated by the Department of State, there is a federal interest in this project. "The Government of the Democratic Socialist Republic of Sri Lanka recently assisted in the acquisition of land needed for the construction of a new U.S Embassy compound in Colombo. Such cooperation is essential for successfully achieving the Federal Government's mission for providing safe, secure, and functional facilities for the conduct of U.S diplomacy and the promotion of US interests worldwide." (Exhibit 32.)

Based upon its consideration of the six factors discussed above, the Board has decided not to disapprove this Application.

As a result, the Applicant will be permitted to relocate its Chancery and Embassy to the building structure on 3025 Whitehaven Street, N.W. The new location shall be limited to office uses and shall provide at least five on-site parking spaces.

In addition, the Applicant will be permitted to erect a flag pole and display of a flag within 20 feet of the property line in the public space at the front of the Property. The flagpole shall not exceed 30 feet in height and shall be constructed in accordance with the submitted plans. (Exhibit 41.)

ANC Great Weight

The Board is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001) to give great weight to the issues and concerns raised in the written report of the affected ANC which is ANC 3C. The ANC provided a resolution stating it had no objection to the Application. The resolution further indicated that it was unanimously adopted at a scheduled and noticed public meeting with a quorum present. (Exhibit 24.) The Board's decision to not disapprove the Application is consistent with the ANC's resolution.

According, it is hereby **ORDERED** that this application is **NOT DISAPPROVED**.

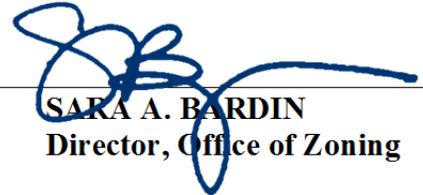
Vote of the Board of Zoning Adjustment taken at its public hearing on June 4, 2013, to Not Disapprove the application:

VOTE: 4-0-1 (Lloyd J. Jordan, S. Kathryn Allen, Peter G. May, and Marcel C. Acosta to Not Disapprove; one Board seat vacant.)

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

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

ATTESTED BY: _____


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: September 11, 2013

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.

APPROVAL OF THIS APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. THE APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

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.