

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18678 of the Embassy of the Sultanate of Oman, pursuant to 11 DCMR § 1002, to allow the location of a chancery annex and to permit an improvement in the public space in connection with the chancery, in the SP-2 District at premises 1100 16th Street, N.W. (Square 183, Lot 106).

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 Mission Act ("FMA"), approved August 24, 1982 (96 Stat. 283; D.C. Official Code, § 6-1306) (2012 Repl.), and Chapter 10 of the Zoning Regulations of the District of Columbia, 11 DCMR, and following the December 17, 2013 public hearing, hereby gives notice of the adoption of its determination to not disapprove the application of the Embassy of the Sultanate of Oman ("Applicant") to locate a chancery annex in the SP-2 District at premises 1100 16th Street, N.W. (Square 183, Lot 106) (the "Subject Property"), and to make a related improvement in the public space by erecting a statue in front of the Property.

Specifically, the Embassy proposed to locate a chancery annex for its cultural office in the Subject Property, to be known as the Sultan Qaboos Cultural Center. The Subject Property is located at the northwest corner of 16th and L Streets, N.W. and contains 5,725 square feet of land area. The Property is located in the SP-2 Zone District, and is also located in the Sixteenth Street Historic District and within the boundaries of the Central Employment Area. The Property is improved with a five-story building containing 22,533.04 feet of gross floor area (FAR 3.94) and 5,833.43 square feet of cellar floor area. The building, constructed in phases between 1909 and the mid-twentieth century, is made of brick and concrete with a stucco façade. The building has been vacant since July 2011. The building has a history of non-residential uses, and was most recently occupied by the WVSA School for Arts in Learning, a public charter school.

The Cultural Center will be open to the public Monday through Friday from 9:00 am to 5:00 pm. The initial staff size will be three persons, and will grow to approximately 10 as the various programs described herein are established, and may grow to approximately 25 if the Embassy's Cultural Mission administrative offices are relocated to the building.

BZA APPLICATION NO. 18678
PAGE NO. 2

The building will contain a variety of office, exhibition, and classroom spaces. Specifically, the lower-level of the building will contain an activity/workshop space, storage space, and approximately three classrooms, accommodating a maximum of between five and 10 students each, to be used for Arabic instruction Monday through Thursday evenings from 6:00 pm to 9:30 pm, beginning in late 2014 or early 2015. The first floor will contain a research library, and fixed exhibition space open to the public, displaying traditional Omani handicrafts, including costumes, textiles, basketry, pottery, and silver. This space will be open to the public Monday through Friday from 9:00 am to 5:00 pm, and the Embassy anticipates 40-80 visitors per month. The second floor will house offices for seven full-time employees, a large conference/meeting/presentation hall, a conference room, and a kitchen/break room. The conference/meeting/presentation hall will be used for public programs, such as lectures on Omani history and culture and workshops for K-12 teachers and small organized groups of visitors. This space can hold approximately 50-75 persons, and the Embassy expects to host approximately four programs per month. The third and mezzanine levels will contain four additional offices plus conference rooms, and either open offices for the administrative staff or extra function space for the Embassy. The fourth floor and outdoor terrace will be used as entertainment space for private events hosted by the Embassy after 6:00 pm. The Embassy anticipates approximately four of these events per year.

The building contains a garage with one parking space, which will generally be used by the Director of the Cultural Center but can also serve as a loading space for a small commercial vehicle. Trash will be stored in the garage and picked up in the public alley to the rear of the building. The plans submitted with this application (Exhibit 32) provide more complete information about the proposed building and uses. The public space was recently landscaped by the current owner (Exhibit 37). The Applicant proposed to make an improvement to the public space by erecting a statue at the front of the property, in the public space, and to improve the exterior of the building by replacing doors and windows, and adding signage, as detailed in the plans (Exhibit 32).

A notice of proposed rulemaking was published in the October 11, 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 Sultanate of Oman for its diplomatic mission in Washington. (Exhibit 28.)

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 a contributing structure in the National Register of Historic Places Registration Form for the Sixteenth Street Historic District Boundary Increase. The Board must first determine whether there has been substantial compliance with applicable historic preservation regulations. While “‘substantial compliance’ is not defined in the FMA 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 (“OP”) his agent for carrying out his historic preservation responsibilities and, as noted, notice of this application was provided to OP, which stated that the State Historic Preservation Officer, located with OP, determined that the proposal as depicted on the plans is in substantial compliance with the applicable historic preservation regulations in general and the Sixteenth Street Historic District in particular.

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.**

The Board agrees with the conclusions reached in the reports submitted to OP (Exhibit 33) and the D.C. Department of Transportation (“DDOT”) (Exhibit 34), that the property is adequately served by sufficient on-site parking and extensive public transportation services. Although the Subject Property presently contains only one on-site parking space, the Subject Property is in close proximity to public transportation that will reduce the demand for parking. Specifically, the Subject Property is well served by public transportation with convenient access to the Red, Orange, and Blue Line Metrorail stations. The Subject Property is located 0.2 miles east of the Farragut North Red Line Metrorail station and is within 0.4 miles of both the McPherson Square and the Farragut West Orange/Blue Line Metrorail Stations. There is ample Metrobus service in the area, with the S1, S2, and S4 Metrobus lines traversing along 16th Street in front of the Property, and at least 15 additional Metrobus lines at Farragut and McPherson Squares, both

located within three blocks of the site. The D.C. Circulator Bus that runs between Georgetown and Union Station has a stop at 16th and K Streets, N.W., one block south of the site. Taxis regularly pass by the Property in both directions along 16th Street and along L Street, and three Capital BikeShare stations are located within two-to-three blocks from the Property. The Property has a walkscore of 94 (a "walkers' paradise") and a transit score of 100 (See www.walkscore.com). These alternative options for commuting provide a variety of transportation modes for building employees and visitors, to minimize the transportation impacts of the proposed chancery use for the building. In addition, there are two public parking garages located on L Street N.W., one of which is next door to the Subject Property, and the other is across the street. Operators of these two adjacent parking garages have indicated to the Embassy the ample availability of parking, either on a daily or monthly basis, should the need arise. There are at least eight other public parking garages located within 0.4 miles of the Property.

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 the case (Exhibit 28).

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 28).

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 33).

OP requested (Exhibit 33) that the Embassy plant tulip poplar trees in the public space, inside the fence line along 16th Street, and DDOT requested (Exhibit 34) that the Embassy plant two willow oak trees in that same location. The landscaping plan (Exhibit 37) (which indicates the existing condition) shows three crepe myrtles in that area. The Embassy representative stated that the project budget does not include funds to replace the crepe myrtles with two new trees, but the Embassy would be willing to do so if future project fund allocations allow for this replacement to occur. The Board indicated that the Embassy may plant two trees of either species in this location at that time.

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

BZA APPLICATION NO. 18678
PAGE NO. 5

of the Sultanate of Oman is a reliable partner in providing for the needs of the U.S. Embassy in Muscat, including an increased security presence during periods of increased threats. 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 U.S. interests worldwide."

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 locate its Chancery Annex to the building structure at 1100 16th Street, N.W. In addition, the Applicant will be permitted to erect a statue at the front of the Property. The statue shall not exceed the approximate dimensions of 6 ft. x 6 ft. x 3 ft., in accordance with the submitted plans (Exhibit 32). Exterior window and door replacements, and signage, will also be permitted in accordance with the submitted plans. Tree replacement in the public space, as noted above, will also be permitted.

ANC Great Weight

The Board is required under § 13 (d) of the Advisory Neighborhood Commission 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 Advisory Neighborhood Commission ("ANC") which is ANC 2B. The ANC provided a resolution stating it supports the Application. The resolution further indicated that it was unanimously adopted at a scheduled and noticed public meeting with a quorum present (Exhibit 31). The Board's decision to not disapprove the Application is consistent with the ANC's resolution.

Accordingly, it is **ORDERED** that the application is **NOT DISAPPROVED**, and is subject to Exhibit 5 – Plat of Survey, Exhibit 32C – Plans, and Exhibit 37 – Landscape Plan.

Vote of the Board of Zoning Adjustment taken at its public hearing on December 17, 2013, to Not Disapprove the application:

VOTE: 3-0-2

(Lloyd J. Jordan, Marcel C. Acosta, and Peter G. May to Not Disapprove; S. Kathryn Allen not present, not voting; 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

BZA APPLICATION NO. 18678
PAGE NO. 6

FINAL DATE OF ORDER: January 24, 2014

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 SUBJECT TO DISCIPLINARY ACTION.

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Board of Zoning Adjustment



BZA APPLICATION NO. 18678

As Director of the Office of Zoning, I hereby certify and attest that on January 24, 2014, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail or delivered by electronic mail in the case of those ANC's and SMD's that have opted to receive notices thusly, 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: _____

A handwritten signature in blue ink, appearing to read 'SARA A. BARDIN', written over a horizontal line.

SARA A. BARDIN
Director, Office of Zoning