Law Offices
HOLLAND & KNIGHT LLP

2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006-6801

202-955-3000
FAX 202-955-5564
www.hklaw.com

Annapolis
Atlanta
Bethesda
Boston
Bradenton
Chicago
Fort Lauderdale
Jacksonville
Lakeland
Los Angeles
Melbourne
Miami
New York
Northern Virginia
Orlando
Providence
St. Petersburg
San Antonio
San Francisco
Seattle
Tallahassee
Tampa
Washington, D.C.
West Palm Beach

International Offices:
Caracas*
Mexico City
Rio de Janeiro
São Paulo
Tel Aviv*
Tokyo

*Representative Office

Christopher H. Collins
202-457-7841

Internet Address:
ccollins@hklaw.com

MEMORANDUM

October 9, 2001

TO: Foreign Missions Board of Zoning Adjustment

FROM: Christopher H. Collins
M. Carolyn Brown

RE: Application No. 16739 of the Embassy of the Republic of Latvia

Pursuant to the request of the Board at the close of the public hearing on September 25, enclosed please find the following:

1. Applicant's Proposed Determination and Order.

2. Cover Memo and Drawing from Mr. Scott Stinson in response to the question regarding the drainage of the existing parking area. According to the drawing, the majority of the parking area drains to an areaway drain, which in turn leads to the combined storm and sanitary sewer system beneath Massachusetts Avenue.

3. Memo from O.R. George & Associates, confirming that the parking plan as shown on the exhibit to the traffic report can be accommodated on the site as shown on the Location Survey submitted to the record in this case.

If you any questions, please do not hesitate to contact either of the above.

cc: Peteris Vinkelis
Sandra Daubure
Scott Stinson
Osborne George

BZA
Case No. 16739
Exhibit No. 47

Board of Zoning Adjustment
District of Columbia
CASE NO.16739
EXHIBIT NO.47

Application No. 16739 of Scott Stinson on behalf of the Embassy of the Republic of Latvia, pursuant to Section 206(b) of the Foreign Missions Act and Subsection 1001.1 of the Zoning Regulations to permit the location of a chancery in a D/R-3 District at premises 2306 Massachusetts Avenue, N.W. (Square 2507, Lots 4 and 5).

HEARING DATE: September 25, 2001

DECISION DATE: October 16, 2001

APPLICANT'S PROPOSED DETERMINATION AND ORDER

Scott Stinson filed an application with the Foreign Missions – Board of Zoning Adjustment (Board) on behalf of the Embassy of the Republic of Latvia to locate a chancery in a mixed-use Diplomatic ("D") District. After public hearing, the Board determined not to disapprove the application, provided the Embassy complies with certain agreed-upon conditions that address community concerns, including parking and traffic and maintaining the historic and residential character of the building and neighborhood.

PRELIMINARY AND PROCEDURAL MATTERS

On May 3, 2001, the owner of the subject property, Scott Stinson, filed an application with the Board to permit the location of a chancery for the Embassy of the Republic of Latvia in a D/R-3 zoning district at premises 2306 Massachusetts Avenue, N.W. (Square 2507, Lots 4 and 5). The Embassy of the Republic of Latvia is the contract purchaser of the property. Scott Stinson and the Embassy are represented in these proceedings by Christopher H. Collins, Holland & Knight LLP.

The application is filed pursuant to section 206 of the Foreign Missions Act, approved August 24, 1982 (92 Stat. 286; D.C. Official Code § 6-1306 (2001); 22 U.S.C.A. § 4306 (1990)); and 11 DCMR § 1002.1 (1995). Under Section 206(b)(2)(B) of the Foreign Missions Act, 22 U.S.C.A. § 4306(b)(2)(B), D.C. Official Code § 6-1306(b)(2)(B), a chancery is permitted to locate in an area zoned mixed-use diplomatic, subject to disapproval by the Board in accordance with certain criteria. To implement Section 206, the Zoning Commission has adopted regulations in 11 DCMR ch. 10 (1995) affecting the location of chanceries in the Mixed-Use Diplomatic (D) District, an overlay zoning district.

The Board's rules of practice and procedure relating to chancery applications are found in 11 DCMR § 3134, 46 DCR 7853 (1999). Under Section 206(f) of the Foreign Missions Act, 22 U.S.C.A. § 4306(f), D.C. Official Code § 6-1306(f), and 11

DCMR §§ 1002.3 and 3134.2, proceedings before the Board on a chancery application are of a rulemaking and not of an adjudicatory nature.

Pursuant to 11 DCMR § 3134.7, the application was accompanied by a letter from the United States Department of State, dated April 17, 2001, certifying that the Embassy of the Republic of Latvia has complied with Section 205 of the Foreign Missions Act, relating to the property of foreign missions.

On May 4, 2001, the Board referred the application to the Office of Planning; the Councilmember for Ward 1; the United States Department of State, Office of Foreign Missions; the Historic Preservation Review Board; the Commission of Fine Arts; the Zoning Administrator, Department of Consumer and Regulatory Affairs; the Department of Public Works; Advisory Neighborhood Commission ("ANC") 1D, the ANC for the area within which the subject property is located; and the ANC Single Member District Commissioner for 1DO2. *See* 10 DCMR §§ 1002.5 – 1002.7, 3113.7, 3134.10.

By letter dated June 15, 2001, Mr. Collins, on behalf of the Applicant, requested that the public hearing in this case be scheduled for September 25, 2001, rather than September 11, as originally intended by the Board staff. The purpose of the Applicant's request to the staff was to honor the request of the two ANC 1D Commissioners to allow ANC 1D to review the application at its monthly meeting of June 19 and again at its next following monthly meeting on September 18. Mr. Collins stated on behalf of the Applicant that they would consent to a waiver of the rules in order to allow the ANC report to be filed within seven days of the Board's hearing date.

Notice of the filing of the application was published in 48 DCR 8284 (August 31, 2001); and the notice of proposed rulemaking was published in 48 DCR 8449 (September 7, 2001). Notice of the public hearing, set for September 25, 2001, was published in 48 DCR 7998 (August 24, 2001).

By letters dated October 16, 2001, the Office of Zoning mailed the notice of hearing to the applicant and ANC 1D. The Office of Zoning also mailed letters of notice on that same date to all individuals and entities listed on the applicant's list of owners of all property within 200 feet of the boundaries of the subject property.

The Board held a public hearing on the application on September 25, 2001.

At the hearing, the Applicant presented statements by Mr. Collins; Peteris Vinkelis, Deputy Chief of Mission of the Republic of Latvia to the United States, on behalf of the Ambassador; and Osborne George, O.R. George and Associates, an expert in traffic and transportation planning.

Ronald S. Mlotek, Chief Legal Counsel, United States Department of State, Office of Foreign Missions, participated in the hearing in his official capacity on behalf of the Secretary of State in support of the application.

The Board waived the filing deadline for the Office of Planning report dated September 18, 2001. The Office of Planning, the delegated representative of the Mayor of the District of Columbia, supported the approval of the application with conditions. The conditions suggested by the Office of Planning included the following: limitations on the number of Mission officials and employees, and on cars for Embassy officials and staff at any one time; arrangements for additional off-street parking at another location for large functions; a requirement to comply with all applicable historic preservation laws and regulations; a requirement to open the first and second floors of the Embassy to the public for viewing on a periodic basis; a limitation on the time for delivery and pick-up of equipment and supplies during working hours; a requirement to store trash in covered containers; and the designation of a community liaison to work with the residents of the Sheridan Kalorama community on matters of mutual concern. The Office of Planning also indicated that the National Capital Planning Commission concluded that the proposed chancery at this proposed location is permitted and is consistent with the location criteria and applicable policies in the Foreign Missions and International Organization element of the Comprehensive Plan. Additionally, the Office of Planning indicated that the Commission of Fine Arts and the Historic Preservation Review Board have approved the placement of plaques on the front of the building as proposed by the Applicant.

The D.C. Department of Public Works, District Division of Transportation, submitted a report dated September 6, 2001 in support of the application, based upon the accessibility of the site provided by the road network, the excellent proximity to mass transit and availability of off-street and commercial parking facilities near the site.

The Board granted to ANC 1D a waiver of the filing deadline for its report dated September 19, 2001. The ANC opposed the application based on concerns related to parking, traffic; maintenance of the historic and residential character of the property and neighborhood, ineffective enforcement of local zoning regulations with regard to chanceries, and findings in the National Capital Planning Commission Report.. Marlis Carter, ANC 1D vice-chairperson, appeared at the hearing on behalf of the ANC.

No person appeared in support of or in opposition to the application. The Board concluded its public hearing on September 25, but determined to leave the record in this case open until October 9, due to the fact that the notice of proposed rulemaking was not published until September 7., 2001.

The Board held its decision meeting on October 16, 2001. The Board, voting 5-0, determined not to disapprove the application, subject to certain conditions designed to address community concerns relating to traffic, parking and preservation of the historic and residential character of the property and the neighborhood.

THE PROPOSED CHANCERY LOCATION

The proposed chancery site for the Embassy of Latvia is located on Sheridan Circle at premise address 2306 Massachusetts Avenue, N.W., consisting of Lots 4 and 5 in Square 2507. Lot 4 is improved with the Alice Pike Barney Studio House, a four-story Mission style building containing approximately 10,340 square feet of gross floor area and designed in 1902 by the noted Washington architect, Waddy Wood, as an artist studio-salon and house for Alice Pike Barney. In 1921, a separate two-story garage building designed in the same Mission style was constructed on the adjacent Lot 5. The entire site, which consists of approximately 8,864 square feet of land area, has been designated an historic landmark and is listed in the D.C. Inventory of Historic Sites and the National Register of Historic Places. The first and second floors of the main building's interior are also listed in the local historic inventory, including the foyer, salon, dining room, library, stairs and studios. The historic character of the property is further emphasized by its location within the Massachusetts Avenue and Sheridan-Kalorama historic districts.

The Zoning Map for the District of Columbia designates the site in the D/R-3 District, a medium density residential zone specifically intended for diplomatic uses. Pursuant to Order No. 237, the Zoning Commission created the Diplomatic Overlay along this portion of Massachusetts Avenue, N.W., known as "Embassy Row" in 1978 to implement the Foreign Missions and International Agency Element of the Comprehensive Plan. A foreign chancery is permitted in a D/R-3 District, a mixed-use diplomatic area, subject to disapproval by the Board. The Diplomatic Overlay extends west along Massachusetts Avenue from 22nd Street to 35th Street, just past the Vice President's residence at the Naval Observatory. The Commission recognized at the time of the adoption of the overlay in Order No. 237 that this section of Massachusetts Avenue has "been enhanced by a substantial degree of diplomatic and institutional development which has historically marked or presently marks the character of this area. 'Embassy Row' stamps Massachusetts Avenue, N.W., from Dupont Circle to Observatory Circle...."

Foreign missions from around the world surround the proposed chancery site. Immediately to the west on Sheridan Circle is the chancery of the Embassy of the Republic of Korea (2320 Massachusetts Ave., N.W.). Other chanceries within one block from the proposed site include those for Burkina Faso (2340 Massachusetts Ave., N.W.), Paraguay (2400 Massachusetts Ave., N.W.), Libya (2344 Massachusetts

Ave., N.W.), Madagascar (2374 Massachusetts Ave., N.W.), Romania (1601-1607 23rd St., N.W.), the Egyptian chancery annex (2232 Massachusetts Ave., N.W.), the Sudan (2210 Massachusetts Ave., N.W.), Togo (2208 Massachusetts Ave., N.W.), the annex for the Republic of Turkey (2202 Massachusetts Ave., N.W.), Luxembourg (2200 Massachusetts Ave., N.W.), Ireland (2234 Massachusetts Ave., N.W.), the Bahamas (2220 Massachusetts Ave., N.W.), Turkmenistan (2207 Massachusetts Ave., N.W.), the United Arab Emirates annex (2209 Massachusetts Ave., N.W.), Greece and its annexes (2211 and 2221 Massachusetts Ave., N.W.), Guatamala (2220 R St., N.W.), Niger (2204 R St., N.W.), the Central African Republic (1618 22nd St., N.W.), Haiti (2311 Massachusetts Ave., N.W.), Pakistan and its annexes (2201 R St., N.W. and 2315 Massachusetts Ave., N.W.), Armenia (2225 R St., N.W.), Kenya (2249 R St., N.W.), and Cyprus (2211 R St., N.W.).

The Embassy of Latvia is the contract purchaser of the subject property and intends to use the property as a chancery. The chancery has been located at 4325 17th Street for over 50 years. The Embassy intends to retain the 17th Street property as the location of its Defense Attache, archives and technical facilities, and to operate the remainder of the chancery at the Sheridan Circle location.

DETERMINATION

Section 206(d) of the Foreign Missions Act, 22 USCA §4306(d)(1990), establishes six criteria upon which the Board must base its determination regarding the location of a chancery in a mixed-use diplomatic district. The chancery use criteria are also set forth in 11 DCMR § 1001 (1995). After public hearing and having reviewed the record, the Board has determined as follows with respect to each of the criteria:

1. International Obligation of the United States

Pursuant to 11 DCMR § 1001.2, the "Board shall consider the international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the nation's capital." Theodore E. Strickler, Deputy Assistant Secretary of State, in his letter dated August 14, 2001, determined, and the Board concludes, that favorable action on the application would fulfill the international obligation of the United States to facilitate the acquisition of adequate and secure premises for the Government of the Republic of Latvia for its diplomatic mission in Washington, D.C.

2. Historic Preservation

Under 11 DCMR § 1001.3, the Board must "consider historic preservation, as determined by the Board in carrying out this section." The proposed chancery site and the buildings located thereon, including the first two floors of the studio house

interior, are listed in the D.C. Inventory of Historic Sites and the National Register of Historic Places. The property also contributes to the character of two historic districts. The Federal Elements of the Comprehensive Plan adopted by the National Capital Planning Commission provide that foreign missions should give preference to certain chancery locations, including historic landmarks and locations in historic districts.

The Embassy of Latvia does not intend to undertake any new construction or demolition at the proposed site, or alteration of the historic features of the landmark structures. The limited alterations contemplated at this time, which include the installation and relocation of plaques at the front of the building, have been reviewed and approved by the U.S. Commission of Fine Arts and the D.C. Historic Preservation Review Board in accordance with local and federal preservation laws.

At the hearing, Mr. Peteris Vinkelis, Deputy Chief of Mission of the Latvian Embassy, stated his country's commitment to maintaining the historic qualities of the subject property. He assured the Board that no work would be done to alter the designated portions of the buildings without first obtaining the necessary historic preservation approvals. Before the hearing, the Latvian Embassy developed and submitted to the ANC a number of conditions relating to use of the property, including respect for the historic preservation status of the building, the treatment of windows, interior lighting visible from Massachusetts Avenue, exterior lighting, landscaping, parking and general maintenance, that will help preserve the residential and historic character of the subject property. These conditions have been incorporated into this Board's order.

The ANC expressed concern that the proposed chancery use would affect the historic character of the building and the neighborhood, as the neighborhood is a historic residential neighborhood. The ANC pointed out that the HPRB only approved the proposed signage in concept , and that the HPRB mentioned its limited ability to regulate interior alterations and the property of foreign governments. For reasons stated elsewhere in this Order, the Board finds that the Comprehensive Plan encourages the location of chanceries in historic landmarks and historic districts, and that the Foreign Mission Act, the Comprehensive Plan and the D.C. Zoning regulations all identify this site as in an area appropriate for foreign missions. The Board also finds that any work on the historic portions of the property beyond the signage will require the review of the HPRB, and that the proposed public access to the interior will help to insure that no inappropriate alterations are undertaken.

The Sheridan Kalorama Historical Association also submitted a letter indicating concerns about the proposed chancery use of the property. However, for

the reasons as set forth above and elsewhere in this Order, the Board believes that those concerns are addressed.

Based on the above, the Board concludes that historic preservation does not present grounds for disapproval of the application. The Embassy has agreed to maintain the property consistent with its landmark status and in a manner that will continue to contribute to the historic character of the neighborhood. The signage has received the necessary historic preservation approvals. Appropriate conditions, agreed-upon by the Embassy and designed to preserve the residential and historic character of the property, are included in the Board's order.

3. Adequacy of Parking

The chancery use criteria in 11 DCMR § 1001.5 include parking considerations:

> The Board shall consider 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 that may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.

The Embassy will provide parking on Lot 5, consistent with its historical use. Seven spaces for self-parked cars and an additional two stacked spaces can be accommodated in this area, which is well-screened from the surrounding historic neighborhood by the existing historic perimeter wall. Under the proposed parking layout, all vehicles would enter the site, turn around at the rear of the lot and be parked facing the exit point. Under such an arrangement, cars could pull out directly onto Massachusetts Avenue without having to back into traffic.

Mr. Vinkelis testified that the Embassy plans to have 12 people at the new chancery, including 7 diplomats and 3 non-diplomatic staff, plus 2 others who will be the caretaker and driver who will live on-site in the garage building, which will be converted to an apartment. Approximately 5 diplomatic and 2 non-diplomatic vehicles will be driven to the new chancery on a daily basis. Based upon existing conditions, an estimated 2 visitors will travel to the site each day for visas. The chancery would anticipate receiving another 2 visitors each week for other purposes. It is anticipated that visitors would use taxis or public transportation for these purposes. The site is well served by numerous bus lines along Massachusetts Avenue and is within walking distance of the Dupont Circle Metrorail Station. Should visitors choose to travel by personal vehicle, however, their cars can be accommodated on site in the stacked parking arrangement, which would be monitored and handled by the caretaker.

The Embassy will host two social functions per hear at the proposed site, with approximately 150 guests in attendance at each event. The Embassy will use valet parking at nearby facilities for these occasions to ensure that no adverse parking or traffic conditions are created.

By report dated September 6, 2001, the District Division of Transportation (DDOT) recommended approval of the application due to the accessibility of the site provided by the road network and the excellent proximity to mass transit and availability of on-site and commercial facilities hear the site.

Osborne George of O.R. George and Associates, the applicant's expert on traffic and transportation matters, provided a written report and testimony in support of the application. After reviewing the parking and traffic conditions at the proposed chancery location, Mr. George concluded that the proposed chancery would provide adequate "off-street parking and would not adversely impact traffic operating conditions in the area." Mr. George noted that his initial traffic counts were conducted in June, after the close of the school year, when traffic is usually lighter. Mr. George stated that he attempted to update the traffic count after the Fall school term began, but was unable to collect accurate readings in the aftermath of the September 11th terrorist attacks on the World Trade Center and the Pentagon, which has disrupted normal traffic patterns. Nevertheless, Mr. George was able to extrapolate new calculations from his earlier traffic counts, in consultation with DDOT, and after review of all available data, including the traffic reports from the prior BZA case for a music school for this site, he concluded that there would be no adverse impact from the proposed chancery use even if traffic increased by as much as fifty percent. He concluded that from a traffic-engineering point of view, chancery use of the subject property would be appropriate. In addition, Mr. Vinkelis described the Embassy's staffing and parking plans for the proposed chancery. The Board notes that the Embassy does not intend to request diplomatic parking privileges on Massachusetts Avenue. After hearing and review of the record, the Board concludes the Embassy will provide adequate off-street parking for the proposed chancery.

In its report, ANC 1D stated that the proposed parking of eleven vehicles on Lot 5, the site of the existing garage structure, could be an eyesore and would detract from the inherent beauty of the neighborhood. The ANC also expressed concern that egress from the site could cause traffic problems and might impact a large tree in public space, and that the Applicant's August 15 traffic report does not reflect the typical level of traffic.

The Board has conditioned its approval so that there will not be eleven cars parked on Lot 5. The Board also considered the visual impact of the proposed parking arrangements. The Board finds that the parking area is well-screened by a

masonry wall that is architecturally integrated with the design of the main studio house. Based upon the evidence and testimony, the Board also finds that use of this area for parking is consistent with the historic use of Lot 5, and will not create any negative traffic impacts. Therefore, the parking of seven to nine cars on Lot 5 will not have a negative visual impact on the community nor will the layout of the parking lot have any impact on the trees in public space.

The Board finds that the proposed chancery will provide adequate parking due to (1) the projected number of diplomat and staff vehicles to be driven to the proposed site; (2) the arrangements for on-site parking for seven "self-parked" and two additional "stacked" spaces; (3) the availability and convenience of public transportation; (4) the Applicant's agreement not to request diplomatic on-street parking privileges; and (5) the small number of visitors the chancery expects to receive on a daily basis. Further, the Deputy Assistant Secretary of State has determined on behalf of the Secretary that there are no special security requirements related to parking in this case. Based on the above, the Board concludes that the parking considerations specified in 11 DCMR § 1001.5 do not furnish grounds for disapproval of the application.

4. Security

Under 11 DCMR § 1001.6, the Board must "consider 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." The Deputy Assistant Secretary of State, after consultation with the federal agencies authorized to perform protective services, has determined on behalf of the Secretary that the subject site and area are capable of being adequately protected. The Board concludes accordingly that security concerns do not present grounds for disapproval of the application.

5. The Municipal Interest

Under 11 DCMR § 1001.7, the Board must "consider the municipal interest, as determined by the Mayor." The Mayor of the District of Columbia has delegated authority to the Office of Planning to determine the municipal interest for purposes of Section 206 of the Foreign Missions Act. See Mayor's Order 83-106 (Apr. 28, 1983).

The Office of Planning has recommended conditional approval of the application in its report dated September 18, 2001, based upon the fact that the subject property is within the Mixed Use Diplomatic District and is located in an area appropriate for foreign missions and international organizations. The Office of Planning noted that the Diplomatic overlay permits the location of a chancery in the underlying residential zone. The Office of Planning further noted that the Sheridan

Circle area has a number of chanceries and the site fronts on Massachusetts Avenue, which is known as "Embassy Row." It concluded that the proposed chancery use would be compatible with surrounding uses and, thus, would not impair the integrity of the Zoning Regulations or the municipal interest.

In its report, the Office of Planning has suggested that a number of conditions be included in the Board's approval. Many of these conditions are identical to those which the Embassy has agreed to impose upon itself, either in writing or in testimony at the pubic hearing, and the Board concurs with those conditions. The Board does not agree that there is a need for a cap on the number of Mission officials and employees at any one time on this site. There is no testimony or evidence of record which supports the need for a cap on Mission officials and employees. To the contrary, there is ample evidence and testimony in the record concerning the proximity of the site to several means of public transportation. There is, however, evidence of record indicating the need for a limitation on the number of vehicles which may be parked in the parking area on Lot 5. The Board finds that a condition limiting the number of vehicles on site is appropriate, and will achieve the result intended by the Office of Planning.

Ronald S. Mlotek, Chief Legal Counsel, Office of Foreign Missions, addressed the issue of enforcement of local laws and regulations against chanceries. The State Department has taken the position that the Board can impose conditions, whether agreed-upon or not, in its determinations under the Foreign Missions Act. Under Section 206(g) of the Foreign Missions Act, 22 U.S.C.A. § 4306(g), D.C. Official Code § 6-1306(g), "The Secretary [of State] shall require foreign missions to comply substantially with District of Columbia building and related codes in a manner determined by the Secretary to be not inconsistent with the international obligations of the United States." When the Board includes conditions in its order on a chancery application, the State Department considers those conditions enforceable in the same manner and to the same extent as the building and related codes of the District of Columbia. As Mr. Mlotek has previously testified to the Board, and as the Board has previously found in Application No. 16519 of the Embassy of the Republic Benin at page 13, the procedures for seeking enforcement of alleged violations of laws or regulations by a chancery in the District of Columbia are as follows:

(1) The complaining party should first contact the pertinent Embassy to discuss the matter.

(2) If that fails, the next step would be to request the relevant District of Columbia agency to investigate the matter and certify to the State Department that a violation has occurred.

(3) The State Department will then take up the matter diplomatically with the Foreign Mission.

(4) In the case of exigent circumstances, complaints should be referred directly to the State Department.

The Embassy of the Republic of Latvia has pledged to respect and abide by all District laws and regulations. In his testimony before the Board, Mr. Vinkelis stated that the Embassy will comply fully with all laws, including the historic preservation ordinance, in accordance with Article 41 of the Vienna Convention which specifically requires foreign missions to respect the laws and regulations of the receiving state. The Board believes the Embassy should be given the opportunity to work collaboratively and in harmony with the Sheridan-Kalorama neighborhood to address community issues of mutual concern. To that end, the Embassy has agreed to designate a community liaison, and this agreement has been incorporated into the Board's order. Based upon the foregoing, the Board finds that there are sufficient enforcement mechanisms in place to address the concerns raised on this issue.

ANC 1D expressed its concern that the municipal interest would not be served because of inadequate enforcement of local laws against chanceries. The ANC also expressed concern that this site is not appropriate for a chancery use, and that the Comprehensive Plan and applicable laws do not allow or encourage chanceries in this area. For the reasons stated above and elsewhere in this Order, the Board finds that these concerns have been adequately addressed.

For all of the above reasons, the Board concludes that the municipal interest does not require disapproval of the application.

6. The Federal Interest

Pursuant to 11 DCMR § 1001.8, the Board must "consider the federal interest, as determined by the Secretary of State." The United States Department of State supports the application. The Deputy Assistant Secretary of State, on behalf of the Secretary, submitted a letter to the record dated August 14, 2001, indicating his determination that a favorable decision on this application would serve the federal interest. At the public hearing, Ronald S. Mlotek, Chief Legal Counsel of the Office of Foreign Missions, emphasized the United States' international obligation to facilitate the location of foreign chanceries in the nation's capital as directly related to the reciprocal treatment of United States missions abroad. The Department of State explained that while the United States Embassy in Riga does not own any real property in Latvia, the Government of the Republic of Latvia has assured the United States that it is free to acquire, possess, and sell property in Latvia. Further, the United States Embassy has enjoyed the support

and cooperation of the Government of the Republic of Latvia over the years in the management of its leased real estate interests. The Board concludes therefore that a favorable determination on the application will serve the federal interest.

THE ANC RECOMMENDATION

The subject site is located within the boundaries of the Sheridan-Kalorama ANC 1D. At the hearing, ANC 1D requested that the Board waive its rules and accept the ANC report outside the required timeframe. There being no objection to the request, the Board accepted the report into the record. By letter dated September 19, 1999, the ANC reported that a duly-noticed public meeting with a quorum present, the ANC, by a vote of 2-0, recommended denial of the application. The recommendation was based upon concerns relating to inadequate and unattractive parking, the residential character of the neighborhood, ineffective enforcement of local zoning regulations with regard to chanceries, and findings in the National Capital Planning Commission Report which is referenced in the Application.. These concerns have been substantially addressed throughout the Board's determination, particularly in sections 2, 3, and 5, relating to historic preservation, parking, and the municipal interest. The Board is required to give "great weight" to the affected ANC's recommendations. The Board has carefully and thoroughly considered the ANC's recommendations, but for the reasons set forth below and elsewhere in this determination, does not find the recommendation persuasive.

As to parking, the record indicates that Lot 5 has historically been used for automobile parking and is well-screened from the surrounding areas by a masonry wall that architecturally integrated with the design of the historic house. The parking area on Lot 5 abuts the parking area for the Korean chancery annex directly to the west, and will therefore not have an adverse impact upon adjacent property. The proposed parking configuration is sufficient to accommodate the expected number of cars to be driven to the site and is incorporated as a condition of this order. The proposed parking arrangements are designed to allow the cars to be moved in a safe and orderly manner. Moreover, there will be no on-street diplomatic parking.

Given the number of Embassy and staff cars to be driven to the proposed chancery and the small number of expected visitors, the chancery will not adversely affect parking and traffic conditions in the neighborhood. Public transportation is readily accessible, and will be used by several staff members, as is their current practice. The Embassy will provide valet parking for the two social functions to be held at the site each year to ensure that no adverse parking or traffic conditions are created. The Board credits the testimony of the Embassy's expert traffic engineer and the Department of Public Works that there will be no adverse parking or traffic impacts generated by the proposed chancery use of the site.

The ANC Report indicates that any change in use would adversely affect the historic residential character of the subject building and the neighborhood. The Board notes the testimony of the Applicant and the Office of Planning that the subject building has had a history of different uses, including chancery use by Peru and Colombia, as well as commercial uses. The Board also notes that there are a number of other large historic buildings in the vicinity, formerly residential use, which are currently institutional use, and which do not detract from the character of the historic district. These uses include The Cosmos Club, the Society of the Cincinnati, the Woodrow Wilson House, and The Phillips Collection, among others. The Board also notes that the Foreign Missions and International Organizations Element of the Comprehensive Plan encourages chanceries to locate in historic landmarks and historic districts, as well as on special streets. The subject site is a historic landmark, is located in two historic districts, and is located on a special street. The Applicant has offered to open the first and second floors of the building to visitors on a periodic basis, for the display of works of art from Latvia and Europe. This arrangement will have the added benefit of allowing those who are interested in the preservation of the interior of the building to assure themselves that this is being done. The Foreign Missions and International Organizations Element of the Comprehensive Plan, the Foreign Missions Act, and the D.C. Zoning Regulations all indicate that this site, located in the D/R-3 Zone, is an appropriate location for a chancery use. The Applicant has agreed to numerous conditions, incorporated into this order, to maintain the historic and residential character of the subject property.

While the Board has given great weight to the recommendations of the ANC, for the reasons stated above and throughout this determination, the Board has determined that the application should not be disapproved, subject to conditions designed to address community concerns.

ORDER

For the reasons stated above, the Board has determined that this application satisfies the chancery use criteria set forth in 11 DCMR § 1001. Accordingly, it is **ORDERED** that this application is **NOT DISAPPROVED**, subject to the following conditions:

1. The Embassy of Latvia will retain and maintain the current features and appearance of the premises in a manner consistent with the character of the neighborhood and the historic status of the building. This includes exterior landscaping and maintenance; interior lighting visible from Massachusetts Avenue, N. W.; exterior lighting; use of draperies and/or shades in the windows; and maintenance of the premises in general. The Embassy will retain the existing plaque identifying the property as the Alice Pike Barney Studio House and relocate

it to an appropriate position on the Massachusetts Avenue facade of the building. The existing location of that plaque will be occupied by a plaque identifying the property as the Chancery of the Embassy of Latvia. A smaller plaque will be placed adjacent to the door that is located on the right-hand side of the Massachusetts Avenue facade identifying that door as the entrance to the Consular or other chancery offices.

2. The Embassy will comply with all applicable historic preservation laws and requirements concerning the property.

3. In light of the fact that the first and second floors of the building are included in the historic landmark designation, the Embassy will make these floors available for public viewing on a periodic basis, in consultation with the ANC. The Embassy intends to display works of Latvian and European art on these levels. This access shall not apply to the service kitchens or auxiliary stairways or to the office to be established in the small room at the left rear of the first floor.

4. The number of vehicles to be parked on-site shall not exceed nine.

5. Delivery and pick-up of equipment and supplies will be done during working hours and in a quiet and orderly manner. Trash will be stored in covered containers and put out only on the days designated for pick-up.

6. No new fluorescent fixtures will be installed in the building, but any such existing fixtures in the kitchens, bathrooms and basement may remain. No drop ceilings will be installed on the first or second floors.

7. The Embassy will have a caretaker reside at the chancery who will look after the premises.

8. There may be up to two large functions per year at the chancery, for up to 150 guests, and the Embassy will make arrangements for off-site parking for these functions.

9. Security systems will be installed and maintained on the premises. No new security fencing will be placed around the front of the property. No exterior security cameras visible from Massachusetts Avenue will be installed.

10. No intrusive telecommunications equipment will be installed. No new antennas will be installed, without first obtaining the necessary approvals.

11. The Embassy shall designate a community liaison to work with the residents of the Sheridan-Kalorama community on matters of mutual concern.

VOTE: 5-0 (Sheila Cross Reid, Anne M. Renshaw, John G. Parsons, Patricia Gallagher and Geoffrey Griffis not to disapprove the application.)

BY ORDER OF THE FOREIGN MISSIONS BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Determination and Order and authorized the undersigned to execute this Determination and Order on his or her behalf.

ATTESTED BY: _____
Jerrily R. Kress, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER:_____

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

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16739:

As Director of the Office of Zoning, I hereby certify and attest that on _____, a copy of foregoing Determination and Order in BZA Application No. 16739 was mailed first class, postage prepaid, or via D.C. Government interoffice mail, to the following parties and persons who appeared and participated in the public hearing concerning the matter:

Christopher H. Collins
Holland & Knight LLP
2099 Pennsylvania Avenue
Suite 100
Washington, DC 20006

Andrew Altman, Director
Office of Planning
801 North Capitol Street, N.E.
Suite 4000
Washington, D.C. 20002

Marlis Carter, Vice Chair
Advisory Neighborhood Commission 1D
P.O. Box 53342
Washington, D.C. 20009

Ronald S. Mlotek
Chief Legal Counsel
Office of Foreign Missions
United States Department of State
2201 C Street, N.W.
Washington, D.C. 20520-2238

ATTESTED BY: _____

Jerrily R. Kress, FAIA
Director, Office of Zoning

Studio House
2306 Massachusetts Avenue, NW
Washington, DC 20008
(202) 328-8668

MEMORANDUM

October 4, 2001
To: Christopher Collins, M. Carolyn Brown
From: Scott Stinson
Re: Parking Area Drainage

Dear Chris and Carolyn:

Regarding the drainage questions posed by John Parsons at the FMBZA meeting on September 25, 2001, attached is a copy of the site survey on which I have superimposed information about the site drainage of the parking area on lot 5.

When this house was originally constructed, most of the area of lot 5 sloped to Rock Creek Park. Over the years, the site has been filled, and probably during the ownership of the building by the Smithsonian Institution (1960 to 1999), the current grades on lot 5 were established.

The paved areas from the front property line at Massachusetts Avenue to well beyond the rear of the garage structure slope to an areaway drain which is located in front of the garage. This drainage system also picks up the down spouts from the roof drains.

The areaway drain is piped underground to the combined storm and sanitary sewer system which is located in public space adjacent to the street, under the sidewalk.

The area halfway behind the garage slopes toward Rock Creek Park.

The asphalt area is *sufficient for* parking and turning cars in the area behind the garage. During this past summer, I had a full size car stored adjacent to the rear of the garage and on many occasions executed a three point turn with another full sized car so that I could exit the parking area on to Massachusetts Avenue facing traffic.

Best wishes,

Scott Stinson, AIA, Owner

10/04/2001 16:39 3018956130 S R STINSON INC PAGE 02

O. GEORGE & ASSOCIATES, INC.
Traffic Engineers – Transportation Planners

10210 Greenbelt Road, Suite 310 • Greenbelt, MD 20706-2218
Tel: (301) 794-7700 • Fax: (301) 794-4400
E-mail: orgassoc@aol.com

MEMORANDUM

DATE: October 8, 2001

TO: His Excellency Aivis Rovis, Ambassador
Embassy of Latvia, Washington, D.C.,
Attn: Mr. Peteris Vinkelis

FROM: Osborne R. George

RE: Foreign Missions Board of Zoning Adjustment – Proposed Republic of Latvia Chancery Site, Sheridan Circle, Northwest, Washington, D.C.

Please refer to the *"Traffic and Parking Impact Assessment"* dated August 15, 2001 which our firm prepared in connection with the referenced matter. Exhibit 4 on page 11 of that document presents a parking layout proposal for Lot 5 of the subject property. We note that the referenced document was included as Tab F of the Applicant's submission to the FMBZA.

In response to the questions raised by the Board regarding the potential impact of proposed resurfacing improvements and drainage provisions for the proposed parking lot, we wish to advise as follows:

a) That we have reviewed the contents of a memorandum dated October 4, 2001 addressed to Christopher Collins/M. Carolyn Brown from Scott Stinson, AIA. (An attachment to the memorandum shows the measurement of the distance between the carriage house along the west property line and the rear-side fence near the south property line).

b) That we have reviewed the proposed parking layout [Exhibit 4 (on page 11) of Tab F] in conjunction with the information in item (a) above.

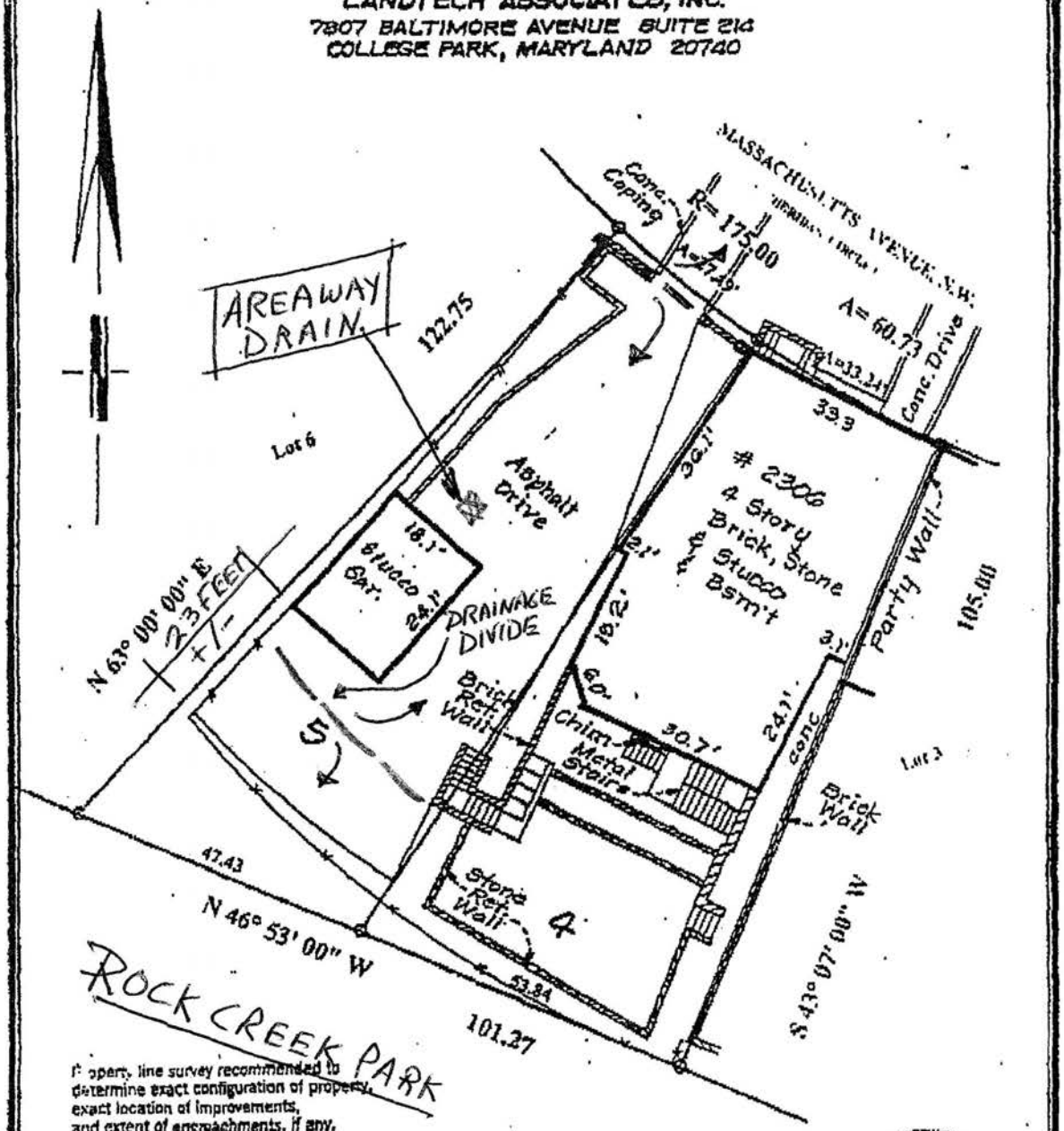
c) That we have considered the Applicant's proposal in his testimony to the Board to eliminate the concrete steps in the rear area of the property, with the parking area to be correspondingly expanded.

Based upon the above considerations, it is our assessment that the parking area would allow for the same number of vehicles to be accommodated on the site. Therefore, no changes to the findings of the written submission and oral testimony regarding parking have been found to be necessary.

Please let us know if we can be of further assistance in this matter. Thanks!

ORG/kk

LANDTECH ASSOCIATES, INC.
7307 BALTIMORE AVENUE SUITE 214
COLLEGE PARK, MARYLAND 20740



Property line survey recommended to determine exact configuration of property, exact location of improvements, and extent of encroachments, if any.

SQUARE: 2507

NOTE: THIS PROPERTY LIES IN FLOOD ZONE C, AN AREA OF MINIMAL FLOODING AS DELINEATED ON THE MAPS OF THE NATIONAL FLOOD INSURANCE PROGRAM

STATE OF MARYLAND — PROPERTY LINE SURVEYOR

NO TITLE REPORT FURNISHED

LOCATION SURVEY OF	LOT: 485	SQUARE: 2507
# 2306 Massachusetts Ave., N.W.	LIBER: County 7	FOLIO: 34
WASHINGTON, D.C.	DATE: 8-6-99	SCALE: 1" = 20'
	CASE NO: 99734	FILE NO: HT99139

CERTIFICATION: I hereby certify that the position of all the existing visible improvements on the above described property has been carefully established in relation to the apparent title lines and that, unless otherwise shown, there are no visible encroachments. This is not a property line survey and should not be used for the erection of fences or any other improvements or