NOTICE OF FINAL RULEMAKING

and

DETERMINATION AND ORDER

APPLICATION NO. 17020

The Board of Zoning Adjustment, in its capacity as the Foreign Missions Board of Zoning Adjustment for the District of Columbia, pursuant to the authority set forth in the Foreign Missions Act, approved August 24, 1982 (96 Stat. 283; D.C. Code, 2001 Ed. § 6-1306); 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. Code, 2001 Ed. § 2-505(c)), hereby gives notice of the adoption of its determination not to disapprove the application of RNC 2012 LLC, on behalf of the Embassy of Portugal, for the expansion of the Embassy of Portugal's chancery building at premises 2012 Massachusetts Avenue, N.W., (Square 95, Lot 3).

Notice of the filing of the application was published in the D.C. Register on May 2, 2003, and notice of the proposed rulemaking was published in the D.C. Register on May 30, 2003. At the June 17, 2003, public hearing, the Board waived the forty day notice of proposed rulemaking requirement set forth in Section 3134.9(c) of the Zoning Regulations for good cause shown and took proposed action to approve the rulemaking. In accordance with the D.C. Administrative Procedure Act (D.C. Section 2-501, *et seq.*), the Board provided well in excess of thirty days notice to the public. At its public decision meeting on ____ __, 2003, the Board took final action not to disapprove the application.

The property that is subject of the application is located at 2012 Massachusetts Avenue, N.W., and is currently being renovated internally for use by the Embassy as its chancery building as a matter of right. The subject of this application is the Embassy's proposed 500 square foot addition to the rear of the building as well as other exterior changes, including the installation of flagpoles and the coat of arms on the front of the building, a replacement screen wall for the HVAC unit on the east side of the front of the building, the repair of the curb cut along Massachusetts

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Avenue, a replacement security fence at the rear of the property, and other exterior features as shown on the plans submitted in the record of this case.

On April 14, 2003, the applicant filed a chancery application with the Board. Pursuant to 11 DCMR § 3134.7, the application was accompanied by a letter from the United States Department of State certifying that the applicant had complied with Section 205 of the Foreign Missions Act (22 USC 4305) and that the application could be submitted to the Board.

The Office of Zoning, on April __, 2003, provided notice of the filing of the application to the Department of State; the District of Columbia Office of Planning; the Historic Preservation Review Board; the District Department of Transportation; Advisory Neighborhood Commission (ANC) 2B, the ANC for the area within which the property that is the subject of the application is located; the ANC Commissioner for the affected Single Member District; and the Ward 2 Councilmember. The Office of Zoning subsequently scheduled a public hearing on the application for June 17, 2003, and provided notice of the hearing by mailing a copy to the applicant, to ANC 2B, and to all property owners within 200 feet of the subject property. Notice of the hearing was also published in the D.C. Register on _____ ___, 2003 and posted in the Office of Zoning. In addition, on May 30, 2003, the applicant posted notice on the property in plain view of the public in accordance with 11 DCMR § 3113. The notice thus complied with the requirements of 11 DCMR § 3134.9.

The record closed on June __, 2003, at the conclusion of the written public comment period. The Department of State, Office of Planning, Historic Preservation Office, District Department of Transportation, Metropolitan Police Department, D.C. Fire and Emergency Medical Services Department, and ANC 2B all submitted favorable reports on the application. The Board has not received any other comments on the application.

At its public decision meeting on ____ __, 2003, the Board determined not to disapprove the application for the following reasons:

First, as recommended by the Secretary 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 premises by the Government of Portugal for its diplomatic mission in the Nation's Capital.

Second, the Historic Preservation Office found the proposed expansion and other exterior improvements to be consistent with the character of the Massachusetts Avenue and Dupont Circle Historic Districts and approved them in concept.

Third, the applicant provides parking the rear of the building for sixteen vehicles. The Office of Planning and the District Department of Transportation found the

parking facilities to be more than adequate for the chancery building. In addition, the Secretary of State has determined that there are no special security requirements relating to parking in this case.

Fourth, 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.

Fifth, 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 and the DC Zoning Overlay.

Sixth, the Secretary of State has determined that a favorable decision on this application would serve the Federal interest, as the Government of Portugal has consistently been supportive of the United States Embassy in Lisbon in its diplomatic property needs.

Accordingly, it is hereby ORDERED that this application is NOT DISAPPROVED.

Vote of the Foreign Missions Board of Zoning Adjustment taken at its public hearing on June __, 2003, to approve the proposed rulemaking: _____ (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Ruthann Miller, John G. Parsons, and Patricia E. Gallagher)

This Notice of Final Rulemaking and Determination and Order was ADOPTED by the Foreign Missions Board of Zoning Adjustment at its public meeting on _____ ___, 2003, by a vote of _____ (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Ruthann Miller, John G. Parsons, and Patricia E. Gallagher to adopt).

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

FINAL DATE OF ORDER: _____

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

PURSUANT TO 11 DCMR § 3134.17, THIS DETERMINATION AND ORDER IS FINAL UPON PUBLICATION OF THIS NOTICE OF FINAL RULEMAKING AND

DETERMINATION AND ORDER IN THE D.C. REGISTER. THIS DETERMINATION AND ORDER SHALL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

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