

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**



Application No. 21252 of the Embassy of the Republic of Cuba, pursuant to 11 DCMR Subtitle X, Chapter 2, to allow a new security fence, requiring grading and a retaining wall, and improvements to an existing enclosure for trash containers and a new emergency generator at an existing chancery in the RA-2 and RA-4 zones at 2630 16th Street, N.W. (Square 2575, Lot 843).

HEARING DATE: February 26, 2025
DECISION DATE: March 12, 2025

NOTICE OF FINAL RULEMAKING
and
DETERMINATION AND ORDER

The Board of Zoning Adjustment, pursuant to the authority set forth in § 206 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 286; D.C. Official Code § 6-1306 (2012 Repl.)) and Chapter 2 of Subtitle X of the Zoning Regulations of the District of Columbia (Title 11 of the District of Columbia Municipal Regulations), and after having held a public hearing, hereby gives notice that it took final action not to disapprove the application of the Embassy of the Republic of Cuba (“Applicant”) to allow a new security fence, requiring grading and a retaining wall, and improvements to an existing enclosure for trash containers and a new emergency generator at an existing chancery in the RA-2 and RA-4 zones at 2630 16th Street, N.W. (Square 2575, Lot 843) (the “subject property”).

A notice of proposed rulemaking was published in the January 10, 2025 edition of the *D.C. Register* (72 DCR 000297). The Office of Zoning scheduled a public hearing on the application for February 26, 2025 and provided written notice to the public more than 40 days in advance of the public hearing in accordance with Subtitle Y § 402.1. On December 24, 2024, the Office of Zoning referred the application to the United States Department of State, the National Capital Planning Commission, the Commission of Fine Arts, the District of Columbia Office of Planning (“OP”) and the Historic Preservation Office, the District Department of Transportation (“DDOT”), Advisory Neighborhood Commission (“ANC”) 1C, whose boundaries encompass the subject property, as well as ANC 1A, also an “affected” ANC,¹ the Single Member District Commissioners for ANC 1C01 and 1A01, the Office of Advisory Neighborhood Commissions, the Department of Buildings, the Councilmember for Ward 1 as well as the Chairman and the at-large members of the D.C. Council, and to the owners of all property within 200 feet of the subject property. In

¹ See Subtitle B § 100.2 and Subtitle Y § 101.8.

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addition, the Applicant posted notice on the subject property in plain view of the public in accordance with Subtitle Y § 402.3, and notice of the hearing was published in the *D.C. Register*.

THE APPLICATION

Background. The application was filed on December 5, 2024 accompanied by a letter from the United States Department of State certifying the Applicant had complied with § 205 of the Foreign Mission Act (22 USC § 4305) and that the application could be submitted to the Board. (Exhibit 11.) The application sought approval of a new security fence, requiring grading and a retaining wall, and improvements to an existing enclosure for trash containers and a new emergency generator at the rear of the subject property. The Applicant did not propose any changes to the principal building and did not request any other relief related to zoning or public space in this application.

The property that is the subject of this application is a through lot fronting on 16th Street to the east and Mozart Place to the west. The subject property is generally rectangular, with a lot area of 26,775 square feet. The subject property is improved with a three-story detached building that was constructed in 1917 to house the Cuban embassy.²

The subject property is located in Residential Apartment (RA) zones and is spilt-zoned RA-2 and RA-4. The principal building is located entirely within the RA-4 portion of the lot. This application concerns the portion of the subject property abutting Mozart Place, which is zoned RA-2.

Proposed expansion. The Applicant proposed to replace an existing chain-link security fence at the rear of the subject property with a new iron security fence installed above a retaining wall and to make improvements to an existing enclosure for trash containers and a new generator. The new security fence will extend 74 feet across the rear lot line of the subject property from the north side lot line to the new enclosure. The new fence will utilize cast iron finials set approximately 3.9 inches apart, and will be eight feet in height above a retaining wall 3.5 feet in height and eight inches thick. The retaining wall will be faced with a veneer stone.

The enclosure will be located at the southwest corner of the subject property, 22 feet wide and accessible from the interior of the lot but not from Mozart Place. The enclosure will be bounded by a solid opaque fence that will align in height with the new security fence.

Mixed-Use Determination. The RA-2 zone is a low-density residential zone as defined in Subtitle X § 200.2. An existing chancery in a low- to medium-density residential zone may be expanded, subject to disapproval by the Board of Zoning Adjustment in accordance with the review standards of Subtitle X § 201.8. (Subtitle X § 202.1.) For applications requesting to expand a chancery in a low- to medium-density residence zone, the Board must determine whether the proposed location

² The building served as the Cuban embassy until 1961, when diplomatic ties between the United States and Cuba were severed. Between 1977 and 2015, the building functioned as the Cuban Interest Section in the United States. Once diplomatic relation with Cuba were restored, the building resumed its status as a chancery and officially reopened on July 20, 2015.

is in a mixed-use area determined on the basis of existing uses, including office and institutional uses. (Subtitle X § 201.3.)

For purposes of the mixed-use area determination, the “area” must be the area that the Board determines most accurately depicts the existing mix of uses adjacent to the proposed location of the chancery. (Subtitle X § 201.4.) Consistent with Subtitle Y § 301.6, the Applicant submitted a calculation of the land area within Square 2575 identified by lot numbers, with an indication of the authorized use of each lot. (Exhibit 32A.) According to the Applicant, Square 2575 contains 37,632 square feet of residential land use and 97,889 square feet of non-residential land use, so that approximately 72 percent of the square is devoted to non-residential uses. The Office of Planning concurred with the Applicant’s calculations and assertion of a mixed-use area. (Exhibit 35.)

The Board agreed with the Applicant and the Office of Planning that the relevant area in this case is Square 2575, which accurately depicts the existing mix of land uses adjacent to the subject property. Because the existing non-residential uses in Square 2575 occupy more than 50 percent of the square’s land area, the Board determined that the area is mixed-use and thus meets the requirement of Subtitle X § 201.3 for consideration of the chancery application consistent with the criteria provided in the Foreign Missions Act.

FOREIGN MISSIONS ACT CRITERIA

Pursuant to § 206(d) of the Foreign Missions Act, D.C. Official Code § 6-1306(d), the Board must consider six enumerated criteria when reviewing a chancery application and must base its decision solely on the six criteria. The provision further dictates who is to make the relevant finding for certain factors. The factors and 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.

In a letter dated January 16, 2025, the Department of State determined that favorable action on this application would fulfill the international obligation of the United States to facilitate the Embassy of the Republic of Cuba in acquiring adequate and secure premises to carry out their diplomatic mission. (Exhibit 16.) The Office of Planning recommended approval of the application. (Exhibits 21, 35.) 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 the Republic of Cuba for its diplomatic mission in the Nation’s Capital.

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 subject property is located in the Meridian Hill Historic District, in which the principal building is a contributing structure. As shown in the plans, the Applicant modified the design of the proposed fences, retaining wall, and attendant grading in response to comments from the Office of Planning, including the Historic Preservation Office. (Exhibits 6, 33A.) Based on the evidence and testimony in the record, the Board finds that this criterion is met.

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 needs, 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 Applicant's proposal will not affect existing conditions with respect to parking. The Department of State determined that there exist no special security requirements relating to parking in this case. (Exhibit 16.) DDOT submitted a report on February 14, 2025 stating no objection to approval of the application. (Exhibit 23.) Based on the evidence and testimony in the record, the Board finds that this criterion is met.

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.**

The Department of State, after consulting with the Federal agencies authorized to perform protective services, determined that the subject site and area are capable of being adequately protected. (Exhibit 16.)

5. **The municipal interest, as determined by the Mayor of the District of Columbia.**

The Office of Planning, on behalf of the Mayor of the District of Columbia, determined that approving the application was in the municipal interest. (Exhibit 21.) Based on the evidence and testimony in the record, the Board finds that this criterion is met.

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

The Department of State determined that there is a federal interest in this project. Specifically, the Department of State acknowledged the assistance of the Government of the Republic of Cuba in addressing the United States' zoning and permit needs required for the construction of a new fence at the U.S. chancery in Havana. The State Department also noted that such cooperation was essential for successfully achieving the Federal Government's mission of providing safe, secure, and functional facilities for the conduct of U.S. diplomacy and the promotion of U.S. interests worldwide. (Exhibit 16.) Based on this determination, the Board finds that this criterion has been met.

Great Weight

The Board is required under §13(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-58: D.C. Official Code § 1-309.10(d); Subtitle Y § 406.2) to give great weight to the issues and concerns raised in the written report of an affected ANC, which in this case is both ANC 1C and ANC 1A. By letter dated February 12, 2025, ANC 1C indicated that, at its duly noticed public hearing on February 5, 2025, with a quorum present, ANC 1C voted in support of the proposed retaining wall, fence, and screening to be erected at the rear of the existing chancery property located at 2630 16th Street, NW. (Exhibit 22.) By letter dated February 12, 2025 and co-signed by the chairman of ANC 1A, the single member district commissioner for ANC 1A01 indicated that ANC 1A was in support of the application. (Exhibit 27.) For the reasons discussed above, the Board agrees with the ANCs that the application should not be disapproved.

Based on its consideration of the six criteria discussed above, and having given great weight to the affected ANCs, the Board has decided not to disapprove the application. Accordingly, it is hereby **ORDERED** that the application is **NOT DISAPPROVED** subject to the plans shown at Exhibit 33A.

VOTE: 4-0-1 (Frederick L. Hill, Carl H. Blake, Marcel C. Acosta, and Tammy M. Stidham to NOT DISAPPROVE; Lorna L. John not present, not voting.)

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

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

ATTESTED BY:


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: April 8, 2025

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT

TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN 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. AN 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.