

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT
UNDER THE FOREIGN MISSIONS ACT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY
APRIL 6, 2010

+ + + + +

The Public Hearing under the Foreign Missions Act convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Meridith Moldenhauer, Madam Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

MERIDITH MOLDENHAUER, Chairperson
NICOLE SORG, Member
MARCEL ACOSTA, Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

PETER MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

BEVERLEY BAILEY, Sr. Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS

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The transcript constitutes the minutes from the Public Hearing held on April 6, 2010.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

WELCOME:

Meridith Moldenhauer.4

REPUBLIC OF TRINIDAD AND TOBAGO:

APPLICATION NO. 18049 - ANC - 2B:

Cynthia Giordano.10

WITNESSES:

Ambassador Glenda Morean-Phillip.13

U.S. SECRETARY OR STATE

Clifton Seagroves14

OFFICE OF PLANNING:

Maxine Brown-Roberts.17

CLOSING REMARKS:

Cynthia Giordano.19

VOTE TO APPROVE 18048 (4-0-1)24

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P-R-O-C-E-E-D-I-N-G-S

9:43 a.m.

CHAIRPERSON MOLDENHAUER: This hearing will come to order.

Good morning, ladies and gentleman. Today is the April 6th, 2010 public hearing for the Board of Zoning Adjustment for the District of Columbia convening to act on a chancery application pursuant to the Foreign Missions Act and Chapter 10 of the Zoning Regulations.

My name is Meridith Moldenhauer, Chairperson. Joining me today is mayoral appointee Nicole Sorg, Marcel Acosta representing the National Capital Planning Commission, and Peter May representing the U.S. National Park Service.

Copies of today's hearing agenda are available to you and are located to my left in the wall bin near the entrance door. Please be advised that this proceeding will be recorded by a court reporter and is also Web cast live. Accordingly, we must ask you to refrain from any disturbing noises and actions

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1 in the hearing room.

2 When presenting information to the
3 Board, please turn on your mic and speak into
4 the microphone and stating your name and home
5 address. When you are finished speaking,
6 please turn your off the mic so that the
7 microphone is no longer picking up noise or
8 sounds or background noises.

9 All persons planning to testify
10 either in support or in opposition are to fill
11 out two witness cards, and these cards are
12 located to my left on the table near the
13 entrance door and on the witness' tables.
14 Upon coming forward, please speak to the
15 Board, please give both cards to the court
16 reporter sitting to my right.

17 The order of procedure for a
18 foreign missions case is as follows: (1)
19 Statement and witnesses of the application;
20 (2) Government reports, including the United
21 States Secretary of State and the District of
22 Columbia Office of Planning on behalf of the
23 mayor; (3) reports and recommendation by other
24 public agencies; (4) report of the Advisory

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1 Neighborhood Commission, ANC; (5) persons in
2 support; and then (6) persons in opposition.

3 Please note that requests for
4 party status in a chancery application are not
5 applicable because it is a rulemaking
6 procedure.

7 The following time constraints
8 will be maintained: The applicant, including
9 witnesses, will be permitted 60 minutes to
10 present its case; persons testifying whether
11 in support or opposition will be permitted
12 three minutes, except for the ANC. These time
13 constraints do not include questions from the
14 Board. The Board may place further reasonable
15 restrictions on, or permit additional time
16 for, testimony as it deems appropriate.

17 Because this is a rulemaking
18 procedure, there are no parties and therefore
19 there will be no cross-examination.

20 The record will be closed at the
21 conclusion of each case except for the fact
22 that it may remain open for any additional
23 materials specifically requested by the Board.
24 The Board and the staff will specify at the

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1 end of the hearing exactly what is expected
2 and the date when the material must be
3 submitted to the Office of Zoning. After the
4 record is closed no other material or
5 information will be accepted by the Board.

6 The Sunshine Act requires that the
7 public meeting of each case be held in the
8 open before the public. The Board may,
9 consistent with its Rules of Procedure and the
10 Sunshine Act, enter executive session during
11 or after the public hearing on a case for
12 purposes of reviewing the record or
13 deliberating on the case.

14 The decision of the Board in this
15 legislative proceeding must be based
16 exclusively on the public record. To avoid
17 any appearance to the contrary the Board
18 requests that the persons present not engage
19 the members of the Board in conversation.

20 Please turn off all beepers and
21 cell phones at this time as not to disrupt
22 these proceedings.

23 At this time the Board will
24 consider any preliminary matters. Preliminary

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1 matters relate to whether a case should or
2 will be heard today such as requests for
3 postponement, continuance or withdrawal, or
4 whether the proper adequate notice of a
5 hearing has been giving.

6 If you are not prepared to go
7 forward with a case today, or if you believe
8 that the Board should not proceed, now is the
9 time to raise such a matter.

10 Does the staff have any
11 preliminary matters at this time?

12 MS. BAILEY: Madam Chair, members
13 of the Board and to everyone, good morning.

14 CHAIRPERSON MOLDENHAUER: Good
15 morning.

16 MS. BAILEY: Madam Chair, I don't
17 have any preliminary matters, but just to
18 reiterate what you have said, this is a
19 rulemaking proceeding and the witnesses are
20 sworn in.

21 CHAIRPERSON MOLDENHAUER: Thank
22 you very much, Ms. Bailey. Should we call the
23 first case?

24 MS. BAILEY: Thank you.

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1 Application No. 18049 of the Republic of
2 Trinidad and Tobago, and it's pursuant to 11
3 DCMR 1001, and 1002 and section 4306 of the
4 Foreign Missions Act, to permit the expansion
5 of an existing chancery use at premises 1714
6 Massachusetts Avenue, Northwest. It's in the
7 Dupont Circle SP-1 District. It's also
8 located in Square 158 on Lot 834.

9 CHAIRPERSON MOLDENHAUER: Thank
10 you. Would the parties like to step forward
11 to the table?

12 Good morning. Please state your
13 name and home address.

14 MS. GIORDANO: Cynthia Giordano
15 with Saul Ewing Law Firm. My address is 8508
16 White Post Court, Bethesda, Maryland.

17 And should I introduce the
18 Ambassador before I speak, or --

19 CHAIRPERSON MOLDENHAUER: Ms.
20 Ambassador, you can introduce yourself if
21 you'd like.

22 MS. GIORDANO: Okay.

23 HER EXCELLENCY MOREAN: Thank you,
24 Madam Chair and other members of the Board.

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1 I am Glenda Patricia Morean-Phillip,
2 Ambassador for Trinidad and Tobago to the
3 United States, and permanent representative to
4 the Organization of American States.

5 CHAIRPERSON MOLDENHAUER: Thank
6 you.

7 MS. GIORDANO: Thank you. We have
8 submitted a pretty detailed statement of the
9 case and I will summarize, unless the Board
10 feels that they would like more detail at this
11 point.

12 The Ambassador has some brief
13 remarks, and I'm just going to basically
14 introduce her and the case. We've submitted
15 her bio for your information. The Ambassador
16 actually, I understand, is a land use lawyer
17 by training, so she should be very comfortable
18 in this setting and understand the issues
19 before you.

20 The case is very straightforward.
21 The embassy is currently located at 1708
22 Massachusetts Avenue and they have acquired
23 the building next door immediately adjacent,
24 actually connected by a party wall. That

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1 property came on the market and they had
2 already been looking for space because they're
3 currently cramped in their location.

4 They don't have any plans for any
5 significant increase in staff. The purpose of
6 the acquisition is just to give them more room
7 so they can spread out a little bit more.

8 The property also comes with
9 additional parking which is beneficial to the
10 embassy because currently they only have a
11 couple of spaces on site and they lease spaces
12 elsewhere. So, from a parking standpoint, the
13 new acquisition will actually make it easier
14 for the staff to be accommodated on site.

15 Again, they don't propose any
16 major kinds of expansion of their operation.
17 Operations will pretty much stay as they are.
18 They will just expand into the additional
19 space.

20 The property is located in the
21 Dupont Circle Historic District. There are no
22 exterior alterations planned for the property,
23 and in fact really no interior alterations
24 either. The property was recently renovated

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1 and is in just prime condition.

2 With that, unless there are any
3 questions for me, we will proceed with the
4 Ambassador's remarks.

5 CHAIRPERSON MOLDENHAUER: Yes,
6 thank you. I think that we can proceed with
7 the Ambassador's remarks.

8 HER EXCELLENCY MOREAN: Well,
9 thank you. I was going to say a lot of what
10 has been said by counsel. I don't think I
11 need repeat what she has said.

12 It is true that it is really a
13 lateral movement in that the staff really
14 operate in cramped position in the adjacent
15 building. And we plan to occupy as part of
16 our mission the new building.

17 As has been said, there's really
18 no expansion or renovation to be done because
19 the property is in fact in pristine condition.
20 And all we have to do is really move in.

21 And what is more, the property was
22 used as an embassy to its last use for
23 domestic purposes. I think the Turkish or one
24 --

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1 MS. GIORDANO: Yes.

2 HER EXCELLENCY MOREAN: Yes. The
3 Turkish, yes, embassy occupied the building
4 prior.

5 So, with that, I don't think I
6 need add more. Thank you.

7 CHAIRPERSON MOLDENHAUER: Thank
8 you very much.

9 At this time we'll go to the
10 Government reports, and we'll start off with
11 the United States Secretary of State report.

12 Good morning. Please introduce
13 yourself for the record.

14 MR. SEAGROVES: Good morning. My
15 name is Clifton Seagroves. Madam Chair and
16 members of the Board, my name is Clifton
17 Seagroves and I am the acting director of the
18 Office of Foreign Missions' Office of
19 Diplomatic Property, Taxes, Services and
20 Benefits. I'm directly responsible for the
21 real estate matters of foreign diplomatic and
22 consular missions here in Washington and in
23 other parts of the country. My office is
24 located at 2201 C Street, Northwest.

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1 I'm here today on behalf of the
2 Secretary of State in support of the
3 application of the Embassy of Trinidad and
4 Tobago for the expansion of its chancery.

5 As you are each aware, the Foreign
6 Missions Act establishes six criteria under
7 which the Board of Zoning Adjustment must
8 solely consider when making a determination
9 with respect to the location of a chancery,
10 three of which are made by the Secretary of
11 State.

12 As for the first of the three
13 criteria determined by the Secretary, it is
14 the obligation of the United States to
15 facilitate the provision of adequate and
16 secure facilities for foreign missions in the
17 National Capital.

18 Second, after consultation with
19 relevant federal agencies authorized to
20 perform protective services, I determined that
21 there exists no special security requirements
22 relating to parking in this case. After
23 similar consultation, I have also determined
24 that the subject site and area are capable of

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1 being adequately protected.

2 Finally, with respect to the
3 federal interests in this project, the
4 government of Trinidad and Tobago and the City
5 of Port of Spain have previously assisted with
6 the zoning and land use needs of the U.S.
7 Embassy in Port of Spain, and we hope to be
8 able to continue to rely on such cooperation
9 in the future.

10 Therefore, the Embassy of Trinidad
11 and Tobago has successfully met the
12 requirements of three of the six criteria
13 under which its application must be
14 adjudicated.

15 This concludes my presentation.
16 If you have questions, I'll be happy to answer
17 them.

18 CHAIRPERSON MOLDENHAUER: Thank
19 you very much.

20 Are there any questions from any
21 board members?

22 (No audible response.)

23 CHAIRPERSON MOLDENHAUER: Seeing
24 none, thank you.

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1 At this point in time we'll move
2 onto the Office of Planning's report.

3 MS. BROWN-ROBERTS: Good morning,
4 Madam Chairman and members of the FMBZA.

5 For the record, I'm Maxine Brown-
6 Roberts representing the Office of Planning.

7 The OP report outlined all the
8 requirements that are outlined in 1001, and
9 we have detailed that the -- we believe that
10 the embassy has met these requirements, and
11 therefore we recommend approval.

12 I'm available for any additional
13 questions. Thank you, Madam Chairman.

14 CHAIRPERSON MOLDENHAUER: Thank
15 you very much.

16 Does the applicant have any
17 questions for the Office of Planning?

18 (No audible response.)

19 CHAIRPERSON MOLDENHAUER: Do any
20 additional members --

21 MS. GIORDANO: No questions.

22 CHAIRPERSON MOLDENHAUER: Thank
23 you. Do any of the board members have any
24 questions for the Office of Planning?

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1 (No audible response.)

2 CHAIRPERSON MOLDENHAUER: Thank
3 you. At this time is the ANC present in the
4 audience?

5 (No audible response.)

6 CHAIRPERSON MOLDENHAUER: The ANC
7 does not appear to be present in the audience.

8 We also, just for the record, as
9 we're going through different agencies, we
10 also have a letter in our record, which is
11 Exhibit No. 24, which is from the U.S.
12 Commission of Fine Arts, which indicates that
13 they have reviewed the application and that
14 they support the project.

15 And so now we'll now move to any
16 persons in support of the application. Are
17 there any persons in the audience in support
18 of the application?

19 (No audible response.)

20 CHAIRPERSON MOLDENHAUER: There
21 doesn't seem to be any. Are there any persons
22 in the audience that are in opposition to the
23 application?

24 (No audible response.)

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1 CHAIRPERSON MOLDENHAUER: At this
2 point in time we'll turn back to the applicant
3 to see if there are any closing remarks.

4 MS. GIORDANO: I believe the Board
5 also should have a letter from the Advisory
6 Neighborhood Commission indicating their vote
7 for unanimous support of the project. I know
8 it was emailed.

9 CHAIRPERSON MOLDENHAUER: Okay.
10 Yes, I have it. It's our Exhibit No. 27,
11 which indicates that ANC-2B had a duly-noted
12 meeting. There was an approval 9 to 0 in
13 support of the application. Thank you.

14 MS. GIORDANO: Thank you. In
15 closing, given that there is no opposition to
16 this application, I would request that the
17 Board make a bench decision. The embassy has
18 been very patient in not moving into this
19 beautiful space right next door, but they
20 would greatly appreciate any kind of expedited
21 consideration that could facilitate their
22 occupying the building as soon as possible.

23 And if the Board is so inclined to
24 make a decision, I can submit a summary order

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1 for the Board's consideration.

2 CHAIRPERSON MOLDENHAUER: Thank
3 you very much. I'll open up the floor to any
4 additional questions.

5 (No audible response.)

6 CHAIRPERSON MOLDENHAUER: It
7 doesn't appear that there are any, so thank
8 very much.

9 And at this point then, I will
10 recommend to the Board that we deliberate on
11 this case right now. And so, what I will do
12 is I'll start us off.

13 And the application before is a
14 foreign mission application for a new chancery
15 office for the Republic of Trinidad and
16 Tobago, application 18049. This application
17 is before us under the Foreign Missions Act
18 which requires that we review the standard
19 under the Foreign Missions Act, and so what we
20 -- our obligation is to evaluate the different
21 standards under the six criteria, and we rely
22 on different agencies to provide analysis for
23 some of the different factors.

24 I'll just go through and summarize

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1 everything, and we can also incorporate for
2 our record all of the OP's report and
3 incorporate all the different reports in our
4 records.

5 We have the interests of the
6 Historic Preservation, which the BZA will
7 analyze, and I believe there is no
8 consideration that would disapprove this
9 application considering that the building
10 condition is not changing, there's going to be
11 no alterations, they are already located
12 adjacent to the property and that there will
13 be no expansion of that building or any
14 changes to the facility.

15 The public parking and
16 transportation aspect is determined by the
17 United States Secretary of State, which we
18 heard testimony from Mr. Seagroves and he
19 testified that it is in the best interest to
20 approve the application. We also heard
21 testimony from him in regards to the
22 additional factors under subsection 1001.6.

23 In addition to that, we heard from
24 the Office of Planning in regards to the

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1 municipal interest to approve the application.

2 And we heard also testimony from
3 the Secretary of State regarding the federal
4 interest in balancing the chancery of Trinidad
5 and Tobago's assistance abroad, as well as
6 locally.

7 And based on all of these factors,
8 based on the ANC's letter of support, based on
9 the fact that there were no witnesses or
10 individuals in opposition, and that all the
11 different agencies are in support of this, I
12 would be also inclined to support the
13 application.

14 I'll open up the floor to any
15 additional deliberations.

16
17 COMMISSIONER MAY: It's a very
18 straightforward case and actually, if you
19 haven't already made a motion, I would make a
20 motion to approve application 18049 of the
21 Republic of Trinidad and Tobago for -- let's
22 see -- under -- I'm not going to read all the
23 sections of this -- under the Foreign Missions
24 Act to permit the expansion of the existing

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1 chancery use at premises 1714 Massachusetts
2 Avenue, Northwest, and ask for a second.

3 CHAIRPERSON MOLDENHAUER: I will
4 just modify that motion so it's a motion not
5 to disapprove the application.

6 COMMISSIONER MAY: Not to
7 disapprove.

8 CHAIRPERSON MOLDENHAUER: And then
9 we'll see if there's a second.

10 MEMBER SORG: I'll second.

11 CHAIRPERSON MOLDENHAUER: There's
12 a motion and a second. All those in favor say
13 aye. Aye.

14 COMMISSIONER MAY: Aye.

15 MEMBER SORG: Aye.

16 MEMBER ACOSTA: Aye.

17 CHAIRPERSON MOLDENHAUER: Could we
18 have the vote called back?

19 MS. BAILEY: Certainly, Madam
20 Chair. The vote is recorded as 4-0-1 not to
21 disapprove the application. The motion was
22 made by Mr. May, seconded by Ms. Sorg. Mrs.
23 Moldenhauer and Mr. Acosta support the motion.
24 The fifth board member is not sitting at this

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1 time.

2 CHAIRPERSON MOLDENHAUER: Thank
3 you very much. And I believe that will be a
4 summary order?

5 MS. BAILEY: Yes, Madam Chair.

6 CHAIRPERSON MOLDENHAUER: Thank
7 you.

8 MS. GIORDANO: Thank you.

9 CHAIRPERSON MOLDENHAUER: The BZA
10 hearing under the Foreign Missions Act is now
11 over. We have concluded that portion of the
12 hearing and we will be entering into a public
13 meeting.

14 (Whereupon, the hearing was
15 concluded at 10:02 a.m.)

16

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