



## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Jennifer Steingasser, Deputy Director for Development Review & Historical Preservation

**DATE:** November 1, 2010

**SUBJECT:** **BZA Case 18136** - Request for special exception relief at 2406 Massachusetts Avenue NW

### I. SUMMARY RECOMMENDATION

The Office of Planning recommends that the Board of Zoning Adjustment (BZA) **not disapprove** special exception relief requested per § 1002 to allow the proposed chancery use for the Government of the United Arab Emirates (UAE) on the subject property and relief from:

- § 403.2 to increase the allowable lot occupancy from 40 to 64%;
- §§ 400.7 and 411.3 for multiple roof structures that do not provide the required 1:1 setback from the exterior walls; and
- § 2101.1 to reduce the required parking from 16 to 10 spaces.

### II. SITE AND AREA DESCRIPTION

Address:	2406 Massachusetts Avenue NW
Legal Description:	Square 2507 Lot 52
Ward:	2D
Lot Characteristics:	A generally rectangular lot with an area of 6,949 square feet (0.16 acre) and frontage along Massachusetts Avenue NW.
Existing Development:	A single four-story building with a garage on the southern (side) façade that previously served as the principal residence of the UAE Ambassador. This contributing building was constructed in 1912, purchased by the UAE in 1973 and has remained vacant since 2004. Two curb cuts in public space allow vehicular access to a circular drive in front of the dwelling and the garage onsite. A swimming pool and extensive patio occupy most of the rear yard. The existing building is currently nonconforming because: the height of 46 feet and four stories exceeds that allowable maximum in the district; and the open court width south of the building is less than the required minimum (refer to the Relief and Zoning subsection under Application in Brief below).
Zoning:	<i>D/R-3</i> – residential uses are allowed as a matter of right and chancery uses are allowed if not disapproved by the BZA.
Historic Districts:	Massachusetts Avenue and Sheridan-Kalorama



Adjacent Properties:	To the north across Massachusetts Avenue is a triangle park; the embassies of the Republic of Malawi and Republic of Paraguay occupy the adjacent properties to the northwest and southeast, respectively; and Rock Creek Park is immediately west of the subject property.
Surrounding Neighborhood Character:	Moderate density residential, commercial and institutional uses and Federal parkland.

**III. APPLICATION IN BRIEF**

**Applicant:** Government of the United Arab Emirates

**Proposal:** To renovate and expand the former embassy building for use as a chancery annex.

The proposed three-story addition would replace the existing pool, patio and garage. The “L” shape of the addition would form a closed courtyard behind the existing building. Elevated hallways connecting the second and third floors would extend the open court along the southern property boundary (refer to Exhibit 1). A garden and perimeter walls would occupy the balance of the rear yard. Below the proposed addition and courtyard would be an underground garage with 10 vehicle spaces. Vehicles would access this garage via an elevator after driving into the existing driveway and beyond the spot where the current garage is located. The below-grade garage would also be outfitted with bicycle parking facilities, showers and a locker room.

The expanded building will include an entrance lobby, individual office space, shared cubicle areas and conference rooms to serve approximately 22 employees. No residential use would remain onsite. Improvements to the existing building would include repainting, re-pointing the brick exterior, window replacement, refiguring the columns framing the building entrance and constructing an ADA-accessible wheelchair ramp. The new retractable bollards and entrance gate installed in the driveway for additional security would be on the subject property. The applicant also plans to seek a Leadership in Energy and Environmental Design (LEED) Certification of Silver for the completed project.

It is anticipated that the offices of the cultural attaché would relocate to this building. Hours of operation would be 9:00 AM to 4:00 PM, Monday through Friday, except during Ramadan when the hours would be 10:00 AM to 3:00 PM. The annex would be closed on weekends. Official diplomatic social events would continue to be held in the larger UAE chancery located at 3522 International Court NW.

**Relief and Zoning:** The subject property is located in a D/R-3 district. Section § 1001.1 of the current Zoning Regulations allows chancery uses in a D overlay subject to BZA disapproval. The property and proposed use are also subject to the following zoning provisions:

Standard	D/R-3 Requirement	Existing (residence)	Proposed <sup>1</sup> (chancery)	Relief Required?
Lot Area (§401.3)	4,000 s.f.	6,949 s.f.	Same	No
Lot Width (§401.3)	40 feet	68.7+ feet	Same	No
Floor Area (§931.3)	No limit	7,914 sq. ft. <sup>1</sup> (1.43 FAR)	13,008 s.f. (1.87 FAR)	No

<sup>1</sup> These table entries reflect updated information provided by the applicant about modifications to plans since the original submission.

Standard	D/R-3 Requirement	Existing (residence)	Proposed <sup>1</sup> (chancery)	Relief Required?
Height (§400.1)	40 feet, 3 stories	46 feet, 4 stories <sup>1</sup>	38 feet <sup>2</sup> , 3 stories (addition)	No
Lot Occupancy (§403.2)	40%	41%	64%	Yes
Rear Yard (§404.1)	20 feet	50 ft.	20 feet	No
Side Yard (§405.1)	8 feet (residence), None (chancery)	11 ft.	None	No
Parking (§2101.1)	Chancery - 1 space/ 800 s.f. or as determined by the BZA	2 spaces (for existing embassy)	10 spaces (16 spaces required for proposed chancery)	Yes
Closed court width and area (§406.1)	Width:4 in./ft. of height not less than 15 feet; Area: 2 x (req. width <sup>2</sup> ) not less than 350 sq. ft.	None exists	18 feet (15 ft. required); 639 s.f. (450 sq. ft. req.)	No
Open court width (§406.1)	Width:4 in./ft. of height not less than 10 feet	11 ft. (15.3 feet required)	13 feet <sup>3</sup> (12.7 feet required)	No

The applicant indicated that the elevator penthouse shown atop the existing building on the submitted plan would extend 3.3 feet above the fourth floor roof. Although the existing building currently exceeds the allowable height in this district, and height of the penthouse above-grade would be just over 49 feet, § 400.8 provides that an elevator penthouse may exceed the allowable height in the zone district. There would also be two roof structures that would not maintain the required 1:1 setback from the exterior building walls.

Based on this review, the proposed addition would not conform to lot occupancy (§403.2), parking (§2101.1) and roof structure (§§ 400.7 and 411.3) provisions. Since these nonconforming aspects impact a structure that is already out of conformance, this proposal would also be inconsistent with provisions for the expansion of nonconforming structures under §§ 2001.3 (a) and (b)(1).<sup>4</sup>

Section 4306 (c) of the Foreign Missions Act (Title II, Public Law 97-241, 96 Stat. 286, August 24, 1982) states that, *“If a foreign mission wishes ... to appeal an administrative decision related to a chancery based in whole or in part on any zoning map or regulations, it shall file an application with the Board of Zoning Adjustment ...”*

Section § 4306 (d) also requires that any decision by the BZA concerning an appeal of an administrative decision with respect to a chancery, based in whole or in part upon any zoning regulation or map, shall be based solely on the criteria listed under that section and reflected in corresponding sections of the DCMR Title 11, Zoning.

This request is made pursuant to § 4306 (c) and (d) of the Foreign Missions Act (Title II, Public Law 97-241, 96 Stat. 286, August 24, 1982), and Chapter 10 under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning.

<sup>2</sup> The applicant indicated that the height of the addition would be 38 feet to the third floor ceiling and the garden court dimensions at the second floor level would be 18 x 36.3 ft.

<sup>3</sup> Distance between the elevated hallways connecting the addition to the existing building and southern property boundary (plan sheet AP1.2).

<sup>4</sup> Granting relief from the other listed provisions would eliminate the new “nonconforming aspects” associated with this addition and no relief would be required from § 2001.3

#### IV. OFFICE OF PLANNING ANALYSIS

##### Compliance with § 1002

*“1002.1 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*

In a letter dated October 20, 2010, Justine M. Sicavage, Deputy Assistant Secretary stated on behalf of the US Department of State (DOS) that favorable action on this matter before the BZA would fulfill the international obligation of the United States to facilitate the acquisition of adequate and secure premises by the Government of the United Arab Emirates for its diplomatic mission in Washington, DC.

OP agrees that this DOS statement adequately addressed this criterion.

*1002.2 The Board shall consider historic preservation, as determined by the Board in carrying out this section.*

The subject property is located in the Massachusetts Avenue and Sheridan-Kalorama Historic Districts. The proposed addition and new mechanical penthouse are usually subject to review by the State Historic Preservation Office (SHPO) and the U.S. Commission of Fine Arts (CFA) which is advisory to the SHPO.

The SHPO and the CFA were notified of the proposed exterior changes. No concern was expressed by SHPO based on its review of this proposal. However, the applicant informed OP that the Department of State (DOS) does not accept that the CFA has jurisdiction over proposals such as this.

For the purposes of this BZA review, this criterion has been addressed since the SHPO had no concerns.

*1002.3 To ensure compatibility with historic landmarks and historic districts, substantial compliance with District and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.*

No concern was expressed by the SHPO about this proposal.

*1002.4 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.*

A study by consultant Gorove / Slade examining the transportation impacts of this proposal was provided in the application. The study found that:

- vehicular access to the driving circle and the property would continue to be from the two existing curb cuts along Massachusetts Avenue;
- trash pick-up would be handled by a daily cleaning service; and
- deliveries would consist primarily of overnight mail delivery vans that would park in the circular drive in public space and no large trucks.

Peak hour analysis indicated that the 10 vehicle spaces proposed for staff parking would be sufficient to accommodate the anticipated on-site parking demand. Most visitors are expected to use several Washington Metropolitan Area Transit Authority (WMATA) bus routes that travel past the site and the underground Dupont Circle Metro rail station. The study also listed several Transportation Management Plan (TMP) measures that would be incorporated into this project at the suggestion of the District Department of Transportation:

- provision of 10 bicycle spaces provided for employees in the garage;
- provision of four bicycle parking spaces outside the building near the front door;
- employee shower facilities;
- provision of WMATA SmartTrip cards for employees to utilize when traveling around the District on official business;
- provision of WMATA SmartBenefits for eligible employees; and
- shuttle service between the annex and the main chancery building along specified routes.

The conclusion was that this proposal would not result in adverse impacts on the surrounding roadway network due to the relatively low level of traffic generated by this proposal and implementation of the referenced TMP.

OP agrees that this report adequately addressed the criterion.

*1002.5 The Board shall 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.*

Deputy Secretary Sincavage stated in the referenced letter that, after consultation with Federal agencies authorized to provide protection services, it was determined that there are no special security requirements related to this case, and the subject site and area are capable of being adequately protected.

OP agrees that this statement adequately addressed this criterion.

*1002.6 The Board shall consider the municipal interest, as determined by the Mayor.*

The Director of Planning, on behalf of the Mayor, finds that the proposed chancery would generally be consistent with the Comprehensive Plan. Granting the required zoning relief would not negatively impact neighboring properties or the intent of the Zoning Regulations. This proposal is therefore considered to be in the municipal interest.

*1002.7 The Board shall consider the federal interest, as determined by the Secretary of State.*

The DOS letter concluded by stating that there is a Federal interest in this project. The Government of the United Arab Emirates, and the Emirates of Abu Dhabi and Dubai have in the recent past assisted the Federal Government's mission for providing safe, secure, and functional facilities for the conduct of US diplomacy and the promotion of US interests worldwide.

OP agrees that this statement adequately addressed this criterion.

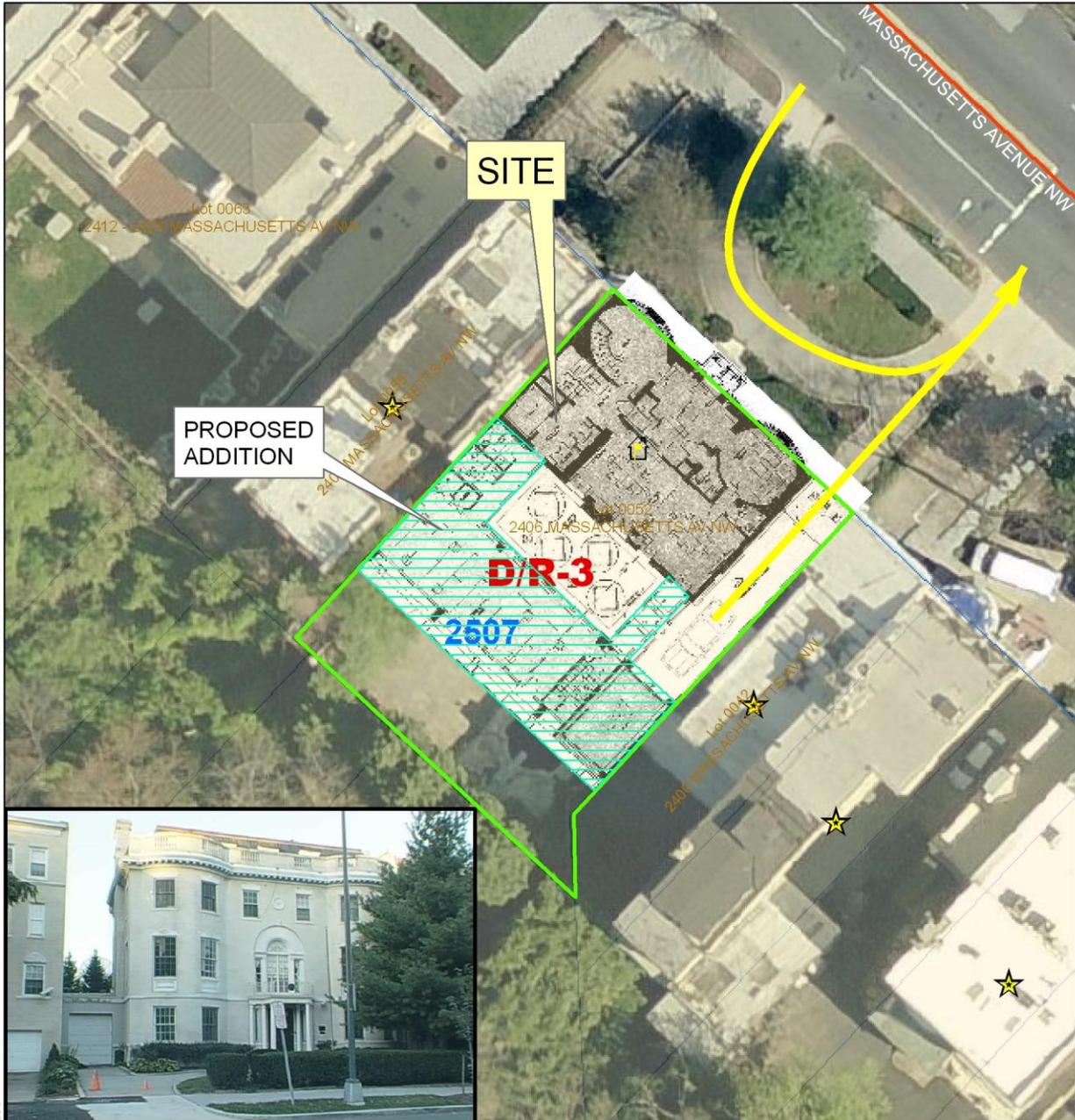
## **V. COMMUNITY COMMENTS**

This proposal was forwarded to Advisory Neighborhood Commission (ANC) 2D for its consideration. To date no adopted ANC resolution on this case has been added to the case file.

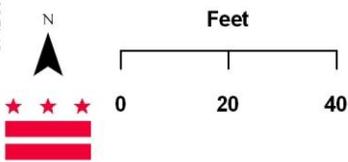
Case Manager: Arthur Jackson

Attachment: Exhibit 1 Aerial Map with Zoning

JS/afj



OPID00102156



BZA Application No. 18136  
2406 Massachusetts Ave NW

Office of Planning ~ October 13, 2010

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate. Oblique imagery © Pictometry International

**LEGEND**

-  Chancery (Office)
-  Ambassador Residences
-  Street Centerlines
-  Parks