

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15494 of 1024 Wisconsin Avenue Associates, on behalf of the Royal Embassy of Thailand, pursuant to 11 DCMR 1000 to locate a chancery in excess of the permitted 1.0 floor area ratio requirements (Sub-section 931.1) in a W-1 District at premises 1024 Wisconsin Avenue, N.W., (Square 1188, Lot 836).

HEARING DATES: May 15 and June 5, 1991
DECISION DATE: July 10, 1991

INTRODUCTION:

This application was filed by 1024 Wisconsin Avenue Associates on behalf of the Royal Thai Government, pursuant to Section 206 of the Foreign Missions Act (Title 11, Public Law 97-241, 96 Stat. 286, August 24, 1982) to locate its chancery in a W-1 District at premises 1024 Wisconsin Avenue, N.W., (Square 1188, Lot 836). The application was considered by the Board in accordance with Section 206 of the Foreign Missions Act. The public hearing was conducted as a rulemaking proceeding under Chapter 33 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment.

APPLICATION:

The application is to exceed by 0.52 FAR the floor area ratio standards for chancery use. The subject site is located in a W-1 District between K Street and M Street on the west side of Wisconsin Avenue in Georgetown. The site contains approximately 18,517 square feet of land area, and is part of a larger zoning lot that contains 23,916 square feet. The site is improved with a five-story mixed use commercial/residential building containing approximately 39,862 square feet of gross floor area (1.66 FAR). The building contains forty-six (46) full size parking spaces in two underground levels. There are twenty (20) residential units, all of which are vacant. The Royal Thai Government has entered into a contract to purchase the property for use as a chancery, consolidating many of its existing chancery functions at the site. At the present time, the Royal Thai Government chancery and related functions are located in several separate locations throughout the District of Columbia. It is anticipated that the number of employees at the site will be 78 and that the normal hours of operation will be from 9:00 A.M. to 5:00 P.M., Monday through Friday. Approximately 30 persons would visit the facility during an average business day.

The area surrounding the subject site is developed with a mixture of residential, retail and office uses in the W-1 zone

district. A chancery is a permitted use in the W-1 District and is within the area described in Section 206(b)(1) of the Foreign Missions Act.

FOREIGN MISSIONS ACT CRITERIA:

A chancery is a permitted use in the W-1 District pursuant to Sub-section 901.1(s) of the Zoning Regulations. In addition, Section 206(b) of the Foreign Missions Act provides that a chancery is permitted as a matter-of-right in any waterfront zone. Board review is required in this case because the application proposes to exceed the FAR limit.

In considering the subject application, the determination of the Board is based solely on the specific criteria set forth in Section 206(d) of the Foreign Missions Act and Section 1001 of the Zoning Regulations as follows:

1. **Sub-section 1001.2:** The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.
2. **Sub-section 1001.3 and 1001.4:** Historic preservation as determined by the Board in carrying out this section; and in order 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.
3. **Sub-section 1001.5:** 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.
4. **Sub-section 1001.6:** 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.
5. **Sub-section 1001.7:** The municipal interest, as determined by the Mayor.
6. **Sub-section 1001.8:** The Federal interest, as determined by the Secretary of State.

EVALUATION:

With respect to the above-numbered criteria set forth in the Foreign Missions Act, the Board states the following:

1. **The International Obligation of the United States:** By letter dated April 3, 1991, and by testimony at the public hearing, the Director of the Office of Foreign Missions, pursuant to a delegation from the Secretary of State, determined that the international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital will be met by the approval of this application. Specifically, the Director has stated that "... favorable BZA action on the present application would fulfill the international obligation of the United States to facilitate the acquisition of adequate and secure premises by the Government of Thailand for its diplomatic mission in Washington."
2. **Historic Preservation:** The building was constructed in 1990. Being located within the Georgetown Historic District, the building's design was originally reviewed by the Commission of Fine Arts under the Old Georgetown Act and was subsequently approved. The only new construction contemplated by the applicant is the installation of a new flagpole at the Wisconsin Avenue entrance and interior construction with exterior egress doors as may be required. No other exterior alteration to the building is contemplated by the subject application.
3. **Parking and Transportation:** The applicant has provided forty-six (46) full size garage spaces, which more than satisfies the 21 spaces that would otherwise have been required under Section 2101.1 of the Zoning Regulations for the chancery in a W-1 zone. The Royal Thai Government estimates that approximately fifty-nine (59) cars will be driven by employees to the site on a daily basis. Because the Royal Thai Government will have exclusive use of the garage, a stacked parking arrangement will be instituted which will enable the applicant to accommodate a minimum of sixty (60) vehicles in the garage to ensure adequate parking availability for employees who drive to the site. The subject site is well served by public transportation -- ten Metrobuses pass through the intersection of M Street and Wisconsin Avenue. The Foggy Bottom/GWU Metrorail Station is located some distance to the east of the site along M Street and Pennsylvania Avenue, N.W., but could conceivably be used for transportation purposes and

subsequent access to the site. In addition, there are ten privately owned parking facilities which are accessible within two blocks of the site,

4. **Protection:** The Office of Foreign Missions has determined that the area is capable of being adequately protected, and that no special security requirements exist beyond those applicable to all facilities of foreign missions in the District of Columbia.
5. **The Municipal Interest:** The Director of the Office of Planning (OP), the delegated representative of the Mayor, by memorandum dated May 9, 1991, stated his opinion that approval is not inconsistent with the criteria for approval specified in Section 206(d) of the Foreign Missions Act. The OP was further of the opinion that the location and operation of the chancery would not create any objectionable impacts on the traffic and parking conditions in the general vicinity and would continue to be sensitive to the historic district in which it is located. Notwithstanding these findings, the OP recommended denial of the application, and stated, "The implications of eliminating residential space and converting it to commercial use in this relatively fragile mixed use area . . . should be further considered and evaluated."

The W-1 District permits matter-of-right low density residential, commercial, and certain light industrial development in waterfront areas to a maximum height of 40 feet, a maximum floor area ratio (FAR) of 2.5 for residential and 1.0 for other permitted uses, and a maximum lot occupancy of 80 percent for residential areas. Relative to the subject application, a chancery is a matter-of-right use in a W-1 District (Subsection 901.1(s) of 11 DCMR).

The existing mixed use office/residential building is proposed to be used as a chancery with a commercial (office) FAR of 1.52. This translates into an excess of .52 FAR for office use on the subject site. Accordingly, zoning relief is being sought for the application to allow an increase in the permitted commercial FAR in a W-1 District.

Based upon the evidence and testimony of record, the Board finds that the municipal interest is adequately addressed. The applicant's witnesses presented evidence and testimony demonstrating that the area surrounding the subject site is characterized by a mixture of residential and nonresidential uses. The Board finds that the

Waterfront Zoning Regulations are intended to encourage diversity of compatible land uses, and that the matter-of-right uses in the "W" zone include: office, retail, residential, private club, rooming and boarding house, multiple dwellings and hotel uses, among others. Uses permitted in the "W" zone by special exception included: hospitals and clinics, utilities, bowling alleys, manufacturing and processing establishments, warehouses, and other such uses. The Board finds that, pursuant to the FAR provisions in Section 931.4, 1.0 FAR of the building can be devoted to nonresidential use, and the additional 0.66 FAR in the building could be devoted to non-dwelling use as a matter-of-right, without any need for review.

Based upon the evidence and testimony, the Board also finds that the area bounded by Wisconsin Avenue, Grace Street, 33rd Street and K Street contains 220 residential units. The predominant use along Wisconsin Avenue is office and retail use. The evidence indicates that there are few, if any, residences in the buildings along Wisconsin Avenue. Instead, the residential uses are focused on the side streets, off Wisconsin Avenue. The Board finds that the use of 0.52 FAR for chancery use in the building represents a change of 0.05 FAR in this area. Residential use is the predominant land use in this area, and will remain as such, after approval of this application.

The Board finds that this application is similar in nature to BZA Application No. 14794 of the Embassy of Spain. In both cases, the application requested permission to use a portion of the residential FAR for chancery purposes. In the instant case, as in the earlier case, the existing building contains one of the few residential components along this section of Wisconsin Avenue. Most of the buildings along the avenue in this area are devoted to office or retail activities. Similarly, in the instant case, as in the earlier case, if relief is not granted, some but not all of the operation would locate elsewhere. If so, then the requirement for close interaction between them, with the offices would result in travel between and among the offices would result in travel between them, with the added burden of traffic and parking in both locations. Also, in the instant case, as in the earlier case, the chancery use is compatible with other nonresidential uses along the Avenue.

The subject application is compatible with the intent of the Zoning Commission in adopting the regulations

pertaining to chanceries. The proposal is also compatible in the surrounding area in terms of the building's overall design, the provisions of adequate on-site parking facilities, its general location, and the continued sensitivity to the historic district in which the building is located.

It should be noted that in the original application, the applicant was seeking to use the entire building for chancery purposes. However, in response to the concerns expressed by the Office of Planning, the Royal Thai Government agreed to maintain five of the units as residential units.

The Board finds that the deviation of .52 excess commercial FAR required in this case will not be a detriment to the neighborhood or to the intent, purpose or integrity of the zone plan.

The Board appreciates and commends the Royal Thai Government for its willingness to establish a liaison officer who will be responsible for addressing neighborhood and municipal concerns.

6. **Federal Interest:** By letter dated April 3, 1991 and by testimony at the public hearing, the Office of Foreign Missions has determined that approval of the application would serve the Federal Interest and is consistent with the Foreign Missions and International Organization Element of the Comprehensive Plan. An effective policy of reciprocity is a fundamental component of the foreign relations of the United States. The United States maintains a very large and important diplomatic presence in Thailand. In his letter, the Director stated that "The United States Government has substantial land holdings in Thailand for its diplomatic mission and intends to construct a new chancery in Bangkok in the near future. The Department of State has received full cooperation from the Government of Thailand . . ."

ADVISORY NEIGHBORHOOD COMMISSION:

Advisory Neighborhood Commission (ANC) 2E submitted a written report dated May 7, 1991. The ANC considered this application at its May 1, 1991 meeting. The ANC voted to oppose the application six to zero and adopted the following resolution:

ANC 2E, having reviewed the above-referenced proposal to locate the Chancery of the Royal Embassy of Thailand at 1024 Wisconsin Avenue, N.W., located in a W-1 zone, at its regularly

scheduled Commission Community meeting on May 1, 1991, voted to oppose the above-referenced proposal on the following grounds:

1. the property is not unique;
2. there would be no practical difficulties or undue hardship for the property owner as a result of maintaining the W-1 zoning restrictions;
3. should relief be granted there would be substantial detriment to the public good for the following reasons:
 - a. vehicular traffic would be transient and cause greater congestion than traffic in a building complying with W-1 zoning on already overcrowded Wisconsin Avenue;
 - b. the parking would not be adequate for the increased transient traffic and, in fact, four parking spaces would be taken from the streets due to diplomatic needs; and,
 - c. the political nature of the ownership of the building would leave the neighborhood susceptible to political protests, picketing and security hazards.
4. should relief be granted there would be substantial impairment of the intent, purpose and integrity of the zone plan because it changes the residential character of the neighborhood. The neighborhood was designated as W-1 for the very purpose of maintaining residences in an already commercialized waterfront district;
5. the U.S.'s obligation to facilitate the provision of adequate and secure facilities for foreign missions in D.C. is already met in many other areas of the city where embassies are already located. The Royal Thailand government could consider locating in those areas;
6. while the building itself is not historic, the greater interests of locating a political type of building in a nationally landmarked historic district should be considered; and
7. the municipal interest is not served since the non-paying nature of the foreign government takes away from Georgetown's tax use upon which many of our city services are based.

In addressing the concerns expressed by the ANC, the Board

notes that in considering the application, it must apply the criteria set forth in Section 206(d) of the Foreign Missions Act. Thus, the assertions by the ANC that the property is not unique and there would be no practical difficulties or undue hardship for the property owner are not relevant and will not be considered by the Board in determining this application. The variance test does not apply in chancery applications under Chapter 10.

Additionally, the Board notes that this is in part a philosophical opposition on the part of the ANC against locating any chanceries in Georgetown and is not based entirely on the details of this particular application. With respect to vehicular traffic and parking, the Board agrees with the Office of Planning and the Department of Public Works that the proposed chancery use will not create an objectionable impact on traffic and parking in the neighborhood. The Board further agrees with the Department of Public Work's assessment that the location of the Thailand chancery at this site would generate about the same or less volume of traffic as the original intended use of the structure.

With respect to the fact that the building is located in the historic district of Georgetown, the Board notes that the Foreign Missions and International Organizations Element of the Comprehensive Plan states that Foreign Missions should give preference to locations on special streets or places in historic districts or historic landmarks.

The Board does not find that there would be substantial impairment of the intent, purpose and integrity of the zone plan by the granting of this application. The W-1 zone is not solely a residential zone; it is a mixed zone. Historically, the waterfront area in Georgetown was an industrial commercial zone. While residential development is now encouraged in the W-1 zone, the Board notes that of the 20 residential units in the building, five (or 25%) are going to remain residential. All of the residential units in the building are vacant. Thus, the location of the chancery will have a very small effect on the quantity of useful residential property in the area.

In addition to the issues raised by the ANC, there were two other matters raised in opposition to the application: (1) the existence of easements which affect the suitability of the subject site; and 2) the alleged violation of the building code regarding the location of windows on the lot line. The Board finds that the easements in existence do not create any special security requirements and do not affect the suitability of the site for chancery purposes. As the Department of State has pointed out, many buildings in urban areas are subject to utility and other easements, and these have never created problems for chanceries or their neighbors in the past.

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The Board has received the June 21, 1991 letter which was signed by Mr. Ahmet Ozusta, Chief of the Structural Engineering Section of the Department of Consumer and Regulatory Affairs, regarding the windows located in the north wall, and the Board concludes that the building as constructed does not violate the building code.

DECISION:

On the basis of the record before it and the criteria of the Foreign Missions Act and Section 1001 of the Zoning Regulations, the Board determines that the standards of the Foreign Missions Act and Zoning Regulations have been met by this application. Accordingly, it is hereby **ORDERED** that this application is **APPROVED**.

VOTE: 3-0 (Reginald Griffith, Charles R. Norris and Paula L. Jewell to approve, John G. Parsons and Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY:



EDWARD L. CURRY
Executive Director

AUG 9 1991

FINAL DATE OF ORDER: _____

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15494ord/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION/APPEAL NO. 15494

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this application/appeal dated AUG 9 1991 has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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A handwritten signature in black ink, appearing to read "E. Curry", written over a horizontal line.

EDWARD L. CURRY
Executive Director

DATE: AUG 9 1991