

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15841 of the Government of the Republic of Italy, pursuant to 11 DCMR 1001, for permission under Section 1002 to construct a chancery in a D/R-1-A District at premises 3000 Whitehaven Street, N.W. (Square 2155, Lots 803 and 808).

HEARING DATE: October 20, 1993

DECISION DATE: October 20, 1993 (Bench Decision)

INTRODUCTION:

The application was filed by the Government of the Republic of Italy pursuant to Section 206 of the Foreign Missions Act (Title 11, Public Law 97-241, 96 Stat. 286, August 24, 1982) to construct a chancery in the D/R-1-A District at 3000 Whitehaven Street, N.W. (Square 2155, Lots 803 and 808). 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 Applicant is seeking to construct a new chancery for the Republic of Italy on a vacant site at 3000 Whitehaven Street, N.W. The building will contain approximately 81,513 square feet of gross floor area. The site is located on the southwest corner of Massachusetts Avenue and Whitehaven Street and contains 214,131 square feet of land area (4.9 acres). The site has been owned by the Republic of Italy for approximately 20 years.

Directly across Whitehaven Street from the site are the Embassy and Chancery of Brazil, and directly to the west is the Center for Hellenic Studies. Other chancery facilities in the immediate area include Denmark, Bolivia, Great Britain, New Zealand, South Africa, Saudi Arabia, and the former Iranian Chancery and Embassy, now occupied by the Department of State.

The Italian government purchased the site in the early 1970s with the intention of constructing a new chancery and embassy. A planned unit development (PUD) application, with a related change in zoning from R-1-A to R-5-C, was filed with the Zoning Commission in 1973 to allow the construction of a building of 92,221 square feet of gross floor area, covering up to 40 percent of the site, and up to four stories in height. Zoning Commission final approval for the PUD and rezoning was granted in 1974 in Order No. 91. At that time, PUDs were required to be "further processed" by the Board. No such application was filed, and the PUD and rezoning approvals lapsed.

The Republic of Italy is now proposing the construction of a new chancery building on the site, to replace its existing chancery at 1601 Fuller Street, N.W. which it has occupied for over 70 years. The process was begun in 1992 with an invitational design competition among ten of the most preeminent Italian architectural firms. In 1992, prior to the competition, the Italian Embassy's local architects and attorneys met with representatives of the surrounding ANCs, as well as representatives of several local and federal government agencies, identifying issues of concern. The competitors also visited the site and the city, and received extensive briefing information from the architectural firm of Leo A. Daly, Inc., architects and engineers of record for the project.

The winning design, submitted by the Italian firm of Piero Sartogo Architetti Associati, is based upon conceptual design features characteristic of Tuscan villas of the Renaissance era. The building will be located on the most level portion of the site, with approximately 40 percent of the property remaining undisturbed in its natural state. The permitted lot occupancy is 40 percent and the building contains 81,513 square feet of gross floor area (0.38 FAR), with a 10.48 percent lot occupancy. The building height measures 59 feet, eight inches from Whitehaven Street to the highest point of the roof (as permitted by 11 DCMR Section 400.9). There is no penthouse or other roof structure on top of the building. The building is similar in height to a number of other structures in the area, including the Brazilian Embassy, Brazilian Chancery, British Embassy and others.

The building is significantly set back from all lot lines. The north corner of the building will be 80 feet south of the curb along Whitehaven Street. The northeast face of the building is parallel to Massachusetts Avenue, and set back 270 feet from the curb on Massachusetts Avenue. Vehicular access to and from the site is located on Whitehaven Street. All parking will be provided in an underground garage with 170 spaces, with additional short-term visitor parking for 15 vehicles. There is one 30-foot deep loading berth, and a 12-foot by 20-foot service delivery loading space.

The site will be extensively landscaped to maintain the character of the neighborhood and the area. Willow oaks will be planted 40 feet on center along the street frontage in accordance with DPW streetscape guidelines. In addition, the perimeter fencing will be screened by hedges along the street frontage. The applicant has coordinated the landscape and fencing plan with the National Park Service to provide appropriate plantings around the site consistent with the indigenous species found in Rock Creek Park. The site will be landscaped with a combination of

evergreens and deciduous trees to enhance the appearance of the chancery, and to provide appropriate buffering during both summer and winter.

A highway plan street known as Rock Creek Drive crosses the southeast portion of the site. This highway plan street is not a dedicated right-of-way, but rather is within the ownership of the Republic of Italy. Within the boundaries of that highway plan street is a 12-foot wide pedestrian easement known as Lover's Lane. The landscaping and fencing plan proposed by the Embassy will not interfere with the public easement over this portion of the property.

The total number of diplomats and staff to be located at the chancery will be approximately 125, with a total of approximately 100 on site at any one time. There is no plan to substantially increase the number of diplomats or staff in the future. The chancery currently has a maximum of approximately 30 visitors per day during the summer months for visas, passport renewals, etc. during the hours of 10:00 a.m. to 12:30 p.m. The visitation rate during the winter months is approximately one half that number. Other visitors to the Embassy for diplomatic or consular business typically number about 20 per day. The Embassy also typically receives one Federal Express delivery and two postal deliveries per day, plus a bi-weekly diplomatic pouch. Office supplies are typically delivered once per week.

The Embassy and its representatives have reviewed the application in a number of meetings with the immediate neighbors along Whitehaven Street and Massachusetts Avenue, and also with the Office of Planning, the Department of Public Works, the National Park Service, the Zoning Administrator, and the Commission of Fine Arts. Several meetings were also held with the three adjacent ANCs. The site is located in the northeast corner of ANC 2E, and is adjacent to ANC 3C and ANC 1D. A number of issues had been identified in these various agency and community meetings, and have been addressed in the plans before this Board.

A chancery in the D/R-1-A zone is a permitted use, subject to the Board's disapproval after review based upon the six criteria enumerated in Section 206(d) of the Foreign Missions Act and Section 1001 of the Zoning Regulations.

FOREIGN MISSIONS ACT CRITERIA:

A chancery is a permitted use in a Diplomatic (D) District subject to disapproval by the Board based solely on the criteria of Section 206(d) of the Foreign Missions Act and Section 1001 of the Zoning Regulations. In making its decision, the Board must consider the following criteria under the Zoning Regulations:

1. Section 206(d)(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.
2. Section 206(d)(2). Historic preservation, as determined by the Board in carrying out this section; and in order to ensure compatibility with historic landmarks and 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. Section 206(d)(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 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. Section 206(d)(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.
5. Section 206(d)(5). The municipal interest, as determined by the Mayor.
6. Section 206(d)(6). The federal interest, as determined by the Secretary of State.

EVALUATION:

With respect to the six criteria identified in the Foreign Missions Act and 11 DCMR 1001, the Board states the following:

1. **The International Obligation of the United States.** By letter dated September 16, 1993, and by testimony at the public hearing, the Director of the Office of Foreign Missions, on behalf of the Secretary of State, determined that favorable Board action on the present application would fulfill the international obligation of the United States to facilitate the provision of adequate and secure facilities for the Embassy of Italy for its diplomatic mission in Washington.
2. **Historic Preservation.** The subject site is not a historic landmark, nor is it located in any historic district. By memorandum dated July 8, 1993, the Chief of

the Historic Preservation Division has confirmed that the project is not within the jurisdiction of the Historic Preservation Review Board or the Mayor's Agent, and that it is not within the Old Georgetown Historic District.

The project has been reviewed by the Commission of Fine Arts, pursuant to the Shipstead-Luce Act, and was approved in concept by memorandum dated October 4, 1993. Although not a historic preservation law, the criteria for review by the Commission under the Shipstead-Luce Act are identical to the criteria under the Old Georgetown Act. Under both laws, the Commission reviews the "height, appearance, color and texture of the materials of exterior construction." Review under the Old Georgetown Act is limited only to that portion of the construction that "is subject to public view from a public highway." Therefore, the Board finds that notwithstanding the lack of historic status of the property, the site has been reviewed and approved under the historic preservation criteria of the Fine Arts Commission.

3. **Parking and Transportation.** The building has been designed to provide sufficient below-grade parking to accommodate the present and long-term future needs of the Chancery. Approximately 80 percent of the Chancery diplomats and staff currently drive to work, and that number is expected to continue at the new location. The Chancery currently includes approximately 125 diplomats and staff, with approximately 100 on site at any one time. Due to the occasional overlap of shifts and the various different arrival and departure times, the garage has been designed with 170 parking spaces, which the Board finds to be sufficient for all employees. The Board finds that this garage will also be able to handle the long-term future parking needs of the Chancery, as well as to accommodate parking for occasional functions which are open to invited guests. If necessary, valet parking can be used to accommodate up to approximately 230 vehicles in the garage. There will also be 15 additional parking spaces in the garage to accommodate short term temporary parking for visitors during the day. The provision of these parking spaces will ensure that the Embassy of Italy will be able to accommodate the needs of its staff and visitors on-site.

The site is also well-served by public transportation. There are five bus lines along Massachusetts Avenue, providing service to and from the Dupont Circle Metrorail station to the east, and northwest Washington and suburban Maryland to the north and west of the site.

By letter dated September 16, 1993, and by testimony at the public hearing, the Director of the Office of Foreign Missions, on behalf of the Secretary of State, has determined that there are no special security requirements related to parking in this case.

On the basis of the foregoing, the Board finds that the property has sufficient parking, and is adequately served by public transportation sufficient to serve the chancery's needs.

4. **Protection.** By letter dated September 16, 1993, and by testimony at the public hearing, the Director of the Office of Foreign Missions, on behalf of the Secretary of State, has indicated that after consultation with federal agencies authorized to perform protective services, that no special security requirements exist, and that the site and the area are capable of being adequately protected.
5. **The Municipal Interest.** The Director of the Office of Planning (OP), the delegated representative of the Mayor, by memorandum dated October 12, 1993, and by testimony at the public hearing, recommended approval of the application. OP reviewed the application and stated its opinion that approval is not inconsistent with the criteria for approval specified in Section 206(d) of the Foreign Missions Act. The location and operation of the proposed chancery are not expected to generate objectionable impacts relative to traffic and parking conditions in the general vicinity and will be sensitive to surrounding properties in terms of significant landscaping and buffering. In addition, the proposed use of the property is not expected to create negative impacts in the area because of its general level and type of activity.

Letters of support were also submitted by the Metropolitan Police Department and the D.C. Fire Department. The OP representative testified that DPW has indicated orally to OP that DPW has no objection to the application. Letters of support or no opposition were filed by six residential neighbors on Whitehaven Street, N.W. There were no letters or testimony filed in opposition to the application.

By testimony at the public hearing, a representative of "Friends of Montrose Park" expressed concern about the maintenance of the public easement across Lover's Lane, as well as a need to address storm sewer run-off into the adjacent park land. The Board believes that the testimony and evidence of record in this case submitted

by the applicant adequately addresses these issues. The pedestrian easement for Lover's Lane is already a public easement, and the fence surrounding the new chancery will be approximately 80 to 100 feet from Lover's Lane. The issue of storm water run-off is typically addressed during the building permit process. The applicant's architect testified that the proposed storm water run-off system will exceed D.C. standards.

6. **The Federal Interest.** By letter dated September 16, 1993, the Director of the Office of Foreign Missions, on behalf of the Secretary of State, has determined that approval of the application would fulfill the international obligation of the United States to provide adequate and secure facilities for foreign missions in the Nation's Capital. The U.S. Government has substantial property holdings in Italy for the use of its diplomatic mission and has enjoyed the support and cooperation of the Italian Government over the years in the management and disposition of its real estate interests.

Pursuant to the Shipstead-Luce Act, the "height and appearance, color, and texture of the materials of exterior construction" of the project are subject to review by the Commission of Fine Arts (CFA), because of the location of the site adjacent to Rock Creek Park. The project was presented to CFA in July and September of this year, and CFA members visited the site on several occasions. After a thorough review of the project, CFA voted on September 23, 1993 to recommend conceptual approval of the application.

The applicant's architects and attorneys have also discussed the project with the National Park Service (NPS), and have coordinated the landscaping and appearance to blend harmoniously with the adjacent park system. Approximately 40 percent of the site area will remain undisturbed, and the Italian government has agreed to enter into a binding agreement with NPS, the details of which are yet to be finalized. This agreement is to insure an adequate buffer between the construction area and the parkland. The NPS and the applicant have agreed to seek the elimination of Rock Creek Drive from the highway plan, to insure that it is not opened in the future as a public street. In addition, the applicant has agreed to review the interior and exterior lighting plan for the project with the CFA, in order to insure compatibility of the project with the adjacent parkland. By testimony at the public hearing, a representative of NPS expressed no opposition by that agency to the project.

ADVISORY NEIGHBORHOOD COMMISSION:

Advisory Neighborhood Commission (ANC) 1D submitted a written report dated October 13, 1993 expressing no objections to the proposed new construction of a chancery at Massachusetts Avenue and Whitehaven Street. Representatives of ANC-2E and ANC-3C orally requested permission through the Board's staff to submit late reports expressing no opposition to the application. Neither representative was present at the public hearing to request that the record be left open for the acceptance of these reports, nor was any reason given for a waiver of the rules to allow this to occur. However, the Board determined to leave the record open to accept the reports.

Advisory Neighborhood Commission (ANC) 3C by letter dated October 20, 1993 and received into the record on October 22, 1993 approved a resolution not objecting to the proposed application. Advisory Neighborhood Commission (ANC) 2E by letter dated October 19, 1993 and received by the Board on October 22, 1993 requested a waiver of the Board's Rules to accept the ANC report. ANC-2E voted not to oppose the application.

DECISION:

On the basis of the record before it, and the criteria of Chapter 10 of the Zoning Regulations, the Board has determined that the standards of the Zoning Regulations have been met by this application. The Board has accorded to ANC 1D the "great weight" to which it is entitled. Accordingly, it is hereby **ORDERED** that the application is **GRANTED**, in accordance with the plans marked as Exhibit No. 34 of the record, subject to the following **CONDITIONS**:

1. That a binding agreement between the National Park Service and the applicant to preserve an appropriate buffer between the new chancery building and the parkland be recorded in the land records prior to issuance of a certificate of occupancy for the new building.
2. The applicant shall have flexibility with respect to the following items:
 - A. Flexibility to add one additional security apartment adjacent to the apartment shown on Sheet No. 7 of Exhibit No. 34.
 - B. Flexibility in the final location of interior partition walls.

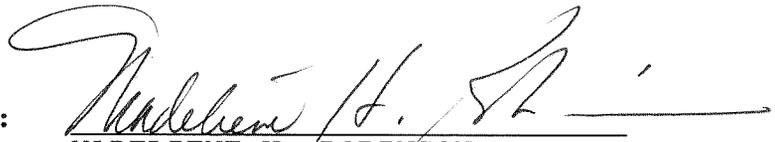
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C. Landscaping, easement and fence detail are subject to final coordination with the National Park Service.

VOTE: 3-0 (John G. Parsons, Angel F. Clarens and Robert Gresham to approve).

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

Attested by:



MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: NOV 26 1993

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 & REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15841

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 26 1998 a copy of the order entered on that date in this matter was 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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DATE: NOV 26 1998