

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

MEMORANDUM

TO: D C Zoning Commission
FROM: JSB
Ellen McCarthy
Director
DATE: July 14, 2006
SUBJECT: Chancery Use, Mixed Use Diplomatic (D) Overlay Zone and
ZC Case No. 04-21

ZONING COMMISSION
District of Columbia
CASE NO. 04-21
EXHIBIT NO. 26

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BACKGROUND

During the Zoning Commission meeting on October 17, 2005, the Office of Planning (OP) presented its preliminary report in support of scheduling case number 04-21, a petition filed by Sheridan-Kalorama Neighborhood Council for public hearing. The petition sought to remove certain properties from the Mixed Use Diplomatic (D) Overlay Zone. The Overlay was created to implement section 206 (b) (2) (B), D.C. Official Code § 1306 (b) (2) (B) (2001), of the Foreign Missions Act (FMA). That subsection allows chanceries to be located in suitable R-1 through R-5-C properties¹ "determined on the basis of existing uses, which includes office or institutional uses" subject to the disapproval of the Board of Zoning Adjustment². Thus there are two inquiries for R-1 through R-5-C properties: (1) is the location general suitable, and (2) should the specific chancery use be "not disapproved?" Properties in the D Overlay have already gone through the first inquiry through a map amendment proceeding and are

¹ The Foreign Missions Act does not actually reference these zone districts, but refers to "any other area", meaning any other area not already dealt with. The immediately preceding subsections allow chanceries as a matter of right "in any area which is zoned commercial, industrial, waterfront, or mixed-use (CR)" and also allow chanceries subject to BZA disapproval in "any area which is zoned medium-high or high density residential" (i.e. R-5-E and R-5-D). Although SP zone districts are not included in these two provisions, the Zoning Commission has interpreted the FMA as also making all SP properties eligible for chancery locations subject to the BZA's review. These subsections therefore resolved location issues in all areas other than those zoned R-1 through R-5-C, so that it is properties in those districts for which a threshold finding of suitability must be made "determined on the basis of existing uses."

² The composition of the BZA may change slightly when it considers applications filed pursuant to the FMA, in that the NCPC representative must be its Executive Director and the Zoning Commission representative must be the Commissioner representing the National Park Service. Although traditionally referred to as the Foreign Missions Board of Zoning Adjustment, Congress created no such entity and this report will not refer to the BZA by that moniker.

therefore eligible candidates for the location of a specific chancery use that must be not disapproved by the BZA.

When the Commission initially mapped the D Overlay, it decided that squares should be the unit of measurement for determining the mix of existing residential and non-residential uses and that the occupation of 1/3 or more of a square's land area with office or institutional uses warrants its inclusion within the Overlay. The Commission never adopted a rule establishing this "1/3 -2/3 methodology" as the means by which future D Overlay mapping decisions would be made

Nevertheless, the petitioner assumed this to be the case and is requesting the removal of properties from the Overlay that it claims no longer meet the 1/3 threshold for office and institutional uses. In arriving at this conclusion, the petitioner utilized unpublished rules of interpretation that would apply District-wide if accepted by the Commission.

At the conclusion of the OP presentation, the Commission decided that it should first consider. (1) whether the 1/3-2/3 methodology is an appropriate means to determine whether properties should be included or removed from the Overlay, and (2) if so, what rules of interpretation should be applied to derive the percentage OP was asked to return with its written recommendations.

In looking at this issue, the Office of Planning decided to revisit the question of which forum – the Zoning Commission or the BZA-- should make the threshold determination of whether a particular property in the relevant zone districts is suitable for the location of a chancery. If the BZA were to do so, the determination would be the initial inquiry of every chancery application filed for properties in an R-1 through R-5-C zone. In other words, a foreign mission considering a location in those areas would no longer be limited to properties in the D Overlay, but could apply to locate a chancery on any property for which it could demonstrate that that 1/3 or more of its square's land area was occupied by office or institutional uses (or whatever methodology the Commission decides should be used).

RECOMMENDATION

The Office of Planning recommends that the Zoning Commission set down the text amendments proposed by this report. The amendments would repeal the D Overlay, and authorize the BZA to determine, as part of its review of a chancery application for a property located in an R-1 through R-5-C zone, whether the location is generally suitable for a chancery use based upon a modified 1/3-2/3 methodology as further described herein. In the alternative, the Commission could retain the D Overlay, but use the modified terminology to determine whether to add or remove a particular area from the Overlay. In either case, it would be premature to decide the original petition filed until the Commission decides whether to retain, modify, or leave the D Overlay in place.

The proposed text amendment would also make refinements to the BZA chancery review process and confirm the conforming status of chanceries lawfully established before the FMA became effective or before the D Overlay was repealed

ANALYSIS

This addendum will first describe a modified methodology for determining which R-1 through R-5-C properties should be eligible for the BZA chancery review process and then discuss OP's proposal for shifting the process for making the decision from a map amendment proceeding conducted by the Zoning Commission to a preliminary finding made by the BZA as part of its review of a foreign mission's application to locate a chancery on a specific piece of property located in these residence districts

Proposed Modified Methodology

As noted in OP's Preliminary Report, the current 1/3-2/3 methodology for determining the suitability of a location is an outgrowth of the 1984 study approved by the National Capital Planning Commission (NCPC) Task Force on Foreign Missions entitled "Criteria and Methodology for Site Selection for the Creation of Chancery Centers by Federal Agencies on Federal Properties in the District of Columbia." This report outlined procedures and criteria for further determination of allowable chancery locations within low to medium density residential zone districts in light of the 1982 Foreign Missions Act (FMA) based, in part, on an interpretation of what constituted "office and institutional uses in an area." For the purposes of this study, it was decided that.

- "area" was a city block (or "square" in the District of Columbia);
- "institutional use" was defined as a subset of all institutional uses³; and
- a minimum one-third of a square's land area must be occupied by non-residential uses, including office and institutional uses, for the introduction of a Foreign Mission chancery use

The Zoning Commission largely concurred and adopted this methodology when it initially mapped the D Overlay although it has not been codified. OP also observed in its report that the cumulative acreage of chancery uses that predate the FMA, and that were approved by the Board of Zoning Adjustment (BZA) since adoption of the FMA, increased the institutional acreage to more than 1/3 of the land area on at least one square. This allowed subsequent BZA consideration and approval of chancery uses along abutting *neighborhood streets*⁴

In light of the recent Commission guidance, the Office of Planning proposes to incorporate a modified 1/3-2/3 methodology. The most critical aspect of this modified

³ The following definition has been used for the purposes of 1/3-2/3 analyses. "Non-residential use (other than retail and personal service establishments, offices, and industrial uses) such as colleges and universities; museums, non-profit art galleries, public libraries, and hospitals, sanitariums, clinics and health care facilities for more than 16 persons, but not including churches or other places of worship, preschools, kindergartens, and elementary or secondary schools, police and fire stations, utilities, community centers, cemeteries, playgrounds and outdoor swimming pools, athletic fields, or other outdoor facilities."

⁴ BZA Application No. 16620 approved December 2000 for the Republic of Azerbaijan Chancery on Square 2122

approach are proposed new definitions of “office” and “institution.” The Sheridan-Kalorama petition raised some incisive questions as to what is considered an institutional use and how vacant properties should be treated. The new definitions of “office” and “institution” are proposed to try and help answer these questions.. In addition, the proposed text indicates that all uses requiring special exceptions in residence district are to be considered office or institutional uses and also counts existing chanceries as contributing towards the non-residential percentage. Lastly the text indicates that vacant building should be counted as non-residential uses only if a non-expired certificate of occupancy for such a use exists for the premises.

This modified methodology may be used by the Zoning Commission if it wishes to continue to decide which properties should be included or removed from the D Overlay. However, as will be explained in the next section, the Office of Planning is recommending that this responsibility be shifted to the Board of Zoning Adjustment and consolidated in its review of applications to locate chanceries in the R-1 through R-5-C districts.

Proposed Transfer Of Eligibility Determination

The lots that are the subject of this petition were initially mapped in the D Overlay because more than 1/3 of their square’s land area was occupied by office and institutional uses. Now the petitioner seeks to remove these lots from the Overlay because the percentage is claimed to have dropped below the 1/3 threshold. The Office of Planning does not believe that the eligibility or ineligibility of a particular property for chancery uses should change whenever the percentage of office or institutional uses rises or falls below a particular fraction. The use of a mathematical formula to determine overlay eligibility invites rezoning petitions whenever a post office closes or a private school opens. OP believes that a determination of the suitability of R-1 through R-5-C zoned property for chancery use should be made in conjunction with an actual application to locate a chancery on that property, based upon the proportion of residential to non-residential uses that actually exist at that time.

For this reason, OP proposed the repeal of the D Overlay and that the BZA undertake a two part decision making process for these properties. Under this proposal, the BZA would first determine, based the modified 1/3–2/3 methodology, whether the area is generally suitable for chancery use. If not, it would disapprove the application. However, if the property is found to be generally suitable, the BZA would then apply the six FMA criteria (to be discussed below) to determine whether or not to disapprove the specific chancery use sought by the foreign mission.

Repeal of the D Overlay

If the Commission accepts OP’s recommendation to consolidate the eligibility determination into each BZA chancery proceedings that involves a property zoned R-1 through R-5-C, it should also repeal the D Overlay. The D Overlay only exists to identify locations deemed presumptively eligible for BZA chancery review. The proposed consolidated process would require eligibility to be demonstrated at the time of the Chancery application. Once a chancery location is not disapproved by the BZA, the use

may be freely transferred from one foreign mission to another, as long as no structural changes are made and all BZA operational conditions are complied with. To avoid any uncertainty with respect to chanceries established through BZA orders issued prior to the repeal, the Commission should adopt text that deems such chanceries to be conforming uses that may be expanded or replaced subject to the disapproval of the BZA.

Revisions to § 201.1 (m).

Subsection 201.1 (m) lists chanceries as matter of right uses in R-1 zones, subject to limitations on expansion and replacement, if a chancery use existed on September 22, 1978. The provision also indicates that “after February 23, 1990, the continued use of the chancery shall be limited to the government that lawfully occupied the chancery on that date”. This text could be misconstrued as suggesting that a chancery use that lawfully existed before the establishment of the D Overlay, and not abandoned thereafter, may not be transferred from one foreign mission to another. OP has been advised by the Office of the Attorney General that such an interpretation violates both the Zoning Act, which guarantees that even non-conforming uses may continue, and the most basic tenet of zoning law that uses run with the land and cannot be terminated based upon a change in ownership. OAG believes that § 201.1 (m) was intended to bestow a limited conforming status on chanceries located in R-1 through R-C zones, if those chanceries were established prior to the adoption of the D Overlay, but not mapped within it. The Office of Planning is proposing an amendment to § 201.1 (m) and new text in Chapter 10 that grants this limited conforming status without the problematical language.

Defining Municipal Interest

The FMA sets forth six factors to be used by the BZA when considering the application of a foreign mission to locate, replace, or expand a chancery. These six criteria are.

- 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) Historic preservation, as determined by the (BZA) in carrying out this section;
..
- 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 such special security requirements as may be determined by the Secretary of State ...
- 4) The extent to which the area is capable of being adequately protected, as determined by the Secretary ..
- 5) The municipal interest, as determined by the Mayor of the District of Columbia.
- 6) The Federal interest, as determined by the Secretary.

Factors two through six identify the person or entity responsible for making each determination. The BZA is only responsible for determining the third factor, historic

preservation. As to the remainder, the BZA must accept the determination of Secretary of State with respect to factors 3, 4, and 6, and the Mayor with respect to factor 5, the municipal interest.

The Office of Planning is responsible for determining the municipal interest on behalf of the Mayor. OP has decided to draft new regulatory language to be codified in 10 DCMR 7700 that sets forth the criteria it will consider in making its determination. The proposed criteria are stated in Exhibit 6. OP is requesting that a cross reference to this new provision be included in chapter 10 of the Zoning Regulations so that the public and foreign missions can easily refer to these new criteria.

Concerns Expressed by the Sheridan-Kalorama Neighborhood Council

The proposed text amendments, along with proposed 10 DCMR § 7700, would address several of the concerns highlighted in the Preliminary Report because the following sites would not be considered in the municipal interest:

- Locations along neighborhood streets;
- Squares without institutional or office uses or no institutional or office uses on the same street frontage as the proposed site, and
- Proposed construction significantly lacking in protections provided in the current Zoning Regulations for neighboring properties (i.e., required yard setbacks, FAR and height limits, etc.)

Consistency with the 1982 Foreign Missions Act

OP believes the proposed text amendments are consistent with the FMA:

- The criteria listed in the Foreign Missions Act and currently in Chapter 10 are retained; therefore, BZA decisions about chancery use proposals would continue to weigh the international obligations of the United States, historic preservation concerns, security concerns, the Federal interest and the municipal interest.
- The FMA granted the BZA exclusive original jurisdiction over zoning determinations governing location, replacement and expansion of chancery uses.⁵ These changes reinforce that position.
- Proposed changes to be enacted in Title 10 further enunciate how the municipal interest is determined by the Office of Planning on behalf of the Mayor and do not expand determination criteria specified in the FMA.
- Other changes, such as providing definition for “institution” and “office” uses actually advance the objectives of the FMA and the pending petition.

Other Concerns Expressed by the U.S. Department of State (DOS)

DOS expressed concern that efforts to identify appropriate chancery use locations not result in an obvious reduction of potential location opportunities in light of treaty and Federal requirements. The proposed changes would not reduce the preponderance of areas and locations where chancery uses are allowed as a matter-of-right (refer to

⁵ *Sheridan Kalorama Historical Association vs. Christopher*, C.A.D.C. 1995, 49 F.3d 750, 311 U.S. Court of Appeals D.C. 16

Exhibits 1 and 2) nor prevent foreign missions from proposing other locations. The proposed changes try to implement the requirements of the FMA in a straightforward manner by assigning both its general and the specific inquiries to the BZA to be handled on a case-by-case basis. The associated regulations proposed by OP for Title 10 should assist foreign missions to make informed decisions during the selection of potential chancery use sites (refer to Exhibit 4).

OP is pursuing other strategies to make foreign missions cognizant of the range of potential locations across the District. These strategies include

- Marketing options to educate chancery location decision-makers and real estate professionals about the benefits of locating chancery uses in zone districts where similar office and institutional uses are currently allowed as a matter-of-right,
- Investigating methodologies to make readily-available information explaining the relative utility of preferred chancery use locations in selected residential zone districts along major vehicular corridors, and
- Identifying potential sites for development of new multiple-chancery centers

Progress on these strategies will be provided in the final OP report

CONCLUSION

For the reasons stated above, the Office of Planning believes that the proposed text amendment will add greater consistency and clarity to the process by which foreign missions may locate chanceries in the District of Columbia. It addresses the appropriateness of a specific location and its neighborhood context at the time of application which addresses concerns in the pending petition. The text amendment is consistent with the Zoning Act and the Foreign Missions Act and has been found to be legally sufficient by the Office of the Attorney General for the District of Columbia. OP therefore recommends that it be set down for public hearing.

Attachments	Exhibit 1	Map of Allowable Zone Districts for Chancery Uses
	Exhibit 2	Chancery Uses and Allowable Zone Districts
	Exhibit 3	Bases for Chancery Location Decisions in the District of Columbia Comprehensive Plan
	Exhibit 4	Modified Methodology for Assessing Chancery Use Locations
	Exhibit 5	Proposed Text Amendments to the Zoning Regulations
	Exhibit 6	Proposed Change to §7700 Title 10 Planning and Development

EMc/afj

Chancery Uses and Allowable Zone Districts

ZONE DISTRICT	ACREAGE	%
Zone Districts Where Chancery Uses Generally Not Allowed		
R-1-A	1,845.74	4.21%
R-1-B	6,080.60	13.87%
R-2	2,846.33	6.49%
R-3	1,591.60	3.63%
R-4	3,503.40	7.99%
R-5-A	4,304.65	9.82%
R-5-B	1,284.81	2.93%
R-5-C	38.17	0.09%
SUM	21,495.30	49.02%
Zone Districts Where Chancery Uses Allowed Subject to FMBZA Disapproval		
R-5-D	651.72	1.49%
R-5-E	124.89	0.28%
D OVERLAY	270.07	0.62%
SP-1	82.32	0.19%
SP-2	241.46	0.55%
SUM	1,370.46	3.13%
Zone Districts Where Chancery Uses Allowed As a Matter of Right		
CR	98.20	0.22%
C-1	211.21	0.48%
C-2-A	964.22	2.20%
C-2-B	246.79	0.56%
C-2-C	155.14	0.35%
C-3-A	365.94	0.83%
C-3-B	17.79	0.04%
C-3-C	766.06	1.75%
C-4	336.93	0.77%
C-5	23.27	0.05%
C-M-1	1,072.62	2.45%
C-M-2	234.06	0.53%
C-M-3	253.35	0.58%
M	579.01	1.32%
W-1	87.92	0.20%
W-2	25.70	0.06%
W-3	40.69	0.09%
W-O	5.04	0.01%
SUM	5,483.93	12.51%
Federal land (chancery uses not subject to District Zoning Regulations)		
GOV	11,150.17	25.43%
Other land areas		
RIVER	4,347.27	9.91%
UNKNOWN	3.24	0.01%
SUM	4,350.51	9.92%
GRAND TOTAL	43,850.37	100.00%

Bases for Chancery Location Decisions in the D.C. Comprehensive Plan

101 MAJOR THEMES OF THE COMPREHENSIVE PLAN

101 1 In the process of developing the District elements of the Comprehensive Plan ("the Plan") and coordinating the widespread citizen review the following ten (10) major themes were discerned:

(a) Stabilizing and improving the District's neighborhoods; .

102 STABILIZING AND IMPROVING THE DISTRICT'S NEIGHBORHOODS ...

102 2 *The District elements of the Plan propose that the residential character of neighborhoods be maintained and improved. Many city neighborhoods are historic or possess social, economic, and physical qualities that make them unique and desirable places in which to live. These qualities can also lead to development and redevelopment pressures that threaten the very qualities that make the neighborhoods desirable. These pressures and potential adverse impacts must be controlled to ensure that the character of our neighborhoods is preserved and enhanced*

102 4 *Promoting and ensuring good quality neighborhoods is of utmost importance to the District. The District elements of the Plan's policies and strategies on increasing housing opportunities, neighborhood commercial facilities, and improving transportation in some neighborhoods will be combined with other District policies on historic preservation, environmental quality, and public facilities to conserve functioning stable neighborhoods, and to stabilize or improve those which need redirection*

CHAPTER 3 COMPREHENSIVE PLAN HOUSING ELEMENT

300 DECLARATION OF MAJOR POLICIES

300 2 1 A central theme of the Housing Element is that the District must stimulate a wider range of housing choices and *strategies through the preservation of sound older stock and the production of new units for a wide variety of household types*. The District will continue to use all available public and private resources to support a variety of programs designed to do the following

(a) Protect existing housing stock from demolition and conversion to non-housing uses;

306 PUBLIC ACTION

306 1 The objectives for public action are to provide regulatory, enforcement, and financial programs to protect, maintain, and enhance the District's housing supply and to strengthen private and public neighborhood services and facilities to support the District's housing programs

306.2 The policies established in support of the public action objectives are as follows

(p) *Control the conversion of residential housing to non-residential and transient use,*

CHAPTER 7 COMPREHENSIVE PLAN URBAN DESIGN ELEMENT

700 AREAS OF STABLE CHARACTER

711 1 The areas of stable character objectives are to maintain those areas of the District that have a positive physical image and to provide that new development and renovation within or adjacent to these areas is complementary in scale and character.

711 2 The policies established in support of the areas of stable character objectives are as follows

(a) *Encourage in-fill development to be complementary to the established character of the area. In-fill development in stable areas should not create sharp changes in physical pattern which might lead to deterioration,*

CHAPTER 9 COMPREHENSIVE PLAN DOWNTOWN ELEMENT

903 RESIDENTIAL LAND USE

903 1 *The Downtown residential land use objective is to develop a significant residential community in Downtown in order to encourage a lively mix of activities, particularly in areas where existing neighborhoods can be retained and expanded, and where residents are important to mixed-use objectives.*

903.2 The policies established in support of the Downtown residential land use objective are as follows

(i) *Encourage improvement and development of residential areas adjacent to and near Downtown;*

CHAPTER 13 WARD 2 PLAN

1325 WARD 2 RESIDENTIAL LAND USE ...

1325.1 Most of the major residential neighborhoods of Ward 2 (Georgetown, Foggy Bottom, Dupont Circle, Logan Circle, Mount Vernon Square North, Shaw, Northwest Number 1 and Southwest) are arranged like parts of a pinwheel around the Central Employment Area. Foxhall and Burleith Hillandale are farther west. A residential neighborhood is under development in Downtown. *At present, the Downtown residential community is small, fragmented, and a reminder of the past rather than a hope for the future unless the government intervenes.*

1325 2 *The overriding issues for Ward 2 neighborhoods are the threat of commercial encroachment (including hotels and medical clinics/doctors' offices), the impact from uses such as community based residential facilities, university expansions, chanceries, and numerous parking and traffic problems.*

1326 WARD 2 OBJECTIVES FOR RESIDENTIAL LAND USE

1326 1 The objectives for land use are as follows.

(a) *To conserve and enhance existing residential neighborhoods in Ward 2;*

Modified Methodology for Assessing Chancery Use Locations

		1984 Criteria and Methodology developed by a contractor for NCPC.	Proposed MODIFIED criteria and methodology
1	Purpose	Developed to provide a framework for the identification of Chancery Center locations consistent with the Foreign Missions and International Organizations Element of the Comprehensive Plan for the National Capital	Further refines the original framework to identify chancery use locations deemed "in the District interest"
2	Projected Need	17 new Foreign Missions and 1,230 new foreign mission employees in 15 years for an estimated total of 162 missions by 1999.	36 foreign mission chancery uses between 1980 and 2002, with an additional 37 for a total of 205 by 2025
3	Methodology Procedures	The 1982 (FMA) allows chanceries to locate as a matter of right in commercial, industrial, waterfront and mixed use (CR) zone districts in D.C.	No change proposed
		Eligible squares have a mixed-use ratio of 1/3 office, institutional "and other (commercial) land uses" and 2/3 or less residential uses by land area	In addition, this restriction is applied to square acreage in residential zone districts
		Eligible squares are in R-1-A > R-5-C zone districts <i>and must contain an office on institutional use</i>	Instead, eligible squares and square portions are in R-2 > R-5-C zone districts that meet the 1/3 minimum of office, institutional and nonresidential uses. In addition, institutional or office must be located along the adjacent square frontage.
		Chancery uses allowed in R-5-D and R-5-E zone districts subject to BZA disapproval	No Change proposed
4	Preferred Locations	- Foreign missions should give preference to locations: - Chancery areas developed by the U.S. government for this purpose - Special street or places, in Historic Districts or in historic properties - In areas being assisted or supported by government review or revitalization programs	No change proposed

		The Foreign Missions element of the Comp. Plan for the National Capital encourages the establishment of additional Chancery Centers	No change proposed
5	STEP NO. 1	PRELIMINARY IDENTIFICATION OF POTENTIAL SITES	
		(Chancery Center) properties should be at least 1 ½ acres in size to provide each chancery mission <i>with at least ½ acre</i> so that it can establish its unique identity and provide an appropriate setting with landscaped buffer areas, as necessary	No minimum lot size required by individual sites for new chanceries (consisting of one or more lots) should preferably equal or exceed ½ acre in size
		Areas consistent with standards under (3) and (4) above	In addition, squares where sites are proposed should meet the additional criteria under (3)
6	STEP NO. 2	DETERMINATION OF THE STATUS OF POTENTIAL SITES	
		Contact Federal agencies to determine if potential Chancery Center locations are excess, surplus, leased, vacant or underutilized	Not applicable
7	STEP NO. 3	DETERMINATION OF AVAILABILITY	
		Relative availability and costs to establish whether potential sites should be considered further at this time or at some future time	This assessment would be left to the applicant.
8	STEP NO. 4	APPLICATION OF NEIGHBORHOOD CRITERIA	
	Proposed Neighborhood Criteria	Existing and Planned Land Use: Existing and planned lands uses should be a compatible mix of residential, office and institutional uses so any potential adverse impacts would be minimized.	In addition, a chancery use at a proposed location should not be inconsistent with the D.C. Comprehensive Plan and other plan guidance adopted by the District Council
	Zoning	Chancery offices should be compatible with the existing zoning in the vicinity of the site	No change proposed
	Traffic Capacity	Streets within ¼ mile should have the capacity to carry traffic generated (by the Chancery Center) that will not be inconsistent with the planned or existing traffic movement of the neighborhood)	Further clarifies that chancery use sites should abut a collector, minor or principal arterials.
	Emergency Services	Streets should be wide enough to allow fire protection and emergency vehicles to pass.	

	Traffic Circulation	Newly generated traffic should not unduly affect the surrounding neighborhood.	Further clarifies that regular weekday transit service is available within a ¼ mile and/or a Washington Metropolitan Area Transit Authority rail station is within a ½ mile to serve employees and visitors
	Off-street Parking	Site should be adequate to accommodate parking for staff and visitors (availability of on-street parking should be included in the site evaluation).	Further clarified that project plans shall be consistent with applicable Zoning Regulations established to protect public health safety and welfare (including parking regulations).
	On-street Parking	<i>No additional on-street parking should result.</i>	
	Historic Properties	Existing building should be considered for potential adaptive use including designated or potential landmark buildings that should be preserved	No change proposed
	Land Use – Overall Changes	An assessment should be made of changing conditions occurring in the neighborhood, and whether the sites are consistent with the Comprehensive Plan for the National Capital and “plans for the eight (D.C.) Wards ... goals of the community and neighborhood (D.C. Comprehensive Plan)	Further clarifies that proposed chancery use locations should not be inconsistent with the D.C. Comprehensive Plan or further Plan guidance adopted by the District Council, and percentage of nonresidential development in residential zone districts should <i>either</i> not exceed to 50% or <i>completely occupy the residential zone districts</i>
	Agency Reviews	Office of Planning, Zoning Commission and Dept. of Public Works should be consulted throughout the study	District agencies would still be consulted but the Zoning Commission would no longer be involved
9	STEP NO. 5	ENVIRONMENTAL ASSESSMENT	
	Environmental Issues	Soil types should be adequate to sustain development, and the (Chancery Center) should have no significant adverse environmental impact on the area	This assessment is left for the Department of Health review during the formal submission of project plans
		For each site, suggestions made to mitigate the adverse environmental impacts.	

Proposed Text Amendments to the Zoning Regulations

Add the following text to Title 11 of the District of Columbia Municipal Regulations, "Zoning" to establish that chanceries are permitted uses in R-2 through R-5 Districts subject to disapproval by the Board of Zoning Adjustment (BZA); to edit § 501 3 to clarify the applicability of this provision, to revise Chapter 10 to delegate the review of all requests for chancery uses in residential and special purpose zone districts to the BZA, to identify by reference in Title 10 factors that provide the basis for determining the municipal interest; to provide definitions for "general office (chancery)" and "institutional" uses applicable under Chapter 10, and add the list of factors to Title 10 DCMR that determinate "municipal interest" under Chapter 10

CHAPTER 2 R-1 RESIDENCE DISTRICT USE REGULATIONS**201 USES AS A MATTER OF RIGHT (R-1)**

201.1 The following uses shall be permitted as a matter of right in R-1 Residence districts

- (m) Chancery uses deemed conforming by § 1003 subject to the limitations of that section. ~~(2) No additional or accessory structure may be constructed on the lot that is occupied by the chancery;~~
- ~~(3) There shall be no expansion of the exterior walls, height, bulk, gross floor area, or any portion of any existing building or structure that is used as a chancery;~~
- ~~(4) If an existing building or structure that is used as a chancery is destroyed by fire, collapse, explosion, or act of God, the building or structure may be reconstructed;~~
- ~~(5) The reconstruction that is authorized by paragraph (4) of this subsection shall not be subject to the requirements of Chapter 20 of this title, and the reconstruction that is authorized by paragraph (4) of this subsection shall be limited to the chancery site as it existed on February 4, 1990;~~

CHAPTER 5 SPECIAL PURPOSE DISTRICTS .

501 3 General office use, including chancery, shall be permitted in an SP District as a replacement for office use for international organization, non-profit organization, non-profit organization, labor union, architect, dentist, doctor, engineer, lawyer, or similar profession ~~at person~~ existing and approved by the Board of Zoning Adjustment or the Zoning Commission or authorized by a validly issue certificate of occupancy prior to January 19, 1999

1000 LOCATION OF CHANCERIES**1000 PURPOSE**

1000 1 These provisions implement the Foreign Missions Act, approved August 24, 1982 (96 Stat. 282, D.C. Official Code §§ 6-1301 to 6-1315 (2001)) ("the FMA")

1002 REPEAL OF D OVERLAY

1002 1 The Mixed Use Diplomatic (D) Overlay is repealed as of [THE EFFECTIVE DATE OF THIS AMENDMENT]

1003 CONFORMING STATUS OF EXISTING CHANCERY USES

1003 1 Subject to § 1003.2, the following chancery uses shall be deemed conforming

- (a) A chancery uses existing on [THE EFFECTIVE DATE OF THIS AMENDMENT], the location, expansion or replacement of which was not is approved by an order of the Board of Zoning Adjustment, and
- (b) A chancery use located in an R-1 through R-5-C zone district, which was used by a foreign mission since that date, but not limited to the foreign mission that occupied the chancery on October 1, 1982

1003 2 The conforming use status for chanceries described in § 1003 1 is subject to the following limitations

- (a) No accessory structure may be constructed on the lot that is occupied by the chancery;
- (b) There shall be no expansion of the exterior walls, height, bulk, gross floor area, or any portion of any existing building or structure that is used as a chancery,
- (c) If an existing building or structure, or any part thereof, that is used as a chancery is destroyed by fire, collapse, explosion, or act of God, the building or structure may be reconstructed,
- (d) The reconstruction that is authorized by paragraph (c) of this subsection shall not be subject to the requirements of Chapter 20 of this title, and the reconstruction that is authorized by paragraph (c) of this subsection shall be limited to the same dimensions as those of the chancery site prior to its destruction, and
- (e) The conforming use status shall cease upon the issuance of certificate of occupancy for an allowable use or if the property is used as a single-family dwelling or embassy use.

1003 3 Notwithstanding § 1003 2 (a) and (b), the expansion of a chancery described in § 1003 1 (a) is permitted if not disapproved by the Board of Zoning Adjustment in accordance with §§ 1005 and 1006.

1004 CHANCERY USE AS A MATTER OF RIGHT

1004.1 Chancery uses shall be permitted as a matter of right in commercial (C), industrial (CM and M), waterfront (W) and mixed use (CR) zone districts

1005 CHANCERY USE SUBJECT TO THE DISSAPPROVAL OF THE BZA

1005 1 The location, expansion, or replacement of chancery uses in any zone district not stated in § 1004 1 shall be permitted subject to the disapproval of the Board of Zoning Adjustment constituted in accordance with § 206 (i)(2) of the FMA, D.C Official Code § 6-1306 (i)(2)

1005 2 For new chancery uses, the Board shall first decide whether the proposed location is appropriate for the location of a chancery, determined on the basis of existing uses, which includes office or institutional uses within the square on which the property is situated.

1005 3 If the property is located in a residence zone district, it shall be deemed an appropriate site for a chancery use if at least one-third (1/3) of the land area in its square is occupied by buildings housing institutional or office uses, including chancery uses, whether such uses are conforming or nonconforming.

1005 4 A vacant building shall be included within the percentage of buildings housing office or institutional uses if an unexpired certificate of occupancy authorizes such a use for that property

1005 5 Any use subject to special exception review in an R-2 zone shall be deemed an institutional or office use

1005.6 If, based on analysis of the existing uses pursuant to § 1005 2, the Board finds that a property is not appropriate for the location of a new chancery use, it shall disapprove the application

1005 7 If the Board finds that the property is appropriate for the location of a new chancery use, it shall go on to determine whether the particular chancery use proposed may be located on the property

1005 8 The Board's determination whether to allow a particular chancery use to be located, as well as a determination as to whether an existing chancery use may be replaced or expanded, shall be based solely on the following criteria

- (a) The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the nation's capital, and the federal interest as determined by the Secretary of State,

- (b) 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,
- (c) 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,
- (d) 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,
- (e) The municipal interest, as determined by the Mayor pursuant to § 7700 of Title 10, DCMR, and
- (f) The Federal Interest, as determined by the Secretary of State

1006 BOARD OF ZONING ADJUSTMENT REVIEW PROCEDURES

- 1006 1 An application submitted in accordance with § 1005 shall be reviewed by the Board in accordance with this section and with the applicable requirements of the Board of Zoning Adjustment Rules of Practice and Procedure, chapter 31 of this title
- 1006.2 The consideration of an application submitted pursuant to this section shall be considered a rulemaking proceeding
- 1006 3 The Board shall comply with the following review procedures
 - a) The Board shall refer each application to the Mayor for review and comment, and shall specifically request a determination of the municipal interest, as set forth in § 1005 8 (e)
 - b) The Board shall refer each application to the Secretary of State for review and comment, and shall specifically request a determination of the federal interest, as set forth in § 1005 8 (f), special security requirements, as set forth in § 1005 8 (c), and the extent to which the site is capable of being adequately protected, as set forth in § 1005.8 (d)
 - c) When a chancery is located in an historic district or historic landmark, and the use requires review and processing of new construction, demolition, or alteration pursuant to the Historic District and Historic Landmark Protection

Act of 1978, D C Law 2-144 (D C Code §§ 1001 et seq), the application shall be referred to the Historic Preservation Review Board, or the Commission of Fine Arts if required by D C. Law 2-144, for report and recommendation to the Board of Zoning Adjustment

- d) The Board shall make the final determination as to substantial compliance with D C Law 2-144 and federal regulations governing historic preservation.

1006 4 To facilitate the review required under this section, the applicant shall submit plans sufficiently detailed for the review of any proposed new construction, demolition, or alteration.

1006 5 If the Board decides to disapprove the application, it shall issue a written order stating its reasons therefore

1006 6 If the Board decides to not disapprove the application, it shall publish a notice of proposed rulemaking indicating its intention.

1006 7 After the conclusion of the written comment period, the Board may either disapprove the application or take final action to not disapprove the application

1006 8 A final determination concerning the location, replacement, or expansion of a chancery use shall be made not later than six (6) months after the date a complete application is filed with respect to that location, replacement, or expansion.

1003 DEFINITIONS

1003 1 When used in this chapter, the following terms shall have the meaning ascribed

Office - A room, suite of rooms, building or portion thereof used for the practice of a profession or for the conduct the affairs of a business, profession, service industry, government agency, or non-profit organization.

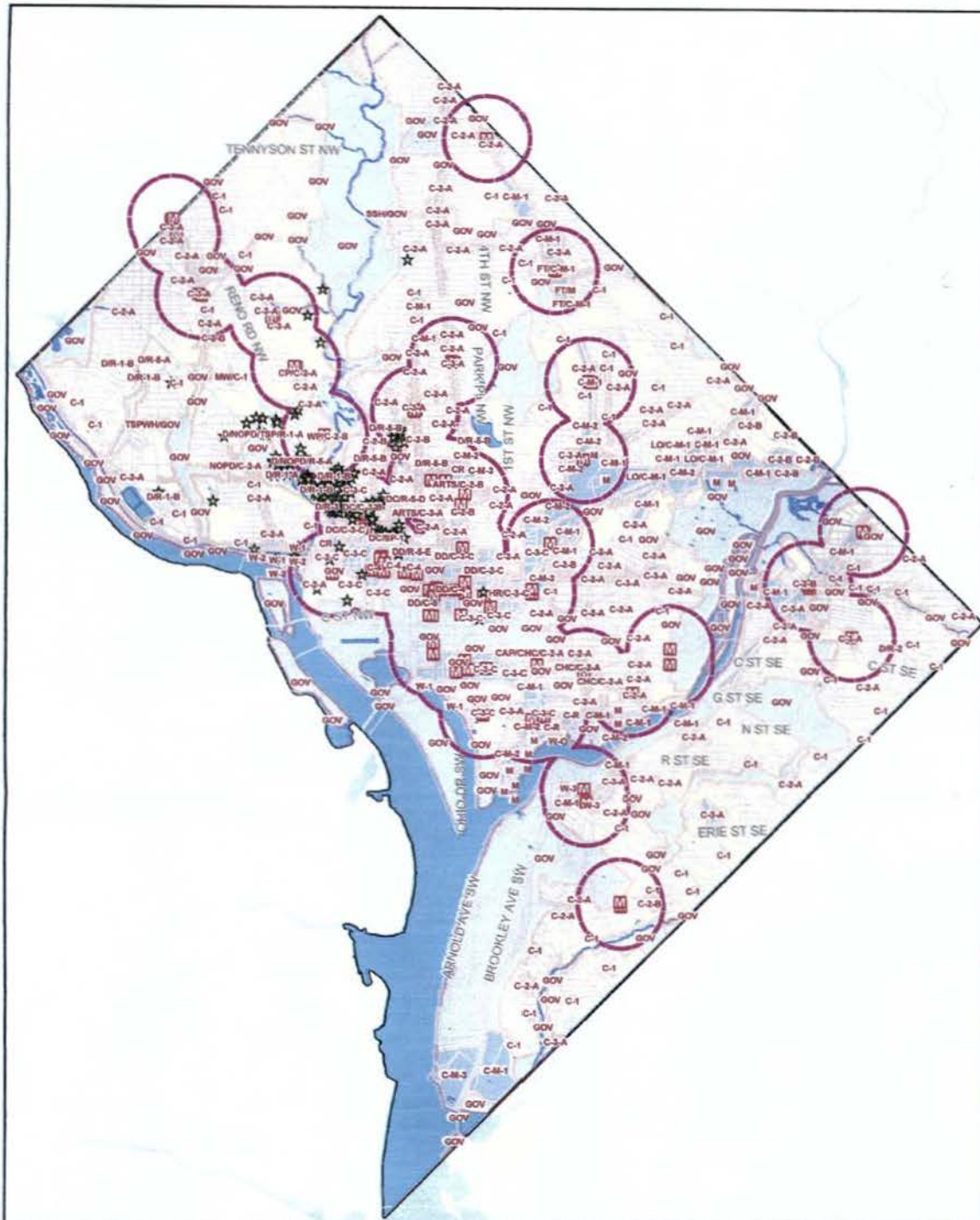
The term 'office' shall include the establishment know and defined in this title as a 'chancery' and chancery uses that include a residential component but exclude accessory office uses allowed under § 202 of this title

Institution - A nonprofit or quasi-public use, such as a religious institution, library, public, or private school, hospital, or government-owned or government-operated structure or land used for a public purpose.

TITLE 10 PLANNING AND DEVELOPMENT ...

7700 DETERMINATION OF MUNICIPAL INTEREST

- 7700.1 This section shall provide guidance for the Office of Planning to determine the municipal interest on behalf of the Mayor with respect to an application to locate, expand, or replace a chancery that is submitted to the Foreign Mission Board of Zoning Adjustment pursuant to the Foreign Missions Act, approved August 24, 1982 (96 Stat. 282, D.C. Official Code §§ 6-1301 to 6-1315 (2001))
- 7700 2 In making its determination of the municipal interest, the Office of Planning shall take into account whether the proposed chancery use location:
- a) Abuts a collector, minor artery or principal arterial street;
 - b) Is proximate to other institutional or office uses developed along the adjacent street frontage;
 - c) Is within a ½ mile of a Washington Metropolitan Area Transit Authority rail station and/or ¼ mile of regular weekday transit service;
 - d) Would extend or connect zone districts where foreign missions are currently allowed either as a matter of right,
 - e) Is designated under the D.C. Comprehensive Plan so the proposed use would not be inconsistent; and
 - f) Would increase the percentage of residential zone district acreage on the square that is occupied by office and institutional uses, and other nonconforming uses to no more than 50%.
- 7700.3 An alternative to § 7700 (f) is for the acreage of the proposed chancery location, and existing office and institutional uses, and other nonconforming uses would occupy 100% of the square acreage in residential zone districts.
- 7700.4 The Office of Planning shall also consider whether the proposed construction is consistent with the Zoning Regulations.
- 7700 5 Chancery locations and projects that are consistent with the referenced factors shall be deemed to be in the municipal interest.



Allowable Zone Districts for Chancery Uses

