

Memorandum

TO: District of Columbia Zoning Commission

FROM: Karen Thomas, Case Manager
 Joel Lawson, Associate Director Development Review

DATE: November 3, 2015

SUBJECT: FMBZA 16620A –Application of the Embassy of the Republic of Azerbaijan, pursuant to 11DCMR § 1002 and §206 of the Foreign Missions Act

I. RECOMMENDATION

The Office of Planning acknowledges the legitimate need for a security fence with gates for this property, and recommends that the BZA **not disapprove** the request for the installation of security gates at the Embassy of the Republic of Azerbaijan in the NO/TSP/R-1-A District, based on the review of §1001.5 of this report.

II. LOCATION AND SITE DESCRIPTION

Address	2741 34 th Street, N.W.
Legal Description	Square 2122, Lot 0027
Ward	3, ANC 3C
Lot Characteristics	The lot is a triangular corner lot located southwest of the Fulton Street, N.W., intersection with 34th Street.
Zoning	The subject property and properties within the square are in a Residential (R-1-A) zone district with Naval Observatory (NO) and Tree and Slope Protection (TSP) overlay districts. The subject property is not included in the Mixed-Use Diplomatic Overlay District that covers most of the square to the south.
Existing Development	The lot has street frontage on two sides and is developed with a two-story single-family dwelling with basement of masonry construction. A semi-circular driveway extends from 34th Street, N.W., to the front entrance. A wide driveway along Fulton Street, N.W, provides access to the rear basement garage. The property is heavily landscaped and surrounded by a metal picket fence and masonry wall.
Adjacent Properties	Properties to the west across 34 th Street, N.W. (north and south of Fulton Street, N.W.) are developed with two and three-story dwellings. The Norwegian Embassy is located further south at the intersection with Massachusetts Avenue, N.W. These properties are zoned R-1-B and are under the Naval Observatory Precinct District overlay. Properties across Fulton Street, N.W., to the north and east are undeveloped lands owned by the National Parks Service. Further north, southeast of the 34 th Street, N.W., intersection with Garfield Street, N.W., is the Belgian Chancery (both the Embassy and the Chancery predate the 1982 Foreign Missions Act). These properties are zoned R-1-A and are under the Tree Protection Overlay District.

Surrounding Neighborhood Character	The surrounding neighborhood is a mix of single-family detached homes and foreign missions.
Public Space	The property is at the corner of two roadways: Fulton Street to the east and 34 th Street to the west. In front of this property, Fulton Street's 60 foot right-of-way width includes a 10-foot set aside for sidewalk and a 7-foot set aside as "public parking", the area of right-of-way between the sidewalk and property line regulated as park land. 34 th Street has a public right-of-way width of 60 feet, and 15-foot building restriction lines on either side, making the total effective width of right-of-way regulated as public space, ninety-feet. Along this property, there is a 10-foot set side as sidewalk and 15 feet of parking regulated as parkland.

III. APPLICATION-IN-BRIEF

The Embassy proposes the installation of a five-foot tall wrought iron gate¹ and connecting fencing on the 34th Street frontage along portions of the property line. The fence would connect to the existing fencing on the property line along 34th Street, in front of the building restriction area to complete the fencing around the property. Currently there is no gate or fencing in the area of the circular driveway. The semi-circular driveway in front is reserved for occasional short-term visitors, and for dropping-off and picking-up visitors and deliveries. OP was informed that the proposed gates would be sliding gates in the area of the existing curb cuts of the semi-circular driveway shown in the map and on the applicant's submission (Exhibit 7).

IV. REGULATORY REQUIREMENTS

Zoning

The property falls within a NO/TSP/R-1-A District. Section § 201.1 (m) of the current Zoning Regulations allows chancery uses in existence on September 22, 1978. Sections 350.1 and 1001.1 allow expansion of chanceries in the R-1-A subject to Foreign Missions Board of Zoning Adjustment (FMBZA) disapproval. The chancery use was not disapproved under FMBZA 16620 (2000).

Public Space

The FMBZA has authority to approve the use of public space when it is hearing a related chancery application. While the existing fence is on private property, its location along 34th Street is within a building restriction area, which is subject to DCMR Title 24: Public Space and Safety, which typically limits the height of fences in public space to 42 inches (24-103. Public Parking: Wall, Wickets, and Fences).

As part of its review, the Board is required to evaluate the application within the six factors set forth in the Foreign Missions Act (FMA).

¹ Sheet L-6 Perimeter Fencing Character Details in the submitted plans

V. OFFICE OF PLANNING ANALYSIS

Compliance with § 1001

Expansion of an existing chancery use in a D overlay district is subject to the following criteria:

“1001.1 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 to the Director of the Office of Zoning dated September 25, 2015, (Exhibit 31) the U.S Department of State’s Foreign Mission Office states “...that favorable BZA action would ... fulfill the international obligation of the United States to facilitate the provision of adequate and secure premises by the Republic of Azerbaijan in Washington.”

This criterion has been addressed.

1001.2 The Board shall consider historic preservation, as determined by the Board in carrying out this section.

No changes to the existing structure would be made. The property is not within a historic district.

1001.3 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.

As stated above, the property is not within a historic district.

1001.4 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.

No alteration would be made to affect the existing on-site parking. The Department of State’s Office of Foreign Mission also stated that “there exist no special security requirements relating to parking in this case.”

1001.3 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.

The referenced letter from the Deputy Assistant Secretary states “...the subject site and area will be capable of being adequately protected with the addition of the requested fence.”

This criterion has been addressed.

1001.5 The Board shall consider the municipal interest, as determined by the Mayor.

The Office of Planning, on behalf of the Mayor, finds the proposed perimeter fence, the main portion of which would be located on the subject property, would not be contrary to the Zoning Regulations, and no relief from any provision would be required.

The majority of the existing security fence is within a building restriction area. While the fence along 34th Street requires a waiver from regulations, its location has been determined to have no impact on any significant view corridors.

The proposed security buffer (the distance between the proposed fence and the building) does not meet the 50-foot security setback for Level IV facilities, recommended by the U.S. Department of Homeland Security's Interagency Security Committee (ISC) and adopted in August 2013.² Foreign embassies and consulates in the United States are identified as Level IV facilities. Due to the property's irregular shape and the location of the building on the property less than 35 feet from the property line along 34th Street and less than 50 feet from the curb, there is not a sufficient setback to provide an adequate security buffer. The FMBZA and Public Space Committee have approved over-height fences where the security fences were at the back of the sidewalk and only 35 to 40 feet from buildings, less than the ISC's recommended 50 feet from embassies and consulates.

The Office of Planning, therefore, has no concerns with the proposed design, materials, or height of the proposed security fence and gates.

1001.6 The Board shall consider the federal interest, as determined by the Secretary of State.

The Department of State's letter indicates that a favorable decision on this application would serve the federal interest as similar measures were accommodated by the Government of the Republic of Azerbaijan at the U.S. Embassy in Baku (Exhibit 31).

VI. COMMENTS OF OTHER DISTRICT AGENCIES

The District Department of Transportation (DDOT) is expected to submit its report under separate cover.

VII. COMMUNITY COMMENTS

The ANC 3C met at their regularly scheduled meeting on October 19, 2015 and had no objection to the application. (Exhibit32).

Attachment: Location and Zoning Map

² The Risk Management Process for Federal Facilities: An Interagency Security Committee Standard. August 2013. 1st Edition.



LOCATION and ZONING MAP