

**BEFORE THE FOREIGN MISSIONS BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of the State of Hungary,
Ministry of Foreign Affairs and Trade

Application No. 19798
Hearing Date: September 12, 2018
ANC 2B

PREHEARING STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This application is submitted on behalf of the State of Hungary, Ministry of Foreign Affairs and Trade (the “Applicant”) in support of its application to the Foreign Missions Board of Zoning Adjustment (the “FMBZA” or the “Board”), pursuant to Section 206 of the Foreign Missions Act (22 USC § 4306) (the “Act”) and Subtitle X, Chapter 2 of the 2016 Zoning Regulations (“DCMR 11”), to make certain improvements to the existing building, site, and public space adjacent to the existing chancery annex building located in the MU-15 District at 1500 Rhode Island Avenue, NW (Square 195S, Lot 800) (the “Site”).¹

**II.
EXCLUSIVE JURISDICTION OF THE BOARD**

The FMBZA has exclusive jurisdiction to review the proposed project pursuant to Section 206 of the Act and 11-X DCMR Chapter 2, including public space approval and historic preservation approval pursuant to 11-X DCMR §§ 201.8 and 203.7. The Act makes it clear that provisions of law other than the Act “shall apply to chanceries only to the extent that they are consistent with this section.” 22 USC § 4306(j). Further, “[N]o act of any Federal agency shall be effective to confer or deny any benefit with respect to any foreign mission contrary to this

¹ “Chancery” is defined in the Zoning Regulations and in the Foreign Missions Act as “[t]he principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), including the site and any building on such site that is used for such purposes.” 11B DCMR § 100.2; 22 USC § 4302.

Chapter.” 22 USC § 4307. The final determination made by the FMBZA concerning the location, replacement or expansion of a chancery “shall not be subject to the administrative proceedings of any other agency or official” except as provided by the Act.” 22 USC § 4306(c)(3).

III.
EXHIBIT IN SUPPORT OF THE APPLICATION

Exhibit A: Updated Site Plan and Architectural Plans and Elevations

IV.
BACKGROUND

1. Introduction

Chancery use of the property by the Embassy of Hungary was formally approved as a matter of right in January 2017. *See* Exhibit 6. The Applicant proposes to modify the exterior of the existing chancery building and make upgrades to the Site and adjacent public space. The major proposed improvements include the following, with additional details provided in Section IV(3) of this statement:

1. Installing an architecturally-designed security fence in public space along the perimeter of the Site, which will include pedestrian and vehicle gates, and enhancing the landscaping of the Site in public and private space;
2. Removing the majority of the existing pavement on the Site and installing new permeable pavement in the driveway, forecourt, and accessory surface parking area on the Site and in the adjacent public space within the fenced area of the Site;
3. Reducing the on-site surface parking from 29 spaces to eight spaces, while maintaining three existing diplomatic parking spaces on N Street (five parking spaces are required for the chancery use, per the Zoning Regulations);
4. Relocating the existing curb cut on Rhode Island Avenue and increasing its width from 12 feet to 18 feet to allow for two-way circulation, and reducing the width of the existing curb cut on 15th Street from 33 feet to 18 feet;
5. Adding an on-street no-parking Embassy entrance zone on Rhode Island Avenue in front of the Embassy, and relocating one metered parking space from Rhode Island Avenue to N Street by shifting the five existing parking spaces on N Street to the east;

6. Reconfiguring and restructuring a portion of the building's existing roof. This work will include providing a vegetated roof terrace; reducing the height of the existing elevator penthouse on the main roof; removing the top portion of the existing chimney on the main roof and the entire existing chimney at the third floor terrace roof; installing a communications antenna on the roof; and installing new guardrails at all roof terraces. A new metal roof will be provided on the building, and hydronic solar panels will be installed on the south side of the building's main roof. Three new skylights will also be added on the main roof;
7. Installing a new decorative wall to screen the existing fire escape located between the first and second levels, and removing the existing fire escape that connects the second level to the lower roof;
8. Installing a new stair at the second level between the new terrace and the lower level and adding an exterior accessibility lift, half-flight stair, and landing to provide ADA access to the building;
9. Making exterior modifications to all existing windows and doors;
10. Locating HVAC equipment within two of three existing areaways that project into public space and on the main roof widow's walk;
11. Adding three new flag poles on the site and two building-mounted flag poles; and
12. Updating site landscaping with new trees, shrubs, grasses, and decorative stones.

Collectively, the aforementioned improvements are referred to herein as the "Improvements."

2. Description of the Site and Existing Chancery

The Site is located at 1500 Rhode Island Avenue, NW (Square 195S, Lot 800). The Site contains approximately 11,700 square feet of land area and is bounded by Rhode Island Avenue to the north, 15th Street to the east, N Street to the south, and Corregidor Street to the west. The Site is located in the MU-15 Zone District and is presently improved with an existing building known as the Brodhead-Bell-Morton House, which is listed in the DC Inventory of Historic Sites and in the National Register of Historic Places. The existing building was constructed circa 1879 and was used as a private residence under multiple owners. In 1912, the building was extensively

rebuilt. It was purchased in 1940 by the American Coatings Association (known at the time as the National Paint, Varnish, and Lacquer Association), which converted the building to office use and operated it as the organization's headquarters. The Applicant purchased the property in February, 2016, for chancery use. The current Certificate of Occupancy for Chancery use is included in the case record at Exhibit 6.

The existing chancery building has an overall gross floor area of 23,775 square feet, a density of 2.03 floor area ratio ("FAR"), a maximum building height of 60 feet, 8 inches, and a lot occupancy of 49%. The Site contains three single car and 26 tandem surface parking spaces accessed from 15th Street, Corregidor Street, and Rhode Island Avenue (29 total parking spaces). Two existing metered parking spaces and three reserved diplomatic parking spaces are located directly adjacent to the south of the Site on N Street.

3. Description and Update on Proposed Improvements

The Applicant proposes to make the above-described Improvements, including making certain upgrades to the exterior of the building, modifying the existing pedestrian and vehicular access to the Site, installing a security fence and gates in public space, reducing the on-site parking from 29 spaces to eight spaces, and making general improvements to the landscaping and paving in public space and on the Site. The Applicant will also implement new security features, such as requiring a key fob to access the Site (guests will be scheduled for meetings and allowed onto the Site only once access is provided from within). The Zoning Regulations require five parking spaces for a chancery of this size. On-site loading is not required for a chancery of less than 30,000 square feet of gross floor area.

The Applicant provided a detailed description of the proposed improvements in its original application statement. The summary below is an update on these improvements based on feedback

from the Office of Planning (“OP”), the District Department of Transportation (“DDOT”), the Historic Preservation Office (“HPO”), and Advisory Neighborhood Commission (“ANC 2B”).

A. Site Improvements

The Applicant proposes to install a new perimeter security fence around the entire Site in public space. The fence will be made of stainless steel pickets mounted into a continuous concrete curb. The pickets will be two inches wide, will twist 90 degrees from bottom to top, and will be spaced four inches on center. The fence will be 6 feet, 6 inches tall around the entire Site and will sit atop a 1-foot tall knee-wall, creating a total consistent fence height of 7 feet, 6 inches. The fence will have gates at the three vehicular entrances on Rhode Island Avenue, 15th Street, and Corregidor Street, all of which will require a key fob to gain entrance.

The Applicant will replace all of the existing paving on the Site with permeable paving. The parking area will be made of open-joint masonry pavers and the driveway/circulation of the forecourt will be made of a filigree design pre-cast concrete pavers and grass. The permeable paving patterns and colors have been adjusted from the original application to differentiate the parking area from the ceremonial drive. The areas between the perimeter security fence, the building, and the permeable paving will be planted with ground cover of the Allegheny Spurge (*pachysandra procumbens*) and Crested Iris (*Iris Cristata*) types. A swath of lawn, of a mixture of bluegrass, ryegrass, and creeping fescue grasses, will flank the main pedestrian entrance from Rhode Island Avenue. All of the existing mature trees on the Site will remain. The proposed site plan included in the Architectural Drawings includes an “Existing Tree Legend” that identifies the existing trees, their sizes and species, and whether they are identified as a “special” tree. No “heritage” trees exist on the Site.

As further described below, eight surface parking spaces will be provided on the Site, two of which will be accessed from 15th Street, and six of which will be accessed from Rhode Island Avenue. The two spaces accessed from 15th Street will be used by the Ambassador's vehicles only; the six spaces accessed from Rhode Island Avenue will be used for official Embassy vehicles by six specifically-designated employees of the Site. Thus, vehicle access into and out of the Site will be minimal. As requested by HPO, since filing the initial application the Applicant has pushed the six on-site parking spaces to the west to allow for additional green space on this portion of the Site.

Pursuant to 11-C DCMR § 901.1, on-site loading is not required for the chancery use. There are several on-street locations around the Site where a delivery truck could pull over for temporary drop-offs and pick-ups. To accommodate daily visitor pick-up and drop-offs, a no-parking/Embassy entrance zone will be located adjacent to the Rhode Island Avenue entrance to the Site.² To accommodate this no-parking/Embassy entrance zone, one existing metered parking space will be relocated from Rhode Island Avenue to N Street.

Trash containers will be located in the enlarged areaway on the south side of the building and will be rolled out and collected on N Street, as they are now. The trash containers will be covered and screened by a decorative wall, which has been reduced in height based on comments from HPO to screen the trash containers without highlighting or calling attention to them.

Three flag poles are proposed on the ground level east of the pedestrian entrance and two flag poles will be mounted on the building above the existing porte-cochere. Security cameras will be pole-mounted in the yard near (within) the perimeter security fence.

² Pursuant to 18 DCMR §§ 2406.3(e) and 2406.4, DDOT may install signs prohibiting parking placed in front of the principal entrance of any embassy or legation of any foreign country.

B. Site Access

The Site currently has three vehicular access points at three existing curb cuts: One 33 foot curb cut on 15th Street, one 12 foot curb cut on Rhode Island Avenue, and one 11 foot curb cut on Corregidor Street. The Applicant proposes to maintain the three existing curb cuts, to reduce the 15th Street curb cut to 18 feet wide, and to increase the Rhode Island Avenue curb cut to 18 feet wide. At each curb cut the Applicant will install a new sliding metal vehicle gate for security purposes. All of the vehicular entrances will be monitored and access will be permitted only with a key fob or internal building security controls.

As noted above, the 15th Street curb cut will provide access to two parking spaces only, which will be used exclusively for vehicles serving the Ambassador and for emergencies. The 18-foot wide curb cut provides space for a vehicle to enter head-first, turn around on-site, and exit head-first, thus minimizing any conflicts with pedestrians or with cyclists on the adjacent 15th Street cycle track. Since only two parking spaces will have access from 15th Street, use of this curb cut will be minimal.

The daily-use entrance for the staff vehicles accessing the other six parking spaces on the Site will be from Rhode Island Avenue. The 18 foot wide curb cut will provide enough space for two vehicles to pass each other, thus minimizing the potential of vehicular queuing on Rhode Island Avenue waiting for a vehicle to exit.

The Corregidor Street entrance will remain at 11 feet wide and will be one-way in-bound. This entrance will be used infrequently (approximately once per week on average) for ceremonial purposes only and is provided to create a point of access from the street into the building via the porte-cochere. This driveway will create an opportunity for covered pick-up and drop-off of high level dignitaries from the porte-cochere directly into the front door of the building. Based on

feedback from OP and HPO, the Applicant also realigned the originally-proposed location of the ceremonial drive to more closely approximate the existing alignment, and relocated the ADA entry from the main pedestrian entrance (proposed in the initial application) to a location adjacent to the main vehicle entrance on Rhode Island Avenue (now proposed).

The Site's primary pedestrian access will be from Rhode Island Avenue via a new pair of dual entrance gates set inward from the perimeter fence line. A second pair of dual gates set further inward will create a security vestibule. All gates will be of the same stainless steel picket appearance and height as the security fence. Inward of the second pair of gates will be new stairs with hand railings aligned with the existing porte-cochere and the building's main entrance doors. Based on comments from OP and HPO, the Applicant reduced the width of the main pedestrian stair leading to the building's front entrance and removed the knee wall beneath the porte-cochere's north face.

C. Building Improvements

The Applicant proposes to make a variety of improvements to the existing building on the Site. At various locations on the first and second levels, the Applicant will revert the current pair casement windows with arched heads (which previously had sill modifications to accommodate through-wall air conditioning units) to their original appearance by removing the air conditioning units and the infill sill panel and installing new double casement windows. These in-kind replacement windows will restore the original full-height configuration of the openings. The Applicant will install new windows that are double-glazed to allow for improved thermal performance, but will otherwise replicate the material, glazing configuration, operation, and profile of the original frames and sashes. The Applicant will also remove the existing air conditioning units and repair the masonry openings at various locations on the third level (which also

experienced prior modifications to remove small portions of the exterior masonry wall for the insertion of through-wall air conditioning units below the existing window sills). The Applicant will use limestone at the openings to match the original cladding material and finish.

The Applicant also proposes to remove the existing double casement window on the east side of the second floor, widen the masonry wall opening from five feet to eight feet, six inches, and install a new double French-style door with sidelites to access a new roof terrace on the eastern wing. The Applicant will replace the existing double casement window on the first floor at the eastern wing north side with a new single leaf door with sidelites for the new accessibility entrance. The Applicant will lower the existing window sill at this location, but the masonry opening width will not change.

At the ground level, the Applicant proposes to widen the upper basement level walk-out areaway on the south side of the building by removing the eastern low retaining wall and constructing a new retaining wall. The areaway width will increase from five feet to nine feet, and as much as possible the Applicant will salvage the existing masonry wall units and stone cap to reconstruct the new retaining wall.

The Applicant will provide an accessibility entrance at the north face, eastern wing of the building with a new wheelchair lift, stair, and landing.

The Applicant proposes to install exterior roof terraces on the roof of the porte-cochere and on the building's eastern wing at the third floor, and in doing so will add pedestrian decking and guardrails onto the existing flat roofing. At the eastern wing second level, the Applicant will remove the existing low-slope pitched roof and replace it with a new flat roof structure, waterproofing system, and pedestrian decking with guard rails for a new terrace. Containerized vegetation will be provided on the second and third level terraces.

Inside the building, the Applicant will replace the existing small-sized elevator with a modern 2,500 pound capacity elevator. To do so, the Applicant will remove the existing 13 foot tall penthouse that encloses the elevator machine room and replace it with a wider but lower three foot, eleven inch tall elevator override penthouse. The override roof will be metal and of a low pitch to match the building roofs.

South of the elevator override penthouse will be the Embassy's communications dish antenna, which is being relocated from the existing chancery site on Shoemaker Street, NW, after the chancery use of that site is completely terminated. The antenna will be approximately 2.4 meters in diameter (approximately 8 feet) and will be oriented in a generally eastward direction. The antenna will be supported on a center post and on a tri-legged base. The antenna complies with all of the conditions set forth in 11-C DCMR § 1304.1 for roof mounted antennas as follows: (a) as shown on Sheets PO101, PO304 and PO305 of the Architectural Drawings, each part of the antenna will be setback from each edge of the roof a minimum distance equal to its total mounted height above the roof, as measured from the outside edges of the antenna dish;³ (b) the antenna will have a total mounted height of approximately 9 feet, 4 inches above the roof on which it sits; (c) the antenna will be centrally located on the roof to minimize its visibility from public spaces and landmarks. Due to its height, its centrally-located placement on the roof, and the mature trees surrounding the Site and in the neighborhood, the antenna will not be visible from the sidewalks surrounding the Site or from farther away on the surrounding streets and avenues; and (d) the

³ The exact dimensions of all of the antenna elements are not known at this time; however, the antenna's mounted height and dish diameter will be located to maintain a height and setbacks that comply with the requirements of 11-C DCMR § 1304.

materials and colors of the antenna will blend with the surroundings to the greatest practical extent.⁴

The Applicant also proposes to modify the main building roof to accommodate new skylights. The Applicant will replace the existing rectilinear skylight in the center of the building's roof with a new segmented circular skylight centered above the interior grand staircase, and will install two new rectilinear, hipped skylights on the west and east sides of the building's roof. All skylights will be insulated glass with thermally-broken metal frames. Four condenser units will be installed on the building's 4th level widow's walk. Hydronic solar panels will also be located on the south side of the building's main roof.

4. The proposed chancery improvements are consistent with the Foreign Missions Act and the Zoning Regulations.

The Act and 11-X DCMR Chapter 2 govern the location, replacement, and expansion of chanceries. Pursuant to 11-X DCMR §§ 201.8 and 203.7, the FMBZA may grant permission to construct improvements in the public space, and to determine substantial compliance with District and federal regulations governing historic preservation, consistent with what is permitted under District law and in accordance with the procedures and standard of Subtitle X. The proposed chancery improvements are consistent with both the Act and the Zoning Regulations. Because the proposed improvements meet the six criteria for approval, as set forth below, the proposal should not be disapproved.

A. The International Obligation of the United States.

The United States has an international obligation to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital. See 22 USC § 4306(d)(1); D.C. Official Code § 6-1306(d)(1); 11X DCMR § 201.8(a). Favorable action by the FMBZA on this

⁴ Sections (e) and (f) of 11-C DCMR § 1304.1 are not applicable in this case.

application would fulfill the international obligation of the United States. The U.S. Department of State supported the filing of this application (*see* letter from the Department of State at Exhibit 5 of the case record) and will be filing a report prior to the public hearing.

B. Historic Preservation, as Determined By The FMBZA.

In order to ensure compatibility with historic landmarks and districts, the Act requires substantial compliance with District of Columbia and federal regulations governing historic preservation, with respect to new construction and to demolition of or alteration to historic landmarks and contributing resources within historic districts. Pursuant to FMBZA Order No. 18131-A, Application of the Embassy of the People's Republic of China, dated May 18, 2011, the FMBZA found the following:

While "substantial compliance" is not defined in the Foreign Missions Act or the Zoning Regulations, in *Sheridan-Kalorama Historical Ass'n. v. Christopher*, 49 F.3d 750, 311 U.S. App. D.C. 16 (D.C. Cir. 1995), the United States Court of Appeals for the District of Columbia Circuit noted that "'compliance' with these laws is not as much a matter of meeting any specific standard as it is of submitting the proposal to the appropriate regulatory body or bodies for review and comment," 49 F.3d at 759, 311 U.S. App. D.C. at 25. In that case, the court found substantial compliance through the referral of the application to the Mayor's Agent for Historic Preservation.

See also FMBZA Order No. 18049, Application of the Republic of Trinidad and Tobago, dated May 14, 2010, and FMBZA Order No. 17886-A, Application of the Republic of South Africa, dated April 14, 2009. Nonetheless, the Act requires that satisfaction of the historic preservation criteria be determined by the FMBZA.

Sited to the east of Scott Circle, the Brodhead-Bell-Morton House survives as a remarkably preserved example of an urban mansion typology found throughout Washington, D.C., in the late nineteenth and early twentieth centuries. Such mansions were erected to reflect the wealth, good taste, and social prominence of their inhabitants and generally conformed to the Beaux Arts

aesthetic of the post-McMillan Commission era. The Site's significance in the fields of social history and architecture was confirmed by its successful designation in the D.C. Inventory of Historic Sites (1964, revised 1987) and the National Register of Historic Places (1987) as the Brodhead-Bell-Morton House (Levi P. Morton House; National Paint and Varnish Association).

Designed by noted architect John Russell Pope, this former residence was substantially transformed through a major reworking of the original building in 1912. Pope's skill as an architect is evident in the resulting design, where he skillfully negotiated an existing footprint and trapezoidal site to create a superbly composed Italian Renaissance Revival-style façade.

The Brodhead-Bell-Morton House's roster of prominent residents and visitors—including owners Gardiner Hubbard and Levi P. Morton and residents Alexander Graham Bell, Elihu Root, Charles Franklin Sprague, and others—illustrates its significance in the social history of Washington. As the fortunes and fashions of these elite power brokers shifted during the Interwar Period, these properties began new lives as the homes of private museums, institutions, civic organizations, and foreign missions. Leased briefly to the National Democratic Club and later sold to the National Paint, Varnish, and Lacquer Association (NPVLA) in 1939, the Brodhead-Bell-Morton House is also reflective of this change. The NPVLA (later the American Coatings Association) utilized the Site as its headquarters for nearly eighty years, rehabilitating the former residence for office use, including the conversion of former bedroom and domestic rooms to offices, demolition of a former service wing, and expansion of surface parking lots.

Overall, the building and Site possess a high degree of historic integrity, which reflects the high level of care its current and previous owners have applied to the building and Site. The proposed modifications to the building are intended to retain, restore, and enhance the historic landmark, and to adapt it for current use.

The Applicant's team includes EHT Traceries, the preeminent architectural history firm in the District, which is advising on the project's historic preservation considerations. Traceries' scope of work includes preparation of a full historic preservation plan to guide the Site's rehabilitation. The historic preservation plan documents the historical development and significance of the Site, illustrates existing conditions, and provides recommendations for treatment. The draft plan is attached hereto.

i. Compatibility

The proposed design for the building and Site is a product of the Embassy's programmatic requirements and aesthetic goals, as well as the Embassy's desire to act as a steward of its historic landmark. The *Secretary of the Interior's Standards for the Treatment of Historic Properties* provides guidance on the rehabilitation of historic buildings and landscapes to compatibly accommodate new uses. Of the ten *Standards for Rehabilitation*, the following six are particularly relevant to the proposed treatment of the Brodhead-Bell-Morton House. An evaluation of the proposal's compatibility with these standards follows each.

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.

The Applicant's proposed chancery use is compatible with the character and existing use of the building and Site. Beginning in 1940, the NPVLA began to gradually convert the former residential property to serve as its administrative headquarters. Rooms on the second, third, and fourth floors were converted to office uses, while significant interior spaces on the first floor were preserved. In the proposed plan, this program will be retained, and these significant interior spaces will be utilized for representational events. The proposed chancery function necessitates minimal exterior alteration and allows for the preservation of the distinctive materials and features of the residence.

2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

The proposed plan allows for the retention and preservation of significant materials and features on the interior and exterior of the building and Site. Minimal alterations will be made to exterior historic fabric to support important programmatic and operational needs, such as providing for an accessible entrance to the chancery and secure communications.

5. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

Similarly, the significant materials, features, and finishes that characterize the Brodhead-Bell-Morton House will be preserved. This includes the overall form and massing; fenestration pattern; limestone, granite, and stucco cladding; cast-iron railings and grilles; and other distinctive features including the porte cochère and projecting balconies.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

The excellent physical condition of the building necessitates little repair of deteriorated features. Where necessary, exterior repair will include: cleaning, consolidation, and repointing of exterior masonry cladding; painting and repair of stucco cladding; repair of roofing membrane; and repair and painting of exterior metals. The exterior wood windows—many of which were modified in the 1960s through the addition of air conditioning units in the bottom sash—will be replaced in kind and restored to their original full heights. Other, non-historic elements—such as the Site’s existing asphalt paving—will be replaced with compatible alternatives.

9. New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work

will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

The Applicant proposes minimal additions and new construction on the building and Site to support aesthetic, programmatic, and functional goals. This includes: the perimeter fence; precast concrete screen wall; elevator penthouse; antenna; accessible entrance and lift; roof terraces atop the east wings and porte cochère, and surface paving. These features have been designed with a consistent aesthetic character. Their streamlined, contemporary character and subdued color palette is compatible with, yet clearly differentiated from, the finely wrought materials of the Neoclassical façade. The decorative screen wall, which is comprised of precast panels with an abstract scoring pattern, serves as an artistic reinterpretation of the building's original, rectilinear ashlar masonry cladding.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

The additions and alterations described above are being designed and detailed to allow their removal in future without alteration or irreparable damage to significant historic finishes and features.

In summary, the proposed design of the building and Site preserves the significant and character-defining features of the Brodhead-Bell-Morton House while accommodating necessary security, accessibility, and functional changes to support chancery and representational programs. The application is consistent with the *Secretary of the Interior's Standards for Rehabilitation* and will ensure the continued integrity and longevity of the historic landmark.

ii. Discussions with D.C. Historic Preservation Office Staff

The Applicant and its representatives met with HPO staff on multiple occasions, and they provided guidance on the treatment of the building and Site, including the following: the height and detailing of the proposed fence; the ratio, location, and geometry of paved and vegetative surfaces on the Site; the orientation of parking relative to the Site's existing and proposed curb cuts; alignment of the ceremonial drive and the location of the ADA entrance; the types and amount of planting areas, hedges, and trees; the antenna; and the consolidation of pedestrian and other accessible points of entrance to the Site. The Applicant incorporated this feedback into the revised FMBZA submission.

C. Adequacy of Off-Street Parking and Public Transportation.

The Site is well served by pedestrian and bicycle amenities, Metrorail and Metrobus, Capital Bikeshare, and car-share and taxi options. Sidewalks are provided on both sides of each street in the Site's vicinity, with marked crosswalks and handicapped-accessible ramps at intersections proximate to the Site. A two-way cycle track is provided on 15th Street, NW, directly to the east of the Site. Westbound and eastbound bike lanes are provided on M and L Streets south of the Site. Capital Bikeshare is available in the area, with four separate docking stations located within 0.2 miles of the Site. See www.walkscore.com, which classifies the Site as a "Walker's Paradise" and designates the Site as having a walkscore of 98, a transit score of 100, and a bikescore of 91.

In addition, eight Metrobus lines provide service with stops within 0.2 miles of the Site, and Maryland Transit Administration bus stops are located on 16th Street, south of M Street, and on 15th Street, south of Massachusetts Avenue. The Site is located approximately 0.4 miles from the Farragut North Metrorail station and approximately 0.5 miles from the Dupont Circle and

McPherson Square Metrorail stations, which collectively serve the Red, Blue, Orange, and Silver lines.

Designated car-share parking spaces are also located in close proximity to the Site. Seven individual Zipcar spaces are located within 0.2 miles of the Site. Taxis also frequently pass the Site in both directions along Rhode Island Avenue and 15th Street, and ride-sharing services are widely available.

As described above, the Site will have eight parking spaces. Three additional diplomatic parking spaces are located on N Street to the south of the Site. Pursuant to 11-C DCMR §§ 701.5 and 702 of the Zoning Regulations, five parking spaces are required for the chancery use of the 23,000 square foot building, which is located within 0.5 miles of several Metrorail stations and within 0.25 miles of several 16th Street Priority Corridor Network Metrobus Routes. The proposed number of parking spaces will adequately serve the needs of the chancery use, which has 29 diplomatic and administrative staff and nine local employees. There are also four bike parking spaces on site for use by Embassy staff. Vehicles with diplomatic license plates will use the on-site parking spaces and the diplomatic parking spaces on N Street on a daily basis. All other staff coming to the Site on a daily basis will utilize the rich array of nearby off-site garages or the various public transportation and ride-sharing options. A full Transportation Assessment Report, prepared by Wells + Associates, was submitted to DDOT on July 27, 2018 and was filed in the case record on August 8, 2018 at Exhibit 37.

D. The Extent To Which the Area is Capable of Being Adequately Protected, As Determined By The Secretary of State

The U.S. Department of State, in consultation with the federal agencies responsible for protective services, has an obligation to ensure that the chancery can be adequately protected. The

Site is currently occupied as a chancery annex, and this federal protection is already in place. The Department of State will file a report prior to the public hearing.

E. The Municipal Interest, As Determined By The Mayor

The FMBZA must consider the municipal interest, as determined by the Mayor, in deciding whether to approve an application for a chancery use. In this case, the proposed Improvements are consistent with the municipal interest, as further outlined below.

i. Zoning Compliance

The project's conformity with the Zoning Regulations is not inconsistent with the municipal interest. It is clear from 11X DCMR Chapter 2 that chancery applications are not subject to the strict variance and special exception requirements set forth in 11X DCMR §§ 900 and 1000. It is also clear that the FMBZA's determination on a chancery application “shall be based solely on the criteria in Subtitle X § 201.8.” *See* 11X DCMR § 203.3. Nonetheless, the application is generally consistent with the purposes of the Zoning Regulations stated above, and, for those limited areas where the technical requirements of the Zoning Regulations are not met, the project is generally consistent with the relevant standards of variance and special exception relief that would apply if the project was not a chancery application.

The project does not currently meet the technical zoning requirements related to penthouse setbacks. The Zoning Regulations require penthouses to be setback a distance of 1:1 from the edge of the roof upon which they are located. In this case, the building has an existing non-conforming penthouse that encloses the building's elevator machine room. The existing penthouse is 13 feet tall and is setback 1 foot, 7 inches from the edge of the roof upon which it is located. The Applicant proposes to replace and reconstruct the penthouse in the same location (although with a slightly larger footprint) to accommodate a new code-compliant elevator system within the building. The

new penthouse will enclose the elevator override at a maximum height of 3 feet, 11 inches and have a setback of 1 foot, 1.5 inches from the edge of the roof upon which it is located. Although the setback will decrease by 4.5 inches, the new penthouse will be 9 feet, 1 inch shorter (almost 70% shorter) than the existing penthouse, thus reducing visibility from the street and improving the overall condition. South of the elevator enclosure will be the antenna, which will measure 9 feet, 4 inches in height above the roof and will be setback a distance of 1:1 or more from the edges of the roof as described above.

Although the proposed penthouse is not subject to the strict special exception standards, the request for penthouse setback relief will result in a better design that is visually less intrusive than the existing condition. As illustrated on the building sections included in the architectural drawings attached hereto, the proposed penthouse is setback more than 1:1 from the adjacent existing parapet that screens the top floor of the building, is significantly less visible than the existing penthouse, and will allow the Applicant to maintain the building's existing elevator shaft in its current location while bringing the elevator system into compliance with current Building Code standards. Thus, the non-compliant penthouse setbacks will not materially impair the intent and purpose of the setback requirements and will not adversely affect the light and air of adjacent buildings. All guardrails are setback a minimum of 1:1 from edge of the roof on which they sit.

ii. District Elements of the Comprehensive Plan

The project is not inconsistent with the District Elements of the Comprehensive Plan for the National Capital. Because of the District's unique dual role as a local city and national capital, the Comprehensive Plan includes two components: the District Elements, which are prepared by the Mayor, and the Federal Elements, which are prepared by the National Capital Planning Commission ("NCPC"). Combined, the District and Federal Elements constitute the District's

mandated planning documents, and guide development in the District of Columbia to balance federal and local interest with a collective responsibility for the natural, cultural, economic, and social environments. Many of the Elements have local, regional, and national significance; and together they advance Washington's great design and planning heritage.

While there is no specific definition for "the Municipal Interest," it can be said that the District Elements, which focus on the social, economic, environmental, and physical well-being of the District of Columbia and its residents, provide a solid framework upon which to base a determination regarding a project's consistency with the Municipal Interest criteria of the Foreign Missions Act. According to the D.C. Code, the purposes of the District Elements are to, among other things, define the requirements and aspirations of District residents; guide executive and legislative decisions on matters affecting the District and its citizens; promote economic growth and jobs for District residents; maintain and enhance the natural and architectural assets of the District; and assist in the conservation, stabilization, and improvement of each neighborhood and community in the District. D.C. Code § 1-301.62.

The policies and actions contained within the District Elements are organized into 13 Citywide Elements, which address issues that are citywide in scope, and ten Area Element, which focus on issues that are unique to particular parts of the District. The application is not inconsistent with the following policies of the District Elements.

(a) Land Use Element

The primary goal of the Land Use Element is to ensure efficient use of land resources to meet long-term neighborhood, citywide, and regional needs; to help foster other District goals; to protect the health, safety, and welfare of District residents, institutions, and businesses; to sustain, restore, or improve the character and stability of neighborhoods in all parts of the city; and to

effectively balance the competing demands for land to support the many activities that take place within District boundaries. 10-A DCMR § 302.1.

The project will help achieve this goal by advancing the following Land Use Element policies:

- Policy LU-3.3.1: Chancery Encroachment in Low Density Areas - Encourage foreign missions to locate their chancery facilities in areas where adjacent existing and proposed land uses are compatible (e.g., office, commercial, and mixed use), taking special care to protecting the integrity of residential areas. Discourage the location of new chanceries in any area that is essentially a residential use area, to the extent consistent with the Foreign Missions Act. 10-A DCMR § 316.7.
- Policy LU-3.3.3: Compatibility of New Chanceries - Promote the design of chanceries in a manner that protects the city's open space and historic resources, mitigates impacts on nearby properties, is compatible with the scale and character of its surroundings, and enhances Washington's international image as a city of great architecture and urban design. 10-A DCMR § 316.9.

(b) Environmental Protection Element

The goal of the Environmental Protection Element is to protect, restore, and enhance the natural and man-made environment in the District of Columbia, taking steps to improve environmental quality, prevent and reduce pollution, and conserve the values and functions of the District's natural resources and ecosystems. 10-A DCMR § 601.1.

The project will help achieve this goal by advancing the following Environmental Protection Element policies:

- Policy E-1.1.3: Landscaping - Encourage the use of landscaping to beautify the city, enhance streets and public spaces, reduce stormwater runoff, and create a stronger sense of character and identity. 10-A DCMR § 603.6.
- Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff - Promote an increase in tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large paved surfaces. 10-A DCMR § 613.3.

(c) Urban Design Element

The goal of the Urban Design Element is to enhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identity of its neighborhoods, harmoniously integrating new construction with existing buildings and the natural environment, and improving the vitality, appearance, and security of streets and public spaces. 10-A DCMR § 901.1.

The project will help achieve this goal by advancing the following Urban Design Element policies:

- Policy UD-1.1.1: National Image - Strengthen and enhance the physical image, character and outstanding physical qualities of the District, its neighborhoods, and its open spaces, in a manner that reflects its role as the national capital. 10-A DCMR § 903.6.
- Policy UD-1.4.1: Avenues/Boulevards and Urban Form - Use Washington's major avenues/boulevards as a way to reinforce the form and identity of the city, connect its neighborhoods, and improve its aesthetic and visual character. Focus improvement efforts on avenues/boulevards in emerging neighborhoods, particularly those that provide important gateways or view corridors within the city. 10-A DCMR § 906.6.
- Policy UD-2.1.4: Architectural Excellence - Promote excellence in the design of Downtown buildings and landscapes. Particular attention should be focused on ground floor (street) levels, with greater architectural details used to improve visual image. 10-A DCMR § 909.12.
- Policy UD-2.2.2: Areas of Strong Architectural Character - Preserve the architectural continuity and design integrity of historic districts and other areas of strong architectural character. New development within such areas does not need to replicate prevailing architectural styles exactly but should be complementary in form, height, and bulk. 10-A DCMR § 910.7.
- Policy UD-2.2.5: Creating Attractive Facades - Create visual interest through well-designed building facades, storefront windows, and attractive signage and lighting. Avoid monolithic or box-like building forms, or long blank walls which detract from the human quality of the street. 10-A DCMR § 910.12.
- Policy UD-3.1.1: Improving Streetscape Design - Improve the appearance and identity of the District's streets through the design of street lights, paved surfaces, landscaped areas, bus shelters, street "furniture", and adjacent building facades. 10-A DCMR § 913.8.
- Policy UD-3.2.4: Security Through Streetscape Design - Develop and apply attractive, context-sensitive security measures in the design of streets, plazas, and public spaces.

These measures should use an appropriate mix of bollards, planters, landscaped walls, vegetation, and street furniture rather than barriers and other approaches that detract from aesthetic quality. 10-A DCMR 914.9.

(d) Historic Preservation Element

The goal of the Historic Preservation Element is to preserve and enhance the unique cultural heritage, beauty, and identity of the District of Columbia by respecting the historic physical form of the city and the enduring value of its historic structures and places, recognizing their importance to the citizens of the District and the nation, and sharing mutual responsibilities for their protection and stewardship. 10-A DCMR § 1001.1.

The project will help achieve this goal by advancing the following Historic Preservation Element policies:

- Policy HP-2.3.3: Spatial Character of L'Enfant Plan Streets - Protect the generous open space and reciprocal views of the L'Enfant Plan streets, avenues, and reservations. Protect the integrity and form of the L'Enfant system of streets and reservations from inappropriate new buildings and physical incursions. Support public and private efforts to provide and maintain street trees to help frame axial views and reinforce the city's historic landscape character. 10-A DCMR § 1010.5.
- Policy HP-2.3.4: Public Space Design in the L'Enfant Plan - Reinforce the historic importance and continuity of the streets as public thoroughfares through sensitive design of sidewalks and roadways. Avoid inappropriate traffic channelization, obtrusive signage and security features, and other physical intrusions that obscure the character of the historic street network. Work jointly with federal agencies to preserve the historic statuary and other civic embellishments of the L'Enfant Plan parks, and where appropriate extend this tradition with new civic art and landscape enhancements of the public reservations. 10-A DCMR § 1010.6.
- Policy HP-2.4.3: Compatible Development - Preserve the important historic features of the District while permitting compatible new infill development. Within historic districts, preserve the established form of development as evidenced by lot coverage limitations, yard requirements open space, and other standards that contribute to the character and attractiveness of those areas. Ensure that new construction, repair, maintenance, and improvements are in scale with and respect historic context through sensitive siting and design and the appropriate use of materials and architectural detail. 10-A DCMR § 1011.8.

6. The Federal Interest, as Determined by the Secretary.

The State of Hungary is a vital ally, partner, and friend of the United States. Hungary and the United States enjoy a balanced, value-based partnership built upon their common respect for democracy and universal human rights. The Department of State has authorized the filing of this application (*see* Exhibit 5) and will submit a report to the FMBZA case record prior to the public hearing.

**V.
COMMUNITY ENGAGEMENT**

The Site is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 2B. On July 5, 2018, the Applicant presented the project to ANC 2B’s Zoning, Preservation and Development Committee, which voted unanimously to recommend that the full ANC support the application. On August 11, 2018, at ANC 2B’s regularly scheduled and duly noticed monthly public meeting, at which a quorum of commissioners was present, ANC 2B voted unanimously (9-0-0) to support the application. A copy of the ANC’s letter of support is included at Exhibit 34 of the case record.

**VI.
WITNESSES**

The Applicant intends to call the witnesses listed below to testify on its behalf at the public hearing. The outlines of testimony and resumes for the witnesses are included as Exhibits 9 and 10 of the case record.

1. Representative, State of Hungary, Ministry of Foreign Affairs and Trade
2. Brian Talty, KCCT Architects
3. Chris Kabatt, Wells & Associates
4. Emily Eig, EHT Tracerics, Inc.

VII.
CONCLUSION

For the above stated reasons, the Applicant respectfully requests approval of the proposed Improvements at the Site. We appreciate the Board's continued review of this application.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: Christopher Collins *JB*
Christopher H. Collins, Esq.

By: Jessica Bloomfield
Jessica R. Bloomfield, Esq.