

+MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

Karen Thomas, Case Manager **FROM:**

Joel Lawson, Associate Director Development Review

DATE: April 27, 2023

SUBJECT: FMBZA Case # 20887 Application of the Kingdom of Netherlands pursuant to 11

DCMR Subtitle X § 201.8 for construction of a parking garage at its chancery.

RECOMMENDATION I.

The Office of Planning recommends that the FMBZA not disapprove the request by the Kingdom of the Netherlands to construct a three-story accessory parking garage to an existing, detached, chancery building in the R-8 zone.:

- Special Exception for theoretical subdivision to allow multiple primary buildings on a single record lot in the R-8 Zone, pursuant to Subtitle C § 305.1.
- Side yard relief pursuant to D § 5201.1(b) and D § 507 (Minimum 24 feet in aggregate for both side yards: 17 feet provided)
- Rear yard relief pursuant to 11-D DCMR § 5201.1(b), for the west side of the proposed replacement parking structure. Pursuant to 11-D DCMR § 506, the minimum rear yard requirement in the R-8 Zone is 25 feet. As shown in the theoretical subdivision plat on Page 10 of the Plans, the rear yard along the west side of the proposed parking structure ranges from 8 feet to 20 feet in depth, resulting in a mean horizontal distance of approximately 14 feet.
- Approval of temporary construction elements in public space;

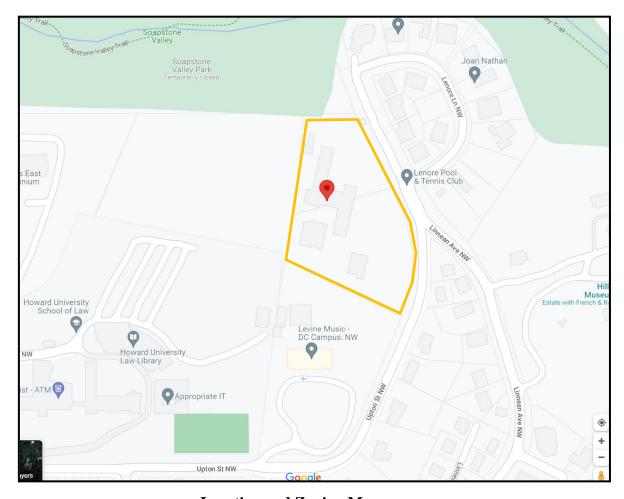
consistent with the intent of 11 DCMR X § Chapter 2 and Section 206 of the Foreign Missions Act (22 USC § 4306).

LOCATION AND SITE DESCRIPTION II.

| Address | 4200 Linnean Avenue NW | | |
|----------------------------------|--|--|--|
| Applicant: | Government of the Kingdom of the Netherlands | | |
| Legal Description | Square 2049, Lot 808 | | |
| Ward / ANC | Ward 3; ANC 3F | | |
| Zone | R-8 | | |
| Historic District or Resource | None | | |

Board of Zoning Adjustment

| Lot Characteristics | The 186,236 sq.ft. lot is irregularly shaped as it follows the streets alignment to the east and the abutting lots shared property lines. | | |
|---------------------------------------|--|--|--|
| Existing Development | The Property is improved with the chancery and deputy ambassador's residence of the Government of the Kingdom of the Netherlands. The residence was constructed in the 1920s, prior to the Netherlands' ownership. The chancery building and the 81-space, three-level parking structure was constructed in 1961 | | |
| Adjacent Properties | The site is bound by Linnean Avenue and Upton Street NW to the to the west, Soapstone Valley Park to the north, the Levine School of Music to the south property line and the Howard University Law School Campus at the west property line. | | |
| Surrounding Neighborhood Character | The neighborhood is a mix of single-family detached homes, embassies, educational institutions, as well as the Hillwood Museum. | | |



Location and Zoning Maps

III. APPLICATION-IN-BRIEF

The Applicant proposes to replace the existing three-level parking structure that was built in the early-1960s with a new three-level parking structure. The new parking garage is proposed with approximately 78 parking spaces, fewer than the 81 existing spaces, with related improvements to the pedestrian access, inclusion of an extensive green roof with 150 solar panels and storm water retention. The structure's design would be composed of concrete and timber at approximately 12 feet in height as measured from the finished grade at the middle of the building façade facing the nearest street lot line. The height at the entry plaza leading into the chancery building will be approximately 24 ft. 6 in. Due to the property's topography, the garage should minimally extend above the height of the rear retaining wall of the existing structure, thereby maintaining a low profile of visibility from neighboring properties. Timber balustrades would clad the exterior parapet of the second level to integrate the landscape of the structure's surroundings. The parapet walls may also contain integrated artwork for visual interest, together with skylights and other lighting to orient pedestrians to and from the garage.

Since the property was constructed in the 1960's, under the current 2016 Zoning Regulations Subtitle C § 305, the proposed parking structure, and existing chancery and deputy ambassador's residence would likely be regulated as multiple buildings on a single record lot in the R-8 residential zone. As such, pursuant to Subtitle C § 305.1, a special exception for theoretical lot subdivision to allow multiple primary buildings on a single record lot in the R-8 Zone is required as demonstrated in plans of Exhibit 3, page 10, where the plat shows theoretical lot lines for the existing residence, chancery, and the proposed parking structure. Accordingly, related zoning relief would be required to permit rear and side yards which are less than the minimum required under Subtitle D § 5201 as required under C § 305.3¹.

Other municipal requirements including the temporary use of public space for construction staging will be addressed in this application. The necessary requirements are reviewed according to the criteria of the Foreign Missions Act reiterated under Subtitle X § 201.8 discussed hereafter.

IV. REGULATORY REQUIREMENTS

For applications requesting to locate, replace, or expand a chancery in a low- to medium-density residential zone, before applying the criteria of Subtitle X § 201.8, the Board must first determine that the proposed location is in a mixed-use area based on existing uses. See 11 DCMR Subtitle X §§ 201.3–201.7.

The property falls within the R-8 Zone District (formerly the Forest Hills Overlay Zone). Subtitle U § 504.1 establishes a Chancery as a special exception use, while Subtitle X Chapter 2 provides provisions and criteria for the review of chancery applications by the FMBZA; specifically, the criteria of X § 201.8. Section 201.8 (e) requires a review of municipal interests, which are synonymous with the District's regulatory requirements including the zoning regulations, public space requirements, and historic preservation where relevant.

¹ 305.3 The following development standards shall apply to theoretical lots:

⁽a) Side and rear yards of a theoretical lot shall be consistent with the requirements of the zone;

V. ZONING REQUIREMENTS and RELIEF REQUESTED

| Zone- R-8 | Regulation | Existing | Proposed | Relief |
|---|--|---|--|------------------|
| Height D § 507.1 | 40 ft. max. 90 ft. if removed from all lot lines for a distance equal to building height | 40 ft (residence) 20 ft. (chancery) | 40 ft (residence) 20 ft. (chancery) 12 ft garage | None Required |
| Lot Width D § 502.1 | 75 ft. | 669.11 ft. | 669.11 ft. | None Required |
| Lot Area D § 502.1 | 9,500 sq.ft. min. | 186,236 sq.ft. | 186,236 sq.ft | None Required |
| Floor Area Ratio N/A | N/A | N/A | N/A | N/A |
| Lot Occupancy D § 504 | 30 % max. | 21 % | 21 % | None Required |
| Rear Yard D § 506 | 25 ft. min. | 47 ft. (res.) 42.6 ft. (chan.) | 14 ft. (garage) | Relief Requested |
| Side Yard D § 507.4 (Aggregate) | 24 ft (aggregate) 8 ft. min. each side yd | Not provided | 0 ft. and 17 ft. (aggregate). | Relief Requested |
| Theoretical Lot C § 305 | Each new primary building and structure shall be erected on a separate lot of record in all R, RF, and RA zones, except as follows: a)As provided for in the theoretical lot subdivision regulations of Subtitle C § 305.1; | 2 buildings and a garage structure on one lot (circa, 1960) | 2 theoretical lots | Relief Requested |
| Parking C § 701.5 | 0.5 per 1,000 sq. ft. in excess of 3,000 sq. ft., or as determined by the FMBZA | 95 (81 parking structure, 14 surface lot) | 92 (78 parking structure, 14 surface lot) | None Required |
| Bike Parking C § 802.1 Long Term Short Term | 1 space /5,000 sf 1 space/40,000 sf | 11 | No change | None Required |
| Loading Berth C § 901.1 | 1, 12 ft x 30 ft | 1 | No change | None Required |
| Service Delivery Space | 1, 10 ft x 20 ft | 1 | No change | None Required |

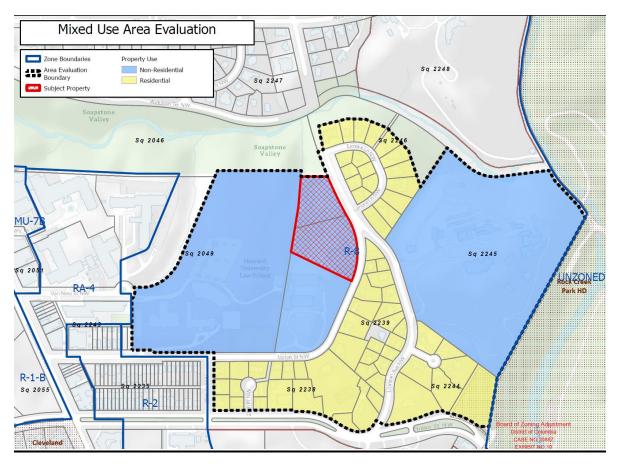
Page 5

VI. OFFICE OF PLANNING ANALYSIS

The proposed expansion or replacement of an existing chancery is reviewed pursuant to X §§ 201.1 and 202 where it is prescribed that The Board of Zoning Adjustment's determination of the merits of the application shall be based solely on the criteria of X § 201.8 (analysis provided above).

<u>Use: U § 203.1 (b):</u> The chancery expansion is permitted by special exception if it is located within a low-density residential zone X § 202.1 and X§ 201.3. The chancery has existed at this location, zoned R-8 which is a low-density residential zone, since 1961, prior to the existing regulations. The garage was built around 1961 as a three-story, 81 space parking structure.

The Applicant has documented that the continued use of the property satisfies the requirements of X § 201.3, through 201.5, including the mapping of the defined area for purposes of X §201.4 and X § 201.5 as shown in Exhibit 10. Further, the required area utilized for non-residential purposes is at 68%, which exceeds the minimum 50% land area considered as mixed-use. OP concurs that the requirement for a chancery site to be located within a mixed-use area anticipated under X § 201.5 is satisfied and the merits of the application should be considered further, pursuant to X§ 201.8.



Provided by the Applicant (Exhibit 10) – The area considers Square 2049, as well as uses in squares immediately north, south, and east of the Property (Squares 2238, 2239, 2244, 2245, and 2246) = 3,370,516 sf., where 68% is utilized for non-residential purposes.

Compliance with § 201.8

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

(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;

The State Department's memo dated April 29, 2023 (Exhibit 7) states its approval for filing the application The memo of April 25, 2023 (Exhibit 25) provides additional comments in support of the request, including that the proposed new garage would satisfy the United States' international obligation to facilitate the provision of secure and adequate facilities for this foreign mission.

(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 landmark;

The existing structure is not within a historic district, nor is it a designated landmark structure.

(c) The adequacy of off-street parking or other parking and the extent to which the area will be served by public transportation to reduce parking needs, subject to such special security requirements as may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services;

The Applicant provided a transportation statement to the District Department of Transportation (DDOT) for review and comments (Exhibit 21A). The statement provides information on the existing conditions, including site access, circulation, loading, and parking, with a review of the temporary public space needs. DDOT comments noting no objection to the proposal are provided at Exhibit 24.

The site is accessed by vehicle via a drive access to the north at Linnean Avenue and to the south at Upton Street, the latter which provides access to the garage. Eighty-one parking spaces are currently provided on-site at the three-level garage. The new structure would reduce the parking supply to 78 spaces, which would exceed the requirement of the Regulations (34 spaces required). ADA access would be installed as part of the garage's improvement. Eleven long-term bicycle spaces are also provided. The chancery's loading facility would not be affected by the new garage.

The Embassy/chancery does not anticipate that the proposed improvements would result in additional events or employees at the site. The property is ¾ mile east of transit-accessible Connecticut Avenue. In the interim, during construction, the Applicant has proposed off-site parking arrangements at nearby institutions and with the Department of State at the International Center campus until completion of the new garage. This will be finalized prior to the FMBZA's hearing.

The State Department has indicated that there are no special security requirements relating to parking in this case. (Exhibit 25).

Page 7

(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;

The property has operated as a chancery and embassy for over 50 years and has been protected adequately since that time. The State Department's Letter of Authorization for this project is included at Exhibit 7 and at Exhibit 25 pursuant to 22 U.S.C. § 4306(d)(4), the subject site and area are capable of being adequately protected.

(e) The municipal interest, as determined by the Mayor of the District of Columbia; and The municipal interest is determined by the following regulatory requirements for which relief was requested.

Requested Relief:

305 Theoretical Lot Subdivision Α.

305.4. For a theoretical subdivision application, the following information is required to be submitted to the Board of Zoning Adjustment, in addition to other filing requirements pursuant to Subtitle Y § 300:

Notwithstanding that the lot is fully developed, a plat of the lot proposed for subdivision, elevation and plans for the proposed garage, as well as the required table of zoning information are provided in Exhibit 3 and Exhibit 17.

Subtitle C § 305.5 also requires that the following are addressed:

305.5 (a)....

- (1) Public safety relating to police and fire concerns including emergency vehicle access:
- (2) The environment relating to water supply, water pollution, soil erosion, and solid waste management;
- (3) Public education;
- (4) Recreation;
- (5) Parking, loading, and traffic;
- (6) Urban design; and
- (7) As appropriate, historic preservation and visual impacts on adjacent parkland:

The above requirements are not applicable in this case since the site was fully developed prior to the 2016 Regulations. However, approval of this provision would bring the site into compliance with current regulations and requirements, with respect to the number of buildings on the record lot.

(b) Considerations of site planning; the size, location, and bearing capacity of driveways; deliveries to be made to the site; side and rear setbacks; density and open space; and the location, design, and screening of structures;

The proposed garage would be developed on the site of the existing structure but would require side and rear yard relief consistent with the current Regulations under D § 5201 addressed hereafter.

(c) Considerations of traffic to be generated and parking spaces to be provided, and their impacts;

The Applicant provided a Transportation Statement to the record (Exhibit 21A) for DDOT's review, which addressed site access and circulation, loading and parking, along with the temporary public space use that are proposed. The property currently provides on-site parking in excess of its requirements. The Applicant informed OP that temporary off-site parking for its employees is being negotiated with the State Department for the duration of the construction of the new garage. Details would be finalized and presented at the hearing.

(d) The impact of the proposed development on neighboring properties; and

The proposed garage should not adversely impact neighboring property due to the location of the garage well within the site. The addition of stormwater controls would be a benefit to the neighborhood by reducing runoff into the natural resources and creeks of the Forest Hills neighborhood. In addition, the temporary staging of construction materials for a small area on Linnean Avenue is not unusual for construction projects throughout the District and would be managed as required by DDOT's permissions.

(e) The findings, considerations, and recommendations of other District government agencies.

DDOT's report at Exhibit 24 determined that "the proposed action will not have adverse impacts on the District's transportation network." There were no other agency reports included in the record to date.

Subtitle X Section 901 SPECIAL EXCEPTION REVIEW STANDARDS

- 901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:
- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

As discussed, the requested subdivision to create the theoretical lots would bring the property with three structures into conformance with current Regulations for multiple structures on one record lot.

(b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;

The use of neighboring properties should not be adversely impacted and the new garage would be placed in the general location of the demolished structure and no other new structures would be added.

The new garage structure should not create an adverse impact on the surrounding neighborhood or create harm to the intent of the Regulations. OP supports the requested relief for a theoretical lot subdivision to bring the site into conformance with existing 2016 Regulations.

B. Subtitle D § 5201 – Side and Rear Yard

- 5201.2... the Board of Zoning Adjustment may grant relief from the following development standards as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:
 - (a) Lot occupancy
 - (b) Maximum building area of an accessory building;
 - (c) Yards, including alley centerline setback; and

The side yard proposed for the new structure would require relief, as the garage would provide 0 feet and 17 feet from the property line in parts, where an aggregate of 24 feet would be required. In addition, the rear yard would be 14 feet, where 25 feet would be required.

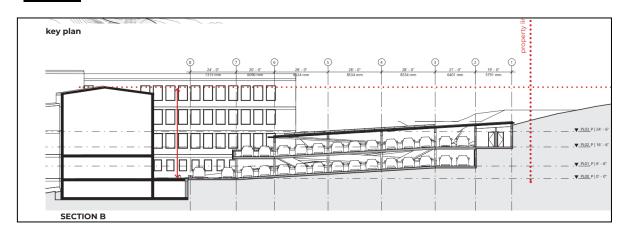
(d) Pervious surface. N/A

5201.3 : N/A

- 5201.4 An application for special exception relief under this section shall demonstrate that the proposed addition, new principal building, or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically:
 - (a) The light and air available to neighboring properties shall not be unduly affected;

The size of the property, its topography and the location of the garage would result in no undue impact on light and air to neighboring properties. There are no buildings of the abutting properties close to the existing or proposed structure. The plans show the garage would be almost wedged into the slope where it would be located (<u>Exhibit 7 Page 21</u>) as reproduced here.

Figure 1.



Page 10

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

The existing garage structure is surrounded by trees and chancery buildings and has little to no view from public space or neighboring properties. As such the privacy and enjoyment of neighboring properties should not be compromised in this instance.

The proposed addition or accessory structure, together with the original building, or the new principal building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street or alley frontage; and

The existing and proposed structure is located well towards the rear of the property and is not immediately visible from public spaces along Linnean Avenue or Upton Street. Therefore, the new structure should not present a visual intrusion to the general character of the Forest Hills neighborhood.

In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways.

This information is provided as Exhibits $\underline{3}$ and $\underline{15}$.

5201.5 The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

OP does not offer any special treatments.

5201.6 This section shall not be used to permit the introduction or expansion of a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories as a special exception.

The garage is an accessory to the permitted residential uses on the site and would conform to the height requirements.

Subtitle X Section 901 SPECIAL EXCEPTION REVIEW STANDARDS

901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

(a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

The new garage would be in harmony with the intent of the Regulations for this neighborhood, according to the provisions of Subtitle D § 500.1, which in part preserves the natural topography and limited the ground coverage of the new garage, compatible with the existing neighborhood.

(b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and

The parking garage renovation should not adversely affect the use of neighboring property. The Applicant is currently negotiating parking arrangements with the Department of State for temporary parking spaces at the International Center campus located on Connecticut Avenue and nearby institutions to mitigate on-street neighborhood parking while the garage is being constructed.

Public Space

The treatment of the public space is an important element of the municipal interest. The chancery collaborated with DDOT on key public space issues as it relates to the Applicant's request to occupy a 10 ft. x 150 ft. area in public space to facilitate construction staging, due to the site's topography and limited access for large construction vehicles entering the site. DDOT anticipates that at construction the Applicant would participate in a PDRM meeting to finalize this aspect of operation.

The applicant provided a temporary public space staging diagram at **Exhibit 21C** indicating:

- Locations for the contractor field office on-site:
- An outline of the area proposed for temporary material storage and staging areas against the curb on Linnean Avenue
- (f) The federal interest, as determined by the Secretary of State.

A State Department statement is provided at Exhibit 7. Additional Department of State comments are provided at Exhibit 25 in support of the application.

VII. COMMENTS OF OTHER DISTRICT AGENCIES

The District Department of Transportation's (DDOT) report noting no objection to the application is included at Exhibit 24.

VII. ANC COMMENTS

ANC3F voted to recommend approval of the request at its regularly held meeting on April 21, 2023. (Exhibit 22)

VII. COMMUNITY COMMENTS

At the writing of this report, no other public comments have been submitted to the record.