

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

Application of the  
Government of the  
Kingdom of the Netherlands

FMBZA Application  
ANC 3F07

**STATEMENT OF THE APPLICANT**

This application is made by the Government of the Kingdom of the Netherlands (the “**Applicant**”) for approval pursuant Subtitle U § 203.1(b), Subtitle X § 202.1, and Subtitle Y § 301 of the Zoning Regulations to reconstruct an existing parking structure at the Applicant’s existing chancery located at 4200 Linnean Avenue, NW (Square 2049, Lots 807 and 808) (the “**Property**”) located in the R-8 zone. 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 “**Project**”). As discussed below, the proposed parking structure will contain slightly fewer parking spaces than the existing structure, while substantially improving the pedestrian safety, environmental sustainability, and aesthetic quality of the Property.

**I. JURISDICTION OF THE BOARD**

The Board has jurisdiction to grant the chancery application pursuant to Subtitle Y § 100.6 of the Zoning Regulations.

**II. STATEMENT OF EXISTING AND INTENDED USES**

The Property has been owned by the Applicant and used for ambassador’s residence and chancery purposes since 1961. The Property will continue to be used for these purposes following completion of the proposed parking structure.

### **III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA**

The Property is within the northwest neighborhood of Forest Hills (Ward 3) and is zoned R-8. The Property is in Square 2049, which is bounded by Connecticut Avenue, NW on the west, Linnean Avenue, NW on the east, Upton Street, NW on the south, and Soapstone Valley Park on the north.

As shown on the zoning and context map included on page 3 of the Plans, attached hereto as Exhibit E (the “**Plans**”), the Property is immediately east of the Howard University Law School Campus. To the immediate north is Soapstone Valley Park, which is owned by the National Park Service. Single-family residential properties and the Hillwood Estate, Museum, and Gardens are located to the east of the Property. Immediately south of the Property is the site of the historic Carnegie Institution of Washington, Geophysical Laboratory, which is now owned and occupied by the Levine School of Music.

The area immediately surrounding the Property is also zoned R-8, a low-density residential zone. Some high-density residential zoning (RA-4) is found toward the west, near the Connecticut Avenue commercial corridor. The Property is located approximately 0.4 miles (as the crow flies) from the Connecticut Avenue commercial corridor, along which is the University of the District of Columbia (“**UDC**”) Campus, the former Intelsat office building (most recently occupied by the Whittle School), the Van Ness-UDC Metrorail station, and moderately scaled mixed use developments. Zoning along this segment of the Connecticut Avenue corridor is largely MU-7, a moderate-density mixed-use zone. The Property is located approximately 0.5 miles from the International Chancery Center.

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 Applicant acquiring the Property. According to District records, the Applicant acquired the Property in 1960 and constructed the chancery building and existing parking structure in 1961. The chancery is a three-story structure containing approximately 70,000 square feet of gross floor area. Generally, the chancery building has a simple, modern design aesthetic that is composed of brick that was imported from Holland, and copper roofs. A three-level parking structure is located at the rear of the chancery building that contains approximately 81 spaces. As shown in the plan diagrams included on Page 8 of the Plans and the section diagram on Page 13 of the Plans, the existing parking structure follows the contours of the Property's sloping topography. The parking structure is accessed from a long driveway that connects to Linnean Avenue. Due to the site's topography, the driveway first accesses the existing parking structure at the third level, and then proceeds down along the side of the parking structure to the two lower levels. There are no internal pedestrian connections between the three levels of the existing parking structure.

#### **IV. THE PROJECT**

The Project entails the construction of a new three-level parking structure in the same location as the existing parking structure at the rear of the chancery building. The existing parking structure is outdated and needs significant maintenance. Additionally, the design of the existing parking structure creates challenges for pedestrians traversing to and from the chancery building. Specifically, with no internal connections between parking levels, pedestrians must utilize the same single ramp that vehicles use to access parking spaces. In addition to obvious safety concerns, the slope of the existing ramp is too steep, this causing accessibility issues. Furthermore, given its age, the existing garage is comprised entirely of impervious surface that exacerbates urban heat island effects and directs nearly 100% of untreated stormwater into the municipal sewer system.

The proposed parking structure will have three levels of parking that are connected by an internal ramp that is access from a single point of entrance at the upper level of the structure. The proposed structure will contain approximately 78 parking spaces. To ensure pedestrian safety, the three levels of the garage will be connected by a central pedestrian walkway / stair that leads down to an entry plaza into the chancery building. As shown in the section diagrams included on Pages 13 and 19-22 of the Plans, the proposed structure will step down towards the rear of the chancery building, effectively maintaining the same topographic elevations of the existing parking structure. Finally, the proposed parking structure will have a partial roof that provides weather protection for employees and visitors, along with opportunities for stormwater capture and solar energy production. As measured in accordance with the theoretical subdivision regulations, the proposed garage will have a height of approximately 12 feet<sup>1</sup> from the finished grade at the middle of the building façade facing the nearest street lot line. The height of the proposed garage at the entry plaza leading into the chancery building will be approximately 24'-6". Overall, the proposed parking structure will extend only minimally above the height of the rear retaining wall of the existing structure. Thus, it is unlikely the proposed parking structure will be visible from neighboring properties because of its low profile, significant topographical changes, and extensive vegetation on and surrounding the Property.

The proposed parking structure will be constructed of a wide range of materials that are intended to reinforce the structure's integration with the site topography, provide visual cues for drivers and pedestrians, and achieve a modern, complementary architectural aesthetic. The structural components of the garage will be constructed of concrete and timber. The floors of the structure will be brushed concrete with differing finishes to mark drive aisles, parking spaces,

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<sup>1</sup> Pursuant to Subtitle C § 305.3(c), "the height of a building governed by the [theoretical subdivision provisions] shall be measured from the finished grade at the middle of the building façade facing the nearest street lot line."

pedestrian routes, and the entry plaza. Similarly, concrete columns the lower-level ceilings of the garage will provide visual interest through the use of board formed concrete. On the upper level, timber columns set atop concrete pedestals will support the coated metal decking roof over the garage. The roof level will contain an extensive green roof, which visually will appear as an extension of the adjacent landscape, and approximately 150 solar panels. Timber balustrades are also applied around the exterior parapet of the garage's second level to further integrate into the landscape and incorporate a natural envelope reflective of the structure's surrounding.

Along the central pedestrian passageway, blackened steel parapet walls will provide fall protection and help orient pedestrians. The parapet walls may also contain integrated artwork for visual interest. To further orient pedestrians, skylights and architectural pendant lighting will be installed above the pedestrian passageway.

The landscape plan for the proposed garage structure will consist primarily of low maintenance, drought-tolerant plantings. It is estimated that the green roof will be capable of retaining approximately 50% of stormwater, which would otherwise need to be treated and discharged into the municipal sewer system. There is potential for additional stormwater capture through bioretention around the perimeter of the proposed parking structure. At the entry plaza, cobble paving, a collection of low gravel planting beds, and concrete/timber benches are proposed.

All improvements proposed within the Project are located on the Property. The Applicant is not proposing any new permanent public space improvements or permanent modifications to existing public space improvements. As discussed below, the Applicant is requesting the Board's approval of temporary improvements within adjacent public space for staging and storage during construction.

## **V. TEMPORARY PUBLIC SPACE IMPROVEMENTS**

During construction, the Applicant's contractor will locate temporary structures or facilities such as the contractor's field office and portable toilets entirely within the Property. However, due to several physical and operational constraints of the Property the contractor may require the temporary use of adjacent public space along the west side of Upton Street, NW and Linnean Avenue, NW for deliveries, materials storage, and construction staging, along with other potential temporary construction-related components. Steep grades and mature tree coverage on the Property limit the area available to locate these temporary construction elements onsite and make it infeasible for large delivery vehicles to access the location of the proposed parking structure. In addition, the existing chancery and deputy ambassador's residence will remain in continual use throughout construction, thus further limiting opportunities for onsite construction storage and staging. As such, deliveries and staging of materials may occasionally need to occur in adjacent public space and then be moved onto the Property by the contractor using smaller vehicles.

The extent to which adjacent public space will be needed during construction is still being evaluated by the Applicant and its design team and will not be finalized until the Applicant selects a general contractor well after the Board's review. At this point in the process, the Applicant estimates that an area measuring approximately 10 feet wide by 100 feet long will be the maximum area needed for parking, deliveries, staging, and temporary storage of materials when onsite conditions are not adequate. The final plan and schedule for use of these areas in public space will be determined in coordination with the general contractor once they are selected.

Pursuant to 11-X DCMR § 203.7, the Board may grant permission to construct improvements in public space to be undertaken as part of a chancery application, consistent with

what is permitted under District law. Thus, the Applicant hereby requests the Board's approval to utilize the public space adjacent to the Property during construction for deliveries, materials storage, and construction staging along with other potential temporary construction-related components. Prior to the Board's hearing on the application, the Applicant will coordinate closely with DDOT and the ANC on the temporary use of public space during construction. As part of its prehearing statement, the Applicant will submit additional information regarding the area of adjacent public space that is needed during construction. This information will include a conceptual site plan and any use / operational conditions, including a commitment to fully restore the adjacent public space after completion of construction. The information will also include a condition that requires the Applicant to coordinate with DDOT staff and the ANC on the final temporary public space site plan, consistent with any conceptual temporary public space site plan that may be approved by the Board as part of this application.

## **VI. NATURE OF RELIEF SOUGHT**

Pursuant to Subtitle X § 202.1 of the Zoning Regulations, an existing chancery in a low- to medium-density residential zone, such as the R-8 zone, may be expanded, or replaced, subject to the Board's review in accordance with the standards set forth in Subtitle X § 201.8. The Applicant requests that the Foreign Mission Board of Zoning Adjustment (the "**Board**") "not disapprove" the Project pursuant to Section 205 of the Foreign Missions Act, 22 U.S.C. § 4305, D.C. Code § 6-1305 and Subtitle X § 202.1 of the Zoning Regulations to permit the reconstruction of an outdated three-level parking structure at an existing chancery in a low- to medium-density residential zone along with additional areas of relief. The Board's review under Subtitle X § 201.8 encompasses any relief needed from applicable matter-of-right area requirements. *See, e.g., Order No. 17972 of the Kingdom of Sweden by the National Property Board of Sweden, on behalf of the*

*Embassy of Iceland* (2010) at 3; *see also Embassy of the People’s Republic of Benin v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 310, 316–18 (D.C. 1987). Additionally, the Board’s review covers any public space features of the chancery application. 11-X DCMR § 203.7; *see also Order No. 18242 of the Embassy of the Republic of Serbia* (2011) at 4 n.3.

As stated above, the chancery and existing parking structure were constructed in the early-1960s. As shown in Exhibit F, the original zoning computation sheet for the chancery does not provide any information on whether or how the existing chancery and parking structure were measured for compliance with the regulations in effect at that time. Rather, the zoning computation sheet simply indicates that the chancery is permitted pursuant to “BZA authorization.” Under the current 2016 Zoning Regulations, 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 a residential zone under Subtitle C § 305. As such, pursuant to Subtitle C § 305.1, the Applicant requests a special exception for theoretical subdivision to allow multiple primary buildings on a single record lot in the R-8 Zone. A plat showing theoretical lot lines for the existing residence, chancery, and the proposed replacement parking structure is shown on Page 10 of the Plans.

In accordance with the requirements of Subtitle C § 305.3, the Applicant applied the side yard, rear yard, and building height standards of the R-8 Zone to the proposed replacement parking structure and existing ambassador’s residence and chancery using their respective theoretical lots. All other R-8 zone development standards were measured according to the underlying record lot of the Property. A zoning tabulation sheet is included on Page 11 of the Plans. Accordingly, the Applicant requests the following areas of relief for the proposed parking structure:

- Theoretical subdivision pursuant to 11-C DCMR § 305.1, to allow multiple primary buildings on a single record lot in the R-8 Zone. This area of relief is purely



technical in nature as two of the three buildings on the Property (the ambassador's residence and chancery) have existed for decades and no changes are proposed as part of this application. The third building, the existing parking garage, is proposed to be replaced.

- Side yard relief pursuant to 11-D DCMR § 5201.1(b), for the north side of the proposed replacement parking structure. Pursuant to 11-D DCMR § 507, the minimum side yard requirement in the R-8 Zone is “for all buildings, accessory buildings, or additions to buildings...twenty-four feet (24 ft.) in the aggregate, with no single side yard having a width of less than eight feet (8 ft.).” As shown in the theoretical subdivision plat on Page 10 of the Plans, no side yard is provided along the north side of the proposed replacement parking structure. The side yard along the south side of the proposed parking structure is 17 feet. As such, the proposed parking structure also does not meet the minimum aggregate side yard requirement of 24 feet; and
- 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.<sup>2</sup>

The Applicant also requests approval of temporary construction elements in public space, as described in Section V above.

## **VII. SATISFACTION OF STANDARDS FOR RELIEF**

In reviewing a chancery application, the Board must determine whether to “not disapprove” or “disapprove” the application based exclusively upon the six (6) factors set forth in Subtitle X

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<sup>2</sup> Pursuant to Subtitle B § 318.2, “[t]he depth of a required rear yard shall be measured as the mean horizontal distance between the rear line of a building and the rear lot line.”

§ 201.8 of the Zoning Regulations. Where, as here, a chancery application encompasses relief from applicable zoning requirements, the Board, rather than undertaking the usual analysis provided under the Zoning Act and Regulations for granting that relief, instead applies the criteria set forth in the Foreign Missions Act and reiterated in Subtitle X § 201.8. 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. As discussed in detail below, the Property is in a mixed-use area, and the Project satisfies the standards for relief under the Foreign Missions Act and Subtitle X § 201.8.

**A. The Property Is Located in a Mixed-Use Area.**

Pursuant to 11-X DCMR § 201.3, applications requesting to locate, replace, or expand a chancery in a low- to medium-density residence zone must first be determined by the Board to be in a suitable “mixed-use area,” as determined based on existing uses, which includes office and institutional uses. For purposes of this determination, the relevant “area” to be evaluated is the area that most accurately depicts the existing mix of uses adjacent to the Property, which may be the square within which the Property is located, or other bounds as determined by the Board. *See* 11-Y DCMR §§ 201.4 and 301.6. An area is automatically considered to be “mixed-use” if more than 50% of the zoned land within such area is devoted to non-residential uses, and an area that does not meet this 50% threshold may still be found to be mixed-use upon a showing of non-residential uses. 11-Y DCMR § 201.5. Upon determining that an area qualifies as “mixed-use,” the Board then proceeds to decide on the application based upon the six criteria enumerated in 11-X DCMR § 201.8.

It is worth noting that the 2016 Zoning Regulations permit a chancery use in the R Zones as a matter-of-right subject to certain conditions, such as: (i) the chancery existed on September 22, 1978, and has been in continuous use by the same country since February 23, 1990; (ii) no additional or accessory structure may be constructed on the lot; and (iii) there shall be no expansion of exterior walls, height, bulk, gross floor area, or any portion of an existing building or structure. Thus, if not for the minor increase in height of the existing parking structure compared to the existing parking structure, arguably the Applicant could proceed with the proposed project as a matter-of-right. Nevertheless, despite the Applicant having established and continuously occupying its chancery on the Property since the early-1960s, the Applicant must seek approval for the proposed parking structure from the Board pursuant to the requirements and criteria of 11-X DCMR § 201, which require the Board to determine whether the [existing] chancery is a suitable use for the Property. As discussed below, the location of the existing chancery is in a “mixed-use” area.

The Property is located at the eastern edge of Square 2049, which extends westward to Connecticut Avenue. Overall, the square comprises approximately 2,037,912 square feet of land area. Within the square, there are approximately six (6) properties that contain chancery, institutional, office, and multi-family residential uses. Some of these uses include the Howard University Law School Campus (approximately 19.6 acres) and the Levine School of Music (approximately 4.5 acres) that are immediately adjacent to the Property, and high-density residential uses closer to Connecticut Avenue. As a percentage, non-residential uses make up approximately 66% of the square’s land area, which exceeds the 50% threshold required under 11-X DCMR § 201.5.

Given the Property's location at the eastern edge of the square, the Applicant also evaluated the existing uses of zoned lots that surround the Property on all sides. The Applicant conducted this additional evaluation to further assist the Board in making the determination required under 11-X DCMR § 201.4 that the Property is in an area that "most accurately depicts the existing mix of uses adjacent to the proposed location of the chancery." As shown on the mixed-use area evaluation at Exhibit G, the "area" used in this second evaluation considers the existing uses in the eastern portion of Square 2049, as well as the uses in the squares that are immediately north, south, and east of the Property (Squares 2238, 2239, 2244, 2245, and 2246). Overall, the area used for this second analysis contains approximately 3,370,516 square feet of land area, of which approximately 2,298,688 square feet, or approximately 68%, is utilized for non-residential purposes. Thus, even under this second evaluation of existing uses the area surrounding the Property exceeds the 50% threshold for presumptive treatment as mixed-use.

**B. The Application Satisfies the Criteria Set Forth in Subtitle X § 201.8.**

Pursuant to Subtitle X § 201.8, the Board's review of the application shall be based on the six (6) criteria provided under Section 205 the Foreign Missions Act. As discussed in detail below, the application meets these criteria.

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. (X § 201.8(a))*

Approval of the application at the existing chancery will allow the Applicant to replace a woefully outdated structure with a modernized parking structure that provides sufficient parking for the Applicant's employees and visitors (albeit a slightly reduced number), improves circulation and accessibility along with pedestrian safety, and greatly enhances the environmental performance of the Property. Thus, approval of the application will meet the United States'

international obligation to facilitate the provision of adequate and secure facilities for the Kingdom of the Netherlands diplomatic mission in Washington, D.C.

2. *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. (X § 201.8(b))*

This criterion is not applicable as the Property is not located in any historic district and the existing buildings are not designated historic landmarks.

3. *Adequacy of off-street parking or other parking and the extent to which the area will be served by public transportation to reduce the 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. (X § 201.8(c))*

The Property will continue to provide adequate parking for employees and visitors of the Netherlands chancery. The existing 1960s parking structure contains approximately 81 parking spaces, and there are approximately fourteen (14) additional parking spaces elsewhere on the Property. The proposed parking structure will contain approximately 78 parking spaces. Under the current Zoning Regulations, the parking requirement for a chancery use is 0.5 spaces per 1,000 GFA in excess of 3,000 square feet of GFA, or as determined by the Foreign Missions Board of Zoning Adjustment. *See* 11 DCMR Subtitle C § 701.5. As such, based upon the GFA of the existing chancery building the minimum parking requirement for the Property is approximately 34 spaces.

The Property is approximately 0.75 miles east of the Van Ness – UDC Metrorail station (red line) along Connecticut Avenue. In addition, the Metrobus L1, L2, and D32 routes run along Connecticut Avenue with service to Downtown. The Applicant also encourages the use of other non-automobile modes, in particular bicycles. The Property is approximately 0.6 miles from a

Capital Bikeshare station located at the corner of Connecticut Avenue and Tilden Street. There is a painted bike lane that also runs along Tilden Street, and there is a pending proposal to add bike lanes along Connecticut Avenue. The Applicant also provides onsite bicycle parking for employees and visitors to the chancery.

4. *The extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services. (X § 201.8(d))*

As stated above, the Netherlands has occupied the Property for its consulate and deputy ambassador residence since the early-1960s. Since then, the Property has been able to be adequately protected. The U.S. Department of State may further review the application as part of a requested review for additional consideration of site protection issues.

5. *The municipal interest, as determined by the Mayor of the District of Columbia. (X § 201.8(e))*

Approval of the application will further the municipal interest. The Applicant has a maintained a successful relationship with the District having located its foreign mission on the Property since the early-1960s. The proposed parking structure will be in the same location as the Applicant's existing parking structure, and is unlikely to be visible, particularly from any public right-of-way or open space. Consistent with District sustainability goals, the proposed garage will greatly enhance the environmental sustainability of the Property. Specifically, the large green roof on top of the proposed structure will significantly increase onsite stormwater retention. Additionally, approximately 150 solar panels will also be installed on the roof of the parking structure. Accordingly, the approval of the application will serve the municipal interest.

6. *The federal interest, as determined by the Secretary of State. (X § 201.8(f))*

As demonstrated in Exhibit A, the U.S. Department of State, Office of Foreign Missions ("OFM") has authorized the submission of this application. The Applicant will continue to

coordinate with OFM throughout the Board's review process to address any questions OFM may have. The Applicant anticipates that OFM will submit additional correspondence in support of the application in advance of the public hearing, and/or at the public hearing itself.

## VIII. COMMUNITY OUTREACH

The Applicant is committed to engaging with the community regarding the project. The Applicant has reached out to the project's Single Member District representative and has contacted the immediately adjacent neighbors to introduce the project and respond to any questions. The Applicant will continue to coordinate with the community throughout the review process. The Applicant is anticipating that it will present the project to ANC 3F at its regularly scheduled meeting in February 2023, prior to the Board's public hearing date.

## IX. CONCLUSION

For the reasons set forth in this statement, the Applicant requests that the Board not disapprove this application.

Respectfully submitted,

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Jeff C. Utz