

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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FOREIGN MISSIONS  
BOARD OF ZONING ADJUSTMENT

+ + + + +

SPECIAL PUBLIC MEETING

+ + + + +

TUESDAY,

FEBRUARY 10, 2009

+ + + + +

The Special Public Meeting convened in Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Ruthanne G. Miller, Chairperson, presiding.

FM BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

RUTHANNE G. MILLER Chairperson  
MARC D. LOUD Vice Chairman  
MARY OATES WALKER Board Member

ZONING COMMISSION MEMBERS PRESENT

MARCEL A. ACOSTA Member (NCPC)  
PETER MAY Member (NPS)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY Secretary  
BEVERLEY BAILEY Sr. Zoning Spec.  
JOHN NYARKU Zoning Specialist

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This transcript constitutes the minutes from the Special Public Meeting held on February 10, 2009.

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1 P-R-O-C-E-E-D-I-N-G-S

2 9:41 a.m.

3 CHAIRPERSON MILLER: Good morning,  
4 ladies and gentlemen. I understand that any  
5 logistics that have to be worked out relate to  
6 the hearing, which we are having this morning,  
7 but that is following a meeting decision, so  
8 that we can go forward with our meeting while  
9 any logistics for the hearing are being worked  
10 out.

11 So this meeting will come to order.

12 This is the February 10<sup>th</sup> Public Meeting of  
13 the FMBZA. And my name is Ruthanne Miller.  
14 I'm the Chair. Joining me to my right is Mr.  
15 Marc Loud. He is our Vice Chair. And Peter  
16 May is with us representing the National Park  
17 Service. And to my left is Mary Oates Walker,  
18 Board Member, and Marcel Acosta representing  
19 the National Capital Planning Commission.

20 So we are going to call the case  
21 that's on the agenda for today's meeting.

22 MR. MOY: Yes, good morning, Madam

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1 Chair and Members of the Board. The one case  
2 for decision this morning is the Chancery  
3 Application No. 17886 of South Africa. This  
4 is pursuant to 11 DCMR 201.1 and 1001 and  
5 section 4306 of the Foreign Missions Act, to  
6 permit the renovation and expansion of an  
7 existing chancery use in the D/NOPD/TSP/R-1-A  
8 District. This is at premises 3101  
9 Massachusetts Avenue, N.W., Square 2145, Lot  
10 826.

11 If the Board will recall, on  
12 January 13, 2009, the Board of Zoning  
13 Adjustment sitting as the FMBZA completed  
14 public testimony, closed the record and  
15 scheduled its decision on February the 10<sup>th</sup>.  
16 The Board requested additional information to  
17 supplement the record.

18 Staff will just go right into these  
19 filings. The information was requested of the  
20 applicant with responses. The applicant filed  
21 their statement dated February the 4<sup>th</sup> and this  
22 post-hearing document is identified as Exhibit

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1 36 and 37 in your case folders.

2 The next two filings arrived a day  
3 late and should be considered as a preliminary  
4 matter. One is from the Office of Planning,  
5 their supplemental report. This is identified  
6 as Exhibit 39. The second filing is from the  
7 Department of State identified in your case  
8 folders as Exhibit 38.

9 Staff would also note for the Board  
10 that just after the January 13<sup>th</sup> Public  
11 Hearing, the Department of State submitted a  
12 letter which was received in the office  
13 January the 15<sup>th</sup> and that one page letter is  
14 identified as Exhibit 35.

15 Finally, Madam Chair, yesterday,  
16 February the 9<sup>th</sup>, the applicant submitted a  
17 response to the filing of the Office of  
18 Planning and also a request that their filing  
19 be accepted into the record. This is  
20 identified as Exhibit 40. And the Board is to  
21 act on the merits of the chancery application.

22 That completes the staff's briefing, Madam

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1 Chair.

2 CHAIRPERSON MILLER: Thank you very  
3 much, Mr. Moy. I would suggest that we start  
4 with the preliminary issue with respect to  
5 accepting into the record the documents that  
6 Mr. Moy mentioned that came in late. And I  
7 would suggest that we accept them all into the  
8 record, that they are all helpful to our  
9 deliberation and that there is no prejudice to  
10 anyone in accepting them.

11 Does many Board Member have any  
12 difference in opinion on that? Okay. Then  
13 I'll take that as the consensus of this Board  
14 and then we can proceed with the deliberation  
15 on the merits of this application.

16 What I want to do is just briefly,  
17 you know, set up this case and then we can get  
18 into deliberation on any points that are in  
19 contention. And I think the biggest issue in  
20 this case does deal with Historic Preservation  
21 and that is one of the criteria that we look  
22 at. And when we get to that criteria, we can

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1 address that issue.

2 This is a chancery application  
3 under the Foreign Missions Act to permit the  
4 renovation and expansion of an existing  
5 chancery that is in the Diplomatic Overlay.  
6 The property is Zoned R-1-A. It is located in  
7 actually three overlays: The Mixed-Use  
8 Diplomatic Overlay, Naval Observatory and Tree  
9 and Slope Protection Overlay.

10 The property contains two four-  
11 story buildings that are connected by a bridge  
12 at the second and third floors, thereby making  
13 them one building for zoning purposes. The  
14 western wing of the building is configured as  
15 the ambassador's residence and the eastern  
16 wing is currently used for chancery purposes.

17 The embassy proposed to renovate  
18 and expand the entire building and to convert  
19 the ambassador's residence to chancery use.  
20 The purpose of the renovation and expansion is  
21 to consolidate all of the embassy's diplomatic  
22 operations in one location. Several of the

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1 embassy's offices are currently located in a  
2 chancery annex located at 4301 Connecticut  
3 Avenue, N.W., known as the Van Ness site.

4 We had an extensive hearing on this  
5 application. And what I recall standing out  
6 most from that hearing where we left it were  
7 two points of controversy. One was the fence.

8 I believe Public Space found it too high and  
9 there is a question about though it's security  
10 purposes. And then the major focus was on the  
11 replacement of the connector between the  
12 former residence of the Ambassador of South  
13 Africa and the existing South African Chancery  
14 and whether that meets the Historic  
15 Preservation criteria under the FMBZA.

16 Since our hearing, the applicant  
17 met several times with HPO staff and we got  
18 many documents addressing that issue, which we  
19 should discuss under that criteria. So what I  
20 want to do is just get into the criteria.

21 This is an existing chancery  
22 located in the D Overlay. Pursuant to section

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1 1001.1 of the Zoning Regs, "A chancery is a  
2 permitted use in the D Overlay District,  
3 subject to the disapproval of the BZA pursuant  
4 to the criteria established in 4306(d) of the  
5 Foreign Missions Act."

6 There is not an issue here in this  
7 case with respect to suitability. The  
8 chancery already exists and it is in the D  
9 Overlay. So I'm going to move us now into the  
10 criteria that we consider.

11 And section 4306(d) sets forth the  
12 criteria for determination. It says "Any  
13 determination concerning the location of a  
14 chancery under subsection (b)(2) of this  
15 section or concerning an appeal of an  
16 administrative decision with respect to a  
17 chancery based in whole or part upon any  
18 Zoning Regulation or Map shall be based solely  
19 on the following criteria:"

20 The first is "The international  
21 obligation of the United States to facilitate  
22 the provision of adequate and secure

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1 facilities for foreign missions in the  
2 nation's capital."

3 Okay. I'm going to pause here for  
4 a minute and see if anyone wants to address  
5 that first criteria, whether that has been met  
6 in this case.

7 VICE CHAIR LOUD: Madam Chair, are  
8 you talking about the international  
9 obligation?

10 CHAIRPERSON MILLER: Yes.

11 VICE CHAIR LOUD: Okay. That  
12 criteria is met. It is satisfied in our  
13 record through Exhibit 27, which is the State  
14 Department letter which speaks specifically to  
15 the criteria at page 2. And this is a letter  
16 under the signature of Justine M. Sincavage,  
17 Deputy Assistant Secretary.

18 In addition to that, Mr. Massey  
19 testified at our hearing on January 13<sup>th</sup> and  
20 spoke specifically to that point. So I don't  
21 necessarily think that there is a whole lot  
22 more to add to that. It's pretty

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1 straightforward and I think the record  
2 supports our making a finding on that element.

3 CHAIRPERSON MILLER: I would concur  
4 with that. Does anybody else have anything  
5 they want to add to that criteria? The second  
6 criteria as we go in order is "Historic  
7 Preservation as determined by the Board of  
8 Zoning Adjustment in carrying out this  
9 section" and I'm reading it exactly "and in  
10 order to insure compatibility with historic  
11 landmarks and districts, substantial  
12 compliance with District of Columbia and  
13 Federal Regulations governing historic  
14 preservation shall be required with respect to  
15 new construction and to demolition of or  
16 alteration to historic landmarks."

17 I believe that this is basically  
18 the major issue in this case. What we have  
19 here and I would characterize it this way,  
20 though people could characterize it other  
21 ways, is they are replacing the connector  
22 between two buildings that form this one

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1 building with the connector.

2           And I'm not an architect and an  
3 architect probably could express this better,  
4 but the building as a whole including the  
5 hyphen of the connector was old. And they  
6 intend to replace the connector with a very  
7 contemporary or somewhat contemporary modern  
8 connector.

9           And we heard a lot of testimony at  
10 the hearing as to why this was compatible with  
11 Historic Preservation, in the applicant's  
12 view. We also were aware though, at that  
13 time, through the Office of Planning, that  
14 Historic Preservation Office did not find it  
15 either compatible or substantially in  
16 compliance with Historic Preservation.

17           So we felt that we needed more  
18 evidence on the record and we wanted to get a  
19 further opinion from HPO as to why it might  
20 not be compatible or in substantial compliance  
21 and also the same from the applicant and we  
22 also encouraged the applicant to try to work

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1 with HPO.

2 And in fact, since that time, there  
3 is evidence in the record that they, in fact,  
4 that the applicant, did, in fact, work with  
5 HPO and made modifications to the design in  
6 order to meet HPO's concerns.

7 They submitted revised plans on  
8 February 4, 2009 that were made as a result of  
9 meetings and feedback from HPO. In addition,  
10 the applicant submitted a written statement  
11 describing the modifications that were made.  
12 And they provided a historic preservation  
13 compatibility evaluation by their historic  
14 preservationist, Ms. Eig, in which she also  
15 went through guidelines that had been supplied  
16 by the District of Columbia Historic  
17 Preservation Office for compliance with  
18 historic preservation.

19 And she went through all of these  
20 12 design principles showing why, in fact, the  
21 new design is compatible.

22 I think I'll highlight some of the

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1 changes that were made. According to the  
2 applicant's architect, the following  
3 modifications were made to the original  
4 design: The proportion of masonry to curtain  
5 wall was increased by widening the vertical  
6 limestone band at the in-fill addition and 2.5  
7 feet of existing limestone masonry wall will  
8 be retained along both sides of the addition.

9 Two, the entry vestibule has been  
10 removed and the first floor entry has been  
11 recessed.

12 Three, the first floor of the  
13 addition will consist of ultra-clear glass to  
14 maximize transparency and recall the void of  
15 the existing archway.

16 Four, a horizontal metal panel has  
17 been inserted at the level of the top of the  
18 rusticated base.

19 Five, the sunscreen has been  
20 lowered to the top of the existing corners and  
21 will turn under and continue into the lobby to  
22 create a more volumetric appearance and

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1 strengthen the appearance of the entry.

2 The final controversy which  
3 applicant has not decided to follow HPO's  
4 advice concerns retaining the existing  
5 limestone cornice. The architect states that  
6 "Combining the existing classical masonry  
7 cornice with the contemporary metal and glass  
8 curtain wall of the exterior wall plan would  
9 be detrimental to both elements and compromise  
10 the intent of the design."

11 They also say that there are  
12 technical issues that would make it difficult  
13 to accomplish.

14 Okay. So basically, we need to  
15 look at we have a report from HPO in which  
16 they find that there isn't substantial  
17 compliance. And then we have applicant's  
18 documents and Ms. Eig's analysis using the 12  
19 guidelines for evaluating compatibility with  
20 respect to historic buildings that she went  
21 through.

22 There is no real definition of

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1 substantial compliance in our regulations. I  
2 think applicant did point to one area, let me  
3 just put my finger on that. Let's see, the  
4 applicant pointed to section 1001.3 of the  
5 Zoning Regulations which states "To insure  
6 compatibility with historic landmarks in  
7 Historic Districts, substantial compliance  
8 with District and Federal Regulations  
9 governing historic preservation shall be  
10 required with respect to new construction and  
11 to demolition of or alteration to historic  
12 landmarks."

13 We don't really have a definition  
14 of compatibility, but if you look in Webster's  
15 that our regs refer us to, one definition is  
16 "capable of existing together without discord  
17 or disharmony." I think we also have a case,  
18 and I don't want to get too specific, but  
19 there is a Sheridan-Kalorama case that talks  
20 about substantial compliance.

21 And they say that there isn't  
22 really a definition for it, but it doesn't

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1 mean strict compliance. So I think we have  
2 here a case where the applicant has complied  
3 with five out of six of recommendations of  
4 HPO, but not all of them. And I'm going to  
5 turn to others to speak to this.

6 The only thing I want to say is  
7 that from the hearing, I heard a lot about how  
8 -- I found this very interesting from Ms. Eig  
9 that historic preservation does not necessary  
10 mean that you are stuck in one period. That  
11 this connector is intended to make a statement  
12 about a new period in South Africa's history  
13 that is just as important as -- if not more  
14 important, than the older periods.

15 And that also the difference here  
16 with the contemporary and the old actually can  
17 enhance the historic features of the old  
18 buildings. And I found that compelling and I  
19 also found compelling the fact that the  
20 embassy of South Africa, that the -- that  
21 South Africa really wants to make a statement  
22 about its break with the past. And that's an

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1 important thing for it to be able to do.

2 So I'm going to turn to others for  
3 their comments on this historic preservation  
4 issue.

5 VICE CHAIR LOUD: Madam Chair, I'll  
6 just add two very brief points to your  
7 foundation, which I agree with 100 percent.  
8 The first of which is at the hearing on  
9 January 13<sup>th</sup>, the applicant's expert, Ms., and  
10 I hope I'm pronouncing it correctly, Eig, who  
11 we established as an historic preservation  
12 expert, testified that the hyphen  
13 substantially with historic landmarks in the  
14 District. That it itself was not historic nor  
15 contributing to the Historic District.

16 But the ambassador's residence, the  
17 west wing part of the structure is the only  
18 historic part of the tripartite building. So  
19 I just wanted to note that.

20 Secondly, I wanted to note that the  
21 applicant met with HPO, as you noted, twice  
22 after the hearing on January 13<sup>th</sup>, made a

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1 number of revisions to address the whole issue  
2 of the hyphen and trying to make it more  
3 compatible to HPO regarding historic  
4 preservation.

5 And one of the changes that they  
6 made, and I'm going to read from our Exhibit  
7 36, as soon as I can put my hands on it, I'm  
8 going to talk for a few minutes while I grab  
9 it. But essentially, in the post-hearing  
10 submission, which is Exhibit 36, which the  
11 applicant provided, they talk about how one of  
12 the changes that they have made is to retain  
13 an additional 2.5 feet of the limestone on  
14 either side of the hyphen.

15 In fact, as part of the hyphen,  
16 which originally was going to be new stone.  
17 So as I understand HPO's concern, it's that by  
18 not incorporating this cornice across the top,  
19 there was not going to be any physical part of  
20 the connection that was preserved. But, in  
21 fact, if they are extending the limestone 2.5  
22 feet into the connector building, there is a

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1 part of the original structure that is  
2 preserved, not that it has to be, because it's  
3 not historic anyway.

4 So I think that the applicant is  
5 making every attempt to respect historic  
6 preservation. And in the meetings, they have  
7 made adjustments that do exactly that. And I  
8 think you have nailed it on the head in terms  
9 of the whole architectural philosophy of the  
10 project. They are attempting to respect their  
11 apartheid past, but bring in something new and  
12 fresh that reflects where they are now.

13 And so in respecting the past, they  
14 are not touching the residents. They are not  
15 touching the chancery at all. But what they  
16 are saying is that in this connector building,  
17 that is going to be a part of this new South  
18 Africa, they do not wish to incorporate any of  
19 the past into that one-third of the building  
20 or at least the central part of the building.

21 And I think that's an architectural  
22 kind of decision that, at least myself as a

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1 Board Member, merits respect. And that's the  
2 decision they have made. They have developed  
3 a design to execute that decision and they  
4 have gone out of their way to meet various  
5 concerns about historic preservation. Thank  
6 you.

7 CHAIRPERSON MILLER: Mr. Acosta?

8 MEMBER ACOSTA: Thank you. I would  
9 like to echo the words of my colleagues in  
10 terms of the historic preservation aspects of  
11 this particular project. I do think it comes  
12 down to one issue, which is a cornice and I  
13 think there are different philosophies in  
14 terms of how this cornice or this cornice  
15 should be viewed.

16 I think the one thing that we  
17 should all remember is that this applicant is  
18 going to place a cornice on this building.  
19 The question is the finish of that cornice.  
20 And that by putting in this cornice, do you  
21 respect the tripartite composition of the  
22 building? It also respects the rhythm of the

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1 existing structure by extending the cornice  
2 line through the hyphen.

3 So I just think that this project  
4 does a number of things to respect the  
5 buildings adjacent to it as well as  
6 maintaining the returns, 2.5 feet of returns,  
7 without necessarily mimicking it. And I think  
8 that's a very important principle that we need  
9 to apply to the building itself. The design  
10 itself understands the composition of the  
11 adjacent buildings, respects the historic  
12 character of the buildings adjacent to it, but  
13 not necessarily make it in any form, but  
14 maintains the rhythm and the scale that's so  
15 important to this particular building.

16 So I would just like to add those  
17 points to the record. Thank you.

18 CHAIRPERSON MILLER: Mr. May?

19 COMMISSIONER MAY: Yeah.

20 Generally, I agree with what has been said so  
21 far. I think I want to make a series of  
22 comments on it though.

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1 First of all, I would commend the  
2 Historic Preservation Office and the applicant  
3 for the progress that has been made on the  
4 design. I think that what we are looking at  
5 now is significantly better than what we had  
6 seen at the hearing.

7 The removal of that projecting  
8 vestibule, I think, was a very significant  
9 move incorporating the -- more of a return at  
10 the sides that retains the existing limestone,  
11 I think, was a good move as well. And the  
12 treatment of that opening. This now feels --  
13 does feel like a more modern version of the  
14 hyphen that was there before that connected  
15 the buildings on two levels, even though now  
16 it connects on three levels, you still get  
17 that sense of a sort of bridge, which was --  
18 which is a very nice image.

19 I appreciate the analysis that was  
20 provided by the applicant that went through  
21 all the points about, you know, why this is  
22 substantially compliant. In the end, it's

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1 still a judgment call. And I, you know, could  
2 argue it either way. The same is true of the  
3 Historic Preservation Office's position on  
4 where we are right now that you -- one could  
5 make a reasonable argument that it's still not  
6 quite there.

7 One of the difficulties I have in  
8 trying to evaluate this is that the images  
9 that we have are really not great. It's hard  
10 to look at these and really understand what it  
11 is, particularly when some of the things like  
12 the color of the screen is still a variable  
13 and so on.

14 Nonetheless, I would say, you know,  
15 the bottom line for me is that while I agree  
16 that -- with the Historic Preservation Office  
17 that the design could still be improved, I'm  
18 not sure that retaining the cornice is the way  
19 to do that. Maybe it is, maybe it isn't. You  
20 know, I could also argue that you could retain  
21 a lot more of the existing hyphen and still  
22 meet both the program and overcome the

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1 technical obstacles and meet the full  
2 aspirations in terms of the message of the  
3 building and so on.

4 But the bottom line is I think it's  
5 improved enough that I feel comfortable that  
6 we are substantially compliant with Historic  
7 Preservation. So with that, I'm okay with  
8 this. Like I said, it could be better, but  
9 I'm okay.

10 CHAIRPERSON MILLER: Anybody else,  
11 at this time? I also want to add that in my  
12 review of the HPO final recommendations, they  
13 don't really get into compatibility with the  
14 Historic District and the whole Embassy Row  
15 situation. And I think that the applicant did  
16 a thorough job in presenting the context here  
17 of this chancery, how it sits with other  
18 chanceries and embassies and Embassy Row and  
19 noting that there were other ones, such as the  
20 Brazilian Chancery, that are modern.

21 And I know that the Finland also  
22 is, but it is not in the Historic District.

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1 But these are structures that make statements  
2 about countries and they, to me, are bound to  
3 be different in some ways and that those ways  
4 can be celebrated. And as long as they are  
5 not incompatible with the District, and so I  
6 don't see that HPO really made that finding.

7 I think that they primarily went to  
8 historic preservation in general and that,  
9 again, I think we have all noted that Ms. Eig  
10 went through all the design guidelines showing  
11 how it was compatible.

12 And also, substantial compliance, I  
13 just want to state that the way the criteria  
14 reads is that it says "Substantial compliance  
15 with District of Columbia and Federal  
16 Regulations governing historic preservation,"  
17 and HPO really didn't identify any regulations  
18 that this was not in compliance with.

19 So that's that for my comments  
20 there. I do want to note that the Department  
21 of State was in favor of accommodating the  
22 embassy's design that they found that the

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1 applicant had made changes, which retained the  
2 goals that the embassy also wanted to achieve.

3 Office of Planning is in support,  
4 but basically, they were forwarding HPO's  
5 recommendations and suggested that the Board  
6 have the applicant comply with that. But I  
7 think that we're of the view, if I've heard  
8 everyone correctly, that based on the design  
9 that has been submitted and the written  
10 statements in support, that we think it meets  
11 the Historic Preservation criteria.

12 All right. So if there is not  
13 anything more to be said on that, at this  
14 point, we can go on to the next criteria.

15 Okay. That is No, 3, "The adequacy  
16 of off-street or other parking and the extent  
17 to which the area will be served by public  
18 transportation to reduce parking requirements,  
19 subject to such special security requirements  
20 as may be determined by the Secretary after  
21 consultation with federal agencies authorized  
22 to perform protective services."

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1           The applicant had a Transportation  
2 Impact Study done by Wells and Associates.  
3 And reported that employees of the South  
4 African Embassy are assigned parking spaces  
5 and that those who are not assigned a parking  
6 space rely on public transportation or other  
7 means of transportation.

8           And that the embassy informs guests  
9 that parking is not available and where there  
10 are small meetings, guests can park along the  
11 driveway curb. So I think that the -- and  
12 also, the U.S. Department of State, after  
13 consultation with federal agencies authorized  
14 to perform protective services, determined  
15 that there exists no special security  
16 requirements relating to parking in this case.

17           So I think that they meet that  
18 criteria. Do others have comments on that  
19 one?

20           VICE CHAIR LOUD: Madam Chair, I  
21 agree with you again wholeheartedly. I just  
22 wanted to note that at the OP report on page

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1 6, the initial OP report, our Exhibit 31, they  
2 go through an additional set of support of  
3 factors regarding how the applicant meets this  
4 requirement. And they talk about public  
5 transportation being at an acceptable level,  
6 some of the things you mentioned about the  
7 chancery employees having assigned parking.

8 But again, I just want to  
9 incorporate by reference that part of OP's  
10 report to further buttress our finding that  
11 they meet this third criteria of the test.  
12 And I won't go through it literally, but just  
13 reference that it's on page 6 of the report,  
14 Exhibit 31.

15 CHAIRPERSON MILLER: Thank you.  
16 Others? Okay. Four is "The extent to which  
17 the area is capable of being adequately  
18 protected, as determined by the Secretary,  
19 after consultation with federal agencies  
20 authorized to perform protective services."

21 The U.S. Department of State after  
22 consultation with federal agencies authorized

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1 to perform protective services has indicated  
2 that the subject site and area are capable of  
3 being adequately protected.

4 I want to add here, we may discuss  
5 it under the next criteria, but there is that  
6 issue about the fence. And that was a  
7 security issue. It was also municipal  
8 interest issue, because it was -- Public Space  
9 was opposed to that high a fence. So I think  
10 we can -- well, maybe we should discuss it now  
11 under both.

12 In essence, I think that the fence  
13 that is at issue is an 8 foot 2 inch rod iron  
14 picket fence which appears to be located in  
15 public space. And in the Office of Planning  
16 report, they noted that it was out of scale  
17 with the neighborhood, that it was  
18 incompatible with Historic District and they  
19 were proposing a lower fence.

20 And we heard testimony that the  
21 height of that fence was uniform for all  
22 fences all over the world, security fences all

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1 over the world for chanceries of South Africa.

2 And this is a security issue.

3 We left the record open for  
4 additional filings on that and we did get one  
5 from the State Department requesting that they  
6 be permitted to build this fence, which can  
7 also be characterized as a metal anti-climb  
8 fence around the chancery on the basis of  
9 security.

10 So I think that we should, you  
11 know, address that issue now. Personally, I  
12 was convinced that we should allow them to  
13 have this fence, since it is a security  
14 concern, and it's the same, it's not an  
15 arbitrary thing. It's the same for them all  
16 over the world.

17 And when we consider these cases,  
18 we also have to consider, you know, the issue  
19 of reciprocity and that if the United States  
20 has concerns in other cases, we would hope  
21 that other countries would also respect that.

22 So that's where I am on that. Others?

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1                   VICE CHAIR LOUD: I agree with you,  
2 Madam Chair. I even think that having the  
3 discussion right now, we can simply  
4 incorporate it by reference into the next  
5 prong of the test and not have to go through  
6 it all over again.

7                   CHAIRPERSON MILLER: Um-hum.

8                   VICE CHAIR LOUD: But I think that  
9 Exhibit 35 talks about the security survey  
10 that the State Department did and as a result  
11 of that, the need for, for security purposes,  
12 an 8 foot 2 inch fence. And I think Mr.  
13 Massey testified in terms of reciprocity and  
14 how the South African Government allowed, I  
15 believe, our Government to have a 9 foot fence  
16 for one of our diplomatic structures there.

17                   So it's obviously something that is  
18 necessary. And so I think it meets the test  
19 based on Exhibit 35 and Mr. Massey's  
20 testimony.

21                   CHAIRPERSON MILLER: Okay. Anybody  
22 else? So it's the consensus of the Board that

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1 they meet this criteria as well with the  
2 fence. Okay. The municipal interest is  
3 determined by the Mayor of the District of  
4 Columbia. And as Mr. Loud has been referring  
5 often to the Office of Planning report, to  
6 which we look for municipal interest, and we  
7 talked about this issue already, so we don't  
8 need to talk about that any more. We talked  
9 about historic preservation concerns.

10 Other issues that they raised in  
11 support of a finding it's in the municipal  
12 interest include that they find that it is  
13 causative for the municipal interest to have  
14 this consolidation of operations. And that  
15 these principal offices are retained in the  
16 District where this type of institutional use  
17 is encouraged, which is in the D Overlay.

18 We already went into the parking  
19 issues. Any other issues that we need to  
20 highlight here? Okay. So it's the consensus  
21 of the Board that it meets the criteria that  
22 this is a municipal interest? Okay.

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1           That's the consensus of the Board,  
2           which leads us to, I think, our final  
3           criteria, which is "The federal interest is  
4           determined by the Secretary of State. The  
5           U.S. Department of State determined that there  
6           is a federal interest in this case. They  
7           indicate that both the national and municipal  
8           government of South Africa have assisted with  
9           the zoning and land use needs of the U.S.  
10          Embassy in Pretoria, as well as its consular  
11          post in Cape Town and Johannesburg and that it  
12          is in the federal interest that this Board not  
13          disapprove the application."

14                 Any other comments on this one?  
15          Any other comments on the application in  
16          general? Okay.

17                 Not hearing any other comments, I  
18          would move that this Board not disapprove the  
19          Chancery Application No. 17886 of South  
20          Africa, pursuant to 11 DCMR sections 201.1 and  
21          1001 and section 4306 of the Foreign Missions  
22          Act, to permit the renovation and expansion of

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1 an existing chancery use in the D/NOPD/TSP/R-  
2 1-A District at premises 3101 Massachusetts  
3 Avenue, N.W. Do I have a second?

4 VICE CHAIR LOUD: Second, Madam  
5 Chair.

6 CHAIRPERSON MILLER: Further  
7 deliberation?

8 Not hearing any, all those in favor  
9 say aye.

10 ALL: Aye.

11 CHAIRPERSON MILLER: All those  
12 opposed? All those abstaining? And would you  
13 call the vote, please?

14 MR. MOY: Yes, Madam Chair, staff  
15 would record the vote as 5-0-0. This is on  
16 the motion of the Chair, Ms. Miller, to not  
17 disapprove the application, seconded by Mr.  
18 Loud. Also in support of the motion are Ms.  
19 Walker, Mr. May and Mr. Acosta.

20 CHAIRPERSON MILLER: Okay. Thank  
21 you very much. That concludes our Public  
22 Meeting of the FMBZA. And I will be moving

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1 momentarily into our hearing.

2 (Whereupon, the Special Public  
3 Meeting was concluded at 10:25 a.m.)  
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