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May 16, 2018

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By email to: bzasubmissions@dc.gov
District of Columbia Board of Zoning Adjustment
441 4th Street, N.W., Suite 200S
Washington, D.C. 20001

Re: Second Submission of General Comments on Case 19377, The Boundary Companies and The Missionary Society of St. Paul the Apostle (the "Applicant") – Special Exception and Variance Application for 3015 4th Street N.E.

Dear Members of the Board:

Please accept this letter as a second submission of general comments on behalf of the Board of Directors of Chancellor's Row, a community of 237 townhomes located on the site of property formerly owned by The Missionary Society of St. Paul the Apostle (the "Paulists"). As stated in my letter of April 20, 2018, Chancellor's Row abuts the property that is the subject of Case 19377 (the "Proposed Project") to the northeast and to the south. This letter is intended primarily to provide clarifying information regarding the private nature of roads and sidewalks within the Chancellor's Row community, and to reiterate the HOA's requests in these proceedings in response to the public testimony during the hearing on April 25, 2018 and subsequent submissions by the Applicant.

To clarify and reaffirm, all of the streets and sidewalks in Chancellor's Row, including Regent Place and Chancellor's Way where they run between Chancellor's Row and the historic St. Paul's College, are private roads and walkways and were not subject to a public use easement during the D.C. Zoning Commission PUD approval process for Chancellor's Row or at any time since then. To elaborate:

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- The roads and sidewalks are on land owned either fully by the HOA, or partly by the HOA and partly by Building Hope¹, both private entities. They are not on publicly-owned land, and unlike the suggestion by DDOT that the roads and sidewalks in the current proposed development be covered under a public use easement, they are not dedicated to public use either by fee simple or under any public easement.
- The HOA owns the roads internal to Chancellor's Row in full, and owns the majority of the land underlying Regent Place and Chancellor's Way where they run between Chancellor's Row and the historic St. Paul's College. All of these roads are maintained by the HOA using fees collected from Chancellor's Row homeowners, plus a small annual contribution from Building Hope, the owner of the historic St. Paul's College, to cover the portion of the roadways shared between the two properties.
- While there is a utility easement that covers DC WASA infrastructure and would allow the city to enter onto Chancellor's Row property to make repairs to a broken water pipe, the District of Columbia does not participate in maintaining any of the roads within Chancellor's Row or between Chancellor's Row and the historic St. Paul's College.
- In addition to the cost of regular maintenance and repairs, the HOA is responsible for the cost of liability insurance related to its ownership and maintenance of the Chancellor's Row roads and sidewalks. This cost would likely increase with increased use by members of the public.
- The roads were not built to public street standards. By design, and with the approval of the Zoning Commission in 2008, they are narrower than typical residential streets, and the usable width is further limited by heavily utilized on-street parking. Moreover, houses within Chancellor's Row are built closer to the street than is typically the case, giving them heightened sensitivity to the noise, fumes, and other impacts of increased traffic.

Due to their physical and legal characteristics as secondary (i.e., low volume), private roads, it is essential that the roads within Chancellor's Row are used only by Chancellor's Row residents (excepting very limited use by faculty and staff of the Lee Montessori School and the Washington Leadership Academy (the "Charter Schools") to access the parking lot at the east end of the site, as well as occasional use by private vehicles from outside the community, which cannot practically be prohibited). It is incumbent on the Board of Zoning Appeals (the "Board" or "BZA"), if it decides to approve the pending applications, to exercise its authority to prevent adverse impact on Chancellor's Row related to a significant increase in traffic on their private roads by taking the two traffic-related actions requested in my letter of April 20, as outlined below.

¹ Actual fee ownership of the historic St. Paul's College property is in the name of another entity that appears to be affiliated with Building Hope. We refer to Building Hope for the sake of simplicity.

- 1. The BZA should reject DDOT's recommendation that the Applicant provide a public access easement over its private roads and a pedestrian access easement over part of its property, as doing so would lead the public to private property that does not have any such public use easements and cause substantial adverse impacts to residents of Chancellor's Row.**

We are aware that the Applicant has offered to provide vehicular and pedestrian easements across its private streets and sidewalks, and an easement for the open space that will remain if its project is built. The Applicant has further offered to provide a "springing easement," as discussed at the April 25 hearing, but on a portion of the proposed circulator road for the development (mislabeled on the plans as "Regent Place"), rather than in the area suggested by DDOT in its report, BZA Ex. 73 at 4. If the BZA determines that accepting the proffered easements would not result in adverse effects on Chancellor's Row, despite what we and others have asserted, and therefore is prepared to accept them, we would urge the Board to accept the "springing easement" as suggested by the Applicant, in the location suggested on the proposed circulator road for the joint residential/school use (again, currently mislabeled as "Regent Place"), to be triggered only if the Chancellor's Row HOA records a public access easement on any portion of Regent Place adjacent to the roadway segment marked for a springing easement on Exhibit D to the Applicant's letter to the BZA of May 9, 2018, BZA Exs. 169 and 174.

- 2. The BZA should impose the following conditions:**

All traffic associated with the Proposed Project, including construction traffic and residential traffic, is prohibited from using any roads within Chancellor's Row, including Regent Place east of the Proposed Project.

Applicant shall install a manually-operated wrought iron gate, with stone pillars at each end, across the point where the school parking lot connects with Regent Place, at the curve in the road just northeast of the Lee Montessori drop-off loop (see general location marked on Exhibit A attached), with the goal of preventing private vehicles from routinely using Regent Place as a through connection from 4th Street N.E. to 7th Street N.E.

The Applicant has agreed to construct the proposed gate and Building Hope has agreed to permit the gate on its property. This is consistent with the Applicant's pledge that neither construction traffic nor residential traffic will use the portion of Regent Place within Chancellor's Row, and with the reliance in its and DDOT's traffic analysis on "a physical barricade between the existing school driveway and the adjacent Chancellor's Row roadways." Applicant's Pre-Hearing Statement, BZA Ex. 64, at 9; Applicant's Comprehensive Transportation Review, BZA Ex. 62A, at 13; DDOT Report dated March 9, 2018, BZA Ex. 73. It is also consistent with the Traffic Management Plan that was part of the Charter Schools' approval to locate in the historic St. Paul's College.

Testimony by parents at the Charter Schools about parking issues suggests that they share the HOA's belief that on-site parking for the Charter Schools is already inadequate, and that any further reductions would be unacceptable. It also underscores the tension that currently exists between Chancellor's Row and the Charter Schools with respect to parking and traffic management, which would only be exacerbated by reducing the amount of parking available for the Charter Schools and providing for inadequately sized street widths within the proposed development to service both the residential and school uses. Ultimately, this tension could lead to pressure on Chancellor's Row to allow greater use of its privately owned and maintained streets, and its very limited parking, by the Charter Schools as the schools double in size over the next 2-3 years. To increase the chances that the multitude of uses being placed on this site in such close proximity can co-exist peacefully, the HOA would propose an adjustment to the Applicant's site plan, in addition to the prior suggestion that it provide adequate parking based on actual needs of the schools at full occupancy, and not merely a zoning calculation, to **eliminate the eight townhouses closest to the Charter Schools and their proposed new entry drive (as marked on Exhibit B) and replace them with a parking area for the Charter Schools.** The parking area should be maximized by extending it south to the entry road. A surface parking area in this location would not interfere with its function to provide a small viewshed onto the historic St. Paul's College from the street.

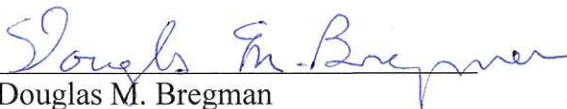
Finally, to avoid potential adverse effects on Chancellor's Row from future use of the proposed new Paulists' building, the HOA reiterates its request that the BZA impose the following condition:

Occupancy of the Paulist Fathers Residence and Mission House shall be limited to a maximum of 15 residents. Any change in the intensity or nature of the use of the building (e.g., workforce housing or other multi-family housing) will require an application for an amendment to the special exception for new residential development in the RA-1 Zone and a new public hearing.

Thank you for taking these requests into consideration.

Sincerely yours,

BREGMAN, BERBERT, SCHWARTZ & GILDAY, LLC

By: 
Douglas M. Bregman

cc: Susan Dreweke, Chancellor's Row HOA President