

By email to: [bzasubmissions@dc.gov](mailto:bzasubmissions@dc.gov)  
District of Columbia Board of Zoning Adjustment  
441 4<sup>th</sup> Street, N.W., Suite 200S  
Washington, D.C. 20001

Re: Response of the St. Paul's College Neighbors for Thoughtful  
Development on Case 19377, The Boundary Companies and The Missionary  
Society of St. Paul the Apostle (the "Applicant") – Special Exception and  
Variance Application for 3015 4<sup>th</sup> Street N.E.

Dear Members of the Board:

Please accept this letter and attachments in response to the limited submission of additional information by the Applicant on May 9, 2018. It is our understanding from the statements by Vice-Chairman Hart at the conclusion of the public hearing on the referenced matter on April 25, 2018 that we would be allowed to submit a response to any information submitted by the Applicant within one week of their submission and ask that you accept these comments into the public record of Case # 19377.

First, with respect to the easement language offered by the Applicant, while we have reviewed this information and have remaining concerns regarding the long-term implications for our private road network and as a result our use and enjoyment of our homes, given that this is an issue that would affect all of Chancellor's Row residents we believe this specific issue is best addressed by the Chancellor's Row HOA and understand the HOA zoning attorney will be submitting a response on this specific issue under a separate cover.

Second, we take no issue with the exhibit highlighting the ownership of the various properties and believe it accurately reflects the extent and ownership of each property. However, we do note this map does underscore the close proximity and interconnected nature of each of the uses (e.g. residential, school, Paulist building, and U.S. Conference of Catholic Bishops) and highlights the challenges of trying to separate out the impact of each use from the other and importance of developing a plan that holistically and adequately addresses the parking, traffic management, setback and open space needs of the combined uses that will have to live together as a collective community for decades to come if you decide to approve the current application.

Third, with respect to the grading cross sections, while we appreciate these are representative of the development plan, we do not believe they appropriately address the question raised by Vice Chairman Hart regarding the nature and extent of the existing topography and how it would need to be altered to achieve the proposed development plan. To that end we are submitting the attached photographs taken by residents over the past year showing the various aspects of site topography, so that you have a full understanding of what the existing conditions are and what is being proposed with respect to cut and fill needed to achieve the site development, and how those activities would potentially affect tree preservation.

Finally, while not part of the Applicant's May 9<sup>th</sup> submission we did want to submit additional relevant information in response to the Applicant's statement at the April 25<sup>th</sup> hearing that a denial of the current application would essentially result in a 5<sup>th</sup> Amendment taking of the Paulist Father's property. In the 2016 U.S. Supreme Court case of *Murr v. Wisconsin*, 582 U.S. \_\_\_, 137 S. Ct. 1933, the Court rejected a claim of taking of one lot when the adjacent lot owned by the same person was put to useful use. In its decision the Court outlined the limited situations when the taking of all beneficial use of a single lot would be recognized independently of the owner's use of adjacent lots. Key among them was recognition in the local land law there were, in fact, separate, individual lots, where one on them was being sacrificed. Here we do not have multiple lots; we have one lot: lot 1067, which is proposed to be theoretically subdivided into smaller lots. If for whatever reasons this development was not approved, it does not follow that all beneficial use of lot 1067 has been denied. For one thing, there is no doubt that it could be utilized by the Paulists, as they have proposed under the current plan, to be the location of a new seminary building for their use. While we are not advocating for outright denial of this application and support some level of development of the Applicant's private property we did want to reaffirm the stated position at the April 25<sup>th</sup> hearing that the claim that denial of maximal development of lot 1067 is an unconstitutional taking is frivolous and encourage you to discuss this further with the city's general counsel.

In closing, we thank you for the opportunity to provide this information and look forward to working through these and other identified issues with the Applicant and speaking with you again on May 23<sup>rd</sup> at the resumption of the hearing. With respect to our representation moving forward, given the time this process has taken (i.e. over two years) we have exhausted our personal funds set aside for legal representation by David Brown, Esq. of Knopf and Brown and as a result I will continue on as the "Party" representative at the May 23<sup>rd</sup> (and any potential future ) hearing date(s). However, we do ask that you consider allowing us to reserve our right to potentially submit proposed findings of fact and conclusions of law following the completion of the public hearing, if we decide that is an appropriate course of action in response to the Applicant's submission of their findings and conclusion. If you were to grant us this request, and we chose to act on it, we would utilize Mr. Brown for that purpose, but otherwise do not anticipate utilizing his services for the remainder of this process.

Thank you again for your consideration of this submission. Please let us know if you need any further information.

Sincerely,



John Anderson  
Representative of St. Paul's College Neighbors for Thoughtful Development

Cc: Jeffery Utz, Esq.