



## Office of the General Counsel

3211 FOURTH STREET NE • WASHINGTON DC 20017-1194 • 202-541-3300 • FAX 202-541-3337

May 23, 2018

District of Columbia Board of Zoning Adjustment  
441 4th Street, NW  
Room 220 South  
Washington, DC 20001

**Re: Comments in Opposition to Immediate Approval, Case No. 19377 (3015 4<sup>th</sup> Street, NE)**

Honorable Members of the Board:

I am writing to convey the additional views of the United States Conference of Catholic Bishops (USCCB) regarding the above-captioned matter, by way of follow up to a prior letter of April 25, 2018, on the same subject (enclosed, "April 25 Letter").

That prior letter requested that the Board postpone its decision until USCCB and the Applicant had the opportunity to work through their differences regarding four major issues pertaining to the impact of the plan on the USCCB's property, which is immediately adjacent to the north of the subject property. As detailed further below, we appear to have resolved three issues, but one issue remains.

Accordingly, we would, once again, request that the BZA further forestall its ultimate decision to allow more time for USCCB and the Applicant to work toward a resolution of their remaining differences. If, however, a final decision is somehow required at this time, we would remain obliged to request that the application be denied.

Our concerns and their current status are as follows:

- 1. Preservation of Easement and Boundary Fence** – The plan submitted as of the time of the April 25 Letter encroached on the existing easement owned by USCCB and the tall fence along that boundary. Since then, based on our discussions, the Applicant has agreed to adjust the location of some of the townhomes slightly to avoid this encroachment, respecting our existing rights in both the easement and the fence. The Applicant's post-hearing submission reflects this change, and we are grateful for it.
- 2. Preservation of Fourth Street Fence** – The plan contemplates the removal of the entire fence that has long enclosed the Paulists' property along Fourth Street. As noted previously, this change poses safety and liability concerns, because it is likely to increase pedestrian cut-through traffic along our busy driveway and parking lot. These risks are increased by the bikeshare station and public amenity between our driveway opening and the new one, and by the playground only a bit farther down Fourth Street. Based on our discussions, we understand that the Applicant will propose at the hearing to restore the fence from our property line to the opening of the proposed new driveway. We are grateful for this measure as well.

Board of Zoning Adjustment  
District of Columbia  
CASE NO.19377  
EXHIBIT NO.186

**3. Proposed Fourth Street Driveway Near Our Own** – The April 25 Letter expressed concern that the new driveway on Fourth Street would create traffic congestion and hazard, especially for our staff entering and exiting our property through our driveway. This is because the new driveway is so close to our own, and because it appeared likely to draw traffic from Chancellor’s Row toward Fourth Street, and from the two schools much closer to our driveway.

Since then, we have learned more details about the existing gate separating Regent Place from the planned new roads and driveway, the contemplated improvements to the gate, and the strong commitment of current Chancellor’s Row residents to maintain the separation strongly. On the other hand, we are concerned about the continuing desire of DDOT eventually to connect these roadways, and the “springing easement” that was recently proposed in response. On balance, however, so long as the gate blocking access to Regent Place is retained and enhanced as proposed in the application, we acknowledge that there is no risk in the near term of additional traffic from Chancellor’s Row flowing to and from Fourth Street. We also consider the long-term risk of additional traffic from that source to be tolerably low.

We have also since completed our analysis of the traffic study, which we received shortly before the April 25 Letter. The study appears to have two major flaws.

*First*, the study assumes, without apparent basis, that school traffic will enter and exit only through the school driveway. There is no gate or other barrier to block school traffic, as there is to block Chancellor’s Row traffic, from flowing through the new driveway. Indeed, the newly proposed public access easement would appear to facilitate that flow and preclude any gate, even if closed only on a temporary basis (*e.g.*, at school pick-up and drop-off times). The assumption of the study is rendered still less plausible by the fact that the school driveway entrance, which currently fails to accommodate two-way traffic at sixteen feet wide, will be widened only marginally to twenty feet, while the new driveway will be twenty-six feet wide.

*Second*, the study does not appear to account in any way for the traffic impact to (or from) our driveway. Although the study examines in detail all other intersections (including driveways) within the study area, it does not examine the intersection of our driveway with Fourth Street. Nor do the narrative sections of the report appear to take any cognizance of this intersection and related impacts. More than 300 employees work in our building, and our parking lot is almost full every workday. The number of trips through the intersection of our driveway with Fourth Street, particularly at peak times, would seem to bear some relevance to the feasibility and features of an additional driveway located just over 100 feet away. In fact, our intersection is closer to the new driveway than any other intersection in the study area, making its complete omission from the study all the more remarkable. The new proposal to reduce the number of travel lanes on Fourth Street and add parking along its east side further complicates the relationship between these two intersections.

In short, our review of the traffic study: (1) has confirmed, rather than alleviated, our concern about school traffic flowing through the new driveway; and (2) has diminished, rather than increased, our confidence that the interaction between traffic flows from our driveway and the new driveway has been considered at all, least of all with sufficient care to assess what mitigating measures might be appropriate. We would request more time to explore how the Applicant might address these concerns, but if that time is unavailable, we would have no choice but to oppose the application.

**4. Storm Water Management** – The April 25 Letter expressed concern over the lack of detail regarding the new SWM system, in a context where the current system occasionally failed, and the future system contemplated eliminating the retaining pond, increasing pavement, and reducing permeable surface. We have since received the additional specific information we had requested, which has satisfied us with respect to this issue.

In sum, since the last Board hearing, three of the four major obstacles to our support have been removed, but one has not. We remain willing to engage in timely discussions toward resolution of the remaining problem. At the same time, we recognize that the process—in which we were first engaged very late—is approaching its conclusion. Therefore, if the Board must decide on the application finally at today’s meeting, and the application remains as it is, USCCB would have to oppose the application.

Sincerely yours,

A handwritten signature in blue ink that reads "Anthony R. Picarello, Jr." The signature is written in a cursive style.

Anthony R. Picarello, Jr., Esq.  
(DC Bar No. 454459)  
Associate General Secretary and General Counsel  
United States Conference of Catholic Bishops

Enclosure