



## *Office of the General Counsel*

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June 29, 2018

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

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

Honorable Members of the Board:

I am writing the Board for a third time to convey the views of the United States Conference of Catholic Bishops (USCCB) regarding the above-captioned matter. I have enclosed for ease of reference our two prior letters, from April 25 and May 23 of this year. As you will see, those letters identified four concerns and reflect that three of the four have been substantially addressed.

Unfortunately, I am writing to convey that, after substantial effort to avoid this conclusion, we must oppose the application because our fourth concern has not been addressed at all, and it appears that time to address it has now run out. This is especially regrettable in light of the fact that the Applicant first contacted us about this proposal so late in the process—late January 2018—even though the application was first filed in September 2016 and we share a property line with the subject property.

The unresolved concern is the third one expressed in our prior letters (“3. Proposed Fourth Street Driveway Near Our Own”). Our concern remains today just as stated then—in short, that in addition to anticipated residential traffic, substantial and growing school traffic will be newly channeled to a driveway opening very close to our own, increasing the difficulty for, and safety risk to, our staff as they enter and exit our 200-space parking lot each day. Although we have been in contact with the Applicant, it has proposed no remedies to address this concern since the May hearing. Rather than repeat our concern in detail, we refer the Board to our prior correspondence for a more thorough treatment (May 23 letter at 2-3).

We would add, however, that some of the Applicant’s responses to this concern appear to reflect a misunderstanding of it. For example, it has been stated that the school use is as of right, and that the traffic it generates would exist with or without the project now under consideration. This is true but beside the point. We do not complain of overall traffic volume emptying onto Fourth Street, but instead the channeling of that traffic to a new driveway very close to our own. If school traffic actually would flow entirely in and out of the driveway farther south, we would not have this concern. And although such a flow was originally assumed in the Applicant’s traffic study (at pages 13 and 19), the study provided no evidentiary basis for that assumption,

and the proposed public right of way added since the study seems to negate any basis that might have existed previously.<sup>1</sup>

Similarly, it has been stated that the driveways are separated by more than the distance required by regulation. That may well be, but we do not claim that the numerical distance as such violates any particular regulation. Instead, we claim that the proximity of the new driveway to our own—paired with the various incentives for a large and growing volume of school-related traffic to flow into and out of that new driveway, rather than the one farther south—will cause serious traffic problems in relation to our driveway. The incentives to use the new driveway include a substantially wider driveway opening, greater distance from the Lincoln Road intersection, and closer proximity to points north. And the consequent problems will be exacerbated by the addition of view-obstructing on-street parking between the driveways, and the reduced number and width of travel lanes on Fourth Street. The fact that the distance between driveways meets a minimum regulatory requirement does not preclude these problems.

We conclude by expressing our reluctance and disappointment in ultimately having to express our opposition to this project. We have no general objection to the development of the property for residential use, even at the density levels now proposed. Indeed, we sincerely hope the Paulist community will be able to sell its property soon and for a high price, so that it might better serve the needs of its aging members. But we simply cannot ignore the traffic safety risks posed by this particular configuration, especially as those risks affect our own employees, likely for years to come. If time allowed, it seems to us likely that these risks could have been studied appropriately and potentially mitigated. As it stands, however, time has run out, and if the only available choice is between the project with those risks unaddressed, or no project at all, we must choose the latter.

Thank you again for considering our views.

Sincerely yours,



Anthony R. Picarello, Jr., Esq.

(DC Bar No. 454459)

Associate General Secretary and General Counsel  
United States Conference of Catholic Bishops

Enclosures

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<sup>1</sup> In light of the absence of any evidentiary basis for the study's assumption that school traffic will use the driveway farther south; the subsequent the addition of the public right of way that would negate any basis for such an assumption; and the study's failure to measure or otherwise consider the particular interaction of the new driveway opening with ours—which is about 150 feet away, quite busy, and further complicated by the latest parking and lane modifications to Fourth Street—we respectfully submit that the Board should not credit the study's traffic flow figures for the new driveway, or the study's conclusion "that the project will not have a detrimental impact to the surrounding transportation network." Traffic Study at 1. In its current and apparently final form, the project will have a detrimental impact on traffic flow where USCCB's driveway meets Fourth Street.

