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June 28, 2018

VIA IZIS AND HAND DELIVERY

D.C. Board of Zoning Adjustment  
441 4<sup>th</sup> Street, N.W.  
Suite 200S  
Washington, D.C. 20001

Re: **Board of Zoning Adjustment Case No. 19377 – The Boundary Companies and The Missionary Society of St. Paul the Apostle (collectively, the “Applicant”) – BZA Application for 3015 4th Street, NE (Square 3648, Lots 1070 and 1071<sup>1</sup>) (the “Property”) – Applicant’s Post Hearing Submission**

Dear Members of the Board:

Following the public hearing on May 23, 2018, on behalf of the Applicant, this letter is intended to respond to requests for additional information from the Board of Zoning Adjustment (the “Board”) regarding the proposed development at the Property (the “Project”).

**Draft Order**

Attached as Exhibit A are the Applicant’s proposed Findings of Fact and Conclusions of Law.

**Final Plans**

Attached as Exhibit B are updated plans, architectural drawings, and diagrams (collectively, the “Plans”), which update all sheets previously submitted to the Board. The Plans are now in final form and consolidated as one set for ease of review now and in the future.

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<sup>1</sup> Applicant notes that Assessment and Taxation (“A&T”) Lot 1067 became A&T Lots 1070 and 1071. These lots are a portion of former Lot 915.

We note that, in preparing the final plan set, the Applicant became aware of a minor error in the previous gross floor area (“GFA”) calculation for the rowhouses. As a result, the Applicant has updated the related tabulations shown on Page C-05A of the Plans. The updated FAR of the Plans is 0.93 (up from 0.91), still well below the 1.08 FAR allowed as a matter of right in the RA-1 Zone District. The Applicant notes the project design, including building height, massing, and placement, the amount of green space, and relief requested has not changed.

### **Inclusionary Zoning Unit Placement**

At the hearing, the Board discussed the placement of the Inclusionary Zoning (“IZ”) units in the Project. In its report dated May 16, 2018 (Exhibit 179 in the record), the Office of Planning (“OP”) initially noted concerns regarding the clustering of the IZ units in the Project. In response, the Applicant moved one of the IZ units from the northeast corner of the Project (“Lot 26”) to the row of townhomes fronting on the “viewshed” (“Lot 55”). At the May 23<sup>rd</sup> hearing, OP indicated comfortability moving forward with the Project because the Applicant is required to meet the IZ unit distribution requirements under the regulations during permitting and would not be seeking relief from IZ requirements. (5/23 Transcript, Pages 23-25.) However, the Board requested further study of the proposed IZ distribution and OP echoed this request. The Applicant’s proposed IZ plan is included as Exhibit C.

The IZ plan has been updated to show the distribution of the various Median Family Income (“MFI”) levels (50%, 60% and 80%) throughout the site along with more clearly identifying the groupings of sixteen foot wide homes. As background, the Project includes 60 townhouses and a clerical residence building. The clerical residence will not contain for-rent or other type of multi-family housing so will not be subject to IZ.

The Project includes nine (9) homes set aside as IZ units (a 50% increase from the six (6) homes required by IZ). Further yet, since the Project is a for-sale townhouse development, IZ units would be required to be set aside for 80% MFI under the IZ regulations. However, the Project’s nine (9) IZ units will be reserved for 50% MFI households (3 units), 60% MFI (3 units), and 80% MFI (3 units). Clearly, the Project’s IZ component is extensive and exceeds even the benefits and amenities packages of approved PUDs, both in the IZ set aside percentage and the affordability levels of those units. We note that this is a BZA case where additional height and density are not being obtained and the IZ bonus density is barely being utilized (the project contains 0.93 FAR cumulatively, or a 0.03 FAR IZ bonus). Further yet, the enhanced affordable component is not required by the Zoning Regulations nor the standards of relief being requested.

Regarding the elements of compliance more specifically, the Project’s allocation of its IZ units to the sixteen foot wide units is in compliance with IZ. The requirements of 11-C DCMR §§1005 are

satisfied because the dwelling type of the IZ units is the same as for the market rate units (i.e. single family homes) and all units have no less than three (3) bedrooms. The 11-C DCMR §§1005 provisions are intended, in large part, to prevent IZ unit mixes from being overly allocated toward smaller bedroom counts (particularly studio or one-bedroom units) but such concern does not apply here. Additionally, the square footages of the townhouses in the Project are more uniform. All of the IZ units have over 2,300 square feet and all are significantly greater than the minimum sizes set forth in 14 DCMR §2202.4(f). In addition, there are many sixteen foot wide units that are market rate. This approach is similar to previously approved townhouse projects. For example, in the “Redemptorists case” (Z.C. Case No. 15-02), there were both sixteen and eighteen foot wide market rate units, but all of the IZ units provided were sixteen feet wide.

Regarding IZ unit concentration, the Applicant believes that the IZ units are sufficiently distributed throughout the Project. As noted above, the Applicant agreed to move one IZ unit from Lot 26 to Lot 55. As a result, each grouping of sixteen foot wide units includes at least one IZ unit. In addition, we note that the appearance of an IZ unit concentration was due in part to the provision of three (3) additional IZ units that are not required under the IZ regime. If those three (3) units (marked as “IZ+” on the IZ plan) were removed, the IZ units would not have appeared concentrated. While 11-C DCMR §1005.5 requires unit distribution, there is no requirement that the premium unit locations must include IZ units. For example, in a multi-family building, IZ units are not required to be located on a building’s top floors or in its penthouse. Similarly here, the units in a premium area, here on the west side next to the new open green space, should not be required to include IZ units. The above approach is similar to previously approved townhouse projects. For example, in the “Josephites case” (Z.C. Case No. 16-17), no IZ units were provided along the new green courtyards and the project’s focal point gardens/gathering space.

The Project is also intended to be constructed as one phase (although there might be multiple building permits). However, the first homes that will be constructed will be on “Lots 1 through 7” and “Lots 23-28” (the two sticks of townhouses at the NE of the property). Therefore, the IZ units showing thereon would be completed during the first activity on the site and therefore will be among the first units delivered for residency.

As noted above, the Applicant has self-certified and will not be requesting relief from the IZ requirements as part of this Project.

### **List of Conditions**

The Applicant included the list of conditions requested by the Board in the Draft Order attached as Exhibit A.

The Applicant notes that the development will also be subject to the letter agreement with neighbors of the Property filed into the record as Exhibit 183A.

**Conclusion**

Please feel free to contact Jeff at (202) 721-1132 or Meghan at (202) 721-1138 if you have any questions regarding the enclosed. We look forward to the Board's deliberations and decision at the July 11, 2018 public meeting.

Sincerely,

  
Jeff Utz

  
Meghan Hottel-Cox

Enclosures

## Certificate of Service

The undersigned hereby certifies that copies of the foregoing document was delivered by first-class mail or hand delivery to the following addresses on June 28, 2018.

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