

**\*APPLICANT’S DRAFT ORDER\***

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment**

**Application No. 19377 of The Boundary Companies and the Missionary Society of St. Paul the Apostle**, pursuant to 11-X DCMR §§ 900.2 and 1000.1 for special exception and variance relief, specifically, (i) a special exception under 11-U DCMR §421 for new residential development in the RA-1 Zone District; (ii) a special exception under 11-C DCMR §305 to allow multiple buildings on a single lot utilizing theoretical lots; (iii) an area variance from 11-C DCMR §305.3 for relief from (a) the requirement that means of vehicular ingress and egress to principal buildings be at least 24 feet in width and (b) the requirement that lot occupancy and rear and side yards be compliant based on the theoretical lot boundaries; and (iv) a special exception under 11-C DCMR §1500.4 to allow roof structures on rowhouses at Square 3648, Lots 1070 and 1071.

**HEARING DATES:** April 25, 2018; May 23, 2018  
**DECISION DATE:** July 11, 2018

**DECISION AND ORDER**

This application was submitted on September 26, 2016, by The Boundary Companies and the Missionary Society of St. Paul the Apostle (collectively, the “Applicant”). The Missionary Society of St. Paul the Apostle (also referred to herein as the “Paulist Fathers”) is the current owner of the land and the intended occupant of the clerical residence portion of the project. The Boundary Companies is the intended developer of the residential component of the project. Following the public hearings, the Board of Zoning Adjustment (“BZA” or “Board”) voted to approve the application.

**PRELIMINARY MATTERS**

Notice of Application and Notice of Public Hearing

By memorandum dated October 4, 2016, the Office of Zoning sent notice of the application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Councilmember for Ward 5; Advisory Neighborhood Commission (“ANC”) 5E, the ANC for the area within which the subject property is located; and the single-member district (“SMD”) representative for ANC 5E01. Pursuant to 11-Y DCMR § 402.1, on October 7, 2016, the Office of Zoning mailed notice of the hearing to the Applicant, ANC 5E, and the owners of all property within 200 feet of the subject property. Notice of the hearing was published in the *D.C. Register* on October 14, 2016. The hearing was originally scheduled for December 7, 2016. The Applicant requested four postponements of the public hearing in order to continue working with the community and the party in opposition requested one postponement of the public hearing, and the Board approved all postponement requests. The public hearing was scheduled for April 25, 2018. The Applicant confirmed by affidavit that it posted notice of the public hearing on the subject property on April 9, 2018.

Public Hearing

The Board held a public hearing on the application on April 25, 2018 and a limited scope public hearing on May 23, 2018. At the end of the May 23 hearing, the Board closed the record except for a final set of plans, a response from the Applicant on certain issues, and a draft findings of fact and conclusions of law, and a response from the parties. The Board scheduled a decision for July 11, 2018, at which it deliberated and voted to approve the application.

Party Status

The Applicant and ANC 5E were automatically parties in this proceeding. On November 22, 2016, the St. Paul's College Neighbors for Thoughtful Development ("NTD"), a group of residents in the adjacent Chancellor's Row development, filed an application for party status in opposition. The Board granted NTD's request for party status on February 8, 2017.

Applicant's Case

The Applicant provided testimony and evidence from the Very Reverend Eric Andrews, C.S.P, a representative of the Paulist Fathers; Stephen Horne, a representative of the Applicant; Warren Ralston of W.C. Ralston Architects and accepted by the Board as an expert in architecture; John Edwards of Bonstra Haresign Architects and accepted by the Board as an expert in architecture; Loren Helgason of Studio 39 and accepted by the Board as an expert in landscape architecture; Kyle Oliver of VIKA Capitol and accepted by the Board as an expert in civil engineering; and Dan Van Pelt of Gorove/Slade Associates Inc. and accepted by the Board as an expert in transportation engineering. With the application, the Applicant proposed a development of rowhouses, a new clerical residency for the Paulist Fathers, and significant green space. The Applicant described the subject property and neighborhood context, explained the Paulist Fathers' background and the proposed use of the subject property, described the architecture of the proposed rowhouses and clerical residence building, detailed the site constraints and planned development based on the property characteristics, explained the planned landscaping of the subject property, and detailed the transportation review and traffic mitigation measures and commitments. The Applicant also explained how the development would not adversely affect the use and enjoyment of neighboring and nearby properties due to traffic, noise, design, or other objectionable conditions, and demonstrated that granting the special exceptions would be in harmony with the general purpose and intent of the Zoning Regulations and would not tend to adversely affect the use of neighboring property. Finally, the Applicant demonstrated that the property is affected by exceptional conditions which create a practical difficulty for the development of the property in strict compliance with the vehicular ingress and egress width requirements and the lot occupancy, side, and rear yard requirements, and that relief from such requirements does not create substantial detriment to the public good and does not impair the intent, purpose, and integrity of the Zone Plan. (Exhibits ("Ex.") 1-16, 62-62B, 63-64H, 85-85E.). At the April 25 and May 23 public hearings, the Applicant's team presented testimony in support of the requested special exceptions and variance relief. (4/25/18 Transcript ("Tr."). at 23-70; 5/23/18 Tr. at 6-21; 28-41; 51-61; 67-74.) The Applicant demonstrated that the application satisfied the applicable requirements of the Zoning Regulations under 11-U DCMR § 421, 11-C DCMR § 305, 11-C DCMR § 1500.4, and 11-X DCMR § 901.2 for approval of the special exceptions and that the application satisfied the applicable requirements of the Zoning Regulations under 11-X DCMR §1000.1 for approval of the variances.

Following the April 25 public hearing, at the Board's request, the Applicant filed additional information relating to the use of the Paulist Building, the easements associated with the project, tree preservation, final landscape plans, site sections illustrating grading and relationships to surrounding properties, and the inclusionary zoning units. The Applicant filed this information on May 9, 2018. (Ex. 170.) Following the May 23 public hearing, at the Board's request, the Applicant filed final plans, clarification on the affordable housing, and a draft order. The Applicant filed its final plans and draft order of approval on June 28, 2018. (Ex. [REDACTED].)

#### OP Report

By reports dated April 13, 2018 and May 16, 2018, and through testimony at the public hearing, OP recommended approval of the application. (Ex. 89, 179; 4/25 Tr. at 172-177; 5/23 Tr. at 23-25.) OP found that the application satisfied all of the criteria pursuant to 11-U DCMR § 421, 11-C DCMR § 305, 11-C DCMR § 1500.4, and 11-X DCMR § 901.2 for the requested special exception. In particular, OP found that the proposed development will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring properties, the development complies with the substantive intent and purpose the Zoning Regulations and does not have an adverse effect on the present character and future development of the neighborhood. With respect to the impact on neighboring properties, OP noted the significant separation of the development from the Chancellor's Row communities (50 feet in the northwestern corner and 75 feet in the southern portion of the Property). OP also noted the compatibility of the development with the Chancellor's Row community design and the historic St. Paul's College building. (Ex. 89.) At the April 25 public hearing, OP continued to testify in support and requested some clarification information from the applicant. (4/25 Tr. at 172-177). In its supplemental report, OP noted its continued support for the project. (Ex. 179). The Board is convinced by the OP reports because of their comprehensive analysis and because of OP's expertise in assessing planning impacts of proposed uses and developments.

#### DDOT Report

By report dated March 9, 2018, DDOT stated that it had no objection to the application, with conditions. (Ex. 73). DDOT submitted a technical correction to its report on April 20, 2018. (Ex. 96.) On May 18, 2018, DDOT submitted a supplemental report expressing continued support of the application and providing a revised set of conditions. (Ex. 182.) DDOT testified at the April 25 and May 23 public hearings, reiterating its support and conditions for the project. (4/25 Tr. at 177-182; 5/23 Tr. at 26-27.) The Applicant agreed to all of DDOT's conditions, as modified by the supplemental report. DDOT found that the Applicant used sound methodology in the Applicant's comprehensive transportation review ("CTR"). DDOT's report focused on the importance of public access across the main vehicular roadways and pedestrian sidewalks throughout the property and the Applicant committed to provide these. DDOT agreed that such public access improves connectivity and porosity in the area. The Board is convinced by the DDOT report because of its comprehensive analysis and because of DDOT's expertise in assessing transportation impacts of proposed uses and developments.

#### ANC Report

At a regularly-scheduled and duly-noticed public meeting held on May 16, 2017 with a quorum present, ANC 5E voted 8-2-0 to adopt a resolution in support of the application, noting the

commitment to affordable housing and playground and open green space available for community use. (Ex. 51.) The ANC found that, with the inclusion of playground and open space and nine (9) inclusionary zoning units, the project will be a positive addition to the community, and potential adverse impacts will be mitigated. The ANC also stated that the buffer between the project and the Chancellor's Row community, which was increased after the ANC issued its report, as well as the prohibition of traffic using the Chancellor's Row roads would limit the impact of the project. At the April 25<sup>th</sup> hearing, Edward Garnett, the ANC single-member district representative testified regarding the ANC's support. (4/25 Tr. at 106-115.)

Persons in support

The Board heard testimony and received letters from persons in support of the application. Two people testified in support of the application: Patricia McGuire, President of Trinity Washington University, an adjacent property, and a representative from Casey Trees. Testimony and letters in support included: (1) acknowledgement of the Paulist Father's mission; (2) support of additional housing for the community; (3) excitement over the significant affordable housing of the property; (4) acknowledgement of extensive community involvement in the BZA process; (5) support for the revisions to the project in response to community concerns; and (6) support for the tree protection plan of the Project. (4/25 Tr. at 117-122;131-137; Ex. 47, 48, 58, 61, 67, 97, 100, and 105.)

Party in opposition

The NTD party testified in opposition at the public hearing and filed multiple documents into the record. Their testimony at the public hearing included the following: (1) concerns about the density of the project; (2) concerns with the placement of homes directly across from the Chancellor's Row community; (3) concerns that the traffic review and CTR did not address the school traffic; (4) loss of green space and trees for the benefit of the community; (5) concerns regarding traffic encroachment into the Chancellor's Row community's private streets; (6) concern over adverse impacts of construction of the project on the adjacent Chancellor's Row community; (7) concern that the subject property was promised to remain as open space in the Planned Unit Development ("PUD") approving the Chancellor's Row development; (8) concern over impacts on stormwater management from the project; (9) concern over grading and topographical impacts of the project; (10) concern over inclusionary zoning unit clustering. The NTD party also testified regarding a construction agreement it entered into with the Applicant for mitigation of construction-related impacts of the project (Ex. 39, 181-181A; 4/25 Tr. at 74-84; 85-89; 92-100; 102-104; 5/23 Tr. at 22-23; 48-49; 61-67.)

Persons in opposition

The Board heard testimony and received letters from persons in opposition to the application. The testimony and letters included: (1) concerns related to transportation, including street parking issues, private street restrictions, and the Chancellor's Row streets not being wide enough for access; (2) concerns related to green space, including the loss of open and green space, tree protection and its ability to last through construction, accessibility of green space due to religious nature of the owner, and the fact that park space in Ward 5 is prioritized in the Comprehensive Plan; (3) concerns regarding the project's impact on the Chancellor's Row community, including the housing placement, the impact on Chancellor's Row's private streets, construction impacts on adjacent homes, stormwater impacts by changing the current stormwater management, the narrow

buffer between the project and the Chancellor's Row homes, requesting an improved gate blocking access to the Chancellor's Row community, and increasing the homes subject to the community agreement for construction mitigation; (4) concerns regarding density of the project; (5) concerns regarding the development process, including objections that the subject property was promised as open space in a prior PUD, the piecemeal process of development including the establishment of the schools at the historic St. Pauls' College building, that the Applicant has not been responsive to community concerns, and that the project is proceeding as a BZA case as opposed to a PUD; (6) concerns regarding impacts on the schools at the St. Paul's College building, including lack of access over private streets, construction impacts, loss of green play space, and removal of parking spaces, including handicapped spaces; (7) concerns the new Paulist building's use and its location within the historic viewshed; and (8) concerns related to the United States Conference of Catholic Bishops, including the slope easement, fences along the slope easement, shared property line, and Fourth Street, drainage, and traffic concerns. (Ex. 17(2), 32, 37, 49, 50, 69, 74-78, 79(2), 80-84, 90-93, 95, 98, 99, 101, 103, 104, 111-123, 125-126, 128-137, 139-141, 143-169, 171-178, 186-187; 4/25 Tr. at 122-172.)

### **FINDINGS OF FACT**

1. The subject property is located at 3015 4<sup>th</sup> Street NE (Square 3648, Lots 1070 and 1071) (the "Property").
2. The Property is located in the RA-1 Zone District. Pursuant to 11-U DCMR § 421, the RA-1 zone requires special exception approval for new residential developments.
3. The Property is located in the Edgewood neighborhood of Ward 5. The Property is irregularly-shaped and contains approximately 241,600 square feet of land area. The Property is currently unimproved with structures. (Ex. 64, [REDACTED].)
4. The Property currently includes 74 trees, including 32 trees greater than 55 inches in circumference scattered throughout the Property. The Property includes a significant change in grade and complicated topography. (Ex. 170, [REDACTED].)
5. The Property is bounded to the north by the United States Council of Catholic Bishops property, to the south by the Chancellor's Row townhouse development, to the west by 4th Street NE, and to the east by the Chancellor's Row townhouse development and the "St. Paul's College" building (which now operates as two charter schools). (Ex. 64, [REDACTED].)
6. The St. Paul's College building has been designated as a historic landmark and includes a protected viewshed which covers a portion of the Property. (Ex. 64.)
7. The surrounding area is a mixture of residential and institutional buildings. Across 4th Street to the west is Trinity College. Further to the south, the neighborhood is composed of primarily row dwellings. Multiple religious institutions own and occupy properties further to the north. (Ex. 64, [REDACTED].)
8. The Chancellor's Row development that surrounds most of the Property to the south and east includes approximately 237 three and four story townhouses. Such development was approved

as a PUD and Zoning Map Amendment (from the R-5-A Zone District to the R-5-B Zone District) by Z.C. Order Nos. 07-27 and 07-27A. (Ex. 64.)

Proposed Development

9. The Applicant proposes to construct 60 rowhouses grouped in 11 clusters and a new Paulist building on a single lot (the "Project"). The remaining open space outside of the theoretical lots for the rowhouses and Paulist building are a separate lot. (Ex. 64, 85, 170, [REDACTED].)
10. Each rowhouse unit will appear as and be owned as a single-family townhouse, along with existing as an individual building for zoning purposes. The number of rowhouses was reduced from approximately 78 in the original application. The rowhouses are oriented around landscaped areas, heavily wooded areas, sidewalks, private roads, and driveways. (Ex. 11, 64, [REDACTED].)
11. The Project utilizes open, green, and landscaped space as a central design feature for both the new community and the surrounding neighborhood. The Project includes more than 2.18 acres (or more than 95,000 square feet) of the Property as green or otherwise landscaped space, particularly those areas along 4<sup>th</sup> Street and at the south of the Property. These include public park spaces referred to as the Corner Park, the Verge, and Sylvan Grove. (Ex. 64, [REDACTED].)
12. The Applicant has agreed to covenant that the common green and/or open areas at the Property proposed as public open space will remain as such in perpetuity. (Ex. 170C; Pages C-20 – C-22 in Exhibit [REDACTED] [Final plan set exhibit number from record] in the record.)
13. The Project includes removal of 39 trees, but will replace those trees with a total of 117 new trees (a ratio of 3 new trees for every 1 tree removed). The Project includes the preservation of 18 trees with a circumference over 55 inches and 19 trees with a circumference less than 55 inches. (Ex. 170.)
14. The Project also includes a new building for the Paulist Fathers, which has been designed to reflect its proximity to the St. Paul's College historic building and the nearby Chancellor's Row townhouses and the significant green space surrounding it. The new Paulist building is approximately 22,828 gross square foot and will contain no more than 15 residents. The design of the new Paulist building was the subject of HPA Case No. 18-101 before the Historic Preservation Review Board ("HPRB"), where it was approved. (Ex. 64, [REDACTED].)
15. The residential units at the Project will each provide 3 or 4 bedrooms. Each building will have a height of up to 40 feet. Overall, the lot occupancy of the Project will be a maximum of approximately 32% (excluding private streets). The Project will have an overall floor area ratio ("FAR") of up to approximately 0.93 (excluding private streets). The individual units will have widths of 16 or 20 feet. Each unit will have one or two garage parking spaces. (Ex. 64, [REDACTED].)
16. The Applicant has committed to providing nine (9) inclusionary zoning homes, including three (3) reserved for households earning 50% MFI or less of the Washington, DC Median Family Income ("MFI"), three (3) reserved for households earning 60% MFI or less, and three (3) reserved for households earning 80% MFI or less. These affordable units will be distributed



substantially in accordance with Exhibit [REDACTED] C [Final plan set exhibit number from record] in the record. The Board finds that the information regarding the affordable units is not required as part of the relief requested, and that, while laudable, the additional affordable units provided above the requirements of the Regulations are not required for the relief requested.

17. The rowhouses' theoretical lots have individual lot occupancies and yards that vary. Lot occupancy for individual theoretical lots range from 61% to 89%, rear yards for individual theoretical lots range from 7 feet to 0 feet, and side yards for individual theoretical lots range from 4.67 feet to 0 feet, where provided. (Ex. [REDACTED].)
18. The rowhouses have been designed to allow for construction of minimized roof structures allowing for access to a roof terrace. These structures will be no more than approximately 4 feet wide by 22 feet long. The enclosure will consist of the stairs themselves and a 4 foot by 4 foot wide landing at the top of such stairs. These roof structures are not located on the two groups of rowhouses located on Lots 1 – 7 or 23-28 as labeled on Page C-05 of the plans, since such homes will be closest to the Chancellor's Row residences. (Ex. [REDACTED].)
19. The rowhouses have been designed to allow for the construction of an approximately 5 foot by 12 foot deck on the rear of these units; however, the construction of such decks will occur only at the election of the individual property owners. Access to the buildings are provided via private streets and driveways. The main entrance driveway onto the Property from 4<sup>th</sup> Street is proposed to be 26 feet in width and the portion of the main street continued through the Property is 24 feet in width. The streets that branch off from the main street are 20 feet in width. The proposed main street and sidewalks at the Property will include a public access easement. (Ex. 64, 170C, [REDACTED].)

### **Contested Issues**

#### *Density*

20. NTD and the persons in opposition challenged the density at the Project, claiming that the Project was too dense for the surrounding community. (Ex. 32, 69, 74, 78, 79, 80, 83, 91, 92, 93, 101, 129, 132, 139, 141, 144, 151, 152, 153, 157, 159, 160, 163, 165, 166, 167, 174, 175.) OP and the Applicant, noted that the density was appropriate because it was below the amount permitted as a matter of right in the Zone, it is consistent with the style of the surrounding community and provides less density overall across the site. (Ex. 64, 89). Having considered the arguments, the Board finds that the density is appropriate for the Property because it is below the matter of right density, it is consistent with the surrounding development, and the density is concentrated in a way to create significant open spaces.

#### *Paulist Building*

21. NTD and persons in oppositions also raised concerns regarding the new Paulist building. First, they raised concerns that if the Paulists chose not to occupy or build the new building, such space could be sold again or rented for another use that would not have the benefit of Board review. (Ex. 92, 95, 98, 101, 141, 144, 145, 146, 151, 152, 153, 167, 169, 173.) The Applicant responded to such concerns by offering to limit the use at the Paulist building to a clerical

residency of no more than 15 persons. (Ex. 170.) The Board finds that such a restriction is appropriate to mitigate the possibility of a use at the Property that would have a negative impact on the community.

22. NTD and the persons in opposition also raised concerns with the fact that the new Paulist building is located within the viewshed of the historic St. Paul's College building. (Ex. 151, 152, 155.) However, as the Applicant and OP noted, the design of the new Paulist building was reviewed by HPRB and determined to be consistent with the viewshed and the historic nature of the Property. (Ex. 64, 89.) The Board agrees with OP and HPRB and defers to their expertise regarding historic preservation. Additionally, the Board agrees that the design of the new Paulist building is appropriate in the historic viewshed context given its materials, as it complements the existing St. Paul's College building.

### *Transportation*

23. NTD and the persons in opposition raised concerns regarding traffic generated by the Project, claiming that there are already significant issues in the community regarding traffic. They raised concerns regarding the availability of parking, including the current private street parking within the Chancellor's Row community as well as parking provided for the schools at the St. Paul's College building. Finally, they asserted that traffic was not analyzed appropriately given the addition of the schools, which use is permitted as a matter of right. (Ex. 32, 69, 74, 75, 78, 79, 80, 81, 82, 83, 90, 91, 92, 93, 101, 108, 121, 123, 126, 128, 130, 132, 143, 144, 145, 146, 151, 152, 153, 155, 156, 157, 158, 160, 163, 165, 167, 168, 169, 173, 174.) The Applicant provided a full CTR that analyzed the traffic and parking of the Project, as well as the private streets' width. (Ex. 62.) DDOT analyzed the Project and the CTR and concluded that the Project's impact, especially when considering the proposed mitigations, would not adversely affect the community. (Ex. 75, 96, 182.) The Board concludes that the traffic impacts of the Project will not adversely impact the community, that the parking and street widths proposed are appropriate for the Project, and credits the expertise of DDOT in its review of the Project.
24. Some persons in opposition, largely parents of students at the schools at the St. Paul's College historic building, objected to the private nature of the streets and sidewalks of the Project. They noted that the private streets in the Chancellor's Row community negatively impact students' ability to access the schools. (Ex. 37, 95, 98, 99, 103, 104, 106, 107, 113, 114, 116, 117, 118, 119, 120, 122, 125, 130, 131, 135, 137, 143, 159, 162, 166, 175, 180.) DDOT concurred with these concerns. (Ex. 75.) The Applicant acknowledged such concerns and agreed to commit to an easement recorded over the areas of concern at the Property to provide such access. (Ex. 170C.) Additionally, the Applicant demonstrated that access to the schools would improve due to the Project. (Ex. 170, 170A.) The Board finds that the easements are a necessary condition of the Project to mitigate the impacts of the development.

### *Green Space*

25. NTD and persons in opposition raised concerns about the loss of green space due to the Project. Specifically, they noted that the Project takes away too much green space, including significant trees at the Project. They alleged that the tree protection plan is inadequate, partially because



it does not preserve sufficient trees, and partially because trees it does preserve are at risk of dying due to impacts of construction. (Ex. 37, 49, 50, 69, 74, 75, 78, 79, 80, 81, 82, 83, 84, 90, 91, 92, 93, 95, 98, 101, 103, 106, 107, 108, 111, 112, 114, 115, 118, 120, 121, 122, 123, 125, 126, 128, 129, 130, 132, 135, 136, 137, 141, 143, 144, 145, 146, 150, 153, 155, 156, 157, 159, 160, 161, 162, 163, 165, 166, 167, 169, 171, 172, 173, 174, 175, 176, 178.) The Applicant presented significant information regarding the trees and worked extensively with Casey Trees to improve the tree preservation plan, resulting in Casey Trees' testimony and report in support of the Project. (Ex. 64, 107, 170.) The Board finds that tree preservation is an important aspect of the Project and credits the work the Applicant has done with the community. The Board further finds that the Applicant is including significant open space and finds it significant that such space will be included in an easement maintaining such space as open in perpetuity. Therefore, the Board finds that the open space commitment and the tree preservation plan are appropriate for the Project and mitigate the impact of the loss of green space.

26. NTD and persons in opposition noted that religious institutions are required to provide property as open space for community use. (Ex. 129.) The Board notes that there is no legal requirement that prevents the Paulist Fathers from developing their Property. Further, the Project includes the retention of approximately 136,612 square feet of current open space which will be available to the public.
27. NTD and some persons in opposition claimed that the Project is inconsistent with the Comprehensive Plan's goals of providing open park space, especially in Ward 5. (Ex. 121, 169.) The Applicant responded that the Project continues to provide a significant amount of park space that will be open to the public. (Ex. 64.) The Board credits the testimony of those concerned about the loss of park space. However, the Board notes that the Project continues to include significant amounts of open space which is an appropriate balance with the extent of development for the Property.

*Impact on Chancellor's Row Community*

28. NTD and some persons in opposition raised concerns regarding the placement of the rowhouses in front of some Chancellor's Row rowhouses. (Ex. 37, 75, 167.) NTD and persons in opposition also raised concerns about the amount of buffer space between the Project and the adjacent buildings. (Ex. 95, 98, 101, 146). The Applicant noted that the orientation of the Project matches the orientation of the Chancellor's Row community. (Ex. 64, 170, [REDACTED].) Further, at the north side of the Project there is a minimum buffer of 50 feet between the Project and the Chancellor's Row community and a minimum buffer of seventy 75 feet on the south side, as measured from building face to building face. (Ex. 64, 170, [REDACTED].) The Board finds that the orientation of the rowhouses is consistent with the surrounding Chancellor's Row community. The Board also finds that the buffer is significant, given that it is larger than the buffer of the Chancellor's Row community, and the 75 foot buffer is as wide as many public rights of way in the District.
29. NTD and some persons in opposition also raised concerns regarding the impact of the Project on Chancellor's Row private streets, as well as the need to improve the gate that prohibits traffic from entering the Chancellor's Row private streets. (Ex. 32, 69, 74, 75, 78, 79, 80, 81, 82, 83, 90, 91, 92, 93, 101, 108, 121, 123, 126, 128, 132, 133, 143, 144, 145, 146, 151, 152,

153, 155, 156, 157, 158, 160, 163, 165, 167, 168, 169, 173, 174, 180.) The Applicant responded to these concerns by agreeing to a condition to prohibit traffic, including construction traffic, from utilizing the Chancellor's Row private streets. Additionally, the Applicant agreed to improve the existing gate at the Property to help ensure this traffic restriction. (Ex. 170.) The Board finds that the Applicant's agreement to these conditions helps mitigate the potential impact of the Project on the Chancellor's Row community.

30. NTD and persons in opposition raised concerns regarding the construction impacts and the impacts on stormwater management from the Project. (Ex. 69, 81, 83, 84, 90, 91, 92, 101, 108, 121, 123, 126, 128, 132, 141, 143, 144, 145, 153, 156, 157, 158, 163, 165, 167, 168, 169, 173, 174, 177.) The Applicant has agreed to an agreement with neighbors to protect their homes during the construction process, which other neighbors have requested apply to their homes as well. (Ex. 183; Ex. 147, 148, 149, 151, 152, 174.) Additionally, the Project will be required to meet all stormwater management requirements in the District. Finally, the Applicant has proposed to install a new stormwater management system at the Property. (5/23 Tr. at 68-69.) Therefore, the Board finds that the Applicant is making efforts to mitigate impacts of the construction process for the Project and will comply with the stormwater requirements.

*Impact on School Property*

31. In addition to the access issues and construction issues addressed above, persons in opposition raised concerns regarding the Project's impact on the schools located at the St. Paul's College building. Specifically, concerns were raised regarding the loss of green space as well as the removal of some parking spaces, including handicap parking spaces. (Ex. 103, 106, 107, 111, 115, 117, 118, 120, 122, 125, 130, 135, 137, 159, 162.) The loss of open space is discussed generally above, but the Board also notes that the students at the school will still have access to the green space being retained at the Project. Additionally, the parking being provided is compliant with the Zoning Regulations and no relief is requested.

*Impact on U.S. Conference of Catholic Bishops Property*

32. The U.S. Conference of Catholic Bishops ("USCCB") neighbors the Property to the north. USCCB raised issues with the Project's impact on an existing "slope easement," fencing at the north of the Property and along 4<sup>th</sup> Street, NE, storm water, and traffic. (Ex. 134, 186-187.) The Applicant revised the Project to shift some of the rowhouses to accommodate the existing slope easement. (Ex. 170.) Additionally, the Applicant agreed to accommodate the reconstruction of the existing fence in the same location along the boundary of the existing easement and shared property line, with the same height, materials, and other features as the existing fence, and subject to the same rights of USCCB in relation to the existing fence. (Ex. [REDACTED], Pages C-15 and L1.01; *Final plan set exhibit number from record*.) The Applicant also agreed to construct a segment of fence along 4<sup>th</sup> Street, NE from the shared northern property line to the project's north curb cut along 4<sup>th</sup> Street. (Ex. 186, 190.) Finally, the Applicant has proposed that as part of the Project it will install a new storm water management system at the Property as shown on Page C-10 in Exhibit [REDACTED] [*Final plan set exhibit number from record*]. (5/23 Tr. at 68-69.)

33. Regarding traffic, USCCB raised concerns regarding the new 4<sup>th</sup> Street curb cut proposed as part of the Project. USCCB alleged that the proximity of the curb cut to its own driveway opening would create additional traffic and hazards for its own property and curb cut located to the north of the Property. The Applicant responded regarding traffic concerns noting that it engaged with DDOT relating to scoping necessary studies for the Project and that DDOT concluded that a full CTR was not required during such process due to the Project's anticipated traffic counts not exceeding the trigger threshold. However, the Applicant still obtained a CTR which concluded that the Project will not have detrimental impacts on the surrounding transportation network. The CTR utilizes assumptions that townhouse-related traffic will use the new private roadway; that school- and Paulist-related traffic will use the realigned school driveway; and that there will be a physical barricade between the existing school driveway and the adjacent Chancellors Row roadways. (Ex. 62A at 13, 19.) Subsequent to the submission of the CTR, DDOT and OP indicated a desire for public access to be permitted over the new private roadway to support maximizing site porosity to improve dispersion of traffic and enhanced connectivity for all people and modes (Ex. 73, 179, 182.). Individuals associated with the schools echoed such desire to provide access over the new private roadway. The Applicant submitted documentation associated with a public access over such new private roadway. (Ex. 170, 170C.) At the hearing, DDOT noted that the distance between the proposed curb cut and USCCB's existing curb cut is well in excess of the required distance and reiterated its support of the Project. (5/23 Tr. at 48-49.) The Board notes that the curb cuts along 4<sup>th</sup> Street were reviewed and approved through the typical public space curb cut review and approval process, including Public Space Committee approval. (Ex. 127 at 57.) The Board also notes that the schools on the property adjacent to east of the Property are not included in the instant application. As a result, the traffic created by the Project is minimal and school traffic that might utilize the Project's streets (including the north curb cut on 4<sup>th</sup> Street) will exist regardless of the Project. Again, the Board recognizes the concerns regarding traffic and the existence of vehicles as it relates to the new curb cut, but credits the reports and testimony of DDOT in its review of the Project, the approval of the curb cuts by the Public Space Committee, and the Applicant's CTR that the traffic impacts of the Project are appropriate and the testimony of DDOT that the curb cut configuration is standard.

*Development Process*

34. NTD and the persons in opposition raised allegations that the Property was promised to remain as open space in the initial Chancellor's Row PUD. (Ex. 32, 69, 74, 78, 79, 80, 81, 82, 93, 110, 129, 141, 143, 144, 146, 153, 164, 168.) The Applicant addressed these concerns in detail at the hearing, noting that the Property was not included in the Chancellor's Row PUD property, the Chancellor's Row PUD Order did not include any conditions requiring the Property to remain as open space, and no exhibit of filing explicitly stated that the Property would remain as open space. (4/25 Tr. at 62-65; Ex. 127.) The Board finds that there is no evidence in the record that requires the Property to be maintained as open space as a benefit of the PUD. While there may have been confusion when individuals purchased their homes as to the status of the Property and potential future development, the Board finds there is no legal requirement that the Property remain vacant.

35. One person in opposition noted concerns regarding the Project proceeding as a case before the Board instead of as a PUD. (Ex. 144.) The Board notes that the Project does not request relief

from height or FAR, which a PUD often includes an increase in. Additionally, the Project seeks areas of relief within the purview of the Board, and therefore the Board does not find the relief outside the scope of a process before the BZA.

36. NTD and the persons in opposition raised concerns that the Applicant was unresponsive to the community's concerns regarding the Project. (Ex. 84, 108, 121, 123, 126, 145, 151, 156, 157, 158, 166, 168, 174, 175.) The Applicant provided significant evidence of numerous community meetings and presentations. (Ex. 64, 127.) While the Board acknowledges that certain community members feel they have not had as many opportunities to discuss the Project, the Board finds that the Applicant has met with the community many times, as evidenced by the ANC's support of the Project and the agreements reached with members of the community. (Ex. 51, 183, 186.)

## **CONCLUSIONS OF LAW AND OPINIONS**

### Special Exception Relief

1. The Applicant requests special exception relief under (i) 11-U DCMR §421 for new residential development in the RA-1 Zone District; (ii) 11-C DCMR §305 to allow multiple buildings on a single lot utilizing theoretical lots; and (iii) 11-C DCMR §1500.4 to allow roof structures on rowhouses. The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property, subject to specific conditions. *See* 11-X DCMR § 901.2.
2. The Board's discretion in reviewing an application for a special exception is limited to a determination of whether the applicant has complied with the requirements under each specific provision and Subtitle X § 901.2. If the applicant meets its burden under the requirements, then the Board ordinarily must grant the application. *See, e.g., Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973); *see also Washington Ethical Society v. District of Columbia Bd. of Zoning Adjustment*, 421 A.2d 14, 18–19 (D.C. 1980). Since the Applicant has demonstrated that this application complies with the requirements of 11-U DCMR §421, 11-C DCMR §305, 11-C DCMR §1500.4, and 11-X DCMR § 901.2, the Board must grant the requested special exceptions.
3. Pursuant to 11-U DCMR § 421, to obtain special exception relief to allow new residential development in the RA-1 zone, an applicant must demonstrate that it satisfies the criteria under 11-U DCMR § 421. In this case, the Board finds that the application meets the following criteria under 11-U DCMR § 421:

*421.2 The Board of Zoning Adjustment shall refer the application to the relevant District of Columbia agencies for comment and recommendation as to the adequacy of the following:*

*(a) Existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project; and*

*(b) Public streets, recreation, and other services to accommodate the residents that can be expected to reside in the project.*

*421.3 The Board of Zoning Adjustment shall refer the application to the Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the surrounding neighborhood, and the relationship of the proposed project to public plans and projects.*

*421.4 In addition to other filing requirements, the developer shall submit to the Board of Zoning Adjustment with the application a site plan and set of typical floor plans and elevations, grading plan (existing and final), landscaping plan, and plans for all new rights-of-way and easements.*

4. In this case, the Board finds that the Applicant has demonstrated that the application meets the requirements of 11-U DCMR §421.
  - a. The Board finds that the application was referred to the relevant District of Columbia agencies, including OP, DDOT, the Department of Parks and Recreation, and the Deputy Mayor for Education. The Board credits OP and DDOT's support for the Project and their conditions, including OP's note that surrounding schools have capacity for additional students that may result from the Project. The Board also notes the Applicant has met with D.C. Fire and Emergency Services as well.
  - b. Based on OP's recommendation, the Board finds that the Project's site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the surrounding neighborhood has been reviewed by OP. The Applicant revised the Project based on OP's recommendations, which resulted in OP's support for the Project and OP noted the development, including the proposed design and materials, are appropriate. OP also noted the approval of the HPRB of the siting of the new Paulist building and homes with respect to the protected viewshed.
  - c. Based on the Applicant's submissions, the Board finds that the Applicant submitted the materials required by the Zoning Regulations.
5. Pursuant to 11-C DCMR § 305, to obtain special exception relief to allow theoretical lots, an applicant must demonstrate that it satisfies the criteria under 11-C DCMR § 305. In this case, the Board finds that the application meets the following criteria under 11-U DCMR § 305:

*305.1 In the R, RF, and RA zones, the Board of Zoning Adjustment may grant, through special exception, a waiver of Subtitle C § 302.1 to allow multiple primary buildings on a single record lot provided that, in addition to the general special exception criteria of Subtitle X, Chapter 9, the requirements of this section are met.*

*305.2 The number of buildings permitted by this section shall not be limited; provided, satisfactory evidence is submitted that all the requirements of this section are met based on a plan of theoretical subdivision where individual theoretical lots serve as boundaries for assessment of compliance with the Zoning Regulations.*

*305.3 The following development standards shall apply to theoretical lots:*

- a. Side and rear yards of a theoretical lot shall be consistent with the requirements of the zone;*
- b. Each means of vehicular ingress and egress to any principal building shall be at least twenty-four feet (24 ft.) in width, exclusive of driveways;*
- c. The height of a building governed by the provisions of this section shall be measured from the finished grade at the middle of the building façade facing the nearest street lot line; and*
- d. The rule of height measurement in Subtitle C § 305.3(c) shall supersede any other rules of height measurement that apply to a zone, but shall not be followed if it conflicts with the Height Act.*

*305.4 For a theoretical subdivision application, the following information is required to be submitted to the Board of Zoning Adjustment, in addition to other filing requirements pursuant to Subtitle Y § 300:*

- a. Site plans including the following information:
  - i. A plat of the record lots proposed for subdivision;*
  - ii. The location of proposed streets and designated fire apparatus roads;*
  - iii. Location of proposed easements;*
  - iv. Lot lines of proposed theoretical lots, and the delineation of the lot lines shared by theoretical lots that will serve as private drives or easements;*
  - v. Existing grading and proposed grading plans;*
  - vi. Existing landscaping and proposed landscaping plans, including the sizes and locations of all trees on or adjacent to the property on public or private lands;*
  - vii. Plans for the location of building footprints on theoretical lots; and*
  - viii. Required yards (rear, side and front) based on the regulations applicable to a zone or any modifications to regulations provided through this section;**
- b. Typical or individual floor plans and elevations for the proposed buildings and structures; and*
- c. A table of zoning information including required and proposed development standards.*

*305.5 Before taking final action on an application under this section, the Board of Zoning Adjustment shall refer the application to the Office of Planning for coordination, review, and report, including:*

- a. The relationship of the proposed development to the overall purpose and intent of the Zoning Regulations, and other planning considerations for the area and the District of*

*Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government; provided, that the planning considerations that are addressed shall include, but not be limited to:*

- i. Public safety relating to police and fire concerns including emergency vehicle access;*
  - ii. The environment relating to water supply, water pollution, soil erosion, and solid waste management;*
  - iii. Public education;*
  - iv. Recreation;*
  - v. Parking, loading, and traffic;*
  - vi. Urban design; and*
  - vii. As appropriate, historic preservation and visual impacts on adjacent parkland;*
- b. Considerations of site planning; the size, location, and bearing capacity of driveways; deliveries to be made to the site; side and rear setbacks; density and open space; and the location, design, and screening of structures;*
  - c. Considerations of traffic to be generated and parking spaces to be provided, and their impacts;*
  - d. The impact of the proposed development on neighboring properties; and*
  - e. The findings, considerations, and recommendations of other District government agencies.*

*305.6 The proposed development shall comply with the substantive intent and purpose of this title and shall not be likely to have an adverse effect on the present character and future development of the neighborhood.*

6. In this case, the Board finds that the Applicant has demonstrated that the application meets the requirements of 11-C DCMR §305.
  - a. The Property is located in the RA-1 Zone District.
  - b. The theoretical lots for the sixty (60) rowhouses and the new Paulist building are each evaluated individually and comply with the zoning regulations, except as noted where variance relief is requested.
  - c. The height of all buildings is measured appropriately and complies with the height limit in the RA-1 Zone District. The main means of ingress and egress throughout the Property meets the minimum of twenty-four feet. There are some drive areas that do not meet the minimum width requirements and the Applicant has requested relief from the yards requirements. The yards for the individual lots provide significant buffers for each building on the Property. The Board finds that the areas where relief is requested are still generally compliant with the intent and purpose of the regulations regarding theoretical lots because the relief allows larger areas of significant open space for community use.
  - d. The Applicant included all necessary materials in its filings to the Board.
  - e. The Board credits OP's report noting how the Project is consistent with the overall purpose and intent of the Zoning Regulations. OP noted in the report that the Project



- provided fire access via a 26-foot wide road and that the Applicant met with Fire and Emergency Services, addressing concerns regarding public safety. Additionally, the Project will comply with all requirements regarding stormwater regulations and the Green Area Ratio ("GAR"). The local schools around the Project have additional capacity for students that may come to the area as part of the Project. The Project includes significant areas for active and passive recreation, including the Corner Park, Sylvan Grove, and the Verge, which include open space, seating, and significant tree preservation. OP notes that the Applicant has worked closely with DDOT and DDOT is supportive of the parking provisions for the Project. Finally, OP credits the Applicant's CTR with analyzing the parking for the Project as well as the existing Charter Schools. The OP report also notes the urban design of the Project and HPRB's approval of the location of the new Paulist building. OP also analyzed the access provided at the Project and the traffic and parking of the Project. Additionally, OP noted that the Project would not negatively impact neighboring properties given the significant buffer around the Project. Finally, OP noted its continued coordination with government agencies, including the Department of Housing and Community Development ("DHCD").
- f. The Board credits OP's report and its expertise regarding planning. The Board agrees with OP's assessment that the Project meets the requirements of the Regulations regarding the Project's consistency with the overall purpose and intent of the Zoning Regulations with respect to the theoretical lots proposed by the Project.
7. Pursuant to 11-C DCMR § 1500.4, to obtain special exception relief to allow roof structures on a rowhouse, an applicant must demonstrate that it satisfies the criteria under 11-C DCMR § 1500.4. In this case, the Board finds that the application meets the following criteria under 11-U DCMR § 1500.4:
- a. *Is no more than ten feet (10 ft.) in height and contains no more than one (1) story; and*
  - b. *Contains only stair or elevator access to the roof, and a maximum of thirty square feet (30 sq. ft.) of storage space ancillary to a rooftop deck.*
8. In this case, the Board finds that the Applicant has demonstrated that the application meets the requirements of 11-C DCMR § 1500.4, as the proposed roof structures at the Project, where they exist, are no more than ten feet in height, contain no more than one story, and only contain stair access to the roof.
9. Based on the Findings of Fact above, including OP's analysis, the Board finds that this application satisfies the general special exception criteria in Subtitle X § 901.2. By being consistent with the purposes, intent, and requirements of the RA-1 zone and by including myriad mitigation, verification, and community involvement measures, this application is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property.
- a. The Board finds that granting this application is consistent with the purposes and intent of the RA-1 zone. Since the size, height, open space and density of the Project are all cumulatively well below the applicable maximums or limitations of the RA-1 Zone District the Project is an appropriate sized use of land in the RA-1 zone. Further, the

- use of the Property for a new townhouse development is appropriate for this neighborhood. The Board understands NTD's concerns regarding the density of the development, but the Board gives credence to the reduction in density from the initial proposal by the Applicant and the fact that the Project is less dense than the surrounding Chancellor's Row development. Given the Project's characteristics, nothing about the proposed size or use contravenes the intent of the Zoning Regulations. The Project also advances the important goal of increasing the housing and affordable housing supply in the Washington, D.C. area, especially three (3) and four (4) bedroom housing units that are suitable for families and the enhanced affordable housing incorporated into the Project. In addition, as the result of such positive attributes of the Project, including significant open park space, the Project is also consistent with the D.C. Comprehensive Plan and its Future Land Use Map.
- b. The Project will not adversely affect neighboring property. In fact, the Project will complement and enhance the existing charter school uses in the now-historic St. Paul's College building. Further, the Project will be a less dense neighbor to the Chancellor's Row townhouse development to the east and south of the Property. Chancellor's Row was constructed to an FAR of approximately 1.27. However, the Project is designed to give ample open space and light and air to the adjacent Chancellor's Row townhomes. For example, the townhouses at the northwest portion of the Project are no less than 50 feet, building face to building face, from the adjacent Chancellor's Row residences while, at the south of the Project, the new Paulist building is no less than 75 feet, building face to building face, from the adjacent Chancellor's Row residences. The Project also does not adversely affect the use of other residential or institutional users within the near vicinity of the Property, including the school. The Project increases access routes to the schools and provides structured, open play space that students can utilize.

### Variance

10. The Board is authorized under Section 8 of the Zoning Act (D.C. Code § 6-641.07(g)(3)) to grant area variances, as provided in the Zoning Regulations, where, by reason of extraordinary or exceptional situation or condition of a specific piece of property, the strict application of the Zoning Regulations would result in a practical difficulty for the applicant, provided that the relief will not cause substantial detriment to the public good or substantial impairment of the intent, purpose, and integrity of the Zoning Regulations and Zoning Map. 11-X DCMR § 1000.1; 1002.1.
11. For the reasons set forth above, the Board concludes that the Applicant has met the burden of proof under Subtitle X for a variance. The Applicant has demonstrated that the Property is affected by exceptional conditions due to the lot shape, topography, grading, significant tree cover, and including a portion of a historically-protected viewshed. The Board has also found that strict application of the Zoning Regulations with respect to the vehicular ingress and egress width requirements and the lot occupancy, rear yard, and side yard requirements would cause practical difficulty to the Applicant. The Board has also found that the Project will not cause substantial detriment to the public good. In so finding, the Board has carefully considered the community concerns raised regarding the Project. However, the Board has found that the buffer areas between existing development and the Project, significant retained open space available

for public use, compatibility with surrounding development, and fire-access complaint streets will prevent detriment to the public good. Instead, the Board finds that the Project will increase housing in the District (including significant affordable housing), and promote the kind of affordable, open design that is encouraged under the Zone Plan.

12. Based on the findings of fact and for the reasons discussed above, the Board also concludes that the requested area variances will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property. In so doing, the Board concludes that the proposed rowhouses and clerical residency are consistent with the Zoning Regulations and Maps.
13. Pursuant to D.C. Official Code § 6-623.04, the Board is required to give “great weight” to the recommendations of the Office of Planning. In this case, OP recommended approval of the application, and for the reasons stated in this Order, the Board concurs with that recommendation. The Board acknowledges The Board is persuaded by OP’s reports and testimony in support of the application and the conditions of approval because of OP’s thoughtful analysis and the specialized knowledge OP has for assessing special exceptions and variances for developments like the project.
14. In accordance with D.C. Official Code § 1-309.10(d), the Board must give “great weight” to the written statements and recommendations of the affected ANC. In this case, ANC 5E recommended approval of the application, and, for the reason stated in this Order, the Board concurs with that recommendation. The Board accorded the statements and recommendations from ANC 5E the “great weight” to which they are entitled, and in so doing, fully credited the unique vantage point that ANC 5E holds with respect to the impact of the proposed application on the ANC’s constituents. The Board recognizes that while Commissioner Garnett spoke and submitted written testimony at the hearing regarding the Project, not all of which was supportive of the Project, the written report of the ANC is what deserves “great weight” from the Board, not Commissioner Garnett’s individual comments. Therefore, the Board concludes that, since ANC 5E’s written recommendations to approve this application satisfy the requirements 11-Y DCMR §406.2, the Board must give them “great weight.”

### **DECISION**

Based on the case record, the testimony at the public hearing, and the findings of fact and conclusions of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the requests for (i) a special exception under 11-U DCMR §421 for new residential development in the RA-1 Zone District; (ii) a special exception under 11-C DCMR §305 to allow multiple buildings on a single lot utilizing theoretical lots; (iii) an area variance from 11-C DCMR § 305.3 for relief from (a) the requirement that means of vehicular ingress and egress to principal buildings be at least 24 feet in width and (b) the requirement that lot occupancy and rear and side yards be compliant based on the theoretical lot boundaries; and (iv) a special exception under 11-C DCMR § 1500.4 to allow roof structures on rowhouses. Accordingly, it is therefore **ORDERED** that this application is hereby **GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The Applicant shall build the project in accordance with the plans submitted as Exhibit        *[Final plan set exhibit number from record]* in the record.

2. The Applicant shall landscape the Property in accordance with the landscaping plans submitted as Pages L.01 – L7.05 in Exhibit [REDACTED] [Final plan set exhibit number from record] in the record and shall retain, preserve and replant trees as forth on Pages C-14 and C-14A in Exhibit [REDACTED] [Final plan set exhibit number from record] in the record.
3. The Applicant shall implement the following recommendations from DDOT:
  - a. Design all private streets to DDOTs 2017 DEM standards where they connect with the public street network;
  - b. Provide 6-foot wide sidewalks adjacent to all private streets, including the driveway extending from 4th Street NE to Regent Place NE; with adequate landscape strips and/or pedestrian buffers, subject to DDOT's approval;
  - c. Provide public pedestrian and vehicular access easements as specified in Condition 7;
  - d. Improve pedestrian porosity between the site's access points by implementing a sidewalk connection from the 4th Street NE sidewalk to the pedestrian switchback ramp within the "Sylvan Grove" concept;
  - e. Provide a pedestrian connection along the western side of townhome units 50 and 60 (per the numbering shown on the site plan of the Applicant's pre-hearing submission) that also ties into the switchback connection to 4th Street NE;
  - f. Provide and furnish additional street trees on 4th Street NE adjacent to the site to fill all existing gaps in the "furniture zone"; and
  - g. Implement the following Transportation Demand Management (TDM) Plan as proposed in the Gorove/Slade and Associate's February 2, 2018 CTR, included in the record as Exhibit 62A:
    - i. The Applicant will identify a TDM Leader (for planning, construction, and operations). The TDM Leader will work with residents to distribute and market various transportation alternatives and options;
    - ii. The Applicant will provide updated contact information for the TDM Leader and will report TDM efforts and amenities to goDCgo staff once per year; and
    - iii. The Applicant will establish a TDM marketing program that provides detailed transportation information and promotes walking, cycling, and transit. This information will be compiled in a brochure for distribution to residents. The marketing program will also use and provide website links to CommuteConnections.com and goDCgo.com, which provides transportation information and options for getting around the District.
4. The Applicant shall prohibit all traffic associated with the Project, including construction traffic and residential traffic, from using any roads within the Chancellor's Row development, including Regent Place east of the Project.
5. The Applicant shall install a manually-operated gate, with stone pillars at each end, across the point where the current parking lot on the site connects with Regent Place, at the curve of the

road just northeast of the Lee Montessori (or such other school as located at such location on the adjacent property) drop-off loop, with the goal of preventing private vehicles from routinely using Regent Place as a through connection from 4<sup>th</sup> Street N.E. to 7<sup>th</sup> Street N.E.

6. The Paulist Building shall be used as a clerical residency, housing no more than fifteen (15) residents at a time, including sleeping quarters and other clerical spaces such as a chapel and refectory, for uses associated with a religious order's mission.
7. The Applicant shall record an easement substantially in the form included in the record as Exhibit 170C as updated by Pages C-20, C-21, and C-22 in Exhibit [REDACTED] *[Final plan set exhibit number from record]* to provide public pedestrian and vehicular access and open space at the Property.
8. The Applicant shall provide nine (9) inclusionary zoning homes, including three (3) reserved for households earning 50% MFI or less of the Washington, DC Median Family Income ("MFI"), three (3) reserved for households earning 60% MFI or less, and three (3) reserved for households earning 80% MFI or less. These affordable units will be distributed substantially in accordance with Exhibit [REDACTED]C *[Final plan set exhibit number from record]* in the record.
9. The Applicant shall not construct any improvements that would encroach upon the easement area for the benefit of USCCB identified in Exhibits 134, 186 or 187 to the extent that such improvements would violate the terms of that easement.
10. The Applicant shall reconstruct the existing fence in the same location along the boundary of the existing USCCB easement and shared property line, with the same height, materials, and other features as the existing fence, and subject to the same rights of USCCB in relation to the existing fence.
11. The Applicant shall install and maintain in the location identified in Exhibit 190 a fence of the same height as the fence that currently exists, and Applicant shall reconstruct, along the boundary of the existing USCCB easement and shared property line, per the request USCCB has made.
12. As part of the Project, the Applicant shall construct a new storm water system that meets the stormwater management requirements for the Property, similar to or substantially in accordance with the facilities shown on Page C-10 in Exhibit [REDACTED] *[Final plan set exhibit number from record]*.

**VOTE:**        [ - - ]        (Frederick L. Hill, Carlton Hart, Lesylleé M. White, Lorna John, and Robert Miller to APPROVE)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**  
A majority of the Board members approved the issuance of this order.

**ATTESTED BY:** \_\_\_\_\_  
**SARA A. BARDIN**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** \_\_\_\_\_

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.