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February 10, 2014

VIA HAND DELIVERY

Lloyd Jordan, Chairperson
D C Board of Zoning Adjustment
441 4th Street, N W
Second Floor
Washington, D C 20001

**BOARD OF ZONING ADJUSTMENT
District of Columbia**

CASE NO. 18317

EXHIBIT NO. 37

Re: Request to Extend Order No. 18317

Dear Chairman Jordan and Members of the Board

Valor Development, on behalf of the Meridian Hill Baptist Church, submits this request for a two year extension of the variance approvals granted in Case No 18371. Valor Development is partnering with the Meridian Hill Baptist Church in the redevelopment of the Church's property located at 3146 16th Street, NW (Square 2595, Lot 831) ("Property"). By Order No 18317, the Board of Zoning Adjustment granted rear yard and court relief for a residential project on the Property. These approvals expire on March 16, 2014. Valor Development seeks to extend the approvals through March 15, 2016, pursuant to 11 DCMR Section 3130 et seq for the good cause shown herein.

The above-referenced Property is located in the Mount Pleasant neighborhood of Northwest DC. It is improved with the Meridian Hill Baptist Church, which suffered a devastating fire in 2008. The fire gutted the Church and forced it to relocate to Upper Marlboro,

Maryland The Church is now partnering with Valor Development for the redevelopment of the Property into a residential project with 85 units

The Property is located in the R-5-D Zone District The approved project was granted relief from the 26 3 foot rear yard requirement and from the 10 7 open court requirement The existing improvements are currently nonconforming with respect to the rear yard. Though the proposed project brings the Property more in conformity with the Zoning Regulations, it still required relief from the Zoning Regulations, which the Board granted as described above Valor has an aggressive timeline for effectuating the project approved by the BZA, however, it must extend the approval for two years to ensure that the entitlements do not lapse before Valor submits for its building permits

Enclosed please find the following

- Authorization Letter authorizing this application (Exhibit A)
- BZA Form 126, Fee Calculator (Exhibit B)
- Plat of Property (Exhibit C)
- Zoning Map (Exhibit D)
- Order No 18317 (Exhibit E)
- Affidavit in support of extension (Exhibit F)
- The requisite filing fee for this request of \$540 80 (26% of the initial filing fee of \$2,080) in a check made payable to the D C Treasurer

I. **OVERVIEW OF THE PROJECT**

A. **The Property, Project and Project Approval**

The Property is located at 3146 16th Street, NW. The square within which the Property is located is bounded by Lamont Street to the north, Mount Pleasant Street to the west, Irving Street to the south and 16th Street to the east. The Property is approximately 14,715 square feet in size. It is a landlocked property that only has street frontage on 16th Street. A plat of the Property is attached as Exhibit C.

The Property was historically used as a Baptist Church with accessory surface parking. The Church, however, suffered a catastrophic fire in 2008 and was forced to close. The Property has been vacant since the 2008 fire. Despite the fire, it remains a contributing building to the Mount Pleasant Historic District.

The Property is located in the R-5-D Zone District, as depicted in Exhibit D. See below for the zoning parameters of the approved project:

	Required	Approved	Proposed
Height	90 feet	76.4 feet	76.4 feet
Lot Occupancy	75%	75%	75%
Floor Area Ratio	4.2	4.2	4.2
Rear Yard	26.3 feet	6 feet at ground, 15 feet on upper levels	6 feet at ground, 15 feet on upper levels

Side Yard	None	None	None
Open Court	10.7 feet	4.5 feet on north 6.0 feet on south	4.5 feet on north 6.0 feet on south

The Board approved variance relief for both the rear yard and open court. The existing building currently provides a 5 foot rear yard. The project will provide a rear yard that exceeds the depth of the existing rear yard, but will still fall short of meeting the requirements set forth by the Zoning Regulations. The design also includes open courts on both the north and south sides of the building. While no side yards or courts are required, Valor is providing them in order to provide more light and air to those units. Nevertheless, the courts don't provide the requisite depth and relief was granted. Valor is moving forward with the building design approved by the Board two years ago, although there will be some modest interior modifications that do not affect the required relief or the relief granted.

The Board approved the requests for variance relief on February 28, 2012. Order No. 18317 was issued on March 6, 2012, and became effective on March 16, 2012. A copy of BZA Order No. 18317 is attached as Exhibit E.

II. JURISDICTION AND STANDARD OF DECISION OF THE BZA

The BZA is permitted to extend its Orders under Section 3130 et seq. of the Zoning Regulations. Section 3130 et seq. permits the BZA to extend its Orders for a period of two (2) years. Sections 3130.6 and 3130.7 limit extension to one (1) two (2) year period. This is Valor's

first request to extend the variance approval and given their ongoing efforts to move this project forward, we believe an extension of the Order is warranted

In order to extend a BZA Order under 11 DCMR Section 3130.6, the BZA must determine that (a) the extension request is served on all parties to the application by the applicant and all parties are allowed thirty (30) days to respond, (b) there is no substantial change in any of the material facts upon which the Board based its original approval of the Order that would undermine the BZA's justification for approving the original Order, and (c) the applicant demonstrates that there is good cause for such extension

III **RATIONALE FOR EXTENSION OF BZA ORDER NO. 18371**

A **Extension request served on all parties to the application**

This extension request is being served simultaneously on the only party to the original application, ANC 1D. The ANC is allowed thirty (30) days to respond to this request, accordingly, Valor asks that this extension request not be placed on the Board's calendar within the next 30 days. The extension request is also being sent to the public agencies that reviewed the original application. This project was supported by the ANC, the Office of Planning and the District Department of Transportation. In large part, each of these entities was supportive of the project because it was an adaptive reuse of an existing building, the project promised to convert an underutilized site to a contributing part of the community. The Property has sat dormant since 2008 and even before the fire, the Property was typically only activated one day out of the week.

The approved project, by contrast, will bring more residents and pedestrians to the community and activate the Property seven days a week

B No Substantial Change to Any of the Material Facts

There has been no substantial change to any of the material facts concerning this case and the neighborhood remains largely unchanged since the BZA application was approved. The neighboring properties, which would be the most affected by the requests for relief from the rear yard and court requirements, remain as they were in 2012. The apartment buildings to the north and south of the project remain unchanged since the BZA approval in 2012, and the property to the west is currently under construction as a 67-unit residential building. This building, however, was contemplated at the time of the BZA approval. The apartment building, known as 3145 Mount Pleasant Street, NW was the source of the fire that destroyed the Meridian Hill Baptist Church in 2008. It was an 85-unit residential building that burned to the ground and its tenants have spent the last five years trying to rebuild it. While the site was still vacant at the time the Board approved Case No. 18371, it was widely publicized that the tenants were organizing to rebuild the apartment building. The design approved by the Board for the Property anticipated the return of an apartment building to the west, which is why the property owner increased the existing rear yard set back. The existing building is only set back 5 feet from the rear lot line, however, the proposed project sets the building back 15 feet for the majority of the rear façade.

The legal standard for granting the variance has not changed since 2012, thus, the findings of uniqueness, practical difficulty and no adverse effects hold true today. In sum, the property is unique because it is improved with an existing structure that is considered a contributing building to the Mount Pleasant Historic District. Adapting the Church building to residential use presents challenges because it requires the introduction of windows, stairs, and elevators. These elements weren't necessary for the functioning of the Church, but are necessary for the functioning of a residential building. Similarly, the residential addition must be designed so as to minimize its presence along 16th Street and to emphasize its compatibility with the Church, requiring Valor to push the height and density of the addition further west. As the Office of Planning noted in its report, the requested relief “would not appear to negatively impact buildings on adjacent properties, but would facilitate the rehabilitation of the site. As such, the requested relief would not negatively impact the intent, purpose, and integrity of the zone plan or result in substantial detriment to the public good.”

C Good Cause for Delay and Actions Subsequent to Issuance of BZA Order No 18371

Under the third prong of Section 3130.6, in order to determine whether a BZA Order should be extended, the Board must determine whether there is “good cause shown” for the requested extension. Under Section 3130.6, good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) an inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control, (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable

control, or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control

In granting past extensions, the Board (and the Zoning Commission¹) has weighed the applicant's efforts to move forward against the hurdles that stand in its way. In this case, that hurdle was simply time – Valor only became involved with the Property 11 months ago. At the time of the BZA case, Bozzuto Homes was partnering with the Church to redevelop the Property. That did not come to pass and Valor Development stepped in to partner with the Church in February 2013. Since then, Valor has done all that is within its power to move this project forward. Since its involvement in the project, Valor has hosted community meetings to discuss the project with area residents to keep them apprised of Valor's involvement and its timeline for development. Valor has also retained an architect to prepare permit drawings and it anticipates submitting for its permits by June 2014. Though it is submitting for permits quickly, it will not be in time to vest the project prior to the expiration of the BZA approvals. Valor simply cannot secure all required government agency approvals prior to March 15, 2014.

This is the first extension request for the project and it arises primarily due to the change in ownership. The Bozzuto Company determined that pursuing this project was not in their best interests, consequently, one year after the BZA approval, they moved on from the deal.

¹ The extension considerations under Section 3130.6 of the Zoning Regulations are analogous to, and based on, similar powers granted to the Zoning Commission under Section 2408.11 of the Zoning Regulations. The standards for consideration of an extension to a BZA Order are the same as those required for consideration of a Planned Unit Development (“PUD”) Order.

Bozzuto's decision not to move forward with the project was not within Valor's control, yet it clearly has a tremendous impact on Valor's timeline for effectuating the BZA approval. In the short amount of time that Valor has been involved with this deal, it has

- engaged a civil engineer and an architect to prepare permit drawings and currently at 95% design development plans,
- hosted 4 community meetings to inform the community on the development and construction process and anticipated timeline,
- developed a marketing campaign for the leasing of the units,
- interviewed 4 property management firms and reviewing final proposals and budgets to select and engage winning firm,
- interviewed 4 general contractors and have progress bid sets out for pricing from all of them,
- hired an interior design firm that is at 50% schematic for interiors of the building, and
- received 4 term sheets from construction lenders and is in final negotiations for commitment terms with top 2. Valor expects construction loan closing to occur in June 2014.

Had Valor been involved with this project from the very beginning, it would have met the two year deadline for filing for a building permit. In fact, Valor is only four months away from filing for a permit and it has only been involved for eleven months. It simply has not had the benefit of time in its dealings and it is asking to be afforded the two year period that it would have otherwise had it been involved in the project from the start. Accordingly, Valor believes it has adequately demonstrated those conditions and circumstances dictating the need for the extension and it has demonstrated how those conditions and circumstances are outside of Valor's control.

IV CONFORMANCE TO THE COMPREHENSIVE PLAN AND THE ZONING REGULATIONS

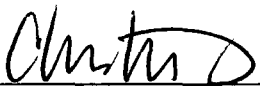
This request for an extension of time within which to complete the Project is consistent with the intent and purposes of the Zoning Regulations, the requirements of Chapter 31 of the Zoning Regulations, and the District of Columbia Comprehensive Plan ("Plan") for the National Capital. The Land Use Map of the Plan designates the site for Medium Density Residential use. The Plan's land use designation of the Property has not changed since the Order was approved, accordingly the project remains not inconsistent with the Comprehensive Plan. The adjacent properties' land use designations also remain unchanged since the issuance of Order No. 18371, further bolstering that there has not been a change in material fact contributing to the Board's initial review of this case.

V CONCLUSION

For all of the above reasons constituting good cause, the Applicant requests a two (2) year extension for BZA Order No. 18371.

Board of Zoning Adjustment – Square 2595, Lot 831
February 10, 2014

Respectfully submitted,



Christine A Roddy

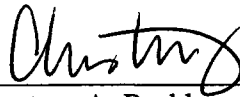
cc Will Lansing

Certificate of Service

I certify that on February 10, 2014, I delivered a copy of the foregoing document via hand delivery or first class mail to the addresses listed below

Jennifer Steingasser
Maxine Brown-Roberts
Office of Planning
1100 4th Street, SW, Suite 650E
Washington, DC 20024

ANC 1D
3200 19th Street NW
Washington, DC 20010



Christine A Roddy