

**APPLICATION TO THE
ZONING COMMISSION OF THE DISTRICT OF COLUMBIA**

VOLUNTARY DESIGN REVIEW

Z.C. Case No. 16-23

VALOR DEVELOPMENT, LLC

SQUARE 1499, LOTS 802, 803, 806 AND 807

PREHEARING STATEMENT

December 21, 2017

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DEVELOPMENT TEAM

Applicant & Developer	Valor Development, LLC 4619 41 st Street, NW Washington, DC 20016
Property Owners	<p>Apex Real Estate Company 9227 Orchard Brook Drive Potomac, MD 20854-2407 <i>Owner, A&T Lot 807</i> <i>* Valor Development, LLC is currently the contract purchaser for A&T Lot 807</i></p> <p>FW DC-Spring Valley Shopping Center LLC PO Box 790830 San Antonio, TX 78279-0830 <i>Owner, A&T Lots 802 and 803</i></p> <p>American University 4400 Massachusetts Avenue, NW #LL Washington, DC 20016 <i>Owner, A&T Lot 806</i></p>
Architect	Torti Gallas Urban 1326 H Street, NE, 2nd Floor Washington, DC 20002
Landscape Architect	Parker Rodriguez, Inc. 101 North Union Street, Suite 320 Alexandria, VA 22314
Traffic and Transportation	Gorove/Slade Associates, Inc. 1140 Connecticut Avenue, NW, Suite 700 Washington, DC 20036
Civil Engineer	AMT, LLC 10 G Street, NE, Suite 430 Washington, DC 20002
Land Use Counsel	Holland & Knight LLP 800 17 th Street, NW, Suite 1100 Washington, DC 20006

LIST OF EXHIBITS

<u>Description</u>	<u>Exhibit</u>
Revised architectural, landscape, and civil plans and drawings	A
Updated analysis of consistency with the Comprehensive Plan	B
Updated list of agency/community discussions and presentations	C
Outlines of witness testimony and resumes of expert witnesses	D

I.
INTRODUCTION

Valor Development, LLC (the "Applicant"), as authorized by, and on behalf of FW DC-Spring Valley Shopping Center LLC, Apex Real Estate Company, and American University, hereby submits this prehearing statement to the Zoning Commission of the District of Columbia (the "Commission") in support of its voluntary design review application for a new mixed-use development project (the "Project") located on the property known as Assessment and Taxation ("A&T") Lots 802, 803, 806, and 807 in Square 1499 (the "Project Site")(Exhibit 67B of the case record). The subject application is being submitted pursuant to the design review provisions of Subtitle X, Chapter 6 of the 2016 Zoning Regulations of the District of Columbia (11-X DCMR Chapter 6)("ZR16"), and specifically pursuant to 11-X DCMR § 601.2, which permits property owners to voluntarily apply for design review of a proposed development and simultaneously request flexibility from height, setbacks, lot occupancy, courts, and building transitions; as well as any specific design standards of a specific zone. *See* 11-X DCMR § 603.1.

According to 11-X DCMR § 600.1, the design review process provides, in relevant part, the ability for a property owner to voluntarily submit a proposed development for design review by the Commission in exchange for flexibility in building bulk control, design, and site placement provided there is no increase in density and no map amendment, and the development exhibits high-quality, contextual design that does not have an adverse impact. The design review process is intended to be shorter and less intensive than the Planned Unit Development ("PUD") process, and allows less deviation from matter-of-right zone standards (11-X DCMR § 600.2), and involves a comprehensive evaluation by the Commission of a specific development proposal's design in proportion to the design flexibility requested (11-X DCMR § 600.3). Pursuant to 11-X DCMR § 603.2, with the exception of height, the amount of relief granted to an

applicant is at the discretion of the Commission, but shall only be that which is necessary to allow an applicant to meet the design review standards of 11- X DCMR § 604, and to allow the Commission to find that the design of the proposed development is superior to any matter-of-right development possible on the site.

As discussed in detail below, and demonstrated in the revised plans attached hereto as Exhibit A (the “Revised Plans”), the Applicant’s proposed mixed-use development is only possible through use of the voluntary design review process, and is far superior in design and program compared to any matter-of-right development. Furthermore, as thoroughly discussed below and in revised Comprehensive Plan analysis attached as Exhibit B, the Project fully satisfies all applicable design review criteria, will not tend to affect adversely the use of neighboring property, and is overwhelmingly not inconsistent with the Comprehensive Plan.

The success of the Project in satisfying all required design review standards is unquestionably a direct result of the more than two years of close coordination that has occurred between the Applicant and Advisory Neighborhood Commissions (“ANC”) 3E and 3D, as well as the Office of Planning, District Department of Transportation, community organizations, and neighborhood residents. Indeed, in direct response to input received during the close coordination that continued after submission of the subject application, the Applicant made the following substantial revisions to the Project, among others:

- Reduction of the grocery store size from approximately 55,000 square feet to approximately 13,600 – 15,800 square feet while maintaining its full-service status;
- Increase in the number of parking spaces allocated to the proposed new residential and retail uses, including the grocery store;
- Reduction in the number of residential dwelling units from approximately 230 units to approximately 219 units, while maintaining a substantial number of large sized units;

- Reduction in the number of trash containers and proposed trash enclosures along the public alley, and consolidation of trash operations to improve efficiency and reduce overall number of trash pick-ups;
- Relocation of the residential pool from the roof-level to within the residential courtyard;
- Refinement of building setbacks and other components to further ensure that the Project's scale and massing relate to the surrounding context.
- Commitment to construct a High-Intensity Activated Crosswalk ("HAWK") midblock along Massachusetts Avenue between 48th and 49th Streets.

Finally, the extent of technical zoning flexibility being requested by the Applicant is *de minimus*, and is far outweighed by the Project's superior quality, and the substantial improvements the Project will provide on the Project Site and to surrounding public space; on pedestrian connectivity through and around the Project Site; and to the community through the construction of a new full-service grocery store - a highly-desired community amenity - and the protection of the historic Spring Valley Shopping Center (the "SVSC"), also known as the Massachusetts Avenue Parking Shops.

II.

PROJECT SITE AND SURROUNDINGS

The Project Site is located in the AU Park/Spring Valley neighborhood of Upper Northwest, Washington, DC, and consists of A&T Lots 802, 803, 806, and 807 in Square 1499. Collectively, the Project Site consists of approximately 160,788 square feet of land area, and is generally bounded by Yuma Street on the north; Massachusetts Avenue on the south; 48th Street on the east; and the Spring Valley Exxon station on the west. The Project Site is currently improved with the SVSC (Lots 802 and 803), a historic neighborhood-serving shopping center consisting of approximately 16,922 square feet of gross floor area ("GFA") of retail and service uses; the former American University Law School building (Lot 806) ("AU Building"), which

contains approximately 179,302 GFA of commercial uses; and a vacant grocery store building, retail uses (restaurant and salon), and surface and below-grade parking (Lot 807) (“Valor Lot”). Collectively, Lots 806 and 807 make up Record Lot 9. According to District records, the vacant grocery store building and other retail uses on A&T Lot 807 consist of approximately 53,632 GFA. The SVSC is separated from Record Lot 9 (Valor Lot and AU Building) by a 20-foot public alley that runs north-south through Square 1499 connecting Yuma Street to Massachusetts Avenue.

The area surrounding the Project Site is comprised of single-family residential dwellings to the north and east, and a collection of office and retail uses located to the south and west along Massachusetts Avenue which, together with the SVSC, AU Building, and retail on the Valor Lot form a neighborhood-serving commercial center that is heavily used by the surrounding community.

III. **BACKGROUND**

The Applicant’s proposed mixed-use project is only possible through use of the voluntary design review process due to the development history of the Valor Lot (Lot 807) and the AU Building (Lot 806). Lots 806 and 807, which as stated above are both located within underlying Record Lot 9, were created in the 1970s for purposes of allocating the nonresidential density needed to construct the AU Building on Lot 806. More specifically, when the AU Building was constructed, the C-2-A zoning in effect at the time allowed a maximum 2.0 FAR, all of which could be devoted to nonresidential use, and a maximum height of 60 feet. Thus, based upon the land area of Record Lot 9, this amounted to approximately 242,544 GFA that was available to allocate between Lots 806 and 807 in any manner. Ultimately, through a recorded allocation of

development rights agreement that remains in effect (the “Allocation Agreement”), 179,302 GFA was allocated to Lot 806 for purposes of constructing the AU Building, and 63,242 GFA was allocated to Lot 807. As it relates to the Applicant’s current proposed below-grade parking plan, the Allocation Agreement also grants an easement to the owner of Lot 806 (currently American University) for non-exclusive access to not less than 236 parking spaces located on Lot 807.

In the late-1970s, subsequent to the development of Lots 806 and 807, the C-2-A regulations were amended and the maximum permitted FAR was increased from 2.0 to 2.5, with a maximum height of 50 feet. However, notwithstanding the increase in overall permitted FAR, the amount of overall density that could be devoted to nonresidential uses was decreased from 2.0 to 1.5 FAR. Consequently, as a result of the zoning amendment, while the overall amount of development permitted on Record Lot 9 increased from 242,544 to 303,180 GFA, the permitted amount of nonresidential GFA decreased from 242,544 to 181,908 GFA, or by 60,636 GFA. Thus, as a result of the zoning amendment, and the prior allocation of GFA to A&T Lot 806 for construction of the AU Building, the total density available to Lot 807 increased to 123,878 GFA. However, due to the reduction in permitted nonresidential FAR only 2,606 GFA could be devoted to nonresidential uses.

Currently under ZR16, all of Square 1499 is zoned MU-4, including the Project Site. The maximum permitted density in the MU-4 zone continues to be 2.5 FAR, with the maximum for nonresidential uses remaining at 1.5 FAR. However, under the existing Inclusionary Zoning (“IZ”) regulations, the maximum permitted density in the MU-4 zone is increased to 3.0 FAR, a 20% increase over the base MU-4 density, for developments that are subject to IZ. Notwithstanding the 20% increase in overall permitted FAR, the 1.5 FAR limit on nonresidential

uses remains. Accordingly, based upon the maximum 3.0 FAR permitted under ZR16, a total of 363,816 GFA can be constructed on Record Lot 9, of which no more than 1.5 FAR, or 181,908 GFA, can be devoted to nonresidential uses. After taking into account the nonresidential GFA of the AU Building, there is currently 184,514 GFA available to the Valor Lot as a matter-of-right, of which still only 2,606 GFA can be devoted to nonresidential uses.

As a matter-of-right the Applicant could construct an all-residential project on the Valor Lot containing up to 184,514 GFA, which, after including non-communal penthouse habitable space, below-grade/cellar areas, and permitted projections into public space, would result in approximately 250 dwelling units. However, the Applicant would be unable to provide a new full-service grocery store within a matter-of-right project due to the lack of available nonresidential GFA on Record Lot 9 resulting from the prior zoning text amendment and allocation to the AU Building. The only possible way the Applicant is able to provide this highly-desired community amenity is by voluntarily applying for design review in accordance with Subtitle X, Chapter 6 of ZR16.

As stated above, one of the intended purposes of the design review process is to “provide for flexibility in building bulk control, design, and site placement without an increase in density or a map amendment.” *See* 11-X DCMR § 600.1(e). The design review process is intended to be shorter and less intensive than the PUD process and allow less deviation from matter-of-right zone standards. *See* 11-X DCMR § 600.2. Further, property included in a design review application is permitted to be separated by a public street, alley, or right-of-way. *See* 11-X DCMR § 601.4. Thus, consistent with the manner in which density can be aggregated across a project boundary in a PUD, the voluntary design review process makes it possible for the Applicant to allocate unused density from the historic SVSC to the Valor Lot, which will allow

for the construction of a project that is superior to any matter-of-right project, including a new grocery store, greater affordable housing, and elimination of the potential for future increased development at the historic SVSC site. Finally, as discussed below and shown in the tabulation of development data included in Exhibit A, Sheet G05, despite the allocation of density to the Valor Lot, the overall density within the Project Site (Valor Lot, AU Building, and SVSC), not including the area of the public alley, will be below the maximum 3.0 FAR (1.5 FAR nonresidential) permitted in the MU-4 zone.

IV. PROPOSED DEVELOPMENT

As shown on the Revised Plans, the Applicant proposes to construct a new mixed-use development on the Valor Lot, improvements to the SVSC immediately adjacent to the north-south public alley, and overall aesthetic and circulation improvements along the public alley. On the Valor Lot, the proposed development includes two new buildings consisting of a mixed-use residential building located on the northern portion of the lot (“Building 1”) and a second all-residential building on the southern portion of the lot near the AU Building (“Building 2”)(Exhibit A, Sheets G07 & A01). The overall concept of the proposed buildings is focused on integration with the surrounding context in a sensitive and compatible way. The Project Site is a transitional site in that to the north and east this mixed-use zoned site is located across the street from single family dwellings, while to the west and south it contains or is adjacent to commercial properties ranging in scale from the 1-5 stories in height, including the AU Building and historic SVSC (Exhibit A, Sheets G02 & G03). The majority of the context, with the exception of the AU Building, is generally characterized by Colonial Revival style architecture. Therefore, the approach taken by the Applicant in designing the Project was to utilize various revival styles of

architecture that are sympathetic to the surrounding context through the use of three-part composition, symmetry, cornices, and compatible building detailing.

As described in detail below, in addition to taking better advantage of the development potential of the currently underutilized Project Site, another goal of the Applicant is to increase pedestrian connectivity and safety through and around the site by making significant improvements to surrounding public space, and creating new pedestrian connections that will extend through the Project Site between the two proposed buildings, and between the SVSC and the neighborhoods to the north, east, and south. Such improvements include the relocation of all parking and loading access to the existing public alley system, the closing of approximately 80 linear feet of curb cuts along Yuma and 48th Streets, and the construction of a HAWK signal along Massachusetts Avenue.

LOWER LEVEL / GARAGE LEVEL

As shown on Exhibit A, Sheets A02 and A03, the two buildings proposed on the Valor Lot will be constructed over a common lower level and below-grade garage that will contain a new full-service grocery store, additional retail / amenity space, and parking and loading for the residential and retail uses. Due to the substantial change in grade across the Valor Lot, which slopes down approximately 26 feet from the high point near the intersection of 48th Street and Windom Place (elev. 264') to the low point at the southern end of the public alley (elev. 238'), the majority of the lower level / G2 garage level, and the eastern portion of the G1 garage level will be below grade and thus not visible to neighboring residential uses. A third level of parking (G3) will be also be provided that is fully below grade.

The main pedestrian entrance to the grocery store will be located at the northwest corner of the building along Yuma Street, set back approximately 17 feet from the adjacent sidewalk.

Due to the grade along Yuma Street the grocery store entrance is also approximately two feet lower than the adjacent sidewalk. As described below, since initial submission the Applicant has shifted the Building 1 residential lobby eastward from its original location adjacent to the grocery store entrance to the first floor of Building 1 closer to the intersection of 48th and Yuma Streets. The entrance to the additional retail / amenity space will continue to be located at the southwest corner of the lower level in close proximity to Massachusetts Avenue. Locating the additional retail / amenity space in this corner of the lower level will provide visibility from the Massachusetts Avenue corridor and proximity to the SVSC retail and service uses, provide separation from the residential uses to the north and east of the Project Site, and provide ease of access from the below-grade retail parking and Windom Walk.

Parking and loading facilities, which are described further below, have been relocated since submission of the subject application. While initially these facilities were located adjacent to the north-south public alley along the west side of the Valor Lot, they are now located along the portion of east-west public alley running between the Valor Lot and the AU Building and neighboring bank building. Compared to the previous location along the north-south alley, the new location of the parking and loading facilities will further minimize views and the potential for noise-related impacts on residential uses to the north and east, and will improve circulation by locating these facilities closer to the Massachusetts Avenue corridor and away from the trash enclosures and other SVSC-related mechanical equipment located along the north-south alley. While Building 2 does not have a minimum loading requirement since it has less than 50 dwelling units, it will provide space for service and loading activities adjacent to the 20-foot private alley located along the north side of the AU Building.

BUILDING 1

Above the lower level and below-grade parking, Building 1, the larger of the two proposed buildings, will contain four- to five-stories of residential use with a maximum height of 50 feet, as measured from the level of the curb opposite the middle of the front of Building 1 on 48th Street to top of the parapet, plus a penthouse that will contain habitable (residential and communal) and mechanical space. As permitted under ZR16, the portion of the penthouse containing habitable space will have a maximum height of 12'-0" above the roof, and the portion containing mechanical space will have a maximum height of 15'-0" above the roof.

As shown in the Revised Plans, Building 1 has been designed in two distinctive architectural styles and responds to the residential context through substantial step downs in height along the neighborhood streets and reductions in massing. While the building and penthouse height and setbacks proposed for Building 1 are consistent with that permitted in the MU-4 zone as a matter-of-right, the Applicant has greatly reduced the massing of Building 1 through lower initial heights in response to the lower-density residential uses to the north and east of the Project Site; substantial upper-level setbacks; large courtyards, terraces, and public plazas; and context-sensitive articulation and architectural styles.

Along 48th Street, while Building 1 could be fully constructed as a matter-of-right at the property line to a height of 50 feet, the Applicant has substantially reduced the massing of the building at the property line by breaking the façade down into three- and four-story pavilions that have a height of approximately 40'-0", and are separated by 40-foot deep, 43-foot wide landscaped courtyards that open onto 48th Street. The height of the pavilions is further reduced in scale through the use of lower bay projections that are similar in scale to the height of the residential dwellings across 48th Street, which has a right-of-way width of approximately 90 feet (Exhibit A, Sheet A29). In addition, due to the deep courtyards provided between the pavilions,

the distance between the lower-height residential dwellings to the east and the 50-foot portion of Building 1 along 48th Street is approximately 136 feet, with the penthouse further separated through adherence to the required 1:1 setback (Exhibit A, Sheet A30).

Along Yuma Street, where there is a substantial drop in grade from east to west, the Applicant has taken considerable steps to reduce the massing of Building 1 to ensure the building relates to the residential dwellings to the north. Specifically, as Building 1 transitions from 48th Street to Yuma Street, the grade begins to drop, eventually revealing the lower-level base just west of the main residential entry courtyard that helps break down the scale of the building. The exposure of the lower-level base creates a classical three-part composition of base, middle, and top that breaks down the facade.

Due to the change in grade, as a matter-of-right the height of Building 1 at the property line along Yuma Street could range from approximately 55 feet at the intersection of Yuma and 48th Streets to approximately 73 feet near the north-south public alley. However, in response to the surroundings, the initial height of Building 1 at the property line will step down along Yuma Street and range between approximately 40 feet to 51 feet. In addition, the Yuma Street facade will be further reduced through ground-level terraces and plazas, and deep upper-level setbacks. As shown on Exhibit A, Sheet A19, the eastern portion of the Yuma Street façade shares the same architectural style as along 48th Street, and is composed of two, lower-height pavilions separated by the residential entry courtyard. Above the pavilions, the fifth-floor is setback approximately 27 feet.

The western portion of the façade along Yuma Street possesses a similar three-part composition, but has a lower initial height at the property line and a distinct architectural style established through the use of a different material palette and window pattern (Exhibit A, Sheet

A22 & A36). The western portion of the façade is also set back from the property line approximately 17'-0" to create an open public plaza outside the entry to the grocery store, and the fourth and fifth floors are further set back approximately another 21 feet. As a result of these large upper-level setbacks, the distance between the residential dwellings along the north side of Yuma Street and the upper portions of Building 1 will range from approximately 120 – 158 feet, with the penthouse further separated through either providing the required 1:1 setback or, as is the case along the western portion of the façade, elimination of the penthouse all together.

The west and south facades of Building 1 are designed in the same architectural style as the street-facing facades described in detail above, and will be treated with the same high-quality materials. Along the west, adjacent to the north-south public alley, Building 1 will be set back from the property line approximately 10 feet at the lower level to ensure adequate and safe vehicular and pedestrian circulation in the alley (Exhibit A, Sheet A34). Additionally, the setback will increase another 20 feet, for a total of 30 feet from the property line, along the majority of the west façade. This additional setback will allow greater light and air into the alley, provide a more pleasant pedestrian experience, and reduce the perceived height of the building above the neighboring SVSC.

BUILDING 2

Building 2 will be located to the south of Building 1 and Windom Walk with frontage along 48th Street. Due to the limited size of the Building 2 footprint, and a slightly higher measuring point along 48th Street compared to Building 1, the height of Building 2 has been limited to only four-stories of residential use and a height of approximately 48 feet, as measured from the level of the curb opposite the middle of the front of the building along 48th Street to the top of the parapet. Building 2 will also have a penthouse containing habitable space (communal)

and mechanical space. As permitted under ZR16, the portion of the penthouse containing habitable space will have a maximum height of 12'-0" above the roof, with the portion containing mechanical space having a maximum height of 15'-0" above the roof.

The proposed height of Building 2 serves as an appropriate transition from the taller AU Building along Massachusetts Avenue, relates to the height of Building 1, and is an appropriate response to the existing residential dwellings along the east side of 48th Street. Additionally, as described below, the architectural design of Building 2 further integrates the building, and the overall Project, into the surrounding context. As shown in the Revised Plans, Building 2 is designed in the French Empire style of architecture, which, while being distinguished from the styles utilized for Building 1, remains compatible with Building 1 and the colonial character of the surroundings. The French Empire style is appropriate for Building 2 given its smaller footprint and massing, and is compatible with the adjacent colonial character through its symmetrical composition of bays, balconies, and large windows across the main façade along 48th Street. The integration of a mansard roof further breaks down the scale of the building and allows its cornice to drop to the 3rd floor which gives the perception of an even lower building. Finally, to further break down the scale of the building the mansard roof is punctuated by pedimented dormer windows, and the second and third story windows along 48th Street are embellished with balustrades.

PARKING AND LOADING

As noted above, the proposed loading facilities and access to parking will now be located at the G1 level of Building 1 along the portion of east-west public alley running between the Valor Lot and the AU Building and neighboring bank building. Compared to the previously proposed location along the north-south alley, the new location of the parking and loading

facilities will further minimize views and the potential for noise-related impacts on residential uses to the north and east, and will improve circulation by locating these facilities closer to the Massachusetts Avenue corridor and away from the trash enclosures and other SVSC-related mechanical equipment located along the north-south alley. Building 1 will contain separate dedicated residential and retail loading facilities that are located between the retail / amenity space and the garage access. In compliance with the minimum loading requirements of 11-C DCMR § 901.1, the Building 1 residential loading facilities will consist of a 30-foot loading berth and a 20-foot delivery space, and the grocery store / retail loading facilities will consist of a 55-foot loading berth, a 30-foot loading berth, and a 20-foot delivery space. Building 2 does not have a minimum loading requirement because it will have less than 50 dwelling units. However, to minimize the potential for impacts to the existing alleys, the street network, and the surrounding neighborhood, Building 2 will nonetheless contain space for service and loading activities located adjacent to the 20-foot private alley along the north side of the AU Building.

With respect to vehicle parking, the Applicant's current proposal is to construct three levels of parking containing approximately 370 total parking spaces, including the 236 parking spaces mandated by the recorded Allocation Agreement. As shown on Exhibit A, Sheets A02, A03, and A10, the G-1 level of parking will be located directly off of the east-west public alley and will contain approximately 85 parking spaces that will be devoted to the Building 1 and 2 residential uses. The G-2 level will contain approximately 106 parking spaces, of which approximately 90 spaces will be devoted to the grocery store / other retail uses, and approximately 16 spaces will be devoted to the AU Building. The G2 level will also contain, at minimum, the required number of bicycle parking spaces for the proposed residential, grocery store, and other retail use. Grocery store patrons will be able to access the grocery store directly

from the north side of the G2 level, and retail patrons utilizing the parking garage will be able to access the retail space at the southwest corner of Building 1 using the sidewalk provided along the north side of east-west public alley. The G-3 level will contain approximately 179 spaces, of which approximately 139 spaces will be devoted to Buildings 1 and 2 residential uses, and approximately 40 spaces will be devoted to the AU Building.

LANDSCAPE PLAN

The proposed plan incorporates substantial improvements, publicly accessible open spaces and plazas, and several courtyards and terraces that collectively improve the aesthetic and environmental quality of the Project Site, soften the overall mass of the proposed buildings, improve pedestrian circulation, and relate to the surrounding context.

The most notable landscape improvement proposed is Windom Walk, a publicly accessible open space between Buildings 1 and 2 that will provide a new pedestrian extension of Windom Place through the Project Site between 48th Street and the SVSC. As shown on Exhibit A, Sheets L5 – L8, Windom Walk will be an approximately 40-foot wide pedestrian connection that is lined with substantial plantings, seating, and other decorative site features. In addition to the proposed seating, further animation of the space will be provided by the private outdoor terraces and patios located along the north and south sides that look onto Windom Walk. To accommodate the approximately 16-foot elevation difference between the sidewalk along 48th Street and the public alley, a stairway is proposed at the western end of Windom Walk. The staircase will lead pedestrians down to a landscaped area and sidewalk that can be used to access the retail space in Building 1 and the SVSC. Plantings along Windom Walk will include shade trees, evergreen shrubs, flowering perennials, and groundcovers.

At the northwest corner of Building 1, the Applicant is proposing an open public plaza that provides a welcoming entrance to the grocery store, and provides opportunities for outdoor seating and small gatherings in substantially the same location as the outdoor seating of the existing restaurant use on Yuma Street (Exhibit A, Sheets L3 and L4). The plaza will be approximately 1700 square feet in area, and located approximately two feet lower than the adjacent sidewalk due to the grade along Yuma Street, which will provide an effective buffer from nearby residential uses. The plaza will be paved in a pattern that relates to the architectural detail of Building 1, and is designed to provide a variety of social settings for people to interact through the use of both fixed and movable seating. To accommodate the grade difference between the sidewalk and plaza, a series of steps and planted slopes are proposed along the sidewalk which will provide a buffer from the roadway and existing residential uses to the north. Accessible access is provided from the sidewalk to the west of the plaza. Plantings in the plaza will include shade trees, evergreen shrubs, flowering perennials, and groundcovers, in formal patterns to reflect the formal elevation of the architecture.

The Project will also include several private landscaped courtyards and terraces that will provide amenities to future residents, as well as environmental benefits. As shown on Exhibit A, Sheet L9, Building 1 will contain a large, central courtyard with substantial landscaping, a paved plaza, and a swimming pool. The central courtyard will also contain a number of private outdoor terraces belonging to first-floor residential units. Around the exterior, Building 1 will also have several large open courtyards facing 48th and Yuma Streets. As described above, there will be two large courtyards separating the pavilions along 48th Street which will be landscaped and contain residential terrace space. In addition, the residential entry courtyard along Yuma Street will contain landscaping and seating.

Both Buildings 1 and 2 will contain rooftop terraces that contain resident amenities, as well as green roof areas to meet Green Area Ratio (GAR) and storm water requirements. For Building 1, an outdoor terrace is proposed outside of a fourth floor amenity space at the northwest corner of the building (Exhibit A, Sheet L12). The fourth floor terrace will contain planters, several flexible seating areas, and other amenities. The remainder of the Building 1 roof levels, including the main roof and penthouse roof levels, are primarily reserved for green roof areas (intensive and extensive) with some private outdoor terraces belonging to individual dwelling units. Building 2 will contain a small rooftop terrace that is located adjacent to amenity space within the penthouse, and will be primarily paved and provide flexible seating areas.

Finally, the Applicant is proposing aesthetic and circulation improvements along the existing north-south public alley between the Valor Lot and the SVSC. As shown on Exhibit A, Sheets CL02, CL03, & CL05, the existing condition of the alley is characterized by several scattered trash dumpsters and receptacles, most of which are located within the public alley, unscreened HVAC equipment, and other utilities/equipment associated with the SVSC. The Applicant proposes to improve the aesthetic character of the alley, which is clearly visible from Yuma Street, by reducing the number of trash containers, and placing them in enclosures that will be designed in coordination with SVSC ownership (Exhibit A, Sheets CL04 & CL06). Notably, the distance between the SVSC east property line and the historic SVSC building is only approximately five feet, which is not enough space for the SVSC's dumpsters and other equipment. Therefore, the proposed trash enclosures will extend approximately 12 feet from the rear wall of the SVSC building, or approximately seven feet into the north-south public alley, which will require a public space permit.

However, as stated above, to accommodate the enclosure and ensure adequate vehicular and pedestrian circulation along the alley, Building 1 will be set back approximately 10 feet from the property line along the north-south alley, and the Applicant will record a public easement on the west side of Lot 807. This will result in a full 20 feet of circulation space for vehicles, the same width as the existing public alley, plus an additional three feet for pedestrian circulation. As part of its ongoing coordination with the District Department of Transportation (“DDOT”), the Applicant has discussed the proposed improvements to the public alley and the requirements for obtaining a public space permit. DDOT has not raised any objections to these proposed improvements. In addition to the physical improvements to the alley described above, the Applicant is working with SVSC ownership to consolidate trash operations to further improve efficiency within the alley and reduce the overall number of trash pick-ups.

V.
TABULATION OF DEVELOPMENT DATA

As required under 11-Z DCMR §§ 301.10(k) and (l), a tabulation of development data showing the following information is included on Sheets G05 and G07 of the Revised Plans (Exhibit A, Sheets G05 and G07):

- The area and dimensions of each lot proposed for each building and the exact area of the total site;
- The percentage of lot occupancy of each building on each lot and the total percentage of lot occupancy for all buildings on the entire site;
- The gross floor area and floor area ratio for each building on each lot, including a breakdown for each use, and the total gross floor area and floor area ratio for all buildings on the entire site, including a breakdown for each use; and
- A table listing by-right development standards and identifying all areas of relief requested and the degree of such relief;

VI.
BURDEN OF PROOF

DESIGN REVIEW STANDARDS (11-X DCMR § 604)

§ 604.5 *The proposed design review development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.*

The Project is not inconsistent with the guiding principles, policies, and goals of the Comprehensive Plan for the National Capital, including the “Neighborhood Commercial Center” designation assigned to the Project Site on the Generalized Policy Map (the “GPM”)(Exhibit 3D of the case record), and the “Low Density Commercial” land use designation assigned to the Project Site on the Future Land Use Map (the “FLUM”)(Exhibit 3E of the case record). In light of the changes made to the Project since initial submission of the subject application, the Applicant has prepared a revised Comprehensive Plan analysis which is attached as Exhibit B. As clearly demonstrated in the revised analysis, overall the Project remains overwhelmingly “not inconsistent with the Comprehensive Plan.”

§ 604.6 *The proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9.*

In order for the Project to meet the general special exception criteria of Subtitle X, Chapter 9, the Applicant must demonstrate that the Project: (a) will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map; (b) will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and (c) will meet such special conditions as may be specified in this title. The Project satisfies all three of these criteria.

First, the Project is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map. The stated purpose and intent of the existing MU-4 zone, which covers the entire Project Site, is to permit mixed-use development; provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core; and be located in low- to moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderate bulk mixed-use centers (11-G DCMR § 400.3). The Project is consistent with these purposes as it will provide a new full-service grocery store and additional neighborhood-serving retail space all within close proximity to the existing retail and service uses along Massachusetts Avenue, including those at the SVSC, and within a designated Neighborhood Commercial Center on the Comprehensive Plan GPM. It will also provide a wide range of new housing opportunities, including more affordable housing than would be provided under any matter of right development as a result of the flexibility in building bulk control provided through the design review process.

Additionally, the residential dwelling units proposed within Buildings 1 and 2 will consist of a wide range of unit types, including many two-bedroom, two-bedroom plus den, and three-bedroom units that can accommodate a range of residents, including families and “age in place” populations. Specifically, as currently designed the Project will contain approximately 86 two-bedroom units (approximately 39% of total units), approximately 9 two-bedroom plus den units (approximately 4% of total units), and approximately 28 three-bedroom units (approximately 13% of total units). This amounts to approximately 56% of all proposed dwelling units being devoted to larger-sized units. Furthermore, as clearly demonstrated in the tabulation of the development data included in Exhibit A, Sheet G05, the Project is well within the matter-

of-right development standards of the MU-4 zone including density, as measured according to the flexibility in building bulk control provided through the voluntary design review process.

Secondly, the Project will not adversely affect the use of neighboring property. As discussed in detail above, the height and massing of the proposed buildings have been substantially reduced, with substantial setbacks, in order to relate to the surrounding context. Rather than a single building mass, the Applicant is proposing two separate buildings on the Valor Lot separated by Windom Walk. In addition, the scale of Building 1 has been significantly reduced at the street-level through the use of three- and four-story pavilions, projecting bays, and large courtyards. In addition, the upper-levels of Building 1 have been sculpted and set back considerably along north and east sides such that the building massing is concentrated toward the AU Building and Massachusetts Avenue, and pulled as far away as possible from the adjacent residential uses along Yuma and 48th Streets. To further relate to the scale of the surrounding residential neighborhood, the Applicant has effectively utilized the change in grade that occurs along the perimeter of the site, and has incorporated multiple architectural methods to articulate the proposed buildings such as horizontal banding and material differentiation, and use of multiple façade types.

The substantial efforts made to reduce the scale and massing of the proposed buildings, and particularly Building 1, are evident in the shadow study that was prepared by the Applicant at the request of the ANC's and community (Exhibit A, Sheets A46 and A47). The shadow study models the potential effects of the Project relative to existing conditions during multiple times of the day throughout all four seasons of the year. The diagrams included in the Revised Plans depict the likely best- and worse-case scenarios occurring during the summer (June) and winter (December) solstices, and the spring (March) and fall (September) equinoxes. As shown in the

shadow study, for more than eight months of the year, the Project may have minimal solar effect on the surroundings compared to existing conditions. In the late-winter months, the Project could affect the residential uses to the north for a relatively short period during the morning hours. During the late-afternoon / early-evening hours (beginning between 3:00 – 4:00 pm), the Project may affect the residential uses to the east. It must be noted, however, that shadow studies in general are easily misinterpreted, and slightly misleading, as they do not fully reflect the fact that during the winter months between early-November and early-January, sunset occurs between 4:00 – 5:00 pm. Indeed, the shadow study included in the Revised Plans accounts for the sun setting at approximately 4:45 pm in the winter. It should also be noted that a matter-of-right development, built to a height of 50 feet at the property line along Yuma and 48th Streets, would have similar shadow patterns.

Finally, access to all parking and loading facilities has been effectively located entirely along existing alleys, rather than reusing one of many existing curb cuts or proposing new curb cuts along Yuma Street and/or 48th Street. Use of the alley for access to parking and loading will improve the quality and safety of surrounding public space for neighboring properties. In addition, the amount of grocery store related activity along Yuma Street will be minimized due to the direct connection provided from the below-grade parking garage into the grocery store.

§ 604.7 The Zoning Commission shall review the urban design of the site and the building for the following criteria:

(a) Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including:

(1) Multiple pedestrian entrances for large developments;

The Project will increase pedestrian circulation and access through the use of multiple pedestrian access points both to the proposed buildings and through

the Valor Lot. First, the main lobby for Building 1 will be located along Yuma Street, and certain individual units located on the first floor will have separate direct access to the street. Given its smaller footprint, the entrance to Building 2 will be located along 48th Street.

The Project Site will also be made more visually and physically porous by the integration of Windom Walk through the proposed development which will provide a more direct route to the SVSC and other retail and service uses along Massachusetts Avenue. The proposed aesthetic and circulation improvements to the north-south public alley will provide similar pedestrian benefits.

(2) Direct driveway or garage access to the street is discouraged;

All access to the parking and loading facilities proposed for Buildings 1 and 2 will be located off of existing alleys, rather than proposing to use existing or new curb cuts along neighborhood streets. In fact, as a result of the project the streetscape along 48th and Yuma Streets will be reconstructed and the two existing curb cuts that provide access to the former grocery store parking lot will be eliminated, thus improving the quality of adjacent public space and significantly improving pedestrian safety.

(3) Commercial ground floors contain active uses with clear, inviting windows;

Due to the substantial grade change across the Valor Lot, the extent of commercial ground floor presence is limited to only the northwest and southwest corners of Building 1, which appropriately minimizes the visual impact of the proposed grocery store and additional retail space on the surrounding residential neighborhood. As shown on Exhibit A, Sheets A22, A25, & L4, the limited

amount of commercial ground floor that is visible is designed to be clear, inviting, and complementary to the neighborhood.

The main entrance to the grocery store is limited only to a small portion of the western end of the Yuma Street façade of Building 1, next to the SVSC. Given the proximity to the residential dwellings to the north, the Applicant has taken several steps to minimize the visual presence of the grocery store entrance. First, the grocery store entrance is set back approximately 17 feet from the sidewalk, and, due to the grade along Yuma Street, is located approximately two feet lower than the adjacent sidewalk (Exhibit A, Sheets L3 and L4). The setback and slightly lower elevation of the entrance creates an intimate plaza area that will be generously landscaped and open to the public, while at the same time providing an effective buffer from nearby residential uses. To further minimize the grocery store entrance, its façade design has been kept simple so that it blends in with the residential portion of the building as much as possible, and the amount of signage has been kept to a minimum (Exhibit A, Sheet A22).

The retail space in the southwest corner of Building 1 has been similarly designed to have a simple expression, while still being able to establish a presence along Massachusetts Avenue. As shown in the Revised Plans, the design of the southwest retail entrance will complement the existing architecture of the SVSC and neighboring bank building, and have appropriately scaled signage located above the entrance (Exhibit A, Sheet A25). No upper-level signage is proposed as part of the Project.

(4) Blank facades are prevented or minimized; and

As clearly demonstrated in the Revised Plans, the facades of Buildings 1 and 2 have been thoughtfully designed to relate to the surrounding context in massing and articulation, architectural character, and through the use of high-quality materials. In fact, no blank facades are proposed but rather every façade, including those along the alleys, are attractively designed and detailed. In addition, the same high-quality materials that are proposed for the street-facing facades will also be used along the alley-facing facades. Finally, the parking and loading facilities for the proposed buildings have been located in a manner that minimizes views from the surrounding residential neighborhood and public rights-of-way.

(5) Wide sidewalks are provided;

The Project will substantially improve pedestrian circulation through and around the Project Site through the reconstruction of the streetscape adjacent to the Valor Lot along 48th and Yuma Streets, the pedestrian extension of Windom Place through the Valor lot in the form of Windom Walk, and the improvements along the public alley between Yuma Street and Massachusetts Avenue. The reconstruction of the streetscape adjacent to the Valor Lot will result in the removal of two large curb cuts that currently provide access to the former grocery store surface parking lot and parking garage. The removal of these curb cuts, which have a combined width of approximately 80 feet (26 feet on 48th Street and 54 feet on Yuma Street), will substantially improve the safety and quality of the public space and pedestrian circulation by establishing uninterrupted sidewalks

along the Valor Lot street frontages. In addition, Windom Walk will contain a wide sidewalk that will provide a new, safe travel alternative to pedestrians walking between the residential neighborhood to north and east and the SVSC, as well as other points to the west and south.

Finally, while alleys are not typically intended to serve pedestrians, based on feedback from the community the Applicant is proposing improvements along the existing north-south public alley next to Building 1 that will improve pedestrian circulation and safety. First, the Applicant is proposing to increase the amount of circulation space available to vehicles and pedestrians along the north-south alley through the recordation of a public easement over the western portion of Lot 807. Currently, while technically the existing public alley is 20-feet wide, the amount of this area available for circulation is often substantially reduced by parked cars and trash containers that are placed within the alley right-of-way. In coordination with the owner of the SVSC, the Applicant proposes to reduce the number of trash containers, place them in an enclosure along the alley, and consolidate trash operations to improve efficiency and reduce the overall number of trash pick-ups.

The Applicant will also set back Building 2 along the west such that the amount of circulation space available between the proposed trash enclosure and Building 2 is approximately 23 feet, consisting of 20-feet of vehicular circulation and a new three-foot sidewalk that will connect Yuma Street to the additional retail space in the southwest corner of Building 1 and to Windom Walk.

Pedestrians will also be able to use the new sidewalk to easily access the SVSC and other existing retail and service uses along Massachusetts Avenue.

(b) *Public gathering spaces and open spaces are encouraged, especially in the following situations:*

- *Where neighborhood open space is lacking;*
- *Near transit stations or hubs; and*
- *When they can enhance existing parks and the waterfront.*

The Project will provide two new public gathering spaces. First, the Applicant is proposing Windom Walk, a publicly-accessible open space between Building 1 and Building 2 that will provide a new pedestrian extension of Windom Place through the Valor Lot between 48th Street and the SVSC. In addition, a new plaza will be provided outside the grocery store that will provide opportunities for seating and small gatherings. The Project also incorporates substantial improvements to the public space surrounding the Project Site through the rebuilding of the streetscape adjacent to the Valor Lot along 48th and Yuma Streets, including the permanent closure of approximately 80 feet of existing curb cuts, and the aesthetic and pedestrian improvements along the north-south public alley.

(c) *New development respects the historic character of Washington's neighborhoods, including:*

- *Developments near the District's major boulevards and public spaces should reinforce the existing urban form;*
- *Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and*
- *Development should respect and protect key landscape vistas and axial views of landmarks and important places.*

The Project respects the historic character of the SVSC and the other historic shopping center across Massachusetts Avenue (also known as the Spring Shipping Center), as well as the character of the residential neighborhood to the north and east. As

described in detail above, the height and massing of Building 1 has been significantly restrained from what is permitted as a matter-of-right under the MU-4 zone, and has been significantly set back from the adjacent residential uses along Yuma and 48th Streets through substantial reductions in massing and substantial upper-level setbacks. Specifically, while Building 1 could be constructed as a matter-of-right to the north and east property line to a maximum height of 50 feet, the proposed design breaks down the initial mass of the building through the use of lower-height pavilions, recessed facades that are separated by large open courtyards, and substantial setbacks ranging between approximately 27 – 40 feet at the fifth floor level.

To further reduce the mass of the western portion of Building 1 along Yuma Street, where the grade elevation is lowest, the building has been set back approximately 17 feet from the property line. In addition, the fourth and fifth floors have been further set back approximately an additional 22 feet (39 feet total from the property line), and the penthouse footprint has been reduced such that it substantially exceeds the required 1:1 setback. Finally, since submitting the application the Applicant has relocated the roof-level pool previously proposed in the northwest corner of Building 1 to the courtyard level, and has reduced the size of the roof terrace and relocated it to the fourth floor.

Along 48th Street, the Applicant is proposing to break up the extent of building façade by proposing Windom Walk, a pedestrian extension of Windom Place through the Valor Lot from 48th Street to the north-south public alley and the SVSC. In addition to reducing the scale of the proposed development, Windom Walk will open up a new view toward the historic SVSC where currently there is only a view of the unsightly and underutilized former grocery store building and site.

The height and massing of Building 2 has also been restrained compared to what is permitted as a matter-of-right. Due to a rise in elevation along 48th Street, Building 2 is limited to four stories with a maximum height of approximately 48'-6", where a maximum height of 50 feet is permitted by-right immediately at the property line along 48th Street with no specific requirement for design articulation. The compatible relationship between the roof elevations of the proposed buildings and the surrounding residential neighborhood is clearly shown in the "Proposed Building and Context Building Height Plan" included as Exhibit A, Sheet A26, and in the cross-section drawings included as Exhibit A, Sheets A27 – A34.

The architectural styles of Buildings 1 and 2 also respect the character of the surrounding neighborhood and the historic SVSC, while establishing its own identity. The surrounding neighborhood predominately reflects colonial and colonial revival styles of architecture, and is characterized by rectangular massing; symmetrical compositions; and the use of brick, multi-paned windows, and bays and dormers. Each of these elements have successfully been incorporated into the design of the proposed buildings. In addition, to add visual interest along the streetscape the Applicant is proposing to use different, but complementary, architectural styles for Buildings 1 and 2. While Building 1 will be firmly based in the Colonial Revival style, Building 2 will be based upon the French Empire style of architecture. However, the symmetry of the Building 2 elevations, and the use of dormers and lighter colored materials, will not only tie together the two proposed buildings, but will also allow Building 2 to relate to the nearby residential dwellings.

(d) *Buildings strive for attractive and inspired façade design, including:*

- *Reinforce the pedestrian realm with elevated detailing and design of first (1st) and second (2nd) stories; and*
- *Incorporate contextual and quality building materials and fenestration.*

As described above, Buildings 1 and 2 will have a high-quality, attractive design that takes cues from the surrounding context while establishing its own identity. In addition to the substantial improvements that will be made to the public realm through the elimination of two curb curbs and additional plantings, the public realm will be further elevated as a result of the Applicant's close attention to the design and detailing of the proposed ground-level and upper-level building facades. The fenestration of the proposed buildings incorporates architectural elements that are commonly found throughout the predominately colonial-style surroundings. These elements include, among others, symmetrical façade design, multi-paned windows, and bay projections.

Since submitting the initial application the Applicant has continued to refine the building facades which has resulted in further reductions in overall scale. For example, the light-colored rusticated base proposed for Building 1 has been raised one story which reduces the perceived height of the pavilions lower pavilions. In addition, the large columnar order initially proposed for the top two floors of the western portion of Building 1 has been eliminated and replaced with a simpler, banded treatment that is more appropriate for this scale and type of building.

In addition, as shown on Exhibit A, Sheets A40 – A45, the Applicant is also proposing to use a range of high-quality materials that are also common in the surrounding context. These materials include cast stone, brick, cementitious panel, metal awnings, and decorative railings.

(e) Sites are designed with sustainable landscaping; and

Currently, the Valor Lot is improved with a vacant grocery store building and vast surface parking lot, both of which are completely impervious and lack any form of sustainable storm water management. The Project will replace these existing improvements with an environmentally sustainable development that includes substantial landscaping. As described above, the Project includes several landscaped courtyards, Windom Walk, and green roof areas that will provide sustainable storm water management, new habitat, and urban heat island reduction. As shown on the preliminary GAR calculations included on Exhibit A, Sheet L15, the Project will meet the applicable GAR score required under ZR16, and includes, among other sustainable elements, landscaped areas with a soil depth of 24-inches or more, several new shade trees, and both intensive and extensive green roof systems.

(f) Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including:

(1) Pedestrian pathways through developments increase mobility and link neighborhoods to transit;

Through the proposed Windom Walk, and the substantial improvements to the streetscape surrounding the Valor Lot and along the north-south public alley, pedestrian circulation through and around the Project Site will be vastly improved. Windom Walk will provide a new safe and aesthetically pleasing pedestrian connection between the residential neighborhood to the north and east and the commercial node along Massachusetts Avenue, including the SVSC. In addition, the elimination of two large curb cuts along 48th and Yuma Streets, which collectively amount to approximately 80 linear feet, will improve the safety

of pedestrian circulation along these neighborhood streets. Finally, the HAWK signal that is proposed by the Applicant will provide additional pedestrian connectivity across Massachusetts Avenue between the Project Site and the other retail and service uses located in the shopping center to the south (also known as the Spring Valley Shopping Center).

(2) *The development incorporates transit and bicycle facilities and amenities;*

As shown in the tabulation of development data included in Exhibit A, Sheet G05, the Project will provide, at minimum, the number of short- and long-term bicycle parking spaces, and related bicycle facilities, as required under Subtitle C, Chapter 8 of ZR16. In addition, in coordination with DDOT, the Applicant has developed a robust Comprehensive Transportation Review (“CTR”) and Transportation Demand Management (“TDM”) Plan which incorporates bicycle, transit, and car sharing incentives that will be made available to future residents. The Applicant’s CTR and TDM Plan is included in the case record as Exhibit 107, and includes several TDM strategies that are aimed at reducing the demand for single-occupancy vehicle use.

(3) *Streets, easements, and open spaces are designed to be safe and pedestrian friendly;*

The Project will improve pedestrian circulation through and around the Project Site by improving the quality of adjacent public space, eliminating two existing curb cuts, providing a new pedestrian connection by virtue of Windom Walk, and making pedestrian circulation improvements along the north-south alley. As shown in the Revised Plans, these improvements will be designed to be safe and pedestrian friendly.

- (4) Large sites are integrated into the surrounding community through street and pedestrian connections; and

Pedestrian circulation through the Project Site will be improved as a result of Windom Walk and the improvements along the north-south public alley, thereby better integrating the Project Site into the surrounding community. In addition, the elimination of approximately 80 linear feet of existing curb cuts along 48th and Yuma Streets will improve pedestrian circulation and safety of the public space adjacent to the Valor Lot.

- (5) Waterfront development contains high-quality trail and shoreline design as well as ensuring access and view corridors to the waterfront.

Not Applicable

§ 604.8 The Zoning Commission shall find that the criteria of Subtitle X § 604.7 are met in a way that is superior to any matter-of-right development possible on the site.

The Project satisfies the criteria of Subtitle X § 604.7 in a way that is superior to any matter-of-right development possible on the Valor Lot alone. As shown on Exhibit A, Sheets A15, A18, A21, and A24, as a matter-of-right the Applicant could construct an all-residential project on the Valor Lot that would be substantially taller at the street wall/property line along 48th and Yuma Streets than the current proposal. However, the Applicant would be unable to provide a new full-service grocery store within a matter-of-right project due to an insufficient amount of nonresidential GFA available to Lot 807 resulting from the prior allocation to the AU Building on Lot 806. Through the extensive consultation the Applicant has had with ANC 3E and 3D, as well as the community, the Applicant has learned there is overwhelming consensus that a new full-service grocery store is widely desired by the community.

The design of Buildings 1 and 2 is of superior quality, is complementary to the surrounding context, provides a successful transition between the lower-scale residential

neighborhood and the larger-scale AU Building, and will provide a more fitting backdrop to the historic SVSC compared to what currently exists. In addition, as clearly demonstrated in the chart shown on Exhibit A, Sheet G06, the Project is also far superior to a matter-of-right project in many other respects, including scale and massing, sustainability, building program and historic preservation, size of dwelling units, and affordable housing.

Under the voluntary design review process, the Applicant is able to “sculpt” the proposed development in a manner that substantially reduces the scale and mass of Buildings 1 and 2 in an effort to relate to the surrounding context, while still maintaining the viability of the Project. Specifically, under a matter-of-right scenario the Applicant could develop Lot 807 to 75% lot occupancy, a maximum height of 50 feet without setbacks at the property line, and up to 0.4 FAR at the penthouse level. In contrast, through the flexibility in building bulk control afforded through the voluntary design review process, the Applicant can utilize unused gross floor area from the SVSC to provide a new, full-service grocery store and additional residential units, including a greater number of affordable units, while at the same time reducing scale and massing, and providing lower initial building heights, substantial upper-level setbacks, fewer projections, large building courtyards and terraces, and a lower penthouse FAR all within the maximum permitted building height of 50 feet.

The Applicant is also able to reduce its proposed lot occupancy and devote approximately 14,560 square feet of land area to open space and plazas that are open to the public, and improvements to the north-south public alley. This additional open space not only helps to integrate the Project and the Valor Lot into the surrounding context, it also helps increase the overall sustainability of the Project. While under District regulations the Applicant is only required to design the project to be LEED Certified, as shown on the preliminary LEED

scorecard included in Exhibit A, Sheet G10, the Applicant will exceed its sustainability requirement by constructing Buildings 1 and 2 to the LEED v4 Silver certification level.

Another aspect of the Project that makes it superior than any matter-of-right development on the site is the protection that it will afford to the SVSC from future development. Specifically, the ability to utilize the SVSC's unused gross floor area will not only allow the Applicant to provide a new full-service grocery store and additional housing (market-rate and affordable) on the Valor Lot, it will help protect the historic SVSC from future additional development by allocating all of the unused development potential on the Lots 802 and 803 to the Valor Lot.

Finally, and most notably, the design review process makes it possible for the Applicant to design Buildings 1 and 2 with larger-sized dwelling units, in both market-rate and affordable categories, and provide more affordable housing than would be provided in any matter-of-right project. As shown in the Revised Plans, many of the dwelling units proposed in Buildings 1 and 2 are two-bedroom, two-bedroom plus den, and three-bedroom dwelling units, which remains uncommon despite the many thousands of new dwelling units being constructed in the District and the growing demand for these types of units. The ability to provide these larger-sized units is only possible by being able to utilize unused density from the SVSC.

Perhaps most importantly, the voluntary design review process allows the Applicant to provide more affordable housing than would be required for any matter-of-right project. Under the current IZ regulations, the Applicant is required to set aside 10% of residential gross floor area to affordable dwelling units. As shown on Exhibit A, Sheet G06, for a matter-of-right project consisting of non-Type I (stick) construction, including maximizing below-grade space, permitted projections, and penthouse habitable space for residential use, approximately 23,736 GFA of affordable housing could be required. In contrast, by utilizing unused density from the

SVSC the Project, as currently designed, will contain approximately 28,320 GFA of affordable housing, or approximately 4,584 GFA above the matter-of-right requirement, while at the same time continuing to provide the substantial upper-level setbacks and reductions in height and massing described above. This substantial amount of additional affordable housing will greatly advance the District's housing goals within an area of the city where opportunities to provide affordable housing are few, and the inventory of existing affordable dwelling units is lacking.

VII. FLEXIBILITY

TECHNICAL ZONING FLEXIBILITY

Pursuant to 11-X DCMR § 603.1, as part of the design review process the Commission may grant flexibility from the development standards for height, setbacks, lot occupancy, courts, and building transitions; as well as any specific design standards of a specific zone. Except for height, the amount of relief granted is at the discretion of the Commission, provided the relief is required to enable an applicant to meet all of the design review standards. As shown on the tabulation of development data included on Exhibit A, Sheet G05, the only flexibility required to meet the design review standards is from the rear yard requirement for Building 1 to allow a ten foot rear yard where a minimum 15 feet is require. This very minor amount of technical zoning flexibility is far outweighed by the numerous positive improvements, and the superior design and program of the Project.

The requested flexibility for five feet from the rear yard requirement for Building is appropriate, and will be in harmony with the general purpose and intent of the Zoning Regulations, Zone Map, and specifically the MU-4 zone. The overall general purpose of the Zoning Regulations is to establish minimum standards for the promotion of public health, safety,

morals, convenience, order, prosperity, and general welfare by: (i) providing adequate light and air, (ii) preventing undue concentration of population and overcrowding of land, and (iii) distributing population, business and industry, and use of land in a manner that creates favorable conditions.

As shown on Exhibit A, Sheet G07, the extent of the requested five feet of rear yard flexibility is limited to two small portions of the Building 1 west façade. Specifically, for the first 20-feet of building height the 15-foot required rear yard will be provided, and in fact exceeded, since the rear yard can be measured from the centerline of the north-south public alley. Above 20 feet, where the rear yard must be measured from the rear property line, the rear yard flexibility is only necessary along a small portion of the northwest and southwest corners of the building, and only for certain levels of the building that are located above the height of the SVSC. Of note, the extent of requested rear yard flexibility is *de minimus*, measuring only approximately five feet, since Building 1 will be set back approximately 10 feet along its entire rear lot line.

Given the much lower height of the SVSC, the width of the adjacent 20-foot public alley, and the 10-foot rear yard that will be provided along the entire rear lot line of Building 1, the requested rear yard flexibility will be in harmony with the purposes of the Zoning Regulations stated above. Notwithstanding the requested flexibility, adequate light and air will be available to the dwelling units located along the rear of Building 1, the SVSC, and into the public alley. Finally, considering the locations of where rear yard flexibility is needed, granting the flexibility will not adversely affect the use of neighboring properties, which only includes the SVSC. Indeed, the portion of the SVSC closest to the area where rear yard flexibility is needed contains “back of house” functions and does not contain any windows. In addition, the requested flexibility will not adversely impact the setting of the historic SVSC when viewed from

Massachusetts Avenue, nor will it adversely impact circulation in the public alley since the required rear yard will be exceeded at the lower-level.

MINOR DESIGN FLEXIBILITY

The Applicant has made every effort to provide a level of detail that conveys the architectural significant of the Project. Nonetheless, some minor design flexibility is necessary to address potential issues that may arise during construction and other issues that cannot be anticipated at this time. Thus, the Applicant respectfully requests minor design flexibility in the following areas:

1. To vary the location and design of interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration or appearance of the building; and
2. To make refinements to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylight, architectural embellishments and trim, venting, window mullions and spacing, and any other changes that otherwise do not substantially alter the exterior design to comply with the District of Columbia Building Code or that are necessary to obtain a final building permit. Such refinements shall not substantially change the exterior configuration, appearance, proportions, or general design intent of the building; and
3. To vary the final selection of exterior building materials within the color ranges of the material types shown in the [approved plans] based on availability at the time of construction. Any such variations shall not reduce the overall quality of materials, nor substantially change the exterior appearance, proportions, or general design intent of the building; and
4. To vary the final selection of landscaping materials utilized based on availability at the time of construction; and
5. To vary the number, size, extent, and type of sustainable design elements within the project all applicable Green Area Ratio (“GAR”) requirements under Subtitle C of ZR16 and District storm water requirements are met, and the project achieves a minimum LEED Silver (v4) certification; and
6. To increase the final number of residential units by no more than 10% above the total number shown on the [approved plans] to respond to program demand, or to

decrease the final number of residential units within the approved residential gross floor area of the project to accommodate demand for larger units; and

7. To vary the number and location of affordable dwelling units provided the amount of affordable gross floor area contained within the project is, at minimum, equal to the amount shown on the [approved plans]; and
8. To vary the amount of floor area devoted to retail uses within the project provided the amount of floor area devoted to a full-service grocery store is, at minimum, equal to 13,600 square feet; and
9. To vary the types of uses designated as “retail” use on the [approved plans] to include the following use categories, provided the amount of floor area devoted to a full-service grocery store is, at minimum, equal to 13,600 square feet: (i) Retail (11-B DCMR § 200.2(cc)); (ii) Services, General (11-B DCMR § 200.2(dd)); (iii) Services, Financial (11-B DCMR § 200.2(ee)); and (iv) Eating and Drinking Establishments (11-B DCMR § 200.2(j));
10. To vary the garage layout and the number, location, and arrangement of vehicle and bicycle parking spaces provided the number of spaces, for both vehicles and bicycles, is not increased or reduced by more than ten percent of the number shown on the [approved plans]; and
11. To vary the final design of retail frontages, including the design of entrances, show windows, and signage, in accordance with the needs of retail tenants. Notwithstanding any design flexibility granted, all signage shall meet the following conditions:
 - a. Signage shall be located in a manner that is consistent with that shown in the [approved plans], and not extend or be located in any manner above the ground floor; and
 - b. Signage shall be compatible with and complement the building architecture and site, and be coordinated with the building façade system; and
 - c. Signage shall consist of high-quality materials and detailing; and
 - d. Signage shall not be digital or kinetic. Box signs and signs employing flickering, rotating, flashing or moving lights are also not permitted; and
 - e. Signage lighting shall be self-illuminated or back-lit provided it does not negatively impact nearby residential uses. If external illumination is used, light fixtures must be complementary and integrated into the character and design of the building.

VI.
AGENCY / COMMUNITY COORDINATION

The Applicant has conducted extensive, and transparent, coordination and consultation with OP, DDOT, the affected ANC, stakeholder organizations, and members of the surrounding community dating back to September 2015. As a result of this extensive consultation, the design of the Project has been substantially modified from earlier iterations. As required under 11-Z DCMR § 301.10(e), attached as Exhibit C is a listing of the meetings and discussions attended or hosted by the Applicant, and a summary of the changes that have been made to the Project as a result of these meetings and discussions. The attached listing is an updated version of the list that was submitted as part of the initial design review application.

Since submitting the subject application, the Applicant has continued its close coordination with ANC 3E and 3D, community organizations and neighborhood residents, as well as Citizens for Responsible Development, a party in opposition to the Project. In addition to participating directly in several meetings, the Applicant also solicited community input through a website hosted by coUrbanize, an online community engagement platform for real estate development and municipal projects (<https://courbanize.com/projects/theladybird>). In direct response to input gained through community meetings, and the coUrbanize website, the Applicant made several refinements to the Project since submitting the application, including:

- Reducing the grocery store size from approximately 55,000 square feet to approximately 13,600 – 15,800 square feet while maintaining its full-service status;
- Relocating the Building 1 residential entrance further away from the grocery store entrance;
- Relocating parking and loading facilities further away from adjacent residential areas to the north and east, and closer to Massachusetts Avenue;
- Increasing the number of parking spaces allocated to the proposed new residential and retail uses, including the grocery store;

- Reducing the number of residential dwelling units from approximately 230 units to approximately 219 units, while maintaining a substantial number of large sized units;
- Reducing the number of trash containers and proposed trash enclosures along the public alley, and consolidating trash operations to improve efficiency and reduce overall number of trash pick-ups;
- Relocating of the residential pool from the roof-level to within the residential courtyard; and
- Refining the architecture of Building 1 along Yuma Street to further reduce scale and relate to the surrounding context.

As a result of the Applicant’s extensive community outreach since submitting the application, and the refinements made to the Project in response to community input, the Applicant has obtained formal support from ANC 3D, which had previously submitted a resolution in opposition to the subject application but has since rescinded that resolution and replaced it with a resolution in support. Advisory Neighborhood Commission 3E, the ANC within which the Project is located, is expected to take formal action on the Project on January 3, 2017.

VII.
LIST OF WITNESSES

The following witnesses will provide testimony as part of the Applicant’s direct presentation

Will Lansing
Principal, Valor Development, LLC
Representative of the Applicant

Sarah Alexander
Principal, Torti Gallas + Partners
Expert in architecture

Erwin Andres
Principal, Gorove Slade Associates
Expert in traffic engineering

Shane Dettman
Director of Planning Services, Holland & Knight LLP
Expert in zoning and land use planning

The following witnesses will be available for questions and/or rebuttal

Dennis Carmichael
Principal, ParkerRodriguez, Inc.
Expert in landscape architecture

Brad Job
Senior Project Manager, AMT, LLC
Expert in civil engineering

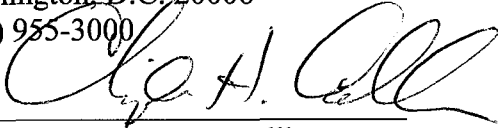
Daniel Solomon
Transportation Planner, Gorove Slade Associates
Expert in traffic engineering

X.
CONCLUSION

Based on the foregoing, the Applicant submits that the subject voluntary design review application meets each of the design review standards of 11-X DCMR § 604.7 in a way that is superior to any matter-of-right development possible on the Project Site; is not inconsistent with the Comprehensive Plan; is in harmony with the purpose and intent of the Zoning Regulations and Zone Map; and will not tend to affect adversely the use of neighboring property. Furthermore, the Applicant submits that the requested rear yard flexibility is necessary to enable the Applicant to meet the design review standards applicable to the Project, and that granting this flexibility is appropriate. Therefore, the Applicant respectfully requests that the Zoning Commission approve the requested voluntary design review application.

Respectfully submitted,

HOLLAND & KNIGHT LLP
800 17th Street, NW, Suite 1100
Washington, D.C. 20006
(202) 955-3000

By: 
Christopher H. Collins