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December 31, 2018

VIA IZIS

Zoning Commission of the District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

**Re: Z.C. Case No. 16-23
Valor Development, LLC – Voluntary Design Review
Applicant’s Response to Spring Valley Opponents Response to Revised Plans**

Dear Members of the Zoning Commission:

On behalf of Valor Development, LLC (the “Applicant”), we hereby submit the following motion to strike the Spring Valley Opponents’ (“SVO”) untimely response to the Applicant’s revised plans which was submitted to the Zoning Commission (“Commission”) on December 20, 2018 (the “SVO Response”).¹ As discussed below, despite the clear submission schedule established by the Commission, SVO’s recent submission was inexplicably submitted nine days after the deadline established for parties to respond to the Applicant’s revised plans.

The SVO Response is untimely

On June 25, 2018, the Commission granted a request for deferral submitted by the Applicant. The basis of the Applicant’s request was to allow additional time to submit revised plans. In response to the Applicant’s request, Citizens for Responsible Development (“CRD”), a party in opposition, requested additional time for the parties to respond to the revised plans. Specifically, CRD requested eight weeks to respond to the Applicant’s revised plans, which is seven weeks beyond what the Zoning Regulations typically provide parties to respond to an Applicant’s submission. *See* 11-Z DCMR § 602.3. The Applicant did not object to the parties having additional time for which to submit their responses. Upon approving the Applicant’s request for deferral, the Commission set a deadline of October 16, 2018, for the Applicant to submit its revised plans, and a deadline of December 11, 2018, for all parties to provide a response to the revised plans.²

¹ The SVO Response is currently contained in the case record at Exhibit 254.

² Tr. June 25, 2018 at p. 55: “MS. SCHELLIN: So we'll set a deadline. So the Applicant will make their submission by let's say 3 o'clock p.m. on October 16th. And the additional information I asked you to provide, the labels and a draft public hearing notice. And all parties, not just the party in opposition, but all parties will have until 3 o'clock p.m. on December 11th to provide a response to those submissions that are made on October 16th to provide a response there too, ...”

As the record reflects, the Applicant submitted its revised plans by the deadline established by the Commission, and CRD similarly submitted its response to the revised plans by its established deadline. In contrast, SVO waited until December 20, 2018, to submit its response to the revised plans, nine days past the submission deadline established by the Commission, and did so without submitting a motion requesting acceptance of its untimely filing. All parties, including SVO, should be held to the same standards. As such, since the SVO Response was submitted nine days late the Applicant believes the SVO Response should be stricken from the record.

The SVO Response mischaracterizes the Applicant's outreach

In the event the Commission decides to waive its rules and accept the SVO Response into the record, the Applicant wishes to address a few of the inaccuracies contained within the SVO Response. First, SVO grossly mischaracterizes the Applicant's engagement with the parties, and completely ignores the extensive community outreach the Applicant has conducted, which began well before the Applicant submitted its design review application. In its response, SVO states that "Although the initial application in this case was filed in October 2016, Valor had not been willing to meet with SVWHCA and NLC in this case – despite our requests and obvious stake in the outcome of this proceeding." As shown in the attached listing of community and agency meetings that the Applicant has attended and hosted, SVO's statement is incorrect (Attachment A).

The Applicant did in fact meet with members of the Spring Valley West Homeowners Association, which is a member of SVO, on October 27, 2016, a day after the Applicant filed the design review application. This is in addition to the ten plus community meetings the Applicant participated in prior to submitting the application that were open to the public and attended by members of SVO. Indeed, while SVO would like the Commission to believe that the Applicant has operated in a vacuum without any engagement or input from the community, the attached listing of community and agency meetings clearly demonstrates otherwise. Overall, the Applicant has attended or hosted approximately 33 community meetings, and numerous other meetings with ANC representatives and District agencies that date all the way back to September 2015. Contrary to what SVO states the Applicant has done exactly what was requested by Chairman Hood at the June 25, 2018, public meeting, and has worked with all parties in this case. Indeed, the Applicant has gone above and beyond to accommodate the comments and requests of the community, including SVO and the other parties, and as a result the project now balances the interests and concerns expressed by the community within matter of right height and density parameters.

The SVO Response contains unsubstantiated claims that have no factual basis

In its response, SVO claims "[t]he hazardous conditions for drivers and pedestrians as a consequence of this project have been underestimated and insufficient measures have been proposed to mitigate those conditions," yet SVO offers no factual evidence that such hazardous conditions will exist; where the Applicant's transportation analysis is lacking; or why the Applicant's proposed transportation mitigation measures, which are supported by the District Department of Transportation ("DDOT"), will be insufficient. SVO makes a similar unfounded

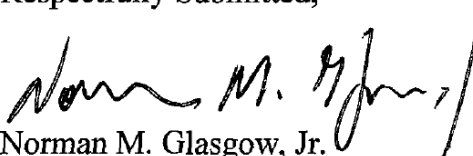
claim regarding the Applicant's visual renderings, going so far as to say the architect's revised renderings "continue to be misleading." Again, SVO offers nothing to backup these statements.

While under the Zoning Regulations the Applicant bears the burden of proving that it has satisfied the design review standards of Subtitle X, Chapter 6, it cannot continue to be burdened by having to disprove every unsubstantiated claim and generalized grievance raised by SVO and other persons and parties opposed to the project. Rather, as the Commission has previously found, "[f]or a party or witness to raise issue for which a response is required, the party or witness must have some factual basis for the claim and draw a nexus between the claimed deficiency and the current application."³ SVO has provided no factual basis for its claims and fails to draw any nexus between their claimed deficiencies and the Applicant's proposal.

In truth, the Applicant's Comprehensive Transportation Review ("CTR"), as supplemented, is based upon sound, industry-standard practices, and has been accepted by DDOT as being sufficient. Furthermore, DDOT has found the Applicant's Transportation Demand Management ("TDM") Plan, Loading Management Plan, and transportation mitigation measures to be acceptable. Furthermore, the revised visual renderings of the project are based upon the same industry-standard specifications that have been advocated for by CRD, and utilize highly accurate survey data and modeling software. As reflected in the Office of Planning's most recent supplemental report, the Applicant has met its burden of proof under the design review regulations.

We look forward to the continuation of the public hearing scheduled for January 7, 2019.

Respectfully Submitted,


Norman M. Glasgow, Jr.


Shane L. Dettman
Director of Planning Services

³ Z.C. Order No. 11-03J(1), Finding of Fact 149 & 150.

Valor Development
Voluntary Design Review Application
Square 1499 Lots 8702, 803, and 807
Community and Agency Meetings
Updated: December 2018

Date	Agency/Organization /Stakeholder Group	Notes
2015		
September 2	ANC 3E, Single Member District 02 (Amy Hall)	
September 9	ANC 3E Meeting	
September 30	Community meeting at Valor offices	
October 28	Community meeting at Valor offices	
November 3	ANC 3E Commissioner meeting	
November 9	Meeting with Ward3Vision	
November 12	ANC 3E Meeting	
December 1	ANC 3E Commissioner meeting	
December 2	ANC 3D Meeting	
December 8	Community meeting at Valor offices	
December 9	Meeting with Ward3Vision	
December 10	ANC 3E Meeting	
December 18	ANC 3E Commissioner meeting	

2016		
Torti Gallas Urban brought onto project and proposed buildings were completely redesigned in response to community input on previous design.		
February 5	ANC 3E Commissioner meeting	
March 7	ANC 3E Commissioner meeting	
May 6	ANC 3E Commissioner meeting	
April 7	Meeting with Office of Planning (OP) and District Department of Transportation (DDOT)	Increased setbacks along Yuma Street, eliminated internal retail arcade, removed penthouse from northwest corner of Building 1
April 29	OP Meeting	Added steps and dropped northern residential courtyard to enhance street level connectivity
May 6	Valor Meeting with Donohue & Stearns, Counsel for Citizens for Responsible Development	
May 11	ANC 3E Commissioner meeting	
May 12	ANC 3E Meeting	Modifications to proposed public spaces.
May 13	Meeting with Ward3Vision	
June 13	OP Meeting	
June 23	ANC 3E Commissioner conference call	
June 24	Meeting with Donohue & Stearns and Citizens for Responsible Development	
July 14	ANC 3E Meeting	Pool relocated from roof to courtyard to minimize noise concerns

August 15	ANC 3D Meeting	Revised and simplified design of the western half of Building 1, increased western setback from Spring Valley Shopping Center
September 9	ANC 3E Commissioner meeting	
September 9	Meeting with DDOT	Entrance to grocery store added along the public alley on the south side of Building 1, refinements to alley treatment.
October 26	Voluntary design review application submitted to Zoning Commission	
October 27	Spring Valley West Homeowners Association Meeting	
October 28	ANC 3E Commissioners update meeting	
November 21	Ward3Vision Update meeting	
December 8	ANC 3E Update Meeting	Added recommendation of on-street parking to address community concern regarding speeding vehicles.
2017		
July 19	ANC 3E Commissioner Meeting	Clarified parking allocation and defined grocery tenant
July 20	ANC 3E Meeting	Provided community and Citizens for Responsible Development with draft Comprehensive Transportation Review (CTR)
August 22	Meeting with OP	Minor revisions to renderings
August 28	DDOT Meeting	Finalized relationship between curb cut and shifted alley

August 29	Community meeting at Tenley-Friendship Community Library	Increased parking ratio of residential use to address community concern regarding parking
October 25	DDOT Meeting	Revised analysis to accommodate new parking plan
October 26	Community meeting at Tenley-Friendship Community Library	Developed shadow studies to respond to concerns regarding amount of shade cast from proposed building
November 9	ANC 3E Meeting	<p>Provided community and Citizens for Responsible Development with draft Comprehensive Transportation Review (CTR) on November 3</p> <p>Included HAWK signal as a pedestrian amenity</p> <p>Provided community and opposition with finalized Comprehensive Transportation Review (CTR) on November 22</p>
December 9	ANC 3D Meeting	ANC 3D votes 8 to 1 in support
December 13	Meeting with Citizens for Responsible Development	
December 13	OP Meeting	
December 14	ANC 3E Meeting	
2018		
January 4	ANC 3E Meeting	ANC 3E votes 4 to 1 in support
April 23	Meeting with Citizens for Responsible Development	
October 3	Meeting with Citizens for Responsible Development	

October 11	ANC 3E Meeting	
October 16	<p>Submission of revised plans</p> <ul style="list-style-type: none"> • Reduction in overall GFA of the project by approximately 42,000 square feet • Addition of new dwelling units by extending southern portion of the building into area previously proposed as Windom Walk; • Addition of lower-level (below-grade) dwelling units in area previously devoted to parking; • Increased amount of grocery/retail use by approximately 2,300 square feet of GFA; • Addition of partial parking level to maintain previously proposed number of parking spaces; • Modifications to loading facilities • Replacement of Building 2 with five lower-scale townhomes • Replacement of Windom Walk to address pedestrian safety concerns; • Modification of project footprint to maintain existing heritage tree; • Addition of transformers along southern alley; 	
October 17	Meeting with Spring Valley Opponents	
November 7	Meeting with Citizens for Responsible Development	
November 27	Discussion with Spring Valley Neighborhood Association	
December 5	ANC 3D meeting	ANC 3D votes 6-2 in support
December 13	ANC 3E meeting	ANC 3E votes 4 to 1 in support

cc: Jennifer Steingasser, Office of Planning (via email)
Joel Lawson, Office of Planning (via email)
Elisa Vitale, Office of Planning (via hand delivery and email)
Anna Chamberlin, District Department of Transportation (via email)
Aaron Zimmerman, District Department of Transportation (via email)
Advisory Neighborhood Commission 3E (via email)
Advisory Neighborhood Commission 3D (via email)
Edward L. Donohue, Donohue & Stearns, PLC, representing Citizens for
Responsible Development (via email)
Barbara & Sheldon Repp, Citizens for Responsible Development (via email)
Jeff Kraskin, Spring Valley Opponents (via email)
William Clarkson, Spring Valley Neighborhood Association (via email)
John H. Wheeler, Ward 3 Vision (via email)

CERTIFICATE OF SERVICE
Z.C. Case No. 16-23

I HEREBY CERTIFY that on December 31, 2018, a copy of the Applicant's response to the December 20, 2018, submission by Spring Valley Opponents ("SVO") (Exhibit 254), was served by email on the following:

Advisory Neighborhood Commission 3E

Advisory Neighborhood Commission 3D

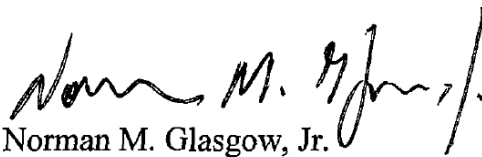
Edward L. Donohue, Donohue & Stearns, PLC,
representative for Citizens for Responsible Development

Barbara & Sheldon Repp, Citizens for Responsible Development

Jeff Kraskin, Spring Valley Opponents

William Clarkson, Spring Valley Neighborhood Association

John H. Wheeler, Ward 3 Vision


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