

# Holland & Knight

800 17th Street, NW, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564  
Holland & Knight LLP | [www.hklaw.com](http://www.hklaw.com)

Norman M. Glasgow, Jr.  
202-419.2460  
[norman.glasgowjr@hklaw.com](mailto:norman.glasgowjr@hklaw.com)

Jessica R Bloomfield  
202-469-5272  
[jessica.bloomfield@hklaw.com](mailto:jessica.bloomfield@hklaw.com)

September 17, 2019

## **VIA IZIS AND HAND DELIVERY**

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

**Re: Applicant's Supplemental 20-day Prehearing Filing  
Z.C. Case No. 19-10  
Consolidated PUD @ Square 1499**

Dear Members of the Commission:

This Supplemental Prehearing Statement is submitted by Valor Development, LLC (the "Applicant"), on behalf of Apex Real Estate Company, American University, and FW DC-Spring Valley Shopping Center LLC, in support of Z.C. Case No. 19-10 for a consolidated planned unit development ("PUD") for property located at Square 1499, Lots 802, 803, 806, and 807 (the "Property"). As described in previous filings, the PUD includes a new mixed-use building with approximately 214 residential units and a ground floor, full-service grocery store (retail use), known as "Building 1," and five new townhomes.

This Supplemental Prehearing Submission provides a description of the updates made to the architectural plans and elevations previously submitted to the case record.

### **I. Updates to Architectural Plans and Elevations**

Attached hereto as Exhibit A are updated architectural plans and elevations (the "Plans"), which replace and supersede the architectural drawings previously submitted to the record at Exhibit 2C. The following updates are shown on the Plans:

#### **A. Façade Updates**

The Applicant revised the proposed bay window projections on Building 1 to comply with recent guidance issued by the Department of Consumer and Regulatory Affairs ("DCRA") regarding the calculation of maximum allowable widths of single and multiple bay projections. As a result, the bay projections on Yuma Street have been reduced in width and divided into two bays

on each pavilion instead of a single bay, and the projections on 48<sup>th</sup> Street have been narrowed. In addition to being fully compliant with current DCRA guidance, the revisions to the bay projections further reduce the scale and massing of the project.

The Applicant has also revised the portion of the Building 1 façade facing Windom Park by: (i) increasing the height of the rusticated brick base to the second floor to better respond to the scale of the surrounding space; (ii) increasing the articulation of the third floor Juliet balconies; and (iii) adding a pair of Juliet balconies at the 4<sup>th</sup> floor. These changes were made in response to a recommendation made by the Office of Planning (“OP”) to elevate the architectural treatment of this portion of the façade in order to better terminate the Windom Place viewshed.

#### B. Townhome Penthouses

The Applicant has redesigned the roof access stairs proposed on Townhomes 1-4 to address OP’s comments regarding the visibility and materials of these components. Specifically, to minimize scale and visibility the Applicant is now proposing a sloped roof on the access stairs. Further, the Applicant now proposing to clad the access stairs with a buff-colored cementitious siding and light-grey roofing/coping.

Pursuant to 11-C DCMR §§ 1500.9, enclosing walls of a penthouse shall be of equal, uniform height as measured for the roof level. As stated above, to reduce the visibility of the penthouses on Townhomes 1-4, the Applicant is proposing a sloped roof which results in penthouse walls of unequal height (rather than one equal, uniform height). As permitted under the Zoning Regulations, the Townhome penthouses will have a maximum height of 10 feet sloping down to approximately four feet. Therefore, the Applicant respectfully requests special exception relief from 11-C DCMR §§ 1500.9 pursuant to 11-C DCMR § 1504.1, which permits special exception relief to be granted subject to 11-X DCMR, Chapter 9 and the following criteria:

- a. *The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;*

Providing penthouses that have a uniform maximum height of 10 feet would result in construction that is unreasonable, especially given OP’s request to “refine the design of the townhouse roof access stairs” and specific suggestion that the visibility of the roof access stairs “could be reduced through a sloped roof.” *See* OP Setdown Report (Exhibit 11, p. 2). The Applicant shares OP’s interest in reducing the scale of the roof access stairs and agrees that the proposed sloped roof is effective at minimizing visibility.

- b. *The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;*

As described above, the relief requested will result in a better penthouse design and is a reasonable solution to minimize visibility and ensure that the penthouses do not appear to be an extension of the building walls.

- c. *The relief requested would result in a roof structure that is visually less intrusive;*

The proposed sloped roofs will result in penthouses that are visually less intrusive as compared to the previously proposed matter-of-right design.

- d. *Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;*

Given the context surrounding the PUD site, the Applicant believes that maintaining the penthouses on Townhomes 1 – 4 at a uniform height of 10 feet is unreasonable when such a uniform height is not required for the proper functioning of the roof access stair. The proposed sloped penthouse roof will reduce massing and visibility and directly respond to OP's request.

- e. *Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and*

The penthouses on Townhomes 1-4 continue to comply with all setback requirements.

- f. *The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.*

The intent and purpose of 11-C DCMR, Chapter 15 is to establish a reasonable degree of architectural control over the height, area, and design of penthouses in order to maintain continuity with the design of the main building and minimize the impact of these structures on the surroundings. The requested relief will not materially impair these purposes, but rather will further these purposes by reducing the massing and visibility of the penthouses proposed on Townhomes 1-4. In addition, given the small size of the penthouses on Townhomes 1-4, and their location relative to surrounding development, the requested relief will not have any impact on the light and air to adjacent buildings.

The requested relief to allow the penthouses on Townhomes 1-4 to have walls of unequal height also complies with the general special exception criteria of 11-X DCMR 901.2 because the sloped penthouse roofs will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map, and will not affect adversely the use of neighboring property.

Although the penthouse heights will not meet the strict requirement of 11-C DCMR §§ 1500.9, the relief requested will result in the penthouses being less visible, which is consistent with one of the overall purposes of the penthouse regulations to minimize visibility. The lower penthouse height at the front of Townhomes 1-4 will not adversely affect the use of neighboring property since the penthouses will be less visible than previously proposed. Therefore, the Zoning Commission can grant the relief requested as being consistent with the general special exception criteria of 11-X DCMR, Chapter 9, and with the special conditions set forth in 11-C DCMR § 1504.1.

### C. Garage Layout and Operations

As shown in the Plans, the Applicant made adjustments to the parking garage layout and to the location and arrangement of vehicle and bicycle parking spaces in order to improve circulation and the utilization of space. The Applicant has also identified the locations of the residential bicycle parking spaces on the G1 and G2 parking levels, and the location of eight electric car charging stations (two stations on G1 and six stations on G2). Further, in response to a request by ANC 3E, the Applicant has devoted a parking space within the garage near the entrance to the grocery store for grocery pick-up.

Regarding garage operations, retail/grocery parking will be located on the G1 level, while residential tenant and AU parking will be located on the G2 and G3 levels. Access control to the residential and AU parking spaces will be located near the ramp leading down to the G2 level, and residents and AU employees/staff that are assigned a garage parking space will gain access using the control system near the G2 ramp or the jump elevator located along the alley near the loading facilities. Access to the jump elevator lobby will also be access controlled. The specific parking spaces on the G2 and/or G3 levels that will be devoted to AU have not been finalized; however, the number of parking spaces that will be allocated to AU will be consistent with the parking allocation included in the Applicant's Comprehensive Transportation Review that was submitted to the Commission on September 3, 2019 (Exhibit 25)..

### D. Corner Retail/Amenity Space


As shown on the Plans, the majority of the ground floor retail space in Building 1 will be devoted to a full-service grocer, with the remaining space at the southwest corner identified as "retail/amenity" space. At this time, it is likely that this space will be devoted to the grocery store. Considering typical grocery store layout requirements, street frontage, and the location of the entrance to the grocery store from the garage, the primary pedestrian entrance to the grocery store will be on Yuma Street. If the corner retail space is devoted to the grocery store, then the Applicant will ensure that this corner is activated either with a secondary entrance that is open to the public during store hours, or with large storefront windows that provide views into the grocery store. If the latter approach is taken, spandrel glass will only be used on the lower portion of the windows to obscure views of any low product shelving that may be placed in this location. The upper portion of the windows will remain open to afford views into the grocery store and outward toward the alley and Massachusetts Avenue. If the corner retail space is not devoted to the grocery store, it will be devoted to a standalone retailer that would have its primary entrance at the corner of the

building, or be devoted to an active residential amenity such as a fitness center. Either of these scenarios would result in this portion of the building being activated.

The Applicant appreciates the Commission's continued review of this project and looks forward to making a full presentation at the October 7, 2019 public hearing on this application.

Sincerely,

HOLLAND & KNIGHT LLP

By:   
Norman M. Glasgow, Jr.  
Jessica R. Bloomfield

#### Attachments

cc: Certificate of Service  
Joel Lawson, D.C. Office of Planning (via email and hand delivery w/ attachments)  
Elisa Vitale, D.C. Office of Planning (via email and hand delivery w/ attachments)  
Anna Chamberlin, District Department of Transportation (via email w/ attachments)  
Aaron Zimmerman, District Department of Transportation (via email w/ attachments)

**CERTIFICATE OF SERVICE**

I hereby certify that on September 17, 2019, a copy of the foregoing Supplemental Prehearing Submission was served on the following via email, with hard copies sent on the following business day.

Ms. Jennifer Steingasser  
D.C. Office of Planning  
1100 4th Street, SW  
Suite 650 East  
Washington, DC 20024

VIA EMAIL

Advisory Neighborhood Commission 3E  
c/o Lisner Home  
5425 Western Avenue NW, Suite 219  
Washington, DC 20015

VIA U.S. MAIL

Commissioner Jonathan Bender  
ANC 3E Chairman  
4411 Fessenden Street, NW  
Washington, DC 20016  
[jonbender@gmail.com](mailto:jonbender@gmail.com)

VIA EMAIL

Commissioner Amy B. Hall  
ANC 3E02  
4606 Fessenden Street, NW  
Washington, DC 20016  
[anc3e02@gmail.com](mailto:anc3e02@gmail.com)

VIA EMAIL

Advisory Neighborhood Commission 3D  
PO Box 40846 Palisades Station  
Washington, DC 20016

VIA U.S. MAIL

Commissioner Chuck Elkins  
ANC 3D Chairman  
[3D01@anc.dc.gov](mailto:3D01@anc.dc.gov)

VIA EMAIL

Commissioner Troy Kravitz  
ANC 3D02  
[3D02@anc.dc.gov](mailto:3D02@anc.dc.gov)

VIA EMAIL

Commissioner Paige Ela  
ANC 3D03  
[3D03@anc.dc.gov](mailto:3D03@anc.dc.gov)

VIA EMAIL

Edward L. Donohue  
Donohue & Stearns, PLC  
117 Oronoco Street  
Alexandria, VA 22314  
[edonohue@donohuestearns.com](mailto:edonohue@donohuestearns.com)

VIA EMAIL

Citizens for Responsible Development  
Barbara & Sheldon Repp  
4704 Windom Place, NW  
Washington, DC 20016  
[repper3@aol.com](mailto:repper3@aol.com)

VIA EMAIL & U.S. MAIL

Spring Valley Opponents  
Attn: Jeff Kraskin  
4601 Tilden Street, NW  
Washington, DC 20016


VIA U.S. MAIL

Spring Valley Neighborhood Association  
Attn: William Clarkson  
4805 Sedgwick Street, NW  
Washington, DC 20016

VIA U.S. MAIL

Ward 3 Vision  
Attn: John Wheeler  
4304 Yuma Street, NW  
Washington, DC 20016

VIA U.S. MAIL

  
Jessica R. Bloomfield  
Holland & Knight LLP