

# Holland & Knight

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February 27, 2019

## **VIA ZC SUBMISSIONS**

Zoning Commission of the District of Columbia  
441 4<sup>th</sup> 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 Citizens for Responsible Development  
Response to Applicant’s Post-hearing Submission**

Dear Members of the Zoning Commission:

On behalf of Valor Development, LLC (the “Applicant”), we hereby submit the following motion to request the Commission to reopen the record and accept the following response to the submission made by Citizens for Responsible Development (“CRD”) on February 20, 2019 (Ex. 430A1 & 430A2) (“CRD Submission”), in response to the visual simulations submitted by the Applicant on February 13, 2019. As discussed below, the CRD Submission contains incomplete, inconsistent, and misleading information that appears more focused on painting the Applicant in an unfavorable light so as to distract the Commission from focusing on the substance of this thoughtful and well-designed project. As such, in fairness to the Applicant and the design review process we respectfully requests the Commission to grant this motion.

### CRD’s statements regarding the camera equipment used to prepare visual-simulations

While in its cover letter CRD expressly acknowledges that the Applicant used a 50 mm [focal length] lens to prepare its visual simulations, the remainder of the CRD Submission goes to great lengths to confuse the Commission by characterizing “Valor’s 50 mm lens” as “actually an 80 mm lens.” This is extremely misleading. In fact, since the Applicant started using the technical specifications supported by CRD’s consultant, Digital Design + Imaging Services (“DDIS”), CRD has consistently attempted to exploit, and describe in piecemeal fashion, a highly technical issue in hopes of confusing anyone that may not have the technical background to fully understand the topic. Fortunately, in this instance, the topic is easily clarified.

The CRD Submission labels the Applicant’s images as “80 mm” and suggests that the Applicant used a telephoto lens. This information is misleading and simply not true. As has been consistently argued by CRD from the very beginning, a camera lens with a 50 mm focal length is considered to most closely reflect human eye magnification. This is exactly what was used by the

project architect to prepare the visual simulations, and the 50 mm lens used was not a telephoto lens. In regards to CRD's newest comments on the Applicant's use of a "cropped-frame" sensor instead of a "full-frame" sensor, put simply, an image taken through a 50 mm lens is an image taken through a 50 mm lens regardless of whether that lens is mounted on a camera body that has a full-frame sensor or a cropped-frame sensor. Both images would have the same "in-camera" magnification which CRD acknowledges most closely reflects human eye magnification. The only difference between these two types of sensors is how much of the surrounding context is captured in the resulting image. For comparison purposes, this is akin to a person having better peripheral vision than the person standing next them. Thus, in terms of how the proposed project appears relative to itself and to its surroundings, there would simply be no difference between the Applicant's 50 mm images taken with a cropped-frame sensor compared to the same 50 mm image taken with a full-frame sensor. The proposed project would not appear any bigger or smaller relative to the surrounding context, nor would it appear any closer or farther away from the surrounding context. This is why CRD was able to slide its [full-frame] 50 mm images taken along Yuma and 48<sup>th</sup> Streets underneath the Applicant's [cropped-frame] 50 mm images / visual simulations and have the surrounding context in both images line up.

CRD statements regarding submission of "before" photographs and purposeful cropping of context

CRD's response tries to discredit the Applicant by: (i) noting that "[n]o 'before' photos have been submitted to the record,"; and (ii) by suggesting that that the Applicant knowingly and purposefully cropped out the surrounding context to avoid showing the proposed project in relation to neighboring homes. Regarding the "before" photos, at the conclusion of the February 7, 2019, public hearing, the Applicant understood the Chairman's request for visual simulations from four vantage points to include a rendering of the proposed project inserted into an existing conditions photograph. It was not the Applicant's understanding that the Commission also wanted to see the existing conditions photographs without the project. As shown in Attachment A, it appears CRD counsel had the same understanding of what was being requested by the Commission. Unfortunately, while CRD told the Applicant it would communicate to the Commission its appreciation for the Applicant sharing the "before" photos so that it could complete its analysis, it instead decided to repeatedly note the absence of the "before" photographs in another attempt to make the Applicant appear to be a bad actor.

CRD's response also claims that the Applicant knowingly and purposefully screened or cropped out adjacent homes along Yuma Street. For example, on Page 15 of its response, which shows the Applicant's simulation superimposed on top of one of CRD's full-frame photographs, CRD states "[b]ecause Valor cropped / screened houses with bush, DDIS has reinserted houses behind bush to show scale." Based on CRD's own statements regarding use of a cropped-frame sensor, it would have been impossible for the Applicant to crop out the houses along Yuma Street because they simply were not captured in the Applicant's "before" photograph. The Applicant cannot exclude what is already not there. Rather, it appears that after superimposing the Applicant's image onto its own full-frame image, CRD took it upon itself to doctor its own image so that the homes along Yuma Street were more visible despite the mature vegetation that exists. It is noteworthy that while CRD took the time to capture full-frame photographs from the same

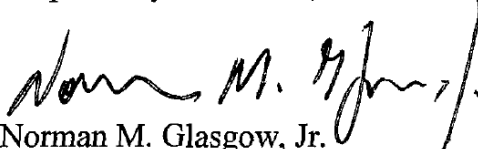
vantage points used by the Applicant along Yuma and 48th Streets in order to superimpose the Applicant's images, it is curious why the same was not done for the Massachusetts Avenue and Windom Place vantage points where full-frame images would undoubtedly show more of the existing larger-scale American University ("AU") Building. While CRD, as well as the Spring Valley Opponents, have attempted to ignore the AU Building throughout this process, as acknowledged by the Chairman during the January 7, 2019, public hearing, the AU Building "is there" and is part of the context that surrounds the proposed project. Therefore, if CRD was truly interested in showing the Commission what the project would look like when inserted into an existing conditions photograph taken with a full-frame DSLR camera with a 50 mm lens, one would assume CRD would have also provided superimposed full-frame images for the Massachusetts Avenue and Windom Place vantage points. Thus, while CRD makes the erroneous claim that "by omitting views that show the neighboring homes, the Applicant is preventing the Zoning Commission from being able to truly assess how inappropriate and out-of-scale the Project is for the neighborhood," it would appear CRD is doing exactly what it accuses the Applicant of doing relative to the AU Building. Irrespective of the reasons why CRD chose to omit certain vantage points and downplay the existence of the AU Building, the Applicant submits that the superimposed full-frame visual simulations submitted by CRD actually strengthen the Applicant's argument that it has met its burden of proof under the design review standards of Subtitle X, Chapter 6. Further, the Applicant submits that CRD's latest set of comments demonstrates precisely why renderings and visual-simulations are meant to assist the Commission's review of a project rather than dictate that review, and why applicants are required to submit, among other things, additional information such as floor plans, elevations, sections, material samples, and shadow studies.

#### CRD's illustration regarding lighting, shadow, and solar angle

On Page 3 of its letter to the Commission, CRD states that "the DDIS image accurately portrays the sunlight that will be blocked by the project and the resulting shadow on the houses across Yuma Street." CRD further stated that the Applicant only used solar angles seen in the southern hemisphere, and "they did not depict the impacts of the Ladybird during the 4 months surrounding the Winter solstice." These statements are also inaccurate. First, while CRD may feel the Applicant has not exactly matched the levels of ambient light shown on the surrounding buildings in the existing photographs, this does not support CRD's claim that the Applicant employed solar angles found only in the southern hemisphere. Furthermore, as demonstrated in the Applicant's shadow study included in the revised plans submitted on October 16, 2018 (*See* Exhibit 240A6, Sheets A42 & A43), the Applicant analyzed potential solar impacts that may occur throughout an entire year, including the four months surrounding the Winter solstice mentioned in the CRD Submission.

Thank you for your consideration of this motion. We look forward to the Commission's deliberation on March 11, 2019.

Respectfully Submitted,

  
Norman M. Glasgow, Jr.

  
Shane L. Dettman  
Director of Planning Services

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)

**Dettman, Shane L (WAS - X75169)**

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**From:** Dettman, Shane L (WAS - X75169)  
**Sent:** Thursday, February 14, 2019 1:22 PM  
**To:** 'Ed Donohue'  
**Subject:** RE: ZC 16-23 | Valor Development | Ladybird | Post-hearing Submission

Certainly. I've asked TG to send them to me and I will forward them as soon as I get them.

Hope you're doin well.

Best,

Shane

**Shane L. Dettman | Holland & Knight**

Director of Planning Services

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**From:** Ed Donohue <edonohue@donohuestearns.com>  
**Sent:** Thursday, February 14, 2019 11:09 AM  
**To:** Dettman, Shane L (WAS - X75169) <Shane.Dettman@hklaw.com>  
**Subject:** RE: ZC 16-23 | Valor Development | Ladybird | Post-hearing Submission

Shane

Our guys at Digital Design would like to see the photos of existing conditions, before the model was added to create the final product. Please consider the request—we know the ZC didn't require you to produce it, but it will help us evaluate what was submitted. If the applicant decides to comply, we will let the Commission know and that we appreciate it.

Thanks,

Ed

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**From:** [Shane.Dettman@hklaw.com](mailto:Shane.Dettman@hklaw.com) <[Shane.Dettman@hklaw.com](mailto:Shane.Dettman@hklaw.com)>  
**Sent:** Wednesday, February 13, 2019 6:26 PM  
**To:** [repper3@aol.com](mailto:repper3@aol.com); Ed Donohue <[edonohue@donohuestearns.com](mailto:edonohue@donohuestearns.com)>  
**Subject:** ZC 16-23 | Valor Development | Ladybird | Post-hearing Submission

Dear Citizens for Responsible Development (Barbara, Sheldon, Ed),

Good evening. On behalf of the Applicant in Z.C. Case No. 16-23, Valor Development, LLC, the attached post-hearing submission was submitted to the Zoning Commission this afternoon. Tomorrow afternoon, a hard copy of the attached submission will be mailed to 4704 Windom Place, NW, Washington, DC 20016. If you would like to receive an additional hard copy please let me know.

Please let me know if you have any questions or need additional information. Thank you for all of your support.

Respectfully,

Shane

**Shane L. Dettman | Holland & Knight**

Director of Planning Services

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

I HEREBY CERTIFY that on February 27, 2019, a copy of the Applicant's response to the February 20, 2019, submission by Citizens for Responsible Development ("CRD") (430A1 & 430A2), was served by email on the following:

Advisory Neighborhood Commission 3E

Advisory Neighborhood Commission 3D

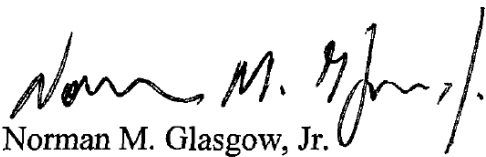
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representative for Citizens for Responsible Development

Barbara & Sheldon Repp, Citizens for Responsible Development

Jeff Kraskin, Spring Valley Opponents

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