



DONOHUE & STEARNS, PLC

March 6, 2019

**VIA IZIS**

Chairman Anthony Hood  
D.C. Zoning Commission  
441 4<sup>th</sup> Street, N.W., Suite 200S  
Washington, D.C. 20001

**Re:** ZC Case 16-23/ Valor Development, LLC/ Square 1499  
Opposition to Applicant's Motion to Reopen the Record/ Response to CRD's Submission  
Decision Date: March 11, 2019

Chairman Hood:

Pursuant to Section 407.4 of the Zoning Commission Rules of Practice and Procedure (11-DCMR § 407.4), Citizens for Responsible Development ("CRD") opposes the Applicant's ("Valor") Motion to Reopen the Record<sup>1</sup> and the entrance into the record of its Response to CRD's Submission<sup>2</sup> ("Response") filed on 2/27/19 and 2/28/19, respectively. Because the Zoning Commission (the "Commission") has granted the Motion and will consider the Response, CRD submits this Rebuttal to Valor's Response and asks that it too be considered by the Commission in the interest of fairness.

I. Digital Design & Imaging Service Inc.

Attached is a statement by Digital Design & Imaging Service Inc. ("DDIS") that responds to the allegations in the Response regarding (1) the cropped sensor utilized in capturing the photographs and simulations developed therefrom; (2) the solar angles and shadows in Valor's renderings; and (3) the failure of Valor to submit to the Commission, the requested 'before' photographs showing the existing context.

To the second point above, the shadow studies provided in Valor's 10/16/18 submission<sup>3</sup> (Architectural Drawings – Part 6) omit the potential solar impacts that occur throughout the year. The summer study cuts off at 4:00 p.m. and therefore ignores the impact on the

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<sup>1</sup> Exhibit 433

<sup>2</sup> Exhibit 433A

<sup>3</sup> Exhibit 240A6, Slides A42 & A43

neighbors during this season when there is sunlight until almost 9:00 p.m. This deficiency was raised by CRD at the 1/7/19 hearing<sup>4</sup> and has never been corrected by the Applicant.

In regard to the third point, noted above, in its 2/21/19 submission<sup>5</sup> (CRD's Response to Applicant's Sims – Part 1), CRD did, in fact, give the Applicant credit for providing the 'before' photographs. However, Valor supplied the photographs to CRD and not to the Commission as directed at the 1/24/19 hearing<sup>6</sup>.

No fewer than three times, and at the 2/6/19 hearing<sup>7</sup>, the Chairman requested again that the Applicant provide reliable, photographic evidence of existing conditions and with the Proposed Project. To date, the Applicant has failed to produce these 'before' photographs, and, for the reasons detailed in the attached DDIS statement, has therefore failed to accurately demonstrate the impact of the Proposed Project.

## II. CRD's Submitted Perspectives

In contrast to Valor, CRD is a neighborhood organization with limited resources and should not be expected to counter every vantage point in the Applicant's 2/13/19 submission. Being a neighborhood organization, and in response to the Commission's request, CRD asked DDIS to focus on the impact the Valor building would have on the neighborhood. DDIS focused on the Yuma Street perspective. However, contrary to Valor's claim, DDIS also showed how Valor cropped out the Windom Place homes in its 2/21/19 submission<sup>8</sup>. CRD also previously demonstrated how out-of-scale the Valor building would be from Windom Place in the Power Point presentation<sup>9</sup> submitted at the 1/24/19 hearing.

In addition, Valor alleges that CRD has strategically ignored the American University ("AU") Building. This is simply untrue. On page 5 of its Proposed Findings of Fact and Conclusions of Law<sup>10</sup> ("FFCL"), CRD states, "The architectural renderings provided by Valor's architect clearly show that the Proposed Project is taller than the adjacent 6-story American University." A comparable statement can be found on page 19 of the FFCL.

## III. Conclusion

The Applicant's Motion to Reopen the Record is an attempt to have the last word and its Response purports to distract the Commission from the central issue in this case – the fact that the Proposed Project is too large for the neighborhood. The Applicant's failure to submit the 'before' photographs showing the existing neighborhood context illustrates their

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<sup>4</sup> Transcript of 1/7/19 hearing at 48

<sup>5</sup> Exhibit 430A1

<sup>6</sup> Transcript of 2/6/19 hearing at 47

<sup>7</sup> Transcript of 2/6/19 hearing at 47

<sup>8</sup> Exhibit 430A2, Slide 12

<sup>9</sup> Exhibit 408, Slide 12

<sup>10</sup> Exhibit 431 (referencing Exhibit 240A4, Slide 5; Exhibit 425, Slide 36)

continued resistance to showing the inordinate negative impact that the Proposed Project will have on the surrounding community. The photo array provided by Valor in its 2/13/19<sup>11</sup> filing was neither what was requested by the Commission nor a fair representation of the scale and density to the proposed new development in relation to the neighborhood.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "E. L. Donohue". The signature is fluid and cursive, with a large initial "E" and "D".

Edward L. Donohue

Attorney for CRD

**Attached – DDIS Response**

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<sup>11</sup> Exhibit 427A

Response to “Valor ZC\_16\_23\_Applicant\_Motion\_Re\_CRD\_response\_Feb 15\_2019\_CC.” by Digital Design & Imaging Service Inc on behalf of CRD.

DDIS stands by its observations that Valor’s latest renderings still failed to comply with several common industry standards used to produce visual impact studies and factual renderings. Their omission inherently makes them less credible and harder for the community to understand the visual impacts of the proposed development’s actual width and height and shadows. The latest set of drawings 1) used a “virtual telephoto” lens, 2.) Incorrectly calculates solar angles and shadows in their renderings, and 3) fails to offer the viewer paired “before” and “after” comparisons.

First, Valor objects to our concerns about their incorrect camera body and lens choice. It is important to bring up this technical issue because of its perceptual impact of cropping out the nearest neighboring homes.

DDIS acknowledged that Valor used a standard 50mm lens. However, they used the incorrect small “cropped” sensor size body. As such, the critical field-of-view of their lens/camera body choice was the *equivalent* to using an approximate 80mm on a full-frame 35mm DSLR. This leads to several problems.

A “cropped” sensor’s field-of-view is a smaller cropped-out section of a full-frame 35mm sensor. This basic photographic concept that a sensor size smaller than the standard 35mm full-frame sensor results in a smaller field-of-view and the effective or virtual “magnification” of the lens’s focal length has been around for decades. It is known as a camera’s “crop factor”.

This technical issue is relevant to the DC Zoning Commission and the Ladybird’s depiction. Here is why: If a full-frame DSLR and crop-sensor DSLR capture the same photograph from identical locations, using identical lenses, the cropped sensor camera will capture a **narrower** FOV (field-of-view) than the full-frame camera. It is like putting on horse blinders. The small postage stamp-sized sensor, inherently crops out important peripheral references. See CRD’s graphics (exhibit 430A1 p9) with Valor’s “50mm” images inserted into the standard 50mm lens on a full-frame sensor for a better understanding.

Valor states:

*“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.”*

The main reason DDIS and CRD have to repeatedly address this issue is due to the same reason that Valor acknowledges: **less context**. This dramatic reduction in field-of-view in these latest renderings, and the repeated fact that the applicant continues to ignore industry standards for simulations should be a point of concern for the Zoning Commission. The value and power of photo-realistic simulations is to show how a proposed structure’s size, scale, and height will fit into the context of the neighborhood. If this is optically distorted and misleading then what is its intended value? How can a viewer understand visual and solar impacts on the surrounding neighbors, when the existing surroundings or “peripheral vision” have been cropped out?

#### General Facts:

- Neither CRD nor DDIS chose the camera locations or vantage points. DDIS merely recreated Valor's vantage points using the correct industry-standard professional equipment and transparent methodologies.
- Valor chose a vantage point that screens the neighboring Yuma St. houses with vegetation. By moving to the side just 6ft, DDIS was able to more fairly portray both the Ladybird's features AND its impacts (shadow and height) on the two nearest neighbors.
- DDIS did submit views from Windom place (Exhibit430A2 p12), which contradicts Valor's claims that they were missing.

Second, Valor's choice of solar angles seen in their latest (Exhibit 427A) renderings, as well as their comments regarding DDIS's response to those renderings, act to mislead the commission and the community about the development's shade and shadow impacts.

DDIS did not state that all of the Valor renderings used solar angles only possible in the Southern hemisphere. However, the two most shadow-sensitive locations on Yuma St did. Additionally, the sun angles of the other 3 renderings do not match the time or date of the Valor-captured imagery.

As part of the standard for visual impact simulations, the solar lighting on a 3D model should match the lighting in the scene. This is not for aesthetic reasons. It allows the viewer to best understand its true impact on the environment. It answers the common and fair question "will my front yard be in shade for half of the year?"

Valor captured these images around 3pm in the afternoon in Mid February. (See the clock tower in the Spring Hill shopping center for reference). The renderings along Yuma St show full sunlight and shadows casting on the north-facing façade. The most egregious of these shows the sun from almost directly overhead, but with the light coming from the North. Sunlight does not fall on north-facing façades from Sept 21<sup>st</sup> to March 21<sup>st</sup>. When it does in the summer it is a low raking angle. The neighbors are in shadow not the Ladybird.

Valor conducted a solar impact study, which clearly shows the shadows casting on the nearby neighbors at approximately this time of day and year, Valor is either claiming that their renderings are accurate and the solar study is wrong, or vice versa.

Third, not providing the commission or the community the standard, recognized requirement of "before" and "after" scenes removes the ability for the viewer and decision makers to make an informed decision. As such, DDIS requested and submitted the contrasting scenes to remedy this error in practice.

Digital Design and Imaging Service, Inc.