



DONOHUE & STEARNS, PLC

April 4, 2019

VIA IZIS

Chairman Anthony Hood
D.C. Zoning Commission
441 4th 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 Hold the Case in Abeyance
Decision Date: Pending

Chairman Hood:

Citizens for Responsible Development ("CRD") opposes Valor Development, LLC's (the "Applicant" or "Valor") Motion to Hold the Case in Abeyance while it follows through on its stated intention to pursue a Planned Unit Development ("PUD") for the following reasons.

This is only the most recent example of Valor's attempt to have it both ways. Valor admitted at the outset of this process that it had considered filing a Planned Unit Development ("PUD") for this site but decided to go the less stringent route of Design Review. After a nearly three year-long process and countless delays¹, deferrals and design-iterations (notably, many to address deficiencies brought to light by CRD), Valor again wants to put the process on hold. And not for an insignificant period of time - as the Applicant itself states in its 3/28/19 letter, "given the citywide nature of the proposed text amendments, it is possible that substantial time could pass before the amendments, assuming amendments are made, are finalized and take effect." CRD strongly objects. Valor has already been afforded expedited review in this case as evidenced by the unprecedented three-day turnaround for the Office of Planning's 3/15/19 report supporting the Applicant's interpretation of Design Review's treatment of density aggregation following the March 11th hearing.

In addition, throughout the process, those opposing the proposed project have been open and willing to discuss an equitable solution or compromise. In this regard, we note that in February 2019 when Councilmember Mary Cheh attempted to coordinate a meeting to discuss

¹ The delay in this case continues an established pattern by Valor. The Board of Zoning Adjustment and Zoning Commission (the "Commission") have considered two cases in July of 2014 and February of 2016 and neither has resulted in development. (BZA Case No. 19055 and ZC Case No. 16-22).

a compromise solution prior to the March 11th decision date, Valor first accepted the invitation and then reneged. Perhaps Valor was confident of approval in March and did not want to give ground? Regardless, the long history here underscores the benefits of a compromise solution. Those opposing the proposed project remain ready to work toward that solution.

Case No. 16-23 is a Design Review case and it must be considered in accordance with the provisions of the Zoning Regulations as they currently exist, not as the Applicant wishes they were. There is no provision in the Zoning Regulations that allows an applicant to essentially 'argue in the alternative.' The Applicant should not be allowed to hedge its bet at the expense of the parties in opposition. In short, we see no legal authority which would allow the Applicant to avail itself simultaneously of two zoning applications for the same project. Further, as reflected on the Office of Zoning's website, the Commission on March 11 "Deferred [action on the Valor Application] until Final Action on a Future Text Amendment, or until the Applicant asks for a decision or withdraws its case or files a PUD case." This summary clearly indicates that any deferral of Design Review Application should expire upon the filing of a PUD. In that event the Design Review Application should be withdrawn.

We ask that the Commission deny the Motion to Hold Case No. 16-23 in Abeyance and order that the Applicant proceed with the Design Review Application or withdraw and file a PUD application.

CRD has consulted with Spring Valley Opponents (Spring Valley West Homes Corporation, Spring Valley-Wesley Heights Citizens Association and Neighbors for a Livable Community), the other party in opposition, and they concur and support this filing.

Respectfully submitted,



Edward L. Donohue

Attorney for CRD