



DONOHUE & STEARNS, PLC

November 7, 2019

VIA IZIS

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

Re: ZC Case 19-10/ Valor Development, LLC/ Square 1499
Opposition to Applicant's Motion to Strike
Decision Date: Pending

Chairman Hood:

Citizens for Responsible Development (“CRD”) opposes Valor Development, LLC’s (the “Applicant” or “Valor”) Motion to Strike for the following reasons.

At the close of the October 10, 2019 Zoning Commission (the “Commission”) hearing, Sharon Schellin, Secretary to the Commission, instructed the parties to file post-hearing submissions by October 24th with responses to those submissions due on October 31st. (Transcript at 194). This was reiterated in an email from Ms. Schellin to the parties on October 17th outlining the Zoning Commission post-hearing procedure.

In Section 7 of its October 24th Post-Hearing Statement, the Applicant stated:

Opponents to the Project have stated that the Project, specifically Building 1, will deprive adjacent neighbors of sunlight. While the Project will have minimal impact on direct sunlight to the most immediate properties, given the separation provided by adjacent streets, the Project’s lower than matter-of-right height, and the substantial ground- and upper-level setbacks the impacts to sunlight will be less than the impacts that would have been caused by a matter-of-right project. As shown on the Applicant’s shadow study, between spring and fall the Project has only minor to moderate impacts on sunlight that occur during the later hours of the day on homes immediately east across 48th Street. As expected, the impacts of the Project increase slightly during the winter when the sun is lower in the sky throughout the day.

The Applicant’s shadow study clearly shows that a matter of right project would cause significantly more impacts to loss of sunlight than the proposed PUD. Specifically, under a matter-of-right scenario, the building facades along 48th and Yuma Street could be built entirely on the property line to a height of 50 feet, approximately 6’-6” higher than Building 1. Furthermore, with the building constructed up to the property line, its penthouse could be constructed much closer to the property line than currently proposed. The absence of setbacks, greater height, and larger penthouse footprint would most certainly have greater impacts to sunlight.

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Finally, as is the case in most shadow studies, the study prepared by the Applicant only reflects impacts to direct sunlight. There is also ambient and reflected light that is cast on properties throughout a day. Further, the Applicant's shadow study does not reflect blockage of direct sunlight that is currently caused by existing vegetation and mature tree canopy. Thus, the Applicant believes the potential impacts on direct sunlight to nearby properties will be less than what would occur with a matter-of-right project, and to the extent impacts occur, such impacts are minimized by the separation provided by 48th and Yuma Streets, and by the lower height and set backs of the Project." (Applicant's Post-Hearing Statement, Tab D – p.6 (Exhibit 241D)).

Since the Applicant's initial proposal in ZC Case No. 16-23, CRD's main criticism of the Project has been the mass of Building One and its significant negative impact on the surrounding single-family residences. The Digital Design and Imaging Services ("DDIS") shadow study, prepared by Curt Westergard, CRD's expert witness in visual impact studies, included in CRD's Post-Hearing Submission (Exhibit 238) simply responds to the Applicant's inaccurate assertions included above and is well within the scope of the permitted response.

Moreover, CRD requests that the Commission deny the Applicant's request to provide yet another response. The Applicant has known about CRD's concerns regarding sunlight since ZC Case No. 16-23 and provided a shadow study. The fact that the Applicant now deems that study insufficient to support its claims is not grounds for an additional reply or evidence. The Applicant may include its assertions regarding sunlight in its Proposed Findings of Facts and Conclusions of Law. The Commission is equipped with the information currently in the record (in adherence with the Commission's instructions) to make a determination as to the credibility and accuracy of the conflicting studies.

Respectfully submitted,



Edward L. Donohue
Attorney for CRD

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on **November 7, 2019**, a copy of the CRD's Opposition to Applicant's Motion to Strike was served via email, on Advisory Neighborhood Commissions 3E and 3D (3E@anc.dc.gov; 3D@anc.dc.gov), Jeff Kraskin (Jlkraskin@rcn.com) for Spring Valley Opponents, William Clarkson (wclarksonv@gmail.com) for Spring Valley Neighborhood Association, John H. Wheeler (johnwheeler.dc@gmail.com) for Ward 3 Vision and counsel for the Applicant, Norman M. Glasgow, Jr. (norman.glasgowjr@hkllaw.com).

By:



Edward L. Donohue

Dated: November 7, 2019