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VIA IZIS AND HAND DELIVERY

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

Re: Z.C. Case No. 16-23
Valor Development, LLC – Voluntary Design Review
Applicant’s Post-hearing Submission

Dear Members of the Zoning Commission:

On behalf of Valor Development, LLC (the “Applicant”), this post-hearing submission contains the additional information requested by the Commission during the public hearings held on January 11 and 25, 2018.

LEED rating for the Project

At the January 11, 2018, public hearing, the Commission requested the Applicant to consider making a stronger commitment to achieving LEED Gold certification for the Project, rather than just “striving” to achieve LEED Gold. This was also a stated preference by the Office of Planning (“OP”) and Advisory Neighborhood Commission (“ANC”) 3E and 3D.

As shown in the revised LEED Scorecard attached as Exhibit A, Sheet 3, upon reevaluation with the Project architect and LEED consultant the Applicant commits to achieving LEED Gold certification for the Project. To reach the LEED Gold level, the Applicant was able to identify 11.5 additional obtainable LEED points (total of 63.5 points) in the areas of Sustainable Sites, Energy and Atmosphere, Materials and Resources, Indoor Environmental Quality, and Innovation.

While the Applicant fully commits to achieving LEED Gold certification for the Project, it respectfully requests a minor amount of flexibility in the final number of LEED points obtained to accommodate adjustments that often occur during further design development and permitting. As such, to ensure that the Project fully achieves LEED Gold certification while providing a reasonable degree of flexibility, the Applicant proposes the following conditions and flexibility which are based upon similar language contained in recent Commission orders and a slight adjustment to the Applicant’s existing flexibility request:

Conditions of approval regarding LEED Gold certification:

- Prior to issuance of a building permit for the Project, the Applicant shall demonstrate to the Zoning Administrator that it has registered the Project with the USGBC to commence the LEED certification process under the USGBC's LEED v. 4 rating system.
- Prior to the issuance of a Certificate of Occupancy for the Project, the Applicant shall furnish a copy of its LEED certification application submitted to the USGBC to the Zoning Administrator. The application shall indicate that the Project has been designed to include at least the minimum number of points necessary to achieve LEED Gold certification under the USGBC's LEED v. 4 standards.
- The Applicant shall complete the USGBC's process for certifying the Project at the LEED Gold level, and maintain the Project as such.

Flexibility related to the Project's sustainable design elements:

1. To vary the number, size, extent, and type of sustainable design elements within the Project provided all applicable Green Area Ratio ("GAR") and District storm water requirements are fully met, and the Project achieves a LEED Gold (v. 4) certification with no less than 60 points;

Evaluation of solar panels for the Project

Per the Commission's request, as part of its evaluation of the Project's LEED rating the Applicant also evaluated the potential to incorporate solar panels on the roof of the proposed buildings. After full evaluation of this request, as detailed below, the Applicant is unable to commit to adding solar panels to the Project. To more fully evaluate the ability to add solar panels, the Applicant solicited input from a structural engineer on the additional loads that would be created by the addition of solar panels, and the design changes that would be required to accommodate these loads. The report prepared by the structural engineer is attached hereto as Exhibit B.

In summary, the addition of solar panels to the Project would require the Applicant either remove some green roof area, which is required to meet Green Area Ratio ("GAR") and D.C. storm water retention requirements, or install the solar over green roof, which to the Applicant's knowledge is still untested in an actual complete stick-built project in terms of maintaining green roof storm water performance. In addition, the solar panels would require construction of double roof trusses within portions of the roof assembly to accommodate the substantial weight of the proposed green roof and the additional weight of the solar panels, which creates challenges to designing the building's MEP systems. Further, depending upon how the solar panels are anchored to the building could create additional challenges. If the solar panels are positively connected to the roof trusses, additional blocking will be necessary between the trusses which, together with the need for double trusses, further complicates MEP system design. Positive connection to the roof trusses also creates numerous roof penetrations that could give rise to water penetration issues,

especially on a stick-built project. Finally, the solar panels could be ballasted with precast concrete or CMU block rather than be positively connected to the roof trusses. While this avoids the need to penetrate the roof, this approach would require the removal of some green roof to make room for the ballast material, or could adversely impact green roof performance if placed on top of the green roof.

Summary of aggregation / transfer of density within Project boundary

At the January 11, 2018, public hearing, the Commission requested a one-page summary of the existing and proposed allocation of density within the voluntary design review project boundary, and the mechanism within the Zoning Regulations that allow the Applicant to effectuate the proposed allocation of density. This requested information is attached as Exhibit C.

Submission of density allocation / transfer agreements

During the proceedings in this case, the Commission expressed an interest in receiving a copy of the agreement being negotiated between the Applicant and FW DC-Spring Valley Shopping Center LLC (FW DC”), owner of Lots 802 and 803, regarding the transfer of unused density from the Spring Valley Shopping Center (“SVSC”) site to Lot 807 (“SVSC Agreement”). The Commission also expressed interest in receiving a copy of the agreement being negotiated between the Applicant, contract purchaser of Lot 807, and American University (“AU”), owner of Lot 806, regarding the allocation of density currently remaining on Record Lot 9 (comprised of Lots 806 and 807) (“AU Agreement”). These are private, two-party contractual agreements and AU and FW DC have informed the Applicant that they are unwilling to have those agreements placed into the public record. Such disclosure requires the consent of both parties to the agreements. However, the Applicant has been authorized by AU and FW DC to submit descriptions of the general terms of the two aforementioned agreements relative to the allocation of remaining density on Record Lot 9, and the transfer of unused density from the SVSC site to Lot 807. Accordingly, attached hereto as Exhibit D is a sworn affidavit from the Applicant’s representative, Will Lansing, Principal, Valor Development, LLC.

Inclusionary Zoning (“IZ”) plan

In response to OP’s request for a complete Inclusionary Zoning (“IZ”) chart, and additional information regarding the distribution of IZ units within the project, the Applicant has prepared the following standard IZ chart provided by OP, as well as the attached IZ plan showing approximate gross and net square footage calculations and the potential distribution of IZ units within the Project (Exhibit A, Sheets 4 – 5).

Residential Unit Type	GSF**	Units	Income Type	Affordable Control Period	Tenure
Total (Building 1 & 2)	286,705	219			
Market Rate (Building 1)	228,181	179	Market		
IZ (Building 1)	23,013	19	60% MFI	Life of the project	Rental
IZ (Building 1)	2,340	2	50% MFI	Life of the project	Rental
Market Rate (Building 2)	29,964	17	Market		
IZ (Building 2)***	3,207	2	60% or 80% MFI	Life of the project	Rental or Ownership
IZ (Building 2)	111	0	HPTF	N/A	N/A
Affordable/Non IZ (Building 1 & 2)	N/A	N/A	N/A	N/A	N/A
*	All numbers are approximate and subject to adjustments during design development and permitting in accordance with any flexibility granted by the Zoning Commission.				
**	Gross Square Footages (GSF) include cellar floor area devoted to dwelling units, non-communal penthouse gross floor area devoted to dwelling units, and projections into public space.				
***	The tenure type of Building 2 has not been determined at this time.				
****	The IZ requirement for Building 2 non-communal penthouse habitable space (111 square feet of GFA) will be satisfied through a contribution to the Housing Production Trust Fund ("HPTF") as permitted under 11-C DCMR § 1006.10. Based on current Office of Tax and Revenue ("OTR") assessment information and the current gross floor area of Building 2 non-communal penthouse habitable space, the HPTF contribution amount could range between \$14,000 - \$34,500. Pursuant to 11-C DCMR § 1505.14, the final contribution amount will be calculated no earlier than 30 days prior to the date of the building permit application.				

Response to testimony regarding calculation of IZ requirement for the Project

At the conclusion of the January 25, 2018, public hearing, the Commission requested the Applicant to respond in writing to the submission by Marilyn Simon, included in the case record at Exhibit 166, regarding the Project's Inclusionary Zoning ("IZ") requirement.

Ms. Simon claims in her testimony that the IZ requirement for the Project is not 10% of the gross floor area dedicated to residential use, but rather is 75% of the achievable bonus density, plus 10% of the penthouse habitable space. Her interpretation of the IZ regulations is incorrect for the following reasons:

1. Under 11-C DCMR § 1001.2(b), IZ only applies to "*new* gross floor area that would result in ten (10) or more dwelling units." A unique circumstance exists within the Voluntary Design Review boundary in that it is improved with approximately 196,224

GFA, or 1.22 FAR, of commercial density that was constructed decades ago and has no IZ requirement. Given this unique circumstance, Ms. Simon's calculation, on page 3, "Step 2" of her submission, incorrectly bases the 75% IZ bonus density calculation to the *entire* 473,502 sq. ft. of gross floor area ("GFA") within the Voluntary Design Review boundary, including the *new* mixed-use development on Lot 807, *and* the *existing* 179,302 GFA of the AU Building on Lot 806 *and* the *existing* 16,922 GFA of the Spring Valley Shopping Center (SVSC) on Lots 802 and 803. The AU and SVSC Buildings have existed for decades, they have no IZ requirement per 11-C DCMR 1001.2(b), and are not being added to or modified in any way by the Project. Ms. Simon's interpretation of the IZ regulations significantly distorts the actual IZ requirement for the Project, and is contrary to the express language of the IZ regulations:

- Under 11-C DCMR § 1001.4 of the IZ regulations, "[i]f the new gross floor area comprising ten (10) or more units would result in an increase of fifty percent (50%) or more in the floor area of an existing building, IZ requirements and modifications shall apply to both the existing and the increased gross floor area." Thus, the only way the existing AU and SVSC Buildings would be treated the same as "new gross floor area" or would have "achievable bonus density" for purposes of applying the 75% achievable bonus density set aside in IZ would be if an addition was proposed that increased the existing floor area of those buildings by 50% or more. That is not Valor's proposal.
2. Under Ms. Simon's interpretation of IZ, the set aside requirement for the Project would be 62,856 square feet, which is equal to 24.4% of the residential square footage of the Project and far exceeds the 20% bonus density granted by 11-C DCMR 1002.3. Therefore, under Ms. Simon's interpretation, the required IZ set aside would completely eliminate the bonus density specifically provided by the Commission to help compensate for the requirement to construct affordable housing in this Project, and in any other similarly-situated project that includes new residential construction on lots containing separate existing buildings. Such an incongruous set aside requirement is completely at odds with the express language of the IZ regulations, and with the basic element of the District's IZ program pertaining to the percentage of affordable housing requirement which has been described in IZ proceedings as requiring between 8% - 12.5% of the residential square footage.

Pursuant to 11-X DCMR § 603.1 no flexibility can be granted from Inclusionary Zoning through the design review process, nor is the Applicant requesting any such flexibility. As such, the Applicant will provide the amount of affordable housing required under the IZ regulations which will ultimately be determined at the time of permit based upon the plan that is ultimately approved by the Commission. Based on the Commission comments at the conclusion of the January 25, 2018, public hearing, it is the Applicant's understanding that the Commission intends only to discuss the Project on February 26, 2018, and may schedule its decision on the case for a later date, and may request additional information from the Applicant. In that event, the Applicant will continue to evaluate the IZ set aside for the Project given the unique circumstances created by

the substantial amount of existing commercial gross floor area within the Project boundary and will provide an update if requested.

Additional renderings of Project within surrounding context

At the January 11, 2018, public hearing, the Commission requested additional renderings that show the Project in relation to the surrounding context from multiple vantage points. As part of its January 25, 2018, rebuttal testimony to CRD's visual impact study, prepared by Digital Design + Imaging Service, the Applicant presented two new renderings showing the Project from Massachusetts Avenue and Windom Place, NW. As was stated by the Applicant, these two vantage points were chosen as these were the same two used by CRD in its visual impact study, and were prepared using base photographs taken with an iPhone 7 camera. In response, CRD and Spring Valley Opponents inquired whether this particular camera utilizes a wide angle lens which allegedly has the potential to distort the relationship of the Project to the surrounding context.

Following the January 25, 2018, public hearing, the Applicant researched the lens type and specifications of the iPhone 7 camera used to prepare the two additional renderings that were presented to the Commission. It was learned that while the iPhone 7 camera does utilize a wide angle lens, its use for this type of application does not differ significantly from a camera without a wide angle lens. Nonetheless, to assist the Commission in comparing the Applicant's renderings with the conceptual massings contained in CRD's visual impact study, the Applicant took new photographs from various vantage points – including the two previous vantage points – using an iPhone 6 camera which has a standard lens [non-wide angle]. Using these new photographs, the Applicant has prepared several renderings showing the Project in relation to the surrounding context. These new renderings are attached as Exhibit A, Sheets 11 – 25. For comparison purposes, and to ensure full transparency, the Applicant has included the previous [iPhone 7] renderings that it presented on January 25, 2018. For the Commission's convenience, the bottom right corner of each rendering is labelled with the camera used to take the base photograph.

The Commission will note that, in terms of accurately conveying the Project in relation to the surrounding context, there is very little difference between the iPhone 7 and the iPhone 6 versions of the renderings. In fact, the only notable difference is a slightly cropped field of view (showing less context). To address this for the rendering along Windom Place, NW, the Applicant prepared two renderings, one from the same vantage point as previously presented and another from slightly further to the east. The attached renderings clearly support the testimony provided by the Applicant's experts in architecture, historic preservation, and land use and zoning that the Project has been designed in a manner that meets the design review standards of 11-X DCMR § 604.7 in a way that is superior to any matter-of-right development on the project site. Compared to the conceptual massings ("blue buildings") included in CRD's visual impact study, which appear to grossly exaggerate the height of the Project when viewed from Massachusetts Avenue and fail to show any of the substantial massing and height reductions, setbacks, and façade articulation of the Project, the attached renderings provide an accurate depiction of how the proposed buildings create safe and comfortable street frontages that encourage pedestrian activity; respect the historic

character of the surrounding neighborhood and context; and contain attractive and contextual façade designs.

Close-up rendering of retail/amenity area at southwest corner of Building 1

In response to OP's request, attached hereto as Exhibit A, Sheet 10 is a close-up rendering of the retail entrance at the southwest corner of Building 1. As shown in the rendering, this particular portion of the building has been designed with the same attention to detail and design quality as the rest of the building. In preparing this rendering, the Applicant coordinated with the prospective grocer to confirm that should it decide to lease this space that this corner of the building will remain an active entrance, and that no windows would be covered to accommodate back-of-house or storage functions.

Evaluation of south and west facades of Building 1

In response to OP's request on page 9 of its hearing report to "explore modifications at the ground level that would result in an improved pedestrian experience and ensure a safe and inviting environment along the alley," the Applicant reevaluated the south and west facades of Building 1 at the ground-floor level, adjacent to the existing public alley, and has increased the number of windows on both of these facades. As shown on Exhibit A, Sheets 8 and 9, the Applicant has added three additional windows along the west façade which will increase views into the proposed retail space and provide additional pedestrian comfort along the alley. In addition, the Applicant has added another window along the southern façade. The Applicant believes that the additional windows, together with the other pedestrian improvements proposed along the alleys (sidewalk, landscaping, pavement differentiation, trash enclosure), will provide for a safe and comfortable pedestrian environment that will improve circulation through and around the site compared to what currently exists.

Building 1 and 2 outdoor terrace lighting levels

At the January 11, 2018, public hearing, the Commission inquired about lighting on the proposed outdoor terraces and requested the Applicant to include a follow-up in its post-hearing submission confirming that the outdoor terraces will have low level lighting. As described below, the Applicant confirms that any lighting of the outdoor terraces will have low levels of lighting that is designed specifically to minimize the amount of light that emanates upward and away from the building.

As shown on Sheets A08 and A09 of the proposed plans (Ex. 114A1), Building 1 will contain an outdoor terrace of approximately 1,985 square feet at the northwest corner of the fourth floor level, and Building 2 will contain a more modest outdoor terrace of approximately 435 square feet at the northeast corner of the roof level. In order to minimize the potential for light pollution and spillage beyond the project site, the Applicant will design and construct all outdoor terrace lighting in accordance with Dark Sky requirements. Specifically, all outdoor terrace lighting will consist of UL/ETL-listed LED-driven fixtures with lower color temperatures of less than 3,000

Kelvin, and will have full cut-off shields that are pointed downward with no capability to be rotated upwards/sideways.¹

In addition to the above, as stated by the Applicant at the January 25, 2018, public hearing, the proposed outdoor terraces will be separated from adjacent homes by considerable distances. Specifically, the Building 1 outdoor terrace will be separated from the homes along the north side of Yuma Street by approximately 137 feet, and the Building 2 outdoor terrace will be separated from the homes along the east side of 48th Street by approximately 90 feet. Given the modest size of the outdoor terraces, subtle illumination levels, and the substantial separation from surrounding homes, it is highly unlikely the outdoor terrace lighting will impact adjacent properties or the surrounding area.

Building 1 grocery/retail signage areas and guidelines

In response to the Commission's request for information showing potential signage areas on Building 1, the Applicant has prepared a signage plan which is attached as Exhibit A, Sheets 6 - 7. The signage plan identifies specific finite areas along the north and south elevations of Building 1 within which signage could be located. In addition to the specified signage areas, the signage plan also includes a series of precedent images showing the types of signs that may be used, and a set of specific guidelines with which all signage must be consistent. The Commission will recall that these guidelines were originally part of the Applicant's request for minor flexibility to vary the design of retail frontages. As a result of incorporating the signage guidelines into the proposed signage plan, there is a need to modify that particular area of minor design flexibility. In so doing, the Applicant also took into consideration the comments provided by OP in its hearing report relative to this specific area of flexibility. The Applicant believes the following modified flexibility language provides greater certainty to the final retail frontage design while providing a reasonable degree of flexibility to accommodate retail tenant needs.

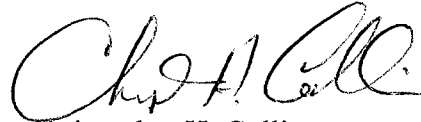
11. To vary the final design of retail frontages, including the design of entrances, show windows, and signage, in accordance with the needs of retail tenants. Such refinements shall not substantially change the exterior configuration, appearance, proportions, or general design intent of the building, and all signage shall be designed and located in accordance with the Signage Plan and Guidelines contained in the [approved plans].

¹ According to information provided by the International Dark-Sky <http://www.darksky.org/lighting/lighting-basics/>

We look forward to the Commission's deliberation at the public meeting scheduled for February 26, 2018.

Respectfully Submitted,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read "Chris H. Collins". The signature is fluid and cursive, with the first name "Chris" and last name "Collins" clearly legible.

Christopher H. Collins

CHC:jma

Enclosures

cc: Jennifer Steingasser, Office of Planning (via email)
Joel Lawson, Office of Planning (via email)
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