

December 15, 2018

Mr. Anthony Hood, Chairman
District of Columbia Zoning Commission
441 4th Street NW
Suite 210S
Washington, DC 20001

RE: Case Number 16-23, Proposal for Design Review and Development by Valor Development, LLC, Square 1499, Lots 802, 803, 806, 807 - Comments in Opposition

Dear Chairman Hood and members of the District of Columbia Zoning Commission:

I am writing to express my opposition to the application by Valor Development et al. for approval of its plan to construct, in my neighborhood, a large building complex to be called “the Ladybird.” My residence is located on Butterworth Place NW, three blocks from the proposed building site.

In its newly reworked application, Valor Development now proposes to build several townhouses plus a massive structure, 4 1/2 to 6 stories tall (including the penthouse). The building would contain 219 apartments, with minimal affordable housing and inadequate parking, a mile from the nearest Metro station. Valor claims that it intends to include a grocery store but has not, despite years of efforts, succeeded in gaining a commitment from any grocery company to locate a store in the proposed building. Not only is the size of this development completely incompatible with our neighborhood, it also violates the Height Act and its implementing regulations, specifically at Subtitle B §307.7.

The problem for Valor is that it seeks to take advantage of the steeply sloping building site to get around the 50’ limit intended by the Height Act. It does this by taking its maximum allowable height measurement from the top of an artificial embankment along 48th Street (the high point of the sloping site), thus resulting in a massive structure that rises from 43 1/2 feet along 48th Street to 79 1/2 feet at the intersection of Yuma Street and the rear alley (*i.e.*, the bottom of the slope). This results in a building that, for the most part, is well above the 50-foot limit imposed by the Act. But §307.7 plainly prohibits this maneuver. If there is an artificial embankment of **any** sort on the building site, the regulation provides only two options relevant here. Valor must either: (1) take its height measurement from the middle of its building facing Yuma Street NW (*i.e.*, the building front that is **not** affected by the artificial embankment); or (2) refer the matter to the Zoning Administrator for a determination of a level that is “. . . a logical continuation of the surrounding street grid that is **not** affected by the discontinuation of the natural elevation.” (*Emphasis supplied.*)

Valor has countered this objection with the utterly implausible claim that there is no artificial embankment along 48th Street affecting the natural elevation that was there before 48th Street was built in the 1920’s. Their claim is belied by the fact that a 15-foot wide embankment along 48th Street, plus a retaining wall, are both plainly visible to any casual observer on site. Moreover, Valor offers no explanation as to how 48th Street could have been leveled across the natural steep slope shown on the old topographical maps without the road engineers having created an embankment for that purpose, and no evidence such as soil samples to back their contention that the elevation of the 48th Street curb in front of the proposed building is exactly the same as it was in the late 19th century **before the street even existed**. Obviously, they know quite well that a soil sample would show the presence of fill material indicating the presence of an artificial embankment, as anyone would expect on a steeply sloping site. The Commission will please note that §307.7 does **not** permit Valor to “guesstimate” the natural elevation of the hillside along 48th Street (bull-dozed long ago), so as to take their height measurement accordingly. No such option is provided. **Valor only has the option of using the Yuma Street side of the building, or referral to the Zoning Administrator.**

ZONING COMMISSION
District of Columbia
CASE NO.16-23
EXHIBIT NO.249

Conclusion

I urge the Commission to consider this issue with the seriousness it deserves, and to obtain a thorough legal review by the Attorney General before reaching a decision as to the merits of Valor's application for design review approval. The other problems with Valor's project are complex and abundant, such as the allowability of a "medium density" building where only a "moderate density" building is permitted by the Comprehensive Plan, the utter impossibility of managing the traffic congestion which the Ladybird will cause in the surrounding grid of narrow residential streets, and Valor's shameful scheme to defeat the District's inclusionary zoning policy goals by setting an entire row of its apartments deep underground.

All those issues can be put aside for the time being if Valor is made to understand that it must redesign its building to conform to the Height Act, which will produce a smaller building, reduced by at least one floor. This will put Valor in a better position to obtain design review approval and alleviate some of the problems that surround their project at the present time. Like my colleagues in Citizens for Responsible Development, I am not opposed to any building project on the Superfresh site. I am only opposed to a building project that flouts the law to maximize size and profit for this particular developer.

Respectfully yours,

A handwritten signature in black ink that reads "Michael Stover". The signature is written in a cursive, somewhat stylized font.

Michael Stover
4817 Butterworth Place NW
Washington D.C. 20016
m.stover@earthlink.net
202-329-6535