

Presentation by Citizens for Responsible Development before the District of Columbia Zoning Commission in Case No. 19-10, Valor Development, LLC Consolidated PUD Square 1499, Lots 802, 803, 806, and 807 - October 7, 2019

Testimony in opposition to Applicant's claims regarding public benefits and project amenities-
Ann Stansbury

Good evening, Chairman Hood and Commissioners-

In order to approve a Planned Unit Development the Commission must find that the Applicant offers meaningful public benefits that are measurable and quantifiable. Those benefits must be weighed against any potential adverse effects, and a feature of the plan will not qualify as a benefit if it serves merely to mitigate adverse effects. Because the proposed building is so large and would occupy essentially all of the available space, it appears that there is very little room for anything that would qualify as an amenity that benefits the community. The Applicant's list of alleged public benefits consists mainly of efforts to mitigate adverse effects, as follows:

1. Applicant's claim that it offers superior urban design and architecture is not supported.

The proposed design features and architectural details, such as articulation and the color of façade materials, are supposed to create the impression that the building is smaller than it is, but this claim is not proven. The fact remains that it is still a very large building that is out of proportion to the surrounding houses. One must consider how that building would function when it is fully operational. At five to six stories it would be considered a medium density building under the Comprehensive Plan, out of harmony with the rest of the commercial property in the area. The upper stories and penthouses may be set back but they are still there. In our written submission we have noted the Court of Appeals decision in the Durant case regarding the real size of a structure and its effects.

Moreover, the architecture cannot both serve as mitigation of adverse effects and also qualify as a public benefit.

2. The proposed superior landscaping and creation of open spaces do not qualify as "public benefits."

Along 48th Street and Yuma Street there are already wide sidewalks, a heritage tree that is to be preserved, elms, and a row of mature yew trees from the corner of Yuma Street to the current entrance to the Superfresh. These are within the city's 90-foot right-of-way. They do not constitute a newly created public space. The Urban Forestry Administration has expressed concern about the trees and has objected to the removal or pruning of the elm trees. If the Applicant is planning merely to maintain these areas and replace any damaged or missing trees, that is again the mitigation of harm. The Applicant could do much more to develop a detailed landscaping plan that would enhance the tree canopy and screen the building from the nearby residences.

As to open spaces, most of the open spaces would be within the Ladybird complex itself, including the interior courtyard of building 1 and two of the three front courtyards facing 48th Street. They would not be publicly accessible. The proposed Windom Park is the same size as the other two courtyards facing 48th Street and does not appear to be a truly open and inviting public space. In its latest response to OP, Valor has said only that it “will consider” installing playable elements and will work with the ANC on other elements.

The sidewalk in front of the grocery store would be larger but would also be the entry and exit points for the grocery store, hardly a community gathering point.

3. The sidewalks or “delineated pedestrian pathways” in the north-south and east-west alleys perhaps are meant to suggest that this is a walkable community project. But these pathways must share the alley space with two way vehicular traffic, including large delivery trucks. Rather than a benefit, this creates a hazardous situation. The plan to install a HAWK light at the exit from the alley is again an attempt to mitigate the hazardous situation that the new alley pathways would create.

4. As to other alley improvements such as the trash compactors, trash management is a necessary part of any building, and to do otherwise would create a nuisance. This is mitigation of potential harm and hardly a new benefit to the surrounding neighborhood.

The width of the alley would remain at twenty feet, not wider than it currently is.

5. The Applicant cannot take credit for the site’s location near shops, schools, and the Metrobus line. Its offer to provide a shuttle to the Tenleytown Metro stop is limited and it is not yet clear what that will include.

6. LEED Gold Certification should be required in all cases of new construction, not a special benefit.

7. Whether or not the city needs more high-rent housing is not a question that we can answer, but we do know that the city needs more affordable housing. This project offers a bare minimum of affordable housing, but is using that space in order to build the largest possible structure for the most return on investment. We note that Valor has declined to include IZ housing in the townhomes because it would raise the total percentage of affordable housing in the townhomes to 20%. That would raise the total amount of IZ in the project to around 12%. The Department of Housing and Community Development has noted the plan’s small public benefit from IZ and has suggested that at least 15% of square footage be affordable.

8. The Applicant alleges that it is saving the Spring Valley Shopping Center from future development. The shopping center is under no known threat that would result in loss of its historic status and consequent replacement by some large development. In fact, the Applicant’s building would simply detract from the aesthetic value of the shopping center.

9. The MOM's Organic Market does not qualify as an amenity because there are or will be about a dozen full-service grocery stores within a three-mile radius. The market would likely be useful mainly to residents of the apartment building and neighbors who live close enough to carry their purchases home. Wagshal's Market and Delicatessen, and occasionally CVS, already serve that purpose. And here it should be noted that the project will displace a number of popular local businesses such as Wagshal's Catering, Barbeque, and kitchen operations and DeCarlo's Restaurant. The MOM's Organic Market does not in any way mitigate the negative impact on local businesses and their employees.

In conclusion, most of the proposed public benefits and amenities amount to nothing more than mitigation of damage and are insufficient in themselves to justify the construction of such a large building.