



BEFORE THE ZONING COMMISSION AND
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA



FORM 129 – ADVISORY NEIGHBORHOOD COMMISSION (ANC) REPORT

Before completing this form, please review the instructions on the reverse side.

Pursuant to Subtitle Z § 406.2 and Subtitle Y § 406.2 of Title 11 DCMR Zoning Regulations, the written report of the Advisory Neighborhood Commission (ANC) shall contain the following information:

IDENTIFICATION OF APPEAL, PETITION, OR APPLICATION:

Case No.:	16-23	Case Name:	Valor Development, LLC
Address or Square/Lot(s) of Property:	Sq. 1499, Lots 802, 803, + 807		
Relief Requested:	Design Review		

ANC MEETING INFORMATION

Date of ANC Public Meeting:	06/12/17	Was proper notice given?:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Description of how notice was given:	ANC3D Website and Northwest Current			
Number of members that constitutes a quorum:	5	Number of members present at the meeting:	9	

MATERIAL SUBSTANCE

The issues and concerns of the ANC about the appeal, petition, or application as related to the standards of the Zoning Regulations against which the appeal, petition, or application must be judged (a separate sheet of paper may be used):

See letter

The recommendation, if any, of the ANC as to the disposition of the appeal, petition, or application (a separate sheet of paper may be used):

See Letter

AUTHORIZATION

ANC	3D	Recorded vote on the motion to adopt the report (i.e. 4-1-1):	8-1-0
Name of the person authorized by the ANC to present the report:		Troy Kravitz ANC3D02	
Name of the Chairperson or Vice-Chairperson authorized to sign the report:		Charles Elkins	
Signature of Chairperson/ Vice-Chairperson:		Date:	12/12/17

ANY APPLICATION THAT IS FOUND TO BE INCOMPLETE MAY NOT BE ACCORDED "GREAT WEIGHT" PURSUANT TO 11 DCMR SUBTITLE Z § 406 AND SUBTITLE Y § 406.



GOVERNMENT OF THE DISTRICT OF COLUMBIA
ADVISORY NEIGHBORHOOD COMMISSION 3D
PO Box 40846, Palisades Station
Washington, DC 20016

*PALISADES · KENT · SPRING VALLEY · WESLEY HEIGHTS · NEW MEXICO/CATHEDRAL · THE AMERICAN UNIVERSITY
· FOXHALL VILLAGE · BERKELEY*

December 6, 2017

By a vote of 8-1, with a quorum (5) present, ANC 3D voted during a regularly scheduled and advertised public meeting on December 6, 2017 to submit this resolution in support of Valor Development’s application in Zoning Case 16-23.

Brief Statement of Support for Application

ANC 3D supports the applicant’s request for zoning relief from rear-yard setback requirements to permit a 10-foot setback in place of the required 15-foot setback along the rear of the building abutting the public alley.¹ For the reasons stated immediately below, ANC 3D finds the proposed development to be superior in design than a by-right development at the site and, as such, supports the applicant’s request to use the voluntary Design Review process under ZR16 as a means to obtain approval for this development.^{2 3}

Proposed Development Represents Superior Design to By-Right Development

- Returning a Full-Service Grocery Store to the Site: the proposed development includes an approximately 16,000 square foot grocery store. Lot 807 has long-hosted a grocery store, most recently a 24,114 SF Fresh & Greens that closed in December 2013. The grocery store has since been vacant. The return of a full-service grocery store to the site is an amenity highly-valued by neighbors.⁴ Absent obtaining additional non-residential density, Valor Development is unable to develop Lot 807 with a full-service grocery store.
- Funding and Coordinating Installation of a HAWK Light: Valor Development has committed to funding the installation of a High-Intensity Activated CrossWalk Beacon across Massachusetts Avenue, NW near Lot 807. Additionally, Valor Development has committed to working with DDOT to ensure the light is timed appropriately to not inhibit vehicular traffic along Massachusetts Avenue, NW. The HAWK light will provide critical and badly-needed protection to pedestrians already crossing Massachusetts Avenue, NW to go between the two commercial shopping centers adjacent to Record Lot 9. The light will also provide protection to the 1,000

¹ DCMR Title 11, Subsection G, Section 405.2.

² ZR16, Subtitle X, Chapter 6, Section 600.

³ For the purposes of this document, a by-right development is what is permitted on Record Lot 9 of Square 1499. This lot is zoned MU-4 and permits building heights up to 50 feet from the point of measurement plus habitable penthouse. Upon satisfaction of Inclusionary Zoning regulations, Lot 807 in Record Lot 9 permits 184,613 GFA, of which only 2,606 GFA can be used for non-residential purposes, plus a 0.4 FAR habitable penthouse.

⁴ See, for example, page 2 of the ANC 3D Report submitted in December 2016 (Exhibit 9, ANC 3D Report, Zoning Case 16-23, December 12, 2016).

older residents attending classes and lectures held by the Osher Lifelong Learning Institutes now located at Lot 806 in Record Lot 9. Finally, the light will help to unify and, hence, enliven the adjacent commercial centers currently bifurcated by Massachusetts Avenue, NW.

- Reorganizing, Cleaning and Expanding Existing Public Alley: the proposed development includes plans to clean-up the unattractive mess of dumpsters currently lining the public alley behind the Spring Valley Shopping Center. The disparate dumpster locations will be centralized and screened behind fencing so as to be unobtrusive to pedestrians. Valor Development also proposes to widen the existing alley from 20 feet to 32 feet plus install a 3-foot raised sidewalk. These changes to the alley are designed, among other things, to ensure that the current parking of delivery trucks along Yuma Street to service the Spring Valley Shopping Center is no longer necessary.
- Public Space: the proposed development includes approximately 15,000 square feet of public space, including a tree-planted pedestrian area (“Windom Walk”) between the two proposed buildings that also reduces the massing of the development facing neighbors along 48th Street, NW and Windom Place, NW.
- Courtyards and Setbacks from Property Line: the proposed development includes several courtyards moving the bulk of the proposed development further back from the property lines along the lot sides across from residential homes (48th Street, NW and Yuma Street, NW).
- Lower Height along Property Lines Across from Residential Homes: the roofline closest to neighbors along 48th Street, NW measures 40 feet instead of 50 feet as permitted by zoning. Likewise, the height of the roofline along Yuma Street, NW is lower than that permitted under by-right construction.
- Various Additional Commitments: Valor Development proposes to improve bicycle infrastructure by providing a large bike storage area and working with Capital Bikeshare to implement DDOT plans for a bikeshare station located on Record Lot 9;⁵ Valor Development commits to impose restrictions upon residents preventing them from obtaining Residential Parking Passes and ensure compliance at regular intervals; Valor Development is working with the owners of the Spring Valley Exxon station to improve vehicle circulation by installing a “pork-chop” at the 49th Street, NW exit from the Spring Valley Shopping Center;⁷ the proposal includes 10% affordable housing; and the proposed development is expected to achieve LEED Silver or Gold certification.

In addition to the community amenities and mitigation commitments reflecting the proposed development’s superior design compared to by-right construction described above, the ANC would like to address a few additional points.

⁵ See District of Columbia Capital Bikeshare Development Plan, September 2015, pp. 56-57, available at: https://ddot.dc.gov/sites/default/files/dc/sites/ddot/page_content/attachments/Draft%20DDOT%20Bikeshare%20Development%20FINAL%20reduced.pdf. At present, the only bikeshare station locations serving ANC 3D residents are located on the main campus of American University. Likewise, the only bikeshare stations serving AU Park residents are located at the Tenleytown metro station. (See <https://secure.capitalbikeshare.com/map/>, accessed November 30, 2017.)

⁶ The Bicycle Element of the District of Columbia’s Multimodal Long-Range Transportation Plan recommends the creation of bicycle lanes adjacent to the proposed site. (See Part 2 of the MoveDC Multimodal Long-Range Transportation Plan, October 2014, pages B12-B13, available at <http://wemovedc.org/>.)

⁷ A “pork-chop” is designed to divert all exiting traffic from the Spring Valley Shopping Center to the right, away from the problematic intersection at 49th Street, NW and Massachusetts Avenue, NW.

Community Engagement

ANC 3D recognizes the significant community engagement that Valor Development has undertaken on behalf of the proposed project. Community concerns were raised and discussed throughout the approximately one-dozen open, publicly-advertised community meetings convened by Valor. The proposed project has evolved as a result of these discussions. (See, for example, the changes between proposals reviewed by ANC 3D in December 2016 and December 2017.) Valor Development has created a website to share updates about the project and solicit feedback from visitors. The overwhelming majority of comments on the website, many from nearby neighbors, are supportive of the proposal.⁸ Additionally, dozens of Spring Valley neighbors have expressed support for the proposal following the recent community discussions and several have submitted letters to the Zoning Commission in support of the revised proposal.

Parking

District regulations require 72 parking spaces for the residential units.⁹ Valor is proposing 85 *dedicated* parking spaces for the residential units.

District regulations require 24 parking spaces for non-residential use.¹⁰ Valor is proposing 49 *dedicated* parking spaces for non-residential use.

In addition, Valor will be providing 236 parking spaces on their lot (lot 807) to satisfy an existing easement held by American University. These spaces are available for both residential and non-residential uses. These spaces are also accessible to paid and registered monthly parkers of AU. The entrance to the Valor lot will employ the same license plate scanning technology used at old Law School building located on Lot 806 to restrict vehicle access. The old Law School building is reportedly fully-occupied with tenants yet the 300-space parking garage beneath the building remains below 70% utilization.¹¹

Traffic

Vehicular traffic under Valor's proposal is estimated to be about the same as it would be if the existing (now vacant) buildings were occupied.¹² The estimated upper bound of vehicle trips per hour for the proposed project is 148 vehicles/hour during the AM peak hour and 305 vehicles/hour during the PM peak hour. Employing the same methodology and assumptions used to derive these estimates, the existing buildings on Lot 807 would produce 100 vehicles/hour during the AM peak and 378 vehicles/hour during the PM peak if the existing businesses (e.g., Fresh & Greens / Super Fresh) were operating today.¹³ Thus, the proposed project is estimated to produce 48 *more* vehicle trips per hour during the AM peak and 73 *fewer* vehicle trips per hour during the PM peak compared to simply filling the existing buildings.¹⁴ To put these numbers in context, baseline peak hour volumes on Massachusetts Avenue, NW alone are estimated to be approximately 2,450 vehicles/hour during the AM and PM peaks.

⁸ See <https://courbanize.com/projects/theladybird/information>, accessed November 30, 2017.

⁹ DCMR Title 11, Subsection C, Section 701.5: One space per 3 dwelling units in excess of 4 dwelling units.

¹⁰ DCMR Title 11, Subsection C, Section 701.5: One and one-third spaces per 1,000 (gross) SF in excess of 3,000 SF.

¹¹ Verbal correspondence with Shelly Repp of Citizens for Responsible Development and Linda Argo of American University.

¹² Trip generation was estimated using methodology vetted by DDOT and under assumptions derived from the Institute of Transportation Engineers' Trip Generation Manual, 9th Edition.

¹³ Existing rentable square footage on Lot 807 is 44,283 SF with 24,114 SF as the now-shuttered grocery store.

¹⁴ ANC 3D voted in December 2016 to oppose Valor's then-current proposal. At that time of ANC 3D's December 2016 vote to oppose Valor Development's then-current proposal, Valor was proposing 230 residential units with

There are reasons to believe many prospective residents will utilize public transportation instead of driving:

- The site of the proposed development is located 0.9 miles away from the Tenleytown metro station. According to Google Maps, an average pedestrian can walk from the metro station to the site in 17 minutes.
- Massachusetts Avenue, NW is well-served by three popular bus lines (N2, N4, and N6).¹⁵ These lines were used by almost 91,000 riders in October 2017.¹⁶ On-time performance increased by 20.1%, 18.5% and 5.9% for the N2, N4 and N6 lines, respectively, compared to October 2016.^{17 18}
- At a public meeting of ANC 3E held in October, 2017, a nearby resident reported that there are seven AU shuttles servicing Record Lot 9 each hour. These shuttles travel between the site location and the Tenleytown metro station and are available and free for neighbors. Valor reports that it is negotiating with AU to expand the AU shuttle bus service to provide for increased ridership from the proposed development.

While the ANC 3D report described the site location as “in an area that is not accessible to Metro and with inadequate bus service,” objective data does not support this contention at-present.¹⁹

Compatibility with the Comprehensive Plan

ANC 3D expressly acknowledges that evaluating the proposed development’s compatibility with the Comprehensive Plan to be the purview of the Zoning Commission.²⁰ ANC 3D has reviewed the arguments of Valor Development about the project’s consistency with elements of the Comprehensive Plan and finds no obvious flaw in them. Likewise, the ANC has reviewed the arguments of Citizens for Responsible Development on this same topic and finds no obvious flaw in them. We do not believe that the proposed development is clearly incompatible with the Comprehensive Plan, although we do acknowledge legitimate concerns about the proposed buildings serving as a transition between the approximately 85-foot old Law School building on Lot 806 and the residential homes on 48th Street, NW that are limited to a height of 40 feet. However, a by-right project would likely raise more problematic compatibility issues with the surrounding neighborhood, and Valor Development has implemented a number of design features to reduce and soften the proposed buildings’ massing across from single-

60,000 SF non-residential including a 55,000 SF grocery store. Valor’s current proposal reduces the units to 219 and the size of the grocery store to approximately 16,000 SF. The current proposal has estimated upper bound traffic of 55% of the estimated impact for the December 2016 proposal during the AM peak and 41% of the impact during the PM peak.

¹⁵ The N bus lines run along Massachusetts Avenue, NW between the Friendship Heights metro station and Farragut Square. Buses run from 5:30am until midnight, with buses passing the proposal site 6 times per hour in each direction during rush hour. Stops include metro stations at Friendship Heights, Dupont Circle, Farragut North and Farragut West.

¹⁶ Written correspondence on November 30, 2017 from Jordan Holt, Senior Performance Analyst for the Washington Metro Area Transit Authority.

¹⁷ *Ibid.*

¹⁸ In our December 2016 Report, ANC 3D described Metro bus service in the neighborhood as “undependable.” To the extent that this description was accurate in December 2016, the recent on-time performance statistics suggest this argument no longer applies. (See Exhibit 9, ANC 3D Report, Zoning Case 16-23, December 12, 2016, p. 5.)

¹⁹ Exhibit 9, ANC 3D Report, Zoning Case 16-23, December 12, 2016, p. 2.

²⁰ Note that this is distinct from assessing whether a proposed development addresses competing priorities within the Comprehensive Plan, or whether a proposed project may adversely impact the use of neighboring properties, respects the character of surrounding neighborhoods, or “fits” within a community, for example.

family residences. The ANC is well-informed about the recent *Durant III* case and related precedent and does not believe it is well-positioned to declare the proposal consistent or inconsistent with the Comprehensive Plan.²¹

Brief Discussion of Previous ANC 3D Report in Opposition

In a previous ANC Report adopted on December 7, 2016, ANC 3D voted to oppose the then-current proposal for ZC 16-23.²² Our report stated, “ANC 3D is not opposed to development of the existing site and, in fact, ANC 3D believes the site is appropriate for new development.”²³ Our objections included concern that a destination grocery store would create gridlock, that the 20-foot alley was insufficient for the loading at the site and would contribute to traffic congestion, that the entirety of the 236 parking spaces stipulated in the AU easement were “set-aside for American University,” and that residents of the proposed buildings “could seek parking on nearby neighborhood streets.”²⁴

Following that meeting and other community discussions, Valor Development has substantially changed their proposal. In particular, the then-current proposal included 230 residential units and 60,000 square feet of commercial space (55,000 of which was dedicated to a grocery store) whereas the current proposal includes 219 units and 16,000 square feet of commercial space. The reduction in size of the grocery store substantially reduces traffic impacts; Valor proposes to widen the public alley to 32 feet plus a 3-foot sidewalk; all of the 236 easement spaces are available to residents and patrons on a non-exclusive basis; and Valor will be implementing measures to prevent residents from obtaining residential parking passes enabling them to park on neighborhood streets. The now-current proposal is substantially different enough, with substantially different enough implications, as to render our previous report inapplicable. Moreover, updated data on several of the arguments buttressing the ANC’s original opposition suggest our previous conclusions are no longer supported by the facts.

Conclusion

The ANC’s support for Valor’s proposal is based upon their presentation before ANC 3D on December 6, 2017. Key elements of this proposal include:

- 219 or fewer residential units with an average size of at least 1,000 square feet;
- A full-service grocery store at least 10,000 square feet;
- Funding for and coordination with DDOT over the installation of a HAWK beacon across Massachusetts Avenue, NW;
- Expansion of and improvements to the alley behind the Spring Valley Shopping Center;
- Setbacks and reduced height compared to by-right construction along 48th Street, NW and Yuma Street, NW;

²¹ See, for example, “Zoning – Judicial Review of Zoning – D.C. Court of Appeals Determines a New Development Is Inconsistent with City’s Comprehensive Plan. – *Durant v. District of Columbia Zoning Commission*, 139 A.3d 880 (D.C. 2016).” 2017. *Harvard Law Review*: vol. 130, no. 1522, p. 1529; *Durant v. District of Columbia Zoning Commission*, 139 A.3d 880 (D.C. 2016); *Durant v. District of Columbia Zoning Commission*, 65 A.3d 1161 (D.C. 2013), p. 1166; *Durant v. District of Columbia Zoning Commission*, 139 A.3d 880 (D.C. 2016), pp. 884-885; *Blagden Alley Association v. District of Columbia Zoning Commission*, 590 A.2d (D.C. 1991), p. 139; and *Watergate East Committee v. DC Zoning Commission*, District of Columbia Court of Appeals, 953 A.2d 1036 (D.C. 2008), p. 1051.

²² Exhibit 9, ANC 3D Report, Zoning Case 16-23, December 12, 2016.


²³ *Ibid*, p. 3.

²⁴ *Ibid*, pp. 2-5.

- Publicly-accessible space at the dining terrace outside the grocery store and within Windom Walk.

Any material change in these elements may result in ANC 3D reconsidering and/or withdrawing this resolution of support at our next regularly-scheduled meeting on January 10, 2018.²⁵

ANC 3D asks that the Zoning Commission memorialize the commitments made by Valor Development as part of its application to undergo voluntary Design Review and stipulate that the design features, community concessions and mitigation efforts agreed between Valor and the affected ANCs be included as conditions in the zoning order. For the reasons stated above, ANC 3D requests that its analysis and vote in support of Valor Development's application in Zoning Case 16-23 be accorded great weight.



Stephen Gardner
Chair, ANC 3D

²⁵ Specifically, in the event that after December 6, 2017 any materials submitted to the Zoning Commission by Valor Development or reports submitted by DDOT or the Office of Planning collectively or individually identify a material and significant change in the impact to the community as measured against the presentation made to the Commission by Valor at its meeting on December 6, 2017, then upon the written request of three ANC 3D Commissioners communicated to the Chair of ANC 3D on or before December 28, 2017, the Commission shall place ZC 16-23 on its agenda for consideration, including a possible modification to the position here in this resolution, at its scheduled meeting on January 10, 2018.