



DONOHUE & STEARNS, PLC

January 4, 2018

**VIA IZIS**

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

**Cc:** Christopher Collins (via email), ANC 3E (via email) and ANC 3D (via email)

**Re:** ZC Case 16-23/Valor Development LLC/Square 1499  
Hearing Date January 11, 2018

Chairman Hood:

On behalf of our clients, Citizens for Responsible Development (CRD), we are submitting the attached Statement in Opposition.

Thank you for your consideration of this matter.

Sincerely,

Edward L. Donohue

**Enclosure**

**RESPONSE OF CITIZENS FOR RESPONSIBLE DEVELOPMENT TO VALOR  
DEVELOPMENT'S VOLUNTARY DESIGN REVIEW APPLICATION**

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## **Introduction**

The following statement in opposition is being filed by Citizens for Responsible Development (CRD), a party to Zoning Commission Case No. 16-23.

Citizens for Responsible Development is an unincorporated, not-for-profit, neighborhood association. Citizens for Responsible Development was formed in 2016 by neighbors of the proposed site with the mission of ensuring that the redevelopment of the SuperFresh site is conducted in a manner that is consistent with the needs and concerns of the surrounding neighborhood. Citizens for Responsible Development's members will be adversely affected by the massive scale of the proposed project. About 150 residents are active members of Citizens for Responsible Development, including a number of individuals whose homes lie within 200 feet of Lot 807. Citizens for Responsible Development itself has submitted a petition to the Commission that includes the names of 587 residents of Ward 3 who registered their opposition to the scale of the current proposal by signing the petition. A list of the names and addresses of the 169 members of Citizens for Responsible Development will be submitted under separate cover.

This statement describes the character of the of the existing neighborhood and how the increased density renders the Design Review process an inappropriate vehicle for consideration of Valor's proposal. As outlined in more detail below, Valor, in an attempt to circumvent the Zoning Regulations, is seeking more relief than would be available through a planned unit development for a project that is inconsistent with the existing historic property as well as the Future Land Use Map and Comprehensive Plan. Valor has failed to demonstrate how this project is superior in terms of compatibility with the surrounding community than what could be constructed by-right. They are impermissibly utilizing the transfer of development rights (or combined lot development) and have shown no adherence to the guidelines established by the Secretary of the Interior for proposals with impacts to historic properties. This will have an adverse impact on the community with minimal public benefit (the proposed grocery store has shrunk significantly in size since the inception of this proposal). We appreciate the Commission's consideration of the points set forth below.

### **I. Background – The American University Park and Spring Valley Neighborhood**

The proposed "Ladybird" development ("Ladybird" or "Project") would be located in the northwest section of American University Park ("AU Park") on the lot mainly occupied by a former local-serving grocery store and its parking lot. AU Park is one of the most stable, desirable, and successful neighborhoods for families in Washington, D.C. Residents who choose to make their home there are drawn to its low-density, village-like character. Since its inception, the serene, residential character of AU Park has attracted many families with children. Children often play in the streets, and the ice cream truck comes around in the summer months. When the children grow up, their parents frequently choose to age in place, enjoying visits with their grandchildren in the same calm, family-oriented community.

**A. A Two-Story Residential Community:**

The vast majority of AU Park consists of two-story, single-family homes built primarily during three periods. The oldest homes still standing today are primarily frame houses built on small tracts dotting the neighborhood during the early 20<sup>th</sup> century. Commencing in the mid-1930's, construction began on two-story Colonial Revival, Tudor, and Bungalow style homes in the northern area of AU Park. These remain the prevailing architectural styles in AU Park.

**B. Two Distinct Commercial Districts:**

AU Park is bounded by two commercial areas, both possessing distinctive but divergent functions and characters:

Tenleytown: The commercial district along Wisconsin Avenue, known as Tenleytown, dates back to the 18<sup>th</sup> century, when it served as the main thoroughfare leading from Georgetown north toward Frederick, Maryland. Today, Tenleytown is anchored by the Tenley Metro station at Wisconsin and Albemarle Streets, N.W. and includes a number of 7 – 8 story office, residential and mixed-use buildings fronting Wisconsin Avenue in a wide range of architectural styles. The Wisconsin Avenue Corridor continues to undergo development with additional residential and mixed-use structures.

The Low-Density Spring Valley Shopping area: By contrast with the Tenleytown area, the northern section of AU Park, which is where the site of the Project is located, is bounded by a one block commercial strip on both sides of Massachusetts Avenue. The shopping strip consists of two shopping centers composed of 1-3 story buildings built in the 1930's as a planned urban commercial district to serve the AU Park, Spring Valley, and Wesley Heights neighborhoods that were developing around it.<sup>1</sup> The shopping area includes the well-known Wagshal's deli and market (a fixture in the neighborhood since 1939), a CVS, a gas station, dry cleaner, four bank branches, four restaurants, and the Crate & Barrel home furnishings store. The area is nearly one mile from a Metro stop and is served by intermittent bus service, especially in the evening and weekend. The low-rise shopping centers on both sides of Massachusetts Avenue have been accorded historic preservation status.

**II. The Project Fails to Meet the Requirements for Design Review**

Design Review is intended to be less intensive than a Planned Unit Development (PUD) process (*see* Design Review regulations at Section 600.2).<sup>2</sup> Given the less onerous review, and to avoid being used as a workaround, Design Review applications are subject to stringent

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<sup>1</sup> The single exception is the large building at 4801 Massachusetts Avenue. As discussed in the section on the Future Land Use Map, that building, now owned by American University, is an anomaly.

<sup>2</sup> Unless otherwise noted, all regulatory cites are to the Design Review regulations found at Subtitle X, §600 *et seq.*

limitations. Valor's Design Review application fails to meet a number of these limitations, as discussed below.

**A. Contrary to §§ 600.1 (c) and (e) and §600.5, the Project Calls for an Increase in Density**

Valor states that the maximum amount of Gross Floor Area available on the Valor Lot is 184,514 GFA.<sup>3</sup> The proposed project far exceeds this limitation and thus fails under the Design Review requirements. While this limitation is acknowledged by Valor, we believe it is important to review the history, which is recounted in court decisions, and hence have included an explanation in the attached Exhibit 1.

Valor's original Application put the project on Lot 807 at 285,829 GFA (Original Application at G05). The updated Exhibit included with the Prehearing Statement does not specify the GFA for Lot 807, but it appears to include 277,278 GFA, reflecting modest revisions since the Application was filed. (See Prehearing Statement at G08 – and add the square footage figures on each of the floors except the Penthouse.) At 277,278, GFA, the project would utilize 92,764 more GFA than allowed matter-of-right.

It would defy the letter and spirit of the Design Review standards for the Zoning Commission to conclude that Design Review is appropriate for a 277,278 GFA project that adds density to a lot capped at 184,514 GFA.

**B. Contrary to §600.2, the Project Seeks More Relief Than Could be Secured under a PUD**

Under a PUD, a developer may add 20% in GFA.<sup>4</sup> Assuming that this increase applies to Lot 807 in the abstract (as opposed to accounting for the reduced GFA available for Lot 807), Valor could add up to 47,773 GFA through a PUD (the 79,622 square foot lot area of the site times a 3.0 FAR times 20%). Valor therefore could pursue a PUD project with up to 232,287 GFA (184,514 GFA plus 47,773 GFA). At 277,278 GFA on Lot 807, the project would utilize 44,991 more GFA than could be secured under a PUD on that Lot, thus violating §600.2 of the Design Review regulations.

**C. Contrary to §604.7(c), the Project Undermines the Historic Character of the Spring Valley Shopping Centers and Surrounding Neighborhood**

Because Valor Development's proposed "Ladybird" project would be located immediately adjacent to the historic Spring Valley shopping area and would directly face residential homes in AU Park, Citizens for Responsible Development consulted with a widely respected architectural historian, Stephen Hansen, regarding the historic preservation of the Spring Valley shopping area and the impact of the proposed "Ladybird" development on these landmarked properties and the surrounding residential neighborhood. Attached to this

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<sup>3</sup> Valor Prehearing Statement, p. 6.

<sup>4</sup> PUD Regulations, §303.3.

submission as Exhibit 2 and incorporated herein is a copy of Mr. Hansen’s report (the “Hansen Report”). We recap some of Mr. Hansen’s findings and analysis below.

As Mr. Hansen notes, the design review process requires an evaluation of the impact a project may have on the historic character of a neighborhood. The regulations at §604.7(c), specify three criteria for assessing whether “[n]ew development respects the historic character of Washington’s neighborhoods.” Valor’s proposed development fails each of these three criteria.

**1. Developments near the District’s major boulevards and public spaces should reinforce the existing urban form (§ 604.7(c)(1))**

The proposed development contradicts the existing urban form of the neighborhood, which was built based on a model neighborhood scheme in which community and retail facilities formed a “village-like” complex of complementary styles and proportions. What is now commonly referred to as the Spring Valley Shopping Center is actually composed of two separate historic landmarks: The Massachusetts Avenue Parking Shops (now the site of the Wagshal’s markets and CVS), and the Spring Valley Shopping Center (which originally included a Garfinkel’s store, now a Crate & Barrel). As a result of the planned commercial node for the surrounding residential communities, the shopping centers on both sides of Massachusetts Avenue were meant to be part of the same commercial shopping complex at the core of the neighborhood and were designed to complement the character of the neighborhoods nearby. They are visually unified by their low height and massing, Colonial Revival architectural style, and brick and slate construction materials.<sup>5</sup> Based on their historic character, both shopping centers are listed in the D.C. Inventory of Historic Sites and listed on the National Register of Historic Places.

Valor has failed to show that its massive, proposed structure fits into this existing historic urban form. In fact, as discussed further below, it clearly does not.

**2. Infill development should respect the continuity of neighborhood architectural character (§ 604.7(c)(2))**

Of particular significance to an evaluation of the proposed “Ladybird” development is the U.S. Department of the Interior’s finding that both of the Spring Valley shopping centers reflect attention to their rear elevations facing the residential buildings across the street. As the Interior Department’s National Park Service, stated when it certified the Massachusetts Avenue Parking Shops for entry in the National Register in July of 2003:

At the rear of the store, along Yuma Avenue, the building presents a more domestic feel, in keeping with the residential buildings across the street. The Colonial Revival-style replacement windows echo the shop windows on the front of the structure, while dormers and chimneys punctuate the slate-covered roof.... The design for this elevation clearly followed the recommendation of city planners to accord special attention to the rear

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<sup>5</sup> Hansen Report at pp. 2-4.

elevations of planned shopping centers, since these elevations usually abut residential streets and private homes.<sup>6</sup>

Because the SuperFresh lot slopes down away from 48th Street, the current building also sits below the 48th Street grade, thereby imposing virtually no visual obstruction to the neighboring homes. Evergreen plantings along the Yuma Street side of the lot screen the structure and parking lot from the homes on the other side of Yuma. The building is also not highly visible when viewed from Massachusetts Avenue.

The proposed “Ladybird” development accomplishes none of these goals. Looming 50 feet on the 48th Street side and rising to a full 89 feet as it traverses down Yuma Street, it towers over the immediately adjacent Massachusetts Avenue Parking Shops (now known as the Spring Valley Shopping Center). The massing and density of the structure are thoroughly inconsistent with, and disrespectful of, the shopping center and the residences along Yuma and 48th Streets. Moreover, the proposed Beaux-Arts and Second Empire architectural styles of the two proposed buildings are inconsistent with each other and clash with the Colonial Revival architecture of the shopping centers and the surrounding neighborhood.<sup>7</sup>

**3. Development should respect and protect key landscape vistas and axial views of landmarks and important places (§ 604.7(c)(3))**

The Comprehensive Plan’s land-use element calls for identifying and protecting existing important vistas and major landscape elements as large sites are redeveloped. The proposed project would adversely impact the visual effect of the two National Register of Historic Places – *i.e.*, the listed shopping centers. Notwithstanding Valor’s claims to the contrary, the project fails to include adequate buffers, setbacks, landscaping, height step downs or other measures to create a gradual transition between the massive 5 – 7 story structures and the immediately adjacent 2 story residences and shopping centers.

In fact, Valor’s depictions of the proposed “Ladybird” in its submission are deceptive. Their renderings of the development selectively provide views looking toward the project site but do not include the surrounding setting of smaller-scale residences and the landmarked shopping center. The applicant has also failed to provide cone of vision studies to provide a truer sense of the visibility of the upper recessed floors purportedly intended to limit their visibility and impact.<sup>8</sup>

**D. Contrary to §600.4, the Project Circumvents the Zoning Regulations**

Neither the Zoning Regulations nor the Future Land Use Map (the “FLUM”) included as part of the Comprehensive Plan permits Valor to erect a seven-story, “medium density” building on the old SuperFresh site. The site is zoned for “moderate density” development only, which requires Valor to scale back its building to a size that would be compatible with the surrounding neighborhood.

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<sup>6</sup> See United States Department of the Interior, National Park Service, National Review of Historic Places Registration Form for Massachusetts Avenue Parking Shops dated July 25, 2003 at Section 7, page 2.

<sup>7</sup> Hansen Report at pp. 12-13.

<sup>8</sup> Hansen Report at pp. 6-11 and 14.



The Valor application is for Design Review, a process which is less intensive than for a PUD, but which allows less deviation from matter-of-right zone standards (§600.2). Section 600.4 provides that “the design review process shall not be used to circumvent the intent and purposes of the Zoning Regulations, or to result in action that is inconsistent with the Comprehensive Plan.” In addition, as noted, “an increase in density shall not be permitted as part of a design review application.” (§600.5).

The 2016 zoning regulations classify the proposed SuperFresh site as MU-4, a mixed-use zone. The mixed-use zones “...are intended to be applied throughout the *city consistent with the density designation of the Comprehensive Plan*” (Title 11, Subtitle G, §400.1). The MU-4 zone is intended to “[p]ermit *moderate-density mixed-use* development...in low and moderate-density residential areas.” (Title 11, Subtitle G, §400.3; emphasis supplied). Further, as discussed in a later section, the FLUM designates the site as low density.

The Comprehensive Plan defines “moderate density residential” as “...a mix of single family homes, row houses, and small apartments.” The Plan defines “medium density residential” as “...areas of midrise (typically 4-7 story) apartment development, although may also identify areas with a mix of high rises and row houses, or high rises surrounded by large open spaces.” (Glossary G-26) Valor has attempted to make its building appear smaller by using illusory “setbacks” and by varying the color and texture of facing materials, but it is clear that, rising to 89 feet at its highest point, this is a very, very large building, five to seven stories high, that must be considered **medium** rather than **moderate** density. As the DC Court of Appeals said in the *Durant* decision, a decision reversing Zoning Commission approval of a similar-sized project:

“[T]he Commission relied primarily on architectural features that would diminish the proposed building's overall visual impact, such as the top floor's setback from the edge of the building and the building's setback from the property line. Although those considerations are potentially relevant to other issues, they do not support a conclusion that the proposed building constitutes a moderate-density use under the FLUM, because the FLUM's definitions of “moderate density” and “medium density” focus on buildings' actual physical characteristics, such as the number of stories or units in a building, rather than on how the building would look to an observer. 10–A DCMR §§ 225.4, .5.”<sup>9</sup>

Here, the facts are inescapable: the Ladybird would be five stories tall on the side facing 48th Street NW and seven stories tall (with its penthouse) at its highest point (89 feet) facing Yuma Street, at the corner of the alley that connects Yuma Street to Massachusetts Avenue. It is therefore a higher density building than allowed by the Comprehensive Plan, the FLUM, and the MU-4 designation.

**E. Contrary to §600.4, the Project Would Result in Action Inconsistent with the Comprehensive Plan and the Future Land Use Map**

While the comments below focus mostly on the Rock Creek West Element within the Comprehensive Plan (the “Plan”) and the FLUM, we will first address the Plan’s Land Use

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<sup>9</sup> *Durant v. District of Columbia Zoning Commission*, 139 A.3rd 880, (DC Court of Appeals 2016),

Element, which the document calls the “cornerstone” of the Plan, as well as the Urban Design Element.

## **1. Land Use Element**

### **a. Transit-Oriented and Corridor Development**

The Plan calls for fully capitalizing on the investments in Metrorail by requiring better use of land around transit stations and along transit corridors.<sup>10</sup> The SuperFresh site, however, is almost a mile from the Tenleytown Metrorail stop (nine-tenths of a mile to the main entrance to the nearer building (Building no. 1)). According to the Plan, “the ‘reach’ of transit-oriented development around any given station varies depending on the neighborhood, but ¼ to ½ mile is generally used across the country to define the walkable radius around each station.”<sup>11</sup> Further, bus service on the one line running anywhere near the site (the N4 during the workday and the N6 in the evening and on weekends) is intermittent, particularly in the evening and on weekends.<sup>12</sup> Ward3Vision, in May 2016 pointed out that, for the SuperFresh site, “what’s missing is rapid transit.”<sup>13</sup> The Project is not transit friendly.

### **b. Infill Development**

The Plan calls for encouraging infill development of vacant land, but also says that “such development should complement the established character of the area and should not create sharp changes in the physical development pattern.”<sup>14</sup> The Project fails under this test because a 5 to 7 story, 89 foot tall structure does not in any way “complement” the 2-story homes on the adjoining neighborhood streets or the low density, historically designated and protected Spring Valley shopping area. The images prepared by Digital Design & Imaging Service, Inc., attached as Exhibit 5, demonstrate the excessive scale of the Project in relation to the neighborhood. It also should be noted that the SuperFresh building in fact is not vacant, as the structure now houses businesses that employ more than 80 workers, all of whom will lose their jobs or be displaced.

### **c. Nodal Development**

The Plan calls for encouraging pedestrian-oriented “nodes” of commercial development at key locations along major corridors provided “height, mass, and scale of development within nodes respects the integrity and character of surrounding residential areas and does not unreasonably impact them.”<sup>15</sup> The Project fails under this test not only because it does not sit

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<sup>10</sup> Comprehensive Plan, LU-1.3.

<sup>11</sup> Plan, LU-1.3.

<sup>12</sup> The Spring Valley area is not included on the list of premium transit corridors or identified as one of the City’s “Great Streets,” in the Plan, LU, p.3-18.

<sup>13</sup> May 26, 2016 Letter from Susan Kimmel, on behalf of Ward3Vision, to ANC3E.

<sup>14</sup> Plan, Policy LU-1.4.1.

<sup>15</sup> Plan, Policy LU-2.4.5.

along a major corridor but also because its height, mass, and scale exceeds and does not respect the surrounding residential area.

## **2. Urban Design Element**

The Urban Design Element states that the overarching goal for urban design is to “enhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identity of its neighborhoods, and harmoniously integrating new construction with existing buildings.”<sup>16</sup> The Urban Design Element further states that “overpowering contrasts in scale, height, and density should be avoided as infill development occurs.”<sup>17</sup> The scale, height, and density of the Project clashes with the neighboring 2-story residential community and with the low density, Colonial Revival style, Spring Valley commercial center. Further, as discussed above and in the attached Hansen Report, the Project by its sheer size detracts from the two historically designated and protected shopping centers along Massachusetts Avenue.

## **3. Rock Creek West Element**

The Project is located within the Rock Creek West Area. The Rock Creek West Element (RCW Element) states in the Overview section that “Rock Creek West’s most outstanding characteristic is its stable, attractive neighborhoods. These include predominantly single family neighborhoods like ... American University Park.... Although these communities retain individual and distinctive identities, they share a commitment to proactively addressing land use and development issues and conserving neighborhood quality.”<sup>18</sup> The height, scale and density of the Project are deeply out of character with the neighborhood and therefore violate this overarching commitment described in the Plan. It is important to note that the development is not on Wisconsin Avenue or Connecticut Avenue, two areas the Rock Creek West Element identifies as Policy Focus Areas, nor is it near a Metrorail station. In fact, the Project does not face a major arterial, or even a minor arterial or collector street, but instead faces two local streets (Yuma Street and 48<sup>th</sup> Street). The nearest Metrorail station is almost a mile away. With the exception of the building now owned by American University which fronts on Massachusetts Avenue (a major arterial), no other commercial building in the Spring Valley commercial area is more than three stories tall.

The RCW Element also states that “The need to appropriately control and guide growth, and to protect neighborhoods, remains a top priority throughout the community and is a major theme of this Element.”<sup>19</sup> The Project, which is situated on two residential streets, fails under this standard. The two 5 to 7 story buildings, situated on local, residential streets, are out of character to the neighboring residential community of 2-story homes.

The RCW Element further states that “much of Rock Creek West retains a small town character today.”<sup>20</sup> This character is precisely what the neighbors want to protect. The infill

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<sup>16</sup> Plan, Urban Design, p. 9-2.

<sup>17</sup> Plan, UD-2.2.

<sup>18</sup> Plan, RCW p. 23-1.

<sup>19</sup> Plan, RCW p. 23-2.

<sup>20</sup> Plan, RCW p. 23-4.

project across Massachusetts Avenue within the second Spring Valley Shopping Center is the type of development that preserves the desired character. That project is a 2-story commercial building that attempts to match the scale and design of the neighboring commercial buildings, and it is appropriately named “Spring Valley Village.”

The RCW Element states that traffic congestion, pedestrian safety, and parking are major problems or issues.<sup>21</sup> The Project will exacerbate these concerns.

Under “Policies and Actions – General Policies”, the RCW Element calls for protection of low density, stable residential neighborhoods west of Rock Creek Park. The Plan states that the “relatively low-density commercial zoning on most of the corridors has not provided the predictability many residents seek.”<sup>22</sup> This statement would certainly be proven true were this Project approved as proposed, which it should not be. The Plan further states as a General Policy that “Future development in both residential and commercial areas must be carefully managed to address infrastructure constraints and protect and enhance the existing scale, function, and character of these neighborhoods.”<sup>23</sup> The Project fails to meet the standard contemplated by this Policy. Rather than managing growth, by exceeding the height and density limits of what is permitted, the Project is an example of uncontrolled growth. The Project is totally out of character with the surrounding neighborhood of which it would be a part and with the adjacent, historically designated and protected commercial corridor. Citizens for Responsible Development supports low density development on the site that conforms to this policy.

The RCW Element, mirroring the City-wide Land Use Policy, states that heights and densities for infill development should be appropriate to the scale and character of the adjoining communities, and that buffers should be adequate to protect existing residential areas from noise, odors, shadows, and other impacts. The Project fails under this policy. The Project is out of character with the adjoining residential and commercial neighborhoods. The main entrance to the retail stores and the large apartment building is directly across a local street from a row of single family homes. One can expect that those entrances will be busy, and that cars and delivery vehicles will park – or double park – on Yuma Street as they drop people off or make deliveries. Noise, commotion and pollution will become a problem, and pedestrian safety would be seriously compromised. Also, the building at that point is at least 50 feet higher than the homes, depriving the homes of air, light and privacy. The shadow study included in the prehearing statement shows homes on Yuma Street and parts of 48<sup>th</sup> Street will be in the shadow of the Project during the Fall and Winter, but does not show what happens after 4:00 pm during Eastern Daylight Time. We address this later in our response. Further, the rooftop terraces on the two buildings will overlook the Yuma, Alton, and 48<sup>th</sup> Street neighborhoods, depriving them of privacy.

The RCW Element calls for recognizing the importance of the area’s five Metrorail stations to the land use pattern and transportation network of Northwest Washington and the

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<sup>21</sup> Plan, RCW p. 23-10.

<sup>22</sup> Plan, RCW p. 23-9.

<sup>23</sup> Plan, Policy RCW-1.1.1.

entire District of Columbia<sup>24</sup> and that development should be centered around Metrorail stations. But even here, the Plan requires “Careful transitions from development along the avenues to nearby low-scale neighborhoods must be provided.”<sup>25</sup> The Project is located far from Metrorail. Very few residents in the immediate neighborhood walk to the Tenleytown Metrorail stop. The site is served by one bus line (N4 during weekday days, and N-6 during the evening and weekend). Bus service is intermittent during the evening (averaging once every 30 minutes) and weekend (averaging once every 45 minutes). Since the Project is not transit friendly, it fails to meet an element of “smart growth.”

The RCW Element contains a policy to “conserve the important resources of neighborhoods west of Rock Creek, including ... the Spring Valley Shopping Center.”<sup>26</sup> As noted earlier, this development will detract from the Spring Valley Shopping Center.

The RCW Element states that the fact that a majority of the schools in this Planning Area are operating at or above capacity should be considered in DCPS facility planning, and in the approval of any residential development that could further exacerbate school overcrowding.<sup>27</sup> This is truer now than when the Plan was last amended. The enrollment at each of the public schools servicing the SuperFresh site - Janney Elementary, Deal Middle and Wilson High – is above capacity even after each has been renovated and expanded in recent years. Reducing the scale of the development as Citizens for Responsible Development has requested would reduce the stress on the public school track serving the area.

#### **4. Future Land Use Map**

The Future Land Use Map (FLUM) is part of the adopted Comprehensive Plan, and carries the same weight as the Plan document itself.<sup>28</sup> The FLUM “express[es] the public policy on future land uses.”<sup>29</sup> The FLUM designates the SuperFresh site as Low Density Commercial. The Plan’s Framework Element goes on to say that a “common feature [of these zones] is that they are comprised primarily of one- to three-story commercial buildings.”<sup>30</sup> With the sole exception of the American University Building, this designation accurately describes the SuperFresh site, Lots 802 and 803, and the commercial area across Massachusetts (Squares 1500 and 1467). Citizens for Responsible Development is in full concurrence with a one to three story development on the site, which would be consistent with the entire surrounding area, which is shown as being “Low Density Residential.”

The Framework Element further states that the “zoning of any given area should be guided by the Future Land Use Map” and that “zone districts may be compatible with more than one“ FLUM designation, “depending on the prevailing character of the area and the adjacent

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<sup>24</sup> Plan, Policy RCW-1.1.6.

<sup>25</sup> Plan, Policy RCW-1.1.6.

<sup>26</sup> Plan, Policy RCW-1.2.5.

<sup>27</sup> Plan, Policy RCW-1.2.8.

<sup>28</sup> Framework Element, p. 2-33.

<sup>29</sup> Framework Element, p. 2-33.

<sup>30</sup> Framework Element, p. 2-34.

uses.”<sup>31</sup> Here the prevailing character of the area is single family homes and one to three story commercial. We submit that the Zoning Commission should look to the FLUM and the prevailing character of the area and adjacent uses in rendering a decision on the Application.

The one anomaly in the area is the building now owned by American University. As noted elsewhere in this response, the construction of that building occurred in 1979 (before the first Plan of the Home Rule Era – which actually was adopted in 1984 without a Land Use Map<sup>32</sup>) as a result of the shifting of mass among two lots owned by the same organization. The Framework Element states that within an area, there may be individual buildings that are higher or lower than the ranges specified.<sup>33</sup> Here, the existence of the American University building, which is six stories tall, argues for a lower building on the SuperFresh site. In fact, that is exactly what was contemplated by the owner back in 1979, as explained in Exhibit 1..

**F. Contrary to §600.1(a), the Project Will Have an Adverse Impact on the Community**

**1. Traffic**

The Gorove/Slade Comprehensive Transportation Review (CTR) estimates that the project will generate 148 additional trips during the morning peak hour and 305 additional trips during the afternoon peak hour, and 21 truck deliveries per day. The critique of the CTR prepared by the traffic consultant retained by Citizens for Responsible Development, Joe Mehra of MCV Associates, is attached as Exhibit 3. Among other findings and comments, he estimates that the project *will generate an additional 3500 trips each weekday*. Most trips, and all the truck traffic, will enter and exit through the 20-foot wide alley behind the American University building, using 48<sup>th</sup> Street. This will cause additional congestion at that point, which also is where the American University shuttle buses stop (up to 10 per hour during the day). The buses also idle at that location, blocking one of the three lanes for extended periods. Also, because 48<sup>th</sup> Street doglegs at that point, it is difficult for vehicles to see oncoming traffic around the buses.

The additional traffic will endanger pedestrians, including the many young children who live and play in the neighborhood and the elderly. The 20 foot alley behind the AU building will be a real bottleneck, caused both by the heavy automobile traffic and trucks entering and leaving the loading docks (including the loading docks for the AU building, which are on the alley). Pedestrians using the path along the alley behind AU will have to walk by 100 feet of entrances to the loading docks and underground parking. In addition, pedestrians using Windom Walk to walk through the site will, upon descending the staircase down to the alley behind AU, be immediately confronted with the 100 foot long entrance and exit (with no refuge)

**2. Parking**

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<sup>31</sup> Framework Element, pp. 2-37-38.

<sup>32</sup> Framework Element, p. 2-32.

<sup>33</sup> Framework Element. P. 2.37.

Valor's submission indicates that there will be 224 parking places for the 219 residential units (240 if the additional flexibility requested is granted).<sup>34</sup> The residents of all homes in the neighborhood have vehicles, frequently 2. Also, walking to the Metro is not a viable option for most, given that the site is 0.9 miles from the nearest Metrorail stop. At 1.5 autos per unit, there would need to be 328 parking spots to satisfy the needs of residents (or 360 if the requested additional flexibility is granted). Thus, the 224 parking places will be inadequate, and will result in overflow parking in the neighborhood. Further, the Commission should ascertain the certainty of the availability of the 224 parking places, since the Gorove/Slade CTR references 85 dedicated parking places. If the additional spaces come from spaces previously assigned as shared spaces with American University, the reallocation should be documented and made permanent without the possibility of termination by AU.

### **3. Light and Privacy**

The shadow study included by Valor as an exhibit to its prehearing statement does not show what happens after 4:00 pm in the summer.<sup>35</sup> An expanded study prepared by Valor at the request of Citizens for Responsible Development is attached as Exhibit 4. It shows the Project, because of the size of the buildings, will cast significant shadows on neighboring streets during certain parts of the day and year, depriving the neighbors of sunlight. Also, the plans call for rooftop terraces on both buildings, apparently situated on the top of the 4<sup>th</sup> floors (i.e. higher than 2-story homes they overlook). The neighbors will have Ladybird residents peering down on their homes and yards, depriving them of privacy.

#### **G. *Contrary to §604.8, Valor Has Failed to Demonstrate that the Project Is Superior to any Matter-of-Right Development Possible***

Under the Design Review regulation, the Zoning Commission must "find that the criteria of §604.7 are met in a way that is superior to *any* matter-of-right development possible on the site." (§604.8, emphasis added.) Valor has repeatedly stated that it could build essentially the same building as a matter of right, but without a grocery store. Yet, as noted above, Valor's own calculation of the size of a matter-of-right building - taking into account the previous transfer of density from the adjoining lot - is one containing 184,514 GFA, as contrasted with the 277,278 GFA of its latest Design Review proposal. How Valor could construct the same number of apartments, or the same building mass and height in 100,000 fewer square feet is a challenging scenario, to say the least.

All Valor has shown is a straw man scenario of three massings with inset outlines of the proffered five story building with a penthouse that utilizes only part of the site. *See* Prehearing Statement at A15, A18 and A21. Valor does not spell out how much GFA is used in the scenario, but, as described above, concedes the site is limited to 184,514 matter-of-right GFA. If

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<sup>34</sup> Valor's Prehearing Statement, pp. 38-39.

<sup>35</sup> See pages A 46 and 47 of Exhibit 114A3, posted on IZIS.

the scenario utilizes more than 184,514 GFA, it should fall upon Valor to explain that fact and why additional GFA on the site would be matter-of-right given its own claims. So, yes the proffered matter-of-right scenario might use all of the height and allow for no setbacks, but to do so it appears to employ a comically tall thin building that does not use the full site. It is “a” matter-of-right scenario, but not the only one, nor a particularly realistic one, and thus fails to meet the Design Review requirement.

What might other matter-of-right scenarios utilizing all available GFA look like? To give a rough idea, consider that if the proposed layout were used and the fourth and fifth floors omitted, the project would utilize 190,116 GFA, or if the third and fourth floors were omitted, it would utilize 172,043 GFA. Thus, keeping the layout up through the second floor with a third floor that was smaller than the proffered fourth floor, but larger than the proffered fifth floor and with a penthouse on top of that and making other minor adjustments to address other requests for relief, could qualify and use all of the matter-of-right GFA. In what way is the Design Review Application approach superior to such an alternative matter-of-right scenario (or any of a number of scenarios using all of the matter-of-right GFA)? It is not. Indeed, an alternative like that is exactly what Citizens for Responsible Development has urged Valor to embrace for months. Valor might say its Design Review scenario is superior, but at bottom that would be because the scenario allows for more density. Adding density is impermissible in Design Review and can hardly be a basis for a claim of superiority over a matter-of-right alternative.

### **III. The Transfer of Density from the Spring Valley Shopping Center Is Either Impermissible or Triggers Review under Secretary of Interior Guidelines and Standards**

As stated above, the Design Review process does not allow for an increase in density. It logically follows, therefore, that there are no provisions in Chapter 6 of Subtitle X that allow for the transfer of development rights or combined lots. In fact, the only allowance for combined lots to allow for flexibility in distribution of residential/ non-residential FAR applies only to the MU-10 zone. See Subtitle G §410.1. Even then, the aggregate FAR for residential and non-residential uses for the zone may not be exceeded. Finally, credit trade areas (formerly TDR or CLD zones under the 1958 Zoning Regulations) only exist under the 2016 Zoning Regulations in the downtown zones. The subject property was never eligible for TDR or CLD credits under the 1958 Regulations and they cannot be utilized here.

As stated by Stephen Hansen in his impact report attached as Exhibit 2, if Valor is proposing to attempt a combined lot here for the purposes of reapportioning GFA, then the new development will necessarily be located on a lot with the historic shopping center and the Secretary of Interior’s *Standards for the Treatment of Historic Properties* are triggered. While the Guidelines are advisory and not regulatory, the burden should be on the applicant to demonstrate why it should not have to comply with these federal standards. In its pursuit of the least stringent review process, Valor is also attempting to circumvent guidelines and restrictions enacted to preserve areas like this. Design Review is not the appropriate vehicle for a project of



this magnitude and impact as evinced by Valor's inability to demonstrate that the proposal falls within the parameters of the Design Review process.

In January of 2014, the D.C. Court of Appeals decided in favor of Southwest Waterfront developer Hoffman-Struever, in *Randolph v. D.C. Zoning Commission*. The Petitioners, residents in the Tiber Island Complex, which in fact was not part of the zoning application, opposed the height, massing and lot occupancy of Hoffman-Struever's proposal and argued that it negatively impacted their development's historic nature and access to light and air. The Court found that the Zoning Commission correctly approved the PUD - a proposal of appropriate development that accounted for the nearby residential complex.<sup>36</sup> The Court also found, as had the Zoning Commission, that the Respondent had designed the building in an architectural style compatible with the neighboring historic residences - they had "successfully accommodated the competing interests of moderate density development against the need to provide an appropriate transition to existing stable neighborhoods." Valor has demonstrated no such balance of the needs for development and the interest of the existing historic properties.

Moreover, while the Court of Appeals found that Hoffman-Struever had adequately considered the impacts to the neighboring historic residences, these historic properties were separated from the subject parcel (11) by a 38' cartway, sidewalks and tree-lined planting strips. In the case of the Valor Application, the historic properties share the same lot as the proposed development and are part of the Project. Here, Valor is seeking a less stringent review (Design Review v. PUD) for a more directly impactful development.

**IV. The Zoning Regulations Do Not Permit Valor to Take Its Maximum Height Measurement from 48th Street, so as to Erect a Much Higher Building along the Length of Yuma Street and the rear alley**

Valor measures the height of its main building from the middle of its 48th Street side, going up 50 feet from the curb, thus taking advantage of the steeply sloping lot to justify a massive structure that reaches a total elevation of 73 feet (89 feet with penthouse) at the lowest point of the slope along rear alley that intersects with Yuma Street. It is not permissible, however, for Valor to use the high point of 48th Street to achieve this result.

Under the District of Columbia Height Act, D.C. Code Ann. Section 5-405 (1994), a building may rise no higher than the width of the street it fronts, plus 20 feet. 48th Street is 30 feet wide, so adding 20 feet makes 50 feet. The implementing regulation, at Subtitle B §306.1, provides that, in addition to the height limitations of the Zoning Regulations, "all buildings are also subject to and shall conform to the limitations of the Height Act." §306.2 provides that [w]here the maximum height permitted within a zone differs from the maximum height permitted by the Height Act, the more restrictive maximum height shall apply," which for MU-4 zones is 50 feet.

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<sup>36</sup> Tiber Island was designated during the PUD process as a D.C. historic property. This is an important distinction because the two historic properties that Valor will impact are pre-existing and are listed on the National Register as well as D.C.

Subtitle B §307.1 specifies that:

“...the building height shall be the vertical distance measured from the level of the curb, opposite the middle of the *front of the building* to the highest point of the roof or parapet or a point designated by a specific zone district.” (Emphasis supplied.)

Thus, the determinative question under §307.1 is: What is the “front of the building” as applied to the proposed Ladybird main building? We submit that the “front” of the main Ladybird building is, as a matter of law, on Yuma Street, not 48th Street. This restricts Valor to a significantly lower measuring point down the slope along Yuma Street.

The legal address of the building site, Lot 807, is 4820 Yuma Street. (See Official Zoning Map for Square 1499, Lot 0807, which lists the “Premises Address” as 4820 Yuma Street NW.) Moreover, the lobby and entrance to the main Ladybird building will be, according to Valor’s own plans, on Yuma Street. The main pedestrian entrances to the proposed grocery store as well as the residential lobby of Building 1 will also be on Yuma Street. See Valor’s Prehearing Statement dated December 21, 2017, pp. 8-9. Even though Valor states that it will include an auxiliary pedestrian access on 48th Street for residents of the main building, that would be only a side entrance. The “front” of the building is clearly on Yuma Street.

Although Valor may call the 48th Street façade the building’s “front,” in reliance upon §307.5 which provides that “...any front may be used to determine the maximum height of the building...” that provision is limited by the introductory clause “...[e]xcept as provided in Subtitle B §307.7...” Valor’s bid for using 48th Street as the measuring point runs afoul of Subtitle B §307.7, which specifically pertains to lots like the SuperFresh site, where the existing building and its parking garage are connected to 48th Street by a steep ramp up an artificial embankment. That provision states:

“When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the height of a building shall be measured using the first of the following four (4) methods that is applicable to the site:

(a) An elevation or means of determination established for a specific zone elsewhere in this title;

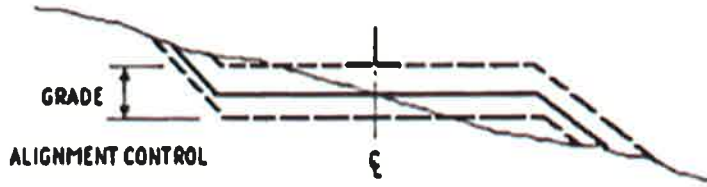
(b) An elevation for the site that was determined prior to the effective date of this section by the Zoning Administrator, or the Redevelopment Land Agency, its predecessors or successors;

(c) A street frontage of the building not affected by the artificial elevation; or

(d) A level determined by the Zoning Administrator to represent *the logical continuation of the surrounding street grid where height is not affected by the discontinuation of the natural elevation.*” (Emphasis supplied.)

In this instance, the principal feature of the building site is the steep **embankment and ramp** to the 48th Street curbside resulting from: (1) the original need to level the roadway for

48th Street across the natural slope of the land; and (2) the subsequent excavation of the **artificial depression** below that embankment that was needed to create the current SuperFresh parking garage. 48th Street now lies in a roadbed that was leveled according to the standard method illustrated below:



Note that, in this method, there is no cutaway or retaining wall on the uphill side. Instead, an embankment is created on the downhill side to level the road. As shown in the photographs below, the section of 48th Street that runs above the SuperFresh site conforms to the above illustration:



This photo shows 48th Street (and its embankment) looking south toward Massachusetts Avenue. The SuperFresh site is downhill to the viewer's right.



This photo, also looking south towards Massachusetts Avenue, shows the embankment retaining wall and the ramp down to the upper deck floor of the SuperFresh parking lot.

From the top of the retaining wall that abuts the roadway embankment there is an approximate 15-foot drop straight down to the lower floor of the top deck of the parking lot. The floor of the parking deck then slopes further downward to the level of the Yuma Street entrance, which is an exit for the parking lot. This amounts to a total decline in elevation from the 48th Street curb to the rear alley of approximately 23 feet. Even Valor admits that along Yuma Street “... there is a substantial drop in grade from east to west.” *See* Valor’s Prehearing Statement dated December 21, 2017, p 11. This substantial drop in grade is the result of the 48th Street embankment plus the “artificial depression” of the garage excavation, and it would give Valor an impermissible advantage if it were allowed to take its height measurement from the 48th Street curb. As noted above, giving Valor that advantage would result in a building rising from 50 feet on 48th Street to 73 feet along the rear alley that intersects with Yuma Street (89 feet with penthouse).

The only “street frontage of the proposed Ladybird building” that is directly affected by the roadbed embankment and the artificial depression below it, is the Yuma Street frontage. That is where Valor’s measurement (street width plus 20 feet) is required to be taken under §307.7 (c). The middle of the front of Valor’s building would be approximately where the rear alley intersects with Yuma Street, taking two stories off the maximum height of the building.

Alternatively, it may be appropriate to refer to §307.7 (d), since to some extent Yuma Street’s elevation is affected by the above-referenced embankment where it rises to its intersection with 48th Street. Under §307.7 (d), the Zoning Administrator’s determination of the “logical continuation of the surrounding street grid” that would **not** be affected by the 48th Street embankment and the steep slope of the site, could well be based on the level occupied by the historically-preserved shopping center, the neighboring houses along Yuma Street, and the AU building.

Accordingly, under §307.7, the result we seek – a less dense and less tall building - would be eminently fair and appropriate, since the application of either paragraph (c) or (d) would require Valor to take at least two stories off the maximum height of the Ladybird building. This would result in a building more nearly in the category of “moderate” rather than “medium” density, as required by the zoning regulations and the Comprehensive Plan, and much more in keeping with the residential and low-density commercial character of the existing neighborhood.

Finally, Valor’s proposal appears to be predicated on the notion that, if they use 48th Street as the basis for calculating the height of the building, the bulk of the main building that fronts Yuma Street is “below grade” and so cannot be counted for the purpose of conformity with the 50-foot limitation of law and regulation. This argument defies common sense. Where Valor’s building would rise to a total of 89 feet is the **ground level** for the entire commercial area as well as for the homes along Yuma Street. These shops and houses are not subterranean structures. We also note that, although Section 5(d) of the Height Act also states that “The height of a building on a corner lot will be determined by the width of the wider street,” both 48th Street and Yuma Street are equally 30 feet wide, so Valor must abide by the requirements of §307.7 on this site.

### **Conclusion**

We believe that more than sufficient grounds exist on which to base a denial of Valor’s application. CRD appreciates the Commission’s consideration of its concerns and plans to participate fully in the January 11<sup>th</sup> hearing.

Exhibit 1

## Explanation of Matter of Right Calculation

The current owner of the property on which Valor plans to build is Paul S. Burka Apex Real Estate. Paul Burka and others originally owned a larger parcel, which is now made up of Lots 806 and 807. American University now owns Lot 806 (4801 Massachusetts Avenue), which it uses for administrative offices and classrooms. The former SuperFresh building occupies Lot 807. In the early 1970s, in order to facilitate the construction of the building at 4801 Massachusetts, the owners received City approval to close the public alley separating what are now Lots 806 and 807. As the District of Columbia Court of Appeals described this action, “. . . the purpose of the closing was . . . to permit construction of a larger building on [Lot 806] than the District of Columbia Zoning regulations otherwise would permit. This could be accomplished, in effect, by 'borrowing' additional FAR from [Lot 807] for use on the other lots.”<sup>1</sup> Thus, the Burkas consolidated the entire parcel for development purposes, so that “the buildings on the two lots are considered one structure.”<sup>2</sup>

Describing what the Burkas did, the court explained that the zoning regulations at the time allowed a GFA of 2.0. Thus, on the entire Lot 9 (which encompasses both Lots 806 and 807 and covers 121,272 sq. ft.), they could build a building with a maximum GFA of 242,544 sq. ft. By means of a Declaration of Easement and Agreement, recorded in 1979, the property owners transferred some of the density allowed for Lot 807 to the adjoining Lot 806. They allocated the maximum GFA between Lots 806 and 807 – 179,302 sq. ft. for Lot 806, and 63,242, sq. ft. for Lot 807.<sup>3</sup>

Since 1979, the zoning regulations have increased the allowable FAR to 3.0. With an additional FAR of 1.0, there is a total increase in GFA of 121,272 (1 x size of total Lot 9). Assuming that Valor has an agreement with American University to use the entirety of the increased FAR for Valor’s building, the current maximum GFA for Lot 807 is the original amount allocated to that lot – 63,242 sq. ft. – plus the additional amount now allowed for both lots – 121,272 sq. ft. – for a total of 184,514 sq. ft. This is the size of the building Valor claims it can build as a matter of right.<sup>4</sup>

This history shows that an impediment was placed on Lot 807 to allow for a larger development than would otherwise be permitted on Lot 806. The transfer makes some sense, in that Lot 806 is on a commercial street, while Lot 807 is bordered by two, local streets abutting a low-density

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<sup>1</sup> *American University Park Citizens Assoc. v. David Burka, et al.*, 400 A.2d 737, 739 (D.C. App. 1979). This case can be accessed at

[https://scholar.google.com/scholar\\_case?case=7137282137471843890&q=400+A.2d+737&hl=en&as\\_sdt=20006](https://scholar.google.com/scholar_case?case=7137282137471843890&q=400+A.2d+737&hl=en&as_sdt=20006).

<sup>2</sup> *Paul S. Burka, et al. v. Aetna Life Insurance Co., et al.*, 945 F.Supp 313, 321 (D. D.C. 1996). This case can be accessed at

[https://scholar.google.com/scholar\\_case?case=17771150214788664572&q=945+F.Supp.+313&hl=en&as\\_sdt=20006](https://scholar.google.com/scholar_case?case=17771150214788664572&q=945+F.Supp.+313&hl=en&as_sdt=20006).

<sup>3</sup> *Paul S. Burka, et al. v. Aetna Life Insurance Co., et al.*, 945 F.Supp at 315.

<sup>4</sup> If, on the other hand, the increased allowable FAR is allocated between Lots 806 and 807, then the maximum size of a building on Lot 807 is reduced. Using the lot size of each separate parcel, one would add 41,650 sq. ft. to Lot 806, and 79,622 sq. ft. to Lot 807. The maximum GFA for Lot 807 in that case would be 142,864 sq. ft. (63,242 sq. ft. plus 79,622 sq. ft.).

residential neighborhood. Bottom line: Valor is now impermissibly proposing to increase density.



Exhibit 2

The Impact of the “Lady Bird” Project on the  
Historic Spring Valley Shopping Centers and Surrounding Neighborhood



Prepared for

Citizens for Responsible Development

November 22, 2017



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**Introduction**

Valor Development, LLC (the "Applicant") has submitted an application to the Zoning Commission of the District of Columbia (the "ZC") for voluntary design review of a new mixed-use development project "Lady Bird" (the "Project") located on Lots 802, 803, and 807 in Square 1499 (the "Project Site") (Figure 1).<sup>1</sup>

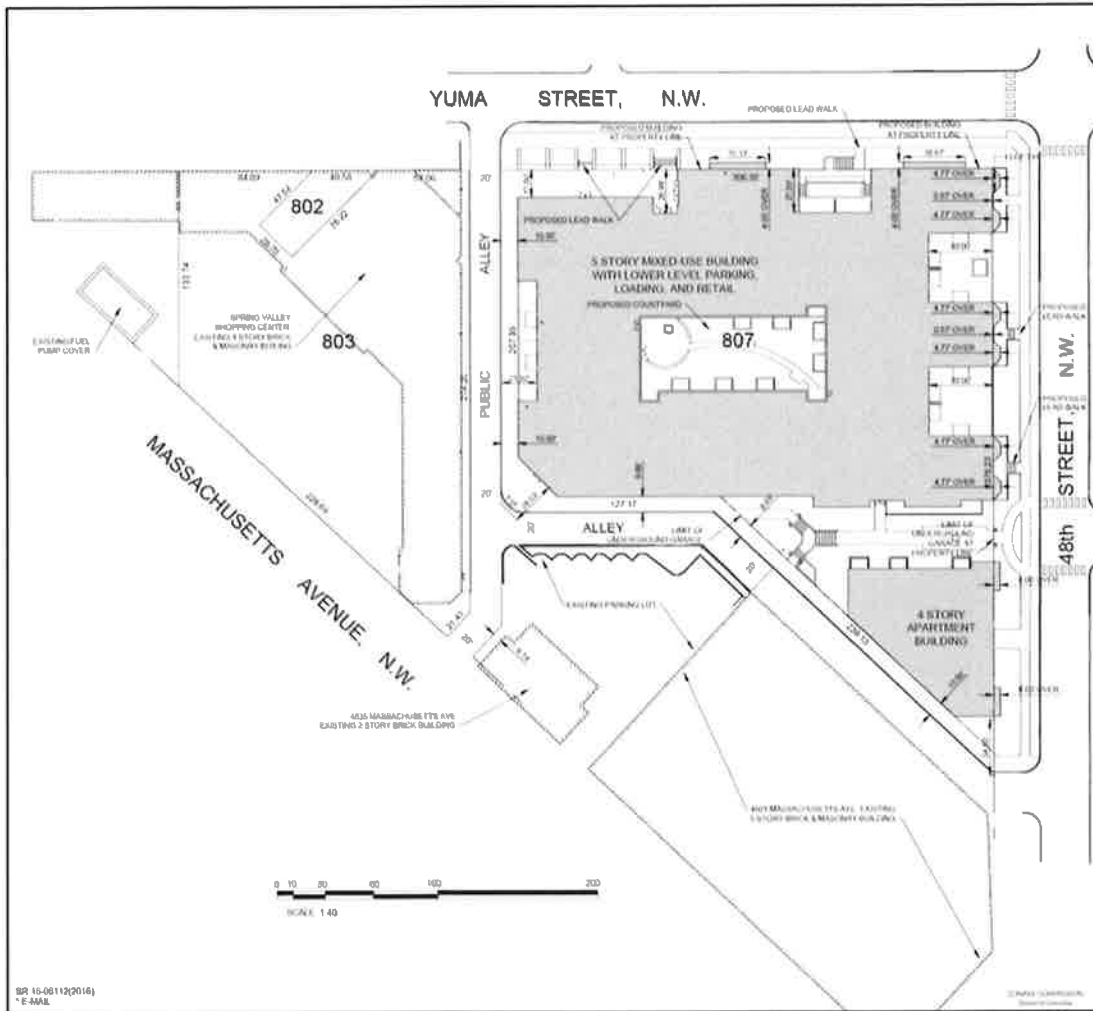


Figure 1. Surveyor's plat showing project site.

The purposes of a ZC design review process include allowing for special projects to be approved by the ZC after a public hearing and a finding that they cause no adverse impact (11-X §600.1(a)), and promote

<sup>1</sup> Note: All project plats and plans used in this report are taken from the Applicant's August 2016 submissions to DC Zoning Commission for design review. To the best of our knowledge, there have been no updates since the initial 2016 filing for design review. Renderings, except for Figure 7, are taken from the Project's website at <https://courbanize.com/projects/theladybird/information> and were current as of November 19, 2017.

high-quality, contextual design (11-X §600.1(d)). The design review process shall not be used to circumvent the intent and purposes of the Zoning Regulations, or to result in action that is inconsistent with the Comprehensive Plan. (§600.4)

Design review also necessitates an evaluation of the impacts a project may have on the historic character of a neighborhood. In compliance with 11-X DCMR §604.7, the Zoning Commission reviews the designs for the following criteria:

§ 604.7 (c) New development respects the historic character of Washington's neighborhoods, including:

- (1) Developments near the District's major boulevards and public spaces should reinforce the existing urban form;
- (2) Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and
- (3) Development should respect and protect key landscape vistas and axial views of landmarks and important places;

The Project is situated in a commercial shopping center and surrounding residential neighborhood along Massachusetts Avenue in Spring Valley. The neighborhood's urban form is that of a planned community of low-density residential housing centered around a low commercial center. The commercial area contains two National Register of Historic Places-listed resources: the Massachusetts Avenue Parking Shops at 4841-59 Massachusetts Avenue, and the Spring Valley Shopping Center at 4820-74 Massachusetts Avenue and 4301 49th Street.

The Project as submitted for ZC design review fails to meet the requirements of 11-X DCMR §600.1(a), as it will have an adverse visual effect on two designated historic landmarks, as well as the surrounding neighborhood. It also fails to meet 11-X DCMR §600.1(d), as it does not provide high-quality, contextual designs for the Project Site.

The project also fails to meet the review criteria of 11-X DCMR §600.4 in consideration of the District of Columbia Comprehensive Plan's policies and directives as stated in its Land Use, Rock Creek West, and Urban Design Elements, all of which directly implement the Plan's Future Land Use and Generalized Policy Maps.

The following is an evaluation of the impact the proposed project would have on Spring Valley's historic character in terms of the design review criteria under §604.7(c) and the District of Columbia's Comprehensive Plan.

**1. *Developments near the District's major boulevards and public spaces should reinforce the existing urban form* (§604.7(c)(1))**

**Historic Urban Form**

Wesley Heights and Spring Valley are among the most fully-realized examples in the District of planned residential neighborhoods that were developed to be serviced almost exclusively by the automobile. The Spring Valley neighborhood was conceived and developed by the W.C. & A. Miller Company, which initially owned the land and built many of the houses in the neighborhood. Spring Valley was the first of three such planned communities in Washington by Miller; the other two were Wesley Heights and West-erleigh.

Model neighborhood schemes advanced by such urban planners as Clarence Perry in the 1920s promoted the idea of condensing a commercial zone to a central node.<sup>2</sup> Perry wrote extensively on the advantages of the "planned neighborhood unit" in which community and retail facilities were located at the core of a neighborhood and formed village-like complexes.

Following Perry's model neighborhood scheme, when Miller planned its extensive development of Spring Valley in the late 1920s, it included a central shopping area and a private bus line, both of which seemed necessary to attract buyers to the far-out community on the Maryland line. Commercial development in Spring Valley started during the 1920s on a designated parcel of land spanning both sides of Massachusetts Avenue (Squares 1499 and 1500), from Warren to Yuma Streets.

What is now commonly referred to as the Spring Valley Shopping Center is composed of two adjacent but separate landmarks: the Massachusetts Avenue Parking Shops on the east side of the avenue, and the Spring Valley Shopping Center on the west. Both collections of buildings were individually determined noteworthy as planned clusters of neighborhood commercial buildings designed to complement the character of the neighborhoods nearby and are included in the DC Inventory of Historic Sites and listed on the National Register of Historic Places.

Completed in 1936, the Massachusetts Avenue Parking Shops was the first of the two Spring Valley shopping centers and is one of the oldest planned neighborhood shopping centers in the metropolitan area. Built as a single structure, it includes an arcade of shops and a gas station organized around a forecourt with off-street parking. The complex was designed by architect E. Burton Corning for developer C.H. Hillegeist. It was cited in national planning publications as a model and appears to have influenced subsequent projects elsewhere in the nation. In addition, the building provides an example of the Colonial Revival style adapted to a small commercial enterprise. By the 1930s, the Williamsburg-inspired Colonial Revival style had been widely embraced as a fashionable image for public buildings, residences, and commercial buildings, particularly those associated with the middle and upper middle classes.

The Spring Valley Shopping Center across Massachusetts Avenue at 4851 Massachusetts Ave NW was designed in 1939 by an in-house Miller Company architect, also in the Colonial Revival style to complement the company's surrounding residential neighborhoods. Upon its completion, the Garfinkel's building was described in a community paper as "a little bit of old Williamsburg in a garden setting, with a backdrop of dark cool forest."

As a result of the planned commercial node for Spring Valley, the shopping centers on both sides of Massachusetts Avenue were meant to be read as part of the same commercial shopping complex at the core of the neighborhood, visually unified by their low height and massing, and Colonial Revival style architecture employing a limited palate of materials (red brick walls with stone and wood detailing and trim, and slate roofs). Both shopping centers exhibit an attention to the design of their rear elevations particularly where those elevations face residential buildings across the street. The inclusion of dormers along the rear of Massachusetts Avenue Parking Shops indicates that the rear of the building was meant to remain visible with any subsequent low-height development behind it that would adhere to the low-density model for the shopping center.

Residential development along both sides of Massachusetts Avenue around the shopping centers proceeded at a rapid rate from the 1920s through the 1940s. Following on the design of both shopping centers, the majority of the residences in Wesley Heights and Spring Valley were all one and two-story variations on the Colonial Revival style. The homes in Spring Valley and Wesley Heights were initially built by

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<sup>2</sup> Clarence Arthur Perry, Housing for the Machine Age, New York: Russell Sage Foundation, 1939, p. 72.

W.C.&A. Miller, and later by Arnold Construction Company, and Cooper C. Lightbown, all following the concept of a planned development with a village-like character. With such restrictions as preventing commercial encroachments or expansion of any nature beyond what was planned for the communities, Miller was able to ensure that the purchaser enjoyed the advantage of knowing "exactly what his home will look like, what the completed community will be like, and how the neighboring homes will look."<sup>3</sup>

A 1939 *Washington Post* article about for a Miller-built model house boasted:

Importance of community planning and careful development is exemplified in Spring Valley's *Washington Post* display home which today enters the first week of a four-week exhibition. W. C. & A. N. Miller, developers of the community, have achieved a national reputation as leaders in the "planned community" idea. (*Washington Post*, October 1, 1939).

Spring Valley's planned and implemented urban form has survived intact from its inception since the 1920s until today. It was not by coincidence that the later mid 1960s addition of a full-service grocery store in the commercial center behind the Massachusetts Avenue Park and Shop was a low-profile A&P "Centennial" Store that matched the general height and Colonial Revival style of the shopping complex and the neighborhood. With its location behind the shopping center, it was not highly visible from Massachusetts Avenue and did not have a negative impact on the visual integrity of the shopping center.

The 1980 Georgian Revival-style PNC bank at 4835 Massachusetts also adheres to the existing urban form of the area with its one and a half-story height and Early American architectural style. While the American University building at 4801 Massachusetts Avenue is an aberration to the planned form of the shopping area, the PNC building provides a buffer in terms of spacing, height, and design between the AU building and the historic shopping center.

## **2. *Infill development should respect the continuity of neighborhood architectural character (§604.7(c)(2))***

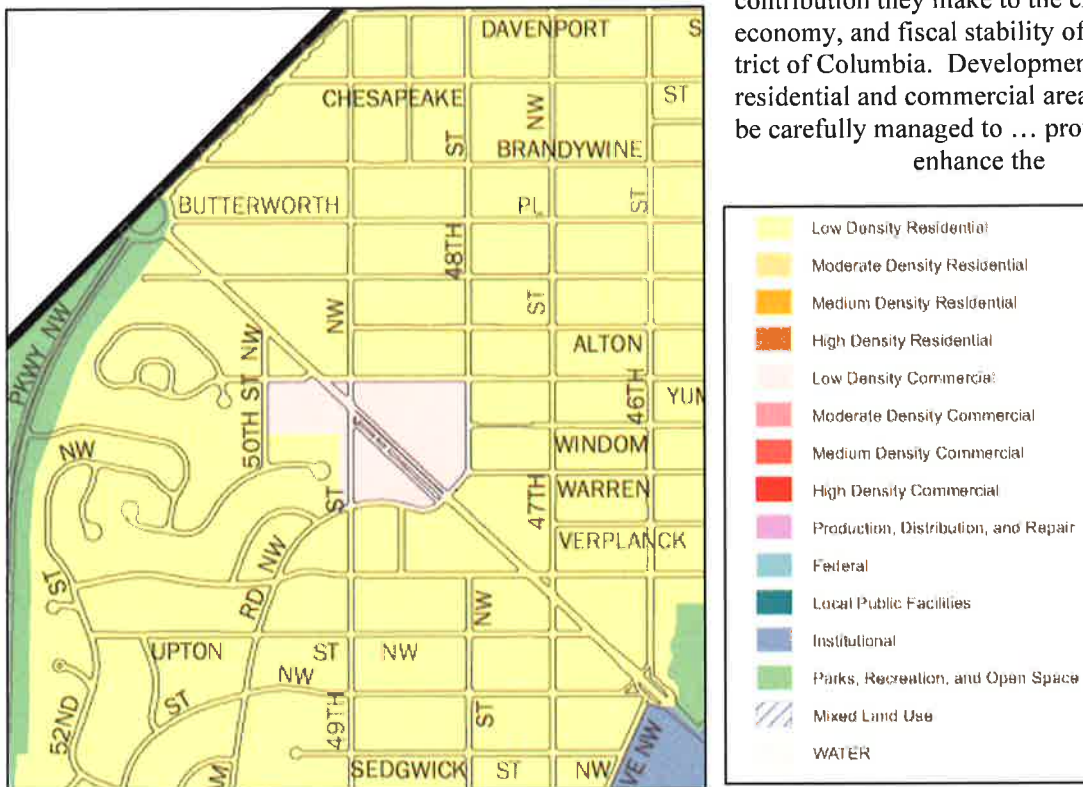
The Comprehensive Plan's Urban Design Element calls for strengthening the defining visual qualities of Washington's neighborhoods by relating the scale of infill development to the existing neighborhood context (Policy UD-2.2.1). It also states that new development should be complementary in form, height, and bulk (Policy UD-2.2.2).

Recognizing the historic and well-established urban form of the Spring Valley shopping area and surrounding neighborhood, the Plan's Future Land Use Map (FLUM) designates the Project Site as "Low Density Commercial" (Figure 2). According to the Framework Element, the Low Density Commercial land use designation is used to define shopping and service areas that are generally low in scale and character, with retail, office, and service businesses being the predominate uses.

The Comprehensive Plan's Rock Creek West Area Element, while recognizing the opportunity for infill development within the areas designated for commercial land use on the Future Land Use Map, calls for protecting the low density, stable residential neighborhoods west of Rock Creek Park and recognizes the existing scale, function, and character of these neighborhoods (Policy RCW-1.1.1). This element's policy

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<sup>3</sup> "A Subdivision: But No Lots for Sale," *National Real Estate Journal*, July 9, 1928, p. 52.



contribution they make to the character, economy, and fiscal stability of the District of Columbia. Development in both residential and commercial areas must be carefully managed to ... protect and enhance the

Figure 2. Future Land Use Map (FLUM) designating the Spring Valley commercial area as Low Density Commercial.

also states that heights and densities for such development should be appropriate to the scale and character of adjoining communities (Policy RCW-1.1.4). The Urban Design Element calls for, regardless of neighborhood identity, avoiding overpowering contrasts of scale, height and density as infill development occurs (Policy UD-2.2.7).

**Large Site Scale and Block Patterns**

The Urban Design Element calls for establishing a development scale on large sites that is in keeping with surrounding areas. “Superblocks” (e.g., oversized tracts of land with no through-streets) should generally be avoided in favor of a finer-grained street grid that is more compatible with the texture of Washington’s neighborhoods. This also allows for more appropriately scaled development and avoids large internalized complexes or oversized structures (Policy UD-2.3.2). The Urban Design element also calls for ensuring that urban design plans for large sites consider not only the site itself, but the broader context presented by surrounding neighborhoods and to recognize that the development of large sites has ripple effects that extend beyond their borders (Policy UD-2.3.3).

In spite of the afore mentioned recommendations of the Urban Design Element and contrary to the low-scale, scattered-building, village-like character of the neighborhood, the project still proposes a super-block that essentially covers the neighborhood equivalent of approximately 12 house lots, with a single building (Building 1) covering 10 of those lots. Building 1 is so large that it necessitates an internal



closed court or atrium area to compensate for its large footprint and the lack of open space available around its perimeter (Figure 3).



Figure 3. Closed court in the center of Building 1.

### **Transitions in Building Intensity**

Land Use Element Policy LU-2.3.3 strives to ensure that new commercial development adjacent to lower-density residential areas provides effective physical buffers such as, among others, larger setbacks, landscaping, height step downs, and other architectural and site planning measures. Urban Design Element Policy UD-2.2.4 calls for establishing gradual rather than abrupt transitions between large-scale and small-scale development. The relationship between taller, more visually prominent buildings and lower, smaller buildings (such as single family or row houses) can be made more pleasing when the transition is gradual rather than abrupt.

In part, the Applicant has tried to address transitions from its large buildings to the lower-scale neighborhood and shopping center by recessing the upper floors of the buildings to relate to the lower scale of the surrounding neighborhood. While the Applicant gives some consideration to the Land Use policy in addressing buffering with some transitions, they neglect perhaps the most significant transition – that between Building 1 and the historic Massachusetts Avenue Parking Shops.

As a matter of right, the maximum building height in a MU-4 zone is 50'. According to the Applicant's October 2016 Voluntary Design Review Statement, Building 1 is "measured from the level of the curb opposite the middle of the front of Building 1 on 48th Street to top of the parapet, plus a penthouse that



will contain habitable (residential and communal) and mechanical space. As permitted under ZR16, the portion of the penthouse containing habitable space will have a maximum height of 12-0' and the portion containing mechanical space will have a maximum height of 15-0'."

Building 1 would have a total height of approximately 84' (or 86.5' to the top of mechanical penthouse) when measured from the point where it meets the alley immediately behind the shopping center building. Measured to the top of its minorly-recessed upper floors, it presents a visible building face of approximately 74' in height abutting the shopping center. To further give a sense of its scale, the Applicant's October 2016 Voluntary Design Review Statement notes that the height of the shopping center will actually be below the first floor of Building 1 (Figure 4).

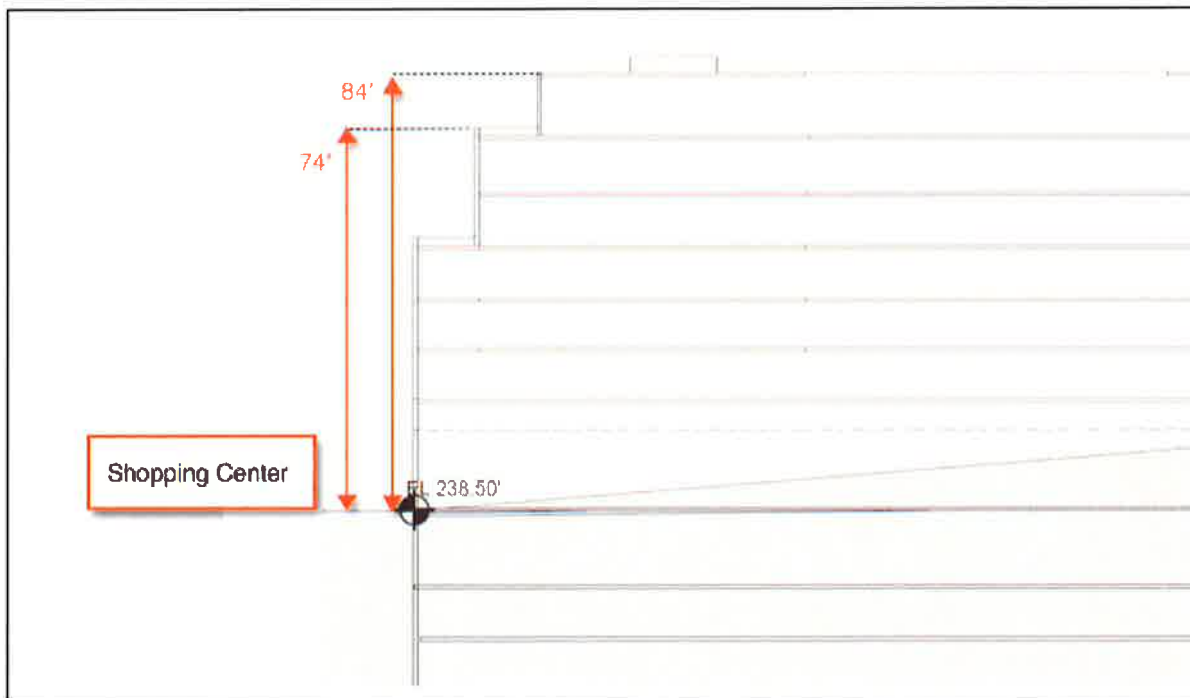


Figure 4. Relative height of the shopping center compared to Building 1.

A 5' rear yard setback from the alley on the west, with only a shallow recession provided by Open Court 7, and with no setbacks at all on the SW corner, all prove ineffective in allaying the impact of the height behind the shopping center when viewed from points along Massachusetts Avenue. As a result, Building 1 would tower over the rear of the shopping center, showing its full height of 84' to the top of the penthouse from views along Massachusetts Avenue, Yuma Street, and other various axial views. (Figure 5). The 20'-wide alley will do little to mitigate the negative effects of Building 1 on the shopping center.<sup>4</sup>

<sup>4</sup> The wall height (measured to the roof line) for the shopping center is recorded as only 8' (DC Property Information Verification System, DCPIVS).



View from Southwest - Proposed (from Massachusetts Avenue)

10/21/2014  
A25

**Figure 5. View of Building 1 behind the shopping center from Massachusetts Avenue.**

The two building's articulated facades and upper-story setbacks may make them appear to be smaller and lower than they actually are in order to relate to the project's surroundings, but only when looking at the buildings out of context. The Applicant has only selectively provided views/renderings looking mostly towards the project site itself that do not include the surrounding setting of smaller-scale residences and the shopping center. (Figure 6).

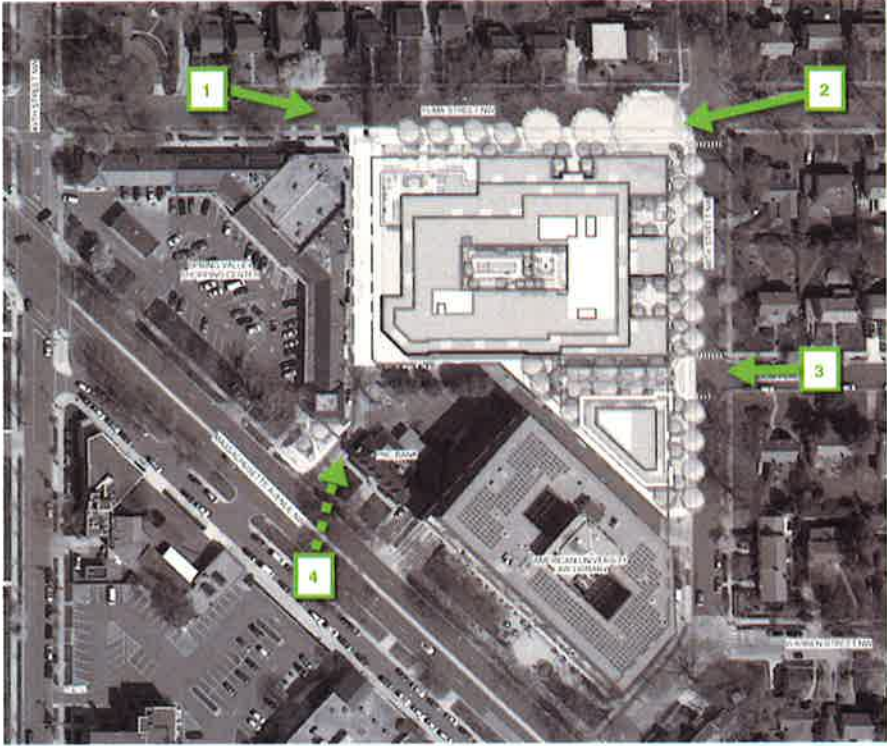


Figure 6. Project renderings provided by the Applicant. See the following three renderings.



Rendering 1.





Rendering 2.



Rendering 3.



Figure 7 shows some suggested additional rendering perspectives that would better demonstrate the project in context and its impact. The one rendering of the project created by the Applicant that includes a portion of the shopping center appears only in its October 2016 submission to the Zoning Commission and has not been included in subsequent public presentations and meetings (see Figure 5).

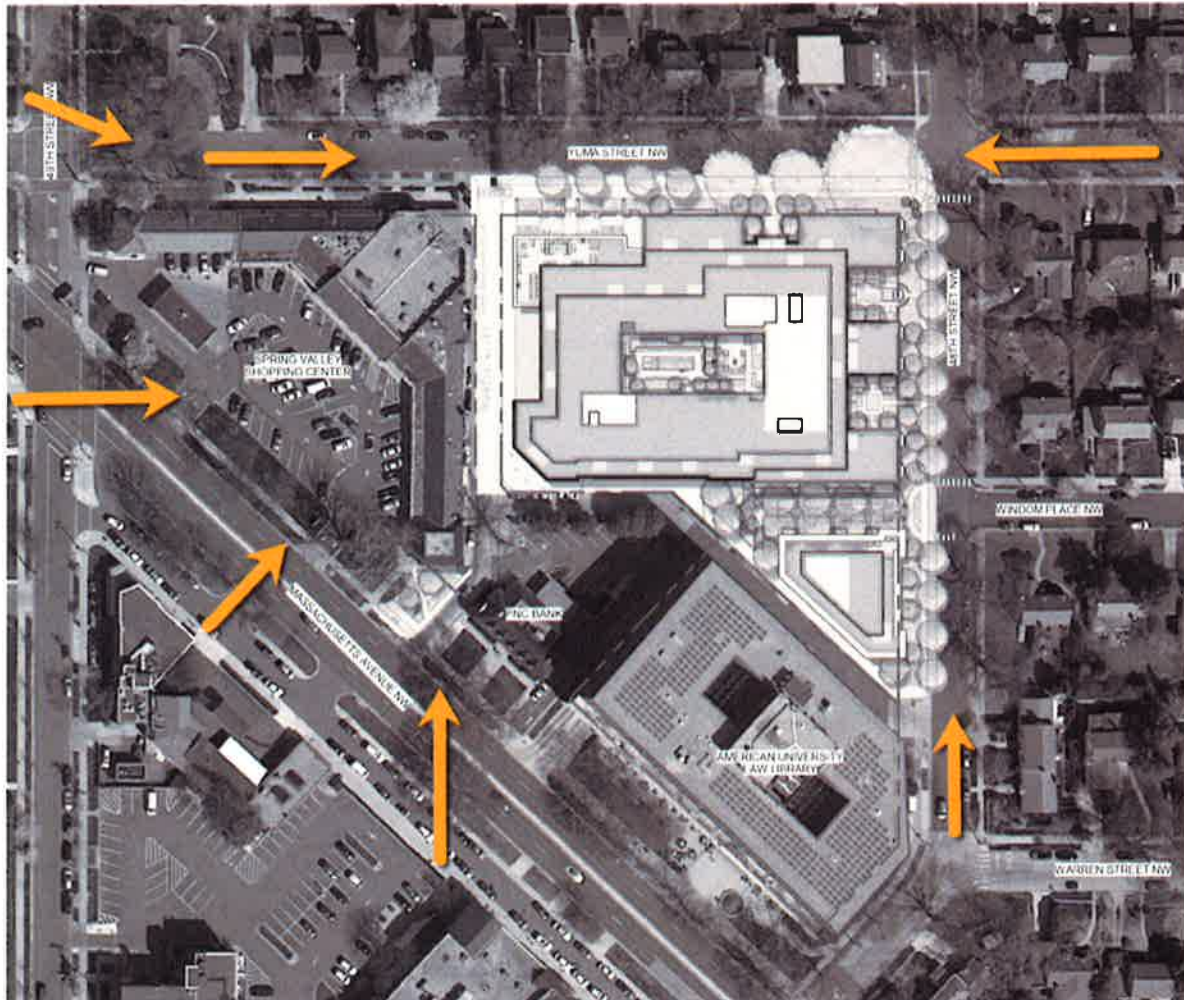


Figure 7. Suggested additional renderings of the Project that would show it within a broader context.

### **Inappropriate Architectural Styles**

In compliance with 11-X DCMR §600.1, the design review process requires that a project exhibit high-quality, contextual design that does not have an adverse impact. The Applicant has failed to create high-quality and contextual designs for the project and has demonstrated a lack of understanding of architectural styles and thus a sympathy to the prevailing architectural style of the shopping centers and the surrounding neighborhood.

The Applicant claims that the architectural styles of Buildings 1 and 2 respect the character of the surrounding neighborhood and the Massachusetts Avenue Parking Shops, which it acknowledges are both in the Colonial Revival style. The Applicant characterizes this style by such basic architectural characteristics as rectangular massing, symmetrical composition, and the use of brick, multi-paned windows, bays and dormers that it incorporates into Building 1. Yet, the application of these characteristics does not automatically recreate the Colonial Revival style. The design for Building 1 would be characterized better as Beaux-Arts style, popular in the United States from 1880 to 1920, and immediately predating and contrasting the much simpler Colonial Revival style. Characteristics of the Beaux-Arts style that are incorporated into Building 1 include: a flat, not pitched roof, rusticated and raised first stories, arched windows, arched and pedimented doors, and other classical architectural details such as balustrades, and balconettes.

The Applicant also proposes to use a different, but “complementary” architectural style for Building 2. that will be based upon the French Empire style with the incorporation of a Mansard-style roof into its design. A product of the Victorian era, the Second Empire style reached its peak of popularity in the United States roughly between 1855 and 1885. Its popularity led to a widespread remodeling boom during which mansard roofs were incorporated into formerly pitched-roof residences. By the 1880s, the Second Empire style was considered too ornate and unattractive, which led to a reactionary move to the cleaner Beaux-Arts style with its more classical architectural elements.<sup>5</sup>

The introduction of essentially a grand Beaux-Arts architectural style, paired with Second Empire, represent two earlier architectural styles that not only conflict with each other, but with the prevailing Colonial Revival style of the two shopping centers and the surrounding neighborhood.

### **The Secretary of the Interior’s Standards**

Combining Massachusetts Avenue Parking Shops’ Lots 802 and 803 with the Valor project Lot 807 for the purposes of transferring Gross Floor Area (GFA) rights is a form of lot subdivision and essentially places the new development on the same site as the shopping center. The Project could be therefore be considered new construction on the same site as an historic property and could trigger the application of the Secretary of Interior’s *Standards for the Treatment of Historic Properties*, and additional project review in light of its *Guidelines for New Construction Within the Boundaries of Historic Properties*.<sup>6</sup> Regardless, due to the nature of this project, these Standards and Guidelines should be recognized and followed as a good practice.

According to the Guidelines, it is possible to add new construction within the boundaries of historic properties if site conditions allow, and if the design, density, and placement of the new construction respect the overall character of the site. Also, according to Standard 9 of the Secretary of the Interior’s *Standards for Rehabilitation and the Guidelines for Rehabilitating Historic Buildings*, new construction needs to be built in a manner that protects the integrity of the historic building(s) and the property’s setting. Standard 5 states that when visible and in close proximity to historic buildings, the new construction must be subordinate to these buildings.

The Guidelines say that for such new construction the following must be considered:

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<sup>5</sup> There are many examples of Second Empire architecture in Washington such as the Old Executive Office Building, Renwick Museum, and Cooke’s Row on Q Street NW in Georgetown.

<sup>6</sup> Available at: <https://www.nps.gov/tps/standards/treatment-guidelines-2017.pdf>

- Protecting the historic setting and context of a property, including the degree of open space and building density, must always be considered when planning new construction on an historic site. This entails identifying the formal or informal arrangements of buildings on the site, and whether they have a distinctive urban, suburban, or rural character. For example, a historic building traditionally surrounded by open space must not be crowded with dense development.
- The massing, size, scale, and architectural features of new construction on the site of a historic building must be compatible with those of the historic building.

### **An Example of a More Compatible Approach**

A recent project in the Spring Valley commercial area illustrates a more compatible approach to a new building with the historic shopping centers than does the current project. In 2015, Washington Real Estate Investment Trust was granted approval for construction of a two-story retail and office building on the site of the Spring Valley Shopping Center across the street at 4820-4874 Massachusetts Avenue. While its effects on the historic landmark are debatable, the Historic Preservation Review Board ultimately determined that the final proposed two-story building in this location, closely relating to the detailing and scale of the complex, was compatible with the character of the landmark.

### ***3. Development should respect and protect key landscape vistas and axial views of landmarks and important places (§604.7(c)(3))***

The Land Use Element calls to identify and protect existing assets such as important vistas, and major landscape elements as large sites are redeveloped (Policy LU-1.2.7.) The Urban Design Element also states large site designs should incorporate existing assets such as historic buildings, significant natural landscapes, and panoramic vistas in the design of redeveloped large sites (Policy UD-2.3.5). Additionally, the Secretary of the Interior's *Guidelines for New Construction Within the Boundaries of Historic Properties* state that historic landscapes and significant viewsheds must be preserved.

In terms of protecting historic vistas and axial views as called for in §604.7(c)(3), and as discussed in detail in Section II, this project would have an adverse visual effect on the two National Register of Historic Places listed shopping centers. Historic vistas of the neighborhood from along one of the city's major corridors, along with views from each landmark shopping center towards the other, will also be negatively affected by the project.

As two National Register listed resources are affected by the Project, the Project should also be evaluated by creating and addressing an Area of Potential Effect (APE). While used mostly for Section 106 projects under the National Historic Preservation Act for projects affecting Federally-owned historic resources, an APE is the geographic area or areas within which an undertaking may directly or indirectly effect the character, setting, or use of historic properties. An APE usually includes vistas from and towards a designated historic landmark. The APE would include both shopping centers, as each is visible from the other, and areas within the shopping centers that might be affected by subsequent pressure to further redevelop the area around the project site (Figure 8).

A final question comes to mind as to why the Spring Valley commercial center, with two its contiguous locally landmarked and National Register listed shopping centers, is not already an Historic District. This would help protect historic vistas. The suggested APE would be natural boundaries for such a district, encompassing the area historically planned and dedicated for low-density, commercial use. An historic district would also help better control the nature and scope of development within its boundaries. One requirement for being able to establish the area as an historic district would be the location of a master

plan or maps created by W.C. & A. Miller for Spring Valley, that clearly shows the area as demarcated for commercial use.

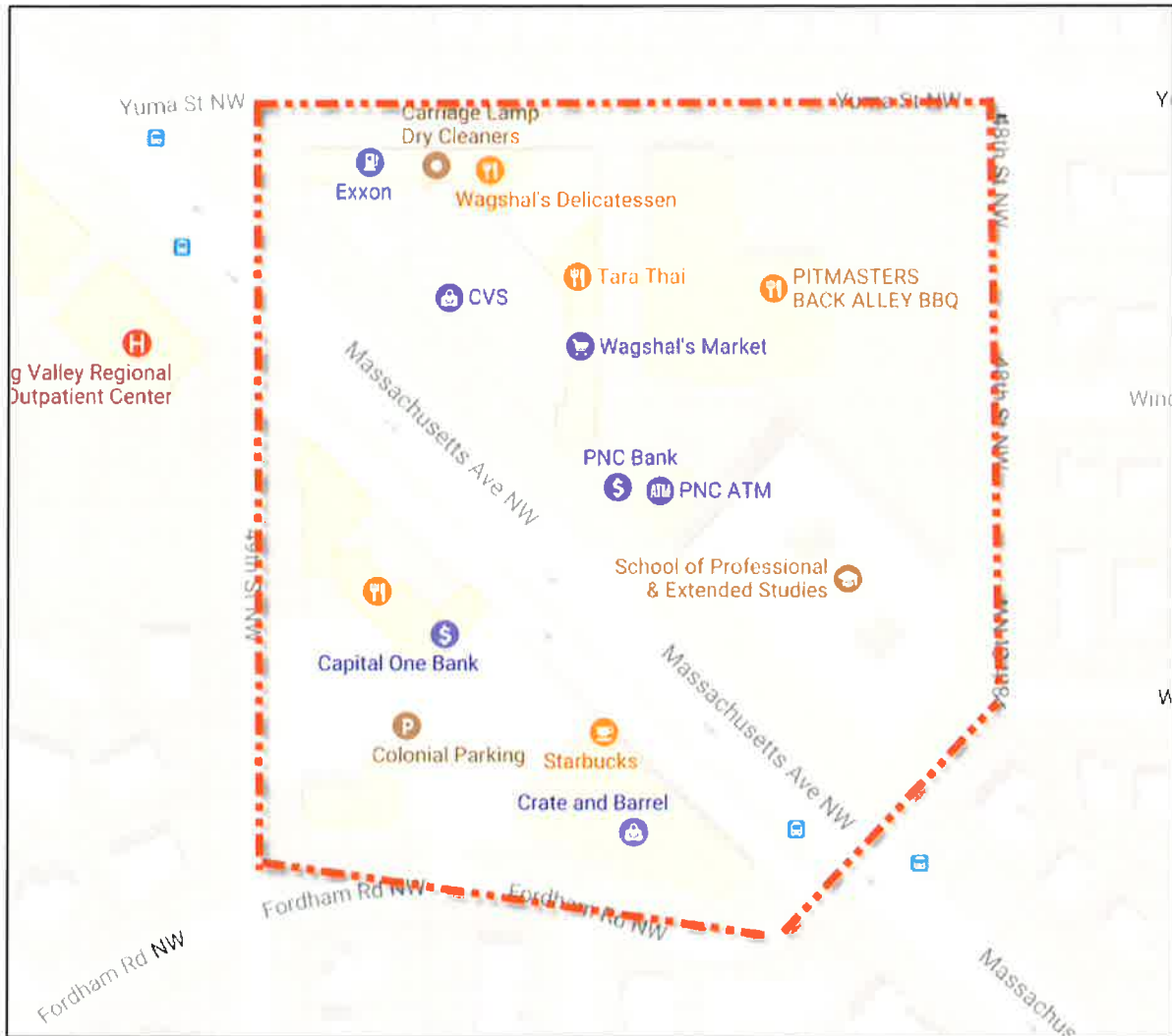


Figure 6. An example Area of Potential Effect (APE) for the project. Note: The boundaries of this APE are confined to the planned commercial area, as other designated historic resources do not fall within a reasonable distance from the project site.



Exhibit 3



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**PLANNING . ENGINEERING . INFORMATION TECHNOLOGY**

## MEMORANDUM

**TO:** Mr. Shelly Repp  
Mr. Walter Borek

**FROM:** Joe Mehra, P.E. PTOE

**SUBJECT:** The Ladybird Traffic Study

**DATE:** December 29, 2017

**JOB: J-897**

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These are my findings based on a review of the traffic report prepared by Gorove/Slade, dated November 22, 2017 and the Technical Attachments, dated November 22, 2017. The proposed development consists of 219 dwelling units and 16,000 square feet of grocery store. The traffic study was conducted based on DDOT Guidelines for Comprehensive Transportation Review (CTR) and DDOT scoping. These comments are based on the information provided in the traffic report and the technical attachments.

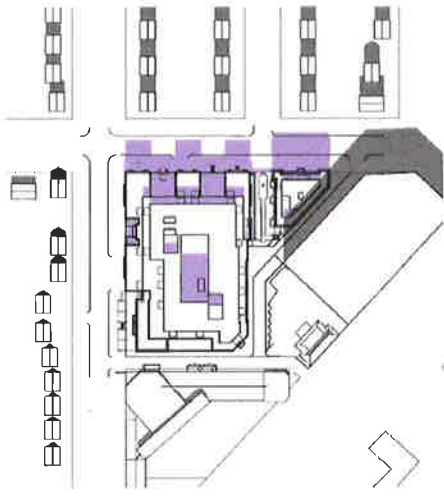
1. The CTR requires that a weekday and weekend trip generation study be done particularly when retail uses are involved. The traffic study did not include any weekend data. A comparison of grocery store trips using Institute of Transportation Engineers Trip Generation Report (Ninth Edition) shows that the supermarket (Land Use code 850) of 16,000 square feet will generate a total of 201 trips during the PM peak hour. This same supermarket will generate a total of 320 trips during a weekend hour. In other words, the weekend trip generation of supermarket is almost 60% more than the weekday trip generation. Therefore, weekend analysis should be conducted for this project. Further, the CTR requires that the daily trips should be documented in the report. This has not been done. It should be noted that this project will generate over 3,500 weekday vehicle trips daily.

2. The traffic study included expansion of Spring Valley as the only background development. Millie's restaurant (250 seats) located across Massachusetts Avenue in the study area opened for business recently. The traffic data collected by Gorove/Slade was in mid-October 2016. If the restaurant was not in business at that time, then their traffic should be included in the background conditions. Further, as I understand it, the AU building was not fully populated at the time the traffic counts were made. The AU building is now close to fully populated and the additional trips generated by the employees/staff should be included in the background traffic.
3. The inherent growth was computed using "link volumes by hour by direction" from the MWCOG Model. The historical growth rates varied from no growth to a high of 3.8% per year. Gorove/Slade used MWCOG modeled forecasted annual growth rates by time period and by direction to compute the inherent growth. Typically, average daily traffic volumes are used to compute normal growth in through traffic volumes. Further, Gorove/Slade used a maximum of 2% per year growth rate to compute inherent growth even though the model showed significantly higher growth rates. Since the growth rates are being computed for a four year short term period, the actual computed growth rates should be used and not restrict to 2%. If a long term period was being utilized, then a maximum of 2% would be a reasonable assumption. Use of actual computed rates based on ADT would result in significantly higher background growth and subsequently a worse level of service.
4. Gorove/Slade utilized the Synchro Model Version 9 and the 2000 Highway Capacity Manual (HCM) results for the capacity/levels of service analysis. I think the 2010 Highway Capacity Manual results should be used for the capacity/levels of service analysis. 2000 HCM has been replaced with 2010 HCM in the industry many years ago. The impact of 2010 versus 2000 can only be determined if Gorove/Slade provides the Synchro model for validation.
5. The CTR states that a corridor analysis showing travel times may be necessary if the study area includes several closely-spaced intersections. Massachusetts Avenue is a critical corridor and has at least seven closely spaced intersections, therefore a corridor analysis should be conducted and presented in the traffic report.
6. An existing agreement between American University and the site lot requires the Ladybird development to carry forth 236 non-exclusive parking spaces for the use of the AU Administrative Building. The dedicated parking spaces for the 219 residential units is 85 in Level G1. The dedicated parking spaces for the grocery store is 45 in Level G2 (106 total spaces minus 57 for AU and 4 for car sharing). An additional 179 spaces in Level G3 are for AU. American University will be sharing parking spaces with the proposed development. Gorove/Slade needs to show that the sharing of parking spaces between AU, the residential development and the grocery store can be accomplished with the available parking spaces. A shared parking analysis using "actual temporal distribution" of the American University uses and the proposed development uses should be conducted and presented to show that the development and AU traffic can be accommodated on site. Gorove/Slade has estimated that the residential

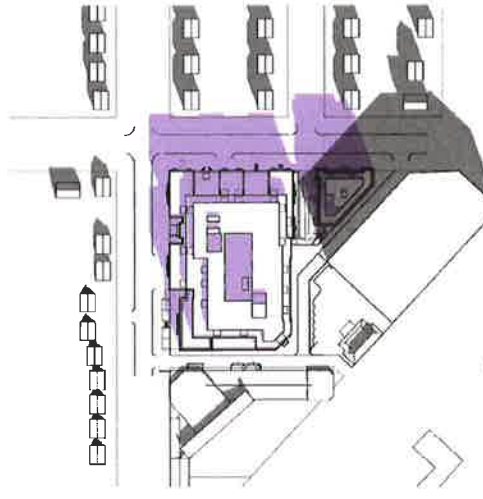
development will generate 124 vehicle trips during the peak one hour. These vehicles need space to park on site since they will not be eligible for RPPD.

7. The crash data shows that the intersection of Massachusetts Avenue and 48<sup>th</sup> Street NW/Fordham Street NW had 17 total crashes and 2 pedestrian crashes. 147 vehicles to and from the site will be driving through this intersection in one hour. This is a significant amount of traffic being added at this high crash intersection. Mitigation should be proposed for this intersection due to the increase in site traffic and its impact on the crashes at this intersection.
8. The traffic report concludes "that the project will not have a detrimental impact on the surrounding transportation network assuming that all planned site design elements and Transportation Demand Management (TDM) plan are implemented". Based on this conclusion, it is essential that the TDM plan be robust and implemented in an effective manner.
9. In conclusion, the report has several shortcomings that includes missing background developments, incorrect use of growth rates, missing trip generation data, missing weekend analysis, missing corridor analysis, incomplete parking management analysis, missing mitigation for potential increase in crashes at a key intersection and lastly not the least use of outdated HCM 2000 analysis instead of the 2010 HCM analysis. The traffic analysis should be updated incorporating the items listed and resubmitted to DDOT for review and approval.

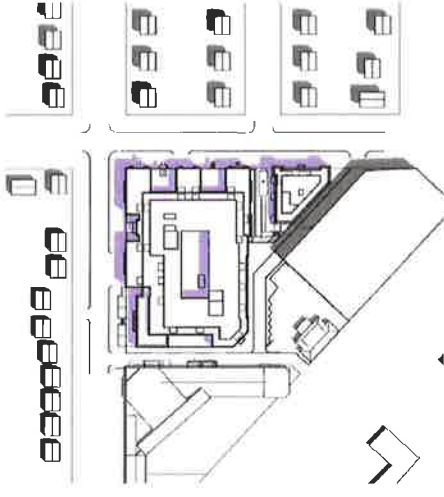
Exhibit 4



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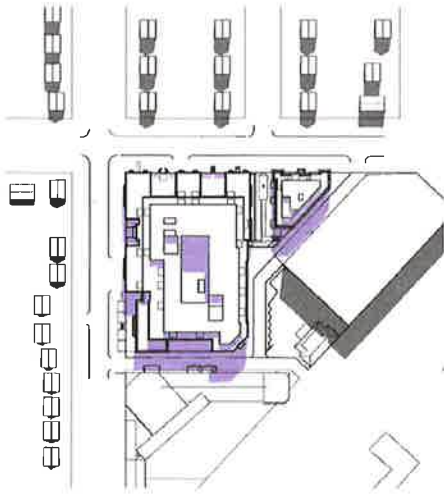
Mar/Sept - 4pm



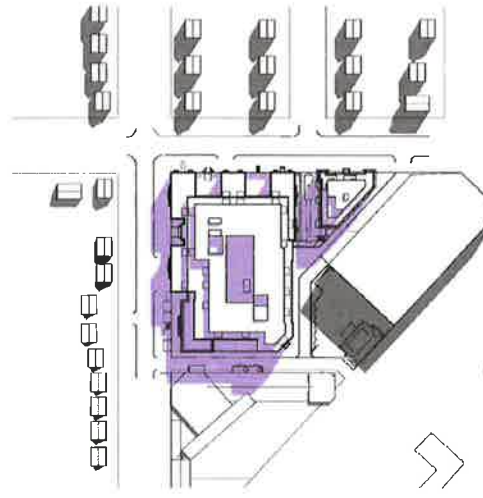
June - 1pm



Mar/Sept - 1pm



June - 9am



Mar/Sept - 9am

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 Shadow Study - June and Mar/Sept

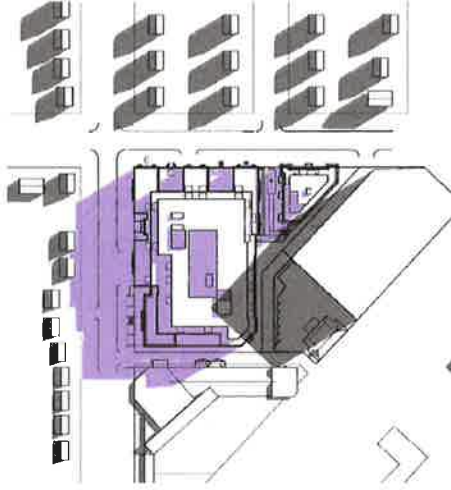
**VALOR DEVELOPMENT**  
**TORTI GALLAS URBAN**

12/12/2017  
 A46

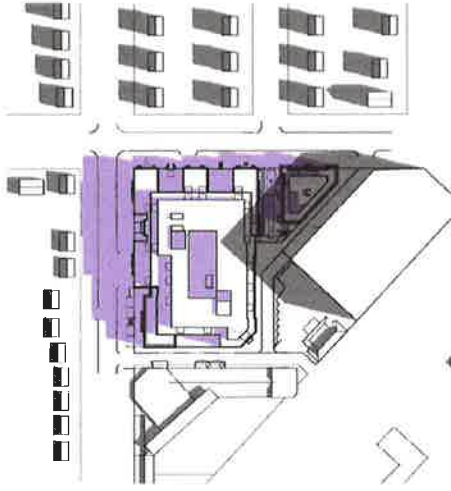
THE LADY BIRD



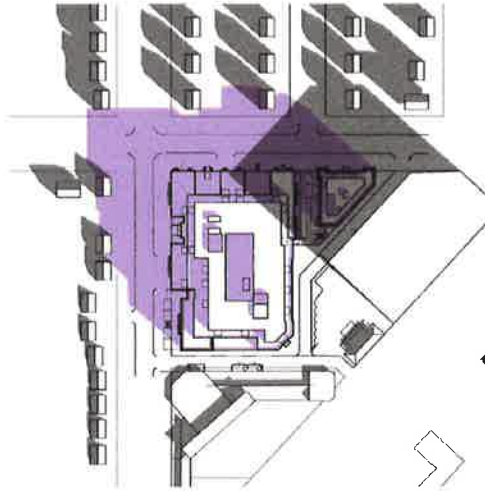
December - 9am



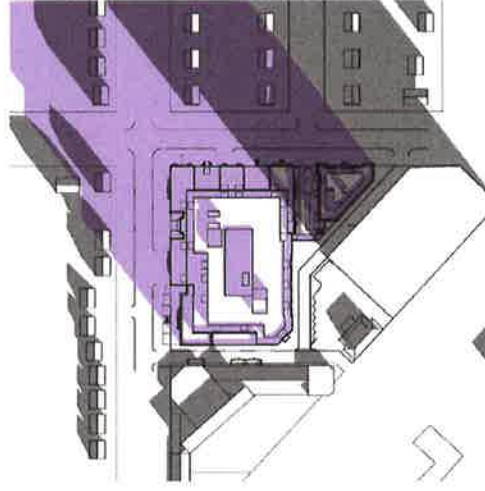
December - 10am



December - 1pm



December - 3pm



December - 4pm

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Shadow Study - December

VALOR DEVELOPMENT  
TORTI GALLAS URBAN



12/12/2017  
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THE LADY BIRD



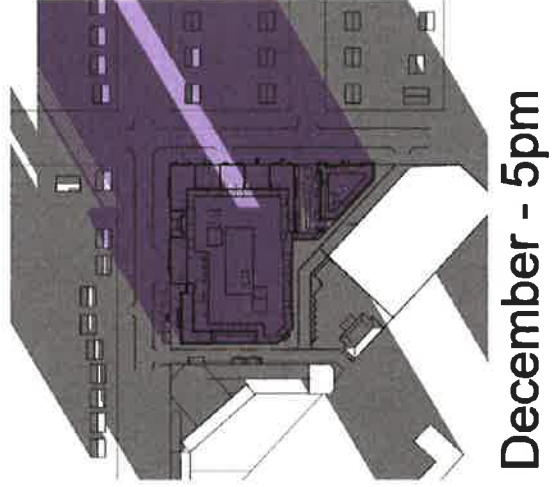
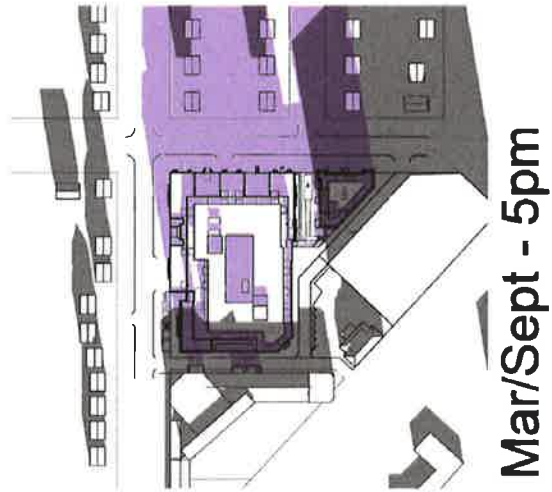
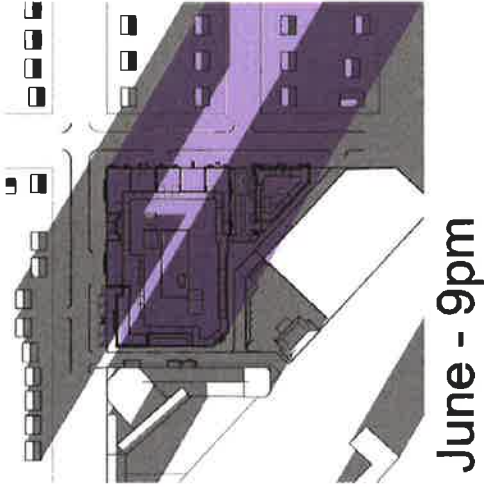
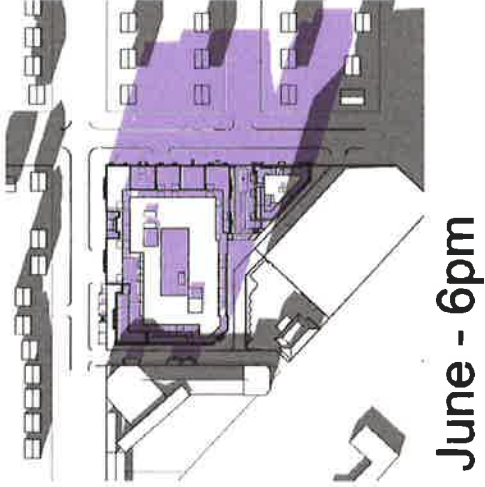
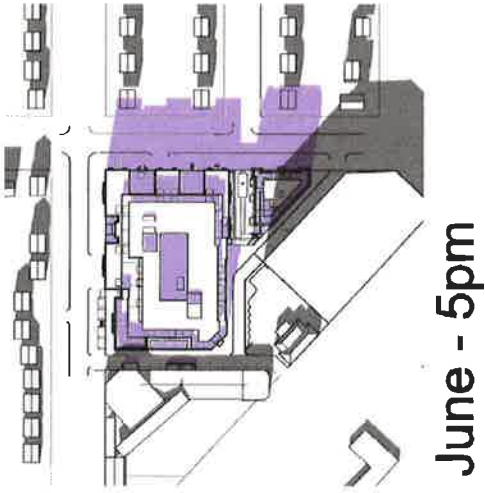
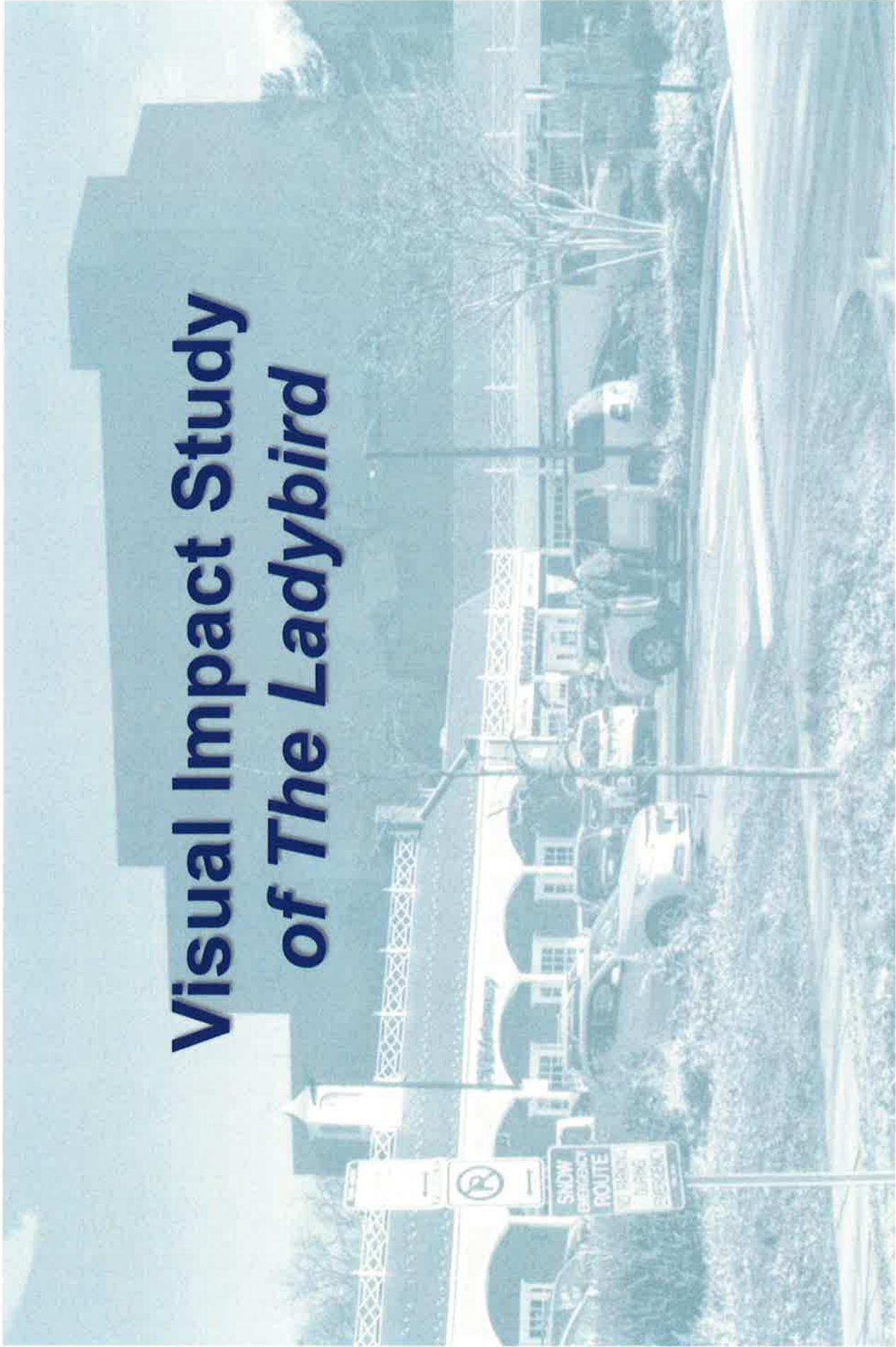




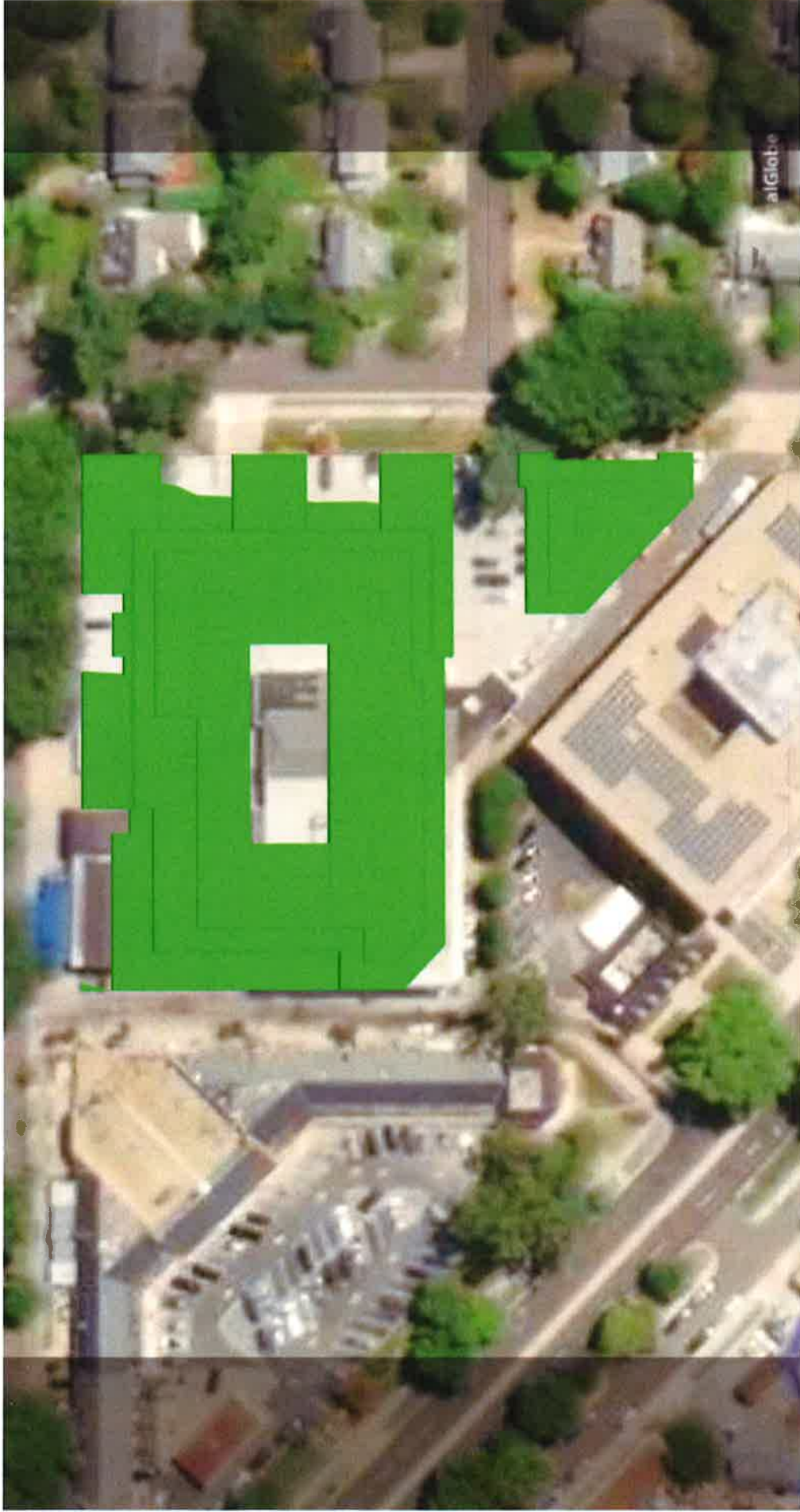
Exhibit 5

# Visual Impact Study of *The Ladybird*



## ***Digital Design & Imaging Service, Inc. Methodology:***

- **Goal:** DDIS was contracted by the Client to accurately portray the proposed development's impact from two publicly accessible vantage points located in the community.
- **Data Collection:** DDIS conducted several balloon tests as a means to provide a factual survey and measurement tool for Simulation and assessment purposes. We, additionally, made multiple laser and physical measurements of the existing terrain and structures when in situations where we could not access the area with a balloon. The balloon and other measurement tools were then documented from the predetermined camera locations to allow for accurate perspective and renderings. Documentary ground photography was taken with a full-frame DSLR using a 50mm lens. This lens-body combination is the industry standard for scientific studies needing to replicate the human eye's proper magnification.
- **Simulation and 3D modeling:** DDIS designed and created a 3D model of the proposed development utilizing Client-provided documentation (dated 11/15/2017). This basic, but accurate 3D Model was produced using Sketch Up Pro. At each location, a virtual camera replicated the actual camera location and specifications. These renderings, were then integrated into the base photograph environment to maintain an accurate understanding of the impact of the structure from the camera's perspective. This meant ensuring scale and location accuracy of the model through laser measurement verifications. This also meant accurately reintroducing the foreground screening elements such as trees, telephone poles, foreground buildings, etc.

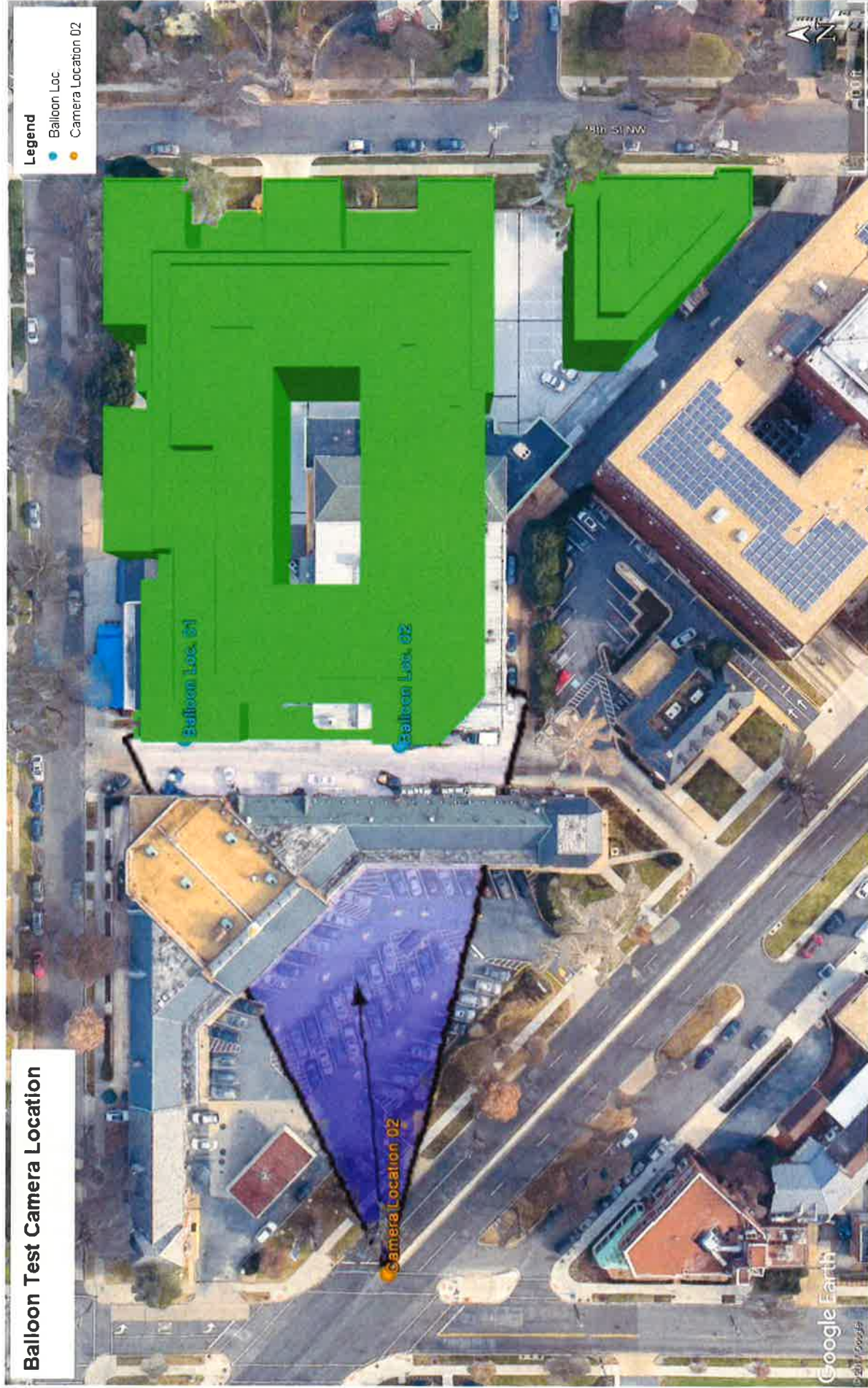


Above is a Plan view of the Ladybird Development. This 3D Model used the 11/15/2017 Design Plans as a reference.





Above is an oblique view of the Ladybird Development. Looking ESE from the WNW.



Camera Location Map:  
Camera Loc. 02 shown in Orange and Balloon locations above Public Alley shown in Blue.









View from Camera Loc. 02. The Balloons act as a vertical ruler showing the various floor heights of the proposed building. Note: Due to access, the balloon does not show set backs.





View from Camera Loc. 02. The 3D model-massing accurately represents the visual impact of the proposed development from this Massachusetts Ave perspective.



Above is an oblique view of the Ladybird Development. Looking WNW from the ESE.





Windom Place Camera Location Map: Camera Loc. 01 shown in Orange .





Laser Measurements of the existing structures were taken to use as references when verifying the 3D Model placement and scale.





Physical Measurements along the property line were used as references when verifying the 3D Model placement and scale. A 25ft tall survey ruler is shown above.





View from Camera Loc. 01. The 3D model-massing accurately represents the visual impact of the proposed development from this Windom Rd perspective.

## ***Digital Design & Imaging Service, Inc. Qualifications:***

- DDIS has performed balloon tests, simulations, visual impact mitigation strategies and public testimony for various large structures over the last 17 years.
- Water tank visual impact, growth and mitigation studies for Loudoun Water, Michael Baker Intl, Denning, Hatchmott Macdonald, and Urban-LTD, Verizon Wireless, and Dewberry.
- Powerline and infrastructure visual impact, growth and mitigation studies for Dominion VA Power, PHI, James City County. These included Expert Witness support and Testimony .
- Cell tower visual impact, growth and mitigation studies for Verizon, Milestone, Santell Solutions.
- Other major infrastructure visual impact, growth and mitigation studies for Dominion Cove Point LNG, Flour Federal Services, AECOM, and Michael Baker Intl.

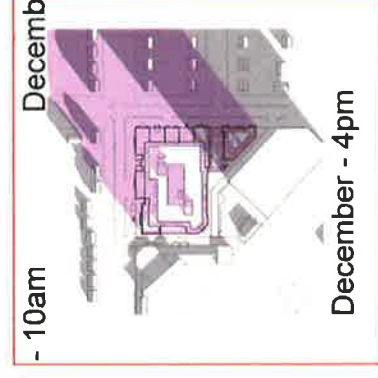
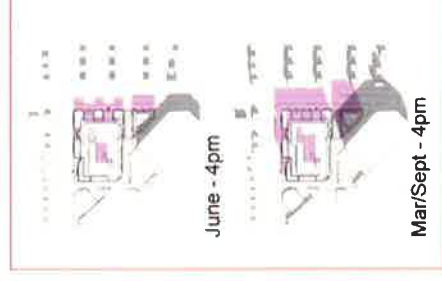
## **Addendum:**

### **•11/15/2017 vs. 12/21/2017 DESIGN CHANGE IMPACT:**

- While DDIS used the 11/15/2017 Design Plans to conduct the visual impact assessment, there are no noticeable changes in the height dimensions, scale, or location of the proposed development presented in the updated 12/21/17 plan package. These model-massing simulations still closely represent the height related impact of what is currently being proposed.

### **•SOLAR STUDY CONCERNS:**

- It should be noted that the current solar study being presented in the design plan does not accurately represent the full impact of the new development on the surrounding neighborhood. This is due to the fact that in all seasons, the earliest time being presented is 9am, and the latest time is 4pm. This, therefore, does not portray the long shadows impact over the shopping center and neighbors to the WNW in the Morning or the neighbors to the East and ESE in the Afternoon. Note also that the shadow for the solar study in Dec. at 4pm has been cropped and, therefore, cannot be fully understood.





DISTRICT OF COLUMBIA ZONING COMMISSION

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*STATEMENT IN OPPOSITION*

Z.C. Case 16-23  
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**CERTIFICATE OF SERVICE**

I certify that on January 4, 2018, I emailed a true copy of the foregoing Statement in Opposition to Advisory Neighborhood Commissions 3E and 3D ([3E@anc.dc.gov](mailto:3E@anc.dc.gov); [3D@anc.dc.gov](mailto:3D@anc.dc.gov)), and counsel for the Applicant, Christopher H. Collins ([chris.collins@hkllaw.com](mailto:chris.collins@hkllaw.com)).



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Dated: January 4, 2018

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