



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

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

January 19, 2018

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

**RE: Case No. 16-23, Application by Valor Development, LLC for Zoning Commission
Voluntary Design Review
Exhibits 9, 108, 109, 150, 151, 153, 154, 158**

Dear Chairman Hood,

This letter responds to the continued efforts of ANC3D Commissioners Gates and Whalen to distract the Zoning Commission's attention from the official actions duly taken by ANC3D in support of the Valor application as referenced above.

ANC3D – Review of Official Actions

ANC3D has taken the following **official** actions in this case:

1. On December 12, 2016, 13 months prior to Zoning Commission's hearing in this case, ANC3D voted to oppose the Valor application (**Exhibit 9**);
2. On December 6, 2017, citing the significant and material differences from the original proposal, ANC3D voted to rescind its December 12, 2016 vote and its report to the Zoning Commission (**Exhibit 108**);
3. On December 6, 2017, ANC3D voted to support the Valor application and issue a report to the Zoning Commission (**Exhibit 109**); and
4. On January 10, 2018, after voting to place the Valor application formally on its January 10, 2018 regular meeting agenda in order to assure further Commission review and discussion, ANC3D voted to reaffirm its request to the Zoning Commission to afford statutory great weight to ANC3D's December 6, 2017 official

vote and resolution in support of the Valor application on the basis that there had not been a material and substantial change in the Valor application that would adversely affect the community. (**Exhibit 153**).

The above four items constitute the only official actions of ANC3D with respect to this case. Each such official action of ANC3D complies fully with the §406.2 of the *Zoning Commission Rules of Practice and Procedure regarding an Advisory Neighbor Commission Report*. Thus, both in accordance with such rules and pursuant to the language in D.C. Code §1-309.10(3)A) regarding “great weight by ANC’s, “the issues and concerns raised in the recommendations of the Commission shall be given great weight during the deliberations by the government entity.”

Additional Comments in Response to Exhibit 158

Commissioners Gates and Whalen, who voted in favor of ANC3D’s December 6, 2017 resolution (8-1-0) in support of the Valor application have every right to change their minds and to testify on their own behalf before the Zoning Commission. Such rights are undisputed ¹ and hopefully helpful to the Zoning Commission. But, rather than limiting their submissions to their own arguments in opposition to the Valor application, Commissioners Gates and Whalen have attempted to bolster their position through specious, convoluted assertions, and misleading filings (without foundation in law or fact,) by calling into question the integrity of ANC3D’s official actions, thereby attempting to undermine the votes of the majority of the ANC3D. This inappropriate behavior on their part should not be countenanced or in any way encouraged by the Zoning Commission.

In this regard, ANC3D’s official actions taken at its January 10 regular meeting (just one day before the Zoning Commission hearing in this case) are most telling. After voting to place

¹ It is worth repeating here that ANC3D’s December 6, 2017 resolution in favor of the Valor application (**Exhibit 108**) contained a specific clause that permitted the Valor application to be placed on the Commission’s January 10, 2018 agenda for reconsideration if three ANC3D Commissioners submitted a written request stating that there were “material and significant” changes to the community as measured against the Valor presentation to ANC3D on December 6, 2017 and Valor’s application presented to the Zoning Commission on December 22, 2017 (Footnote 25). In her testimony before the Zoning Commission (**Exhibit 150**), Commissioner Gates indicated that she voted in favor of the December 6 resolution solely because of this “reconsideration” clause. However, rather than seek reconsideration in accordance with the agreed-upon language in the December 6 resolution, Commissioners Gates and Whalen chose to disregard the resolution, which they both voted in favor of, and instead demanded that the ANC3D Chair call a special meeting. It is perplexing that Commissioners Gates and Whalen could not even elicit the support of one other Commissioner to request placing Valor on the January 10, 2018 meeting agenda – not even the Commissioner who voted against supporting Valor. It is also worth noting that neither Commissioner Gates nor Commissioner Whalen replied to the Chair’s request by email dated December 31, 2017 to outline for the entire Commission the material and significant changes between ANC3D’s December 6 meeting and the December 22 Zoning Commission filing. Neither Commissioner responded. And most revealing is that neither Commissioner Gates nor Whalen moved at the January 10, 2018 to place Valor on the agenda as they had been previously advised they could. It was I, as Chair, however, who after seeing that neither Commissioner Gates nor Whalen wished to place Valor on the meeting agenda moved to do so to ensure that all Commissioners had a further opportunity to review and discuss the application. Both Commissioner Gates and Whalen participated in the ensuing discussion and deliberation. In the end, however, a majority of those voting reaffirmed the Commission’s support for the Valor application.

the Valor application on its agenda to ensure that all Commissioners had one final opportunity to review and address any material and substantive issues of concern to the community, Commissioner Gates then moved to reconsider ANC3D's December 6, 2017 vote in favor of Valor. Commissioner Gates' motion failed. ANC3D then voted on a second motion to reaffirm its December 6 vote, resolution, and report to the Zoning Commission in support of the Valor application on the basis, contrary to assertions of Commissioner Gates and Whalen, that there had been no intervening material and substantive issues of concern to the community identified. That motion passed.

Thus, the Commission has officially spoken through 3 separate votes and resolutions in December 2017 and January 2018 with respect to its support for the Valor application. For these reasons, ANC3D requests that the Zoning Commission accord such official actions and reports "great weight".

Thank you.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stephen Gardner". The signature is written in dark ink on a light-colored, slightly textured paper background.

Stephen Gardner
Chair