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January 7, 2019

Mr. Anthony Hood, Chairman
DC Zoning Commission
441 4th St. NW, Suite 210S
Washington DC 20001

Re: Case No. 16-23, Proposal for Design Review and Development by Valor Development LLC, Square 1499, Lots 802, 803, 806, 807-- Letter in Opposition

Dear Chairman Hood and Commissioners:

I live half-way between Massachusetts and Wisconsin Aves on Brandywine St., where my family has lived for 35 years, within walking distance of the Superfresh site, where we regularly fulfilled our grocery needs when it was Fresh & Green and, before that, Superfresh and A&P. I oppose Valor's application because

a. the proposed replacement will not serve any additional need in our neighborhood, as it is not a full service grocery store. At best, even if Mom's commits to a lease, it would duplicate the products and services Wagshal's has long provided the community and

b. Valor's proposed project is grossly out of scale for the neighborhood.

Most significant, Valor does not have a legal basis for this project:

- a. The Owner of the lots in question, to construct what is now the contiguous American University six story building, transferred its Lot 807 height and density rights to Lot 806. That transfer is reflected in a recorded Deed.
- b. In other words, that Owner gave up a valuable property right on Lot 806, the Valor site, in return for a zoning benefit. It was a conveyance and relinquishment that runs with the land, like, for example, a negative easement. It is binding on subsequent owners. Valor seems to assume that by purportedly purchasing another property owner's supposed rights, it can erase that conveyance and relinquishment. But that would be the equivalent of selling the same piece of property several times (or more) over.

- c. Moreover, what height and density rights does a single story property designated for historic preservation--like the Spring Valley Shopping Center-- have to sell, particularly if, for historic preservation, that Shopping Center is limited to its present height and density?
- d. At the Jan. 11 part of this Hearing, the Commission asked the Applicant and its attorney to explain its legal justification on these questions. No explanation was forthcoming then. And despite the Zoning Commission's request for a written explanation, no adequate explanation has been provided by Applicant in the meantime. This further begs the question whether there is a legal basis for what Applicant seeks.
- e. Applicant's failure to provide legal justification since 2015 has wasted the time of the neighbors, the parties, the Office of Planning, DDOT and, most of all, this Zoning Commission and its Staff. Failure to address this issue up front—possibly in an attempt to obfuscate and engage the neighbors in a costly and exhausting war of attrition, is an abuse of the system and thus of DC's citizens and taxpayers.
- f. Moreover, Applicant has failed to provide or even confirm that agreements exist with the Lot owner, American University and Spring Valley Shopping Center requisite to a decision.

For the foregoing reasons, the Zoning Commission should first address the above legal issue in any decision it renders and dismiss this case as premature for failure to supply the agreements with American University, the property owner and the Spring Valley Shopping Center owner necessary to rule on the Application.

Respectfully submitted,

Aidan Jones

