

DC ZONING COMM CASE 16-23: VALOR DEV, LLC: STATEMENT OF AIDAN JONES JAN. 24, 2019

My family has lived for 35 years within walking distance of the Superfresh site, where we used to regularly fulfilled our grocery needs.

- I oppose Valor's application because a limited service grocery store, even a Mom's, will not serve any additional need in our neighborhood. Even if Mom's commits to a lease, it would duplicate the products and services Wagshals has long provided the community. And Valor's proposed project is grossly out of scale for the neighborhood.

- Most significant, Valor does not have a legal basis for this project:
 - The Owner of the lots in question, to construct what is now the American University's contiguous six story building, transferred its height and density rights in return for a valuable zoning benefit. That transfer is reflected in a recorded Deed. That conveyance and relinquishment runs with the land and is binding on subsequent owners. And contrary to Applicant's statement in its Dec. 18, 2019 submission, p. 8, that "Other than the owners listed in the Agreement, to whom the benefits and obligations of the document apply, there are no third party beneficiaries . . ." the bedrock of zoning law is that neighboring owners of surrounding property are third party beneficiaries of recorded covenants and zoning laws.

 - Valor cannot erase that conveyance and relinquishment by proposing to purchase Spring Valley Shopping Center's supposed rights, it. That would be equivalent to selling the same piece of property several times (or more) over.

 - Moreover, a single story property designated a historic preservation site--like the Spring Valley Shopping Center--has no height and density rights to sell, because its designation limits the Shopping Center to its present height and density.

 - Although at the Jan. 11, 2018 Hearing, the Commission asked the Applicant and its attorney to explain its legal justification to regain density rights that had been conveyed, no adequate explanation was forthcoming then, and there is none since.

Applicant's failure since 2015 to adequately address the up-front the legal issues-- (1) attempted obtaining of density rights already conveyed and (2) trying to obtain density rights from a one-story Historic Designation shopping center with no such rights to convey-- has wasted years of time of the neighbors, the parties, the Office of Planning, DDOT and, most of all, this Zoning Commission and its Staff.

Unless the Zoning Commission dismisses this Application, that failure to address these threshold legal issues will likely result in an appeal.