

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

CASE NO. 16-23 (Valor Development, LLC – Voluntary Design Review @
Square 1499, Lots 802, 803, 806 and 807)

Testimony of Neighbors for a Livable Community

January 24, 2019

Founded in 1987 by concerned neighbors of Spring Valley and American University Park, Neighbors for a Livable Community has as its mission to promote the planning and use of commercial property adjoining residential property in Ward 3 with an emphasis on the neighborhoods of Spring Valley, Wesley Heights, and American University Park. Our goal is to ensure that those uses do not adversely affect the stability and serenity of the neighboring residential communities; and, it is why we continue to oppose this project in its current form.

In the bottom paragraph of page six of the Applicant's October 16, 2018 submission to the Zoning Commission [Exhibit 240], there is a statement regarding the purpose and intent of the Zoning Regulations, i.e., *to promote public health, safety, morals, convenience, order, prosperity, and general welfare in order to provide adequate light and air; prevent undue concentration of population and the overcrowding of land; and provide distribution of population, business and industry, and use of land that will tend to create conditions favorable to transportation, protection of property, civic activity, and recreational, educational, and cultural opportunities, and that will tend to further economy and efficiency in the supply of public services*. The Valor Application not only fails to meet the spirit of this statement of purpose and intent, it also fails to meet some specific requirements for Design Review. What Valor promotes as "amenities" to justify the out-of-character massing and density of this project are primarily to enhance its marketability. The grocer comes at the expense of a loss of current valued neighborhood retail services; and, the sidewalks, promoted as a connectivity factor, are poorly designed and put public safety at risk. They are too narrow, unbuffered from the alley traffic or only exist for a portion of the alley. As a result, pedestrians will be disadvantaged. The proposed project will not make the neighborhood more livable as there is little offered that benefits existing community residents.

Let's review: This is an application for Design Review, which is supposed to be a process that is "shorter and less intensive than the PUD process and allow less deviation from matter of right standards. The Applicant first met with the SMD ANC 3E02 Commissioner in September of 2015. The design review application was filed with the Zoning Commission a year later - October 26, 2016. Since then the project has had three requests for postponement of a Public Hearing, three requests by the Applicant for deferral of Deliberations by the Zoning Commission and one revision – a total of three years and three months [39 months] have been spent on the Valor project. Despite all this time and delay, the Applicant must seek special exceptions for the required rear yard setback in two areas of the Main Building's west façade and, the penthouses on four of the five townhouses. The Applicant also seeks not so "minor" flexibility for no less than eleven areas of design review. The Applicant also admits that the project is more dense than permitted as a matter-of-right.¹ And, there remain unfinalized agreements which should prevent the project from moving forward. Simply put, the required special exceptions, requested flexibility (including potentially adding 10 percent more units), density transfer and unfinalized agreement make it difficult to demonstrate this project even qualifies for Design Review.

We have been informed that Valor has an agreement with American University regarding Valor's use of parking spaces on the Super Fresh lot that are reserved for the owner of the AU building under a 1979 easement. As we learned on January 7, 2019, there is no signed agreement, even though Valor has continuously stated that "we expect to have a signed document with the university within the next few weeks." Until that agreement is finalized, Valor's numbers for parking have no basis in fact.

Where is the opinion from the Attorney General ("AG") regarding the transfer of density within the Project Boundary? With whom did OP speak in the AG's office and why isn't the Zoning Commission requiring that there be a written opinion entered into the record? My ANC experience on several AG requests always ended with a written opinion. An opinion on the transfer of development rights for the Valor development, is surely weightier than those sought by the ANC in any instance.

The Applicant, with the help of OP, attempts to convince the Zoning Commission that this is not a density transfer – it is an aggregation, it says, there is no

¹ October 16, 2018, Valor Submission of Revised Plans and Supporting Information. Sheet G05.

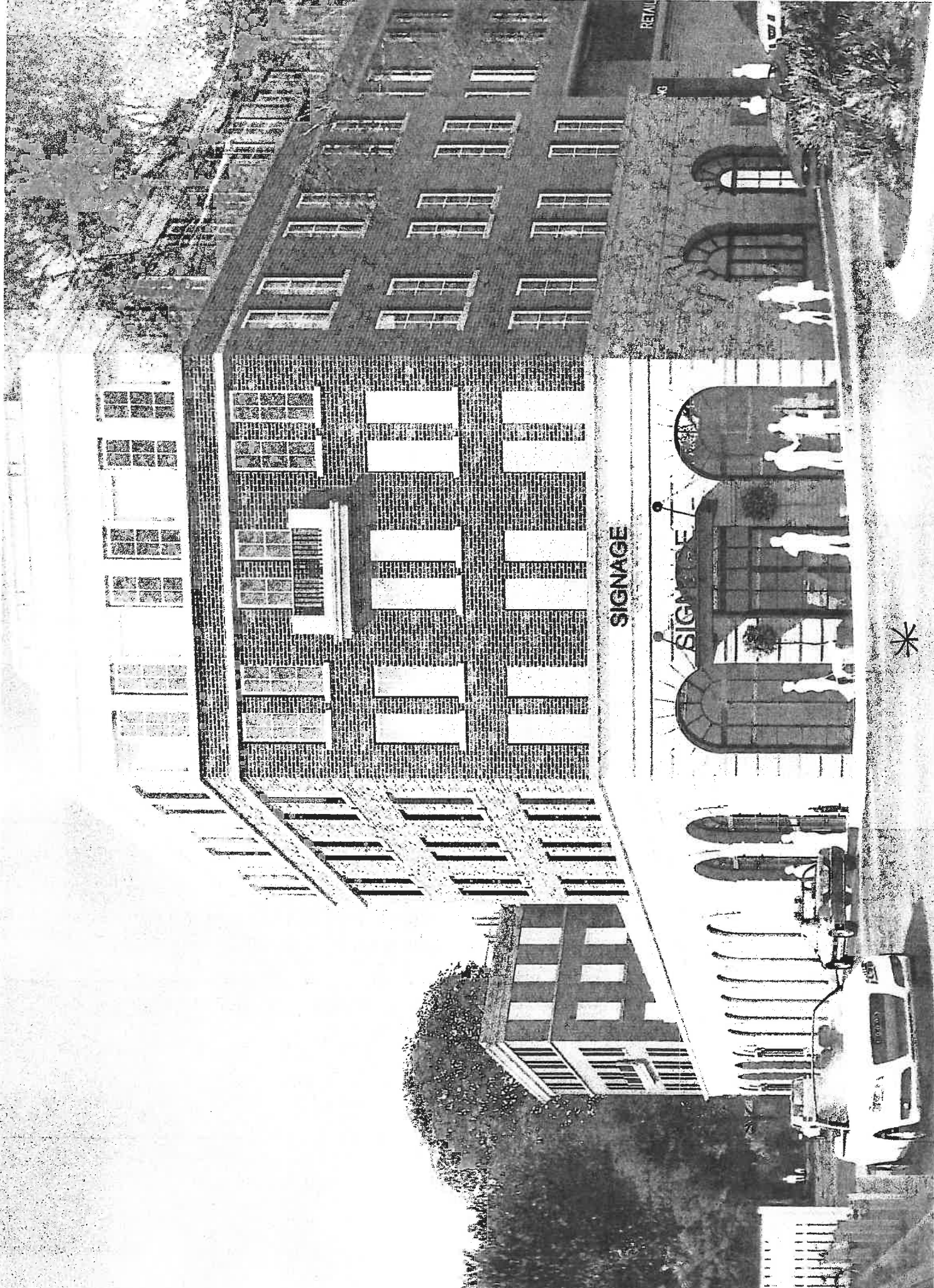
additional density and therefore the Design Review regulations are not violated. Neighbors for a Livable Community do not accept that there is no increase in density through the transfer process; and, the Valor site is not a designated transfer or receiving zone. Hopefully the Zoning Commission recognizes this approval will be precedent setting and may require a rewrite of Section 600.1(e) of the Design Review criteria.

Another critical piece of this Application has to do with onsite internal traffic circulation. Currently, considerable confusion remains about the workings of the alleys which frame two sides of the development. Both alleyways are 20 ft. wide and meant to carry two-way traffic. While the Applicant does not seek flexibility for the theoretical lots which will use the 20 ft. alleys for ingress and egress, the development standards for theoretical subdivisions require that *Each means of vehicular ingress and egress to any principal building shall be at least twenty-four feet (24 ft.) in width, exclusive of driveways.*²

The PNC driveway off Massachusetts Avenue, currently without a sidewalk, also draws into question pedestrian safety. The area where the E/W and N/S alleyways merge with the PNC Bank driveway will likely become a major *choke point* as drivers approaching or leaving the parking lot will all converge at this three-way intersection. A HAWK signal, proposed midblock on Massachusetts Avenue will be located proximate to where the PNC Bank driveway intersects Massachusetts Avenue. Its location will draw pedestrians through the alleyways to cross Massachusetts Avenue mid-block rather than at the existing traffic signals at Fordham Road and/or 49th Street. An in-depth pedestrian safety study of the proposed midblock HAWK signal is necessary given the alley choke point to ensure that vehicular/pedestrian conflicts will not result if the signal is installed.

In conclusion, this application has been on file for over two years and before the public for over three years. While some areas of requested flexibility are “routine,” others require zoning relief; agreements and opinions are missing; and, bring into question the ability of the Zoning Commission to approve it under Design Review - or at all. The Valor Application for Design Review, even after 39 months, is not ripe for a decision at this time.

² Subtitle C, Section 305.3(b).



Choke Point

