

4705 Windom Pl., NW
Washington, DC 20016
July 13, 2017

Mr. Anthony Hood, Chairman
District of Columbia Zoning Commission
441 4th Street, 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, 807

Dear Chairman Hood and Zoning Commissioners:

We live less than a block from 4330 48th Street NW, the site of a proposed development by Valor Development to build two five-to-seven story buildings containing 230 apartment units. We are writing to express our opposition to this proposal.

The current proposal for such a large-scale development on this site is inappropriate for a number of reasons. These two large buildings, directly across from residential homes and looming over the small-scale, land-marked shopping center behind them, would result in clogged traffic in an already congested area around the shopping center, as well as increased parking, traffic, noise, and safety concerns for the residents in the two-story, single-family homes in this predominantly residential neighborhood. In addition to those substantial concerns, the proposal has failed to take into account the previous development history of this parcel, which we believe provides fundamental legal impediments to this proposal.

First, Valor Development's application for design review should not be approved because the application lacks an essential party. American University, the owner of the building on Lot 806, adjacent to the site of Valor's proposed development, should be a party to this application because the two lots belong to the same parcel, Lot 9. As Valor has noted in its application (see p. 3), Lots 806 and 807 were previously consolidated into Lot 9, which remains one parcel for zoning and development purposes. Lot 9 is divided into contiguous lots 806 and 807 for assessment and taxation purposes only. *Paul S. Burka, et al. v. Aetna Life Insurance Co, et al.*, 945 F.Supp. 313, 315 (D. D.C. 1996)(“*Aetna*”). As the District of Columbia Court of Appeals described it, the lot consolidation was done “in order 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.” *American University Park Citizens Assoc., et al. v. David Burka, et al.*, 400 A.2d 737, 739 (D.C. App. 1979). Because the entire parcel was consolidated for development purposes, “the buildings on the two lots are considered one structure.” *Aetna*, 945 F.Supp. at 321. The lot on which Valor proposes to build remains a part of the larger Lot 9; thus, any application requires the participation of all owners of Lot 9. American University, the owner of the other building on Lot 9, must be a party to any further development on this parcel.

Second, Valor's proposal has never fully acknowledged the restrictions on the allowable density for development on Lot 807, which resulted from the consolidation of the two lots into one lot and the borrowing of density from Lot 807 for the building on Lot 806. Valor's proposal for two massive buildings is not only completely out of scale in comparison with the single-family homes surrounding the site and the existing, one-story commercial shopping center directly behind the site, it fails to account for the reduction in allowable density for the parcel that resulted from the previous construction on the adjacent Lot 806. See *Aetna*, 945 F.Supp. at 315 (describing a Declaration of Easement and Agreement, which allocated the maximum permissible density between the two parcels of Lot 9).

Please take these objections under consideration as you review Valor Development's application. While we would support an appropriately-sized redevelopment of this site, we urge the Commission to disapprove the current application.

Respectfully submitted,

Kathleen A. Felton and Wayne L. Mock