

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :

:

VALOR DEVELOPMENT, LLC : Case No.

VOLUNTARY DESIGN REVIEW @ : 16-23

SQUARE 1499, LOTS 802, 803, :

806 AND 807 :

:

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Thursday,

January 25, 2018

Hearing Room 220 South

441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No. 16-23 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)
- PETER G. MAY, Commissioner (NPS)
- PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON

The transcript constitutes the minutes from
the Public Hearing held on January 25, 2017.

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P-R-O-C-E-E-D-I-N-G-S

6:31 p.m.

1
2
3 CHAIRMAN HOOD: Good evening ladies and gentlemen.
4 This is a continuation of Zoning Commission case number 16-
5 23. I'm going to incorporate most of the first part of the
6 introductory remarks into this case as well. Joining me are,
7 soon to join me are, Vice Chair Miller, Mr. Turnbull,
8 Commissioner May, and Commissioner Shapiro. Again my name
9 is Anthony Hood, also joining me are Office of Zoning staff
10 Ms. Sharon Schellin, as well as Office of Planning Mr. Lawson
11 and Ms. Von Teller.

12 Again, we will, we have a set schedule of what
13 we're going to do tonight. We're going to hear the
14 opposition, the party in opposition, the persons in
15 opposition rebuttal, and then we will have cross on rebuttal
16 if any, and then we have closing, by the applicant, in that
17 order. So Ms. Schellin, you want to add anything, did I get
18 that right?

19 MS. SCHELLIN: Yeah, I'm going to put a piece of
20 paper up here, on the end of the dais. For some reason
21 they're not able to, the people who didn't previously sign
22 up, so if they previously signed up their name should already
23 be there. But those who didn't have an opportunity to sign
24 up, in opposition, we've already taken testimony in support.

25 So those in opposition, can print their name so

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1 I can read it. I'll add you to the list up here, I can still
2 add you. I'm not sure what's going on with the kiosk over
3 there. But I'll put a piece of paper up.

4 CHAIRMAN HOOD: Okay, hold on one second. Do you
5 have something to help us to that?

6 MS. SCHELLIN: If you're a party to this, you
7 don't need to do it.

8 CHAIRMAN HOOD: Yeah. You already recorded, you
9 want to say something, introduce yourself --

10 MR. REPP: Yeah, I was --

11 CHAIRMAN HOOD: Introduce yourself.

12 MR. REPP: Shelly Repp, from Citizens For
13 Responsible Development, in opposition. People have signed
14 cards, and delivered them over here? It's different.

15 MS. SCHELLIN: That's a, that's for the court
16 reporter. Even if you signed cards --

17 MR. REPP: They should be on the list.

18 MS. SCHELLIN: You should be on the list.

19 MR. REPP: That's what I, that was my question.

20 CHAIRMAN HOOD: Okay. All right Ms. Schellin's
21 going to set that up, give her a moment to get that set up.
22 She's going to set up a list, and you'll be able to sign in.
23 Again, we're only hearing from folks in opposition. We
24 noticed that we did have some letters, added to the record
25 I believe, since the last time I looked at it, a lot in

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1 support. So we, so noted. I just want to make sure you
2 noted that. Because tonight we have a specific -- yes we did
3 support and undeclared already, thank you.

4 All right. Okay I'm going to give Ms. Schellin
5 just a moment, to get the list, and I guess she's going to
6 put it over here to the left, to my left. Okay, so Mr.
7 Donohue, Ms. Schellin how many, they have fifteen, you will
8 have fifteen minutes? All right, Mr. Donohue, you may begin.

9 MR. DONOHUE: Thank you Mr. Chairman. Members of
10 the Commission, my name is Ed Donohue, with me is Shelly Rep,
11 who you've already met. And he is the lead for Citizens for
12 Responsible Development. We have a number of speakers in a
13 short period of time, so without further ado, I'm going to
14 hand it right over to Mr. Repp.

15 MR. REPP: Thank you. Good evening Commissioners,
16 thank you for the opportunity to speak with you this evening,
17 on behalf of Citizens for Responsible Development. As Ed
18 said, my name is Shelly Rep, I live on Windom Place,
19 Northwest, just five houses removed from the SuperFresh site.
20 I will be joined by three of my colleagues here, my neighbors
21 here, in a second here.

22 Almost 600 D.C. residents have signed a petition
23 in opposition to the Valor project, as currently envisioned.
24 73 households have submitted letters to the Commission in
25 opposition to the project. And 16 of those households are

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1 200-footers. Our goal here this evening is to look at
2 Valor's proposal, and offer the reasons why Citizens for
3 Responsible Development objects to the project.

4 Okay. The applicant proposes using the new design
5 review process to build two 5-7 story buildings on the former
6 SuperFresh site. The site faces two local streets, lined
7 with 2-story residential homes. What would this project look
8 like? You asked that question two weeks ago, what it would
9 look like, and this is an important question, because we
10 believe that Valor's renderings do not show the buildings as
11 they would appear to the human eye.

12 The following images, prepared by Digital Design
13 & Imaging Service were developed in accordance with National
14 Park Service, National Capital Planning Commission, and
15 industry standards. They show, the first one here shows the
16 proposed building, looming over the Spring Valley Shopping
17 Center. The next image here shows the site from -- with the
18 model built in, from Windom Place, where I live, with my
19 wife.

20 The next rendering here, photograph, is an aerial
21 view of the site, it shows how the proposed building sits in
22 the middle of a residential community. Once again, this is
23 a, this project is not on a, does not sit on a commercial
24 street. It sits on 49th -- 48th street, and Yuma street, two
25 residential streets. The final slide here, which comes

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1 directly from Valor's application, but it's intended to show
2 what the size of the building is, looking at it from Yuma
3 street. Once again it's 5 stories, on the left, 7 stories
4 on the right, Yuma street is a residential street, lined with
5 2-story homes.

6 The project raises a host of legal issues. In
7 fact, we believe that there are so many legal issues raised
8 here, that this, because of the number and complexity of the
9 issues, we don't believe that this project is appropriate for
10 the expedited and less intensive design review process.
11 Which this is the -- as I understand it, is really a case of
12 first impression.

13 First of all, it is impermissible, under design
14 review, to ask for an increase in density. That statement
15 occurs three separate times in the design review regulations.
16 But clearly there is an increase in density that is being
17 requested here. Valor acknowledges that the matter of right
18 limit here is 184,000 square feet of gross floor area, Valor
19 is proposing a building that consists of 277,000 square feet
20 of gross floor area. In other words, over 90,000, in fact
21 almost 93,000 square feet, more than is available as a matter
22 of right. Thus not meeting the design review requirements.

23 Second of all, the design review requirements
24 provide that you can't ask for more relief than is available
25 under a PUD. In this case, based on the 184,000 square feet

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1 that's available as a matter of right, under a PUD the
2 applicant would be entitled to construct a building of
3 232,000 square feet. Once again, that is almost 45,000
4 square feet less than Valor is proposing in its project. So
5 the project fails under that test also.

6 Further, the applicant -- the application is
7 inconsistent with the comprehensive plan. We've gone into
8 more detail on that in our written submission, but in short,
9 both the land use, urban design, and Rock Creek West elements
10 of the comprehensive plan, each call for development to be
11 appropriate to the scale and character of the adjoining
12 communities.

13 A 5-7 story 89-foot-tall structure is incompatible
14 with the 2-story homes in the adjoining residential community
15 and with the 1-3 story low-density historically designated
16 Spring Valley shopping area. The images prepared by Digital
17 Design clearly demonstrate the excessive scale of the project
18 in relation to the neighborhood. The project exemplifies the
19 overpowering contrast in scale, height, and density that the
20 urban design element states should be avoided.

21 Fourth, the project is inconsistent with the
22 future land use map. The FLUM designates the site as being
23 low-density commercial, which is defined elsewhere as being
24 comprised primarily of 1-3 story commercial buildings. The
25 framework element further states that the zoning of any given

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1 area should be guided by the Future Land Use Map, and that
2 zoned districts may be compatible with more than one FLUM
3 designation, depending on the prevailing character of the
4 area and the adjacent uses.

5 The prevailing -- here, the prevailing character
6 of the area is single-family homes and 1-3 story commercial.
7 We submit that the Zoning Commission should look to the
8 Future Land Use Map and the prevailing character of the area
9 and adjacent uses in rendering its decision on the
10 application.

11 Fifth, contrary to the mandates of the zoning
12 regulation, the project undermines the historic character of
13 the neighborhood. Sondra Mills will address this point.

14 MS. MILLS: Yes, my name is Sondra Mills, and --

15 CHAIRMAN HOOD: You want to turn your mic on?
16 Speak into a mic, oh there you go -- no that's the light.
17 Yeah there you go. All right.

18 MS. MILLS: I'm very sorry.

19 CHAIRMAN HOOD: Okay.

20 MS. MILLS: Is that better?

21 CHAIRMAN HOOD: There you --

22 MS. MILLS: Sorry. Thank you very much. I live
23 at 4827 Alton Place Northwest, which is about a block and a
24 half from the former SuperFresh site. Frankly, like many,
25 I was just stunned by the scale, the massing, and the design

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1 of Valor's proposed project. It seemed so out of character
2 with the neighborhood that I love.

3 And so we decided to consult with Stephen Hansen,
4 a respected architectural historian. Mr. Hansen's actually
5 been accepted as an expert witness for the Mayor's Agent for
6 Historic Preservation, just last September in 2017. Mr.
7 Hansen provided two reports, his initial report, and a
8 supplemental one, both of them discussing the severe adverse
9 impact of the proposed, so-called Ladybird project, on the
10 historic Spring Valley Shopping Center sites, on both sides
11 of Massachusetts Avenue.

12 Both of these reports have been filed with the
13 Commission, I'm sure the commissioners are capable of reading
14 them for themselves. But I just wanted to touch on a few
15 highlights in these reports. Starting first with Mr.
16 Hansen's supplemental report, he explains that the proposed
17 development just can't go forward without first being
18 reviewed by both the Historic Preservation Office and the
19 Historic Preservation Review Board.

20 Historic landmarks are unquestionably involved in
21 the proposed project. The Spring Valley Shopping Center was
22 designated as a D.C. Historic Landmark in 1989, and then put
23 on the National Registry as a National Historic Landmark in
24 2003. Valor purports to be borrowing density from this
25 adjacent historically landmark shopping center, and the owner

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1 of that shopping center, Regency, is a named party to this
2 application.

3 Now there are supposedly confidential documents
4 between Regency and Valor regarding the purported transfer
5 of density, and Valor has not -- they so far have refused to
6 disclose those. But regardless of whatever is contained in
7 them, in these sort of secret documents, it's clear that
8 Valor's proposed project just can't go forward, without
9 borrowing density from the shopping center. No one,
10 including Valor, disputes that.

11 On the other hand though, no transfer of density
12 can be received by the lot that the SuperFresh, the former
13 SuperFresh site sits on, and where the Ladybird would be
14 located. Mr. Repp has already addressed how the design
15 review process doesn't permit an increase in density. And
16 our submissions show that any transfer of density is actually
17 limited only to five receiving zones in the city, primarily
18 downtown.

19 The Ladybird is just not located with any of
20 those, within any of those five zones. So, under any
21 circumstance we don't think that further density can be
22 received by this site. But in fact Valor seems to be going
23 way beyond just borrowing density from the Spring Valley
24 Shopping Center. What it apparently actually seems to be
25 doing is to treat the shopping center lots, which are 802 and

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1 803, as though they were being combined into a single lot,
2 with the Valor so-called SuperFresh lot, 807.

3 These are separate lots. They have not been
4 combined into a single lot. So Valor can't somehow move the
5 density around between these lots. They're two separate
6 things. It's really a transfer of density that's going on,
7 regardless of whatever labels Valor or anyone else wants to
8 hang on them. So we asked Stephen Hansen about what steps
9 would need to be taken to just reconfigure these lots.

10 And his written response is set forth in a written
11 version of my testimony that we have submitted. And I'm not
12 going to read it in verbatim now. But essentially he says
13 that combining the Valor lot 807 with the landmark lots would
14 require Historic Preservation Review Board approval so they
15 can evaluate the effect on the character of the historic
16 landmark. In other words, just to put it in simple terms,
17 Valor can't legally reap the benefits of combining the lots
18 without accepting the historic preservation responsibilities
19 that come with that.

20 So, you know even if Valor can overcome some of
21 these obstacles or all of them, we think they -- this
22 commission still has to consider the effect on the landmark.
23 And we believe that as Mr. Hansen has discussed in his
24 report, the proposed Ladybird would unquestionably adversely
25 impact the landmark shopping center.

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1 It doesn't respect the scale of the architecture
2 of the landmark, it will hover over the landmarks and the
3 surrounding neighborhood that they were designed to serve.
4 This was built to serve a local neighborhood, as local
5 shopping. We do have a slide that shows how that would look,
6 if Mr. Repp can find it. There we go. That's the view from
7 the Spring Valley Shopping Center. There would be tall
8 shadows cast over the shopping center, and over the
9 surrounding community.

10 And so for that reason, the project just doesn't
11 satisfy the requirements of the design review regulation,
12 604.7c, because it will adversely affect the landmark. So
13 all of this sounds sort of technical, and -- but to the
14 people who live in AU Park it's anything but. I moved to
15 Alton Place 12 years ago because I was looking for a
16 neighborhood that was a lot less dense from where I had been
17 living. An important consideration was the fact that it was
18 located near these landmark shopping centers that were
19 serving the local community. That's why we live there.

20 Valor's proposed development would be a sea
21 change, in our community. Three families told us they've
22 already moved away, they've sold their homes, partly because
23 of their concerns about the huge scale of this impending
24 project. And if it's approved, others including me will
25 follow, we will move. Thank you very much.

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1 MR. REPP: Thank you. Sixth, the Valor
2 application fails to meet the design review requirement that
3 a project not have an adverse impact. Laura Ivers will go
4 into this, describe this.

5 MS. IVERS: Good evening Commissioners. So I live
6 with my family at 4710 Windom Place. My children are young,
7 they're three and six, and we moved to the neighborhood for
8 many of the amenities that draw people there, the schools,
9 and a place where children can play freely outside.

10 We are extremely concerned about several issues,
11 and the adverse impacts that can come from this large-scale
12 complex. Our top concerns are pedestrian safety, traffic
13 congestion, overcrowding of public schools, loss of sunlight
14 and privacy, and various forms of pollution. So importantly,
15 I speak -- I don't know if that buzz meant anything. I speak
16 for many of my neighbors, notably the nearly 600 people who
17 signed our petition in opposition --

18 CHAIRMAN HOOD: Actually, the buzz means you all
19 are out of time.

20 MS. IVERS: Oh.

21 CHAIRMAN HOOD: Because I think, I know in our
22 previous regulations, I ran into this problem before. I'm
23 usually pretty lenient, but I don't want to get into no legal
24 issues because obviously, we never know where this may end
25 up. And I don't mind putting it out there, let me ask. Ms.

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1 Schellin, give me one second please.

2 (Off-record comments.)

3 CHAIRMAN HOOD: Okay, thank you. That's the
4 easiest thing I've done today I think. What we're going to
5 do, and I'm going to ask Mr. Collins, I want to give
6 everybody ten additional minutes to finish. Is that a
7 problem? Yes. See if it -- I shouldn't have spoke before
8 I asked Mr. Collins.

9 MR. COLLINS: Mr. Chairman I think that you gave
10 the applicant additional time last week, so that's fine with
11 us.

12 CHAIRMAN HOOD: Okay. I did give you all, okay.
13 That's fair. So we'll do ten minutes, Mr. Donohue, can you
14 all wrap it up in ten minutes?

15 MR. DONOHUE: I sure can, thank you.

16 CHAIRMAN HOOD: Believe me, we get the gist of the
17 presentation.

18 MR. DONOHUE: Thank you sir.

19 CHAIRMAN HOOD: All right, thanks. And that goes
20 to everybody, and the applicant agrees. Thank you Mr.
21 Collins, okay.

22 MS. IVERS: Well wonderful, and thank you. So
23 I'll move into an overview of our concerns. So on pedestrian
24 safety, adding an estimated 3,500 cars per day, in my view
25 and in many neighbors views, in no way makes our neighborhood

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1 more pedestrian-friendly. This is especially a concern for
2 children and the elderly, of which there are many in the
3 neighborhood. And then this suggestion of a pedestrian
4 walkway in the alley, wherein people are to walk in front of
5 a very busy garage and a couple of loading docks, to me just
6 seems completely unsafe, and also to many of my neighbors.

7 So, regarding traffic congestion I commute
8 downtown every day, and I'm familiar with all of the options
9 of coming and going from the neighborhood, and also with the
10 traffic patterns. If you take the M buses, or if you drive
11 on Mass Avenue, it's slow going and there's a lot of
12 congestion. So frankly the Metro is more efficient most of
13 the time. But not everyone, actually not most people are
14 game to walk the one mile, both ways, regardless of the
15 weather, and regardless of your health.

16 And in addition the bike ride, which is an option
17 I also like, is something that not everyone is game to do,
18 because it's also uphill. Right. So, presently what we
19 would see would be a significant increase of traffic going
20 onto Mass Avenue, exacerbating the congestion, and at this
21 point there's no option that Valor's put forward for how to
22 actually get people to the Metro efficiently.

23 An immediate concern for the neighbors is how
24 traffic would actually flow in and out of the alley that
25 would be coming onto 48th street, where these 3,500 vehicles

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1 are mostly going to be entering and leaving. There's a very
2 short block between Warren/Mass Avenue that gets -- that
3 would get very backed up at that point, in addition to --
4 it's also got a left hand turn, there's a lot going on, on
5 that block.

6 And in addition, the AU buses have a -- there's
7 a bus stop right between the alley and Mass Avenue. And
8 frequently there's one bus idling, and sometimes there's even
9 two bus idlings that actually block the alley, so, not sure
10 how that would work. In addition, the alley that's going to
11 be coming off of Yuma, when there are trucks delivering to
12 the stores at the shopping center, the alleyway is going to
13 be impassible. So, the proposed HAWK light, if it were
14 installed, would just exacerbate these problems further.

15 So, on the topic of school capacity, I have a
16 child at Janney Elementary School, and any child who moved
17 into this proposed complex would, you know, rightfully --
18 should rightfully be enrolled at the local schools.
19 Unfortunately they are already oversubscribed. Last year
20 Wilson and Janney were at 103 percent capacity. This is a
21 real concern for many people in the neighborhood.

22 On the loss of sunlight, as discussed when we last
23 met, Valor's shadow study looked at only seven hours of the
24 day, 9:00 a.m. to 4:00 p.m. Valor did provide us with
25 projections of what shadows would look like later in the day,

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1 and actually my house is one of the many that would be in the
2 shadow from March through -- in the late afternoon from March
3 through September and then in the summer evenings.

4 And you know, late in the -- you know, those are
5 the times of the day when many of us are actually home to be
6 able to enjoy our homes. Or not enjoy them. The shadow and
7 canyon field that would be created by the Ladybird would
8 adversely impact our quality of life.

9 And then when it comes to pollution, clearly an
10 increase in traffic would bring an increase in vehicle
11 emissions, potentially exposing residents, including many
12 young children, to health risks. And in addition there would
13 be night and -- sorry, noise and light pollution that would
14 also adversely impact our quality of life.

15 With regards to privacy, the height of the
16 building and the terraces proposed would afford direct views
17 into neighboring yards and homes. So, unfortunately Valor
18 has not offered amenities that resolve these issues, or that
19 compensate for them, and I feel it's important to note that
20 none of the proponents of the project live within 200 feet
21 of the site, nor anywhere close. And anyway, with that, I'll
22 pass it on to --

23 MR. REPP: Thank you. I'm going to skip over the
24 parking issues, but there are -- we talked about them last
25 time and during our cross. But there are definitely parking

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1 issues, at least if the agreement with American University
2 doesn't happen. And we don't know whether it is or not.

3 Third, the next item is that zoning -- we think
4 that there's a problem here because the zoning regulations
5 do not allow the applicant to use 48th street as its
6 measuring point for a lot that slopes down 26 feet, given the
7 artificial embankment. Michael Stover will go into this
8 issue.

9 MR. STOVER: Yes, my name is Michael Stover, I
10 live on Butterworth Place, three blocks from the SuperFresh
11 site. As Shelly said, Valor has made a major mistake in
12 taking its 50 foot height measurement from the curbside of
13 48th street. The SuperFresh site lies within MU 4 zoning,
14 so section 307 of your regulations applies. Now 307.5
15 addresses the normal situation, where a developer can pick
16 any side of the building for its height measurement.

17 But there's one important exception, and that is
18 307.7. That deals with the situation of an artificial
19 elevation or an artificial depression, and this lot has both.
20 If you look at the site, you will see that 48th Street runs
21 across a slope, and 48th Street needed to be leveled, the
22 road that needed to be leveled so you drive like this instead
23 of like that. There are two ways of leveling a road, one is
24 to cut into the bank on the uphill side, the other is to
25 raise the downhill side with an artificial embankment.

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1 Anybody who goes there can see, as our photographs
2 show, that there is clearly an artificial embankment that
3 extends flat, 24 feet from the curb of 48th Street to the
4 retaining wall that then plunges 16 feet down to the bottom
5 of an artificial depression, which is the excavation for the
6 SuperFresh garage. Now what is the result of this? Valor
7 should not be taking its 50 foot measurement from the 48th
8 Street curbside because it sits on top of an artificial
9 embankment. They've offered no evidence, no proof, that this
10 is not the case.

11 The result is, under 307.7c, that they have to
12 take their 50 foot measurement from the natural elevation
13 that the front of the building faces. That would be Yuma
14 street. That's where the front of the building really is,
15 the pedestrian entrance and the store entrance. By my
16 reckoning, the middle of the building would be where the cars
17 enter to the SuperFresh parking garage. That would be the
18 normal, natural elevation.

19 Now, when we consider what the elevation naturally
20 is, we've got maps to show you, they're in my written
21 testimony, one is a topographic map that shows that there was
22 a continuous slope going down from 48th Street down to the
23 alley where Murdock Mill Creek used to run. So obviously,
24 to build a road like 48th Street across that natural slope,
25 you needed to have that artificial embankment to level the

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1 road bed.

2 So, the result of Valor having to go back to its
3 drawing boards, as we think it must, is that they come up
4 with a building necessarily two floors less. That would be
5 a major step toward a building that would be in harmony with
6 the rest of the neighborhood, would not be disproportionately
7 massive, and that many neighbors could accept.

8 Valor's only attempt to meet its burden of proving
9 that its building meets the requirements of the regulations,
10 the only attempt they've made, was when Ms. Alexander the
11 other night said that, well, everything below the second
12 floor, on this steeply sloping site with a 26-foot drop, she
13 said, and we agree, there's a -- you know a significant 26-
14 foot drop, from the top of that artificial embankment on
15 down. The -- according to her, everything below the second
16 floor is below grade, a neat way of making the regulation
17 disappear.

18 The problem is there's no basis in regulations for
19 simply declaring that the downhill side of a building is
20 below grade. It's absurd, because that would mean that all
21 the houses along Yuma Street are subterranean dwellings, that
22 the shopping center is a subterranean structure. That
23 obviously won't fly.

24 Valor has not made any attempt to show that there
25 isn't an artificial elevation or embankment up there. They

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1 haven't done drilling for soil samples that would show
2 whether or not there's the kind of compacted fill you would
3 need for an artificial embankment. I think they're in
4 default on this issue, Commissioners. Thank you very much.

5 MR. REPP: Okay, our final point, in our last 38
6 seconds here, is that the design review regulations say that
7 any design review has to be superior to any matter of right
8 development possible on this site, and I emphasize the word
9 any. Here all Valor has shown is a straw man scenario of
10 three massings of outlines of a building, using the maximum
11 size available under MU 4 zoning, and without taking into
12 consideration the limits that -- to them, under the matter
13 of right development that we've gone through already. That's
14 it.

15 CHAIRMAN HOOD: Okay, all right. Thank you all
16 very much, the presentation I think was very well done.
17 Let's see if we have any questions up here. Commissioner
18 May?

19 COMMISSIONER MAY: Yes, so, early on you
20 referenced Park Service Standards for doing renderings of
21 buildings, or estimating, what Park Service Standards are
22 those? Because I'd like to know.

23 MR. WESTERGARD: Mr. May, this is Curt Westergard,
24 Digital Design & Imaging Service. Your question about Parks
25 Standards -- Parks Service Standards, if I may show what

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1 those are, I've quoted them, and relate them to the project?

2 COMMISSIONER MAY: I asked the question, so tell
3 me what the answer is.

4 MR. DONOHUE: Mr. Chairman, earlier today we
5 submitted Mr. Westergard's bio, and a slide deck. He had
6 prepared some of the visuals that you saw earlier, but he
7 was asked to give us a visual impact analysis, and so we did
8 submit his material at about 4:15 today.

9 COMMISSIONER MAY: And I'm not looking for a
10 presentation, the whole thing, I just want to know what
11 standards he's talking about.

12 MR. DONOHUE: Understood. Okay.

13 COMMISSIONER MAY: We can read them, what's been
14 submitted.

15 MR. WESTERGARD: The National Park Service, as
16 well as Bureau of Land Management, specified that in
17 producing accurate and defensible renderings, that a human
18 magnification is required, if not strongly suggested, as well
19 as the correct depth shown, and height shown, of an
20 introduced element into a photograph.

21 So a lot of what the images you see there are done
22 exactly that way, and the point we're trying to make is that
23 the Valor simulations weren't using a 50, 5-0 millimeter,
24 which is what we're seeing in our daily perception, but
25 rather an 18 and 9 degree millimeter lens. Which in effect

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1 pushes the height of the building down, away, and its width
2 and height get diminished.

3 COMMISSIONER MAY: Okay. That's all I wanted to
4 know. You also in your -- not from Mr. Westergard, but one
5 of the statements you made is that the site under a PUD would
6 only be 232,000 roughly, square feet of development. And is
7 that based on just the SuperFresh lot, or is it based on the
8 entire density that the developer is attempting to use? You
9 need to turn your microphone on.

10 MR. REPP: It's what's available on the Super
11 Fresh lot plus a 20 percent increase, based on the full
12 amount available on lot 807.

13 COMMISSIONER MAY: So it's just lot 807, you're
14 not taking any, you're assuming no transfer, right?

15 MR. REPP: That's right.

16 COMMISSIONER MAY: Okay. That's all I'm asking.
17 And then, the notion about the measuring point and the fact
18 of the embankment, can you tell me when the road was built?

19 MR. STOVER: I know that the road had to have been
20 built in the 1920s. We have a 1919 map here showing the
21 projected 48th Street, and so I don't know exactly when it
22 was, but I'm sure it was either, you know obviously sometime
23 after 1919. Probably well before 1937 when my house was
24 built on Butterworth place.

25 COMMISSIONER MAY: Okay. Thanks.

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1 CHAIRMAN HOOD: Any other questions or comments?

2 COMMISSIONER TURNBULL: Yeah, I just want to get
3 back to the magnification issue of the camera lens. Are you
4 saying that it's that big of a difference, between using
5 those lenses?

6 MR. WESTERGARD: Yes, it's very significant, it's
7 the equivalent of looking through a pair of binoculars
8 backwards at an object. I can show that in particular. So,
9 if you're looking at the vantage point from Windom place, in
10 particular --

11 COMMISSIONER TURNBULL: Now the drawing you just,
12 or the picture you just showed, which is now gone, that was
13 the applicant's view point, before? Not that one, go back.
14 Was -- I thought you -- oh, I thought I saw something that
15 looked like it was the applicant's picture.

16 MR. REPP: One of the renderings that I showed was
17 the -- looking at this from Yuma, was right from the
18 applicant. This is, these are, you know we didn't retain --

19 COMMISSIONER TURNBULL: Okay, okay.

20 MR. REPP: You know, Curt to do that, so.

21 COMMISSIONER TURNBULL: I got you.

22 MR. REPP: Yeah.

23 COMMISSIONER TURNBULL: Okay.

24 MR. WESTERGARD: But back to your question about
25 is that such a significant change, if you look at it from

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1 Windom place, which I'm queuing up here, that's the existing
2 and the proposed. That building, the height of that roof,
3 shown again here on the lower one, is the same building as
4 Valor represented.

5 COMMISSIONER TURNBULL: So the top view, the top
6 picture, is Valor's.

7 MR. WESTERGARD: Correct.

8 COMMISSIONER TURNBULL: And you're saying that
9 with the correct lens that they should be using, it would be
10 the bottom.

11 MR. WESTERGARD: Exactly.

12 COMMISSIONER TURNBULL: Okay. That's a
13 significant difference.

14 MR. WESTERGARD: It is, and if you isolate it,
15 taking away the wires and trees, it comes to something
16 between this, which is a 14 millimeter lens, which is very,
17 very wide-angle, almost fisheye. Versus doing it correctly,
18 with, correctly meaning the National Park Service Standards,
19 the Commission for Fine Arts also suggests and uses that
20 standard, as well as the D.C. Building Height Study, which
21 we participated in, and they put that in the contract, thou
22 must use that to have a fair comparison.

23 Otherwise you get something between that and this.
24 The effect is that what looks like very far away is a lot
25 closer. So close you could read, you know you could read,

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1 if somebody had a T-shirt on you could read it, that close,
2 whereas here it looks like you're so far away you're barely
3 able to recognize what the person was wearing.

4 COMMISSIONER TURNBULL: Oh, okay, interesting.
5 I don't think anybody's ever given us an analysis of the
6 optics of the perspectives that are used. Thank you.

7 CHAIRMAN HOOD: Okay. Vice Chair, you have
8 anything?

9 VICE CHAIR MILLER: Thank you Mr. Chairman, and
10 thank you, thank you for your presentation. So you're saying
11 that both of those perspectives with different millimeter
12 lenses is from the same -- from the exact same point, versus
13 the --

14 MR. WESTERGARD: Yes, in this side-by-side
15 comparison it is.

16 VICE CHAIR MILLER: And where is that point, in
17 the middle of Windom?

18 MR. WESTERGARD: In the middle of Windom.

19 VICE CHAIR MILLER: How far away from the
20 intersection is that?

21 MR. WESTERGARD: About 240 feet. And that was an
22 established vantage point that most of the community could
23 see, or would see.

24 VICE CHAIR MILLER: And you're saying that, or
25 somebody said, I don't know if it was Mr. Hansen or somebody

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1 else, said that two stories less would be a major step
2 forward in terms of something being more compatible with the
3 neighborhood, is that correct?

4 PARTICIPANT: Yes, yes.

5 VICE CHAIR MILLER: Okay.

6 MR. REPP: Yes, as a matter of fact we did suggest
7 to the applicant that -- to try to negotiate with us on this.
8 I sent them a letter, I followed up with two emails, and plus
9 I talked to them about it, during a couple of public
10 meetings. We did hold one meeting with them, in which we
11 suggested that they come down two floors. And they never got
12 back to us after the meeting.

13 VICE CHAIR MILLER: Have there been, was there
14 height reduction, or design improvements, in your opinion
15 since the original application? It seems to be that there
16 are certainly design improvements.

17 MR. REPP: Well there was an original architect
18 that was described at the, you know, early on in the process.
19 They fired that architect, and got another architect. Since
20 then, there's been just nips and tucks changes, I mean we
21 don't have a grocery store anymore. But actually the 600
22 people that signed our petition didn't object to the fact
23 that there was a grocery store there. They objected to the
24 size and bulk of the building, which has essentially not
25 changed. Little nips and tucks, but that's it.

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1 VICE CHAIR MILLER: Okay. Well, you'll certainly
2 be having dialogue on cross-examination about some of the
3 legal and factual points you made, and we'll be asking the
4 applicant and the Office of Planning about them as well. So
5 thank you very much.

6 CHAIRMAN HOOD: Okay, the bottom rendering, to
7 make sure I understand it, is the bottom rendering the same
8 position as the top rendering?

9 MR. WESTERGARD: Yes, well it's -- the top
10 rendering is the Valor one where the viewer is --

11 CHAIRMAN HOOD: Right, I realize that --

12 MR. WESTERGARD: Much closer, is much closer to the
13 facade than us. So, even with their being closer, the wide-
14 angle lens reduces it even further.

15 CHAIRMAN HOOD: Yes I -- you know for me, and I
16 think you may have heard me ask the applicant to give me a
17 rendering such as this one that I see here, this kind of
18 disturbs me, but this -- but I want to make sure that we are
19 actually factual. That's why I've asked them to give me
20 different views as well.

21 The problem I'm having -- well I appreciate this
22 if that is the reality because well, it's actually -- I don't
23 know, I'm kind of speechless. Because if that's -- up here
24 is to me, looks, as I think one of the commissioners already
25 mentioned, it's totally different. But I'm not going to

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1 spend a lot of time on this, but if you could, I don't know
2 if the party in opposition wants to show me some other views
3 as well.

4 Because I can tell you this is, and I'm not saying
5 I need too much, but I would like to look around and see how
6 it's getting in coordination around the community and the
7 neighborhood in relationship. As someone mentioned that if
8 this is built, they're going to move. So, you know, and
9 those kind of things I take that, because people make
10 investments.

11 And we need to make sure that we are considerate
12 of people who make investments. A lot of people who make
13 investments in their homes, as you all know -- well you know
14 what, I don't need to tell you all that lecture. You all
15 probably can tell it to me. But I'm just saying, that's very
16 disturbing to me.

17 MR. REPP: Well, we'll see --

18 CHAIRMAN HOOD: And I'm going to have a
19 conversation with the applicant as well.

20 MR. REPP: We'll see what we can do on that, so.

21 CHAIRMAN HOOD: Okay. All right. If, I don't
22 want to spend a whole lot, if it's money don't worry about
23 it I'll see if I can get it from the applicant, but I just
24 want to see how it looks from more than one view. Because
25 this view here, I just want to make sure we're doing an

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1 apples-to-apples comparison. Okay.

2 MR. WESTERGARD: Well, it's --

3 CHAIRMAN HOOD: I know you're going to tell me
4 that it is, right?

5 MR. WESTERGARD: The other four renderings that
6 they did were also from very wide-angle lenses. So it's
7 consistently misrepresenting the height, width, and distance.

8 CHAIRMAN HOOD: I know we can play tricks with
9 cameras, because some people have a lot of parking same-day
10 and some people show me with no cars, I've been through those
11 cases. But let me ask you, so run back through because there
12 was an existing situation or scenario of how it's existing
13 as you were going through the slide. Like back it up, and
14 let me, I think it was like a motion in the-- yes. Is this
15 the, this is what we have now, right?

16 MR. REPP: That's, yes, this is, I live on this
17 street, and this is looking down the street at the --

18 CHAIRMAN HOOD: Let's go back to the next one.
19 Let me see. Okay. And it was another, it was one, yeah
20 that's the one I want. And the one before that one. Okay.
21 So this is what we have now.

22 MR. REPP: Yes, and we built the -- they built
23 their model based on these balloon tests. This is an actual
24 balloon test here.

25 CHAIRMAN HOOD: Okay. All right. I'll follow

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1 with that. Anything else up here?

2 VICE CHAIR MILLER: Mr. Chair I just had one --
3 do we have your presentation from tonight, the PowerPoint
4 that you're showing? We do?

5 CHAIRMAN HOOD: Which is it?

6 VICE CHAIR MILLER: Yeah, I didn't.

7 CHAIRMAN HOOD: You said you gave it to us at
8 4:15, this evening? Or this morning? Because we didn't see
9 it, either -- at least I didn't see anything.

10 MR. DONOHUE: We submitted it online at about
11 4:15, Mr. Chairman.

12 MS. SCHELLIN: But you're supposed to bring hard
13 copies, to the hearing.

14 MR. DONOHUE: Okay, yeah, I have copies.

15 MS. SCHELLIN: You have hard copies?

16 MR. DONOHUE: We do.

17 MS. SCHELLIN: Okay.

18 CHAIRMAN HOOD: Okay yes, that would be great.
19 Commissioner Shapiro, I think it's your turn.

20 COMMISSIONER SHAPIRO: Thank you Mr. Chairman,
21 just a quick question about the traffic and --

22 VICE CHAIR MILLER: Yes. Yes I did find, it's
23 191, Exhibit 191, it's at the back of the written portion.

24 COMMISSIONER SHAPIRO: Thank you Mr. Chair, so
25 just a quick question about the parking impact. And you

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1 were suggesting that the -- one of your major concerns is the
2 increased traffic that would come from this. And I assume
3 that the majority of the increased traffic would be coming
4 from the -- what you don't call a grocery store but the
5 applicant calls a grocery store. So I just want to make sure
6 I understand your -- if this is a collective position or not,
7 which is are you opposing, you don't want a grocery store?

8 MR. REPP: No, that's not the case. That's not
9 the case. The -- we are in favor of a smaller project, which
10 will result in --

11 COMMISSIONER SHAPIRO: But this is a smaller
12 grocery store.

13 MR. REPP: -- which will result in less traffic.
14 To the -- and not to have the traffic you know, basically
15 enter and exit basically through one alley. I mean I know
16 there's a couple of other exits, but you know, one exit is
17 going to be blocked by traffic, I mean trucks dropping off
18 things at the CVS and the shopping center. And then you
19 can't really, from the Massachusetts Avenue entrance you can
20 only go north into Bethesda. So I hear what you're saying,
21 you know, I would hope that we could come to some -- that
22 Valor could come to resolution with a smaller project that
23 would be -- cause less traffic. We're not against all
24 traffic. We're not against a development.

25 COMMISSIONER SHAPIRO: But the residential

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1 development doesn't drive that kind of traffic. It's the
2 retail use that drives that kind of traffic, right?

3 MR. REPP: It's the, more than half, according to
4 the Gorove/Slade study, more than half of the traffic is
5 coming from the grocery store, yes.

6 COMMISSIONER SHAPIRO: Right, so --

7 MR. REPP: But not in the morning, not in the
8 morning rush.

9 COMMISSIONER: And this is not to -- I mean I hear
10 you loud and clear, your concerns. And I'm just trying to
11 get a sense of, is this the position of the organized
12 opposition, that you are opposed to what will be driving a
13 big chunk of that, which is a grocery store, even a smaller
14 version of a grocery store. And you're saying, I'm hearing
15 you say no, but it feels like there's a little bit of a mixed
16 message, so I just want to get clarity around it.

17 MR. REPP: Yes I think there's a sweet spot in
18 there where the traffic would be more acceptable.

19 COMMISSIONER SHAPIRO: Smaller than the
20 Balducci's.

21 MR. REPP: Smaller than 16,000 square feet, and
22 the residential would be smaller, be less height, so
23 therefore be smaller. That's the sweet spot I think.

24 COMMISSIONER SHAPIRO: Okay.

25 MR. REPP: And that we're going for.

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1 COMMISSIONER SHAPIRO: Thank you. Thank you, Mr.
2 Chair.

3 CHAIRMAN HOOD: All right, any other questions up
4 here? Okay, let's do cross-examination. Mr. Collins, any
5 cross? Okay, ANC 3E? Okay. Do you have any cross? Okay,
6 come forward. Mr. McHugh, right?

7 MR. MCHUGH: Jonathan McHugh.

8 CHAIRMAN HOOD: Okay, McHugh. Yeah we want to,
9 yeah, so we won't get any feedback.

10 CROSS-EXAMINATION

11 MR. MCHUGH: Just a quick question, two questions.
12 On the petition, you say in the filing that is the current
13 version of this project, there was two versions I would
14 assume, one's a PUD which was originally presented, and the
15 second one was the design review which is, I would say
16 different, much different, with it's -- that was presented
17 sometime in late October of 2016 I think. The people who
18 signed the petition, were they made aware of the new version
19 of the -- as opposed to the PUD, and did you get back to them
20 and ask them about it if not?

21 MR. REPP: The project changed in early 2016, when
22 the prior architects were fired. Most of the people that
23 signed the petition, signed after that. There were no
24 signatures before early 2016, and all of the 73 households
25 that submitted letters to the commission, letters in

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1 opposition to the commission, signed after the change.

2 MR. MCHUGH: Okay, that's your testimony? Okay.
3 I have the petitions, I noticed about 400-some odd signed
4 before October, but we can leave that to debate.

5 MR. REPP: The, I mean the fact is that before
6 October, that was the formal filing date.

7 MR. MCHUGH: Right.

8 MR. REPP: And that Valor had been showing it's
9 renderings at the ANC --

10 MR. MCHUGH: Sure.

11 MR. REPP: Long before that.

12 MR. MCHUGH: No I was speaking more about the
13 petitioners, people who signed the petition. Second
14 question, on the vehicle count, I assume this is for the
15 traffic analyst. The size of this garage generated a 90
16 percent number, when typically a 65 percent number is used.
17 Did you do any, your traffic count for 3,500 I assume is
18 based on the 90 percent number?

19 MR. REPP: It's based on Gorove/Slade's breakdown
20 of 90 percent.

21 MR. MCHUGH: Right, of 90 percent. And that was
22 driven by the size of the garage. Did anyone do a 65 percent
23 number, in terms of how much traffic it would generate?

24 MR. REPP: No we didn't. Our traffic consultant
25 was tasked with doing a critique of the Gorove/Slade report.

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1 MR. MCHUGH: Okay. That's all I have.

2 CHAIRMAN HOOD: Thank you. ANC 3D, Commissioner
3 Kravitz, you have any cross?

4 MR. KRAVITZ: Shelly, I'll just keep this brief.
5 Just three quick questions. Yes or no, did our personal
6 communications about this project begin in February 2017?

7 MR. REPP: Our being who?

8 MR. KRAVITZ: You and I. That's fine.

9 MR. REPP: Well all I can -- I know that we had
10 coffee twice, I can't tell you when the first time was.

11 MR. KRAVITZ: That was my second question is that,
12 you and I met individually for several hours each time to
13 discuss the project. The dates, I guess don't matter but,
14 that's correct?

15 MR. REPP: Yes.

16 MR. KRAVITZ: And your organization was given time
17 to officially present before ANC 3D during our meeting on
18 December 6th, 2017, immediately after Valor presented.

19 MR. REPP: That's correct.

20 MR. KRAVITZ: Okay. Those weren't gotcha
21 questions, I actually want to thank you for your efforts, and
22 the way you've conducted yourself, during these many months
23 of negotiations. Our conversations, the personal ones I
24 referenced, helped inform the ANC 3D resolution, and I want
25 to thank you, and I mean that sincerely.

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1 CHAIRMAN HOOD: Okay. Ward3Vision, Mr. Wheeler,
2 you have any cross?

3 MR. WHEELER: No sir.

4 CHAIRMAN HOOD: Okay, now I have a letter, we had
5 a letter in the record, from -- which are Exhibit 188, from
6 Spring Valley Neighbors. They still will be participating,
7 but they won't be here tonight to answer any questions. But
8 they will participate throughout this whole process, so they
9 reserve that right. Okay, let's go to Spring Valley
10 opponents, you have any cross? Mr. Smith.

11 MR. SMITH: Thank you Mr. Chairman. I just have
12 a couple of questions, I'm sorry for being a layman, okay?
13 Because there were some things I didn't quite follow, and I
14 just want to double check. But first, I want to ask about
15 the traffic and the traffic impact, sort of follow up on the
16 question that Commissioner Shapiro was asking.

17 With respect to the traffic impacts on the
18 neighborhood, have you looked at, have you assessed, or given
19 any thought to the degree to which the impacts are
20 exacerbated by the use of these alleys? Or the
21 infrastructure of the site, the way that it's designed, or
22 what have you?

23 MR. REPP: Well first of all, I know that the
24 District's view is, prefers access and entrance through
25 alleys, I'm aware of that. However, in this case, where I

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1 believe that almost all of the traffic will be entering and
2 exiting through the alley, the 48th Street alley, where you
3 saw those two buses. I mean those two buses, there's ten
4 buses an hour during the morning rush, from AU, that park
5 there.

6 They don't always double park block the alley,
7 when we showed you the two buses there, that right there, the
8 back bus there is blocking the alley. But there's, there
9 are, I think during the morning rush Gorove/Slade says
10 there's going to be 150 cars entering or exiting through the
11 site. I believe that almost all of them are going to be
12 using that alley. And this is just, I think it's just going
13 to be, it's asking for trouble, there's a dog leg there you
14 don't see it from here, but there's a dog leg on that
15 street, you can't see around the buses, as you're making the
16 turn.

17 MR. SMITH: Can you go back a couple of slides,
18 where you showed the alleyway where the trucks are loading,
19 and unloading, yeah right there. Isn't this the alley that
20 Valor is proposing to improve, or to enhance?

21 MR. REPP: Yes, this is the, what I would call the
22 Yuma to Massachusetts alley, which is used by trucks, these
23 trucks, I think actually Mr. Fuchs from Wagshal's is here
24 this evening. But the buses, I mean the trucks there, they
25 take like 15 minutes to unload or load, mostly unload I

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1 guess. For the CVS, and for the Wagshal's Deli and Meat
2 Market.

3 You're not going to be able to get through there,
4 during the time the trucks are loading and unloading. Which
5 is part of the reason why I think all the passenger cars,
6 once you get stuck behind one of those trucks, you're not
7 going to use that alley again. You're going to use the 48th
8 Street alley.

9 MR. SMITH: And this alley, currently is about
10 how, that's about 20 feet wide isn't it?

11 MR. REPP: Actually it's a little bit wider.
12 They're proposing to have this alley be 35 foot, but 12 feet
13 of that I believe is going to be taken up by these dumpsters,
14 and three feet is going to be taken up by a sidewalk, so it's
15 really going to be 20 feet wide. Most of this alley actually
16 is more than 20 feet wide, particularly as you cut back
17 toward the Yuma Street, which is on the back side in this
18 drawing.

19 MR. SMITH: So the enhancements are actually
20 shrinking the pavement, so to speak, where the vehicles are,
21 roughly, or is that what you're saying?

22 MR. REPP: That's my, I mean I haven't gone out
23 there with a measuring -- but that's my view, yes.

24 MR. SMITH: Okay. Well let me just ask one, this
25 is the last question, and it has to do with the digital

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1 design and the imaging, and I thought I was following
2 everything with respect to those, the pictures, particularly
3 the one of -- from the Spring Valley Shopping Center. I
4 guess from Massachusetts Avenue? And you were talking about
5 the wide-angle lens, and that sort of thing.

6 And again, I'm a layman, and I apologize for it,
7 but I do want to understand this, very, very clearly because
8 it's the first time I've seen these myself. The -- is there
9 anything else, that would make -- that makes these images
10 more reliable or more accurate than the issue of the lens
11 that's used to take the photo? I mean, are there other
12 elements that assess the overall credibility, of what you've
13 shown here?

14 MR. WESTERGARD: Yes, you're asking about what
15 would make it, make a better decision-making tool for the
16 community to look at --

17 MR. SMITH: Yes. Okay.

18 MR. WESTERGARD: -- besides just changing the
19 lens. Well the lens is the first, but taking representative
20 vantage points would be critical. That's built in to
21 industry standards. And for Yuma, for example, you're -- you
22 pull back or you go forward, and when you pull back you start
23 to get more of the neighbors shown in there. In short, that
24 should be context-sensitive.

25 Show how it's affecting the community, not just

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1 the image of the development, where there's nothing on the
2 sides. Everything's framed, especially on Windom, Yuma, 48th
3 Street, the alley. Pull back, and you can explain the
4 context, which this whole density question hinges on, is
5 context and scale. And you don't see the context if you're
6 too close.

7 MR. SMITH: Is there anything else?

8 MR. WESTERGARD: You could possibly, to really
9 make it realistic, as several people pointed out, choose the
10 time of day and lighting. They showed sun, literally on all
11 the facades, when even just half an hour later, for about six
12 hours it would be in shadow.

13 MR. SMITH: Okay, thank you very much. Thank you
14 Mr. Chairman.

15 MR. CHAIRMAN: All right, any other follow-up
16 questions up here? Okay, thank you all very much, we
17 appreciate your presentation. Okay let's get ready for
18 Spring Valley opponents. And then after that, Mr. Collins,
19 we will have any rebuttal if you have any.

20 (Pause.)

21 CHAIRMAN HOOD: I'm sorry, I thank you Vice Chair,
22 we're going to -- after that we're going to have the persons
23 in opposition. Right, after this party. We only have two
24 parties in opposition. So after this party, then we'll have
25 the persons in opposition. Nobody caught that, I went right

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1 to rebuttal. Do we have many people here, to testify in
2 opposition? Nobody caught that.

3 MS. SCHELLIN: I'm sure all of them are
4 registered.

5 CHAIRMAN HOOD: Okay, well the Vice Chair caught
6 it, because I went right past it, I'm sorry. Normally --

7 MS. SCHELLIN: I just want to make sure all of
8 them have signed up to testify. If you didn't sign up on the
9 kiosk the first night, make sure you sign up on the piece of
10 paper I put up here tonight, so I can register you.

11 CHAIRMAN HOOD: Okay.

12 MS. SCHELLIN: Because there were a lot of hands
13 that went up, and I don't think I have that many people on
14 the list.

15 CHAIRMAN HOOD: All right, so I think we're good,
16 while they're doing that, Mr. Smith you may begin. You may
17 begin, turn your mic on, identify yourself.

18 MR. KREBS: I'm William Krebs, the First Vice
19 President for Spring Valley-Wesley Heights Citizens
20 Association. Thank you very much, Mr. Chairman Hood and the
21 members of the Commission to allow us to testify.

22 This SVWHCA, was established in 1952. Since that
23 time its mission has been to preserve the character of the
24 neighborhood in an ever changing world.

25 Contrary to what many may believe, or would have

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1 you believe, the Spring Valley-Wesley Heights Citizens
2 Association is not and never has been anti-growth or
3 anti-development.

4 For over 65 years its guiding principle has been
5 that development must be viewed in the context of the
6 existing neighborhood, as well as the physical and geographic
7 constraints that go with any site.

8 The Association spearheaded the effort in 1989 to
9 obtain historic designations for a shopping center. Centers
10 were unique, and I know that the Commission has expressed
11 some concern over the use of historic designations. The key
12 aspect of that issue though was the raising of low density
13 in character buildings, to build 4801 Massachusetts Avenue.

14 That building is out of context to the
15 neighborhood and serves as a reminder of an anomaly that is
16 an object lesson, and a reminder of what can happen if
17 development is permitted without regard to the character of
18 the neighborhood. That building has been jinxed from the
19 beginning.

20 During the last meeting in this matter -- I'm
21 sorry. Without the historic designation building site at
22 4801, it would have developed along Massachusetts Avenue, we
23 would have lost Spring Valley's character as a village.

24 We've come here today to oppose the design project
25 by Valor for the following reasons. As interesting as the

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1 issues presented by this applicant are, with respect to the
2 calculations and source of the claim for this low density,
3 the transfer of building rights, the application of the
4 comprehensive plan, and future land use map, to Spring Valley
5 and AU Park it's quite simple. We do not support the
6 construction of another white elephant in this neighborhood.
7 Especially where the community loses more than would be
8 gained by the anomaly.

9 Valor originally sought to sell neighbors on this
10 project by promising a full service grocery store. Under the
11 most recent submission, they now offer 43,500 square feet of
12 rental space with a net loss of 27,000 square feet from what
13 we have now. Instead of a full service grocery, we get a
14 market.

15 So what's the benefit to the community if this
16 project is approved? Under the most recent proposal, we
17 don't get a full service super market, or even a grocery
18 store, which you now have to accept the loss of the existing
19 retail space, and the imposition of a massive project sucking
20 up the entire block's remaining density, in order to get a
21 redundant gourmet market that Wagshal's already fills.

22 I came here two weeks ago prepared to speak in
23 detail concerning what we understood was the final proposal
24 by Valor. As significant -- and that really will increase
25 traffic, increase parking. And while those problems exist,

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1 Valor has made it impossible to identify what the travel
2 spots will be.

3 As significant as the impact on our community will
4 be, this Board's process and decision in this case will be
5 profoundly affected by the approval process it uses for the
6 next few years, if not the next decades.

7 This is the first major project the Commission has
8 reviewed using the design review procedure. We find it
9 incomprehensible that the Appellant should be allowed to seek
10 final plan approval under the design review when critical
11 information has not been provided, and final decisions have
12 not yet been made.

13 This massive project imperatively will result in
14 the losses of retail space and variety, while causing an
15 increase in traffic generally in the neighborhoods.

16 The inescapable conclusion is that the project is
17 nowhere near ready for the Board's approval. Valor does not
18 know whether it will have over 300 parking spaces in the
19 garage, or less than 20 spaces. It does not know the impact
20 of the operations that 4801 Massachusetts Avenue may have on
21 their use.

22 Even though American University is a co-applicant,
23 Valor does not know whether it would be advantageous to
24 encourage cars at Park and Shop Center, to use the exit
25 directly on Massachusetts Avenue, in between signals. It

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1 does not know whether a HAWK light is advisable.

2 It does not know whether the two buildings will
3 be an apartment building and a condo building. It does not
4 know -- or whether two apartment buildings? And that is the
5 rub.

6 Valor candidly stated that the final decision as
7 to whether it will be condo or apartments, will be an
8 economic decision to be made at that time. And that can be
9 said for just about everything that's unknown or incomplete.

10 How many parking places we'll get for the many
11 users, or their operations? That will be decided by the
12 economic decisions based on that time.

13 Traffic management of the alley, and the reliance
14 on the alley, these are the result of a cost benefit
15 analysis. The elimination of 27,000 square feet of retail
16 is the result of a cost benefit analysis.

17 The shuttering of the restaurant, the hair salon,
18 and the catering service are the result of a cost benefit
19 analysis.

20 From Valor's perspective, the cost benefit
21 analysis is all that matters. It does not live in the
22 neighborhood. Its principals do not have to deal with the
23 traffic, the congestion, or the lack of amenities. They
24 don't even have to ask the question, whose cost and whose
25 benefit?

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1 Before my colleagues addressed the specifics, I
2 do acknowledge that there are many people in the neighborhood
3 who are in favor of this project. Some of whom are very
4 sincere. And some of whom see only the value added by the
5 project without regard to the cost to their neighbors.

6 Some of these individuals, compliances, zoning
7 regulations, and proffers, and legal restraints are obstacles
8 to be avoided or sidestepped. They enjoy the benefits of the
9 project, but leave it to their neighbors to pay the cost of
10 dealing with it on a daily basis, the traffic, the parking,
11 congestion.

12 We believe we have a responsibility to represent
13 all the neighbors' interests. And that all should be heard.
14 However, we also believe that those who live closest to the
15 commercial corridor are likely to be impacted the most.
16 Should be entitled to great weight, and their voices should
17 be given greatest consideration.

18 Although it appears to be a complex project on
19 paper, when viewed in real terms, the decision is an easy
20 one. Under this proposal the harm suffered by the community
21 greatly outweighs the benefits its advocates promised. And
22 the project therefore fails to meet the standards of Subtitle
23 10, Chapter 6 of Zoning Regulation 16. Thank you very much.

24 MR. SMITH: Good evening, Mr. Chairman, Members
25 of the Commission. For the record, my name is Thomas Smith

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1 and I am the Executive Vice President of Neighbors for a
2 Livable Community, which was established in 1987.

3 We're pleased to stand here tonight with our
4 neighbors and associate ourselves with the comments already
5 made tonight in opposition to Valor's development proposal
6 for the SuperFresh site.

7 The complexity of the proposal before you is a
8 product of the questionable agreements to transfer
9 development rights. These multiple agreements have not been
10 shared with the Zoning Commission, or with OP. It is
11 disappointing the OP did not review these agreements and
12 offer a formal legal review as part of their analysis, prior
13 to these hearings.

14 Nor is it clear that OP has even seen any kind of
15 legal analysis prior to filing its report in this case. But
16 the legality of these agreements is a major issue, as this
17 Commission pointed out at its last hearing.

18 Valor has played two years of shell games with the
19 neighborhood. Offering empty promises to earn support as it
20 worked behind the scenes with AU, and the owners of the
21 Spring Valley Shopping Center to secure the still secret
22 agreements that are intended to circumvent the zoning
23 regulations, which under the design review standards is not
24 permissible.

25 This project is incompatible with the

1 neighborhood, incompatible with the zoning classification for
2 the site, as outlined in Subtitle G, Chapter 4, Section 100.4
3 of the Zoning Regulations.

4 It's incompatible with the comprehensive plan, and
5 incompatible with the design review standards outlined in
6 Subtitle X, Chapter 6 of the Zoning Regulations.

7 Currently there are no five to seven story
8 apartment buildings in this neighborhood. The density of
9 this project as proposed is six times greater than what now
10 exists at the site. And also exceeds that available on the
11 lot as a matter of right by more than 90,000 GSF.

12 This is incompatible with Subtitle X, Chapter 6,
13 Section 600.4, 600.5, and 604.5 of the Zoning Regulations.

14 Contrary to Valor's description of the building,
15 as we saw tonight, this building is 90 feet tall. Taller
16 than anything in the area, and overshadowing the nationally
17 designated historic shopping center landmark.

18 It fails to respect the historic character of the
19 site as well as the character of the surrounding
20 neighborhoods. And may even put the national landmark
21 designation at future risk of being delisted under the US
22 Secretary of Interior guidelines, which dictate historic
23 preservation standards for the District of Columbia, as
24 outlined in Title 10A, Chapter 20 of the Municipal
25 Regulations.

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1 Consequently, this makes the Valor project
2 incompatible also with Subtitle X, Chapter 6, Section 604.7.
3 Let me add, we are proud of the two national historic
4 landmarks in our neighborhood along Massachusetts Avenue.
5 And proud of the joint efforts made by residents of Spring
6 Valley and AU Park that secured this historic designation.
7 And we will do everything we can to protect them.

8 This project will have a negative impact on our
9 neighborhood. For example, the design of the so-called
10 pedestrian friendly Windom Walk was described two weeks ago
11 by Valor as improving the pedestrian porosity of the site.

12 In reality, Windom Walk would actually direct and
13 dump residents into the middle of a narrow alley. To be used
14 by cars to access the garage, trucks loading and unloading
15 for both the new building and the next door shopping center.

16 And the sanitation trucks that will need to access
17 the alleyway for trash pickup for the shopping center and the
18 new building, including the new grocery store.
19 Conservatively estimated to be 305 vehicles per hour
20 according to Gorove/Slade.

21 Valor tells us this will be pedestrian safe
22 because the paving at the garage entrance and loading dock
23 will be painted a different color. There's nothing
24 pedestrian friendly about the so-called pedestrian friendly
25 Windom Walk.

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1 Valor's acknowledgment they will offer to install
2 a HAWK signal along a busy but compact commercial block of
3 Massachusetts Avenue that is signalized at both ends of the
4 block, is an acknowledgment of the projected excess density.

5 This project would create new vehicle, pedestrian
6 conflicts and is therefore also incompatible with Section
7 604.7 of the design review standards.

8 The project will have traffic impacts, especially
9 for Spring Valley residents that will put our residents at
10 risk, notwithstanding the standards used by DDOT to review
11 this project.

12 DDOT's review primarily reflects an interest in
13 how one commercial block may be impacted. Its review appears
14 to give scant attention to data collection and analysis.

15 For example, how can this expert agency assess a
16 project without knowing the terms of a parking agreement with
17 AU? Or fail to assess the safety impacts of traffic
18 directed, as a consequence of this project, to our
19 neighborhood streets, or assess pedestrian impacts without
20 requiring any data to be collected?

21 On the other hand, Valor's own transportation
22 study as limited and flawed as it may be, concludes that
23 traffic conditions on streets in Spring Valley will
24 deteriorate as a direct consequence of this project.

25 The Gorove/Slade study points to worsening

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1 conditions as a result of this project at the intersection
2 of Massachusetts Avenue and 49th Street, Massachusetts Avenue
3 and 48th Street and Fordham Road, and Massachusetts Avenue
4 and Van Ness Street.

5 The intersection of 49th and Fordham is
6 particularly dangerous. Just last week during the day, a car
7 hit several parked cars and flipped over. We know the
8 conditions are likely to be worse, and can simply point to
9 previous traffic studies conducted by Gorove/Slade for
10 American University that limited the scope of the boundaries
11 to be reviewed, and dramatically underestimated traffic
12 impacts that we now experience today.

13 We're asking you to protect the future of our
14 neighborhood. Valor may have spent two years on this
15 project, with most of the energy focused primarily on
16 negotiating agreements with the seller, with AU, and with the
17 nearby shopping center that even prompted Valor last
18 September to alter the boundaries of its zoning application.

19 But little time has been spent by Valor to work
20 earnestly with neighbors to address their concerns, let alone
21 their needs, no matter how many neighborhood meetings Valor
22 may have attended.

23 We are not just saying no to development at the
24 site. We have identified changes to the project in our
25 resolution we have submitted for the record in this case.

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1 And that would reduce the density and bring this project into
2 compliance with the design review standards.

3 We support mixed use development at the site, but
4 not a project with the density proposed by Valor. Thank you
5 very much.

6 MR. PARKER: Good evening Commissioners. My name
7 is Scott Parker. I'm a Board Member of Spring Valley West.

8 We service the needs of 157 home owners in Spring
9 Valley West. The nine Board Members, including myself are
10 all resident home owners. And we're elected by the home
11 owners. We hold open meetings at least quarterly to ensure
12 we meet their needs both in the neighborhood and in this
13 case, and in adjacent areas.

14 I'm going to present a series of facts with some
15 observations at some points. And the main thing here I want
16 to do is to give you an impression of what we're seeing from
17 the standpoint of the community members. In this case,
18 obviously I represent the ones with Spring Valley West.

19 First of all, the increased traffic density will
20 affect and does affect the residents of Spring Valley West.
21 If you're not familiar with our area, our neighborhood is
22 bordered by 50th Street, Massachusetts Avenue, and Dalecarlia
23 Parkway.

24 We have no direct access to 49th Street. So
25 nearly all of the residents enter and exit either through the

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1 signal light at 50th and Massachusetts, or via Yuma Street
2 which then connects with Mass as you know. And then goes
3 past the Spring Valley Shopping Center.

4 The intersection at 49th and Mass is complicated
5 now. Represented by the pork chop that we discussed before.
6 And that triangle there, just below the proposed Ladybird
7 development. These intersections with Mass are already quite
8 busy.

9 So the impact of Ladybird's dramatic increase in
10 vehicular traffic will not only result in the already cited
11 effects around 48th. But as neighbors try to avoid the
12 impact of all the additional dwelling units and traffic and
13 customers for the grocery store and so on, these congestion
14 effects will cause problems at 49th and at 50th Street
15 intersections, meaning us.

16 So, we in Spring Valley will either suffer
17 additional delays, or we're going to have to resort to
18 alternatives, which is cutting through Spring Valley, which
19 probably isn't going to help anybody. Or we have to go out
20 into the more dangerous exit, which is the high speed
21 Dalecarlia Parkway or expressway for those of us who know it.
22 It moves pretty quickly. Most home owners actually avoid it.

23 I want to talk about the so-called full service
24 grocery store. And I want to give you a quick sense of time
25 lines here. At our request, Mr. Lansing presented the then

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1 proposed development, September of 2016 to an open meeting
2 of the Spring Valley West homeowners.

3 The designation grocery store at that point was
4 referenced as large, 55,000 square feet. The reaction was
5 that it was probably too large, and would further exacerbate
6 the traffic density.

7 There was a community meeting in January of 2017,
8 this was an open meeting. Mr. Lansing presented a slightly
9 altered design, including a rather poorly sketched but
10 clearly shown grocery of approximately 24,000 square feet,
11 which is roughly the size of the old SuperFresh.

12 This was probably the only element of the
13 presentation that received a positive reaction from the 50
14 or so community members who were present.

15 We didn't hear about this again until October of
16 '17, in which case there was no identity of the grocery
17 store. And we were left with the same characterization.
18 Full service, no mention of any diminution of the size from
19 the January presentation that we had seen in graphic form.

20 By December 6th of last year, at the ANC 3D
21 meeting, two new facts were revealed. The floor grid space
22 graphic showed 13.4 square feet for the grocery store. It
23 was not easy to see because it was partially hidden behind
24 a caption balloon that said grocery store. It was too small
25 a balloon to fit full service grocery store in there. And

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1 that was obviously purposeful.

2 Because what we found at that point was that the
3 tenant was to be Balducci's, the same store that as
4 Commissioner Miller has already pointed out, failed on New
5 Mexico Avenue. And in fact was then successfully replaced
6 by a new branch of Wagshal's in the very same space.

7 So we were misled for nearly 12 months by Valor.
8 Balducci's is not in any reality a full service grocery
9 store, which is what we were led to believe. Neighbors still
10 have to shop elsewhere for basic product needs.

11 And we add the question of whether or not given
12 Balducci's overlap with the product focus of Wagshal's, even
13 if it entered this space, would it fail again? And if so,
14 then what happens?

15 This deception by Valor ultimately led to a no
16 vote by John Bender, the Chairman of ANC 3E, and it severely
17 eroded the trust of the community in the word of Valor.

18 I want to move to a different subject which is
19 misled the community about unit sizes and the condo versus
20 rental mix. I'll use the same quick dates that I did before.

21 Our first exposure at Spring Valley West,
22 September of 2016 with the presentation that we saw, we
23 expressed the hope that a number of larger units, meaning two
24 bedroom plus den, and three bedrooms would increase from what
25 seemed to be very much askew towards smaller units. And that

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1 would obviously decrease the total number of units as well.

2 We also wanted to request that they rethink the
3 rental skew and that that would move more dramatically toward
4 condos.

5 Going to the January 17 meeting, these two same
6 questions arose at the open community meeting. And Valor
7 said, it would reassess the mix based on the then market
8 realities. They reiterated however that one of their
9 objectives was to offer an attractive option for those
10 current residents who want to downsize, age in place, with
11 a full services type living option.

12 Fast forwarding to the last months of 2017, two
13 things were stated by Valor at the December ANC 3D meeting.
14 There wasn't going to be an increase in the number of units
15 larger than two bedroom, despite requests from at least one
16 of the ANC 3 Commissioners for that.

17 And that 90 percent of the units would be two
18 bedrooms or less. There would be no increase in the
19 percentage of condos. Two weeks ago, Mr. Lansing informed
20 us, it is likely that all of the units now would be rentals,
21 no condos.

22 So, we were misled by Valor about the unit sizes,
23 and the condo versus rental mix over a period of 14 months.
24 Many of the current resident would prefer at least a two
25 bedroom den, or larger units because it means an acceptable

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1 not severe downsizing in which they would be interested.

2 Furthermore, current resident were more interested
3 in the condos because they could use the mortgage interest
4 deduction, which still exists under the new tax law. And
5 they could realize potential capital appreciation.

6 The incremental after tax, monthly cost effects
7 of this to a buyer versus a renter? If I'm renter it's going
8 to cost me approximately \$1000 a month after tax more if I
9 have to rent, than if I have the opportunity to buy and
10 participate in the capital appreciation.

11 When I questioned Mr. Lansing two weeks ago about
12 this lack of response, to an often expressed desire of the
13 current residents, he said, it was a business decision.
14 Read, "It's not personal, it's just business."

15 To us it's very personal. Valor waffled
16 purposefully for a year. So we've got to conclude that they
17 don't really care what we want.

18 Finally, I'll say that the proposal that's put
19 forth here, not only ignores their interest, but it doesn't
20 directly state what I think is also a concern. And that is
21 Valor has never completely successfully completed a building
22 of more than 84 units.

23 So, given where we've been misled in the past,
24 it's a little hard for us to feel comfortable with their
25 building something two and a half times as large, in addition

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1 to the requested flexibility that they've asked for.

2 So, I think you can tell the opposition to the
3 proposal as it currently stands. And I think our request is
4 please help us to protect our community. Thank you for the
5 opportunity to present tonight.

6 CHAIRMAN HOOD: Okay, thank your presentation.
7 Well done. Let's see if we have any questions up here, from
8 panelists?

9 (No audible response)

10 CHAIRMAN HOOD: Okay, not seeing any.

11 Okay, let's go to the Applicant. Mr. Collins, you
12 have any cross?

13 (No audible response)

14 CHAIRMAN HOOD: Okay.

15 Mr. McHugh you have any cross?

16 COMMISSIONER MAY: Mr. Chairman, can I get
17 clarification on one thing that the last party in opposition,
18 I mean this visual impact study that's on the screen right
19 now. I don't see that in the record at all. Do we have
20 that?

21 CHAIRMAN HOOD: You mean this one? Isn't that
22 Exhibit 191?

23 COMMISSIONER MAY: I don't think so.

24 CHAIRMAN HOOD: What's the last Exhibit?

25 MALE PARTICIPANT: Where did we do that?

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1 COMMISSIONER MAY: 191, I think it was, I missed
2 it. I saw it, I looked, I downloaded it. I'll check it
3 again, but.

4 CHAIRMAN HOOD: Well, no. I had to turn mine off,
5 I'll cut it back on. But I don't know. I might have a
6 different problem.

7 (Off the record comment)

8 COMMISSIONER MAY: It is, okay. All right.
9 Thanks, all right. Thank you.

10 CHAIRMAN HOOD: Okay. All right. Sorry about
11 that. Did I mispronounce your name again?

12 MR. MCHUGH: It's McHugh.

13 CHAIRMAN HOOD: McHugh, Mic Hugh, oh.

14 MR. MCHUGH: Thank you. I just have a couple
15 questions. And I'm a little confused, and I actually want
16 to refer to what Commissioner Turnbull had asked of CRD when
17 they first proposed to be a party status, which is supplying
18 a membership list. Would you be willing to do that, for both
19 of your groups?

20 MR. SMITH: Um --

21 MR. MCHUGH: And if not, why not?

22 MR. SMITH: Well one, I'm not sure why that
23 question is being asked, but we have no problems --

24 MR. MCHUGH: Well, I figured --

25 MR. SMITH: We have no problems with providing

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1 membership lists for our groups.

2 MR. MCHUGH: Okay. Would you submit it to the,
3 in for the record then?

4 MR. SMITH: If we're asked by the Commission to
5 submit something for the record, we'll be very happy to do
6 it. You know, I mean we've, our groups have been --

7 MR. MCHUGH: Well, is that a yes or a no?

8 MR. SMITH: I think I answered the question, the
9 question was if the Commission wants --

10 CHAIRMAN HOOD: Let me just follow up on that.
11 You want him to submit a list of his --

12 MR. MCHUGH: Membership. Similar to what CRD did.

13 CHAIRMAN HOOD: Is that easy to do? I'm just
14 asking the question.

15 MR. MCHUGH: CRD was able to submit it with 163
16 members, and Spring Valley West can do it.

17 MR. SMITH: I will note Mr. McHugh that we're the
18 only ones who are a citizen's association that you are asking
19 to submit the list. But you know, it is a lot of names
20 because we do represent the community. I think what I would
21 just say to you. I don't think any of us look at our lists
22 as being proprietary. So that's not the issue.

23 But I think the question for us really is that
24 we've been down here at this Commission for many, many, many
25 years testifying on many zoning issues. And I don't recall

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1 us ever having been asked that. Or even for purposes of
2 applying for party status, being a citizen's association --

3 (Simultaneous speaking)

4 MR. MCHUGH: Well hold on --

5 MR. SMITH: Are you going to let me finish?

6 CHAIRMAN HOOD: Hold on, hold on, hold on. Let
7 me say this, let me save some time. I think our rules do ask
8 for it, Mr. Smith, so if you can give that, whatever you can
9 give us.

10 But let me ask you this. Are you the, are you all
11 under the Citizen's Association of the Charter, here in the
12 District?

13 MR. SMITH: Yes, sir.

14 CHAIRMAN HOOD: Okay, so to me I think that
15 carries weight. But I think our rules do, and CRD did do it.
16 So, that request, if you can do it, or have members you can
17 get, that would be good. Okay. Next question.

18 MR. MCHUGH: And along that line, so according to
19 your, do you still have the same bylaws from 1978?

20 MR. SMITH: Are you asking me as Neighbors for a
21 Livable Community? Or you asking --

22 MR. MCHUGH: Then Mr. Krebs --

23 MR. SMITH: We're three different groups.

24 MR. MCHUGH: Okay, then I'm asking Mr. Krebs that
25 question.

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1 MR. KREBS: No, we revised our rules.

2 MR. MCHUGH: So, you're no longer incorporated?

3 MR. KREBS: No, we're still incorporated. We just
4 revised our bylaws.

5 MR. MCHUGH: In what sense? You still, your
6 bylaws at one point said who's ever eligible within the
7 geographic boundaries of your -- that's eligible to be in
8 there. So, do you still have dues?

9 MR. KREBS: You'll have to ask the treasurer.

10 MR. SMITH: I also serve as the treasurer. This
11 is an association, so I'll be happy to answer that. We do
12 not, we have the ability to collect dues from our members.
13 We don't chose to do that. And have not chosen to do that
14 for many years because of how large, I'm embarrassed to say
15 this, but how large our treasury has been.

16 So, we didn't feel, we didn't need -- to give you
17 a sense of the history -- many years ago and this was before
18 I became that active in the Citizen's Association there was
19 a court decision involving AU, which required AU to make a
20 payment to the Citizen's Association, and that funding has
21 been used since that period of time to manage the affairs of
22 the Association. And we're very frugal.

23 MR. MCHUGH: Okay so --

24 MR. SMITH: No longer does it require you to pay
25 dues to be a member?

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1 MR. SMITH: So we don't mandate dues. We do
2 accept voluntary contributions, voluntary dues from folks.

3 MR. MCHUGH: But part of your laws was that you
4 had to pay dues in order to be a member. Is that no longer
5 true?

6 MR. SMITH: That is currently true, yes.

7 MR. MCHUGH: So how does that work? If I want to
8 become a member of your organization, I have to pay dues?
9 But I don't have to pay dues?

10 MR. SMITH: No you do not have to pay dues to be
11 a member of our Association?

12 MR. MCHUGH: So you've amended your articles of
13 incorporation then?

14 MR. SMITH: All of the paperwork has been amended,
15 submitted to the District of Columbia, reviewed by the
16 District of Columbia, served by the District of Columbia, and
17 it's on file with the District of Columbia. You're welcome
18 to go and --

19 MR. MCHUGH: Just one other question, how many
20 members do you have then?

21 MR. SMITH: We have approximately 3,000 households
22 that are members of Spring Valley-Wesley Heights.

23 MR. MCHUGH: Well, wait these are people who have
24 consented to be members?

25 MR. SMITH: We represent 3,000 households in

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1 Spring Valley and Wesley Heights. They are people that will
2 say to us, no we do want to be members, and then so we don't
3 consider them to be members.

4 MR. MCHUGH: How do you make that determination?

5 MR. SMITH: If someone tells us they don't want
6 to be a member, they're not a member.

7 MR. MCHUGH: There's an element of consent here.
8 So if I -- you say you represent 3,000 people.

9 CHAIRMAN HOOD: Mr. McHugh, your point is -- I
10 tend to get your point. I know I used to say I had so many
11 thousands, and I know how many people came to me, so I know
12 exactly where you're going. So let's go onto your next
13 question.

14 MR. MCHUGH: I appreciate that. So, and this is
15 for Mr. Krebs, who authorized your actions here?

16 MR. KREBS: The Board of Directors.

17 MR. MCHUGH: Okay.

18 CHAIRMAN HOOD: Sir, the microphone, so we can get
19 it.

20 MR. KREBS: The Board of Directors.

21 MR. MCHUGH: And how did you come about it, does
22 your membership have any input?

23 MR. KREBS: The Board of Directors authorized it.

24 MR. MCHUGH: Okay. And they are all elected
25 recently?

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1 MR. KREBS: Yes.

2 MR. MCHUGH: Okay. So, and the last question.
3 In terms of the impact on Spring Valley and your area, have
4 you done any analysis of this? Is this kind of just
5 something that's anecdotal? In terms of the impacts, you say
6 you receive impacts, but Gorove/Slade obviously didn't go
7 that far in your neighborhood. How do know there's an impact
8 to it? So, I guess I'll give that to Mr. Smith.

9 MR. SMITH: Actually Gorove/Slade did look at some
10 streets --

11 MR. MCHUGH: Right.

12 MR. SMITH: -- in the neighborhood. Not enough,
13 as we had indicated at the last hearing in our questioning
14 to DDOT. But it's DDOT that worked with Gorove/Slade and
15 valor to set the scope of the traffic study. But yes, there
16 were some, and the areas that I mentioned in my testimony,
17 all come from the Gorove/Slade study.

18 MR. MCHUGH: Okay --

19 MR. SMITH: Now we would argue, that the impact
20 is much broader than that.

21 MR. MCHUGH: And this goes to another question,
22 3D actually gave a \$1000 to the traffic consultant that CRD
23 hired. Was there any reason why you wouldn't haven't had
24 that traffic consultant look further into your neighborhood
25 since you paid for him?

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1 MR. SMITH: Actually, I'm here for Neighbors for
2 a Livable Community --

3 MR. MCHUGH: But you were -- you're on the
4 committee.

5 MR. SMITH: Well, I'm not answering questions
6 about the ANC. You should talk to the ANC.

7 MR. MCHUGH: No, actually it's not that -- 3D paid
8 for it, so I wondered why they wouldn't have --

9 CHAIRMAN HOOD: Here's what we're going to do.
10 We're going to ask the question, either we're going answer
11 or not. If you chose not to answer, you object and I'll rule
12 on it. So, let's try to do it in another fashion.

13 MR. MCHUGH: Okay, just tell me what I need to do.
14 So, that was my question is there a reason why 3D, why that
15 traffic consultant wasn't tasked with looking further into
16 the Spring Valley neighborhood.

17 MR. KREBS: Mr. Chairman, there's an objection to
18 that question. It's not asked to permit Mr. Smith in the
19 capacity he's here. And he's not a member of the 3D now.

20 CHAIRMAN HOOD: So, let me ask you this? Were you
21 going to respond to that, or do you?

22 MR. SMITH: I would prefer that a Commissioner
23 from ANC 3D answer that.

24 CHAIRMAN HOOD: Okay. So that's your answer.

25 MR. SMITH: That would be my answer, I mean.

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1 CHAIRMAN HOOD: Next question.

2 MR. MCHUGH: That's all I have.

3 CHAIRMAN HOOD: Okay. All right. Thank you very
4 much. Okay. Let's see. Commissioner Kravitz, you have any
5 cross?

6 MR. KRAVITZ: Just a few questions because I think
7 these are important points. I'm going to ask yes or no
8 questions so I'd appreciate it if you could answer. We'd all
9 appreciate if you could answer with a simple yes or no. This
10 could be for either Mr. Krebs or Mr. Smith.

11 Your party status application, Exhibit 115 states
12 like other parties status applications submitted by your
13 organizations, that quote, "The SVWHCA includes in its
14 membership all residents of Spring Valley", end quote. Yes
15 or no, are all residents of Spring Valley members of the
16 SVWHCA?

17 MR. KREBS: Asked and answered, Mr. Chairman we
18 were asked that same question just --

19 CHAIRMAN HOOD: You already answered it?

20 MR. KREBS: Yes, we already answered it.

21 CHAIRMAN HOOD: I was waiting to hear the yes or
22 no. Since he telling you, you know. Yes or no. I can
23 answer it for you, but I'm not going to do that.

24 MR. KREBS: The answer is yes, they are all
25 eligible to be members.

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1 MR. KRAVITZ: I'm sorry, the question was are all
2 residents of Spring Valley members of the SVWHCA?

3 MR. SMITH: We consider all residents of Spring --
4 as we have always done -- we have always since 1952 when the
5 organization was established. I'm going to answer it my way,
6 Troy.

7 Okay, we have since 1952, we have considered that
8 all residents of Spring Valley and Wesley Heights are members
9 of the Spring Valley-Wesley Heights Citizens Association.

10 MR. KRAVITZ: Thank you. Yes or no. Are you
11 aware that Exhibit 50 of Zoning Case 1107G submitted on
12 November 20th, 2017 includes five pages and 64 signatures of
13 Spring Valley residents attesting that they are not members
14 of the SVWHCA, nor have they ever been members of the SVWHCA.
15 And further more they do not consider themselves affiliated
16 with the SVWHCA in anyway?

17 MR. SMITH: No.

18 MR. KRAVITZ: Thank you. Yes or no. Was your
19 party status application in this case submitted on December
20 22nd 2017, more than one month later?

21 MR. SMITH: To be honest with you, I can't tell
22 you exactly what date that was submitted. But we did submit
23 a party status application, which I'm sure, I don't have it
24 with me, you do, you probably know the answer to it already,
25 so.

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1 MR. KRAVITZ: I do, December 22nd. That's
2 correct. Moving on, Exhibit 67B lists the homes located
3 within 200 feet of the project site, including exactly two
4 homes within Spring Valley. Yes or no. Are these residents
5 of these two homes members of the SVWHCA?

6 MR. SMITH: Actually there are more than two homes
7 within Spring Valley that are within 200 feet of the project
8 site. And that would include a number of homes that are on
9 Fordham, 48th Place. There are homes on Massachusetts Avenue
10 that are within, and part of your area would also --

11 (Off the record comment)

12 MR. SMITH: It's part of Spring Valley West, I'm
13 not familiar with Spring Valley West. You want to answer.
14 But they would also fall within 200 feet of the project site.

15 MR. KRAVITZ: And is that distinct from Exhibit
16 67B produced by the Zoning Commission?

17 MR. SMITH: Sorry, I don't know what 67B of the
18 Zoning Commission is.

19 MR. KRAVITZ: That's all, thank you.

20 CHAIRMAN HOOD: Thank you very much. Let's see
21 again, let's see, Ward3Vision? I don't see, Mr. Wheeler.
22 Okay, Mr. Wheeler.

23 MR. WHEELER: My question, two of you testified
24 that you were concerned that the units that are being offered
25 would be, are being now offered as apartments and not condos.

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1 So, I guess my first, I'll ask Mr. Krebs is, why is that
2 important?

3 MR. KREBS: Well it's important for a couple of
4 reasons. One is that the applicant attempted to convince the
5 neighborhood that one of the reasons we should support it,
6 was that there would be condominiums for people who were
7 house bound -- who wanted to downsize from houses, and still
8 stay in the neighborhood. Which of course they could do by
9 renting, but to buy a condominium, if they bought a
10 condominium it would be more advantageous tax advantages.

11 MR. WHEELER: Why is that?

12 MR. KREBS: You want to discuss tax law?

13 MR. WHEELER: Well, so is there, if these were
14 created as condos by the developer, and then rented to
15 people, would that be acceptable?

16 MR. KREBS: That might be within their rights.

17 MR. WHEELER: Was your concern that these were
18 condos, or rental apartments? Or was your concern who might
19 live in these --

20 MR. PARKER: No, the concern is economic here.
21 It's very simple. If in fact you own a condo unit, right.
22 Then you're able to deduct the mortgage interest, and you may
23 get appreciation on the capital. Given the size and the
24 dollars associated with this, those are not insignificant.

25 At the meeting that occurred at Tenley Library,

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1 Mr. Lansing in response to a question I actually asked about
2 comparability of prices, when I said there are two bedroom
3 units that are similar would be around \$450,000. He
4 indicated with his hand that that was probably way too low.

5 So, if you think about there being two bedrooms
6 or a two bedroom, a den if those even existed. At \$600,000
7 and you put \$120,000 down, which would be a normal 20
8 percent, the interest on \$480,000 is deductible from your
9 income. You don't have that option as a renter.

10 MR. WHEELER: You also were comparing the size of
11 these units to houses in the neighborhood. Are you talking
12 about houses in Spring Valley?

13 MR. PARKER: Well I could compare them to either.
14 I mean the houses in AU Park tend to be a bit smaller than
15 the ones in Spring Valley, but most of the houses even in AU
16 Park, even if they are smaller, are three to four bedroom
17 kinds of units.

18 What basically is coming out of the chute here,
19 two years later from Valor is a magnitude of two bedroom and
20 one bedroom units. Ten percent of the total 219 units that
21 they're proposing are two bedroom, den, plus or three
22 bedrooms.

23 MR. WHEELER: Do you know how many square feet
24 those units would be?

25 MR. PARKER: Well, they've said that. I mean at

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1 two bedrooms they were approximately 1100 square feet.

2 MR. WHEELER: Thank you. No further questions.

3 CHAIRMAN HOOD: Thank you. Again, Spring Valley
4 neighbors as I stated in Exhibit 1A, I stated that
5 previously. Let's see if Mr. Donohue, do you have any cross,
6 any questions?

7 MR. DONOHUE: No, sir.

8 CHAIRMAN HOOD: Okay, any follow-up questions up
9 here? Okay, thank you all very much.

10 Okay, so I'm going to go down the list of those
11 in opposition. Ms. Schellin do you have a list of --

12 MS. SCHELLIN: Yes.

13 CHAIRMAN HOOD: Oh, okay. So we got it fixed.

14 (Off the record comment)

15 CHAIRMAN HOOD: Yes, I see it. Okay, I come back
16 down, or do I need to scroll?

17 MS. SCHELLIN: Do you have the little --

18 CHAIRMAN HOOD: No, I don't have the little, so
19 I just have to --

20 MS. SCHELLIN: Do you want me to call them?

21 CHAIRMAN HOOD: Yes, you can call them, yes that
22 would be good.

23 MS. SCHELLIN: Lauren Sun, Francisco Valentin,
24 Richard Tatum, Monica Healy, George Hager, Charlotte LeGates,
25 Walter Borek, and Michael Trescott. That's eight, are they

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1 all here?

2 CHAIRMAN HOOD: What I think I'm going to do, Ms.
3 Schellin. You called, I'm going to call them because the
4 people are going to be bringing you stuff, and you know. So,
5 I'll call them. And everybody can help me with this. Did
6 we call eight?

7 MS. SCHELLIN: Yes.

8 FEMALE PARTICIPANT: Are we supposed to sit in a
9 certain order?

10 CHAIRMAN HOOD: No, we're just saving those two
11 seats for the next person.

12 MS. SCHELLIN: Thanks.

13 CHAIRMAN HOOD: Okay. Who else? Do we have some
14 names?

15 MS. SCHELLIN: Yes.

16 CHAIRMAN HOOD: Two other people out of here?

17 MS. SCHELLIN: Harry Melamed --

18 CHAIRMAN HOOD: Let's call them. One more person.

19 MS. SCHELLIN: Jason Mitchell. Opps calling one
20 more, Harry.

21 CHAIRMAN HOOD: Yes, Jason Mitchell, okay. Okay
22 we'll start to my left, your right. You may begin.

23 MS. LEGATES: I am Charlotte LeGates. I'm a
24 resident of Spring Valley on Massachusetts Avenue. And I
25 live two and a half blocks from the proposed development.

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1 I support the arguments made by many of my neighbors. But
2 I would like to draw particular attention to the issue of
3 walkable communities.

4 Retail businesses are necessary for walkability.
5 And in the past, the grocery part of the Valor project has
6 been presented to the community as an amenity that would
7 contribute to community walkability.

8 However, as proposed the Valor project eliminates
9 three existing walkable retail businesses. It also
10 eliminates a support area for an existing walkable
11 restaurant.

12 What we get in return, is a gourmet grocery that
13 virtually duplicates the Wagshal's business already
14 established in the Spring Valley Shopping Center.

15 I ask the Commission to ensure that a development
16 on this site promotes community walkability. The Valor
17 proposals does not. Thank you very much.

18 CHAIRMAN HOOD: Thank you. Next.

19 MR. HAGER: Chairman Hood, Members of the
20 Commission, I'm George Hager. I live at 4627 Alton Place,
21 about three blocks from the proposed Valor development.

22 I can't speak for every opponent of course, but
23 as you've heard tonight I'd say virtually all of us want
24 something at the old SuperFresh site. Even something that
25 looks somewhat like what Valor wants. Except smaller and

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1 more compatible with our neighborhood.

2 When Valor showed us the drawings of their
3 buildings at the meeting here a couple weeks ago, what you
4 didn't see and what you saw some of tonight was the rest of
5 the neighborhood. Valor's project dwarfs the two story homes
6 just across Yuma and 48th Streets, and in the surrounding
7 blocks.

8 And I thought we'd detected some concern about
9 this on the Commission's part as well. Chairman Hood, you
10 again tonight, asked about drawings that would more
11 accurately show what the buildings would look like from right
12 across the street? Gigantic.

13 And Commissioner Miller, I thought I heard you say
14 a couple of weeks ago, that it might -- instead of having a
15 project as large as Valor's where they want to put it, in the
16 site that we've been talking about tonight. It might make
17 more sense for something that massive to go on Massachusetts
18 Avenue.

19 In the site of the current Spring Valley Shopping
20 Center, which would obviously open a whole other can of
21 worms, but speaks to the size.

22 I get the desire for more density and more
23 affordable housing in D.C. But with a reasonable decrease
24 in the size of Valor's project wherever it goes, the city
25 would still get both.

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1 At a neighborhood meeting last year, Valor's Will
2 Lansing told us that taking two stories off the top of this
3 project, seven story project, would reduce the building size
4 by about 80 apartments down from the proposed 220 or so.

5 The city would still get a lot more density on a
6 lot that would ordinarily be big enough for about say, ten
7 typical AU Park homes, an average of a couple of people per
8 home. That's 20 people.

9 Valor could still build 140 apartments or enough
10 for almost 300 people. That's a huge increase in density.
11 Valor has also promised ten percent affordable housing units
12 in reducing the size of project would obviously reduce the
13 number of affordable units from about 22 to about 14. But
14 that's still 14 more than are there now. And Valor could
15 increase that number if it wanted to.

16 This would make a huge difference for our
17 neighborhood. The smaller building while still quite large,
18 would be much more compatible and would produce less traffic,
19 and less congestion in an area that is referred to, and can
20 already be crowded.

21 When we asked about this reasonable compromise
22 last year, Mr. Lansing said it was out of the question, and
23 off the table. The Zoning Commission can help us put it on
24 the table. And we respectfully ask that you do. Thank you.

25 CHAIRMAN HOOD: Thank you. Next.

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1 MR. HEALY: Chairman Hood and Members of the
2 Commission, my name is Monica Healy and I live at 4627 Alton
3 Place, just three blocks from the proposed development. I'm
4 here to oppose Valor's current proposal. I would however,
5 support it if it were reduced in size.

6 I've lived in the neighborhood since 1991 and I
7 enjoyed the use of a full service grocery store for many,
8 many years. Of course the store closed, and the site was
9 left vacant.

10 So you can imagine how delighted I was when I
11 first got the news that there was going to be a new grocery
12 store as a part of a mixed use development.

13 But when I learned more about Valor's plans, I was
14 surprised and quite frankly, very disappointed. Seven
15 stories, really? This can't be. The project is totally out
16 of scale with our neighborhood.

17 As you know, many people have mentioned it,
18 American University Park is a low density neighborhood of
19 mostly single family two story homes. Valor's proposal
20 includes more than 200 apartments, and as I mentioned, up to
21 seven stories. It would overwhelm the surrounding homes.
22 And could also substantially increase traffic on the adjacent
23 streets.

24 Now, I want to mention, I'm very pleased that
25 Valor has announced their intentions to increase the number

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1 of parking spots to meet the needs of the hundreds of new
2 residents. But good intentions are not enough. I hope the
3 Commission will require Valor to have a formal agreement with
4 American University to lease those parking spots for the life
5 of the project.

6 Now this does not have to be an all or nothing
7 proposition. I want to be clear. I am not opposed to any
8 new development. In fact, a good model is the development,
9 the new development in Spring Valley on Massachusetts Avenue.
10 It is just two stories high.

11 I would support the Ladybird project if the height
12 were reduced by two stories. A building like that would be
13 much more compatible with the neighborhood. I respectfully
14 ask the Commission to require Valor Development to rework
15 their proposal to make sure it's more in keeping with the
16 neighborhood. Thank you very much for your consideration.

17 CHAIRMAN HOOD: Thank you. Next.

18 MR. TATUM: I'm Richard Tatum, I own the home at
19 4707 Windom Place, 270 feet from the proposed site. I am
20 opposed to Valor's development plan. I believe that the
21 design review process is not appropriate for this project for
22 these reasons.

23 The project is too complex. It involves four
24 different lots, a national historic site, three owners, and
25 a density purchase. I believe the density is an inherent

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1 characteristic of the historic shopping center and is owned
2 by everyone, not Regency Centers.

3 Second, the developer is asking for major design
4 flexibility. How can this be? Flexibility related to what?
5 On January 11th, Mr. Shapiro asked all the parties to submit
6 an interpretation of what design review action related to
7 this density change might be.

8 Furthermore, Mr. Hood asked under this design
9 review process, can we even do this? Why are these questions
10 still relevant at this stage in the approval process? I
11 believe that the proposed development violates the
12 comprehensive plan.

13 In volume II of the Rock Creek West Area Element,
14 Policy 111, advocates protecting low density residential
15 neighborhoods and recognizing the contribution they make to
16 the character of the district.

17 Future development must be carefully managed to
18 protect the existing character of these neighborhoods.
19 Policy 114 advocates scaling heights and densities to the
20 character of adjoining communities. And Policy 128 states
21 that overcrowding should be considered in the approval of any
22 residential development that may exacerbate school
23 overcrowding.

24 Why aren't those of us who live in close proximity
25 to this development given equal weight to the ANC? Almost

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1 600 adjacent neighbors hand-signed an opposition petition.
2 We are real people, unlike Ward3Vision, and the Coalition for
3 Smarter Growth, who are paid to promote development.

4 Yesterday 23 supporting emails appeared on the
5 case website. Only one of the 23 lives within a mile radius
6 of this development. And some live outside Ward 3. ANC 3D
7 has ignored our criticisms of this project for over two and
8 a half years. It's time for us who are directly affected by
9 this project to be heard.

10 The neighborhood wants a normal grocery store.
11 Instead we are offered a high end Balducci's that's a direct
12 competitor to Wagshal's. Only one store will survive, and
13 we still won't have a normal grocery.

14 We're losing part of Wagshal's and all of
15 Jean-Paul's Hair Salon and DeCarlo's Restaurant, all local
16 institutions. Where will Wagshal's cook for their deli and
17 restaurant? What about the 80 or so people who will be out
18 of a job? Is this a trade that ANC's 3D and 3E support?

19 Is this in compliance with the comprehensive plan?
20 Is this what the Smarter Growth Coalition says, quote,
21 "Enhance the amenities of the Spring Valley Shopping Center
22 with new retail", quote, unquote. And calls it quote, "Good
23 benefits to the neighborhood" unquote, in Exhibit 156? Thank
24 you for your attention.

25 CHAIRMAN HOOD: Thank you. Next. Turn you

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1 microphone on, sir.

2 MR. VALENTIN: Good evening, Commissioners and
3 thank you for the opportunity. My name is Francisco Valentin
4 and my wife, Lauren and I, live at 4301 48th Street.

5 We recently moved to the neighborhood with our two
6 young children. They are five years old and three years old.
7 We know that the Commission gives great weight to 200
8 footers, and rightly so. So, we took the time to blow up
9 these pictures so that you know where we stand on this
10 physically.

11 This is our home. It is across the street from
12 the proposed site. And we also stand in strong opposition
13 to this flawed proposal. Our concerns are many, but my time
14 today I would like to focus on three.

15 First, visual impact. Chairman Hood, I think you
16 hit the nail right on the head last time, when you asked for
17 the rendering. The before and after rendering that you asked
18 last time, the applicant has still not put it on the docket.

19 But I believe you started to see what that
20 rendering looks like today. When the Citizens for
21 Responsible Development did show you that rendering. And
22 Commissioner Miller, Commissioner Turnbull, all of you I
23 think correctly stated it, especially you, Chairman Hood,
24 that you were disturbed by what you saw.

25 And that is because -- the reason for that is

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1 obvious. This is not a small building that is made to look
2 like a four story building. These are huge five story, and
3 seven story buildings, smack in the middle of a residential
4 neighborhood.

5 Which brings me to the next point, Commissioner
6 Miller, and you made this point last time. This development
7 is not on Massachusetts Avenue. This is in the heart of a
8 residential neighborhood. This development will rip the view
9 from its neighborhood and it will violate the character of
10 the neighborhood.

11 Second point I would like to make today,
12 congestion of 48th Street from the loading operations.
13 Commissioner Miller again, you touched on this last time.
14 And Mr. Repp earlier today also touched on this. And I am
15 sorry and saddened to say that DDOT did not touch on this
16 last time.

17 Here too, please do read the fine print because
18 it is important. The petitioner's, the applicant's own
19 proposal for all their unreasonable optimistic assumptions,
20 make one thing clear. They expect as many as 21 round trip
21 truck trips right through this little, right through this
22 alley at 48th Street for everyday.

23 And what does that mean? That means a truck
24 stopping at this intersection -- of this alley on 48th
25 Street, right off of Warren every 17 minutes. That is right

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1 across the street from our house. That would rip the safety
2 out of this neighborhood, and from our children.

3 And the last point I'd like to touch on, is about
4 process. I know you're supposed to give weight to the ANC
5 views but please consider the ANC has not given this issue
6 considered judgement. At least not the ANC 3E. Take traffic
7 again. We -- could I have an extra minute?

8 Since you went through all that extension. But
9 let me just say this. Everybody has been really good as far
10 as keeping the time. I haven't said anything. I was just
11 waiting for the first person. But I'm willing to go ahead
12 and indulge you, because you went through that extreme.

13 But I'm going to ask everyone else unless you have
14 pictures to show, us no. Just do me a favor. Let's be
15 respectful seriously of others and make sure we stay within
16 our three minutes. But go ahead and finish your --

17 Chairman, I appreciate your indulgence. Again,
18 talking about traffic, we went to the last ANC 3E meeting,
19 and we raised this precise point because it's very important
20 to us. It's traffic that goes, loading traffic, commercial
21 traffic that goes right in front of our house.

22 And we said, well look this is all new. It didn't
23 used to work like that. Their first proposal, first or
24 second, I lost count but in October of 2016 all the docking
25 was on this side. All the trucks would come through

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1 Massachusetts, and then this, you know, little piece of Yuma.

2 This has all changed. This is big. Pay
3 attention. We told them, we asked them. What they said is
4 no, nothing has changed. They just denied it. And now it
5 may be that they have no clue. Or it may be they're not
6 being honest about it, but either way I would urge you not
7 to give weight to the recommendation that is now received as
8 considered judgement of the ANC. Thank you very much. And
9 thank you very much for your indulgence.

10 CHAIRMAN HOOD: Thank you. And make sure we, do
11 we have a copy of that?

12 MR. VALENTIN: Chairman, these are all --

13 CHAIRMAN HOOD: Okay, it's in the record, okay.

14 MR. VALENTIN: Chairman these are all enlargements
15 from the applicant's submission. CHAIRMAN HOOD:
16 From the, okay.

17 MR. VALENTIN: So they are in the records.

18 CHAIRMAN HOOD: Okay, great. Okay.

19 (Off the record comment)

20 CHAIRMAN HOOD: No that's okay. They're in the
21 records. Okay, thank you. Thanks.

22 MS. SUN: Oh, I have a presentation as well.

23 CHAIRMAN HOOD: Okay.

24 MS. SUN: That's fine? Should I --

25 CHAIRMAN HOOD: Identify yourself.

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1 MS. SUN: My name is Lauren Sun. And I live also
2 at 4301 48th Street across the street from the development.
3 The first few slides our house and also the position of the
4 driveway with respect to the alley. It's directly across
5 from the alley.

6 We will be deeply impacted by the traffic that the
7 proposed site will bring to the neighborhood. And in
8 particular the traffic that's slatted for the 48th Street
9 alley. As you know, the Valor intends to route all of its
10 commercial trucking through that alley, 21 trucks a day.

11 We have young children as my husband mentioned,
12 three and five. And one of the many things that attracted
13 us to the neighborhood was the prevalence of school age
14 children. It's not uncommon to see basketball hoops in the
15 streets. And children walking, biking, or playing.

16 The significant increase in truck traffic will
17 have a severe impact on our lives and compromises the safety
18 of our children. Vehicular traffic is also likely to be high
19 for the 48th Street alley which is one of only three alley
20 entrances to the project. And closest to the garage entry
21 for both retail and residential.

22 As you may know, particularly at peak hours, 48th
23 Street is essentially a one lane street, with cars parked on
24 the east side, and the AU bus stop on the west side, there's
25 only one lane for traffic.

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1 On slides eight and nine are just a few photos
2 that I've taken since the last hearing from the street in
3 front of our driveway. On slide 11 is an example just from
4 yesterday, of how cars have to wait, cars going in opposite
5 directions have to wait for each other to pass through the
6 buses and the cars that parked on 48th Street.

7 So, in addition to the negative impacts of the
8 traffic in and of itself, vehicular safety and that of our
9 family will be significantly impacted by all of these
10 vehicles turning into and out of the alley, and backing up
11 as they wait to clear passage.

12 In addition to being the closest to the new garage
13 entry point, the 48th Street alley is also likely to see
14 traffic because the other two entry points into the project
15 have their own issues. As I'm sure you'll hear about.

16 One proposed entrance is an alley off of
17 Massachusetts, which is currently a do not enter from
18 Massachusetts. That's on slide 12. Either no one will enter
19 here because it will remain do not enter, or the impact to
20 vehicles turning into this alley has not been felt or
21 measured on Massachusetts itself, because currently no one
22 does that.

23 I think Vice Chair Miller you were right when you
24 said that this was a development that belongs on
25 Massachusetts and not on the side streets behind it. The

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1 project is too dense for the surrounding streets and alleys.
2 Twenty one trucks a day, 305 vehicles at peak hours, 370
3 parking spots, our side streets and the alley system is not
4 adequate to handle all the projected traffic or the
5 development.

6 Recall that Valor's proposal is 90,000 square feet
7 larger than what Valor can build of right. It also contains
8 a significant amount of commercial square footage. Both the
9 additional residential and commercial square footage will
10 bring additional traffic that is not supportable and will
11 compromise safety and quality of life.

12 And I'll just skip to the last slide which is
13 building 2, which we don't really talk about, but I also
14 wanted to raise the fact that it's not at all setback from
15 the curb.

16 It's not significantly smaller than what was
17 offered as a matter of right. And it has front balconies and
18 a roof deck that will result in noise and the loss of visual
19 privacy that was touched upon by CRD. Thank you.

20 CHAIRMAN HOOD: Thank you.

21 MR. BOREK: My name is Walter Borek. My family
22 and I have lived at 4833 Alton Place for the last 29 years.
23 We live 273 paces away, two minutes and 13 seconds, eight
24 hundredths of a mile, and .15 miles away from the
25 development.

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1 I've practiced architecture in D.C. for the past
2 -- architecture in D.C., Maryland and Virginia for the past
3 45 years. Seven of which were at a development firm,
4 commercial development firm. I worked in the development and
5 not in the architectural area. I'm not against development.

6 The applicant has a burden of proof to justify the
7 application by a preponderance of the evidence. I'm only
8 going to focus on those standards that are adversely affected
9 by a building larger than what is allowed by matter of right.

10 I have taken the design standards, put them in --
11 extracted the concepts, the key words, and grouped them into
12 neighborhood, pedestrian safety and traffic, landscaping and
13 axial views.

14 On the second pullout that you have, which is this
15 one here, I've used their drawings generally. I put my blue
16 people and my house. Actually it's a house that's a typical
17 standard for my neighborhood.

18 On the pullout we have a typical house, 50 foot
19 on center. They're 50 foot lots. It's a two-story colonial.
20 Two people in front, the blue people are to scale.

21 Their eight-story building is next to it. It's
22 a segment of their eight story building. It's an eight-story
23 building because it's 89 feet; 11 foot floor to floor gives
24 it eight stories.

25 It's a Yuma Street elevation. If you look at the

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1 picture itself, that's the neighborhood, there are the
2 houses. That's where I live.

3 There seems to be an inconsistency in scale,
4 function, neighborhood character, architectural character,
5 continuity, context, and integration into the neighborhood.

6 The next pullout, there's 14 points of
7 intersection between pedestrians and vehicles around the
8 site. Two of those intersections are dangerous intersections
9 because they have had high crash rates.

10 They're labeled as service D. We're going to put
11 3500 more vehicles per day through there. The 3500 vehicles,
12 to get an idea of the scope or size, it's one lane of traffic
13 that's 10.94 miles long or a four-lane traffic jam of 2.73
14 miles.

15 This yellow diagram here is the alley diagram.
16 They alleys are service alleys. The Windom Walkway in green,
17 you can't get to Massachusetts Avenue except by walking in
18 the alley.

19 There are service alleys, dumpsters, tractors,
20 trailers, trucks, service areas for the American University,
21 service areas for the existing shopping center.

22 The last pullout is all of our favorite map, it's
23 L'Enfant's. Massachusetts Avenue is indicated in red. Their
24 elevation from 49th and Massachusetts Avenue, I've drawn the
25 black outline of Spring Valley Shopping Center.

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1 This is the portal, the gateway to Washington,
2 D.C., on Massachusetts Avenue. One of the two probably most
3 predominant avenues in the city. The other being
4 Pennsylvania Avenue. They're both 160-foot wide boulevards.

5 Nothing that they have shown in any way shows a
6 preponderance of evidence that this thing is in any way
7 superior to a matter of right development. Thank you.

8 CHAIRMAN HOOD: Okay, thank you. Next?

9 MR. MITCHELL: Good evening, Commissioners. My
10 name is Jason Mitchell. I live around the corner from the
11 site with my wife and two small children at 4704 Warren
12 Street, about a block away from the proposed development.

13 I agree with the others that have spoken tonight
14 about the fact that this development is inconsistent with the
15 surrounding neighborhood and will cause many irreparable
16 negative impacts, which are detailed in the letter that I
17 submitted to the Commission on October 19. It's Exhibit 78.

18 But I want to focus in particular tonight on the
19 safety ramifications of the traffic that these buildings will
20 generate and that you've heard a lot about.

21 As you've heard -- sorry to be redundant --
22 because of the way site is designed, the traffic impacts on
23 the surrounding neighborhood streets are extreme. As you've
24 heard, Valor will have all of the tractor-trailers servicing
25 the buildings come through this alley on 48th Street where

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1 these buses currently park and load.

2 It's already a congested area. It's already
3 heavily trafficked. And this alley will also be used by many
4 of the building residents and customers for the grocery
5 store, for the reasons that CRD articulated earlier.

6 Almost immediately after 48th Street turns off of
7 Massachusetts, where many will enter this area, it intersects
8 with my street, Warren Street. That intersection is going
9 to become a choke point due to the plan to route so much
10 traffic onto the neighborhood streets.

11 And, as a result, all of the surrounding streets,
12 including mine, are going to observe a large percentage of
13 the 3500 trips per day this traffic -- this development will
14 generate.

15 And that's a real threat to the safety of my
16 family and my neighbors. My side of Warren Street does not
17 have sidewalks. And the same is true on one side of Windom
18 Street, one block away.

19 So to get to a sidewalk, I have to cross in the
20 middle of the block, or my kids will when they're walking to
21 Janney Elementary. Sidewalks can't be added to this area due
22 to the design of the lots and the 80-year-old trees that are
23 currently up against the street.

24 Over half the homes on my block have small
25 children living in them. And the ones that don't have small

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1 children largely have older couples who are aging in place
2 in their homes.

3 That's typical of the neighborhood on all sides.
4 It's simply not going to be safe for my family and me to
5 cross the street if this development goes through.

6 And it's not limited too just my street. In fact,
7 as you just heard from my neighbors down the panel, they live
8 directly across from this development with their two small
9 children.

10 When I currently walk down Warren Street to
11 Massachusetts Avenue to take the bus to work, I have to cross
12 48th Street right where this choke point will be. It's
13 already dangerous. There are not stop signs for cars on 48th
14 Street, including them coming from Massachusetts Avenue that
15 race up our street and 48th. And at the intersection of
16 48th and Warren, there's no painted crosswalk or signage.
17 And the buses already stop there and obstruct the view even
18 more.

19 And this is going to make an already dangerous
20 situation worse. And unfortunately adding stop signs at that
21 intersection, which I would love, will make the traffic even
22 worse and cause backup onto Massachusetts Avenue if Valor's
23 proposal is approved.

24 Some increase in traffic will be inevitable from
25 any development. And we would support a reasonable

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1 development. But I respectfully submit that this is not one.

2 CHAIRMAN HOOD: Okay. Well, thank you all very
3 much. Let's see if we have any questions or comments up --
4 hold on a second. We're may have some questions of you.

5 Let's see, do we have any questions up here?

6 (No response)

7 CHAIRMAN HOOD: Okay. Not seeing any. Mr.
8 Collins, we have to go through cross. I know you all are
9 ready to leave. But spend a few more minutes with us,
10 because you did a lot of great work. So we appreciate that.

11 Mr. Collins, do you have any cross?

12 MR. COLLINS: No, sir.

13 CHAIRMAN HOOD: Okay. Mr. McHugh?

14 MR. MCHUGH: No.

15 CHAIRMAN HOOD: Commissioner Kravitz -- I'm sorry,
16 Commissioner McHugh said no. Commissioner Kravitz?

17 MR. KRAVITZ: No, sir.

18 CHAIRMAN HOOD: Okay. Mr. Wheeler?

19 MR. WHEELER: No.

20 CHAIRMAN HOOD: And Mr. Donohue?

21 MR. DONOHUE: No, sir.

22 CHAIRMAN HOOD: Okay. And then Mr. Smith or Mr.
23 Krebs, from that group?

24 MR. SMITH: No.

25 CHAIRMAN HOOD: Okay. Thank you all very much.

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1 We appreciate it.

2 Ms. Schellin, I'm going to ask you -- I know I
3 sound like I'm conflicted. I'm going to ask you to call the
4 list. I'm going to turn it over to the Vice Chair for a
5 moment.

6 MS. SCHELLIN: Elizabeth Mitchell? Milton
7 Buchler? Silvia Lucero? Marilyn Simon? Alma Gates? David
8 Leahy? Elizabeth Mohre? Alexander McRae?

9 Let's me make sure I didn't call too many. Thank
10 you. Okay. It looks like we have a full table.

11 VICE CHAIR MILLER: Okay. Why don't we begin to
12 my left, your right. And we'll start with you.

13 MS. MITCHELL: My name is Elizabeth Mitchell, and
14 I live on Warren Street, less than a block from the
15 development site.

16 I have spent the better part of my life living in
17 AU Park. While the AU Park of my childhood looked very
18 similar to the neighborhood as it stands now, it could not
19 have been more different.

20 The public schools were awful. Property values
21 were so low you couldn't get loans. Our neighbors were
22 predominantly elderly widows. I had to walk five blocks to
23 find another family with kids.

24 We had a super sad Safeway at the top of the
25 block. And it was the only grocery store for miles. And

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1 crime was not good. Our house was broken into four times.
2 Much like the city that surrounds it, the AU Park of the '70s
3 and '80s could not be more different than the neighborhood
4 as it exists now.

5 When I moved back here from New York City and was
6 looking for a place to raise my family, I found myself right
7 back in AU Park. Quiet, tree-lined streets, children running
8 from yard to yard, loads of grocery stores, pharmacies,
9 restaurants, and stores within walking distance, and a public
10 school so good we get dragged semiannually on NPR. There are
11 12 kids on our block, and most of them are under five.

12 All of these improvements have come from slow,
13 steady, careful progress that have allowed us to thrive as
14 a neighborhood without destroying the core elements that make
15 us unique. Just like in the rest of our vibrant capital
16 city.

17 The proposed development would irrevocably alter
18 the character of our neighborhood and threatens the unique
19 qualities which drew us all into it in the first place.

20 When I first heard the site was going to be
21 developed and would include a grocer, I was excited. A
22 Harris Teeter or Trader Joe's within walking distance would
23 have been amazing.

24 But when Balducci's was announced, my heart sank.
25 If Balducci's is allowed to occupy this space, it will

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1 threaten a neighborhood business that has been in the
2 cornerstone of our community for over 90 years. It is a
3 direct competitor to Wagshal's. And there simply isn't a
4 market for two such grocers in our neighborhood.

5 I'm shocked to see that groups like Ward3Vision
6 and Spring Valley Neighborhood Association still support this
7 development, as throughout the process they have repeatedly
8 based their support on the promise of a reasonable grocer.

9 Balducci's is about as far from reasonable as you
10 can get. I did a little comparison shopping and found that
11 my typical grocery list is over twice as expensive at
12 Balducci's. And I shop at Whole Foods, which is not cheap.

13 AU Park is literally rimmed with grocers. We have
14 two Whole Foods within walking distance and are about to get
15 a Wegmans.

16 I've been going to Wagshal's since I was a little
17 girl. Mrs. James is an institution. She's here tonight.
18 And she knows the neighborhood children by name, including
19 my own. They are more than just a restaurant and market.
20 They host summer barbeques, special events, children's tea
21 parties, and a parade with ponies.

22 They are a community gathering place and an anchor
23 tenant in the Spring Valley Shopping Center. When
24 development begins, Wagshal's will lose their offices,
25 barbeque business, a catering kitchen, and it will shutter

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1 two other beloved businesses.

2 Balducci's has already tried and failed in this
3 neighborhood once. This time there's a very real chance they
4 will take Wagshal's with them. And they're not going -- and
5 then we're not going to have a grocer and some significant
6 vacancies in a shopping center on the Historic Register.

7 Valor has promised to keep the grocer space filled
8 for ten years. Those promises feel almost as hollow as the
9 restaurant space in the bottom of their own building, which
10 has been vacant for almost two years now.

11 I am all for developing this site. But not at the
12 peril of Wagshal's and our community. Thank you very much
13 for your time.

14 CHAIRMAN HOOD: Thank you. Next?

15 MR. MCRAE: My name is Alexander McRae. My wife
16 and I have lived at 4420 48th Street, NW, American University
17 Park, for over 40 years.

18 We are, thus, 200-footers. Our single house being
19 approximately only 185 feet from the site in question at 48th
20 and Yuma Streets, NW, where Valor development proposes to
21 build two buildings ranging in height from five to seven
22 stories, which will include 219 residential units and
23 perhaps, only perhaps now, a grocery store.

24 We do not oppose the reasonable development of
25 this site, but we do wish to express our opposition to the

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1 current proposal by Valor. Such an oversized development
2 would have a severe negative impact on the character of
3 American University Park, a neighborhood of single family
4 homes.

5 The reasons for our opposition are that Valor's
6 proposed development will include a number of negative
7 impacts. Specifically, the following points.

8 Pedestrian traffic. We believe that the great
9 increase of vehicular traffic resulting from the Valor
10 proposal will endanger pedestrians, including children and
11 senior citizens.

12 School enrollment and class sizes by increased
13 student enrollment.

14 The adequacy of current police, fire, and
15 emergency response services.

16 Utilities infrastructure necessary to support a
17 development of this density.

18 The huge increase in traffic flow on local streets
19 at existing street and alley intersections.

20 Nonexistent public transportation in AU Park
21 itself. The idea that most people, including the handicapped
22 and elderly, would readily walk 20 minutes-plus to Tenleytown
23 Metro is simply not realistic, hence, hugely increased
24 vehicular traffic flow.

25 Parking, specifically inadequate onsite/offsite

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1 parking, et cetera, so that present residents will not be
2 able to park their cars on their streets as they currently
3 do.

4 We understand that access to the proposed Valor
5 development will be through alleys off Yuma and 48th Streets,
6 which are already clogged with trucks and dumpsters. We fear
7 that many vehicles connected to the new residences and retail
8 will have no other option than to park in already crowded
9 neighborhood streets.

10 Finally, we are certainly not against all
11 development. And we would gladly support a reasonable
12 development plan in cooperation with a proposed developer
13 more in keeping, however, with our well-established
14 residential neighborhood.

15 Thank you for your consideration.

16 CHAIRMAN HOOD: Thank you. Next?

17 MR. MELAMED: Chairman Hood and members of the
18 Commission. Thank you for the opportunity to address the
19 Commission.

20 My name is Harry Melamed. And my wife and I live
21 at 4620 Albemarle Street, about four blocks from the
22 Superfresh site. We've lived in this area for over 42 years.
23 We strongly oppose Valor's development as currently proposed.

24 Valor's proposing to build two buildings. One
25 seven stories and the other is five stories. The seven story

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1 building is massive when you look at it, particularly from
2 Yuma Street. They contain at least 219 apartments.

3 These large buildings face the two residential
4 streets and are totally out of character with the American
5 University Park neighborhood, which consists of single family
6 homes that are two-stories tall.

7 The Valor project will contain 219 family units,
8 which is equivalent to approximately the number of family
9 units or houses in a ten square block area from Van Ness
10 Street all the way to Davenport Street, between 46th and 47th
11 Streets. This undoubtedly will adversely affect traffic,
12 parking, schools, and other infrastructure in the
13 neighborhood.

14 Finally, it appears that the massive size of the
15 development will impact the sunlight for houses on Yuma and
16 49th Street, Warren, and Windom.

17 As for the grocery store, the people of AU Park
18 would like to see a supermarket of the nature of a Harris
19 Teeter, similar in size to the old Superfresh, maybe 20,000
20 square feet, where they can do all their grocery shopping at
21 a reasonable price.

22 In conclusion, I believe that Valor initially
23 conceived and designed this development without any
24 consideration for its adverse impact on the neighborhood and
25 its residents. Valor, a private development company, simply

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1 wished to maximize its profit.

2 While Valor has made a number of improvements from
3 the earlier development, this proposal must be judged by what
4 it is today. It's simply too tall and too many apartments
5 for our neighborhood.

6 In connection with the height, I would just bring
7 one thing to the attention of the Commission. My wife and
8 I were recently at a Cathedral Commons restaurant. That is
9 a mixed use development which was probably before this
10 Commission a while ago. That development is smack dab in a
11 commercial area. And one of the buildings was only four
12 stories above the commercial things. And the other building
13 is only two stories above the building.

14 What I would like to ask is, while I'm not
15 knowledgeable about zoning regulations, I would hope that
16 because of the adverse effect of the current Valor proposal
17 on our neighborhood, and particularly the nearby residents,
18 that the Zoning Commission would either require Valor to
19 reduce the number, the size of the seven story building to
20 five, and the five story building to three.

21 Or, two, require Valor to negotiate in a
22 meaningful fashion with the neighborhood. I would just like
23 to say that I'm sorry we have to be here, but the only reason
24 we're here is because Valor has been unwilling to negotiate.

25 CHAIRMAN HOOD: I'm going to need your closing

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1 though.

2 MR. MCRAE: Thank you, that's it.

3 CHAIRMAN HOOD: I let you go because I wanted to
4 hear -- I wanted you to get to that point, because I wanted
5 to hear it. And I'm sure my colleagues did as well. Okay.
6 Thank you. Next?

7 MR. LEAHY: Good evening, Commissioners. My name
8 is David Leahy, a 33-year resident of the District of
9 Columbia, 20 years in Spring Valley. I'd just like to make
10 several points. And I'm going to move through them quickly.

11 Valor is transferring density here, no matter how
12 they otherwise how to dress this up and say they are not.
13 At bottom, they are transferring density from the Spring
14 Valley Shopping Center to their site because they used up
15 their density with the AU building.

16 It is illegal for an increase in the density to
17 occur in the design review process. This would set a
18 terrible precedent to allow this project to go forward with
19 an increase in density through the design review process.

20 They are also attempting to combine lots of the
21 historic Spring Valley Shopping Center with their own. This
22 they cannot do without approval of the Historic Preservation
23 Office.

24 The Office of Planning's response last week that
25 they were allowed flexibility for the rear yard requirements

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1 is, in my view, inappropriate. The attempting combining of
2 lots and the need for rear yard waivers here requires them
3 to get HPO approval.

4 And I would ask, why are they so afraid of getting
5 approvals from HPO and HPRB? What's the problem with having
6 one of your sister District agencies review this project?

7 Valor cannot get the benefits of the historic
8 property lot combinations and transfers of density without
9 the responsibilities that go with a historic property.

10 The Spring Valley Shopping Center is also under
11 absolutely no developmental pressure, as they claimed two
12 weeks ago. And the Office of Planning confirmed. The only
13 development pressure the Spring Valley Shopping Center is
14 under is that being asserted by Valor itself. It is a
15 nationally and District protected landmark. It is not under
16 any developmental pressure.

17 Their drawings, as you have seen, studiously avoid
18 showing any perspective of just how massive these buildings
19 will be by not showing the buildings in relation to the
20 historic Spring Valley Shopping Center or the two-story
21 single family homes that surround the site.

22 The project depends on two secret agreements that
23 Valor refuses to disclose. First, a secret agreement with
24 Regency, which purports to transfer development rights from
25 the historic Spring Valley Shopping Center. Which cannot be

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1 done, because the site is not in one of the five receiving
2 zones for the transfers of such density.

3 And the purported agreement with American
4 University about parking, which is completely mythical. The
5 Commission cannot possibly take any action on this Valor
6 proposal without reviewing both of these agreements, in my
7 view.

8 The project would deeply affect the historic
9 landmark. It would be an ugly, dark, looming, and massive
10 presence over an historic property and on a gateway boulevard
11 to the city.

12 You saw how huge it is.

13 They're proposing to put a HAWK system in the
14 middle of Massachusetts Avenue. I live off of Massachusetts
15 Avenue. I see thousands and thousands of Maryland commuters
16 speeding through Massachusetts Avenue. The idea that a HAWK
17 system is going to help Massachusetts Avenue in any way is
18 absurd.

19 So, I would ask that you, really, not approve this
20 project. It is not appropriate for this process. Thank you
21 very much for your time.

22 CHAIRMAN HOOD: Thank you. Next?

23 MS. GATES: Chairman Hood and members of the
24 Commission, I am Alma Gates, testifying as an individual in
25 opposition to Application 16-23. My formal testimony is in

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1 the record marked as Exhibit 150.

2 Critical to this proposed mixed use project is the
3 transfer of FAR development rights from the historic shopping
4 center to the Valor project, and whether the Valor site is
5 a designated receiving zone.

6 The Office of Planning has deferred this decision
7 to the Office of the Attorney General for an opinion. An
8 earlier transfer of development rights from the Superfresh
9 building to the AU building on Lot 806 occurred when all the
10 property in Square 1499 was in single ownership, and prior
11 to the Spring Valley Shopping Center being declared an
12 historic site.

13 Today, the lots and buildings belong to different
14 owners and some have different status. It isn't as easy as
15 moving density around on the square, as Valor would have you
16 believe.

17 As this is one of the first design review
18 applications, the Zoning Commission must decide if the
19 transfer of FAR is a precedent it wishes to perpetuate across
20 all low density mixed use zones in the city through the
21 design review process. Or to restrict transfer to the
22 downtown areas where they are currently allowed. And if the
23 increase in density is allowable and appropriate for this
24 design review application according to Subtitle X, Section
25 600.1(e)

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1 After filing its revised application on December
2 21st and testimony on January 11th, the Valor project
3 resembles a house of cards, as there remain many very
4 significant unresolved issues, including Valor as a contract
5 purchaser, not an owner.

6 The agreement between AU and Valor is not final.
7 A decision on the transfer of FAR development rights is in
8 the hands of OAG. There is concern that the IZ set-aside may
9 not satisfy the requirements of Subtitle C, Section 1003.

10 No metrics have been submitted to address the
11 potential impacts of the proposed HAWK signal.

12 The planned condominiums will likely be replaced
13 by rental units.

14 Current popular neighborhood-serving retail
15 businesses and 60 jobs will be lost forever when construction
16 begins.

17 An alley will serve as the only means of ingress
18 and egress to housing, loading, and grocery shopping for the
19 Valor project, but also serve as the delivery, loading, and
20 trash pick up area for the Spring Valley Shopping Center.

21 And LEED certification has been downgraded from
22 Gold to Silver.

23 Given the visuals tonight show something that
24 resembles the Washington Hospital Center, the Zoning
25 Commission may wish to consider repeating the action it took

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1 regarding construction of the Sibley Memorial Office
2 Building.

3 The removal of two stories from Valor buildings
4 would greatly improve the transition from mixed use to
5 adjacent low density residential, lessen other potential
6 impacts presented by the parties in opposition, and bring the
7 project into line with the Comprehensive Plan, primarily, one
8 to three story commercial buildings.

9 And I'll close there. Thank you.

10 CHAIRMAN HOOD: Thank you. Next?

11 MS. LUCERO: Good evening, Chairman Hood and
12 Commissioners. My name is Sylvia Lucero. And I'm testifying
13 in opposition before the Commission as a resident and former
14 shopper of Superfresh. I'm also the ANC 3D-10 Commissioner
15 and voted against this development on December 6th, 2017, and
16 again on January 10th, at our regularly scheduled meeting
17 when it was reconsidered.

18 This has been a long and arduous process with many
19 meetings with both ANCs and the community. I appreciate that
20 Valor has made some concessions with regard to the original
21 appearance of the buildings.

22 The anticipation of a full service grocery store
23 returning has been highly desired by many, as it is
24 considered an amenity and benefit to the community. My
25 disappointment with this project has been the following.

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1 The diminished sized and selection of the grocery
2 store. That there is only a letter of intent from
3 Balducci's.

4 That confusion regarding FAR development -- and
5 I agree with the Commissioners, as well as ANC 3E, that a
6 one-pager with this information would have been helpful.
7 Valor is not an owner, but rather a contract purchaser.

8 The confusion regarding matter of right, what they
9 can and what they can't do. The transfer of density, which
10 would set a precedent going forward. The density and massing
11 of the structure, and how it will affect adjacent neighbors
12 regarding traffic, light, and privacy. The addition of a
13 HAWK traffic signal. As I have seen, the HAWK traffic signal
14 on Nebraska Avenue, at times it backs up all the way into
15 Ward Circle.

16 The reduction from LEED Gold to LEED Silver.

17 The possibility that now all the units in the
18 condo building could be now rentals. That almost 90 percent
19 of this project is going to be rentals doesn't give empty-
20 nesters incentives to buy and downsize.

21 And that current retailers will be lost.

22 Therefore, I encourage you to review Citizens for
23 Responsible Development's supplemental submission submitted
24 on January 9th, as it includes detailed explanations as to
25 why this project fails to meet the requirements for the

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1 design review, as well as the matter of right calculation,
2 historic preservation report, traffic study, expanded shadow
3 study, and visual impact study conducting several balloon
4 tests as well as a laser and physical measurements where they
5 could not access the area with the balloon to show the scale
6 of the project in comparison to the neighborhood. I believe
7 their photos will help the Commission to see the scale and
8 impact on the surrounding neighbors.

9 I'm not against development. However, this
10 project began with the promise of a full service grocery
11 store comparable to that of Superfresh. And it should be
12 designed to be consistent with the urban form of the
13 neighborhood. Thank you for your time.

14 CHAIRMAN HOOD: Thank you. Next?

15 MS. SIMON: My name is Marilyn Simon. And tonight
16 I will limit discussion to inclusionary zoning as it applies
17 to this project.

18 Creation of affordable housing is an important
19 goal, and IZ is not discretionary. In the case before you,
20 if type one construction is employed, Valor's IZ set-aside
21 falls almost 14,000 square feet short of the requirement.
22 And if type one construction is not employed, their IZ set
23 aside falls 34,500 square feet short of the requirement.

24 The applicant has stated that the inclusionary
25 zoning included in the project exceeds the IZ requirement.

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1 The applicant's tabulations are incorrect because they do not
2 reflect the inclusionary zoning requirements in Subtitle C.
3 The relevant regulations and calculations for this site are
4 included in my written testimony.

5 The IZ set-aside requirement is that the developer
6 shall set aside an amount based on the habitable penthouse
7 space plus the greater of an amount based on residential
8 floor area or an amount based on achievable IZ bonus density.
9 The two formulas depend on the type of construction, with a
10 lower set-aside required for projects that use type one
11 construction.

12 The Valor tabulations give only the amount based
13 on residential floor area. Yet, for this project, the amount
14 based on achievable bonus density is significantly larger
15 than the amount based on residential floor area.

16 Applying the regulations, the actual required IZ
17 set-aside is over 42,000 square feet for type one
18 construction, or nearly 63,000 square feet otherwise. Both
19 of which are significantly more than the 28,320 square feet
20 of IZ in the Valor proposal.

21 Valor is not alone in submitting IZ tabulations
22 that do not match the regulations. UIP, in a matter of right
23 project on Brandywine Street, is offering two IZ units in a
24 100-unit project, where based on the achievable bonus
25 density, the required IZ set-aside would be at least 4,800

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1 square feet.

2 On the other hand, Douglas Development submitted
3 tabulations that follow the regulations, presenting two IZ
4 calculations, one based on residential floor area, and
5 another based on achievable bonus density. The filing
6 clearly stated that the required IZ set-aside was the greater
7 of the two.

8 I limited my discussion to IZ, but I agree with
9 the opponents that the gross floor area proposed by the
10 applicants greatly exceeds the amount that can be considered
11 under design review. In design review, the Commission may
12 not grant relief from the IZ requirements. And the IZ set-
13 aside proposed by Valor does not satisfy the IZ requirements.

14 Thank you.

15 CHAIRMAN HOOD: Thank you. Next.

16 MS. MOHRE: Good evening, Chairman Hood and
17 Commissioners. My name is Liz Mohre. I live at 4706 Windom
18 Place, which is four houses from the intersection of Windom
19 and 48th Street and the former Superfresh site. I've lived
20 in this home for 21 years, raised my family there. My
21 daughter went to Janney.

22 And we choose the neighborhood both because of its
23 school and its character, with its convenient small
24 neighborhood feel and small commercial establishments.

25 Like other speakers this evening, I'm not against

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1 thoughtful development of the area. I recognize it's
2 valuable. I welcome additional housing and small scale
3 commercial enterprises. But I am appalled at the scale of
4 this project, which everyone I've heard has agreed, is out
5 of character for this neighborhood as a small, single family
6 residential neighborhood.

7 But tonight I'd like to address a point that came
8 up at one of the meetings, and I think may have been raised
9 by one of the ANC 3E Commissioners. And it was raised as a
10 way of apparently minimizing traffic concerns along
11 Massachusetts Avenue by mentioning three or four other large
12 scale, multi-family unit developments about a half mile down
13 Massachusetts Avenue. And that would include, I think, the
14 Foxhall, the Greenbriar condos, and the Berkshire.

15 Each one of those is significantly larger than the
16 proposed development. One, the Foxhall, is 80 units, nine
17 floors. It was built in 1971. But it's set back from
18 Massachusetts Avenue by an enormous amount of green space to
19 the front and on one side. More green space at the back,
20 separated by a small street with small apartment buildings
21 on the other side.

22 On the fourth side is a gated community, which is
23 the Westover Place. And it's surrounded by brick walls. And
24 it was built 14 years later. So, obviously, the original
25 owners of that had no say in whether there was a large

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1 complex next to them.

2 Across the street from that, similarly, two
3 complexes set way back on sloping, elevated green lawn space,
4 and surrounded on each side behind them by densely wooded
5 areas, and the other side of which is large parking lots for
6 Department of Homeland Security.

7 None of these developments have any single family
8 residents or residents of any type anywhere near them, unlike
9 this development. Also, each of these developments has one
10 entrance and one exit on Massachusetts Avenue, with lights
11 to control the traffic flow.

12 So, as you can see, the character and placement
13 of these properties is very different from what the current
14 developers are proposing for our neighborhood.

15 If this seven-story project is approved as
16 proposed, of course, it will directly abut our single family
17 homes, with nothing but a small neighborhood street
18 separating our homes from something up to 80 feet high and
19 blocking the light in the immediate blocks and forever
20 changing the character of our neighborhood.

21 I would respectfully request that you consider
22 this in reaching your decision.

23 CHAIRMAN HOOD: Thank you very much. Let's see
24 if we have any questions of anyone on this panel. Questions
25 and comments.

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1 Okay. Let me go to the applicant, Mr. Collins?

2 Do you have any cross?

3 MR. COLLINS: No.

4 CHAIRMAN HOOD: Commissioner McHugh do you have
5 any cross?

6 MR. MCHUGH: No.

7 CHAIRMAN HOOD: You don't? Okay. Commissioner
8 Kravitz, do you have any cross?

9 MR. KRAVITZ: No, sir.

10 CHAIRMAN HOOD: Okay. Mr. Wheeler, do you have
11 any cross?

12 MR. WHEELER: No.

13 CHAIRMAN HOOD: Okay. Mr. Donohue?

14 MR. DONOHUE: No.

15 CHAIRMAN HOOD: And Mr. Smith?

16 MR. SMITH: No.

17 CHAIRMAN HOOD: Okay. Thank you all very much.
18 We appreciate your testimony.

19 Ms. Simon, you turned in your testimony, right?

20 MS. SIMON: I think it's Exhibit 160, yes.

21 CHAIRMAN HOOD: Exhibit 160. Okay. Okay.

22 MS. SIMON: And that has all the regulations.

23 CHAIRMAN HOOD: Right. I saw that. Okay. I just
24 want to make sure. Yeah, can you do the next one? I've
25 given up on that.

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1 MS. SCHELLIN: Okay. Jeffrey Kraskin? Aidan
2 Jones? David Leahy? I think he already testified. Yeah,
3 I think he must have been on there twice. William Fuchs?
4 Ann Stansbury? Eli Borek? Susanne Koffsky? Jane Petit-
5 Moore? Marilyn Richert?

6 Okay. One more seat. And the last person on the
7 list, Cheryl Grandy.

8 CHAIRMAN HOOD: Okay. Let me just ask, how many
9 more people do we have who did not -- I think everybody's on
10 the list, right? Do we have any more that are not on the
11 list that want to testify in opposition tonight?

12 Okay. I see one. I see two. Okay. All right.
13 You may begin. To my left, your right.

14 MR. FUCHS: Good evening. My name is Bill Fuchs.
15 I, along with my family, own and operate Wagshal's. Our
16 business was established over 93 years ago and it's the
17 oldest delicatessen in D.C.

18 As a staple in the neighborhood, we become a
19 meeting place for so many residents from D.C., Maryland, and
20 Virginia. Wagshal's has become home to many generations of
21 Spring Valley Residents. Some customers tell us we are a
22 landmark in the Spring Valley neighborhood. Real estate ads
23 have included their home listings as close to Wagshal's.

24 Over the decades, Wagshal's has worked in harmony
25 with the neighboring grocery stores like A&P and Superfresh.

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1 We live and work side by side to bring value to the
2 community.

3 Our family has been reluctant to speak on the
4 proposed project. And I really didn't get involved until the
5 last ANC meeting in which they voted on this development.

6 We've come to accept the closure of our catering
7 business, barbeque business, and production kitchen. This
8 project will displace over 30 to 35 of our employees, and it
9 creates a financial setback for Wagshal's.

10 So, why am I here? To make matters worse, Valor
11 announced plans to include Balducci's as their choice for a
12 grocery store.

13 This will result in direct duplication of our food style and
14 offerings. With the addition of the proposed Balducci's next
15 door, and the Wegmans opening around the same time, we see
16 a detrimental impact to the neighborhood. We will all be
17 fighting for the same customer. Our existence becomes
18 uncertain. I believe only one of us will survive.

19 Recently, a majority of our ANC commissioners
20 voted for the development of the site. However, they
21 expressed their deep regret that they were not given what was
22 promised, and almost unanimously expressed their disapproval
23 and concern with the Balducci's concept.

24 The fact is, Balducci's does not comply with the
25 neighbors' wishes or the developer's promise to provide a

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1 traditional grocery store.

2 I would like to add one more point to my
3 discussion. My firsthand knowledge and years of observations
4 indicate that the traffic flow study conclusions do not
5 reflect accurately the impact of the project.

6 Currently, we have over one hundred cars parking
7 in the garage and in the Superfresh parking lot daily from
8 Monday through Friday. Where will these cars park, along
9 with two to three hundred other cars coming and going all day
10 from the development?

11 Please consider my remarks in your deliberations.
12 And I thank the Commission for their time.

13 MR. KRASKIN: Good evening. I'm Dr. Jeffrey
14 Kraskin, a resident of Spring Valley since 1960. I've had
15 the opportunity to watch over the years, as I grew up there,
16 my neighborhood. I believe strongly that the community
17 desires to have this site developed, though this project is
18 just not fitting the community.

19 The history of residential development in our
20 neighborhood has a long history of rejecting multi-story
21 apartment buildings. The early design of Spring Valley West
22 called for a PUD which included two apartment towers, a
23 cluster of town homes, detached single family homes, and
24 commercial buildings.

25 To be consistent with the existing neighborhood,

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1 the community rejected the idea. And at that time, the W.C.
2 Miller Company, the developer, went to work with the
3 community association, the Spring Valley-Wesley Heights
4 Citizen Association, to win their support by working to bring
5 it into more compliance and consistency with our
6 neighborhood.

7 Today, that neighborhood area, the last full
8 residential development, along with the community-serving
9 commercial buildings, continue to serve our community. I
10 would hope in this case that Valor would return to the
11 drawing board, but, more importantly, work with the
12 neighborhood groups to create a development on now the last
13 existing large tract that truly would coordinate with the
14 neighborhood.

15 Thank you for your attention.

16 CHAIRMAN HOOD: Thank you. Next.

17 MR. JONES: Good evening, Chairman Hood and
18 Commissioners. My name is Aidan Jones. I live halfway
19 between Massachusetts and Wisconsin Avenues, about six blocks
20 from the Superfresh site.

21 We've lived there, my family and I, have lived
22 there for 34 years. And it's within walking distance,
23 obviously, of the Superfresh, where our family regularly
24 shopped and fulfilled our shopping needs, which certainly
25 would not happen, could not happen, with a Balducci's, which

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1 doesn't add anything to our neighborhood.

2 So I oppose the application partly for that
3 reason. And, secondly, because this development is just too
4 massive to fit into the neighborhood properly.

5 But the main reason I'm here before you today is
6 that, most significantly, Valor does not have a legal basis
7 for this project. And I want to focus on something sort of
8 on the front-end of this, which is that the owner of the lots
9 in question, to construct what is now the contiguous American
10 University six-story building, transferred its Lot 807 height
11 and density rights to Lot 806.

12 And that transfer is reflected in a recorded deed.
13 In other words, the owner gave up a valuable property right
14 on Lot 806, the Valor site, in return for a zoning benefit.
15 It was a conveyance and a relinquishment that runs with the
16 land. Like, for example, a negative easement. It is binding
17 on the subsequent owners.

18 Valor seems to assume that by purportedly
19 purchasing another property owners' supposed right it can
20 erase that conveyance and relinquishment. But that would be
21 the equivalent of selling the same piece of property several
22 times over, or perhaps more.

23 Moreover, what height and density rights does a
24 single story property designated for historic preservation,
25 like the Spring Valley Shopping Center, have to sell?

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1 Particularly if, for historic preservation, that shopping
2 center is limited to its present height and density.

3 At the January 11 part of this hearing, the
4 Commission asked the applicant and its attorney to explain
5 the legal justification on these questions. No explanation
6 was forth coming then. And despite the Zoning Commissioners'
7 request for a written explanation, so far as I know, none has
8 been provided by applicant, at least in time to be recorded
9 on the case docket and to provide context for this hearing.

10 This further begs the question whether there is
11 a legal basis for what applicant seeks. The applicant's
12 failure to provide legal justification since 2015 has wasted
13 the time of the neighbors, the parties, the Office of
14 Planning, DDOT, and, most of all, this Zoning Commission and
15 its staff.

16 The failure to address this issue upfront,
17 possibly in an attempt to obfuscate and engage the neighbors
18 in a costly war of attrition in the hopes of wearing them
19 down to the point of exhausting their time, energy, and
20 whatever funds they can muster to hire legal counsel, is an
21 abuse of the system, and thus of D.C. citizens and taxpayers.

22 While late in the process, the Zoning Commission
23 should address that issue in any decision that it renders.
24 Thank you very much.

25 CHAIRMAN HOOD: Okay, thank you. Next.

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1 MR. BOREK: My name is Eli Borek. I live one and
2 a half blocks from the proposed development site.

3 The applicant's stated case up for review tonight
4 is disingenuous at best. Tonight they attempting to mislead
5 the Zoning Commission.

6 In their stated case the applicant asked for only
7 relief for the rear yard requirements, unquote. That's
8 interesting, because nowhere in this brief do they mention
9 that the available FAR for this site as a matter of right is
10 184 thousand square feet.

11 They do mention their proposed development is 277
12 thousand square feet. That's an increase of over 50 percent
13 of the allowable FAR as a matter of right.

14 Make no mistake, the applicant is here tonight to
15 ask for relief from -- in density, regardless of what they
16 say in their brief.

17 Also, nowhere does it mention that these four lots
18 are not truly part of the same site. Two of the lots from
19 which the applicant is proposing to purchase FAR are not even
20 contiguous.

21 There's a public right of way that separates them
22 from the proposed development site. This follows a pattern
23 of deception by the developer in relation to its
24 communication with the community over the past two years.

25 They have distorted their IZ calculations. There

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1 was a grocery store bait and switch in both style, size, and
2 type.

3 As you saw tonight, there's a -- they provided
4 entirely dishonest renderings. They promoted condos as a
5 benefit to the community, only to switch for apartments at
6 the very last minute.

7 And there's been a constant threat at every
8 community meeting from Valor to build a matter of right
9 project that they said would be a detriment to the
10 neighborhood.

11 This would set a dangerous precedent in D.C. if
12 you were to approve this proposed development. And change
13 the entire nature of an established D.C. neighborhood.

14 Members of the neighborhood have been deceived by
15 Valor over the past two years. The ANC has successfully been
16 deceived by Valor over the past two years.

17 The only question that remains is, will you too
18 be deceived by Valor tonight.

19 CHAIRMAN HOOD: Thank you. Next.

20 MR. KOFFSKY: Good evening. My name is Susanne
21 Koffsky. I've lived at 4708 Windom Place for the past 22
22 years. And raised our family, my husband and I, two
23 children.

24 We are 210 feet from the proposed development.
25 I want to talk about the Yuma Street alley where trucks

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1 unload for CVS, Wagshal's, and other businesses in the Spring
2 Valley Shopping Center.

3 As CRD demonstrated earlier in a visual exhibit,
4 this alley will be impassable. I had an interesting
5 conversation with a garbage truck driver on Tuesday morning
6 as I was observing delivery trucks coming and going through
7 the alley.

8 As I described to the driver that Valor planned
9 to enclose the dumpsters to make them look nice, the
10 dumpsters are currently sitting at a 45-degree angle so the
11 trucks can empty the dumpsters and move on and move in and
12 out of the alley fairly quickly.

13 As I observed him unloading the dumpster, it took
14 about five minutes. And he's -- he's been driving a garbage
15 truck for 14 years.

16 So, the driver said that repositioning those
17 dumpsters, they're now at a 45-degree angle, and he -- Valor
18 proposes to reposition them so that they would be parallel
19 to the rear buildings of the Spring Valley Shopping Center.

20 And in doing this, the driver said -- I said,
21 how's that going to work? And he said, well that's going to
22 be almost next too impossible because the logistics in the
23 alley.

24 It's 20 feet wide and it took him two turns to get
25 in off Yuma Street. And then he backed out to go back up

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1 Yuma Street to go to his next delivery.

2 So, in addition to the congestion that this would
3 create in the alley, Valor plans to add a sidewalk to this
4 same alley for pedestrians.

5 So, in conclusion, this development I don't think
6 will work for the neighborhood. The congestion and the
7 pedestrian safety issues, they're very important for the
8 Commission to consider.

9 Thank you for your time.

10 CHAIRMAN HOOD: Thank you. Next.

11 MS. PETIT-MOORE: My name is Jane Petit-Moore.

12 CHAIRMAN HOOD: Speak into the microphone. Yeah,
13 there you go.

14 MS. PETIT-MOORE: My name is Jane Petit-Moore, and
15 I live -- I'm a 200 footer. I live very, very close to the
16 project.

17 And I've had a sign on my front lawn saying how
18 massive it is and how terrified we are. And I've been very,
19 very surprised that there's not been more dialogue between
20 the neighborhood and Valor.

21 I think it's shocked me a lot. And the first time
22 that I heard an echo from somebody official was when Robert
23 Mueller last year -- last week said, we don't have a picture
24 of what the relationship is between the bulk of this project
25 and the scale of the project and the neighborhood.

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1 And we had never seen that until today. I think
2 people have told you about the scale that's out of line, the
3 lack of conversation about what we need, what reflects the
4 neighborhood.

5 I agree totally with that. And I want to thank you
6 very much for listening and caring, and giving us an
7 opportunity to speak our minds. It's very important.

8 CHAIRMAN HOOD: Thank you. Thank you. Next.

9 MS. RICHERT: Yes. Good morning -- good evening
10 Mr. Chairman and Members of the Commission. My name is
11 Marilyn Richert.

12 I live at 4811 Yuma Street NW, which is directly
13 across the street from the proposed building. I have lived
14 at this address for the past 47 years.

15 And I plan to stay there for at least another two
16 decades. So this means that I will be here during the dust,
17 dirt, and noise of the construction.

18 And after that, I will have the dubious pleasure
19 of daily opening my front door and looking at structures that
20 is almost larger than a football field turned on its side.

21 I would like to make three points about the
22 proposed building. First, the applicant's plan contains
23 language that provides that once you approve the outer
24 structure of the building, they then would have free reign
25 to make changes in the interior structures.

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1 Just a few changes here and there could produce
2 an ideal dormitory for American University students. In
3 fact, it could become a college student dormitory anyway.

4 Second, this neighborhood has been good and stable
5 during all of my half century of residence. The city's
6 comprehensive plan has designated the Spring Valley Shopping
7 Center area as an example of neighborhood, commercial
8 centers.

9 The plan cautions about incipient development
10 pressures that must be met head on and controlled through
11 zoning, among other measures. To preserve and enhance the
12 character of the neighborhood.

13 The third point is in the category of hindsight.
14 And hindsight is a witch with a W.

15 On December 3, 2017, the Washington Post printed
16 a story entitled homeowners look askance at garages size and
17 lighting. The neighborhood had not been involved before a
18 large, very bright parking garage was built.

19 In hindsight, it was acknowledged that community
20 input could have influenced and resulted in the selection of
21 a different location. The lessons taught by hindsight are
22 there to be learned.

23 The foresight of community input can be very
24 helpful if it is heard and if it is acted upon. In Case
25 1623, there is a great plenty of foresight.

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1 Input from years ago resulted in the design that
2 we see today. This design is still too large and too dense.

3 Can the plan for such a massive structure be
4 mitigated and the character of the neighborhood be saved by
5 actions of the Zoning Authority? I can only hope.

6 CHAIRMAN HOOD: Thank you. Next.

7 MS. GRANDY: Thank you. My name is Cheryl Grandy.
8 I live at 4702 Warren Street. We are within about ten houses
9 of the proposed development. So we're well within the zone
10 of impact.

11 I live next to two of the people who testified
12 earlier, Elizabeth and Jason Mitchell. We welcomed them
13 recently to the neighborhood. I've lived there for 35 years.

14 My concerns with the development are really with
15 the scope, the size, and the traffic impacts and parking
16 impacts. It will really change the neighborhood greatly.

17 We already get a lot of traffic between Mass
18 Avenue and Wisconsin Avenue. Daily I see many, many Virginia
19 and Maryland license plates that are cutting through our
20 neighborhood.

21 I can't imagine that's going to get better with
22 this development. The other thing that I notice is the
23 congestion at Spring Valley Shopping Center. It's
24 tremendous.

25 You can barely get out of it at times because

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1 you're waiting for a light to make a left onto Mass Avenue.
2 Or you're going up through our neighborhood, again, on Yuma.

3 One of my major concerns is that you not make a
4 decision without nailing down Valor. They -- we've heard so
5 many versions of their proposal.

6 We have with a big grocery store, a small grocery
7 store, an expensive grocery store, a reasonable grocery
8 store. We just have heard a lot of different things from
9 Valor.

10 We don't know what the agreement with AU is for
11 parking. We don't know all the other agreements that they
12 have for the development.

13 I would urge you to get firm commitments from
14 them. Because we certainly have not been able to.

15 And that's my -- that's my piece. Thank you.

16 CHAIRMAN HOOD: Okay. Thank you. Let's see if
17 we have any -- thank you all. Let's see if we have any
18 questions up here.

19 Commissioner -- Vice Chair Miller?

20 VICE CHAIR MILLER: Thank you Mr. Chairman. Thank
21 you each for your testimony. And thank you to the Fuchs
22 family for providing the Wagshal's Grocery Store and Deli all
23 these years.

24 A little more -- your family didn't have it for
25 all 93.

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1 MR. FUCHS: No. A little over 30 years now.

2 VICE CHAIR MILLER: How many?

3 MR. FUCHS: Thirty.

4 VICE CHAIR MILLER: Thirty. So, yeah I share your
5 concern that the market will eliminate some of the existing
6 grocery stores with all the proposed ones that are planned
7 in the corridor between Georgetown and Friendship Heights.

8 It's absolutely -- I live in that corridor. But
9 it's absolutely ridiculous that all these grocery stores are
10 being planned along one corridor.

11 And to the east side of the city gets crumbs or
12 nothing. But that will change, because the market demand
13 just isn't going to be there for all that grocery store in
14 my opinion. To share with you.

15 So anyway, thank you all for your testimony.

16 CHAIRMAN HOOD: Let's see, any other questions or
17 comments up here? Okay. Mr. Collins, do you have any cross?

18 MR. COLLINS: No.

19 CHAIRMAN HOOD: Okay. Commissioner McHugh, do you
20 have any cross?

21 MR. MCHUGH: No.

22 CHAIRMAN HOOD: Commissioner Kravitz?

23 MR. KRAVITZ: No, sir.

24 CHAIRMAN HOOD: Mr. Wheeler?

25 MR. WHEELER: No, sir.

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1 CHAIRMAN HOOD: Okay. Mr. Donohue?

2 MR. DONOHUE: No, sir.

3 CHAIRMAN HOOD: And Mr. Smith?

4 MR. SMITH: No.

5 CHAIRMAN HOOD: Okay. Thank you all very much for
6 your testimony. And I think I saw two more hands.

7 Now let me ask those who are remaining, if you --
8 who were in opposition. If you can just come forward.

9 Last call for those who are remaining, who are
10 here for opposition. Individuals for opposition.

11 Okay. So this is it. All right. We will start
12 with you to my left.

13 MS. STANSBURY: Okay. My name is Ann Stansbury.
14 And I have lived on Butterworth Place for the last 40 years.
15 And I have raised my two children there. This is about three
16 blocks away from the site.

17 My sense of this application is that it is an
18 attempt to squeeze a very, very large building into a very
19 small space. And it's also an attempt to use a very, what
20 should be a streamlined procedure, perhaps too streamlined,
21 to squeeze a project, an application through that has a lot
22 of very messy issues that I think we've all discussed at
23 great length here tonight.

24 We do not oppose any development. I should say
25 that. But, this project is just too big.

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1 I was looking at the Office of Planning report
2 early today. And I noticed that it says -- it seems to imply
3 that the height of the building steps down from 48th to Yuma
4 Street.

5 Now that's not really possible. Since it actually
6 goes all the way up to 73 feet or maybe 88 feet with the
7 penthouse, when you get to the alley side on Yuma Street.

8 I noticed that the architect has tried to put in
9 a lot of details. A lot of setbacks and things like that.

10 But as the Court of Appeals said in Durant versus
11 D.C. Zoning Commission in 2016, setbacks of not really tell
12 you about what the -- what is behind the facade. That is the
13 real density, the number of units, the number of stories, and
14 all that.

15 I was also looking at some elements of the
16 comprehensive plan. The land use element talks about
17 buffering with nearby communities.

18 And it says the residences are the buffers from
19 the single family houses. Which doesn't make a lot of sense
20 to me.

21 You talk about the residences in the apartments
22 are buffers with the single family houses across the street.
23 That doesn't seem right.

24 And that the project could be compatible with the
25 -- in an appropriate backdrop to the Spring Valley Shopping

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1 Center. We've seen what that looks like, what the backdrop
2 looks like behind the Spring Valley Shopping Center and how
3 it would affect its appearance and use.

4 And finally, in the economic development section
5 of the comprehensive plan, it calls for the promotion and
6 creation of locally owned, non-chain establishments. I was
7 very pleased to hear from Mr. Fuchs tonight because it's --
8 we know that this will displace at least three businesses and
9 their employees.

10 Thank you.

11 CHAIRMAN HOOD: Thank you. Next.

12 MS. DECKER: Good evening Chairman Hood and
13 Commissioners. My name is Caroline Decker. My husband John
14 and I reside at 4712 Windom Place.

15 Which is at the corner of 48th and Windom. So as
16 you're looking at the renderings, we're at the epicenter
17 really right in front of the new development.

18 And appreciate your time very much tonight. I
19 think everything has been said and quite articulately.

20 We've heard from neighbors that have been in the
21 area for 40 years or more. And new neighbors like Francisco
22 and Lauren who are there weeks.

23 We've been there 12 years. And really urge you
24 to look at what is being proposed. And how it will really
25 alter the quality of life for the residents in this

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1 neighborhood materially and substantially going forward.

2 And I'm very proud really to sit here tonight.

3 And I think as you hear, there are a lot of reasonable
4 alternatives.

5 And we all recognize that something's going to
6 happen on this plot. And it should. But, it really needs
7 to be consistent with the character of this community.

8 One that we're obviously so passionate about. And
9 one that we're really willing to keep fighting for and to
10 preserve the quality of life that we've come to learn and
11 love over the years.

12 So, I'll close out with that. And again, thank
13 you very much. I somehow missed the list, so I thank you for
14 allowing me to offer my remarks. Thank you.

15 CHAIRMAN HOOD: Okay. Thank you both. Let me see
16 if we have any questions for you.

17 Any questions up here?

18 (No response)

19 CHAIRMAN HOOD: Okay. Does the applicant have any
20 questions?

21 MR. COLLINS: No.

22 CHAIRMAN HOOD: Okay, ANC 3E?

23 MR. MCHUGH: No, sir.

24 CHAIRMAN HOOD: ANC 3D?

25 MR. KRAVITZ: No questions.

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1 CHAIRMAN HOOD: Ward3Vision?

2 MR. WHEELER: No, sir.

3 CHAIRMAN HOOD: Citizens for Reasonable
4 Development?

5 MR. DONOHUE: No, sir.

6 CHAIRMAN HOOD: And Spring Valley Opponents?

7 MR. SMITH: No.

8 CHAIRMAN HOOD: Okay. All right, thank you very
9 much. Okay. Mr. Collins, we can come back and let's talk
10 about rebuttal.

11 And then we will see with any cross and rebuttal
12 and then we'll do closing. About how much time do you think
13 you need for rebuttal?

14 MR. COLLINS: About 30 minutes.

15 CHAIRMAN HOOD: Okay. All right. You may begin.

16 (Off mic)

17 CHAIRMAN HOOD: Michelle, and let me just say this
18 up front. Just in case we don't get finished before the
19 metro closes, we need to look at another day.

20 I plan on finishing. But I never know what's --
21 the future's going to hold in situations.

22 Whenever you're ready Mr. Collins.

23 MR. COLLINS: Just uploading some signs.

24 CHAIRMAN HOOD: Maybe a day that we have a quick
25 hearing. Whenever that is.

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1 MR. COLLINS: Okay. I have a series of questions.
2 I've got some witnesses here.

3 But before we proceed, Emily Eig's resume was
4 submitted today as an expert in historic preservation. She's
5 qualified as a witness before, as an expert witness before
6 the Commission.

7 And I proffer her for that purpose today.

8 CHAIRMAN HOOD: We've done that previously. But
9 any objections?

10 (No response)

11 CHAIRMAN HOOD: I don't think we want to rescind
12 that. Yeah, we saw that. Thank you.

13 MR. COLLINS: Thank you. First, Mr. Lansing,
14 Citizens for Responsible Development asked about what
15 assurances the Commission and the community would have that
16 the grocery store would remain a part of the project.

17 In response, you indicated last time that Valor
18 has an MOU agreement with the ANC that includes a commitment
19 for a period of time that the grocery would remain.

20 Now if during that period of time the grocer
21 fails, then you are required to replace it with a similar
22 full service grocery. Is that correct?

23 MR. LANSING: Yes. That is correct.

24 MR. COLLINS: Okay. Thank you. There was
25 testimony a Mr. Steve Band last time that there were nine

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1 major grocery stores within a ten minute drive of the
2 project. And there's going to be a tenth very soon.

3 During your initial community outreach for this
4 project, was there general support or opposition for
5 inclusion of a grocery store in the project?

6 MR. LANSING: There was significant general
7 support.

8 CHAIRMAN HOOD: Mr. Collins, turn that microphone
9 a little closer to you. There you go.

10 MR. COLLINS: Thank you. Can you talk a bit about
11 the history and the size of the proposed grocery store? And
12 what factors went into the size that you're currently
13 proposing?

14 MR. LANSING: Sure. Initially we had proposed a
15 grocery store in the neighborhood of 50 to 55 thousand square
16 feet. A destination type full service grocer.

17 In response to concern over transportation and
18 traffic issues, as referenced in our initial hearing with you
19 a couple of weeks ago, we reduced the site to a neighborhood
20 serving full service grocer.

21 MR. COLLINS: Thank you. There was some testimony
22 that the site could possibly be developed with a dormitory
23 for AU students.

24 Has AU expressed any interest to you in having
25 this site being developed with a dormitory?

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1 MR. LANSING: No. Not at all.

2 MR. COLLINS: Okay. Do you have any other
3 comments or reflections based on the testimony this evening
4 that you'd like to share?

5 MR. LANSING: Other than just in closing quickly,
6 in hearing some of the opposition, Spring Valley West had
7 noted or characterizing exchange recently on the desirability
8 of a rental versus a condo type of product here on the site.

9 And characterized my response as being, it's just
10 business. It hurts to hear that a bit, because this actually
11 has been a very personal endeavor for us at Valor.

12 We actually do -- we are in the neighborhood. Our
13 offices are actually located in this neighborhood, in ANC 3E
14 specifically.

15 So we do understand the neighborhood. Which is
16 why that we have approached this the way we have, through
17 this very long collaborative process, which I do believe is
18 illustrated.

19 The considerations, the adjustments, the measures
20 that we have outlined in our plans as I detailed to the
21 Commission a couple of weeks back.

22 And so I'll let the merits stand for themselves
23 beyond that.

24 MR. COLLINS: And next to Sarah Alexander. There
25 were shadow studies that you presented.

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1 Can you describe how you selected the times of the
2 year and the times of day that you submitted for the shadow
3 studies?

4 MS. ALEXANDER: Sure. We used the typical studies
5 that we present in all of our cases.

6 The shortest day of the year, December 21. The
7 longest day of the year, June 21. And then the two
8 equinoxes, which are equal shortened like days of the year.

9 Additionally we did the typical times of day, 9:00
10 a.m., 1:00 p.m., and 4:00 p.m. It's actually extended.

11 For some of our studies we only do 10:00 to 3:00.
12 So we extended it a bit for this project.

13 To note that if we were to do later in winter, the
14 sun would have set. So, that's why we typically stay within
15 the daylight hours for all months of the year.

16 MR. COLLINS: In your testimony you presented a
17 slide showing the shadows for a matter of right building on
18 the site. Were those shadow patterns approximately the same
19 for the proposed development?

20 Or if different, how were they different?

21 MS. ALEXANDER: The matter of right scenario in
22 all times of day and all times of year was considerably worse
23 than the proposed development, due to its lack of setbacks
24 and terracing from the property line.

25 MR. COLLINS: Citizens for Responsible Development

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1 presented some additional shadow studies that you prepared
2 for later hours, like 5:00 p.m., 6:00 p.m., 9:00 p.m.

3 Do these additional studies modify in any way the
4 testimony you gave on January 11, that while the project may
5 have a modest impact on the neighborhood property, these
6 impacts are less than the matter of right scenario?

7 MS. ALEXANDER: No.

8 MR. COLLINS: And why not?

9 MS. ALEXANDER: In comparison to the matter of
10 right study, our project is always significantly improved.
11 Additionally, some of those times, for instance, 5:00 p.m.
12 in the winter and 9:00 p.m. in the summer, are when the sun
13 is set.

14 So I do not think they are accurate in what they
15 show in either scenario.

16 MR. COLLINS: You heard some testimony tonight and
17 saw a slide that was up on the screen about a rendering
18 showing a hulking building behind the Spring Valley Shopping
19 Center.

20 Do you have any reaction to that?

21 MS. ALEXANDER: Yes. Thank you. We actually
22 received that a few weeks ago as part of what was submitted
23 for record.

24 So we've started looking at that. And I actually
25 have some presentation slides to share with you in response

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1 to some of the questions we actually heard tonight.

2 First, I'd like to go through the programs that
3 were used for both the rendering techniques we saw via the
4 opponents' digital design and ours. Digital design used
5 Google Earth and SketchUp Pro.

6 Just for your reference, Google Earth is meant to
7 be as close as it can be. But really it's just a Google
8 file.

9 We actually started using that when we started
10 this project, as we often do in concept. And found it was
11 not an accurate representation of the exact topography.

12 It was actually off by greater than ten feet then
13 what is actually surveyed if you use Civil 3D file.

14 Additionally, SketchUp Pro, it's a nice little
15 program. It's meant to be for simple quick massing.

16 But as you can see from the renditions, it doesn't
17 give any accurate detail. It's really a simple massing tool.

18 We have used 3D Civil based survey topography, a
19 3D Civil file to create our topography. A 3D rabbit
20 drawings, an AutoCAD based system.

21 It gives you the detail, the level of clarity
22 that's far more accurate in depicting the building then what
23 you get from SketchUp. Especially if you color it all blue.

24 And next we based all of our heights for context
25 on this map you see before you. Which has the surveyed

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1 information for the building heights.

2 So I'll go through a series of diagrams, if you
3 could flip to the next one, please. I really appreciate the
4 gentleman's education on the focal viewpoint, or the lens,
5 and I guess the apparent distortion that a typical photo will
6 give you.

7 We stood in the exact same place as what was
8 depicted in the opponent's package. And took a photo with
9 our iPhone.

10 No wide angle lens. Nothing fancy. We just used
11 our iPhone and clicked the picture. Didn't zoom in or
12 anything.

13 And this is what you see before you. If you
14 compare that with what they shared with you, it does appear
15 that theirs is a little zoomed in.

16 So, it's interesting to hear why that was.
17 Because we couldn't understand why that medium.

18 So, moving forward on the premise that this is not
19 a wide angled lens shot. This is just a normal iPhone shot,
20 we then used the information we had from the next slide.

21 You can see the black outline on the right, the
22 AU building. Thanks to its very simple form, it's very easy
23 to mass it, and model it, and with our surveyed information,
24 depict it accurately.

25 Additionally, the street information, we know

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1 where the street is from GIS maps and other AutoCAD basis
2 files that we have.

3 So, using those very known points and our
4 building, which is very accurately depicted in its elevation
5 and massing, we placed our building in the file.

6 Again, our lens is just a normal lens. I don't
7 know whatever kind of lens they used.

8 But using a normal non-wide angle lens, this is
9 actually what our building would be placed in the photo.
10 Which, if you flick to the next one, would appear like this.

11 So again, our building, we're not trying to be in
12 any way dishonest. This is an accurate depiction as all of
13 our renderings were based on all the accurate information and
14 all the resources that I just went through.

15 And if you go to the next one, you can see, it's
16 very different. Even though both photos are taken from the
17 exact same place.

18 It's quite different in its depiction. So, kind
19 of flicking back and forth, standing in the same place, this
20 is what we see. And this is what was presented.

21 Even if we zoom in and try and match, you can see
22 they -- one of the comments I think that was interestingly
23 made was, it could be more accurate if we included more of
24 the context.

25 They did conveniently leave out the AU building

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1 and crop that out of the view. It is a building that's
2 taller than our building, even though in this image, because
3 of the trick of perspective it appears smaller because it's
4 farther away.

5 Either way, we in no way tried to be dishonest.
6 This is what the building based on all of that relevant
7 information would be.

8 Secondarily, I think it's important that there's
9 windows and banding and architectural character depicted and
10 setbacks. Again, from the other view, the same thing. And
11 again, we're preparing a lot more of these as a request of
12 Commissioner Hood.

13 We stood in the exact same place on Windom Place
14 and put ourselves and put our camera again in normal, non-
15 wide angle lens. And I think it's important to note standing
16 there, you can see the context of the buildings.

17 Again, when you compare that to what was presented
18 by the opposition, there are no homes in the view. They
19 zoomed in, which you'll see, so that you cannot see the
20 adjacent homes.

21 But standing in this location with a normal lens,
22 that's what you would see. And that's our building inserted
23 into that, again, to scale.

24 Interestingly, if we take their shot, which again
25 is zoomed in a little bit, the Jeep is still in the same

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1 place, which is kind of funny.

2 But, if you take their shot and you take ours,
3 it's actually very, very, very similar.

4 So the scale seems to be accurate in this
5 depiction of the blue building. But I think it's important
6 to note, the comment was made, accurately depicted, and I
7 don't see how you can say a blue building is accurately
8 depicting our building.

9 Architecture is made up as a series of elements
10 of scale and proportion and fenestration and setbacks and
11 character and materials. And if we were going to make a blue
12 building, this would be an accurate depiction of it.

13 CHAIRMAN HOOD: Could you flip back and forth a
14 few times?

15 MS. ALEXANDER: Sure. So this is our building.
16 Again, zoomed in relative to where we feel the shot would be.

17 And this is their building. If you were to set
18 out to scare someone, this would be an excellent technique
19 with the all blue building.

20 But, that said, again standing where we were
21 standing with a normal lens, this is actually what we feel
22 is a more accurate depiction of what that experience would
23 be.

24 Given that you are actually able to see the homes
25 on either side. And how our building does fit into those.

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1 And this is just a zoom in of that image. It's
2 not a different image. It's just a zoom in of that, the
3 image I just showed right there.

4 Thank you.

5 MR. COLLINS: Thank you. There was some testimony
6 about -- and you actually addressed it a little bit last
7 time, about the loss of privacy.

8 That there would be direct views from the rooftop
9 of the building into neighboring homes.

10 MS. ALEXANDER: Correct. We are 173 feet away at
11 the point of our roof terrace. And the concern was that we
12 would, at approximately 50 feet high, have a -- be peering
13 over the adjacent homes.

14 Given that view angle, we would not be peering
15 over. We have a section, it's in the package on page A, 137
16 feet away, approximately 50 feet high.

17 MR. COLLINS: And you were turning to page what?

18 MS. ALEXANDER: A33 in our package.

19 MR. COLLINS: Of what date on that drawing?

20 MS. ALEXANDER: Of the 12/21 package.

21 MR. COLLINS: That's the pre-hearing submission.

22 MS. ALEXANDER: So our -- again, our roof terrace
23 that I shared with you is not on the top of the roof.

24 It's not at this 73 feet mark that is referenced
25 often, or the 50 feet mark relative to our measuring point,

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1 it's lower by two floors. So, it's brought down.

2 So that again, it's only approximately 50 feet
3 above the lowest level surface at that point. And again,
4 looking down 137 feet to the nearest home.

5 MR. COLLINS: Okay. Do you have anything else
6 that you'd like to discuss?

7 MS. ALEXANDER: Sure. We've had one more thing
8 that we wanted to share with you. If you could open the --
9 oh, it's next. Perfect.

10 As part of Mr. Borek's testimony, or his in the
11 record testimony, there was some, I guess a beautiful model
12 that he made, and some other instances. We have put together
13 a series of, I guess, areas where we found some discrepancies
14 with what he shared.

15 First off, the model appeared to be either an
16 earlier rendition or a partially correct rendition. There
17 were some elements like the courtyards that were missing,
18 penthouses that weren't accurate, bays that weren't depicted.

19 And one of the homes was sitting in the middle of
20 Yuma. So, I did want to stress that that home is in no way
21 that close to our project. It's again 137 feet away.

22 And then next, I think the most important thing
23 is this comparison of our project relative to this average
24 AU home. Which I would have to say is somewhat diminutive
25 in scale.

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1 The -- and as shown here. We surveyed again the
2 information, and the home that's being shown here, the top
3 of that home is where the dashed blue line is. Just below
4 our cornice of our bay elements.

5 So, I think it's important to note that that home
6 really is actually more accurately depicted in the scale
7 model where you can see the home next to our building.

8 A few other things quickly. Every other elevation
9 where there's a home shown, we are again, not adjacent to any
10 homes on those elevations.

11 Those are the sides that either face AU or Spring
12 Valley Shopping Center. So I don't think it's an accurate
13 depiction of our project relative to those homes.

14 Lastly, there was a slide shown, I am not sure
15 what this was meant to show. But that isn't even our
16 project.

17 That might have been -- that was the old project
18 in some former form. And a question regarding our height.

19 And all of our sections are matter of right versus
20 street sections. They're all drawn to scale relative to true
21 elevations.

22 So, this slide was trying to debate that. But we
23 have -- that's all accurately shown.

24 MR. COLLINS: Thank you. Does that conclude your
25 rebuttal?

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1 MS. ALEXANDER: I only had one other thing to say,
2 if that's okay?

3 MR. COLLINS: All right.

4 MS. ALEXANDER: There has been some talk about the
5 unit mix and the sincerity of Valor to provide housing for
6 people to age in place.

7 They did come to us two years asking exactly for
8 that in terms of our unit design and what we're looking
9 towards.

10 We actually created incredibly cool units on 48th
11 Street. Each of those pavilions that stick out, they're
12 three-sided pavilions.

13 Those units each have an average of 17 hundred
14 square feet are three bedroom units with three sides of
15 exposure. So they're meant to feel like single level homes.

16 Like you really could move out of your multi-level
17 home into a nice three bedroom unit that has exposure on
18 three sides, very similar to a normal home, and get the same
19 experience as what you could have, but on a single level.

20 So, that was one of the ideas. Also, our unit
21 mix, while it's being depicted as skewing towards small,
22 really as an overall urban design, we're at more than three
23 quarters of the building are two and three bedrooms.

24 With 17 percent two dens and three bedrooms. So,
25 it is actually skewed more to the larger sized units than an

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1 urban setting such as this.

2 So, there is a true dedication to trying to
3 provide the age in place homes. Thank you.

4 MR. COLLINS: Thank you. I'll go next to Ms. Eig.
5 And you were not here at the last presentation on the 11th.

6 But have you reviewed the record of this case
7 concerning historic preservation issues?

8 MS. EIG: Yes. I have.

9 MR. COLLINS: And as well as the portions of the
10 transcript regarding questioning on historic preservation
11 issues?

12 MS. EIG: Yes.

13 MR. COLLINS: Okay. During Spring Valley -- I'm
14 sorry, Spring Valley Opposition's cross examination, and by
15 the filing of -- filing by one of their opposition parties,
16 there appear to be some confusion.

17 And we've heard some tonight about whether the
18 Secretary of Interior standards apply, or when they're used.
19 And how they relate to the standards used when determining
20 if something is eligible for designation.

21 Can you clarify the difference between the
22 standards that are used when determining if something is
23 eligible for designation, and when the Secretary of Interior
24 standards are applicable?

25 MS. EIG: Yes. In the District of Columbia the

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1 D.C. Log 2-144 includes criteria for designation of land
2 marked properties, their buildings or historic districts.

3 And that criteria is not a federal criterial. It
4 is a District of Columbia criteria.

5 There is criteria from the National Park Service
6 that is part of the National Historic Preservation Act that
7 is used to define the evaluation for listing in the National
8 Register of Historic Places.

9 And typically the -- in Washington, D.C. we have
10 an Historic Preservation Review Board that designates local
11 landmarks and districts into -- and places them in our
12 inventory of historic sites.

13 And the Historic Review Board also acts as a state
14 review board for the District of Columbia. And makes
15 recommendations to the National Register of Historic Places
16 for listings of local properties in that federal register.

17 But they use a different criteria. It's similar,
18 but it is different. And they must assess in both cases
19 based on the criteria for local and criteria for federal.

20 Secretary of Interior standards for
21 rehabilitation, which is what is actually mentioned in the
22 regulations of the D.C. Preservation Act is not required.

23 The Secretary of Interior standards for
24 rehabilitation are related to the rehabilitation of a
25 property, and a resource and property being.

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1 And that it's the actual regulations of our Act
2 reference the standards and guidelines for evaluation of
3 rehabilitation for alteration, for subdivision.

4 And they specifically look to adopted criteria,
5 or I should call it guidelines, by the Historic Preservation
6 Review Board, that they themselves have prepared and adopted.

7 It also references the Secretary of Interior
8 standards and explains what they are. But it's very clear
9 that the Review Board is not required to use them.

10 And that properties and work associated with
11 properties can be determined to meet the standards for
12 rehabilitation, or they can be found not to have any
13 reference to the standards of rehabilitation, and still be
14 considered compatible and/or consistent with the Act.

15 So, they do not need to reference the Secretary
16 of Interior standards in their decision making.

17 MR. COLLINS: Can you describe generally how and
18 when one would determine whether a development on an adjacent
19 property would result in an impact to an historic property
20 that could potentially result in an historic property being
21 delisted?

22 Or perhaps cause some feature or aspect of the
23 historic property to no longer contribute?

24 MS. EIG: There is nothing in our preservation law
25 that looks at anything outside of the actual property that's

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1 been designated. If you have an historic district, it's the
2 historic district boundaries.

3 If it's a property of an individual landmark, then
4 it's that lot that typically is the defining setting for
5 that.

6 So the only -- any review that the Review Board
7 makes is simply of that property and any action that is being
8 taken on that property.

9 MR. COLLINS: So, in your expert opinion, will the
10 project -- could the project in any way cause the shopping
11 center to be delisted or jeopardize any features or aspect
12 of the shopping center that qualifies it for designation?

13 MS. EIG: No.

14 MR. COLLINS: Citizens for Responsible Development
15 and Spring Valley Opposition have made statements about the
16 adequacy of historic designation to protect the shopping
17 center.

18 Does historic designation provide an absolute
19 protection to an historic property? Or do the historic
20 preservation law and regulations allow for consideration of
21 applications for historic property to be either in filled,
22 or redeveloped, or even demolished?

23 MS. EIG: The Historic Preservation Review Board
24 has essentially two basic responsibilities. One is to
25 designate historic properties.

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1 And the other is to review and actually make
2 recommendations to the Mayor's agent on historic preservation
3 for actions that would be alterations, new construction,
4 subdivisions, and in case of demolition, make a referral to
5 the Mayor's agent on historic preservation if the property
6 is found to be actually an historic landmark or contributing
7 to an historic district.

8 So the Review Board exists precisely to control
9 change that takes place on historic properties.

10 MR. COLLINS: Do you agree with that that the
11 ability to transfer unused density from the shopping center
12 site to the Valor site through the flexibility provided under
13 the voluntary design review would provide additional
14 protections for the future of the shopping center?

15 MS. EIG: Yes. Because if one takes away the
16 potential for additional development on the site, then the
17 risk to that site being altered goes down.

18 It might be altered, but it will not have new
19 development. For instance, had that happened across the
20 street on the shopping center across the street, which is an
21 individual landmark, if there had been no ability to add any
22 floor area or ratio space to that site, there would have been
23 no development on that site.

24 And that was in fact approved by the Review Board.

25 MR. COLLINS: The report prepared by Steve Hansen

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1 that's in the record that you've read, states that combining
2 Massachusetts Avenue Parking Shops, the shopping center, with
3 the Valor and AU lots for the purpose of transferring the
4 density rights, is a form of lot subdivision.

5 And would place the new development on the same
6 site as the shopping center. And would therefore be new
7 construction on the same site as a historic landmark.

8 And would trigger the subdivision approval and
9 design review by the HPRB. Would you agree with that
10 statement?

11 MS. EIG: If the historic landmark of the, what's
12 call the Massachusetts Avenue Parking Shop Center, shopping
13 center, actually remains on its own lot, as it is today, and
14 there is no subdivision, formal subdivision of it to a
15 different lot, either being aggregated to it or divided from
16 it, then there would be no Historic Preservation Review Board
17 review.

18 That lot remains intact, as I understand it in
19 this proposal. If that's different, then there -- and it was
20 in fact joined, then there would be review.

21 But if there is no joining of those two lots,
22 there is no review by the Historic Preservation Review Board.

23 MR. COLLINS: Okay. During their cross
24 examination last time, and again this time, Spring Valley
25 Opponents inquired how the project conforms with the design

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1 review criteria of Subtitle X, Chapter 6, which is what the
2 Commission is going through today, regarding relative to
3 respecting the vistas of the shopping center.

4 They've pointed specifically to Section 604.7(c),
5 which states that new development respects the historic
6 character of Washington's neighborhoods. And 604.7(c)(3),
7 which states development should respect and protect key
8 landscape vistas and axial views of landmarks and important
9 places.

10 Have you had an opportunity to read that Section
11 of the Regulations?

12 MS. EIG: I have. Yes.

13 MR. COLLINS: And on -- let's go to 604.7(c)(2),
14 which states that infill developments should respect, need
15 not imitate the continuity of neighborhood architectural
16 character.

17 And given your expertise in historic preservation,
18 and having worked on many infill developments, including some
19 that were on the site of an historic property, within an
20 historic district, in your expert opinion, do you think the
21 project respects the continuity of the surrounding
22 neighborhood character?

23 MS. EIG: I think that this project attempts to
24 fit into its site. It is trying to make a relationship with
25 the houses across the street.

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1 And I think as we saw from Ms. Alexander that, you
2 know, what was very scary, the blue images that were
3 presented by the opposition, and looking at more accurate
4 depictions, you can see that there is a more appropriate
5 relationship.

6 And a lot of that is actually accomplished through
7 the articulation of the mass, and how it is broken down.
8 There are setbacks that are allowed so that there can be more
9 windows that in the scale of the neighborhood.

10 And I think that infill very much depends on
11 materials. A perfect example, and also, you know,
12 fenestration is the AU building. Which does not fit in.

13 And that AU building is a completely different
14 style then of the neighborhood. And is very clearly, very
15 different then what's being proposed here with this project.

16 So, I think that there is an effort to try to fit
17 into the character of the neighborhood.

18 MR. COLLINS: And finally, with regard to Section
19 604.7(c)(2), which says that development should respect and
20 protect key landscape vistas and axial views of landmarks and
21 important places, would this project adversely impact land --
22 key landscape vistas or axial views of landmarks?

23 MS. EIG: Well, the site does not have a key
24 landscape vista associated with it. And the concept of
25 axial, we often can think of as Massachusetts Avenue and its

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1 relationship between Ward Circle and Westmoreland Circle.

2 That axial relationship is a key relationship in
3 axial view. The buildings that are on the side of that might
4 encroach upon that axial view, if we were looking at
5 Massachusetts Avenue.

6 But as we know, this is so far set back from
7 Massachusetts Avenue that it -- you would -- you see the
8 shopping center parking lot. You don't see the building
9 that's being proposed here.

10 The -- you know, so that I don't think that these
11 are relevant to this particular project particularly. I
12 could think of examples where it might be relevant.

13 But, not necessarily here.

14 MR. COLLINS: Mr. Chairman, we have three more
15 witnesses. And I'm afraid that I misjudged the time that we
16 need.

17 Can we have possibly another 15 minutes?

18 CHAIRMAN HOOD: Yes, let me just see something.

19 Give me a second. Okay. Can you do it in ten minutes?

20 MR. COLLINS: We will give it our best shot.

21 CHAIRMAN HOOD: Okay. Give it your best shot.

22 MR. COLLINS: Thank you. For Mr. Andres, is DDOT
23 requiring Valor to reduce the amount of parking from 370 to
24 200 --

25 MR. ANDRES: They are not.

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1 MR. COLLINS: -- 260? Can you explain?

2 MR. ANDRES: Yes. So, DDOT had identified that --
3 wanted the project to provide less parking, however, our
4 analysis accounts for the greater number of parking spaces
5 that's being presented.

6 MR. COLLINS: Thank you. How many spaces are
7 required based upon the proposed uses in Buildings 1 and 2,
8 and how many are being provided, not including any spaces
9 that may be leased from AU?

10 MR. ANDRES: Not including any spaces being leased
11 from AU, the number of spaces that we're providing actually
12 meet the zoning requirement. There are 89 spaces required
13 and we are providing 134 spaces independent of any
14 coordination with AU.

15 MR. COLLINS: All right. If the leased spaces were
16 ever taken back by AU, would the parking provided in
17 Buildings 1 and 2 still exceed the minimum required under the
18 zoning regulations?

19 MR. ANDRES: Yes. It's exactly the same answer I
20 gave. If there were no arrangement with AU for any
21 additional parking, we would still meet the zoning
22 requirement. As I mentioned, we are providing 134 spaces for
23 the 89 that are required.

24 MR. COLLINS: And if that were ever to occur, what
25 protection would the community have against impacts on public

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1 parking in the community caused by the Valor project?

2 MR. ANDRES: In conjunction with the ANCs, we have
3 actually proffered a restriction on the ability for residents
4 to get RPP, which as this Board has seen in other projects
5 with these same uses.

6 MR. COLLINS: Okay. The Spring Valley opponents
7 asked DDOT last time whether the CTR that you did assessed
8 the impacts of cut-through traffic, specifically along 49th
9 Street, in which DDOT responded that the CTR did not
10 specifically analyze the community's concerns about cut-
11 through traffic, because cut-through traffic is not related
12 to the proposed project. Do you agree with DDOT's response?

13 MR. ANDRES: Yes. Yes, we do.

14 MR. COLLINS: Does that mean that the CTR totally
15 ignores existing cut-through traffic that might be occurring
16 within the study area?

17 MR. ANDRES: It does not, because as we did our
18 existing traffic counts, it not only identifies and accounts
19 for all of the traffic that are on the main roads, it also
20 accounts for any cut-through traffic that's currently taking
21 place.

22 MR. COLLINS: Thank you. With regard to civil
23 engineering, I have a few questions for Mr. Gletfelter.
24 You've heard testimony tonight about the zoning regulation
25 not permitting Valor to take the maximum height measurement

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1 from 48th Street, because the elevation of the street has
2 been artificially changed. Do you agree with these --

3 MR. GLETFELTER: I don't.

4 MR. COLLINS: -- statements?

5 MR. GLETFELTER: No.

6 MR. COLLINS: Could --

7 MR. GLETFELTER: We used a tool provided by USGS,
8 which is a historical topographical map explorer, where you
9 can enter in an address and it, through record, provides a
10 chronology of topographic contour maps. And from the early
11 1900s, we can go through these slides, through the early
12 1900s up until now, it is, based upon record, 48th Street has
13 always been roughly 265.

14 Now, it's estimated based upon contours that do
15 vary at intervals from decade-to-decade, but to the best of
16 what I can determine, it's around 265. Today's survey has
17 it at 265.19.

18 So, it virtually hasn't changed, which makes sense
19 when you look at development, especially development that
20 occurred in the early part of the century. You wouldn't do
21 massive earthwork to put a road in.

22 And if you go back through all those contour maps,
23 you can see them laying the road in, you can see the
24 surrounding development as it aged, and it's exactly what I
25 would expect.

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1 So, we did not -- what's there is not a false
2 embankment, but rather the SuperFresh is a retaining wall
3 that retains in situ soil. So, the elevation hasn't changed
4 on 48th Street. It always has been about 265.

5 MR. COLLINS: Thank you. There's something in the
6 record that I think that you might have addressed, and very
7 briefly, can you describe the response, there was some claim
8 that there are underground streams that cross some portion
9 of the site. Do you agree with that?

10 MR. GLETFELTER: I do not. Again, using this map
11 explorer, you can go back even further than the 1900s, that's
12 just where we picked, because that's where contours started
13 to be labeled, but there's earlier maps that you can see
14 Murdock Mill Creek actually comes in north of the site.

15 And what you see in the yellow shape there, that's
16 roughly where the site is located today. And it actually
17 passes underneath what is Wagshal's today and doesn't
18 encroach upon our site.

19 Later, Murdock Mill Creek was closed up in Alton,
20 I believe, and comes down Massachusetts Avenue, where it
21 opens up under Massachusetts and daylights. It was further
22 -- next slide. You can keep going, I'm trying to be quick
23 here. One more time. One more time. All right.

24 So, this is a DC Water map, sewer map, and it
25 shows various storm sewers. And as you can see in the Yuma

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1 Street, that storm sewer is a relief from the one that was
2 installed in the early 1930s under Alton that closed up
3 Murdock Mill Creek, and acts as a relief during heavy flow
4 to bypass all of it and close up the storm and reopen it up
5 under Massachusetts Avenue to the west of the site.

6 So, we -- this development would not impact any
7 underground hydrology, because there is none and there never
8 was any, to the best of my knowledge.

9 MR. COLLINS: Thank you. Last witness is Mr.
10 Dettman. Please proceed.

11 MR. DETTMAN: Good evening, Commissioners. I'll
12 just go through a set of points that were either testified
13 to or that are in the record, I'd like to address.

14 Just picking up on where Mr. Gletfelter left off
15 in terms of the building point measurement and how our
16 elevation on 48th Street, where we're measuring our building
17 from, how that comports with compliance with the Height of
18 Buildings Act and also the Zoning Regulations. We heard some
19 testimony today about that relative to the Zoning
20 Regulations.

21 Under the Height Act, we are in compliance with
22 the Height Act with respect to how we measure the building
23 and then, how high you can get. In terms of the maximum
24 height under the Height Act, given the MU4 zoning of the site
25 and the width of the streets that surround the site, Yuma and

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1 48th Street are both 90-foot wide rights-of-way. So, under
2 the Height Act, you could technically go to 110 feet. Of
3 course, zoning allows you to get to only 50 feet.

4 In terms of the point of measurement under the
5 Height Act, the Height Act says that the heights of buildings
6 shall be measured from the level opposite the middle of the
7 front of the building. So, Building 2, the smaller building,
8 opposite the middle of the front would be on 48th Street,
9 because that's the only street frontage that it has.

10 The Height Act says if a building has more than
11 one front, the height shall be measured from the elevation
12 of the sidewalk opposite the middle of the front that will
13 permit the greater height. The larger building is on two
14 streets, so it has two fronts. We're measuring from 48th
15 Street, which happens to be the elevation that would permit
16 the greater height.

17 In terms of under the Zoning Regulations, Subtitle
18 B Section 307, Rules of Measurement for Building Height,
19 talks about how the buildings shall be measured from the
20 level of the curb opposite the middle of the front of the
21 building to the highest point of the roof or parapet.

22 Again, the smaller building, 48th Street, that's
23 the only street that it fronts on. We'll measure from the
24 level of 48th Street to the highest point of the parapet.

25 For buildings that have more than one front, the

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1 regulations say any front may be used to determine the
2 maximum height of the building, but the basis for the height
3 of the building shall be determined by the width of the
4 street selected as the front. So, the zoning regulations
5 essentially say, when you front on more than one street, you
6 get to pick your front from where you measure.

7 In terms of the overall height, the zoning
8 regulations allow 50 feet in the MU4. Both of the buildings
9 will be measured to 50 feet.

10 And then, relative to the number of stories, we've
11 heard a lot of five to seven stories and all that. From a
12 technical zoning perspective, the zoning regulations say that
13 you measure -- you count the number of stories from the point
14 in which you measure the building height.

15 So, both at 48th Street, the initial heights are
16 three and a half to four stories and then, stepping way back,
17 ultimately getting to five stories. And also, the stories
18 does not, under the regulations, include the penthouse.

19 We heard testimony from the Office of Planning
20 that this project is looked at similar to a PUD, in that you
21 have a project boundary, which serves as the zoning lot
22 boundary for purposes of computation.

23 And then, within that boundary, you have multiple
24 buildings and the density is being moved around the site,
25 through the flexibility provided under Chapter 6, Subtitle

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1 X of the Design Review Provisions. I absolutely agree with
2 that statement.

3 As the Commission mentioned at the last hearing,
4 this project is the first to utilize the voluntary design
5 review process that was adopted under ZR 16. So, just a
6 little bit of context there, I think, Commissioner Hood, you
7 had mentioned PUD-lite.

8 So, where did this voluntary design review process
9 come from and how did it sort of morph into this process that
10 gives you flexibility in building bulk control and all that?
11 If you may recall, back in your ZRR days, Case Number 080612,
12 you were contemplating three types of PUDs, Type 1, Type 2,
13 and Type 3.

14 The Type 1 was labeled the PUD-lite, it was
15 labeled a design review option, which did not allow any
16 density, did not allow a map amendment, but it did afford an
17 applicant to voluntarily subject itself to design review, in
18 order to take advantage of the same flexibilities that are
19 afforded in the PUD process. But again, no density and no
20 map amendment.

21 And then, Type 2 was a little bit of density.
22 Type 3 was the full-blown PUD. 080612, at a certain point
23 in time, morphed into 0806, and then, we got into the full
24 drafts of ZR 16, and that ultimately resulted in Subtitle X
25 Chapter 6, Voluntary Design Review, Flexibility in Building

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1 Bulk Control, and then, your typical PUD process.

2 So, this is not TDRs, we're not saying that this
3 is a TDR receiving zone or a sending zone. This is not CLDs,
4 which is what was typical in the CR zones under ZR 58.

5 This is purely flexibility in building bulk
6 control, which is afforded through Subtitle X Chapter 6 of
7 the Zoning Regulations, which also state that the property
8 within a design review application has to be contiguous, with
9 exception of a public street or alley. And that's exactly
10 what we have here.

11 There are cases where the Commission has approved
12 projects where there's multiple buildings on multiple lots,
13 where some of the lots are smaller, some of the buildings are
14 smaller, some are larger, and the densities sort of aggregate
15 overall in order to satisfy or come into conformance with the
16 zoning regulations.

17 There's three of them. There's 15-27, there's 08-
18 07, there's 14-02. And most recently, there's 13-14, which
19 is the McMillan case, which the Zoning Commission took a very
20 close look at the aggregation of density and looking at some
21 might be higher than the allowable FAR, some might be lower,
22 but on the whole, it's consistent.

23 In the courts, in the McMillan case, opined upon
24 this idea of aggregation and it talked about how the
25 Commission was correct in determining that overall, the

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1 project was consistent with the Comprehensive Plan and the
2 Future Land Use Map, because the Comprehensive Plan
3 specifically and FLUM specifically contemplates ways in which
4 you can move density around where some might be higher, some
5 might be lower, but overall, you're not inconsistent.

6 There is also court cases out there, that I
7 believe Mr. Collins will cover in his closing. But there is
8 a court case that's very similar to this one, it was an
9 aggregation of density in order to relive development
10 pressure from a historic property, not within a TDR zone, not
11 within a CLD.

12 It's the Heurich Mansion case, which is Zoning
13 Order 101. That was a PUD site, which included four existing
14 buildings down in the Dupont Circle area. The Heurich
15 Mansion was one of them.

16 In that Order, the Zoning Commission found that
17 the most significant feature of the PUD is the proposal to
18 transfer unused density from the existing buildings on the
19 site, the Heurich Mansion, owned by the Columbia Historical
20 Society, to the proposed 12-story office building.

21 The applicant has contracted to purchase said
22 82,000 square feet of unused development rights, to be used
23 in the construction of the proposed building. The Commission
24 said that the sale of the development rights will ensure the
25 preservation of the Mansion.

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1 In relevant part, it will reduce the economic
2 feasibility to ever selling the property, because the
3 development on said property will be permanently reduced.
4 That case was appealed and the court upheld the Commission's
5 ability to do exactly what is being proposed here.

6 The court found in Dupont Circle Citizens
7 Association versus D.C. Commission, the petitioners claim
8 that the Zoning Act and the Zoning Regulations do not permit
9 the Commission to approve a transfer of development rights.
10 The court disagreed, finding that the Zoning Act grants the
11 Commission a broad general authority.

12 The petitioner claimed that the Zoning Regulations
13 do not permit the transfer of development rights. The court
14 found that in a PUD, where the total FAR for the project is
15 the determinative figure, rather than the FAR for each
16 building, there is no impediment to permitting payment for
17 the transfer of such rights from one building owner to the
18 next, so the court upheld that decision.

19 That concludes my testimony.

20 MR. COLLINS: Thank you. And then, there's also
21 more recently the Cathedral Commons case, where the court
22 found that C2A zoning is consistent with low density
23 commercial designation on the FLUM, upholding what's stated
24 specifically in the Comprehensive Plan.

25 CHAIRMAN HOOD: Okay. All right. Colleagues, any

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1 questions on rebuttal? Okay.

2 VICE CHAIR MILLER: Yes.

3 CHAIRMAN HOOD: Vice Chair Miller?

4 VICE CHAIR MILLER: I can wait until later, if you
5 prefer, to get through. I mean -- well, I -- maybe I'll wait
6 until after the cross examination.

7 CHAIRMAN HOOD: If we can get through that, because
8 we may have to come back if not.

9 VICE CHAIR MILLER: Right, and it may be covered
10 by the cross.

11 CHAIRMAN HOOD: Okay. ANC 3E, you have any cross?

12 MR. MCHUGH: No.

13 CHAIRMAN HOOD: Okay. ANC 3D?

14 MR. KRAVITZ: Yes. Three quick questions. Some
15 of the testimony spoke about older residents. Are you
16 providing shuttles to the Metro during rush hour or are you
17 open to discussions with AU to permit residents to use their
18 existing nearby and plentiful shuttles?

19 MR. COLLINS: We are open to discussions, yes.

20 MR. KRAVITZ: Okay. You requested flexibility to
21 increase the number of units without the approved square
22 footage of the project, without increasing the approved
23 square footage of the project by up to ten percent. Can you
24 explain why you need this flexibility and if you're able to
25 reduce or eliminate this particular flexibility request?

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1 MS. ALEXANDER: It's standard language, often, to
2 have this flexibility of ten percent. It does provide some
3 ability to change if things are marketably to change. But
4 I think everyone has committed to trying to keep this mix,
5 but it's kind of standard language.

6 MR. KRAVITZ: Okay, final question. Your estimated
7 traffic impacts are judged relative to nothing at the project
8 site, but the existing site is not vacant space. There is
9 44,000 square feet of commercial space, mostly vacant for the
10 last four years.

11 How does the estimated traffic impact of your
12 proposal compare to the estimated traffic impact if the
13 existing buildings were simply filled and no construction
14 whatsoever took place at the site?

15 MR. ANDRES: Well, thank you for that question.
16 So, the answer is such that, the proposed development, which
17 includes roughly 16,000 square feet of grocer and 219
18 apartments, during the morning peak hour, our proposed
19 development generates about 22 trips more in the morning,
20 compared to what was there, which is that close to 44,000
21 square feet.

22 In the afternoon, however, the impact is
23 significantly less, because as Mr. Shapiro had identified,
24 retail per square foot is the highest generator during the
25 most critical hours. So, we are actually -- in the

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1 afternoons, our development is generating 124 trips less than
2 what was previously on the site.

3 MR. KRAVITZ: Thank you.

4 CHAIRMAN HOOD: Okay. Thank you. Ward3Vision?

5 MR. WHEELER: No question.

6 CHAIRMAN HOOD: Okay. Citizens for Responsible
7 Development? Reasonable? No, Responsible. One of them.

8 (Laughter.)

9 MR. DONOHUE: How about CRD? How about that? Mr.
10 Chairman, I'd like to have a moment to speak with my client.
11 We have a couple of expert witnesses that are in disagreement
12 with each other, in historic preservation and on visual
13 imagery.

14 Our visual imagery man has left. So, we don't
15 have the benefit of -- he didn't have an opportunity to see
16 their testimony and we really need him in order to address
17 the questions that were raised about the --

18 MR. COLLINS: This was our rebuttal testimony.

19 CHAIRMAN HOOD: Yes, this is on rebuttal. Was it
20 about the rebuttal testimony? Because this is strictly on
21 rebuttal.

22 MR. DONOHUE: So, the questions on rebuttal, I
23 would like to have the benefit of his expertise, as to the
24 photographs that were taken and shared by Ms. Alexander.

25 CHAIRMAN HOOD: Were they hear? Did they hear?

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1 MR. DONOHUE: He's gone. He left after his
2 testimony.

3 MR. COLLINS: But this is rebuttal testimony, they
4 had the opportunity --

5 CHAIRMAN HOOD: So, let me ask -- hold on. Let me
6 -- I got seven people telling me what to do. Let me ask, I'm
7 trying to figure out, so was he here to hear her rebuttal?

8 MR. DONOHUE: He was not.

9 CHAIRMAN HOOD: So, what is he going to do? I
10 don't -- why did he leave? Everybody else stayed, it's
11 almost a quarter to 11:00.

12 MR. DONOHUE: That's a fair question, but he's not
13 here.

14 CHAIRMAN HOOD: Well, anyway, ask the questions
15 other than that. I'll deal with that, maybe we'll do a
16 written submission or something, I'm not sure. I'm not sure,
17 from a legal standpoint.

18 MR. DONOHUE: Mr. Lansing, a question about the MOU
19 and the grocery store. And we talked about this back on
20 January 11. What's the recourse to the neighborhood if the
21 specialty market, the grocery area, goes away?

22 MR. LANSING: We would have to fill that space with
23 another full-service grocer.

24 MR. DONOHUE: And who would have to bring that
25 action?

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1 MR. LANSING: I don't have it in front of me, I'm
2 not sure. I know it's something we would just commit to
3 doing.

4 MR. DONOHUE: You heard the remarks from the
5 Chairman in the last meeting, that the -- it was not his
6 intention to incorporate the MOU into any decision, right?
7 So, the MOU is a standalone agreement?

8 MR. LANSING: As far as I know, I believe so.

9 MR. DONOHUE: So, if the ANC declines to prosecute
10 or the ANC declines to challenge you with the vacant space
11 that's there at the Ladybird, what then?

12 MR. LANSING: I don't know, I mean, we're going to
13 fill it with a user. I mean, we certainly, as I think as the
14 ownership of the site, would not want vacant retail space.
15 So, it's -- we're certainly motivated to bring a user back
16 in and the space is being designed for that specific use, so
17 we're incented to bring that same user back in the space.
18 It just would be a requirement.

19 MR. DONOHUE: Well, a requirement or an incentive?

20 MR. LANSING: And, again, I guess, if it does so
21 help, if we're getting to, Mr. Donohue, the -- if there needs
22 to be a condition within an order, we're comfortable doing
23 that, to give further assurances that we would continue to
24 operate that space as a grocery store.

25 MR. DONOHUE: I guess what I'm getting at is this,

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1 we've heard the description of the -- the Office of Planning
2 opined last time that this was being considered like a PUD.
3 And Mr. Dettman referred to it as PUD-lite and there's the
4 chuckling up on the Zoning Commission, I understand that.

5 But if it's PUD-lite and we're talking about the
6 amenities being offered by Valor, the HAWK signal, the
7 grocery, market, design, other things, where are the
8 assurances that these are going to be implemented?

9 Where's the teeth in that? Where are the
10 amenities -- where can people go to make sure that these
11 things are implemented?

12 MR. LANSING: I believe it would be in the order,
13 if I'm not mistaken. And, again, to be clear, this is not
14 a PUD, these are things that really boil down to
15 understanding and agreeing that this is better than a matter-
16 of-right design. So, but again, happy to have it written in
17 the order.

18 MR. DONOHUE: Okay. Ms. Eig, I have one question.
19 We were -- you were discussing the impact of the adjacent
20 Spring Valley Center, we call it the Wagshal Center. And you
21 opined that there would be no oversight of the adjoining
22 property, unless the two lots were combined, right? Unless
23 the shopping center lot and the Valor lot were combined?

24 MS. EIG: If they were combined, yes. If the
25 landmark site was combined with another lot, anything that

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1 took place on that other lot, we would consider part of the
2 landmark.

3 MR. DONOHUE: Okay. Is it your understanding that
4 the shopping center is a part of this application, a co-
5 applicant, if you will?

6 MS. EIG: I don't know the answer to that.

7 MR. DONOHUE: Okay. Let's assume that it is.

8 MS. EIG: Okay.

9 MR. DONOHUE: The description we've heard from the
10 District of Columbia is that this is not a TDR, this is
11 simply a reallocation of density. So, there's a reallocation
12 between Spring Valley Center and the Valor lot. Have you
13 heard that?

14 MS. EIG: Yes.

15 MR. DONOHUE: Okay. So, does that change your
16 testimony? In other words, what you said was, well, if these
17 were to be combined, then you would feel differently, that
18 perhaps HPO -- well, let me finish.

19 MS. EIG: Okay.

20 MR. DONOHUE: Perhaps HPO or HPRB review might be
21 triggered.

22 MS. EIG: No, it would have to be a formal
23 subdivision that would trigger that.

24 MR. DONOHUE: So, if the lots were combined, if the
25 lots in the Center and the Valor lots were combined through

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1 consolidation or, as you say, a lot subdivision, that would
2 change your testimony?

3 MS. EIG: If the lots were formally combined
4 through a subdivision process, then that would require HPRB
5 review.

6 MR. DONOHUE: Great, thank you. Just a moment, Mr.
7 Chair. Very briefly, Mr. Chairman, may I ask Mr. Repp to ask
8 this question?

9 MR. REPP: And we have -- Ms. Alexander, you were
10 talking about the rooftop terrace?

11 MS. ALEXANDER: Yes, sir.

12 MR. REPP: Isn't there a second rooftop terrace?

13 MS. ALEXANDER: No, sir.

14 MR. REPP: Building 1, it doesn't have --

15 MS. ALEXANDER: Oh, apologies, there is a small,
16 I think 400 square foot rooftop terrace on Building 1,
17 correct.

18 MR. REPP: And that rooftop terrace is on the
19 property line, right? It goes to the front of the building?

20 MS. ALEXANDER: On the --

21 MR. REPP: So, it's not set back?

22 MS. ALEXANDER: -- northwest corner, it does, I
23 think it does go up to the parapet, which is -- because it's
24 a mansard roof and because of the setbacks, it's slightly set
25 back from the property line.

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1 MR. REPP: And it does look over the house that's
2 in -- the house across -- the houses across the street,
3 including one in particular?

4 MS. ALEXANDER: It would be in excess of 90 feet
5 away, depending on how far their home is, but --

6 MR. REPP: Okay.

7 MS. ALEXANDER: -- yes, it would look --

8 MR. REPP: But, anyway, so it was inaccurate before
9 when you were saying that there was significant setbacks on
10 the Building 1 terrace from the houses across the street on
11 Yuma?

12 And here, it's not nearly as much of a distance
13 here, between the rooftop terrace on Building 2 and the
14 houses across the street?

15 MS. ALEXANDER: It's also a considerably smaller
16 terrace.

17 MR. REPP: Will there be people on that terrace?

18 MS. ALEXANDER: Yes, sir, likely.

19 MR. REPP: I hope that we can deal with these --
20 the fact is that our consultant from Digital Design left.
21 I hope there will be a way for us to bring his wisdom to this
22 process over time.

23 Mr. Lansing, with respect to the grocery store,
24 haven't you told people, the neighbors and me, that the
25 reason why we don't have a Harris Teeter or a large grocery

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1 store is because the market has changed?

2 MR. LANSING: The market has changed, which is
3 true, but --

4 CHAIRMAN HOOD: Was that part of your rebuttal?
5 I may have missed it, I might have missed a few things.

6 MR. LANSING: No, sir.

7 CHAIRMAN HOOD: Okay. So, next question. Cross
8 on rebuttal. Because I'm asking, was that part of your
9 rebuttal?

10 MR. REPP: I believe it was, because he talked
11 about the change in the grocery store.

12 (Simultaneous speaking.)

13 CHAIRMAN HOOD: Okay.

14 MR. LANSING: So, as I mentioned in my rebuttal,
15 that is the reason, there were also market conditions as
16 well, correct.

17 MR. REPP: As far as parking goes, you say that --
18 Erwin talked about 134 parking spots. Those parking spots
19 are for both the retail and the residents, right?

20 MR. LANSING: That's correct.

21 MR. REPP: So, there are, I think, 85 of those are
22 for residents and the remainder are for the retail, with
23 maybe the possibility for something from American University?

24 I mean, I believe that Erin Zimmerman, two weeks
25 ago, and in the DDOT report, said that they were told that

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1 the American University had given up its spots, so that there
2 would be more than 134 spots available. Is that what Erin
3 was told?

4 MR. LANSING: Well, I didn't talk about what Mr.
5 Zimmerman's testimony was. My testimony this evening on
6 rebuttal was that, regardless of any contractual negotiation
7 with AU, the parking that we have provided, which are these
8 134 spaces, meets the zoning requirement. That's the only
9 thing I --

10 MR. REPP: And you --

11 MR. LANSING: -- brought up.

12 MR. REPP: And you did hear two weeks ago that,
13 when I asked Erin Zimmerman, I asked her whether or not
14 people that live a mile away from the Metro, whether or not
15 they will have cars or not. He said that people that live
16 a mile from the Metro are likely to have cars.

17 MR. LANSING: If that's what he said, that's what
18 he said.

19 MR. REPP: Okay. As far as cut-through traffic
20 goes, I mean, did -- were you aware about this accident on
21 49th Street just six days ago, one block from this site,
22 where a car --

23 CHAIRMAN HOOD: Did you --

24 MR. REPP: -- flipped over?

25 CHAIRMAN HOOD: Did you talk about that accident?

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1 I know somebody did mention it, but I don't think it was you.
2 This is question on rebuttals, things that they mentioned
3 this last segment, not what we did two weeks ago. This is
4 what -- you're crossing them on rebuttal only.

5 MR. REPP: I hear you, thank you. The -- I guess,
6 we'll -- Michael will talk about the embankment issue,
7 question.

8 MR. STOVER: I just have a few very quick questions
9 for Mr. Gletfelter. Mr. Gletfelter, when did Valor hire you
10 to do this study of the purported lack of change in elevation
11 at the curbside of the -- the downhill curbside of 48th
12 Street? When did you start doing this study?

13 MR. GLETFELTER: About three weeks ago.

14 MR. STOVER: So, at the time Valor began this
15 project, it didn't hire you to go in and determine whether
16 the curbside they were proposing to use as the point of
17 measurement rested on an artificial embankment or not? You
18 weren't involved at that point?

19 MR. GLETFELTER: I believe I was retained in
20 response or a concern to make sure that they weren't
21 proposing anything that would be illegal or otherwise ill-
22 advised --

23 MR. STOVER: But --

24 MR. GLETFELTER: -- from an engineering
25 perspective.

1 MR. STOVER: -- three weeks ago, right?

2 MR. GLETFELTER: Yes.

3 MR. STOVER: Yes, you said three --

4 MR. GLETFELTER: I did.

5 MR. STOVER: -- so, would it be fair to say that
6 what you're offering to the Commission is a kind of post hoc
7 rationalization of a decision already taken, and a very
8 important one?

9 MR. COLLINS: I object, Mr. Chairman, that's just
10 a --

11 CHAIRMAN HOOD: I'm going to --

12 MR. COLLINS: -- gross mischaracterization.

13 CHAIRMAN HOOD: I'm going to rule that objection
14 out of order. He did talk about the measuring points, I
15 believe, so I want you to answer the question if you can.
16 If not, we'll move on.

17 MR. GLETFELTER: I'm sorry --

18 MR. STOVER: Yes.

19 MR. GLETFELTER: -- can you say it one more time?

20 MR. STOVER: Yes. Well --

21 MR. GLETFELTER: Thanks.

22 MR. STOVER: The -- I gather that what you're
23 saying is that long before 48th Street was laid --

24 MR. GLETFELTER: Yes.

25 MR. STOVER: -- that the natural slope at that

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1 point came down from 47th Street and then, somehow, quite
2 conveniently, leveled out for a nice 30 feet, so that the
3 downhill curbside was exactly the same way back long ago in
4 the 19th Century or whenever as it is now, after they build
5 the road? Because you said there's been no change in
6 elevation.

7 MR. GLETFELTER: Based upon available records
8 provided by the USGS, which is a third-party that has no
9 bearing on this discussion, the contours lead me to believe
10 that 48th Street always existing around 265.

11 MR. STOVER: But 48th Street wasn't built at the
12 time --

13 MR. GLETFELTER: Can -- I can pull up more maps --

14 MR. STOVER: Yes, well --

15 MR. GLETFELTER: -- I just did it for --

16 MR. STOVER: Let me --

17 MR. GLETFELTER: -- brevity.

18 MR. STOVER: Let's not get into this now --

19 MR. GLETFELTER: No, I think it's good. If you'd
20 like to see that --

21 MR. STOVER: But if you would --

22 MR. GLETFELTER: -- I'd be happy to show you.

23 MR. STOVER: I would like to ask Mr. Collins if all
24 of this brand new evidence --

25 MR. GLETFELTER: It's not brand new.

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1 MR. STOVER: -- is going to be put into the record.
2 Well, I haven't seen it, it's not in the record. Is it going
3 to be submitted in the record --

4 MR. COLLINS: Yes.

5 MR. STOVER: -- so that we can have a chance to
6 look at it? I find it, frankly, unbelievable --

7 CHAIRMAN HOOD: Let Mr. Collins --

8 MR. STOVER: -- that the elevation hasn't changed.

9 CHAIRMAN HOOD: Let Mr. Collins answer the
10 question, if it's going to be put in the record --

11 MR. COLLINS: Yes.

12 CHAIRMAN HOOD: -- if it's not already there.

13 MR. STOVER: Oh, good. So, we'll get a chance to
14 examine it.

15 MR. COLLINS: It's going to be put in the record.

16 MR. STOVER: My last question is, as part of the
17 determination as to whether the USGS material you looked at
18 was correct or not, did you take a soil sample, I mean, down
19 deep, to see if the natural structure of the soil, sub-soil
20 to top soil, is still there, just at the 48th Street
21 curbside, or whether, as I suspect, it's compacted fill that
22 would have been put in there in order to level the road as
23 it passed across the continuous slope? Did you take a soil
24 sample?

25 MR. GLETFELTER: A soil sample was not taken.

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1 MR. STOVER: Very well. That's all I have to ask.

2 CHAIRMAN HOOD: Okay. Let me just say --

3 MR. STOVER: Thank you.

4 CHAIRMAN HOOD: -- Mr. Donohue, as far as your
5 expert is concerned, I think you asked some questions
6 already. I think that there was an opportunity, and I'm
7 sorry that your expert left, and I'm going to rule that
8 you've asked sufficiently your questions upon rebuttal.
9 Okay. All right. Mr. Smith, you have any cross?

10 MR. SMITH: Yes, we do.

11 CHAIRMAN HOOD: And we also heard the testimony
12 earlier, we have the information we need, Mr. Donohue, to do
13 what we need to do. Okay. Unless my colleagues disagree?
14 Okay.

15 MR. KREBS: So, at the very outset of this
16 rebuttal, there was a quick commentary that Mr. Collins
17 offered concerning the understanding about the grocery store
18 and the responsiveness to the community's meetings and
19 discussions around that.

20 What I heard you say was, initially, that what was
21 proposed was around 50,000-55,000 square feet, right? That's
22 what Mr. Lansing said.

23 And then, from there, it went to the notion of,
24 what I wrote down in my notes was, a neighborhood full-
25 service grocery store, which turned out to be either 13,400

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1 square feet or 16,000, if you include the dogleg. Do I have
2 that all correct?

3 MR. LANSING: I'm sorry, is the question to me or
4 to Mr. Collins?

5 MR. KREBS: It's to you.

6 MR. LANSING: To me? That's correct, yes.

7 MR. KREBS: Okay. So, what happened to the
8 intermediate point along the way? In January of last year,
9 at the meeting that was held at AU, when this subject came
10 up, Mr. Sirper (phonetic) was having trouble with the
11 projector, and you projected something on the screen that
12 showed roughly 24,000 square feet.

13 And I thought that there was a general positive
14 reaction to that, in the room at that point, from the people
15 who were present. But 11 months later, it became 13,400 or
16 16,000, pick your number. We seem to have stumbled across
17 that point, which was in fact a size that was about the same
18 size as what had been the SuperFresh. So, why are we missing
19 that point?

20 MR. LANSING: As we continued to work with the
21 neighborhood through the various meetings that we held, we
22 continued to receive feedback over concern of some of the
23 congestion, traffic concerns of the larger box.

24 As we then in parallel were out in the marketplace
25 discussing with interested grocers, it became very apparent

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1 to us that grocery stores were not interested in boxes that
2 size.

3 So, when we got to the 13,000 plus or minus to
4 16,000, that was the size of a box of a neighborhood-serving
5 grocer that we could actually get interest to come into the
6 site.

7 MR. KREBS: Although there were meetings between
8 the January 2017 meeting and the ANC 3D meeting, when that
9 sizing question would have come up, I don't remember having
10 heard that at any point.

11 MR. LANSING: You can probably recall, there were
12 many, many, many items that were discussed through the
13 various meetings. So, at every meeting, we didn't cover
14 every point. There were different focal points at the
15 various meetings throughout the two-year history.

16 MR. KREBS: Don't you think, Mr. Lansing, that the
17 size and the nature of the grocery store was one of the
18 primary drivers of the community's interest?

19 MR. LANSING: I would agree that it is. And as we
20 worked to get to it, as this thing went sort of month-to-
21 month, it's a very fluid process. And getting determination,
22 getting feedback from the marketplace for these grocery store
23 sizes, it didn't happen that fluid, it didn't come every
24 month.

25 It took sometimes three, four, five, six months

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1 to evaluate with our engineers, with our team, to see what
2 could and what could not work for the various grocery stores
3 we were trying to bring to benefit the neighborhood.

4 MR. KREBS: Yes. My other question has to do with
5 this, which I brought up several times, and that is this
6 condo versus rental mix issue. In my testimony earlier this
7 evening, I tried to characterize what you said back to me in
8 my question of two weeks ago, when I asked you why there was
9 such adamant support for what seemed to be a strong rental
10 skew.

11 At that point, we knew it was at least 90 percent
12 rental, if not 100 percent rental, based on what you said at
13 that point, when you said, well, it may be that almost all
14 of them will be rentals.

15 And what I heard you say when I asked you that
16 question was, it was a business decision. Are you denying
17 that that's what you said to me?

18 MR. LANSING: No.

19 MR. KREBS: Okay. Then, I don't quite understand
20 your surprise when I brought that back up this evening as an
21 issue for people who are in fact concerned in the community
22 that they don't have a condo option, they don't have a
23 purchase option, they don't have a rental-to-sale conversion
24 option.

25 You've given them nothing in that respect and that

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1 was something that they asked for over at least the period
2 of 14-16 months that I've --

3 CHAIRMAN HOOD: Let's get to the question, you're
4 testifying again. Let's get to the question. Or is there
5 a question? If not, let's go to --

6 MR. KREBS: The question is, why is it not part of
7 what you have responded to? I don't understand why you keep
8 coming back to saying you were surprised that that was coming
9 up again.

10 MR. LANSING: So, if we're answering to the
11 rebuttal that I gave -- or, sorry, the -- it was more of a
12 play on words. Surprise that sort of the commentary of the
13 opposition of throwing things around like misleading and
14 deceptive practices, I've been the guy in front of everybody
15 for the past two years, we've been very transparent.

16 So, it was surprising to me, when I mentioned it's
17 just business, again, playing to your term, this hasn't been
18 just business to us. We've tried very hard and very
19 earnestly to give the neighborhood as a whole -- we certainly
20 understand and appreciate the opposition has its position.

21 We have not been able to make you happy, but for
22 the much broader neighborhood, we have. And so, it was more
23 of a comment on that condition.

24 MR. KREBS: I'll yield to you, Tom.

25 MR. SMITH: It's very late and I apologize, but

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1 I've got just a few, and I'm going to try to keep it very few
2 questions. And there was so much information in the rebuttal
3 that I'm still having trouble processing some of it. So, if
4 these questions don't sound very good, please accept my
5 apologies.

6 I have a question, and I'm sorry, I don't know
7 your name. Well, I have one for you later. Dealing with --
8 you were talking about the -- during your rebuttal, you were
9 talking about the number of units, two-bedrooms, three-
10 bedrooms, the like.

11 What is the average size of, taking all the units
12 into consideration, in both of the buildings, what is the
13 average size of a unit?

14 MS. ALEXANDER: Can you give me a minute to do some
15 math?

16 MR. SMITH: Sure.

17 MS. ALEXANDER: And ask another question?

18 MR. SMITH: Sure. I'll make sure it's not a
19 question of you.

20 (Laughter.)

21 MS. ALEXANDER: Thank you.

22 MR. SMITH: Someone talked about using AU shuttles.
23 Who -- Will, was that you who talked about using? Someone
24 mentioned something about using AU shuttles.

25 MR. LANSING: I was asked a question by -- yes,

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1 correct.

2 MR. SMITH: Okay. As part of the agreement that
3 you've reached with AU for the transfer of rights, does that
4 agreement include express permission to use -- to have AU
5 shuttles available for residents of the building?

6 MR. LANSING: It does not, no.

7 MR. SMITH: Okay. Was that an issue that came up
8 in the course of those discussions as part of that agreement
9 that was reached?

10 MR. LANSING: It was not, no.

11 MR. SMITH: Okay. And is this an issue that you've
12 raised with AU as part of your discussion, your ongoing
13 discussions with respect to the parking agreement that you're
14 still trying to reach?

15 MR. LANSING: It is, in the -- yes, it is in those
16 discussions.

17 MR. SMITH: And what has AU's reaction been to your
18 entreaties for that?

19 MR. LANSING: It is still open.

20 MR. SMITH: Still open? You can't share with us
21 how they're -- what -- does that mean they have some concerns
22 about it and can you --

23 MR. LANSING: I can't speak --

24 MR. SMITH: -- share those concerns?

25 MR. LANSING: -- exactly to what their position is.

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1 My sense is there are some concerns. There's a bullet point
2 of things we're working through on the parking side as well
3 --

4 MR. SMITH: Okay.

5 MR. LANSING: -- and it sort of falls in all those,
6 that list of things, if you will.

7 MR. SMITH: And any sense as to when you might have
8 concluded that agreement? I mean, is there a point in time
9 when you just sort of have to fish or cut bait?

10 MR. LANSING: Fairly quickly. I'm scheduled to
11 talk with their counsel on Monday, in fact, to tighten up the
12 framework that we have agreed to thus far.

13 MR. SMITH: Okay.

14 MS. ALEXANDER: I have completed the math. All
15 right. We have 219 units, as we've discussed, with 231,835
16 net square feet total. So, that's 1,058 net square feet.
17 Net square feet, to note, is the rentable area, it's not the
18 gross square feet division. So, over a thousand square feet
19 per unit is our average, 1,058.

20 MR. SMITH: Okay. All right. The other question
21 I had for you, this -- when you were taking the pictures
22 using your iPhone, what type of iPhone were you using?

23 MS. ALEXANDER: Oh, it's the -- hold on.

24 MR. SMITH: What is it? I can't -- I'm old, I
25 can't see and it's late.

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1 MS. ALEXANDER: Someone who's more technical than
2 me will probably know. I -- it's the Pro. I think it's 7
3 or 8.

4 MR. SMITH: It's 7? Okay.

5 MS. ALEXANDER: It's not the new one, it's not the
6 X one.

7 MR. SMITH: Okay.

8 MS. ALEXANDER: Sorry. I'm not --

9 MR. SMITH: I only ask that because different --

10 MS. ALEXANDER: It's a good camera.

11 MR. SMITH: -- iPhones have different picture
12 capabilities, some of which include wide angle lenses. The
13 last question I have, and, sir, it's really for you, you were
14 the one who was talking -- you were talking, weren't you,
15 about the transfer of density? And the court cases and the
16 like?

17 And indulge me on this if you would, but if there
18 -- you have the two transfer agreements, one with AU, one
19 with the Spring Valley Shopping Center, the AU building being
20 4801 Mass Avenue.

21 If something catastrophic would happen to either
22 or both, 4801 Mass Avenue or the Spring Valley Shopping
23 Center, would they be able -- would there be any limitations
24 as far as rebuilding them by virtue of the transfer
25 agreements, the agreements to transfer building rights?

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1 MR. DETTMAN: I don't -- let me try to -- let me
2 make sure I understand the question.

3 MR. SMITH: Okay.

4 MR. DETTMAN: So, if this project was to be
5 approved and constructed, we would have the AU building,
6 which has approximately 173,000 square feet per that 1970s
7 agreement allocation.

8 We would have the Spring Valley Shopping Center
9 site, the historic Spring Valley Shopping Center site, that
10 would have approximately, we'll say, 17,000 square feet of
11 square footage. And then, we would have our project as
12 proposed.

13 Are you asking if the Spring Valley Shopping
14 Center and/or the AU building fall down and go away, would
15 there be any limitations on rebuilding something on those two
16 sites?

17 MR. SMITH: What I'm asking you is, by virtue of
18 the transfer agreements that you have in place with Regency,
19 for the Spring Valley Shopping Center, and with AU, that
20 relates to the 4801 Mass Avenue building, if something
21 catastrophic would happen to those buildings, there was a
22 fire, some other -- something that destroyed those buildings,
23 would there be any limitations in rebuilding those buildings
24 as a consequence of the transfer of the development rights
25 from those properties to the Valor building? I mean, is that

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1 something --

2 MR. DETTMAN: You couldn't --

3 MR. SMITH: -- that you need to -- is that
4 something that --

5 MR. DETTMAN: If the Spring Valley Shopping Center
6 --

7 MR. SMITH: -- you need to study?

8 MR. DETTMAN: If the Spring Valley Shopping Center
9 burned up and went away, you would not -- and that site is
10 zoned MU4, you would not be able to build a 3.0 FAR building
11 on that project, because of the agreement that transferred
12 density from there over to the Valor project.

13 MR. SMITH: Well, that's not really the question
14 I'm asking.

15 MR. DETTMAN: Okay.

16 MR. SMITH: Okay? I'm not asking if you can expand
17 the building, I'm asking -- and if you don't know the answer
18 to it, that's fine, you can just say you want to look at it.

19 MR. DETTMAN: I'm not understanding your question,
20 I'm sorry.

21 MR. SMITH: Well, the question -- well, let me try
22 to diagram it out, because I don't -- I think it's not as
23 complex as you may be making it.

24 All I'm saying is, all I'm asking you is, by
25 virtue of transferring the building rights from the Spring

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1 Valley Shopping Center and/or 4801 Mass Avenue, the AU
2 building, by virtue of transferring those rights to this new
3 Valor project, in order for you to build this, if something
4 catastrophic happened to those buildings, are there any
5 limitations, because of the transfer of the building rights,
6 to rebuilding on those sites?

7 MR. DETTMAN: Not that I'm aware of.

8 MR. COLLINS: That's really a legal question. And
9 the answer is, no.

10 MR. SMITH: I'm sorry? Is it a legal question?

11 MR. COLLINS: That's a legal question and --

12 MR. SMITH: Yes, well I --

13 MR. COLLINS: -- the answer --

14 MR. SMITH: -- figured it was.

15 MR. COLLINS: The answer is, no.

16 MR. SMITH: And why is that? Can you explain it?

17 MR. COLLINS: Because we're not transferring any
18 more density from those sites to the development, to the
19 Valor site, than what exists on those sites.

20 We're not touching the -- the density that exists
21 on the Spring Valley Shopping Center site and the density of
22 the building, the existing building, and the density of the
23 existing building on the AU site, have a certain amount of
24 density.

25 And the agreements that -- for the allocation of

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1 development rights cannot take more development rights --
2 they can't, like, bite into the building and take some of the
3 building as well as some of the unused density. Does that --

4 MR. SMITH: Yes, but --

5 MR. COLLINS: -- answer your question?

6 MR. SMITH: But let me follow up then, there's
7 already -- the 4801 Mass Avenue building already has some
8 type of agreement, all right, on it, and you all can explain
9 it probably better than I could, and you're probably far more
10 knowledgeable about it.

11 And what we've always been advised by AU, for
12 example, the owners of that building, is that they would not
13 be able to rebuild at that level of mass, at that level, if
14 something -- yes, exactly. I mean, unless there was some
15 kind of protection.

16 So, what I'm asking you is that, given now you
17 have these new agreements for transferring these development
18 rights, is there something as part of those agreements that
19 could -- and, again, if you -- if this is a legal question
20 and you need to research it, fine, but I think it's an
21 important issue to understand.

22 MR. COLLINS: I don't need to research it.

23 MR. SMITH: Okay.

24 MR. COLLINS: The answer is, no. If AU mentioned
25 to you that if something catastrophic happened to their

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1 building they couldn't rebuild it, that may be because that
2 building is non-conforming.

3 MR. SMITH: Right.

4 MR. COLLINS: That has nothing to do with the
5 agreements for transferring any kind of densities or
6 reallocating density --

7 MR. SMITH: Well, that's -- I was asking you that
8 because I don't know what's in the agreements. So, you know
9 what's in the agreements. So, based on what you have in
10 those agreements, there's no limitation then on rebuilding
11 on those sites if those buildings should catch fire and burn
12 down?

13 MR. COLLINS: Nothing in the agreements that
14 governs that.

15 MR. SMITH: Okay. All right. And did you say that
16 you had an iPhone 7+? I didn't hear what you --

17 MS. ALEXANDER: I will have to do a little research
18 on --

19 MR. SMITH: Okay.

20 MS. ALEXANDER: -- that and get back to you.

21 MR. SMITH: Because the iPhone 7 has the wide angle
22 lens.

23 MS. ALEXANDER: It wasn't a wide angle, though, it
24 was just a normal --

25 MR. SMITH: All right.

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1 MS. ALEXANDER: -- iPhone shot.

2 MR. SMITH: Well, some normal --

3 MS. ALEXANDER: I didn't do a panorama or anything.

4 CHAIRMAN HOOD: Okay. We'll do our research on
5 that. All of us looking to their iPhone and see which one
6 has the wide lens. Vice Chair, you had a question? I want
7 to keep this moving.

8 VICE CHAIR MILLER: I think it's just post-hearing
9 submissions that I need and it's responses to the -- it would
10 be responses by both the Applicant and the Office of Planning
11 to several points in the opposition testimony. So, at some
12 point, if I have the opportunity to say that, if you want me
13 to do it here?

14 CHAIRMAN HOOD: I think, I really think, and I'm
15 throwing this out here, I really think our deliberations, we
16 may ask for some more stuff after we have -- I think we need
17 to have a discussion.

18 At least from my standpoint, I need to have a
19 discussion and see where everybody else is, especially with
20 all the evidence and everything I've heard today. I don't
21 know, that's what I was thinking.

22 VICE CHAIR MILLER: Right. And I think you were
23 thinking maybe also their closing would be later, submitted
24 in writing --

25 CHAIRMAN HOOD: It would be --

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1 VICE CHAIR MILLER: -- as we're now at 11:00.

2 CHAIRMAN HOOD: Yes, thank you, that's good advice
3 Vice Chair, yes, I agree with that.

4 VICE CHAIR MILLER: So, I mean, there's some things
5 I guess I want in their closing, and --

6 CHAIRMAN HOOD: Oh, okay, well, why don't you --
7 you want to mention that now?

8 VICE CHAIR MILLER: -- because they don't have
9 time. I mean, we asked last time for this one-pager, did we
10 get the one-pager?

11 CHAIRMAN HOOD: No, we haven't got --

12 VICE CHAIR MILLER: We haven't gotten that? So,
13 we need that one-pager that outlines all of this transfer --
14 not transfer, reallocation of density on sites. And as you
15 verbally did provide the last time, but we were going to get
16 that in writing, which I think would be helpful.

17 I think we do need the transfer agreement, at
18 least the one between Spring Valley Shopping Center and your
19 site, and maybe the other one as well, just to make sure we
20 understand.

21 And the -- Ms. Simon's testimony said that the
22 inclusionary zoning wasn't being provided significantly --
23 that you're providing significantly below the minimum
24 required. We just need something that rebuts that testimony,
25 as to why her calculations, if you don't agree with them, why

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1 you don't agree with them.

2 I think -- what is the FAR? If you just look at
3 the SuperFresh, your site, your project site, what would the
4 FAR be of that, under the matter-of-right scenario and under
5 your proposal? Do you have that? If you can have that in
6 your closing statement to be submitted, I think that would
7 be helpful to understand. I think that's it.

8 MR. COLLINS: Can I get a clarification? Is that,
9 you're saying if we were only to use Lot 807?

10 VICE CHAIR MILLER: And I realize that we can
11 allocate among the different lots of a project that's before
12 us, we've decided many cases that way, some of which have
13 been upheld, some of which haven't yet been upheld. But, so
14 -- I think you understand what I meant.

15 I think that's it. I was going to ask for a
16 rendering of what a building would look like two stories
17 below, but I think I can figure it out from the renderings
18 that you provided.

19 CHAIRMAN HOOD: Okay. And again, once we get those
20 other things that we asked for last time, I think we will be
21 able to deliberate a little better. And maybe some more
22 stuff we may ask for as we have our discussion, okay? And
23 you're going to do your closing in writing, right?

24 MR. COLLINS: Yes, I'll do my closing in writing.

25 CHAIRMAN HOOD: You want to say two sentences now

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1 and then, do the rest of it in writing? You don't have to.

2 MR. COLLINS: There's more than two sentences, so
3 I think --

4 CHAIRMAN HOOD: Okay. Yes, just do it in writing.
5 Okay. Anything else, Commissioners?

6 COMMISSIONER TURNBULL: I'm going to -- I had seven
7 or eight questions, but I can -- when we meet to talk about
8 it.

9 CHAIRMAN HOOD: Yes, and that's --

10 COMMISSIONER TURNBULL: They're going to have --

11 CHAIRMAN HOOD: -- what I think --

12 COMMISSIONER TURNBULL: They'll have to provide a
13 response and I'm going to be looking for some more drawings
14 too, but we can wait until we --

15 CHAIRMAN HOOD: Yes, and as soon as we can have a
16 discussion, I want to see what they present us first, and
17 then, I'm sure we're going to have some more discussion,
18 because there was a lot of information given to us, both pro
19 and con, and I need to weigh it. Yes?

20 MS. SCHELLIN: Ms. Sun said -- wanted to correct,
21 I guess, Commissioner Miller, did you say that you wanted the
22 Applicant to respond to something that Ms. Sun said? Because
23 she said she didn't say whatever it was --

24 VICE CHAIR MILLER: Ms. Simon.

25 MS. SCHELLIN: -- that you asked for.

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1 VICE CHAIR MILLER: It was Ms. Simon.

2 MS. SCHELLIN: Ms. Simon.

3 CHAIRMAN HOOD: Marilyn Simon.

4 MS. SCHELLIN: That's what I thought.

5 CHAIRMAN HOOD: Marilyn Simon.

6 MS. SCHELLIN: Okay. I didn't hear --

7 CHAIRMAN HOOD: Okay.

8 MS. SCHELLIN: -- Ms. Sun either.

9 CHAIRMAN HOOD: Ms. Who?

10 MS. SCHELLIN: Sun.

11 CHAIRMAN HOOD: This is what happens when it gets
12 late, so why don't we start closing out?

13 MS. SCHELLIN: I didn't hear it, but she thought
14 she did.

15 CHAIRMAN HOOD: Okay. We're going to be closing.
16 Anything else, Commissioners? Ms. Schellin, do we need a
17 date for -- we're going to just probably deliberate first,
18 once we --

19 MS. SCHELLIN: Right.

20 CHAIRMAN HOOD: -- get the information.

21 MS. SCHELLIN: So, from the --

22 CHAIRMAN HOOD: Sooner than later.

23 MS. SCHELLIN: -- Applicant --

24 CHAIRMAN HOOD: While it's fresh.

25 MS. SCHELLIN: -- I think our first meeting in

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1 February is the 12th, do you guys think you could meet that?
2 Meaning that we would need your information in two weeks,
3 would you be able to do that or not? Actually, we'd need it
4 before then, we'd need it by the 5th of February. Is that
5 doable or not?

6 MR. COLLINS: Is the 5th two weeks from today?

7 MS. SCHELLIN: Not quite, it's about a week and a
8 few days.

9 MR. COLLINS: That makes it tight. A week from
10 Monday? No, that's --

11 MS. SCHELLIN: It's a week from Monday, yes.

12 MR. COLLINS: That's very tight. Could we have
13 until --

14 MS. SCHELLIN: Okay. So, then --

15 MR. COLLINS: -- Wednesday?

16 MS. SCHELLIN: -- our next meeting would be the end
17 of February, just for them to have a discussion on. So, they
18 won't deliberate until March, probably. Just so you --

19 MR. COLLINS: Okay.

20 MS. SCHELLIN: Actually, that's not going to work
21 anyway, because the parties need to respond. So, if we could
22 have your submissions by the 20th? And that also goes for
23 the parties that were asked to submit some things, like ANC
24 3E wanted a submission -- actually, from all the parties,
25 regarding the FAR.

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1 So, all the parties should make a submission on
2 the FAR issue that came up by that same date, the 12th of
3 February.

4 And, Mr. Donohue, he wanted to see some other
5 views in the neighborhood showing the different -- okay, you
6 got that. Mr. Wheeler was going to -- actually, that was the
7 same thing, for the FAR. Let me see if there was anything
8 different for the other parties.

9 I think that was it. Actually, no. The -- Mr.
10 Smith was going to provide a copy of the Neighbors for
11 Responsible Development, the list of members. And then, the
12 other gentleman that was sitting also at the table, yes, he
13 was going to provide a list of their members.

14 And other than that, the Applicant has, I'm sure,
15 took great notes. And so, those submissions would be due by
16 February 20th. And then, the parties would have an
17 opportunity to respond to those submissions -- I'm sorry, the
18 12th.

19 Those are due by the 12th. And responses are due
20 by the 20th. So, everything gets submitted by the 12th. The
21 parties then get to respond to each other's submissions by
22 the 20th. And Mr. Collins can provide his closing on the
23 20th, because the parties do not get an opportunity to
24 respond to the closing in writing.

25 And then, any drafts of findings of fact and

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1 conclusions of law, any of the parties may submit those, the
2 Applicant is required to do so, by the 20th also, of
3 February. Then, well put this on for February 26.

4 CHAIRMAN HOOD: Okay. Is everybody on the same
5 page? All right. I want to thank every -- Ms. Schellin, do
6 we have anything else?

7 MS. SCHELLIN: No.

8 CHAIRMAN HOOD: All right. I want to thank
9 everyone for their participation tonight. And this --
10 actually, the record is closed, other than what we asked for.

11 MS. SCHELLIN: Yes.

12 CHAIRMAN HOOD: And I want to thank everyone for
13 their participation. And this hearing is adjourned.

14 (Whereupon, the above-entitled matter went off the
15 record at 11:05 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Valor Development

Before: DC Zoning Commission

Date: 01-25-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

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