

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.
   
: 16-23
   
:
   
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Thursday,
   
January 24, 2019

Hearing Room 220 South
   
441 4<sup>th</sup> 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 4<sup>th</sup> 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 SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- DONNA HANOUSEK, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director, Development  
Review & Historic Preservation

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.

The transcript constitutes the minutes from the  
Public Hearing held on January 24, 2019.

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

(6:31 p.m.)

1  
2  
3 CHAIRMAN HOOD: This is the Zoning Commission  
4 Hearing, continuation hearing of Zoning Commission case  
5 number 16-23. I'm going to incorporate the opening  
6 remarks from our previous hearing into this record as  
7 well.

8 Joining me today are Commissioner Turnbull and  
9 Commissioner Shapiro. We expect to be joined by Vice  
10 Chair Miller at some point in time.

11 Also from the Office of Zoning staff, Mr. -- I  
12 mean, you get scripted to say the exact same thing. Also  
13 from the Office of Zoning staff Ms. Donna Hanousek, as  
14 well as the Office of Planning, Mr. Lawson.

15 Okay. I think we announced our order, excuse  
16 me, from last time, but what I'd like to do we want to  
17 send our prayers and thoughts out to Ms. Sharon Schellin,  
18 this time on the loss of her brother. So I would ask, as  
19 well, again, that we have a moment of silence.

20 (Moment of silence.)

21 CHAIRMAN HOOD: Thank you. And as well, our  
22 thoughts and prayers go out to Ms. Schellin and her family  
23 as well.

24 Okay, Ms. Hanousek, do we have any preliminary  
25 matters?

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1 MS. HANOUSEK: No, sir.

2 CHAIRMAN HOOD: Okay. So where we left off,  
3 we're going to hear from the parties and the parties who  
4 are in support if they can come forward at this time. And  
5 that is Mr. Willer, Ms. Kimmel. I think they have Ward 3  
6 Vision as well as Mr. Clarkson, Spring Valley Neighborhood  
7 Association.

8 Now, you all have 20 minutes, I believe. You  
9 can use that 20 minutes how you choose, but you both have  
10 20 minutes total, okay? So whenever you are ready, you  
11 all may begin.

12 MR. CLARKSON: Chairman Hood and Commissioners,  
13 my name is William Clarkson, and I am testifying on behalf  
14 of the Spring Valley Neighborhood Association, SVNA.

15 SVNA supports Valor Development's revised  
16 project proposal currently under consideration, and we  
17 appreciate the opportunity to participate as a party in  
18 this important case.

19 SVNA is comprised of residents of the Spring  
20 Valley Neighborhood, which is directly across  
21 Massachusetts Avenue from the proposed Lady Bird  
22 Development. We'd like to reiterate to the Commission  
23 that SVNA does not include in its membership all residents  
24 of Spring Valley.

25 Our association has over 200 members as well as

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1 hundreds of neighbors involved in SVNA's community  
2 activities and initiatives. And we consider ourselves an  
3 active, engaged and growing group of Spring Valley  
4 neighbors who support responsible development and positive  
5 growth.

6 We believe that the proposed project will have  
7 an overall positive impact on the community, especially  
8 with the return of a full-service grocery store.

9 This particular element of the project has  
10 received significant community support from neighborhood  
11 residents and their elected representatives on Advisory  
12 Neighborhood Commissions ANC 3D and 3E.

13 As stated in the Office of Planning's January 2  
14 report, quote, a matter of right residential building  
15 could be built to the property line along both Yuma and  
16 48th Streets and could measure 50 feet in height.

17 It is our understanding that Valor or another  
18 developer could have chosen to pursue a matter of right  
19 residential-only development project which would have  
20 eliminated the need to work with the affected ANCs and the  
21 opportunity for the significant, meaningful community  
22 review and input that has occurred on this project since  
23 September of 2015.

24 Instead, Valor recognized the community's  
25 strong desire for a grocery store to return to the vacant

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1 Superfresh, Fresh and Green site. And we agree with the  
2 Office of Planning's own conclusion that, quote, the  
3 proposed development would result in a development that  
4 would be superior to any matter of like development on the  
5 site.

6 While we understand and appreciate neighbor's  
7 concerns about potential negative impacts which could  
8 result from the current proposal, we believe that Valor  
9 has made a concerted, good-faith effort to address issues  
10 and concerns raised by community stakeholders, the  
11 affected ANCs and DC government agencies.

12 According to its December 31 submission to the  
13 Commission, it appears that Valor has engaged in over 50  
14 meetings with these various stakeholders, including both  
15 opposing and supporting parties. Recently, the parties  
16 participated in a walk-through of Valor's proposed alley  
17 system with the District Department of Transportation  
18 Director Marootian and his staff.

19 As a result of this engagement and the feedback  
20 received, Valor has made a number of positive changes to  
21 the proposed project. Most notably, the revised plans  
22 include a larger, full-service grocery store while  
23 reducing the gross floor area of the project by over  
24 40,000 square feet.

25 Valor's revised plan has been endorsed by the

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1 Office of Planning and after analyzing the potential  
2 traffic and parking impacts of the project, the DC  
3 Department of Transportation has stated that it has no  
4 objection to the approval of Valor's design review  
5 application.

6 I would also like to note that for those of us  
7 who attend the monthly ANC 3D meetings, it is clear that  
8 our elected representatives have devoted a significant  
9 amount of time and effort to this case

10 And we would like to thank the ANC 3D  
11 leadership, particularly former chairman Steve Gardner,  
12 Commissioner Elkins and Commissioner Kravitz for keeping  
13 our community informed and allowing community members'  
14 voices to be heard at these meetings, including those of  
15 our good friends and neighbors in AU Park.

16 All of us here tonight are here tonight because  
17 we care deeply about our community and recognize the  
18 importance of participating in this process. We  
19 appreciate the Commission's consideration of our testimony  
20 and we would be happy to answer any questions. Thank you.

21 MS. KIMMEL: Good evening, Chairman Hood and  
22 Commissioners. My name is Susan Kimmel, and for the past  
23 13 years I have been a resident of City Line Condominiums,  
24 which are located in ANC 3E.

25 CHAIRMAN HOOD: I'm going to have to stop. I'm

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1 going to have to stop. We obviously made a mistake. We  
2 don't make many down here. So we're going to stop and  
3 we're going to pick you up, so forgive me for interrupting  
4 but I think we need to do this. We need to swear in the  
5 witnesses.

6 I thought we had took care of that, but  
7 obviously we didn't.

8 MS. KIMMEL: OF course.

9 CHAIRMAN HOOD: We want to make sure we do  
10 stuff right. Forgive us.

11 MS. KIMMEL: Certainly.

12 CHAIRMAN HOOD: So all witnesses that are going  
13 to testify tonight please stand, even if you stood the  
14 last time let's stand up and let's do it again.

15 (Witnesses sworn.)

16 CHAIRMAN HOOD: That's a process we have to do,  
17 but I'm sure everybody's going to tell the truth. Okay.  
18 All right. So with that, I apologize. You may continue.

19 MS. KIMMEL: Okay, I'll continue. I speak this  
20 evening on behalf of Ward 3 Vision, a group of residents  
21 who support smart growth and whose mission is to make our  
22 neighborhoods even better urban places, more walkable,  
23 sustainable and vibrant.

24 We support the Lady Bird project because it  
25 contributes a much-needed grocery store to the Spring

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1 Valley Neighborhood and addresses the city-wide housing  
2 shortage and lack of affordable workforce housing.

3           The testimony we submitted at the first hearing  
4 is still our official entry into the record, but I would  
5 like to make two additional points this evening. First,  
6 to be granted approval by the Zoning Commission as a  
7 design review proposal, the applicant must demonstrate the  
8 provision of superior public spaces in locations where  
9 there is little outdoor public areas.

10           The Lady Bird provides beautifully landscaped  
11 areas, but we wonder to what extent they will actually be  
12 used. While there is some sitting near the grocery  
13 entrance, it is in the northwest corner of the property  
14 and likely to be shaded most of the time.

15           This may be an advantage on a hot summer  
16 afternoon, but we wonder about the rest of the year.

17           As for Windom Park, no matter how attractive  
18 the landscaping, because it is enclosed on three sides by  
19 occupied apartments it is not as inviting for passersby to  
20 enter this space. I don't know how much consideration was  
21 given to some specialty uses, such as a tot lot for  
22 visiting grandkids or possibly a sculpture garden for AU  
23 art students.

24           But after a permit is granted for the Lady  
25 Bird, perhaps the neighbors would work with Valor to make

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1 constructive suggestions for what they might like to see  
2 at this location, which brings me to my second point.

3           Ward 3 Vision feels that the quality of the  
4 project suffered by some of the compromises made to  
5 accommodate the neighbors' demands. Perhaps such  
6 compromise is necessary to get anything built, but giving  
7 up an entire story in height which meant losing over 40  
8 residential units and including the proportionate number  
9 of IZ, inclusionary zoning, units.

10           Also, sacrificing the pedestrian way of Windom  
11 Walk, which provided a shortcut to the bus stop on  
12 Massachusetts Avenue, was a huge loss.

13           But to summarize our position, we feel that  
14 Lady Bird has been very successful because more housing is  
15 a critical need in DC. This project is distinguished from  
16 other recent projects in Ward 3 because it contains some  
17 larger two and three-bedroom units that make it desirable  
18 to many potential tenants who may be downsizing from  
19 single-family homes.

20           Also, to the extent that it brings residents  
21 into DC it grows the tax base. Furthermore, the amount of  
22 new construction at this point has led to the creation of  
23 27 new inclusionary zoning units.

24           We feel the Lady Bird's location, accessible to  
25 mass transit, is well-suited for mixed use development.

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1 Mass Ave. is a transit corridor with decent bus service  
2 and has the flexibility of adding more busses if demand  
3 increases significantly.

4 Right now, American University provides shuttle  
5 service that is free for the public from the Tenleytown  
6 Metro station to their facilities in Spring Valley,  
7 adjacent to the Lady Bird.

8 As a commercial note, Spring Valley is a  
9 logical location for a grocery store. First of all, this  
10 is not a new use but it's really a replacement for the  
11 pre-existing Superfresh, which closed many years ago and  
12 is currently vacant. Having a grocery store in the  
13 neighborhood will make the area much more walkable and  
14 decrease the need for car trips.

15 The new residents of Lady Bird will increase  
16 the density so that the grocery store has higher usage and  
17 will be greater chance of viability with a larger client  
18 base.

19 And also Valor was responsive to the neighbors  
20 who didn't want a full-size grocery store but now have a  
21 smaller footprint.

22 These improvements add up to our vision of  
23 making neighborhoods even better urban places, more  
24 walkable, sustainable and vibrant. And from our  
25 standpoint of smart growth, we commend Valor for having

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1 brought in Torti Gallas as a topnotch architectural firm  
2 to refine the initial design into sophisticate, workable,  
3 respectful example of contextual architecture which brings  
4 vitality to our urban corridors.

5 I want to thank you for your time. And I'm  
6 happy to answer any questions.

7 CHAIRMAN HOOD: Okay, thank you.

8 Mr. Willard?

9 MR. WILLARD: I'm not testifying.

10 CHAIRMAN HOOD: Oh, you're not going to  
11 testify, okay. All right. Thank you both.

12 Let me just ask one question, and I can't  
13 remember previously, the first iteration or the first  
14 couple of iterations did you support all of them? Did you  
15 support them or were you also included in that number  
16 where they made the changes and then you supported it? Or  
17 did you support whatever they did all along? I'm just  
18 curious.

19 MR. CLARKSON: We were a party and have been a  
20 party in this case and we supported the initial  
21 application.

22 CHAIRMAN HOOD: You supported. That's -- okay.

23 MR. CLARKSON: And the revised, and we think  
24 positive changes have been made to this current proposal  
25 to reflect some of the concerns form the community.

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1 CHAIRMAN HOOD: Okay, but you were fine with  
2 what was presented previously?

3 MR. CLARKSON: Previously, yes, that we  
4 testified throughout the first --

5 CHAIRMAN HOOD: Was it the same thing, Ms.  
6 Kimmel?

7 MS. KIMMEL: Yes, the same. Ward 3 Vision  
8 supported the previous version.

9 CHAIRMAN HOOD: Okay. All right.

10 I don't have any other questions. Let me see  
11 if my colleagues have any questions? Okay. Let's see.  
12 Does ANC 3D and their supervisor, do you have any  
13 cross-examination?

14 MR. KRAVITZ: These are for Spring Valley  
15 Neighborhood Association. I may have missed it, but just  
16 want to reiterate. First, I thank you for your  
17 engagement. It's noticed and it's appreciated.

18 Can you tell me more about the activities of  
19 the Spring Valley Neighborhood Association?

20 MR. CLARKSON: So as you know, we've testified  
21 before the Commission in earlier cases. We're a  
22 relatively new organization. We're made up of Spring  
23 Valley residents and we've been involved in a number of  
24 activities.

25 We've had the privilege of testifying before

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1 the DC Council on Public Safety and Transportation Issues.  
2 In addition to our community activities also we're  
3 involved with AU as part of the community liaison  
4 committee and the neighborhood partnership.

5 MR. KRAVITZ: How many members do you have?

6 MR. CLARKSON: How many members? We have over  
7 200 members.

8 MR. KRAVITZ: Are these consenting members?  
9 That is not only do they know your organization exists but  
10 they know that they're counted as members?

11 MR. CLARKSON: Yes. I mean, we want to be very  
12 clear with the Commission and to the public that, you  
13 know, we take this very seriously and we think that it's  
14 important to note that we don't represent or claim to  
15 represent every resident of Spring Valley. We are fully  
16 aware there are differing views.

17 But we do represent a significant number of  
18 residents who, you know, feel strongly about these issues,  
19 and that's who we purport to represent. And they consent  
20 to be involved. We don't automatically assume that every,  
21 you know, neighbor in Spring Valley is a member of our  
22 association. You know, they have to consent to be  
23 involved.

24 MR. KRAVITZ: Okay, final question, is the  
25 Spring Valley Neighborhood Association a member of the DC

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1 Federation of Citizens Associations?

2 MR. CLARKSON: We actually have recently  
3 submitted paperwork to join that organization. We feel  
4 that, you know, being able to interact and learn from  
5 other associations across the city, not just within Ward 3  
6 in our community is important as we try to grow and become  
7 more involved. Again, not just in our immediate  
8 neighborhood but be aware and engaged on other issues  
9 affecting the city.

10 CHAIRMAN HOOD: All right, thank you.

11 Mr. Clarkson, you might want to pull your mic  
12 up so folks in the back can hear you.

13 MR. CLARKSON: Oh, apologies.

14 CHAIRMAN HOOD: Okay, let's see. Does ANC 3E

15 --

16 MR. KRAVITZ: He's still on his way.

17 CHAIRMAN HOOD: He's still on his way. Okay.

18 All right, well, let's go to parties in opposition.

19 Citizens for Responsible -- let me make sure I get that

20 correct this time -- Citizens for Responsible, yeah.

21 Yeah. Let's see if Citizens for Responsible Development

22 have any cross. Oh, you're already there, okay. Let's

23 see --

24 MR. REPP: Mr. Repp.

25 CHAIRMAN HOOD: Yes, Mr. Repp.

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1 MR. REPP: All right.

2 CHAIRMAN HOOD: I have names written down.

3 MR. REPP: Yes.

4 CHAIRMAN HOOD: I don't remember everything,  
5 but I have them written down. If I see you more than  
6 maybe 10 times then maybe I'll remember your name. Okay,  
7 Mr. Repp, go ahead.

8 MR. REPP: For Ms. Kimmel, you know, first of  
9 all, I mean, haven't you said previously or hasn't Ward 3  
10 Vision said previously that what's missing from the  
11 Superfresh project is rapid transit?

12 MS. KIMMEL: I think we have said that  
13 Massachusetts Avenue is not on a mass transit route. We  
14 felt that having access to mass transit is important and  
15 it does have access, which is what I explained, both  
16 through bus service to DuPont Circle or using the shuttle  
17 to Tenleytown Metro.

18 MR. REPP: Yes, and rapid transit is the word I  
19 wasn't looking for. Yes. Yes.

20 MS. KIMMEL: Correct.

21 MR. REPP: Yes. As far as the shuttle goes to  
22 AU are you aware that American University has declined to  
23 make a commitment to keep that shuttle service available  
24 to residents?

25 MS. KIMMEL: I was aware that they had not

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1 negotiated a final agreement, but I didn't realize that  
2 they had declined.

3 MR. REPP: Okay. I think there's an issue of  
4 liability there, but with respect to you said before that  
5 there's, they came down a floor and that therefore you  
6 lost 40 residential units. I think that's what you said,  
7 right?

8 MS. KIMMEL: Approximately that many.

9 MR. REPP: Yes. Actually there's the same,  
10 exactly the same number of residential units here as there  
11 was in the previous proposal, 219. Are you aware of that?

12 MS. KIMMEL: I'm glad to hear that they managed  
13 to salvage and find other space, so --

14 MR. REPP: Yes. Well, they did that by sinking  
15 the building in the ground. But with respect to  
16 inclusionary zoning, are you aware that the current  
17 proposal provides for the absolute minimum inclusionary  
18 zoning under DC law, under at least their opinion of DC  
19 law when there's other views that would require them to  
20 have more? But under their view, they're providing the  
21 absolute minimum.

22 MS. KIMMEL: I realize there was a complicated  
23 calculus in figuring out many were required and that they  
24 have met the standard.

25 MR. REPP: Ten percent, yes. That's all I

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1 have. Thank you.

2 CHAIRMAN HOOD: Okay, thank you.

3 Now I'm going to call the Spring Valley  
4 opponents which includes the Spring Valley Wesley Heights  
5 Citizens Association as well as the Neighbors for a  
6 Livable Community.

7 MR. SMITH: Good evening.

8 CHAIRMAN HOOD: Okay, good evening.

9 MR. SMITH: My questions are for Mr. Clarkson.  
10 Mr. Clarkson, would you support this project if it did not  
11 include a grocery store?

12 MR. CLARKSON: Is that a hypothetical question?

13 MR. SMITH: It's a question.

14 MR. CLARKSON: It's a --

15 MR. SMITH: You can describe the question any  
16 way you want. It's a question. But if there was no  
17 grocery store, you emphasized in your testimony about the  
18 importance of the grocery store. So my question to you is  
19 if it did not include a grocery store, recognizing, of  
20 course, that there's no firm commitment yet for a grocery  
21 store, my question to you is would you support the project  
22 if there was not a grocery store?

23 MR. CLARKSON: We'd have to evaluate the  
24 project. I mean, I'm not going to make a definitive  
25 statement here, but I would agree though and reiterate

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1 that we think that the grocery store is a key element as  
2 you've testified and your organization and others and even  
3 the CRD has testified about the grocery store being an  
4 important element to the community.

5 MR. SMITH: And am I -- I just want to be clear  
6 I understand your testimony. And are you testifying that  
7 the project as it's now designed will have no adverse  
8 impact on neighbors that live closest to the site?

9 MR. CLARKSON: No, I never testified to that.

10 MR. SMITH: Do you think that the project may  
11 have an adverse impact on neighbors who live closest to  
12 the site?

13 MR. CLARKSON: I think that some neighbors have  
14 expressed ongoing concerns about potential adverse impacts  
15 to them.

16 MR. SMITH: Okay. Thank you, sir.

17 CHAIRMAN HOOD: Thank you. Thank you both. I  
18 don't think we have any further questions. Okay. So we  
19 thank you, thank this panel.

20 We were joined earlier also by, as I mentioned  
21 earlier, by Vice Chair Miller who's joined us a while  
22 back, as well as the Office of Attorney General Mr. Tondro  
23 has joined us, as well as Office of Planning, Ms.  
24 Steingasser.

25 Okay. Okay. We have a list of persons who --

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1 do we have a list of persons who are in support? The list  
2 I have in front of me is all opponents. Do we have  
3 anybody here who's in support?

4 MS. HANOUSEK: No, we don't.

5 CHAIRMAN HOOD: Oh, okay. So let me go right  
6 to my -- okay. So we have an issue, but let me ask CRD,  
7 the issue is untimeliness of filing for expert witnesses  
8 brought to us by CRD. They didn't meet the timeline and  
9 if you could just explain, kind of give us an explanation.

10 I kind of know from the way I read it where I  
11 fall, but I want to give you some time to explain why we  
12 are where we are. And we have also in 216, I believe it's  
13 Exhibit 216, from the applicant opposing the granting of  
14 expert status to -- I'm getting feedback somewhere. Could  
15 you cut that mic off, right here to your right? Thank  
16 you.

17 And the one in the middle. We only need one  
18 there. There we go.

19 So if you could just explain why you were late  
20 and untimeliness briefly?

21 MR. DONOHUE: So Mr. Chairman, Ed Donohue on  
22 behalf of CRD, and with me is Shelly Repp and he can help  
23 fill in some of the gaps. And as it's noted in your  
24 notice of public hearing and as it's well-known to the  
25 Commission, this case has gone on a long time. It dates

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1 back to 2016.

2           And throughout that time, as the case has  
3 evolved, CRD and others in the community have become more  
4 involved. We asked for the designation of an expert  
5 status for two witnesses, both of whom have been involved  
6 in the project extensively over a couple of years. One  
7 came in when the Spring Valley Shopping Center was  
8 incorporated into the project lot necessitating an  
9 evaluation of historic preservation. That's Mr. Steven  
10 Hanson. His qualifications are impeccable. His  
11 education, his training, et cetera, and his involvement  
12 with the project are certainly deep. He's also a  
13 neighbor.

14           In addition, as the project was evolving it  
15 became necessary for us to try to evaluate the visual  
16 impacts, the shadow studies, the measurements, the  
17 renderings that were being presented. So we brought in  
18 the folks from DDIS, who testified extensively last  
19 January about their assessment of the renderings and the  
20 reliability of the documents that were presented on behalf  
21 of the applicant.

22           Subsequent to the January hearing we asked that  
23 they be designated as experts, so that was February of  
24 last year. Admittedly, not at the time that we asked for  
25 party status that request for party status goes back a

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1 couple years. But I think their involvement in the case  
2 has been invaluable. The applicant had to agree that some  
3 of the information they gleaned from the January hearing  
4 helped inform them and helped refine the design that you  
5 have before you today.

6           Likewise, the discussion about historic  
7 preservation, I think, has been important for the Zoning  
8 Commission to hear inasmuch as this is your first design  
9 review case, and does involve an historic landmark  
10 property.

11           CHAIRMAN HOOD: Okay. Are you wrapping up, Mr.  
12 Donohue, because I --

13           MR. DONOHUE: I'm done.

14           CHAIRMAN HOOD: -- I'm convinced where I need  
15 to be.

16           Mr. Repp, did you have anything you -- Mr.  
17 Repp, did you have anything you wanted to add?

18           MR. REPP: No, but to point out that the  
19 supporters qualified two people or three people, actually,  
20 as experts just before the hearing last January, so on  
21 very short notice.

22           CHAIRMAN HOOD: Okay. All right.

23           Mr. Glasgow, did you want to say anything other  
24 than the submission? Do you have any addition to the  
25 letter we have already in hand?

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1 MR. GLASGOW: No, I don't have any addition to  
2 the letter that you have.

3 CHAIRMAN HOOD: Okay. So this is where I'm  
4 coming out, colleagues, and I would be willing to grant  
5 them to be the expert status. I know for a fact, my  
6 involvement in this case, I've had to postpone a number of  
7 times for different reiterations.

8 I believe that to be fair to the community,  
9 they don't do this all the time like the folks at Holland  
10 and Knight and others and I'm not casting aspersions, but  
11 I'm telling it like it is.

12 So I really believe, I actually, when I first  
13 saw this letter again, I started having problems with it.  
14 And I'll tell you why I had problems with it, because, you  
15 know, you already present a moving target to the  
16 Commission and now you want to tell this community that  
17 you cannot do your expert status.

18 First you've got to find out what's being  
19 presented so you know what to get the expert for. So when  
20 I, and, you know, these are the kind of things that really  
21 get communities riled. This is one that we didn't even  
22 have to deal with. Let's go ahead and allow them.

23 And I know what our rules and regulations say,  
24 but this is not a -- this is a very unique circumstance.  
25 So let me hear from my other colleagues, but I have no

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1 problem with giving them, whoever your expert witnesses  
2 are, expert status, even if you brought them here tonight,  
3 because this has been a moving target.

4 I know I have granted a continuation for this  
5 whole thing for a while, at least three or four times, I  
6 believe. So that's my stand. That's why I'm -- let me  
7 see what others say.

8 VICE CHAIR MILLER: That's fine, Mr. Chairman.

9 CHAIRMAN HOOD: Okay. Any others?

10 COMMISSIONER TURNBULL: I would concur with Mr.  
11 Hansen for historic preservation. I'm a little bit  
12 troubled by recognizing somebody as an expert in visual  
13 impact studies. I have no idea of what the  
14 qualifications, being what that really would entail.

15 CHAIRMAN HOOD: I'm glad you caught that one  
16 because I was talking more like Mr. Hansen. But maybe --

17 COMMISSIONER TURNBULL: Mr. Hansen I don't have  
18 no problems with --

19 CHAIRMAN HOOD: So --

20 COMMISSIONER TURNBULL: -- with historic  
21 preservation, but visual impact studies is a field we've  
22 never --

23 CHAIRMAN HOOD: Right, and that --

24 COMMISSIONER TURNBULL: -- given anybody credit  
25 for as a field of expertise that is recognized throughout

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1 the city or the country. I just -- it's a very specific  
2 thing and I don't think there's enough information out  
3 there for me, at least, to be able to say that he's an  
4 expert in visual impact studies. So I would be reluctant  
5 to, again, Mr. Hansen's fine, but --

6 CHAIRMAN HOOD: Okay.

7 COMMISSIONER TURNBULL: -- visual impact  
8 studies is a field that I think is a little uncertain.

9 CHAIRMAN HOOD: All right. No? Okay, so what  
10 we'll do with Mr. Westergard --

11 MR. DONOHUE: So, Mr. Chairman, as I pointed  
12 out in the letter, Mr. Westergard's unavailability and Mr.  
13 Shuler's in the project means Mr. Shuler is the designee.

14 CHAIRMAN HOOD: Shuler? Okay. Okay. On my  
15 notes here it's -- okay. So Mr. Shuler, we will hear his  
16 testimony. Shuler. But Mr. Westergard, we will allow him  
17 expert status.

18 MR. DONOHUE: No, Hansen.

19 COMMISSIONER TURNBULL: Hansen.

20 MR. DONOHUE: Mr. Hansen.

21 CHAIRMAN HOOD: Oh, Mr. Hansen. What did I  
22 say?

23 MR. DONOHUE: Westergard.

24 CHAIRMAN HOOD: Okay, I got Mr. Westergard.  
25 It's been a long day already for me.

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1           Okay. So Mr. Shuler we will hear his  
2 testimony, and Mr. Hansen we will give him expert status.

3           MR. DONOHUE: So does that mean you're going to  
4 rule on Mr. Shuler's role, our request for Mr. Shuler's  
5 designation later or you're ruling against it?

6           CHAIRMAN HOOD: We're ruling against Mr.  
7 Shuler.

8           MR. DONOHUE: All right. I'd just call your  
9 attention to his CV, which is in your packet. He's got a  
10 Master's --

11          CHAIRMAN HOOD: Right, but you're proffering  
12 him as visual impact studies.

13          MR. DONOHUE: That's right.

14          CHAIRMAN HOOD: You heard Mr. Turnbull's  
15 rationale for why he disagrees and I think the rest of us  
16 agree with Commissioner Turnbull. So I mean, you can  
17 argue what's in there, but I think -- well, I don't think.  
18 The decision's already been made so really we can move on.

19          MR. DONOHUE: I just want to be clear --

20          CHAIRMAN HOOD: It's in the record.

21          MR. DONOHUE: Okay.

22          CHAIRMAN HOOD: It's in the record. Okay?

23          MR. DONOHUE: Thank you.

24          CHAIRMAN HOOD: Okay. All right. Mr. Tondro,  
25 do we have anything else on this issue?

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1 MR. TONDRO: No.

2 CHAIRMAN HOOD: Okay. And this is not  
3 precedent setting. This is not a -- no, I'm not going to  
4 say this is not a normal case, this has been a little  
5 challenging because it's been a moving target.

6 Okay. All right. Mr. Donohue, are you going  
7 to call your team up and --

8 MR. DONOHUE: Yes, sir. Oh, Mr. Chairman, one  
9 question. My notes reflect 40 minutes. Is that so we're  
10 going to share the 40 minutes for the two parties in  
11 opposition?

12 CHAIRMAN HOOD: I'm not sure. Let me just call  
13 Mrs. Smith up and find out how you all want to work that  
14 out. I think 20 -- what would you all take?

15 MR. DONOHUE: We can work that out.

16 CHAIRMAN HOOD: You all can work that out?

17 MR. DONOHUE: Yes. When you spoke to the  
18 parties in support you put up 20 minutes, which gave us a  
19 little bit of pause. We can work it out if we can get 40  
20 minutes to split between the two parties.

21 CHAIRMAN HOOD: Yeah, you all had -- you all  
22 had 40 minutes.

23 MR. DONOHUE: Okay.

24 CHAIRMAN HOOD: My notes here say that you have  
25 40 minutes, and that actually is between both parties,

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1 Spring Valley, which includes Neighborhoods for Livable  
2 Communities, as well.

3 MR. DONOHUE: Yes.

4 CHAIRMAN HOOD: Okay. So CRD, you all can  
5 start off.

6 MR. DONOHUE: And we're going to save time.  
7 We'll use CRD so you don't have to find out what the words  
8 mean.

9 Mr. Chairman, again, Ed Donohue. With me is my  
10 associate Tracy Themak, and joining us at the table are  
11 the folks that's going to speak on the panel. And I'll  
12 let each speaker introduce themselves. I'm going to hand  
13 this over to Mr. Shelly Repp, who's known well to the  
14 Commission, who is the lead on CRD and our first speaker.

15 CHAIRMAN HOOD: Has everybody at the table been  
16 sworn in? Because I know we had some people that come in  
17 a little bit late. So we're going to, at some point at  
18 time, we're going to have swear in again. Let's do it  
19 now.

20 For those who just came in, could you stand so  
21 Ms. Hanousek can swear you in? If you're going to  
22 testify.

23 (Witnesses sworn.)

24 CHAIRMAN HOOD: Okay, thank you. Okay, Mr.  
25 Repp, you may begin.

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1 MR. REPP: Thank you.

2 CHAIRMAN HOOD: Turn your mike on.

3 MR. REPP: Good evening, Commissioners.

4 CHAIRMAN HOOD: Turn your mike on.

5 MR. REPP: Good evening, Commissioners. Thank  
6 you for the opportunity to speak with you on behalf of  
7 Citizens for Responsible Development. My name is Shelly  
8 Repp. My wife, Barbara, and I live on Windom Place. I am  
9 one of CRD's officers.

10 Valor Development is proposing to build a four  
11 to six story building on the Superfresh site. The  
12 proposed project includes at least 219 residential units  
13 plus grocery space but, as we've heard, there's no firm  
14 commitment yet from a grocer.

15 Just so everybody is oriented to the site, the  
16 neighboring residential community shown in these photos  
17 consists of two-story detached homes. In contrast to the  
18 American University Building and the Spring Valley  
19 Shopping Center next door, the project faces two  
20 residential streets, 48th Street and Yuma Street.

21 The entrances to the presumed grocery and the  
22 apartment building will be directly across from the Yuma  
23 Street homes. Here is an illustration that shows just how  
24 big the project would be to the Yuma Street neighbors,  
25 taking the applicant's view of the Yuma Street frontage

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1 and superimposing images of one of the Yuma Street homes  
2 from directly across the street.

3           There is considerable opposition to this  
4 project in addition to numerous individual letters,  
5 including letters from 200 Footers. The Westmoreland  
6 Citizens Association representing 990 households submitted  
7 a letter in opposition. The 157-household Spring Valley  
8 West Homes Corporation, as well as the Spring Valley  
9 Wesley Heights Citizens Association and Neighbors for a  
10 Livable Community are parties in opposition.

11           Thirty-two residents of Spring Valley Court,  
12 just across Massachusetts Avenue recently signed a  
13 petition opposing the project. In addition, almost 600  
14 Ward 3 residents have said they will support a two to  
15 three-story building on the site.

16           CRD has retained Digital Design and Imaging to  
17 evaluate the visual impacts of the project. I'll turn  
18 this over to Ryan Shuler at this point.

19           MR. SHULER: Good evening. I'm Ryan Shuler. I  
20 work as a project manager and lead image analyst at  
21 Digital Design and Imaging Service. We specialize in  
22 providing accurate and unbiased studies which present the  
23 visual impact of proposed architectural, landscape and  
24 engineering projects.

25           We were contracted by CRD to conduct a visual

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1 impact study of Valor's new 2018 design, as well as  
2 evaluate the accuracy of Valor's most recent renderings.

3           As part of our analysis we were specifically  
4 asked to determine the new impact of the 2018 design with  
5 regards to Windom Place, in particular how the new design  
6 compares to the old one. Using the same methodology as we  
7 did for 2017, we used Valor-supplied drawings and built a  
8 new model massing and as referenced, this is the 2017  
9 design.

10           This map portrays the new or 2018 design.  
11 While there are a lot of similarities, there are also some  
12 major differences. The best way to understand some of the  
13 major differences is to overlay the two designs on top of  
14 each other.

15           The area highlighted in red indicates where the  
16 2018 design is physically taller than the 2017 design.  
17 Note that the height increases are focused along the east  
18 and north perimeters of the building closest to the  
19 nearest neighbors.

20           Additionally, the Windom Walk extension is now  
21 cut off due to a new five-story wing of the building.

22           Here is a view looking west down Windom Place  
23 using the industry standard 50-millimeter lens on a  
24 full-frame DSLR. Note this lens/body combination is used  
25 to replicate the magnification of a human eye. And as you

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1 can see with the green box there that is a surveyor  
2 holding a 25-foot survey rod for scale.

3           Again for reference, here's a model massing of  
4 the 2017 design rendered into it. While this building  
5 design is taller and has a major visual impact on Windom  
6 residents, it created a visual extension of Windom Place  
7 and at least maintained some of the light, sky and visual  
8 openness which currently exists.

9           As opposed to the 2017 design, the current 2018  
10 design change effectively creates a wall along 48th into  
11 which Windom Place dead ends. This not only blocks  
12 distant views but afternoon light in the summer.

13           Let's look at the impact on Yuma Street. Even  
14 though the center of the building was lowered by eight  
15 feet, the edges are now higher and pose a greater impact  
16 on the nearest neighbors. When you overlay Valor's 2017  
17 and 2018 cross-sections on top of each other this impact  
18 becomes more clear.

19           You're looking west down Yuma Street near 48th  
20 and you can see a person standing on their front porch.  
21 The gray building on the left represents the 2017 design  
22 and the right cross-section represents where the 2018  
23 design is taller.

24           The fourth and fifth floors of the building  
25 nearest to Yuma and 48th have increased in height by four

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1 feet, and portions of the fifth floor now protrude  
2 outwards towards the street.

3           As this graphic shows, for the nearest  
4 neighbors on Yuma this increase in height along the  
5 perimeter of the building negates the proposed loss of  
6 height at its center and in many cases increases the  
7 impact of shadows.

8           If this current design was built, that man  
9 and/or his neighbors would be standing in this building's  
10 shadow. Today, the sun would have risen over the building  
11 at 10:15 in the morning and the sun would have set behind  
12 the building again at 2:30 p.m. Note that the solar and  
13 visual impacts would also increase as you moved west down  
14 Yuma due to the 20-foot drop in terrain.

15           A separate part of our evaluation design dealt  
16 -- or evaluation, dealt with the accuracy of Valor's new  
17 renderings. We have several major concerns with Valor's  
18 renderings.

19           One concern, which is present in all of the  
20 2018 renderings, is the fact that these renderings are 100  
21 percent virtual or artificial. They don't have any  
22 elements which show the actual existing conditions in the  
23 foreground or background to help orient the viewer.

24           So while they're beautiful from a marketing  
25 perspective, they are misleading and inappropriate to use

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1 for determining the visual impact for the community and  
2 the Commission.

3 Another concern we have is that there are  
4 numerous discrepancies with either lens choice, camera  
5 perspectives or different existing and proposed camera  
6 locations.

7 As an example, here is Valor's CL-7. Note that  
8 it says it uses a 50-millimeter lens in the corner. This  
9 is not true. This graphic compares a true 50-millimeters  
10 horizontal field of view, as you can see in blue, with the  
11 red horizontal field of view portrayed in Valor's CL-7  
12 rendering

13 While the rendering is labeled as a  
14 50-millimeter it's clearly much wider. And again, using a  
15 wide-angle lens inherently reduces the visual impact of  
16 the proposed development by shrinking the building and  
17 pushing it further away from the viewer.

18 In conclusion, while the 2018 Lady Bird design  
19 has a lower height profile of eight feet overall, the new  
20 2018 design has an even greater visual impact on the  
21 nearest neighbors to the east and the north.

22 This is due primarily to the loss of Windom  
23 Walk, as well as the four-foot height increase at the  
24 lower floors, which flank the street and the neighbors'  
25 homes.

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1 I'm available for questions. Thank you for  
2 your time. Shelly, I'm going to hand it back.

3 MR. REPP: Thank you, Ryan.

4 The revised application includes a handful of  
5 changes from the applicant's previous plans, the principal  
6 one being that the main building has been sunk into the  
7 ground while expanding its footprint.

8 The density of the proposed project remains  
9 unchanged and the project will generate even more traffic.  
10 The reason behind this change was that opponents uncovered  
11 a failure to comply with the district's inclusionary  
12 zoning requirements.

13 By sinking the building into the ground and  
14 including cellar units instead, the applicant is  
15 attempting to circumvent these requirements through  
16 sleight of hand.

17 The project raises a host of legal issues.  
18 Briefly, the project is being proposed under the new  
19 design review process, however, the applicant fails to  
20 meet the requirements for design review.

21 First, the project is inconsistent with the  
22 Comprehensive Plan. While the applicant describes the  
23 project using flowery language, contrary to the  
24 Comprehensive Plan the project would create an  
25 overpowering contrast in scale, height and density with

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1 the surrounding residential and commercial neighborhood.

2           The future land use map, which expresses the  
3 public policy on future eland use, designated the  
4 Superfresh site as low-density commercial, which CRD  
5 submits that the Zoning Commission should look to the  
6 future land use map and the prevailing character of the  
7 area and adjacent uses in rendering a decision.

8           Second, the Design Review Regulations clearly  
9 state that in multiple sections that design review cannot  
10 be used to increase density. But that's exactly what is  
11 being proposed. The allowed matter of right density for  
12 this site is 184,000 square feet of gross floor area. The  
13 project instead consists of 234,000 square feet of gross  
14 floor area in addition to 26,000 feet of all-grade  
15 residential space.

16           The applicant is relying on a provision in the  
17 Design Review Regulations that provide for flexibility and  
18 bulk control. However, that very sentence then goes on to  
19 say without an increase in density.

20           The project bulks up a low-density  
21 neighborhood. Design review cannot and should not be used  
22 to justify such growth. By way of comparison, the planned  
23 unit development regulations state the purpose of the  
24 planned unit development process is to provide for higher  
25 quality development through flexibility in building

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1 controls, including height and density.

2 Not only does an increase in density not appear  
3 in the Design Review Regulations, but the regulations  
4 explicitly forbid them.

5 The plain meaning of the Design Review  
6 Regulations is clear. Density increases are prohibited.  
7 Design review is simply the wrong vehicle for this  
8 project.

9 Third, the Design Review Regulations clearly  
10 state that a design review must be superior to any matter  
11 of right development possible on the site. The  
12 applicant's straw man of what a matter of right would look  
13 like, which you see on the screen here, is unrealistic and  
14 in our view it's offered as a threat.

15 We are confident that Valor's architects can  
16 come up with a much better design if asked.

17 Stephen Hansen from Preservation Matters will  
18 now address historic preservation issues.

19 MR. HANSEN: Thank you, Shelly, and good  
20 evening Commissioners. My name is Stephen Hansen, and I'm  
21 a principal at Preservation Matters, LLC, a historic  
22 preservation consulting firm.

23 To start, the cases cited by Valor do not  
24 authorize a transfer of density from the Spring Valley  
25 Shopping Center. The applicant is claiming that the

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1 Zoning Commission's authority to transfer or aggregate  
2 density is supported by Zoning Commission Order 101, which  
3 is the Heurich Mansion case and McMillan. Neither of  
4 these provide that authority.

5           In terms of the Heurich Mansion, the applicant  
6 states that Order 101 demonstrates that the Commission had  
7 the authority to approve a transfer of density outside a  
8 designated trade area pursuant to its authority under the  
9 Zoning Act of 1938.

10           The Heurich case was specifically about  
11 historic preservation. Its transfer of density was a  
12 means to save the building from demolition. After  
13 concluding that saving the mansion promoted the general  
14 welfare, the appeals court upheld the order, but this was  
15 a one-off.

16           The appeals court ruling was in 1976, 13 years  
17 before the TDR program was established in 1989 limiting  
18 such transfers to the city's downtown plan or its D zones.  
19 Therefore, there were no outside of designated credit  
20 trade areas in 1976 as the applicant claims.

21           The 2016 Zoning Regulations rewrite replaced  
22 the old TDR system with a new credit trading system that  
23 enables developers to trade property uses rather than add  
24 density to developments. This new system is still limited  
25 to the D zones.

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1 In terms of McMillan, it is still premature to  
2 cite this case as it is in front of the appeals court now.

3 There is also the question of determining the  
4 Spring Valley Shopping Center's unused density. The  
5 applicant claims that CRD provided no citation for its  
6 assertion that the shopping center has no unused density  
7 to transfer because it is a landmark and argues that  
8 landmarks can, in fact, be developed.

9 I don't dispute this second point. The  
10 applicant mentions the Washington Real Estate Investment  
11 Trust or the WREIT project at the historic shopping center  
12 on Massachusetts Avenue opposite the Spring Valley  
13 Shopping Center is an example of how landmarks may allow  
14 development.

15 However, the DC Historic Preservation Office  
16 has recognized that the Spring Valley Shopping Center site  
17 is very different than the REIT site, the WREIT site.

18 A 2015 HPO staff report refers to Spring Valley  
19 Shopping Center as, and I quote, coordinating quality of  
20 design, the clarity of its plan and the siting of the  
21 parking in front of and access from the avenue. HPO  
22 argued that the WREIT site, unlike the Spring Valley  
23 Shopping Center site, had no clear historic plan that  
24 included its parking lot and therefore that site offered  
25 limited development potential.

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1 I would also like to note at this point that  
2 there was no transfer of density involved in the WREIT  
3 project.

4 The applicant refers to D zone-specific  
5 provisions in Title 11's transfer credit program in  
6 relation to additions to landmark buildings and how  
7 density on the site of an historic resource is to be  
8 computed and allocated.

9 It then says that the principle is the same as  
10 it relates to the Spring Valley Shopping Center. If that  
11 were true, then under Title 11 for a landmark building to  
12 generate transfer credits there would have to be a project  
13 directly on that building, only on its footprint and that  
14 provides it with historic preservation benefits, namely  
15 rehabilitation, all subject to review under the Historic  
16 Preservation Act by the Historic Preservation Review  
17 Board.

18 Yet even in its references to Title 11, the  
19 applicant is still doing its own calculations of Spring  
20 Valley Shopping Center's available density based on NU4  
21 zoning. Based on HPO's evaluation of the Spring Valley  
22 Shopping Center site, any determination of available  
23 density by HPRB would undoubtedly be much less than what  
24 the applicant is calculating.

25 The applicant is asking to have it both ways,

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1 to transfer density under the old TDR system outside  
2 designated sending and receiving zones and not recognizing  
3 the specific obligations to a landmark building such a  
4 transfer creates.

5           There are simply no precedents, regulations,  
6 models or authority to allow a transfer of density of any  
7 amount from Spring Valley in the way that the applicant is  
8 requesting.

9           In my opinion, this project provides no  
10 preservation benefits to the landmark as claimed. Unlike  
11 with the Heurich Mansion in the 1970s, local historic  
12 preservation protections for the shopping center now exist  
13 and are enforceable.

14           Even if a transfer density were allowable under  
15 current zoning regulations, a second layer of protection  
16 that the applicant claims would provide -- claims that  
17 this would provide would be meaningless. From a  
18 preservation perspective there is no justifiable reason to  
19 include the shopping center in the project lot beyond  
20 trying to take what there may be of its unused density.

21           I thank you for this opportunity to comment on  
22 the project.

23           MR. REPP: Thank you. The Design Review  
24 Regulations also require the Commission to make a finding  
25 that a proposed project will not have an adverse impact.

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1 Contrary to the regulations, if the community will be  
2 adversely impacted by additional traffic and neighborhood  
3 parking overload.

4 The Gorove/Slade supplemental transportation  
5 memorandum is based on estimates more than two years old  
6 that did not take into consideration significant changes  
7 in the neighborhood since then.

8 Gorove/Slade estimates that the project would  
9 generate 322 additional trips per hour during the  
10 afternoon peak hours. No estimate of the total amount of  
11 weekend traffic is provided.

12 Our critique of the applicant's CTR prepared by  
13 MCV Associates using metrics from the Institute of  
14 Transportation Engineers estimates that the project will  
15 generate, at a minimum, an additional 3,400 trips each  
16 weekday.

17 As shown on this table, in each of the three  
18 entrances leading into the site traffic will increase by  
19 more than 600 percent. The volume of traffic in the  
20 alleys will actually reach the levels of nearby streets.  
21 Most cars and trucks will use the alley behind the AU  
22 building.

23 The volume in this alley will be 342 vehicles  
24 during the two-hour period between 4:00 and 6:00 p.m. on  
25 weekdays. Plus, the AU shuttle buses park and load near

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1 the entrance to this alley.

2 Now I'm going to turn this over to my wife  
3 Barbara.

4 MS. REPP: Thank you, Shelly. Good evening,  
5 Commissioners. My name is Barbara Repp. Thank you for  
6 the opportunity to speak this evening.

7 Following up on the alleys I'd like to focus on  
8 pedestrian safety around the site using Valor's own  
9 circulation and loading diagram. In the next slide you  
10 will see handwritten notations that have been added to  
11 provide more context.

12 By way of orientation, Yuma Street is at the  
13 top of the diagram, Massachusetts Avenue is at the bottom.  
14 We'll begin at Point 1 in the lower right-hand corner.  
15 There is the east-west alley entrance off 48th Street that  
16 will be used by pedestrian, cars, trucks and bicyclists to  
17 access and exit the underground parking garage, the  
18 grocery store loading dock and the north-south alley.

19 The proposed six-foot-wide sidewalk along the  
20 alley is interrupted at several vehicle entrances, mainly  
21 at points three, four and five. At point two, which is at  
22 the rear of the AU building there, you see the loading bay  
23 area where trucks and vans park on a regular basis to  
24 service the building and pick up trash.

25 The loading bays are not shown in the

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1 applicant's diagrams. When asked about this omission, the  
2 architect replied that the loading bays were underground.  
3 Well, they are not underground.

4 The impact of these loading bays, which open  
5 directly into the alley, has not been considered in the  
6 applicant's alley system plan.

7 Opposite the loading bays at Point 3 is the  
8 entrance to the garages for the five new townhouses. The  
9 sidewalk is again interrupted at Point 4 near the entrance  
10 to the underground parking garage for residents of the new  
11 building, for grocery store shoppers and for AU staff.

12 Pedestrians must then cross in front of the  
13 entrance to the loading docks near Point 5. Now, if a  
14 large truck cannot comply with DC's front in, front out  
15 regulation, will the truck park and unload in the alley?  
16 What recourse will pedestrians, cars and trucks have while  
17 waiting for this truck to unload?

18 Shown at Point 6 is the exit stairway that will  
19 be used by drivers, including AU staff who have parked in  
20 the underground garage. These pedestrians will be added  
21 to the mix both coming and going as they cross the  
22 east-west alley to enter a rear entrance at the AU  
23 building.

24 At Point 7 the two alleys meet and form a T.  
25 Pedestrians as well as cars, trucks and bicyclists can

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1 then turn left to reach Massachusetts Avenue. However, no  
2 continuous sidewalk exists here along the alley near the  
3 PNC Bank building. Pedestrians will have no choice but to  
4 step into the alley roadway to reach their destination.

5           Going back to Point 7, pedestrians can also  
6 turn right into the north-south alley to reach the grocery  
7 store and they will encounter cars moving in both  
8 directions, as well as the many trucks that you see here  
9 currently servicing CVS and other stores in the Spring  
10 Valley Shopping Center. These trucks unload up and down  
11 the length of the alley and also pick up trash around  
12 Point 8 on the diagram.

13           DDOT has not been able to show that there is an  
14 agreement with the shopping center to coordinate trash  
15 pickups and deliveries, especially with the large trucks  
16 used by CVS.

17           The proposed three-foot-wide sidewalk in the  
18 north-south alley directly abuts the new building and  
19 meets no standards for pedestrian safety. A mother  
20 pushing a stroller or someone who's wheelchair bound could  
21 not navigate the narrow sidewalk safely.

22           In summary, there is no safe pedestrian pathway  
23 or connectivity through the site due to the limitations of  
24 the site and to the density of the project. The alley's  
25 infrastructure simply was not designed to handle the

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1 increase in pedestrian and two-way car and truck traffic  
2 resulting from the project.

3           Contrary to the Comprehensive Plan, the project  
4 actually increases the number of pedestrian-vehicle  
5 conflict points and also undermines the goal of Vision  
6 Zero. A smaller, less dense project on this site could  
7 provide our neighborhood the safe pedestrian pathways,  
8 attractive public spaces and usable connections to the  
9 commercial area on Massachusetts Avenue. Thank you for  
10 your time.

11           Michael Stover will now address the project's  
12 failure to comply with the height act.

13           MR. STOVER: I'll be very brief. My name is  
14 Michael Stover and I live three blocks from the Superfresh  
15 site.

16           Valor's base height measurement point for this  
17 project is from the curbside of 48th Street, which rests  
18 upon the artificial embankment shown in the photograph  
19 before you. This is what allows them to raise a massive  
20 building almost 80 feet high at the downhill end.

21           Section 307.7 of your rules prohibits that.  
22 Valor must take its height measurement from the Yuma  
23 Street curb grade instead, which will result in a somewhat  
24 shorter building.

25           You have my written testimony which fully

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1 answers Valor's new and meritless legal arguments about  
2 the meaning of 307.7. The point I want to make tonight is  
3 that Valor has failed to give the Commission a legally  
4 sufficient quantum of evidence to find that no such  
5 artificial embankment exists.

6 Their expert witness did not even try to  
7 explain how the roadbed for 48th Street could have been  
8 made level across the steep slope that runs from above the  
9 site down to the Spring Valley Shopping Center without the  
10 road engineers making the wide, flat embankment that  
11 exists today for anyone to see.

12 The only other way to level the roadbed would  
13 have been a road cut with a retaining wall on the uphill  
14 side, which isn't there.

15 Valor's key contention is that the elevation of  
16 265 feet above sea level at curb grade has always been the  
17 same since even before 48th Street was built.

18 This contention gives the misleading impression  
19 that precise before and after comparisons can be made  
20 between modern elevation readings and extrapolations from  
21 old topographic maps. They cannot.

22 Even Valor's expert witness said that elevation  
23 readings from the old topographic map is approximate. A  
24 ten-foot high embankment would be within the margin of  
25 inaccuracy associated with those old maps and their

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1 elevation readings as I explain more fully in my written  
2 testimony.

3           Therefore, Valor is asking the Commission to  
4 make an arbitrary and unsupported finding of fact which is  
5 plainly contradicted by the visible presence of a  
6 58-foot-wide flat landscaped embankment supporting both  
7 48th Street and its sidewalk. Thank you very much.

8           MR. REPP: Okay, well, thank you. I know we're  
9 running short of time. There are additional problems with  
10 this site here that are on the slide, but I'm not going to  
11 go into them.

12           In conclusion, CRD states that by expressed  
13 concerns of the design review regulations, the Zoning  
14 Commission cannot approve the Valor application. The  
15 Commission instead should encourage Valor to work with the  
16 neighbors on a right-sized design.

17           MR. DONOHUE: Thank you, Mr. Chairman. If we  
18 can stop the clock to allow the other parties to come up,  
19 we'll rest.

20           CHAIRMAN HOOD: Okay. All right. Thank you  
21 all for your presentation. I do have one or two  
22 questions. There was a chart and I don't see it. It was  
23 a before and after chart. I think it was blue and orange  
24 or whatever color it was. Oh, I do see it. Okay.

25           So traffic through the alley, can we put that

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1 back up? Let's talk about this for a moment. I think it  
2 was you, Ms. Repp. Was this your --

3 MR. REPP: It was me. I was the one --

4 CHAIRMAN HOOD: It was you.

5 MR. REPP: -- that brought this up. This is  
6 using the Gorove/Slade comprehensive traffic review that  
7 the blue is the existing traffic, you know, through the  
8 alleys and the red is the what it will be given all the  
9 extra traffic that is generated by this site using  
10 Gorove/Slade's numbers, which themselves are based on the  
11 Institute of Transportation Engineer's numbers.

12 CHAIRMAN HOOD: So if sometime, let's say the  
13 density is reduced and some of what you all are asking for  
14 happens. Well, this will still be an issue wouldn't it?

15 MR. REPP: Well, it'll be -- the red line will  
16 be lower. I mean, if the grocery, you know, two-thirds,  
17 roughly 65 or so to 70 percent of the traffic comes from  
18 the grocery store at the size of the grocery store that  
19 they have proposed. So that's one of the issues. If  
20 there was no grocery store or a smaller grocery store  
21 there would be less traffic, number one. If there were,  
22 as we had proposed or I had proposed and talked before, if  
23 they had come down, you know, another floor and eliminated  
24 some of the residential units there'd be less traffic,  
25 too.

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1           So the traffic is generated by, number one, the  
2 grocery store and number two, the residences. And I must  
3 say, this is a mile from the metro so everybody is going  
4 to, almost everybody, and actually the DDOT person said  
5 this a year ago, almost everybody's going to have a car.

6           CHAIRMAN HOOD: All right. Let's talk about  
7 307.7, turn curb. Now, you're saying that due to the fact  
8 of the way the measurements are coming from the applicant  
9 it goes against our 307.7. Which actually regulation are  
10 you actually specifically talking about? Is it A, B, C,  
11 or D or all of them?

12           MR. STOVER: Well, A, B, C, and D are the  
13 alternatives that you have to go to if the measurement  
14 point is on the front of the building where there is any  
15 kind of artificial embankment that raises the elevation.  
16 So that's the main paragraph of the rule, says if there's  
17 an artificial embankment, ramp, retaining wall, et cetera,  
18 you can't take your measurement, your height measurement  
19 from that point. So A, B, C, and D then give you the  
20 alternatives.

21           We think A and B don't apply. We think C is  
22 the simplest solution because it says you go to the front  
23 of the building that has a natural grade in front of it  
24 and that would be halfway down Yuma Street, which is  
25 actually where the front of the building really would be,

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1 which would lower that building by about one floor.

2           The paragraph D would have the Commission refer  
3 the matter to the Zoning Administrator who would then make  
4 a determination as to where the measuring point would be  
5 for the height measuring based upon a base level that  
6 would reflect the surrounding grid of houses and shops.

7           So we think that would be a good alternative,  
8 too, because that base level of surrounding houses and  
9 shops would mean the houses along Yuma Street, the Spring  
10 Valley Shopping Center. And this, too, I think, would  
11 result in a base level that would bring about a building  
12 more in harmony with the existing features in the  
13 neighborhood.

14           But instead, what Valor has done is picked the  
15 highest point they can at the top of the slope, the top of  
16 the 26-foot slope down to the alley and that point has  
17 been raised at the time of the building of 48th Street by  
18 that artificial embankment. And you see that embankment.  
19 It's 30 feet across the flat roadbed of 48th Street and  
20 another 29, 30 feet to the retaining wall that holds that  
21 embankment in place.

22           And our point is before that road was built  
23 there, there was a continuous slope shown on the old  
24 topographic maps that sloped down, down, down to the  
25 alley. You can't have a road that has you driving like

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1 this along, you know, across the slope. You have to get  
2 that road level so you drive levelly.

3           You can, as I said, you can do that by raising  
4 the downhill side with some sort of embankment that  
5 artificially raises the curb, the downhill curb of that  
6 road, or having a road cut on the uphill side where the  
7 retaining wall, as you can see in some parts of our  
8 neighborhood.

9           Here I think the visual evidence is absolutely  
10 compelling that there is a really big berm or embankment  
11 right there holding up the curbside of that road so that  
12 brings into play the main paragraph of 307.7 that says if  
13 you have any sort of artificial elevation change to the  
14 curb then you have to follow the methods that apply, which  
15 we think are C and D of finding a natural point of  
16 elevation from which the height of the building can be  
17 measured.

18           CHAIRMAN HOOD: So if D comes back not the way  
19 you would like to see it, if the interpretation of the  
20 Zoning Administrator -- so you're back at the same  
21 problem.

22           MR. STOVER: Well, I don't think the Zoning  
23 Administrator could reasonably say, well, let's go to the  
24 high point because then you'd be right back into the  
25 forbidden zone of 307.7, which says you can't take your

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1 measurement point from there.

2           The Zoning Administrator might pick some other  
3 measuring point that in the opinion of the Zoning  
4 Administrator would reflect the base level of the  
5 surrounding grid of houses and shops, but I think a  
6 reasonable determination would go in our favor and would  
7 be somewhat lower than the extreme high point that Valor  
8 has picked to erect the most massive building it possibly  
9 can.

10           CHAIRMAN HOOD: Okay. All right. Thank you.

11           MR. REPP: Can I add two things here? First of  
12 all, the grade here actually starts on your diagram there  
13 up left, up to the left at 47th street and then it comes  
14 down all the way to 48th, which is the picture there, and  
15 then down to the Spring Valley Shopping Center.

16           And actually also the main entrance to this  
17 building, both for the residences and the shopping center  
18 is on Yuma Street. So --

19           CHAIRMAN HOOD: Okay. And also, Mr. Shuler, my  
20 last question. Mr. Shuler, I understand how pictures and  
21 lenses work. We had a case one time some years ago at the  
22 same time, same case, 1 o'clock no cars, same date, 1  
23 o'clock, some of the opposition comes in with plenty of  
24 cars. So I understand how all that works and it kind of  
25 goes not necessarily specific to what you're saying. So,

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1 you know, I think we can, that's something that we will  
2 look more into, because I know that you can do a lot of  
3 tricks with cameras and lenses. And I understand that.

4 Any other questions up here? Okay.

5 Cross-examination, ANC 3D? Any cross? Has ANC  
6 3E arrived yet? They must be watching the Golden State  
7 game.

8 (Laughter.)

9 MR. KRAVITZ: Sure. Let's start with in our  
10 testimony on January 7th, ANC 3D made two points about how  
11 we view the traffic considerations that had been presented  
12 to us. The first is the traffic impact to the building  
13 two stories shorter and with 68 fewer apartments and a  
14 slightly larger grocery of 22,000 to 28,000 square feet  
15 would generate the same or more traffic than the current  
16 proposal.

17 As you know, ANC 3D contributed \$1,000 towards  
18 CRD's traffic critique done by Mr. Joe Meara. Did CRD ask  
19 Mr. Meara to analyze such a proposal?

20 MR. REPP: Yes. We submitted today a --

21 MR. DONOHUE: Excuse me, Mr. Chairman, I'm  
22 going to object. This is cross-examination of the  
23 testimony given today. He's asking about a 3D exchange  
24 with CRD.

25 CHAIRMAN HOOD: So ask did 3D -- let me ask

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1 this. The way I understood it 3D funded the CRD?

2 MR. KRAVITZ: A previous Commission of ANC 3D  
3 paid \$1,000 to Mr. Meara for the purposes of that traffic  
4 study. I was actually referring to, as Mr. Repp correctly  
5 picked out, I was referring to the Exhibit that CRD  
6 submitted today, so --

7 CHAIRMAN HOOD: So you're asking about his  
8 testimony here this evening?

9 MR. KRAVITZ: He did talk about traffic in his  
10 testimony. Presumably referencing the document he  
11 submitted today, yes.

12 MR. DONOHUE: My objection goes to  
13 cross-examination testimony given in a previous hearing.

14 CHAIRMAN HOOD: Yes, but I think the question,  
15 the way I understood the question was did ANC pay? I'm  
16 trying, and maybe I'm missing it.

17 MR. REPP: Can I just ask you --

18 CHAIRMAN HOOD: Did the ANC pay for their  
19 study?

20 MR. KRAVITZ: We did contribute \$1,000 towards  
21 that study, a previous Commission of ANC 3D.

22 CHAIRMAN HOOD: Were you on that Commission?

23 MR. KRAVITZ: I was not. But that's not my  
24 question right now. My question is --

25 CHAIRMAN HOOD: So that was my question.

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1 MR. KRAVITZ: Oh, yes. Yes.

2 CHAIRMAN HOOD: That was my question --

3 MR. KRAVITZ: That's right.

4 CHAIRMAN HOOD: -- because I know ANC law as  
5 well.

6 MR. KRAVITZ: That's right. It was done on  
7 December 2016. There was no notice to the public or  
8 fellow commissioners during the vote. I have a transcript  
9 and a recording.

10 CHAIRMAN HOOD: Okay. I just wanted to know  
11 for my own, you know? I don't want to touch that one, so  
12 what I'll do is --

13 (Laughter.)

14 CHAIRMAN HOOD: -- let's just move on now.

15 MR. KRAVITZ: Sure, so my question is you  
16 referenced traffic. Did Mr. Meara study a proposal that  
17 was two stories shorter, the traffic impacts?

18 MR. REPP: No.

19 MR. KRAVITZ: Our second point was the traffic  
20 under the counterproposal is estimated to be about the  
21 same as if the existing buildings on the site were simply  
22 repopulated without any construction whatsoever. The  
23 numbers in Exhibit 406, the one you were referring to  
24 earlier, suggest that occupying the current buildings and  
25 nothing more would result in traffic 10 to 20 percent

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1 higher than under the current proposal.

2 Did CRD have Mr. Meara provide traffic  
3 estimation numbers for the site without any construction?

4 MR. REPP: I'm missing the point of your  
5 question here, but the fact is that the, well, why don't  
6 you repeat the question?

7 MR. KRAVITZ: Did CRD have Mr. Meara provide  
8 traffic estimation numbers for the site without any  
9 construction, if the 44,000 square feet of leasable space  
10 was repopulated?

11 MR. REPP: Well, first of all, there's not --  
12 well, there's the, most of the 44,000 square feet of  
13 leasable space is in the basement, so it's not the grocery  
14 store itself. The proposed grocery store is the same,  
15 roughly the same as the Superfresh site and so you could  
16 take the numbers in what was submitted today, we filed  
17 today, and figure out what the grocery store would be.

18 And most of the rest is basement space that's  
19 not going to have a lot of traffic.

20 MR. KRAVITZ: I'll move on. In your  
21 presentation you note that almost 600, in your  
22 presentation tonight, almost 600 Ward 3 residents oppose a  
23 building as large as Valor proposes. Commissioner McHugh  
24 asked you about this one year ago, but how do you know the  
25 signatories oppose Valor's proposal? Hasn't the proposal

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1 changed considerably over time?

2 MR. REPP: What I testified to today was that  
3 600 residents of Ward 3 stated that they would like to see  
4 a two to three-story building on the site.

5 MR. KRAVITZ: I believe it also says, and my  
6 notebook's back there, I believe on Page 25 it also says  
7 that there was, in quotes, but not a building as large as  
8 Valor proposes.

9 MR. REPP: That's not what I testified to  
10 today.

11 MR. KRAVITZ: I believe that's on Page 25 of  
12 your slides, but that's -- let me look at my notes.

13 MR. REPP: No, you're right.

14 MR. KRAVITZ: So my question is how do you know  
15 --

16 MR. REPP: Well, once again, once again, the  
17 building that's being proposed today is a four to  
18 six-story building, not a two to three-story building, and  
19 the 600 residents of Ward 3 that signed the petition that  
20 you're referring to, or 587 I think said that they would  
21 support a building of two to three stories.

22 MR. KRAVITZ: But do they --

23 MR. REPP: And I have testified, as you know,  
24 saying that I would support a building that was a little  
25 bit larger than that. I wasn't, I don't want to be

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1 confined to that number, so --

2 MR. KRAVITZ: But you're not saying now that  
3 they would not support, that they do not support a  
4 building as large as Valor proposes?

5 MR. REPP: I mean, the petition -- no. I mean,  
6 I don't know what they would say today, so once again,  
7 they said that they would support a two to three-story  
8 building and I'm sure that's still the case.

9 MR. KRAVITZ: Do you know when most of the --  
10 how large the grocery was when most of those signatures  
11 were collected?

12 MR. REPP: Roughly the same size as the  
13 proposal, well, I mean, we don't know what the size of the  
14 grocery here is, what's being proposed. It's somewhere  
15 between 13,600 and 20,000, which is the total amount of  
16 retail space, so --

17 MR. KRAVITZ: How do I get this to display? Is  
18 there a way? Is that relevant?

19 CHAIRMAN HOOD: What, are you trying to look up  
20 something?

21 MR. KRAVITZ: I just have a graphic that --

22 CHAIRMAN HOOD: Is it already in the record?

23 MR. KRAVITZ: Yes. You guys have it before  
24 you. I have copies for the parties if they'd like.

25 CHAIRMAN HOOD: Okay.

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1 PARTICIPANT: I'm sorry, so has it been filed  
2 or has it not?

3 MR. KRAVITZ: Yes. It's with -- this is the  
4 graphic I'm referring to.

5 CHAIRMAN HOOD: Is this it, this --

6 MR. KRAVITZ: Yes, in there, yes, the first  
7 page.

8 PARTICIPANT: Do you have another copy?

9 MR. KRAVITZ: Sure. Thank you.

10 CHAIRMAN HOOD: And I'm going to need to come  
11 to the applicant. Mr. Glasgow, I forgot the applicant  
12 should have done the cross first, so forgive me. I do  
13 make mistakes.

14 MR. KRAVITZ: Should I continue or should I --

15 CHAIRMAN HOOD: No, no, no. Go ahead and  
16 continue.

17 MR. KRAVITZ: Thank you. Okay. It's here,  
18 sorry. Let me just organize.

19 MR. DONOHUE: Mr. Chairman, if this is  
20 testimony, if this is a new exhibit it ought to have  
21 properly come in when 3D presented January 7th. This is  
22 cross-examination of Mr. Repp's testimony.

23 CHAIRMAN HOOD: Yes, I'm going to actually  
24 uphold the objection, Commissioner Kravitz. This should  
25 have been -- this is new -- are you testifying to this or

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1 are you asking -- because this is --

2 MR. KRAVITZ: So this is --

3 CHAIRMAN HOOD: Let me just say this. Your  
4 cross-examination is to his testimony. He didn't bring  
5 this, you did.

6 MR. KRAVITZ: That's right. It's just to help  
7 with when the answers come to evaluate the --

8 CHAIRMAN HOOD: So ask the question about his  
9 testimony, not about yours.

10 MR. KRAVITZ: Sure, okay. In your presentation  
11 you mentioned 50 -- I'm sorry. In your presentation you  
12 mentioned 50 individual letters in opposition to the  
13 revised proposal. How many of them were from people who  
14 had already submitted letters in opposition?

15 MR. REPP: The letters in opposition that I  
16 refer to are all letters that had been submitted since  
17 October of 2018 --

18 MR. KRAVITZ: That's right.

19 MR. REPP: -- the current proposal.

20 MR. KRAVITZ: Yes. And actually it's more than  
21 50. It's 64.

22 MR. REPP: That's right, 64.

23 MR. KRAVITZ: There are a few duplicates. I  
24 think 58. I'll move on to the next one. So along the  
25 same lines, there were a number of letters of support. Do

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1 you know how many of them are from neighbors in AU Park or  
2 Spring Valley?

3 MR. REPP: I mean, there are a number from  
4 Spring Valley. I also looked at them, and 27 of them are  
5 identical form letters.

6 MR. KRAVITZ: Okay. Your submission in Exhibit  
7 332, the Transportation memo, again on traffic, actually  
8 quotes that the N4 and N6 buses are not heavily used.  
9 This also came up in reference to whether it was a  
10 high-speed corridor or a rapid transit. I'm not sure. Do  
11 you know how many riders take the N bus lines each month?

12 MR. REPP: No, I don't, but I can tell you that  
13 the bus stop at Massachusetts and 48th, which is the  
14 closest one to this stop, there's frequently there's only  
15 one or two, if that many, people waiting for it or getting  
16 on.

17 MR. KRAVITZ: Do you know --

18 MR. DONOHUE: Mr. Chairman, can I ask what --

19 MR. KRAVITZ: -- how many busses are largely  
20 empty at that time?

21 MR. DONOHUE: Can I ask what the graphics are  
22 that are up on the screen? Is this additional 3D  
23 testimony or --

24 MR. KRAVITZ: Actually this was, the 90,000 was  
25 in our --

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1 MR. DONOHUE: Well, I'm asking what's on the  
2 screen right here it's a Metro bus graphic.

3 MR. KRAVITZ: This is.

4 MR. DONOHUE: So is this part of 3D's  
5 presentation?

6 MR. KRAVITZ: I'm not sure how to answer that.

7 MR. DONOHUE: Or was it part of Mr. Repp's  
8 testimony? Because if it's not, I'm going to object.

9 CHAIRMAN HOOD: Who submitted this bus  
10 schedule?

11 MR. KRAVITZ: So this was -- this I brought to  
12 the previous meeting, and Ms. Schellin had at the previous  
13 meeting, but since we got cut off in the middle --

14 CHAIRMAN HOOD: Oh, yes. Okay.

15 MR. KRAVITZ: It was all submitted on the 7th,  
16 but --

17 CHAIRMAN HOOD: Yes, and Mr. Repp testified to  
18 it?

19 MR. KRAVITZ: He testified about the bus. His  
20 submissions --

21 CHAIRMAN HOOD: So we don't need to see the  
22 schedule.

23 MR. DONOHUE: Right.

24 CHAIRMAN HOOD: Just ask him the question about  
25 what he testified.

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1 MR. KRAVITZ: That's what I was trying to do.  
2 I was just throwing this up there. I asked him how many  
3 passengers.

4 CHAIRMAN HOOD: We don't need it. That seems  
5 to cause a problem. Just ask him the question --

6 MR. KRAVITZ: Okay.

7 CHAIRMAN HOOD: -- about what he is talking,  
8 because what you're doing is you're asking a question and  
9 trying to show evidence to prove whatever his answer is  
10 incorrect. So let's leave that out --

11 MR. KRAVITZ: Okay.

12 CHAIRMAN HOOD: -- and just ask the question.

13 MR. KRAVITZ: Okay, so then that was fine. I  
14 asked about how many riders take the N bus each month. I  
15 guess the other ones are how that compares to other bus  
16 lines, both, and like, whether or not that number of  
17 90,000 is considered heavily used or not, so --

18 MR. DONOHUE: Objection.

19 MR. KRAVITZ: Yes, I don't know how to ask that  
20 in light of -- otherwise he has to take my word that it's  
21 90,000 and I don't --

22 MR. DONOHUE: Objection, Mr. Chairman. He's  
23 not asking him questions about his testimony. He's asking  
24 him his opinion about busses.

25 MR. KRAVITZ: I'm displaying my naivety here.

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1 The ridicule is rightly earned. In Mr. Repp's written  
2 submission there was a line that said the N busses are not  
3 heavily used.

4 Now I don't think he said that line tonight, so  
5 we are talking about something that was since the -- I  
6 don't know what exhibit it is, Exhibit 332, so is that --  
7 that's fine. I can stop the questioning here. There's  
8 really, I think, no benefit. No further --

9 MR. DONOHUE: No objection?

10 MR. KRAVITZ: No further questions, Your Honor.  
11 Well played.

12 CHAIRMAN HOOD: All right. Mr. Glasgow, do you  
13 have any cross?

14 MR. GLASGOW: I have a couple of questions.  
15 First question is for Mr. Hansen. Mr. Hansen, you did a  
16 lot of talking about TDRs. Is there any place in the  
17 record where the applicant said they were using TDRs?

18 MR. HANSEN: I believe there is not. They are  
19 just referring to transferring density --

20 MR. GLASGOW: Okay, thank you.

21 MR. HANSEN: -- which is a right.

22 MR. GLASGOW: Thank you. Next question, or for  
23 Mr. Hansen, or I'm sorry, Mr. Stover. Mr. Stover, did the  
24 homes along 48th Street exist before the Superfresh site  
25 was constructed in approximately 1964?

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1 MR. STOVER: Oh yes. There is a gentleman in  
2 this room whose house is at the corner of Windom and 48th  
3 Street, whose house was built in 1939 or 1940, and I think  
4 there are several others from that same period, so yes,  
5 they are considerably before 1960 and before 1945.

6 MR. GLASGOW: All right. Next, was 48th Street  
7 constructed before the retaining wall on the Superfresh  
8 site was constructed?

9 MR. STOVER: I do not know. We've had  
10 difficulty finding out exactly when 48th Street was  
11 constructed. I do have a map from 1920 showing the layout  
12 of 48th Street, presumably before it was constructed, but  
13 I do not know when it actually was constructed.

14 MR. GLASGOW: But you don't know or do you know  
15 whether or not 48th Street existed before the Superfresh  
16 site was constructed in 1964?

17 MR. STOVER: Could you repeat that question?  
18 Did 48th Street exist before? Yes. Yes. We have, I can  
19 submit in for the record a photograph which clearly shows,  
20 an aerial photograph which clearly shows the area in the  
21 1940s. Some of the existing houses are there, some are  
22 not.

23 And it shows the big embankment there I've been  
24 referring to plus the excavation for the Superfresh site.  
25 That was a major excavation that took place.

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1           So the road was certainly there at the time the  
2 excavation was being made, and that was well back into the  
3 1940s.

4           MR. GLASGOW: All right, so the road was  
5 already there when the Superfresh building was  
6 constructed.

7           MR. STOVER: I believe it was.

8           MR. GLASGOW: Thank you. I have no further  
9 questions of this witness.

10          CHAIRMAN HOOD: Okay. Thank you.

11          Let's see if the Ward 3 Vision, do you have any  
12 cross?

13          MR. WHEELER: Yes, sir.

14          CHAIRMAN HOOD: Okay.

15          MR. WHEELER: I have a question for Mr. Repp  
16 and it concerns -- you mentioned the objections by the  
17 Westmoreland Circle Citizens Association. Where are they  
18 located?

19          MR. REPP: Just outside of the DC line off of  
20 Massachusetts in Bethesda.

21          MR. WHEELER: Nine hundred and ninety homes.

22          MR. REPP: In Bethesda, yes.

23          MR. WHEELER: And is it the gist of their  
24 objection that construction at this site would cause  
25 congestion that would delay their commute through the

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1 area? You've read their letter. Their letter's in the  
2 record. It's Exhibit Number 267. Isn't that the gist of  
3 their letter?

4 MR. REPP: Traffic is one of their issues, yes,  
5 on Massachusetts Avenue and yes, and off of Massachusetts.

6 MR. WHEELER: Did they have any issue other  
7 than traffic?

8 MR. REPP: I'd have to go back and look.

9 MR. WHEELER: Okay, that's all.

10 CHAIRMAN HOOD: Okay. Spring Valley, you have  
11 any cross?

12 MR. CLARKSON: Thank you very much, just two  
13 questions, one regarding the Westmoreland Citizens  
14 Association letter that was submitted. Do you think that  
15 letter should hold the same weight as letters submitted by  
16 DC citizens groups, DC-based citizens groups?

17 MR. REPP: I think that the Westmoreland  
18 Citizens Association understands the traffic issues on  
19 Massachusetts, maybe even more than some of the people in  
20 Spring Valley who cut through and go down to MacArthur  
21 Boulevard, so I think they understand the traffic impact  
22 of this.

23 MR. CLARKSON: So even --

24 MR. REPP: Potential traffic impact.

25 MR. CLARKSON: So even though there are not,

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1 those 990 homes that are allegedly members of the  
2 Westmoreland Association, they should be given greater  
3 credence before this, the DC Zoning Commission than local  
4 DC residents?

5 MR. REPP: There are neighborhood associations  
6 here in the city that are, you know, like our  
7 organization, like Spring Valley West Homeowners  
8 Association, who are opposed to this, too. I mean,  
9 they're not the only party, not the only organization  
10 that's opposed to this.

11 MR. CLARKSON: But they're based in DC, like  
12 Spring Valley West is a DC, DC residents.

13 MR. REPP: Right. The project here clearly has  
14 impacts beyond the DC border.

15 MR. CLARKSON: Okay. Another question just to  
16 clarify regarding your testimony about the grocery.  
17 Specifically you raise a concern about 60 to 70 percent of  
18 the traffic from the proposed development would come from  
19 the grocery.

20 And I mean, it appears, you know, my  
21 understanding is that you would prefer a matter of right  
22 residential-only development than to a development with a  
23 full-service grocery. Is that accurate?

24 MR. REPP: What I have told you personally  
25 before is that our main issue is the height of the

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1 building, and the grocery store has been proposed as an  
2 amenity to basically encourage the neighbors like my wife  
3 and I to tolerate a six-story building. Well, that's not  
4 a tradeoff that's acceptable to us.

5 MR. CLARKSON: So you don't view --

6 MR. REPP: So you're putting -- don't put words  
7 in my mouth.

8 MR. CLARKSON: I'm not. I'm not.

9 MR. REPP: Yes, okay.

10 MR. CLARKSON: I'm not. I just wanted to  
11 confirm that you --

12 MR. REPP: Okay, yes.

13 MR. CLARKSON: -- would prefer, under this  
14 current proposal you would prefer a residential-only  
15 project?

16 MR. REPP: You're putting words in my mouth.

17 MR. CLARKSON: No.

18 MR. REPP: All I said is that our main issue is  
19 that our main issue is the height of the building and the  
20 grocery store is not a tradeoff to having a higher  
21 building. If there's a lower building then everything  
22 else is negotiable.

23 MR. CLARKSON: Okay, a related question. In  
24 Exhibit 221 that was submitted last year by CRD, their  
25 findings of fact and conclusions of law, there's a Section

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1 E that says, that's titled The Applicant's Record of  
2 Deception.

3           And in that section one of the bullets is Valor  
4 did not discourage the community from believing that it  
5 would be a real grocery store like a Harris Teeter. My  
6 question is would you rather have a 45,000-foot, 50,000  
7 square-foot Harris Teeter alone on the site and no  
8 residential, no six-story building?

9           MR. REPP: And that's a hypothetical, but I  
10 will say that right now there's a Wegmans. The ground has  
11 already been broken on a Wegmans, which is basically a  
12 mile away. And that's a full-service, certainly a  
13 full-service grocery store, and I'll just leave it at  
14 that. Thank you.

15           CHAIRMAN HOOD: Let me just ask this question.  
16 It's good that you do cross-border and I'm just curious.  
17 Now do we also participate on the other side? Do they  
18 invite you over to comment on things? I mean, I'm just,  
19 the reason I'm not going in line with being -- I think  
20 it's actually good to go cross-border, but I'm just  
21 wondering if it's reciprocated?

22           MR. REPP: Not our organization. I mean, this  
23 project affects us personally, and we've been trying to  
24 basically leaving no stone unturned --

25           CHAIRMAN HOOD: Okay.

1 MR. REPP: -- to try to figure out --

2 CHAIRMAN HOOD: Okay.

3 MR. REPP: -- reasons to oppose it.

4 CHAIRMAN HOOD: Okay, okay, but I heard you say  
5 that the floor issue, we had another one in that ward that  
6 we dealt with the floor some years ago. The floor issue,  
7 and I'm getting feedback from something.

8 Oh, okay. No, I don't think it was because you  
9 and I are having an exchange. I think the floor issue for  
10 you, if a floor was taken off, then everything else, you  
11 could work through everything else. Is that what I'm  
12 hearing from you?

13 MR. REPP: What I have told people, including  
14 Troy Kravitz in the past, is that if they came down two  
15 floors that I would stop my opposition. They came down  
16 half a floor is what they did, half a floor, six feet, so  
17 -- and the density is the same. Basically this is a, you  
18 know --

19 CHAIRMAN HOOD: So I misheard you. I thought  
20 you said one floor. You're saying two floors.

21 MR. REPP: What I have said in the past is that  
22 if they came down two floors, that I would, that at least  
23 personally, that I would cease to be opposed to this. Now  
24 you know, they come down half a floor. If they came down  
25 one more floor, we're probably in the game.

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1 CHAIRMAN HOOD: So let me ask you if --

2 MR. REPP: And as a matter of fact I have  
3 proposed that at a meeting we had with Will Lansing and  
4 others back in November after this project came out.

5 CHAIRMAN HOOD: And you're basically speaking  
6 for yourself, not your group?

7 MR. REPP: No, it was the group proposed it.

8 CHAIRMAN HOOD: Oh, the group. This was the  
9 group.

10 MR. REPP: Yes. There was four of us that met  
11 with Will Lansing at that point in time and Shane Dettman.

12 CHAIRMAN HOOD: Okay, all right. I'm sorry,  
13 Mr. Clarkson. Have you finished your cross-examination?

14 MR. CLARKSON: Yes.

15 CHAIRMAN HOOD: Okay. All right. Well, thank  
16 you.

17 Ms. Gates, do Spring Valley and the Neighbors  
18 for a Livable Community have any cross?

19 MR. SMITH: Good evening. I have a question  
20 for Mr. Hansen. With respect to the density transfer from  
21 the Spring Valley Shopping Center, will that impact --  
22 does it have the potential to impact future uses of that  
23 site, future land uses of that site?

24 MR. HANSEN: Uses would be dictated by zoning,  
25 so I can't speak to that.

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1 MR. SMITH: Okay. Maybe I can --

2 MR. HANSEN: Maybe, well, you need to be more  
3 specific about it.

4 MR. SMITH: Okay. Let me try, and will it  
5 affect future development of that site? For example you  
6 mentioned, you made reference to the fact that there were  
7 changes on the other side of Mass Avenue at the Spring  
8 Valley, what is now known as the Spring Valley Village  
9 Shopping Center but was also designated historic.

10 With limitations the applicant has argued that  
11 the density transfer preserves the historic character,  
12 let's say. My question to you is that if, and I'm not  
13 saying if something happens to that site, I mean, nothing  
14 happened to the Spring Valley Village Shopping Center, but  
15 could there be a proposal to develop that site, even  
16 though it's an historic property, to add on to it? Could  
17 not somebody apply, couldn't the owner apply under DC's  
18 historic preservation rules to add to that site?

19 MR. HANSEN: Yes, they could apply.

20 MR. SMITH: Okay, and if there's a density  
21 transfer, would the owner then be limited --

22 MR. HANSEN: Yes.

23 MR. SMITH: -- that's what I'm trying to get.  
24 Can you help me understand that a little bit?

25 MR. HANSEN: It's pretty simple math. Let's

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1 say you have 10,000 square feet. You've only used 5,000  
2 of it for your building, which becomes a landmark. Then  
3 theoretically you would have up to another 5,000 feet that  
4 should transfer.

5           Once that's transferred that is not available  
6 density on that site anymore.

7           MR. SMITH: Do we know under this proposal how  
8 much density is being transferred from the shopping center  
9 site to the Valor site?

10           MR. HANSEN: Shelly?

11           MR. REPP: The answer is yes, we do know. I  
12 mean, there is, I mean, I don't have the number in front  
13 of me, but yes, there is a number of, you know, but what  
14 we haven't seen is what agreement goes with this. As far  
15 as what the Spring Valley Shopping Center is agreeing to,  
16 as far as what they could do going forward. That  
17 agreement is not available. It's not public, even though  
18 I think the Commission has asked for it in the past.

19           MR. SMITH: So then we wouldn't know about  
20 potential for future development at that site. Okay.

21           Can you put up the picture that you had of the  
22 alleyways that has all the numbers in it? And I have one  
23 question about that. Yeah, the graphic that Barbara spoke  
24 to, yeah.

25           MS. REPP: The blue and orange graphic?

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1 MR. SMITH: No, no, no, the one that you spoke  
2 to with the numbers in it, that shows the alleys very  
3 clearly designated when you were talking about all the --  
4 that it wasn't a continuous alley and you had to cross all  
5 the -- yes. That's it. It was easier for me to see it  
6 back there than here.

7 Actually I wanted, the three-foot-wide sidewalk  
8 is, that's the north, that's across from Point 8. Is that  
9 correct?

10 MS. REPP: Yes.

11 MR. SMITH: Okay, and the trucks when they come  
12 in, they're coming in off Yuma and then turning into that  
13 alley, and when you did, there was some discussion at the  
14 last hearing about trucks having difficulty making that  
15 turn, and the result was a lot of concrete broken up. Is  
16 that right?

17 MS. REPP: Yes.

18 MR. SMITH: Is that right there on that corner?

19 MS. REPP: Yes, there's been damage done over  
20 the years, because trucks just cannot make that turn. As  
21 a result some truck drivers told the state they don't even  
22 attempt to go in the alley anymore. They, you know, do  
23 the stopping on Yuma to unload.

24 COMMISSIONER SHAPIRO: Mr. Chair, Mr. Smith,  
25 can you be, or Ms. Repp, can you be specific? I'm not

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1 sure which intersection you're talking about.

2 MR. REPP: It would be Yuma and the north-south  
3 alley there, that 20-foot public alley, just --

4 COMMISSIONER SHAPIRO: So the turn into Yuma or  
5 off --

6 MR. REPP: Yes. If you see where the --

7 COMMISSIONER SHAPIRO: -- of Yuma.

8 MR. REPP: -- grocery entry is?

9 COMMISSIONER SHAPIRO: Right. Right there.

10 MR. REPP: Right there.

11 COMMISSIONER SHAPIRO: Okay, thank you.

12 MR. REPP: Right there.

13 MS. REPP: So Commissioner Shapiro, the --

14 MR. REPP: Sorry.

15 MS. REPP: -- pattern is trucks come up Yuma  
16 and turn right into the alley if they can make it.

17 MR. SMITH: And they, but now, with that, the  
18 area that you're talking about being all broken up, the  
19 concrete where you say that they can't turn --

20 MS. REPP: Yes.

21 MR. SMITH: -- isn't that where they're  
22 planning to have this outdoor area for the grocery?

23 MS. REPP: I think there's probably damage on  
24 both corners, but in particular during our walk around  
25 with DDOT a few weeks ago we did witness personally a

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1 truck that went over that sidewalk where the seating area,  
2 outdoor seating area is going to be.

3 MR. SMITH: Where it says grocery entry there?

4 MS. REPP: Yes. Yes.

5 MR. SMITH: Okay. All right. That's all.

6 Thank you, sir.

7 CHAIRMAN HOOD: Okay. I think we covered  
8 everybody, so thank you all very much, appreciate it.

9 Okay, thank you. Let's go with the next party  
10 in opposition, CRD, I'm sorry, Spring Valley Wesley  
11 Heights Citizens Association and Neighbors for a Livable  
12 Community. Oh I'm sorry, and also Spring Valley West  
13 Homes Corporation. I want to make sure -- okay. I want  
14 to make sure I include everybody now.

15 So CRD was nice. It looks like they left you,  
16 oh, no, wait a minute. They started with 40 minutes,  
17 right? Okay, well, let me keep my comments to myself.

18 Everyone at the table's been sworn in, right?

19 Okay, good. Give us a moment.

20 All Right, you may begin.

21 DR. KRASKIN: Good evening, Chairman Hood and  
22 Commissioners. I'm Dr. Jeffrey Kraskin and I'm here  
23 tonight representing the Board of the longstanding Spring  
24 Valley Wesley Heights Citizens Association. We are  
25 joining in sharing this opposition with Neighbors for a

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1 Livable Community and the Spring Valley West Homeowners  
2 Association, two other neighborhood groups that have  
3 worked over many years to protect neighborhood property  
4 values and make our neighbors, neighborhood, that  
5 continues to attract new families.

6           The Spring Valley Wesley Heights Citizens  
7 Association was established in 1952, so we've been part of  
8 many changes in the neighborhood, some of which we have  
9 vigorously opposed, some of which we have embraced  
10 enthusiastically, some of which we have been improved,  
11 which have been improved, excuse me, by our  
12 recommendations.

13           Once the Zoning Commission granted a request on  
14 June 25th to delay this case, our Board has worked to get  
15 a yes on this project. We shared this goal with Valor  
16 when we were invited to meet with the developer the day  
17 after the revised plan was filed with the Zoning  
18 Commission.

19           It was the first time in the three-year history  
20 of this project that Valor agreed to meet directly with  
21 us. We outlined our efforts to get to a yes in a December  
22 20 filing that Valor objected to, and that was stricken  
23 from the record.

24           Our filing broke no new ground because the  
25 neighborhood impacts of the project it revised were

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1 unchanged. Although we could not meet the filing  
2 deadline, but because the record was still open, we  
3 thought we had a responsibility to update the Commission  
4 but continue to review the project in hopes we might get  
5 to yes before this hearing began.

6           Tonight we reaffirm our opposition to this  
7 project. First, this project is too big and its scale is  
8 incompatible with the surrounding low-density residential  
9 neighborhoods. This project will bring development better  
10 suited at a major Metro station like Cityline at Tenley to  
11 the Spring Valley and AU Park residential neighborhoods  
12 that consist almost solely of single-family homes.

13           Second, the applicant cites compatibility with  
14 the 4801 Mass Avenue building to argue incorrectly that  
15 the building is consistent with the surrounding  
16 neighborhood. The 4801 Mass Avenue building, which housed  
17 professional offices and the first-floor retail before  
18 being purchased by AU, was when first built and is still  
19 today out of scale with other existing commercial  
20 properties along Mass Avenue in this area.

21           Because its height could be measured at the  
22 time not from the operational front of the building on  
23 Mass Avenue but rather from the side entrance on 48th  
24 Street, it could be built as a matter of right and two  
25 stories higher than otherwise would have been allowed.

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1           Despite neighbors' objections about demolishing  
2 the then-Apex Theater to build this box on Mass Avenue,  
3 the Association could do nothing but turn its attention to  
4 the historic character of the neighboring shopping centers  
5 on both sides of Mass Avenue. That is why these sites  
6 earned and were awarded historic designation, to maintain  
7 their significance in DC's development history.

8           Third, the poor design of the project will  
9 result in new traffic and pedestrian safety problems. The  
10 alley system on which this project relies cannot support  
11 this project. The loading docks do not comply with any  
12 safety standard practices as evidenced in attachment B of  
13 our formal testimony. The sidewalks are not safe,  
14 accessible, and do not conform to acceptable design  
15 standards, as outlined in attachment C.

16           Fourth, Valor says the excessive density and  
17 scale is warranted because it would include 18,000 square  
18 feet of retail space for a grocery store, but the site now  
19 contains roughly 40,000 square feet of retail space.  
20 Long-established neighborhood-serving businesses will be  
21 lost.

22           Meanwhile we do not live in a grocery store  
23 desert. As attachment D to our written testimony shows,  
24 there is no shortage of Giants, Safeways, Whole Foods  
25 within two miles of this site, and has been stated

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1 tonight, Mayor Bowser even recently announced the new  
2 Wegmans, which will be built about a mile away, actually  
3 less than that, from my own home.

4 Fifth, Valor's refusal to share more  
5 information about its density transfer means that we have  
6 no clue how it may impact future land use for the Spring  
7 Valley Shopping Center.

8 Sixth, AU is entitled to use 236 parking spaces  
9 on this site as part of the 1979 parking easement, which  
10 has existed since the 4801 Mass Avenue building was  
11 constructed. After three years of negotiations according  
12 to Valor there still is no agreement with AU on parking.  
13 Valor reported at this hearing beginning in January that  
14 AU will have access to only 56 spaces. Until that  
15 agreement is finalized and included in the record, the  
16 numbers cited by Valor of how the parking spaces at the  
17 new building are utilized are meaningless.

18 Seven, we believe the opinions of those in our  
19 neighborhood who live closest to the site should be given  
20 special consideration in this case. The evidence of their  
21 opposition can be seen clearly from the three-year old  
22 yard signs that still dot their front lawns opposing this  
23 development.

24 As was said, 32 Spring Valley Court homeowners  
25 who live closest in Spring Valley to the site have also

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1 filed a petition in this case opposing the project. We  
2 are here tonight to protect their interests.

3 Finally we still want to get to yes on a  
4 mixed-use project at that site, but we oppose development  
5 that is so poorly planned as this project and adversely  
6 affects the use of the neighboring property thereby  
7 failing to meet the requirements of Section 604.6 or 604.7  
8 of the Design Review Regulations.

9 Thank you for the opportunity to present these  
10 views, and I'd like to now invite --

11 MS. GATES: Good evening, Chairman Hood and  
12 members of the Zoning Commission. I'm Alma Gates.  
13 Founded in 1997 Neighbors for a Livable Community has as  
14 its mission to promote the planning and use of commercial  
15 property adjoining residential property in Ward 3 with an  
16 emphasis on the neighborhoods of Spring Valley, Wesley  
17 Heights, and American University Park.

18 Our goal is to ensure that those uses do not  
19 adversely affect the stability and serenity of the  
20 neighboring residential communities and it is why we  
21 continue to oppose the Valor project in its current form.

22 In the bottom paragraph of Page 6 of the  
23 applicant's submission to the Zoning Commission, Exhibit  
24 240, there is a statement regarding the purpose and intent  
25 of the zoning regulations. The Valor application not only

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1 fails to meet the spirit of this statement of purpose and  
2 intent, it also fails to meet some specific requirements  
3 for design review.

4           What Valor promotes as amenities to justify the  
5 out of character massing and density of this project are  
6 primarily to enhance its marketability. The grocery comes  
7 at the expense of the loss of current valued neighborhood  
8 retail services, and the sidewalks promoted as a  
9 connectivity factor are poorly designed and put public  
10 safety at risk.

11           The proposed project will not make the  
12 neighborhood more livable, as there is little offered that  
13 benefits existing community residents.

14           Let's review. This is an application for  
15 design review, which is supposed to be a process that is  
16 shorter and less intensive than the PUD process and allow  
17 less deviation from matter of right standards.

18           The applicant met first with SMD ANC 3E02  
19 Commissioner in September of 2015. The design review  
20 application was filed with the Zoning Commission a year  
21 later. Despite three requests for a postponement of a  
22 public hearing, three requests for deferral of  
23 deliberations by the Zoning Commission and one revision, a  
24 total of three years and three months, 39 months all  
25 together, the applicant must seek special exceptions for

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1 the required rear yard setback in two areas of the new  
2 building's west façade and the penthouses on four of the  
3 five townhouses.

4 The applicant also seeks not so minor  
5 flexibility for no less than 11 areas of design review,  
6 and there remain unfinalized agreements which should  
7 prevent the project from moving forward.

8 Simply put, the required special exceptions  
9 requested flexibility, including potentially adding 10  
10 percent more units, density transfer, and unfinalized  
11 agreement make it difficult to demonstrate this project  
12 even qualifies for a design review.

13 We have been informed that Valor has an  
14 agreement with American University regarding Valor's use  
15 of parking spaces. I'm going to skip that.

16 But where's the opinion from the Attorney  
17 General regarding the transfer of density within the  
18 project boundary? With whom did OP speak in the AG's  
19 office, and why isn't the Zoning Commission requiring that  
20 there be a written opinion entered into the record?

21 The applicant with the help of OP attempts to  
22 convince the Zoning Commission that this is not a  
23 transfer, a density transfer. It's an aggregation. There  
24 is no additional density, and therefore the design review  
25 regulations were not violated.

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1 Neighbors for a Livable Community do not accept  
2 that there is no increase in density through the transfer  
3 process. The Valor site is not a designated transfer over  
4 CV zone. Hopefully the Zoning Commission recognizes this  
5 approval will be precedent-setting and may require a  
6 rewrite of Section 600.1E of the design review criteria.

7 Another critical piece of this application has  
8 to do with on-site internal traffic circulation.  
9 Currently considerable confusion remains about the  
10 workings of the alleys, which frame two sides of the  
11 development. Both alleyways are 20 feet wide and meant to  
12 carry two-way traffic.

13 While the applicant does not seek flexibility  
14 for the theoretical lots which will use the 20-foot alleys  
15 for ingress and egress, the development standards for  
16 theoretical subdivisions require that each means of  
17 vehicular ingress and egress to any principal building  
18 shall be at least 24 feet wide in width exclusive of  
19 driveways.

20 The PNC driveway off Mass Avenue currently  
21 without a sidewalk also draws into question pedestrian  
22 safety. The area where the east-west and north-south  
23 alleyways merge with the PNC Bank driveway will likely  
24 become a major chokepoint as drivers approaching or  
25 leaving the parking lot will converge at this three-way

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1 intersection.

2           A Hawk signal proposed back on Mass Avenue will  
3 be located proximate to where the PNC Bank driveway  
4 intersects Mass Avenue. Its location will draw  
5 pedestrians through the alleyways to cross Mass Avenue  
6 mid-walk rather than at the existing traffic signals at  
7 Fordham Road and/or 49th Street.

8           An in-depth pedestrian safety study of the  
9 proposed mid-block Hawk signal is necessary given the  
10 alley chokepoint to ensure that vehicular-pedestrian  
11 conflicts will not result if the signal is installed.

12           In conclusion this application has been on file  
13 for over two years and before the public for three years.  
14 While some areas of requested flexibility are routine,  
15 others require zoning relief. Agreements and opinions are  
16 missing and bring into question the ability of the Zoning  
17 Commission to approve it under design review or at all.

18           The Valor application for design review even  
19 after 39 months is not ripe for a decision at this time.

20           MR. PARKER: My name is Scott Parker. I'm a  
21 Board member of Spring -- my name is Scott Parker. I'm a  
22 Board member of Spring Valley West. We represent 157  
23 homes in that area and we hold open meetings quarterly, so  
24 that there is a lot of involvement from the homeowners.

25           I've made clear, and my other Board members

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1 have made clear to ANC 3D when we have appeared before  
2 them, that we do want to see this site developed,  
3 preferably with some sort of townhouse-like development as  
4 opposed to what's been proposed.

5           There was always a glimmer of attraction to the  
6 notion of adding a full-service grocery store, as that has  
7 been described to us in repeated community meetings and at  
8 some of the ANP (phonetic) meetings. Unfortunately that's  
9 not actually what's being offered to us.

10           Mom's Organic is not a full-service grocery  
11 store, and I don't say that lightly. If you want some  
12 current proof of that you can refer to the Consumer  
13 Checkbook. Washington Consumer Checkbook did a study of  
14 grocery stores in its most recent edition and in that they  
15 rate all of the full-service grocery stores in terms of  
16 pricing, which is obviously important.

17           Mom's Organic isn't in that set and the reason  
18 for that is they create a market basket of 154 items,  
19 which is what we typically buy when we go to the grocery  
20 store. Not all 154 at a time, but it's an important  
21 market basket that they use as a vehicle.

22           And Mom's Organic doesn't appear there, and  
23 there's a reason for that. The only thing that they sell  
24 is organic products. A lot of us buy things that are also  
25 nonorganic, but take my word -- don't take my word for it.

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1 Go to a Mom's Organic if you haven't been there and find  
2 out what you can't buy, because I have been, and there are  
3 a lot of things that we can't buy.

4           The second point I'll make is that we've talked  
5 about the 219 dwelling units. To give you a sense of the  
6 density impact here, in order to put together 219 dwelling  
7 units in the AU Park area, you have to put together 15  
8 blocks.

9           So the 16th, you view the 16th block as the  
10 Lady Bird development that's been proposed; what it  
11 basically means is that in a 16-block area the density in  
12 terms of dwelling units and presumably population is going  
13 to double.

14           If you live in a single-family home at this  
15 point think about the prospect of within that area having  
16 the density double within that period of time.

17           The last point that I'll make is about the lack  
18 of any offering of condo units. It's actually a comment  
19 that I made last January when I testified as well. It's  
20 still relevant even though from the very outset, meaning  
21 October of 2016, which is the first time that the Valor  
22 representative appeared before Spring Valley West  
23 Homeowners, not just the Board but the homeowners, the  
24 question was asked, are you going to offer condos?

25           And the reason for that is very simple when you

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1 go through the arithmetic. If they don't have the option  
2 of purchasing a condo versus renting from Valor or Mill  
3 Creek, whoever is operating this property, it's going to  
4 cost them after tax another \$1,000 per month.

5 And when you look at that and the prospect of  
6 moving out of perhaps a three-bedroom home in AU park and  
7 then having to pay more after tax than if you move from a  
8 three-bedroom home to a two-bedroom apartment, it's just  
9 not worth it.

10 So I think our conclusion is this is not  
11 attractive from the standpoint of the community residents,  
12 either from the prospect of a full-service grocery store  
13 or from the prospect of no condos, only rentals.

14 CHAIRMAN HOOD: Okay, thank you all for your  
15 presentation. Let's see if we have any questions or  
16 comments up here.

17 Commissioner Shapiro?

18 COMMISSIONER SHAPIRO: Thank you, Mr. Hood. On  
19 that last point I'm not sure I understood where you were  
20 coming from. What's the distinction that you're making  
21 between rental and condos, and what you see as the  
22 potential negative impact of having it be rental rather  
23 than condo?

24 MR. PARKER: Well, the biggest impact is that  
25 if you're going to rent money from the bank, much of that

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1 mortgage deduction is deductible against your taxes. And  
2 that creates --

3 COMMISSIONER SHAPIRO: Let me step back. I  
4 understand that.

5 MR. PARKER: Oh okay.

6 COMMISSIONER SHAPIRO: I understand why  
7 somebody might choose to own rather than rent, but that's  
8 an individual's decision. I'm trying to understand how  
9 you see that as relevant to what the impact on the  
10 neighborhood is, why that might lead you to either --

11 MR. PARKER: Yes.

12 COMMISSIONER SHAPIRO: -- support or oppose the  
13 project?

14 MR. PARKER: Because I think one of the ways in  
15 which this project was characterized to us in response to  
16 questions that were asked by the homeowners and the Board  
17 was that potentially this is a place for you to stay in  
18 the neighborhood but you didn't have to care for your  
19 yard, so it was an easier place for people that wanted to  
20 remain in the neighborhood, became empty nesters. They  
21 could downsize, et cetera, et cetera.

22 And so the reason I'm raising that is if I'm  
23 going to downsize but I'm going to pay more money  
24 after-tax in order to do that, that lowers its  
25 attractiveness significantly.

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1 COMMISSIONER SHAPIRO: Okay. I understand  
2 where you're coming from. Thank you. Thank you, Mr.  
3 Chairman.

4 CHAIRMAN HOOD: Any other questions or comments  
5 up here? Okay. Okay.

6 MS. GATES: Mr. Chairman?

7 CHAIRMAN HOOD: Yes?

8 MS. GATES: May I answer a question that you  
9 asked earlier about the homeowners living outside the  
10 district, the Westmoreland?

11 CHAIRMAN HOOD: Oh, how does that -- well, yes.  
12 Okay, yes.

13 MS. GATES: Yes, they have been very active.  
14 When the Army Corps attempted to put in a dewatering  
15 facility, which was in the district, they were very  
16 involved with this.

17 CHAIRMAN HOOD: So they were involved with the  
18 business then of the district?

19 MS. GATES: Yes.

20 CHAIRMAN HOOD: My question is do they allow  
21 the District to come over and get involved with their  
22 business? That was my question.

23 MS. GATES: Oh, I'm sorry. I didn't --

24 MR. SMITH: Mr. Chairman, can I respond to  
25 that?

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1 CHAIRMAN HOOD: Because a lot of times I know  
2 they don't and they speak for us and that's an issue that  
3 I personally have with them.

4 MR. SMITH: Yes. During my time on the ANC,  
5 ANC 3D, and also ANC 3E was working with Montgomery County  
6 on bus-related issues, and most of that actually was  
7 generated by officials of Montgomery County reaching out  
8 to the district.

9 I know that they reached out to me as an ANC  
10 Commissioner who represented an area along the border, and  
11 there were several meetings. I don't know what happened  
12 to that after I left the ANC, but there was outreach.

13 CHAIRMAN HOOD: So I understand when we have  
14 situations that happen on both sides. My question is,  
15 again, do we go over there and comment on things over  
16 there?

17 MR. SMITH: Well, yes. I mean, basically --

18 CHAIRMAN HOOD: Not something that's germane to  
19 both, but something particular to just over in their area?

20 MR. SMITH: Well, in this case, yes, because  
21 the way the bus network works that it serves our community  
22 basically if you're going to transfer you're transferring  
23 from at a bus stop in Montgomery County.

24 CHAIRMAN HOOD: Okay.

25 MR. SMITH: So --

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1 CHAIRMAN HOOD: It was the Montgomery County  
2 bus line. Okay.

3 MR. SMITH: Yes. And then also there are  
4 connections with Westbard. The Westbard, which is just  
5 actually a shopping center in that area up there, there's  
6 a lot of -- there is also outreach from there to us as  
7 well because we actually use the services that are  
8 provided at Westbard --

9 CHAIRMAN HOOD: Okay.

10 MR. SMITH: -- the Giant, the Starbucks --

11 CHAIRMAN HOOD: Okay.

12 MR. SMITH: -- various kinds of things.

13 CHAIRMAN HOOD: I just wanted to make sure it  
14 worked on both sides.

15 MR. SMITH: We live --

16 (Simultaneous speaking.)

17 CHAIRMAN HOOD: I know you're here now. I know  
18 you're here. I got you. Hold on one second. I'm going  
19 to call you up for cross-examination and I don't know how  
20 long you've been here. I'm going to ask you that when you  
21 got here because I see you now.

22 Okay. Well, thank you for helping me clarify  
23 that. It helped me to understand that. I want to make  
24 sure we're equal footing here.

25 Let's see if the applicant has any cross. Oh

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1 well, first, colleagues, you all have anything else? Does  
2 the applicant have any cross? Okay.

3 ANC 3D? Okay, ANC 3D, you have some comments?  
4 You have a couple of questions? Now I called for you a  
5 couple of times but you weren't here.

6 MR. MCHUGH: Yes, I --

7 CHAIRMAN HOOD: Yes. Somebody mentioned. Yes,  
8 we know. Yes. Can you -- while we're doing that, is  
9 there anyone else who came in later that needs to be sworn  
10 in? The goal is to finish tonight, okay? Isn't that the  
11 goal?

12 MS. HANOUSEK: Yes. Anyone who stood up?

13 CHAIRMAN HOOD: So that's the goal, and I'm  
14 going to stop asking questions so we can finish.

15 MS. HANOUSEK: Do you swear or affirm that the  
16 testimony you will be giving in tonight's case will be the  
17 truth, the whole truth, and nothing but the truth?

18 GROUP: Yes.

19 MS. HANOUSEK: Thank you.

20 CHAIRMAN HOOD: Good evening, Commissioner.

21 MR. MCHUGH: Thank you. Just a couple of  
22 questions. There's a lot of discussion about historic  
23 preservation, so I had a couple of questions about that  
24 and for all of your organizations.

25 Do your organizations regard historic

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1 DR. KRASKIN: -- was I don't deal in  
2 hypotheticals even though all land use is hypothetical.

3 MR. McHUGH: Absolutely.

4 DR. KRASKIN: And our concern about this  
5 density transfer without seeing the agreement, without  
6 having any knowledge, is how limiting will the Spring  
7 Valley Shopping Center become for the future if there were  
8 needs or desires to change?

9 MR. McHUGH: Okay.

10 DR. KRASKIN: And we have no knowledge and we  
11 can't, it becomes what happens to the neighborhood. Oh,  
12 you're left with a building that now nobody wants to  
13 occupy and you can't change.

14 MR. McHUGH: Sure, and that's --

15 DR. KRASKIN: That's a concern.

16 MR. McHUGH: And maybe that's true with this  
17 case, too. This is for Mr. Parker.

18 The MOR, you acknowledged your organization is  
19 uncomfortable with the 219 units, but I think MOR, and  
20 correct me if I'm wrong, would probably maybe come around  
21 180 units if there was any, if they just did nothing and  
22 no design review whatsoever.

23 Would your organization be uncomfortable with  
24 that number of 185 units in that site?

25 MR. PARKER: Well, I think there are two

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1 answers to that question. One is we would be more  
2 comfortable than at 219 --

3 MR. MCHUGH: Okay.

4 MR. PARKER: -- particularly given Alma's  
5 remark about the requested flexibility, because that 219  
6 could end up being 240.

7 MR. MCHUGH: Right.

8 MR. PARKER: So you know, we're very  
9 uncomfortable with the 219. We would be very  
10 uncomfortable at 240.

11 MR. MCHUGH: Okay.

12 MR. PARKER: The second answer to the question  
13 is, you know, in terms of the development of the site I  
14 think that Spring Valley West Homeowners would have  
15 preferred something that looks more like a townhouse  
16 development, as I mentioned in my testimony.

17 I mean in many respects, that's sort of what  
18 Spring Valley West is. We have slight separation between  
19 the houses, but in fact it's pretty close density in that  
20 respect. But we're individual homeowners and we're no  
21 more than two stories high.

22 MR. MCHUGH: Oh, okay. No. That was all my  
23 questions. Thank you.

24 CHAIRMAN HOOD: All right, thank you.

25 All right, Ward 3 Vision, you have any cross?

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1 CROSS-EXAMINATION

2 MR. WHEELER: Since Mr. Parker spoke last about  
3 the -- you said that your homes in Spring Valley West are  
4 no more than two stories high?

5 MR. PARKER: That wasn't my testimony, that was  
6 an answer to a question that was asked, but it depends on  
7 which home you're looking at.

8 MR. WHEELER: Are you familiar with the Spring  
9 Valley West website?

10 MR. PARKER: Yeah.

11 MR. WHEELER: Are you aware that it says that  
12 it consists of a detached four plus bedroom homes with two  
13 to three stories?

14 MR. PARKER: Yes, I mean, most of them have two  
15 stories.

16 MR. WHEELER: But there are three-story homes  
17 as well.

18 MR. PARKER: Some three-story homes there. I  
19 mean, obviously, my point was they are more like a  
20 townhouse development. They are like a mass development  
21 as like is being proposed.

22 MR. WHEELER: Thank you. Next, I have a  
23 question for the Neighbors for a Livable Community, Ms.  
24 Gates. Did the Neighbors for a Livable Community make a  
25 presentation at, when ANC 3D considered this in December

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1 of 2017?

2 MS. GATES: At the ANC meeting?

3 MR. WHEELER: Yes, where you formally, where  
4 the ANC formally considered taking a position on this  
5 project? That was before the Zoning Commission for the  
6 Zoning Commission.

7 MS. GATES: Yes. It was 2016.

8 MR. WHEELER: I'm talking about the one in 2017  
9 that, where the ANC formally considered this project and  
10 to make a presentation or express its view to the Zoning  
11 Commission.

12 MS. GATES: I don't recall.

13 MR. WHEELER: Do you recall if it did that when  
14 it considered it most recently in December of 2018?

15 MS. GATES: No.

16 MR. WHEELER: No, you don't recall or that you  
17 did not do it?

18 MS. GATES: Did not do it.

19 MR. WHEELER: Did the Neighbors for a Livable  
20 Community make a presentation to ANC 3E when it considered  
21 this in December of 2017?

22 MS. GATES: No.

23 MR. WHEELER: Did it make a presentation to ANC  
24 3E when it considered this in December of 2018?

25 MS. GATES: Well, this isn't in my testimony.

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1 MR. WHEELER: So this is the first time that  
2 you have made a presentation is before the Zoning  
3 Commission not to the --

4 MS. GATES: No. You're asking me about ANC  
5 meetings. This is not the first time we have testified  
6 before the Zoning Commission on this case.

7 MR. WHEELER: I know that.

8 MS. GATES: Well --

9 MR. WHEELER: But you have testified to the,  
10 only to the Zoning Commission. At neither of those ANC  
11 meetings where both ANCs were considering this December of  
12 2017, December of 2018?

13 MS. GATES: That's right.

14 MR. WHEELER: Thank you. So I have the same  
15 question, so Jeff you're representing the Spring Valley  
16 Wesley Heights Citizens Association? So the question for  
17 you then? Did the Spring Valley Wesley Heights Citizens  
18 Association make a presentation to ANC 3E or 3D when they  
19 considered this in December of 2017?

20 DR. KRASKIN: No, actually, not. We let the  
21 neighbors that are most closely affected do that by coming  
22 personally to the ANC and for them to testify and present  
23 their opinions.

24 And as was stated on January 7th or January 9th  
25 when this hearing started and during cross-examination, we

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1 did hear that ANC 3D.

2 I do not know about 3E. I don't think it would  
3 be appropriate to go to 3E at all. But that at 3D, that  
4 even at 3D's own testimony did not reflect the opposition  
5 that was presented.

6 Nor did it present the 32 members of the  
7 closest properties, Spring Valley Court, which was at ANC  
8 3D. It's not recognized in that testimony, in their  
9 testimony at all.

10 So actually, I think for the last two years,  
11 Spring Valley Wesley Heights Citizens Association has  
12 recognized that attending ANC 3D has not resulted in  
13 representation of our board's opinion and our opinions  
14 have been tossed aside.

15 So there is absolutely very little reason for  
16 us to show there but to come here to present to this  
17 Commission.

18 MR. WHEELER: Why would, you said it would be  
19 inappropriate for you to present at ANC 3E. Why would  
20 that be?

21 DR. KRASKIN: I think 3E represents its own  
22 district and its own area. And that for us, we are  
23 concerned about the impact of this development through its  
24 traffic and density on Spring Valley, not on AU Park.

25 AU Park has its own groups and its own entities

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1 to speak for it. And we have no reason nor rhyme to speak  
2 on behalf or reflect to ANC 3E.

3 We have our own ANC if we wish to participate  
4 in that. We have found that participation coming over the  
5 last two years through communications not to be effective.

6 So we chose not to take our time but hope that  
7 our residents do come to the ANC, as they did, and express  
8 their concern.

9 MR. WHEELER: So if this project were slightly  
10 further away from ANC 3D, you would have no position? You  
11 would not go to 3E to raise your concerns at all?

12 DR. KRASKIN: If this, explain to me what you  
13 mean by further away.

14 MR. WHEELER: Well, this, the project is in,  
15 the project is in ANC 3E. Correct?

16 DR. KRASKIN: It is.

17 MR. WHEELER: And, but because of its proximity  
18 --

19 DR. KRASKIN: But I will stop you. The Office  
20 of Planning's own report states Massachusetts Avenue as  
21 the impact. And therefore, our line between ANC 3E and 3D  
22 is down the middle of Massachusetts Avenue.

23 And we are concerned about the traffic that  
24 travels on Massachusetts Avenue and the possibilities of  
25 people having to cut through our Spring Valley

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1 neighborhood because of the overwhelming traffic that may  
2 occur on Massachusetts Avenue.

3           If you're talking about a project that's within  
4 3E that's over on Western Avenue, no. Spring Valley  
5 Wesley Heights Citizens Association is doubtful that it's  
6 going to make any comment on a project like that.

7           It is unless somehow that traffic pattern is  
8 going to impact the Spring Valley Wesley Heights  
9 neighborhood. And a good point of that would be since  
10 you've asked this question.

11           Looking at American University, the Tenleytown  
12 Campus, the traffic coming the Tenleytown Campus --

13           CHAIRMAN HOOD: Let's not, let's not go, let's  
14 not go too far off.

15           DR. KRASKIN: I'm trying to answer his question  
16 which it hasn't gone too far.

17           CHAIRMAN HOOD: You were doing fine and let me  
18 just say this. I allowed that conversation because I  
19 think you all were fleshing it out. And it was actually  
20 very helpful to all of us.

21           But when you brought up American University and  
22 the traffic issue, that's when I drew a line.

23           DR. KRASKIN: I'm just trying to keep --

24           CHAIRMAN HOOD: Okay. That's a whole other  
25 case and whole other 20 nights. So let's just stick with

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1 where we are here.

2 So Mr. Wheeler where are you trying to go here?

3 I know, I think that discussion was actually helpful.

4 That's why I just allowed it. Are you finished?

5 MR. WHEELER: I'm finished.

6 CHAIRMAN HOOD: Okay. All right. All right,  
7 thank you. Spring Valley Neighborhood Association, do you  
8 have a cross?

9 MR. CLARKSON: Thank you, I just have two  
10 questions regarding your testimony about the concerns  
11 about the grocery store. Dr. Kraskin, I know you said  
12 that.

13 CHAIRMAN HOOD: Can you move your mic closer?

14 MR. CLARKSON: Sorry. I know Dr. Kraskin  
15 testified, I believe, along the lines of we do not live in  
16 a grocery store desert. And I also noted that in Ms.  
17 Gates' testimony she says the grocer comes at the expense  
18 of a loss of current valued neighborhood retail services.

19 And the sidewalks promoted as the connectivity  
20 factor are poorly designed and put public safety at risk.  
21 So with those statements, I just would like to clarify,  
22 compare those statements in your testimony tonight with  
23 previous statements that were included and submitted for  
24 the record at Exhibit 110 and 111.

25 They were resolutions filed by Neighbors for a

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1 Livable Community and, separately, and Spring Valley  
2 Wesley Heights Citizens Association. And it's identical  
3 language interestingly, but I'd like to read that and just  
4 ask for sort of a clarification or position on a grocery  
5 store.

6           The quote, the Valor proposal will have the  
7 effect of reducing the range of neighborhood retail  
8 services and limiting it to a small grocery market, hardly  
9 the full-service grocery store promised to the current  
10 residents.

11           So that would appear from the language used in  
12 your resolution that was filed with this Commission that  
13 you would support a full-service grocery store. Correct?  
14 Or am I missing something?

15           MS. GATES: Probably we would support a grocery  
16 store with a full range of service.

17           MR. CLARKSON: Like a Harris Teeter, would that  
18 be full-service?

19           MS. GATES: Actually, I've never been to Harris  
20 Teeter, but I did shop at the Superfresh, that was my  
21 grocery store. So the thing is, we're trying to balance  
22 two things here. A large residential development on top  
23 of a grocery store so they're two different things.

24           MR. CLARKSON: Dr. Kraskin, are you asking if  
25 we would like a full-service grocery store?

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1 DR. KRASKIN: I mean that's what, no, I mean --

2 MR. CLARKSON: Is that what you're asking?

3 DR. KRASKIN: Yes. I think that for the site  
4 to have a full-service grocery store, again, looking at  
5 density and traffic would be a question of the ultimate,  
6 overall design. But again, we are not like other parts of  
7 this city in grocery store desert.

8 We are overwhelmed within a mile of grocery  
9 stores and now, after Mayor Bowser has announced, about  
10 the new project with the Wegmans, even more.

11 So from the date of that resolution --

12 MR. CLARKSON: Right.

13 DR. KRASKIN: -- to the announcement of this  
14 new store. I'm not sure there's a real overall-whelming  
15 need for a full-service grocery store on that site.

16 I also think that the grocery store has been  
17 gone for a period of time now that people have made their  
18 accommodations to where they shop.

19 And I think that using a grocery store as an  
20 amenity to have support for a large-density project was an  
21 interesting idea to get people to sign off on petitions.

22 But in recognition after three years now, going  
23 through this process that, and what you're ending up with  
24 is not the square footage for a full-service grocery store  
25 and you're eliminating all of the other retail.

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1           It would be another story if you could move  
2 some of that retail and regain it back into this new  
3 building and it's a true multi-use structure, but it's  
4 not.

5           So you're losing your restaurant, you're losing  
6 the hair salon, you're losing Spring Valley Catering,  
7 you're losing the barbeque, you're losing, possibly a  
8 grocery store

9           Because you have no guarantee that it will ever  
10 exist except for some MOU between 3E or 3D and whatever  
11 but I don't even know what weight an MOU holds in the  
12 process of law. I'm not an attorney; I believe you are.

13           MR. CLARKSON: So, again, again, you in 2017  
14 when you and your organization and NLC filed these  
15 identical resolutions which said, you know, again.

16           Well, I won't read it again, but it clearly  
17 supports, expresses support for a full-service grocery  
18 store, and I believe the Wegmans project it didn't come  
19 out of the blue.

20           It was before then; it was still just pie in  
21 the sky before December of 2017.

22           DR. KRASKIN: But now it's a known.

23           MR. CLARKSON: Oh, now, okay.

24           DR. KRASKIN: And where resolutions may be  
25 similar, we have similar ideas. It's sort of like maybe

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1 those letters of support that Commissioner Kravitz was  
2 speaking about that are all form letters. I wonder, but I  
3 think I've answered your question.

4 MR. CLARKSON: I have a question about that.  
5 Is a petition signed by 32 residents? Is that, are they  
6 signing the same support for the same statement?

7 DR. KRASKIN: They absolutely are.

8 MR. CLARKSON: Okay. I just -- that's helpful  
9 to clarify.

10 DR. KRASKIN: I would think so.

11 MR. CLARKSON: And just again, following that  
12 resolution language used in support of the grocery store.  
13 In January of, January 25th, 2018 at this Commission, your  
14 testimony before the Commission.

15 An officer for SVWHCA, again, expressed support  
16 for a full-service grocery store noting the following.  
17 Under the most recent submission they now offer 43,500  
18 square feet of rental space with a net loss of 27,000  
19 square feet from what we have now.

20 Instead of a full-service grocery, we get a  
21 market so what's the benefit to the community if this  
22 project is approved? Under the most recent proposal, we  
23 don't get a full-service supermarket or even a grocery  
24 store.

25 So that would indicate to me that you wanted,

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1 you want a full-service grocery store. And now you're  
2 saying that we're not in a food desert and we don't want a  
3 full-service grocery store.

4 Mr. Chair, is that accurate?

5 DR. KRASKIN: I don't have to answer you now,  
6 and I don't want to really continue per the evening. I  
7 know there are other people that need to come up.

8 CHAIRMAN HOOD: So do you choose not to answer  
9 the question, you don't have the answer to the question?

10 DR. KRASKIN: I think I've answered it already.

11 CHAIRMAN HOOD: Okay, so that's his answer, he  
12 thinks he's answered.

13 MR. CLARKSON: Okay, thank you very much. I  
14 appreciate it.

15 CHAIRMAN HOOD: All right, thank you. Did I  
16 call the Applicant? Did I? Did I ask you to do cross? I  
17 did. Okay, I just wanted to make sure. Okay, CRD. Any  
18 cross? None?

19 MR. REPP: Mr. Parker, didn't you attend a  
20 number of ANC 3D meetings in which this topic has come up?

21 MR. PARKER: Yes, the two deciding meetings  
22 which were the two Decembers that Mr. Clarkson was  
23 referring to, I was there. Other board members from  
24 Spring Valley West were there.

25 I stood up and testified at the earlier one

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1 which was when Tom was still chairman of the ANC. I did  
2 the same and actually changed the resolution as a result  
3 of the amendments I proposed on the floor to the most  
4 recent approval, if you will, from the most recent ANC  
5 meeting.

6 MR. REPP: And you made at least one motion  
7 that was not accepted by 3D, as I remember.

8 MR. PARKER: Yes, that's correct.

9 MR. REPP: Ms. Gates, didn't you attend a  
10 number of ANC 3D meetings over the last few years in which  
11 this project has come up?

12 MS. GATES: I can tell you, yes, and that the  
13 Applicant did appear at, in the December, at the December  
14 meetings.

15 MR. REPP: But you were present, and you were,  
16 you participated?

17 MS. GATES: I was not present at the last  
18 December meeting.

19 MR. REPP: But before that you were?

20 MS. GATES: Yeah.

21 MR. REPP: Yes, yes. And Mr. Smith, weren't  
22 you, back when you were on 3D, didn't you attend a number  
23 of 3D meetings when this topic came up?

24 MR. SMITH: Quite a few. But only one in which  
25 the Applicant agreed to appear before the ANC. However,

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1 we held several discussions because of the interest from  
2 members of the community in talking about the project.

3           And during, and then, we did pass a resolution  
4 that reflected the views that we heard from the residents.  
5 And that resolution opposed this project.

6           CHAIRMAN HOOD: All right, thank you. Okay,  
7 let's go to the persons in opposition. I'm going to call  
8 your name and if you can come right up. You will have --  
9 okay, Ms. Hanousek has an announcement.

10           MS. HANOUSEK: Yes, if you're planning to  
11 testify for an organization or a person in opposition,  
12 please be sure that you are listed on the kiosk. If  
13 you're not, you won't be called.

14           And also make sure that you fill out two  
15 witness cards, and they go to the court reporter to the  
16 right, to my right. Okay?

17           CHAIRMAN HOOD: Okay, first name in opposition  
18 if you'd come quickly, Richard Tatum, Laura Ivers -- if I  
19 mispronounce your name and it sounds close, just come on  
20 up.

21           Lauren Sun, Fred Mordini, okay, I know that  
22 sounds close, Eli Borek, Aidan Jones, Walter Borek. I  
23 might have called too many. Okay, one person, Keisha  
24 Rodic, Hylton-Rodic.

25           And you can, and you can throw your name up

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1 when you come up here because I know I messed that up.  
2 Okay, so we should have eight. If we can quickly do that,  
3 who wants to come back and see us another night? Raise  
4 your hand, let me see.

5 Oh, we've got one person, there's always one.  
6 Okay, so we're going to try to make sure we accommodate,  
7 we're going to get out tonight. So I'll ask that you,  
8 please be cognizant of the three minutes. So you're  
9 respectful of others so we can hear everyone.

10 Now, if was only two or three testifying, I  
11 would let you go over the three minutes. But tonight, we  
12 have a number, and no one wants to really, except for one  
13 person who's going to come back with us.

14 Okay, are we all set? Okay, let's start to my  
15 left. You may begin.

16 MR. TATUM: I am a homeowner on Windom Place,  
17 270 feet of the site. I'm in favor of a reasonable  
18 development, but this one is unreasonable.

19 This project is too large and out of character  
20 for the neighborhood. The project will tower over the  
21 nearby homes and the historic shopping center as shown by  
22 the developer's own exhibits.

23 The structure's massive, near 90-foot height at  
24 the western corners is excessive. As many as 500 new  
25 residents will be added into about a quarter or a half a

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1 block.

2           A density not in keeping with the neighborhood  
3 of single-family homes and traffic will increase. I  
4 believe the proposed development violates the  
5 Comprehensive Plan.

6           The future land use map shows the site as  
7 low-density commercial defined as one and two-story  
8 buildings. Furthermore, the Rock Creek West Area element  
9 policies, Policy 1.1.1 advocates protecting low-density  
10 residential neighborhoods and the future development must  
11 protect the existing character of these neighborhoods.

12           1.1.4 advocates scaling heights and densities  
13 to the character of adjoining communities and 1.2.8 states  
14 that the approval of any residential development should  
15 consider school overcrowding. How does this design meet  
16 these criteria?

17           Those of us who live near this development  
18 deserve equal weight to the ANC. Over 600 neighbors hand  
19 signed opposition petitions. Plus, the local citizens  
20 associations represent hundreds more.

21           The arrangements that the developer has made  
22 with American University and Regency Centers are critical  
23 to their plan, but the arrangements are secret.

24           How does the Commission know what arrangements  
25 have been made to share density? What if no arrangements

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1 have actually been made?

2           After three and half years, the developer's  
3 concept is still changing. Exhibit 240 asks for design  
4 flexibility of plus or minus ten percent in the number of  
5 residential units.

6           And variances in retail types and floor area,  
7 including drinking establishments. These variances will  
8 result in plans that have never been publicly discussed.

9           Will MOM's or Balducci's be there on opening  
10 day without a binding agreement with the developer?

11 Issues raised in proponents' letters are red herrings.

12           The area's not a food desert. Four major  
13 grocers operate within a 1.2-mile radius, seven within 1.5  
14 miles, and twelve within two miles. Plus, other local  
15 groceries are there and a Wegmans is coming.

16           Jobs will be lost. This development will close  
17 two longstanding local businesses and threatens two  
18 others. High housing cost for young families will persist  
19 at market rate rentals.

20           Finally, my property's value depends on this  
21 project succeeding. What assurances do I have that it  
22 will? Thank you for your attention.

23           CHAIRMAN HOOD: Thank you, and that was a great  
24 example of three minutes. Thank you very much. Everybody  
25 else follow his lead. Next.

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1 MS. IVERS: All right. Good evening, my name  
2 is Laura Ivers, and I also live, I live right across the  
3 street from the proposed development site, so I'm within  
4 the 200 feet. My family and I are within the 200 feet.

5 And so I will keep my remarks brief tonight  
6 because I'm echoing things that you've already heard. I  
7 was here last year, and I did speak. And my testimony,  
8 unfortunately, hasn't changed a lot since then, since the  
9 proposal hasn't changed a lot since then.

10 You asked this question about how many floors  
11 down it would take? I'm also aligned with the idea that  
12 if we can come down another floor, maybe another floor and  
13 a half, it could be workable.

14 So, you know, so that's the biggest point for  
15 me, that it's just too big in scale. For me, it also  
16 doesn't make sense, well, it makes sense by a Metro  
17 station. I don't understand why you'd put a building of  
18 that size where there's not good public transportation,  
19 but I do love the N buses, by the way.

20 So the biggest issue I have is pedestrian  
21 safety, and you know, I do walk around the neighborhood  
22 quite a bit. And I will share a new area of concern that  
23 has come out for me, is actually the alley when you're  
24 walking on Mass Avenue.

25 Right, so just like, I was walking there

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1 basically with my four-year-old and seven-year-old, and we  
2 happened to be crossing that alley just as an SUV was  
3 turning into it.

4           And, you know, really we couldn't move out of  
5 the way quickly enough. And one my daughters was on  
6 crutches, so maybe we were slowed down by that.

7           But it made very clear to me that that's a  
8 safety, there's no proposal for any kind of a stoplight  
9 there or any kind of a traffic slowing.

10           So, I mean, if you're coming from the Spring  
11 Valley Shopping Center walking up towards 48th Street,  
12 just pedestrian safety on that alley itself would be a  
13 real, a real concern.

14           So other concerns, loss of sunlight and the air  
15 pollution, noise pollution, certainly the school  
16 overcrowding is still a concern and, you know, the  
17 traffic, of course.

18           But the bottom line is I really appreciate that  
19 you take the time to listen to us. It's nice to have a  
20 sense, as a resident, that there is a group that will  
21 listen to the neighbors' concerns.

22           And I do ask that you, please, consider this  
23 project very carefully, and to put the welfare of the  
24 citizens first, of the neighbors first.

25           CHAIRMAN HOOD: Thank you. Next.

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1 MS. SUN: Good evening, my name is --

2 CHAIRMAN HOOD: Turn your mic on. Just --

3 MS. SUN: My name is Lauren Sun, and I'm a 200  
4 footer. I live at 4301 48th Street which is directly  
5 across the street from the 48th Street alley.

6 I strongly oppose this project in a large part  
7 because of the traffic that it will bring to my street,  
8 48th Street, and right in front of our home.

9 My husband and I have two young children who  
10 are now six and four. And one of the things that really  
11 attracted us to the neighborhood is the prevalence of  
12 school-age children in the neighborhood playing outside.

13 It's not uncommon to see basketball hoops in  
14 the alleys or streets and children walking, biking or  
15 playing in the neighborhood.

16 The significant increase in traffic will have a  
17 significant impact on our lives and compromise the safety  
18 of our children. We feel that everyday activities like  
19 playing outside or even pulling out of our driveway will  
20 become dangerous.

21 Just to give you a sense of where I live.  
22 Here's our house and here's the project site. Here's our  
23 driveway, the herringbone one. And there's another  
24 driveway right next to it; it's right across the street  
25 from the 48th Street alley.

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1           As you can see 48th Street is not very wide.  
2 There's parking on both sides and room for one car. Valor  
3 estimates that the project will generate an additional 322  
4 vehicles per hour passing by in the evening and 155 in the  
5 morning.

6           This figure also doesn't include trucks which  
7 will come from the site from 7:00 a.m. to 7:00 p.m. seven  
8 days a week. And will all be routed right in front of our  
9 house through the alley and this is already on top of the  
10 existing traffic.

11           As I said they've, they keep changing the  
12 vehicular access plan from the first plan to last year's  
13 plan to this plan, but it's all going right in front our  
14 house.

15           So just to reiterate there's three entrances  
16 for traffic. The Mass Ave alley which I think it has been  
17 discussed that it is a do not enter. But they say, they  
18 can just take the sign down.

19           But I don't know that the impacts of that have  
20 been, in fact, in wherever you can only turn right, you  
21 can't come from southbound because of the median on Mass  
22 Ave.

23           Second, is the Yuma Street alley which has been  
24 discussed tonight and last year. It's a dumpster storage  
25 area as well, and there are practical problems that we

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1 heard about last year with accessing the dumpsters. And  
2 it's also maybe going to be loading for the Spring Valley  
3 Center.

4 And then the third alley is the 48th Street  
5 alley across from our house which will host all of the  
6 commercial trucks for the apartments, the townhomes, the  
7 grocery, and retail.

8 They will also continue to serve the existing  
9 AU loading dock. A lot of the vehicular traffic will also  
10 come through this alley for the apartments, the grocery  
11 store, and AU.

12 The AU lot has been very full, and CRD  
13 estimates that traffic through this alley will increase by  
14 600 percent.

15 Last year, I think, Vice Chair Miller said that  
16 a development of this size and scale belongs on  
17 Massachusetts Avenue and we couldn't agree more.

18 The project is too dense for this space and the  
19 surrounding streets and alleys. And our street and the  
20 alley system, they're not adequate to handle the traffic.

21 Both the additional residential and commercial  
22 square footage will bring the traffic that's not  
23 supportable and will compromise our safety and our quality  
24 of life.

25 CHAIRMAN HOOD: Okay. Thank you. Next.

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1 MR. JONES: Good evening, Commissioners. My  
2 name's Aidan Jones. My family's lived for 35 years within  
3 walking distance of the Superfresh site where we used to  
4 regularly fulfill our grocery needs.

5 We would not be able to do that with a MOM's  
6 for the reason that you heard from a recently, recent  
7 witness who testified as to the limited amount of goods  
8 that would be from a MOM's, available at a MOM's.

9 And that's even assuming that the developer can  
10 get beyond the MOU that's all we have at this point. So,  
11 and I think this, as a neighbor who's not across the  
12 street but one who lives in the neighborhood, I strongly  
13 support the neighbors who are so grossly impacted by the  
14 scale and density of this project.

15 But most significant, and the reason that I  
16 wanted to testify is that Valor does not have a legal  
17 basis for this project.

18 The owners of the lots in question to construct  
19 what's now the American University's contiguous six-story  
20 building to the project transferred its height and density  
21 rights in return for a valuable zoning benefit.

22 And that transfer is reflected in a recorded  
23 deed and that conveyance and relinquishment runs with the  
24 land and is binding on subsequent owners.

25 And contrary to Applicant's statement in its

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1 December 18th, 2018, submission on Page 8 that, quote,  
2 other than the owners listed in the agreement to whom the  
3 benefits and obligations of the document apply, there are  
4 no third-party beneficiaries.

5 That's absolutely wrong because the bedrock of  
6 zoning law is that neighboring owners of surrounding  
7 property are third-party beneficiaries of recorded  
8 covenants and the zoning laws.

9 Valor cannot erase that conveyance and  
10 relinquishment by proposing the purchase of Spring  
11 Valley's shopping center's supposed rights. That would be  
12 equivalent to selling the same piece of property several  
13 times over.

14 You should not allow that. Although at the  
15 January 11, 2018, the hearing the Commission asked the  
16 Applicant and its attorney to explain its legal  
17 justification to regain density rights that had been  
18 conveyed, no adequate explanation was forthcoming then,  
19 and there is none since. Applicant's failure since 2015  
20 to adequately address these upfront legal issues; one, the  
21 attempt at obtaining of density rights already conveyed.  
22 And secondly, trying to obtain density rights from a  
23 one-story historic designation shopping center, with no  
24 such rights to convey, has wasted years of time of the  
25 neighbors, the parties, the Office of Planning, DDOT, and

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1 most of all this Commission and its staff.

2           Unless the Zoning Commission dismisses this  
3 application, that failure to address these threshold legal  
4 issues will likely result in an appeal. Thank you.

5           CHAIRMAN HOOD: Thank you. Next.

6           MR. BOREK: Good evening, Commissioners. My  
7 name is Eli Borek. From the beginning of this process,  
8 the Applicant's stated intention to the surrounding  
9 residents was to build a condominium development so that  
10 residents in the neighborhood could age in place, as Valor  
11 so often repeated.

12           The proposal's now fully a rental building with  
13 a high likelihood that AU students will inhabit a large  
14 portion of the units with multiple students sharing each  
15 apartment.

16           Valor may say that this is due to making the  
17 project economically viable given what they are under  
18 contract to pay for the property, but is not in the Zoning  
19 Commission's purview to compensate for Valor's inept  
20 negotiating skills at the expense of the community.

21           There have been so many supposed LOIs with  
22 different grocers at different points promised to the  
23 neighborhood. And now we are theoretically promised a  
24 MOM's.

25           In one of the most recent ANC meetings, Mr.

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1 Lansing was asked specifically whether or not Valor was  
2 negotiating with MOM's. His answer, and I quote, not to  
3 my knowledge, no.

4           Despite numerous promises that LOIs had been  
5 signed, Mr. Lansing has continued to refuse to produce any  
6 proof that any have ever existed.

7           Even when presenting to the ANC, Valor's  
8 renderings were on more than one occasion misleading at  
9 best.

10           At this point, after being told by the Zoning  
11 Commission to correct the errors in their renderings,  
12 these misrepresentations, which continue to be blatant,  
13 are obviously intentional.

14           In order to compare existing conditions to what  
15 is proposed the renderings must show the same point of  
16 view and angle of view. Valor's renderings quite  
17 obviously do not compare equivalent views.

18           Valor attempted to intentionally avoid  
19 providing required and sorely needed affordable housing in  
20 their first proposal to the Zoning Commission.

21           They have now found a way around this  
22 requirement by pushing many of the units below grade in  
23 order to exclude them from the IZ requirement.

24           Valor is still asking the Zoning Commission to  
25 approve an increase in density while providing even less

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1 IZ housing than they originally promised.

2           Mr. Elfar of Torti Gallas whose bio ironically  
3 states that his philosophy is to design buildings that are  
4 in context with their environment stated the project was  
5 contextual because the yellow brick of the facades matched  
6 existing yellow brick structures within the neighborhood.  
7 I surveyed AU Park and found 4 brick houses that were  
8 yellow out of 1,387, and that was only because they were  
9 painted yellow.

10           With respect to ANC 3E's secret memorandum of  
11 understanding negotiations with Valor, our ANC  
12 Commissioners submitted the draft memorandum to public  
13 record 30 minutes before they took a vote, leaving no time  
14 for any of their constituents to read it, let alone  
15 provide community input.

16           The MOU was finally signed on January 7th, well  
17 after the last opportunity for public comment. The ANC  
18 recommendation is supposed to carry great weight which it  
19 certainly should not when our Commissioners do not work in  
20 the constituents' best interest and intentionally conceal  
21 their negotiations with the developer from the  
22 constituents.

23           The opinions of neighbors closest to the site  
24 should carry much greater weight. The Applicant treats  
25 the neighbors who would be most directly affected by their

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1 proposed project as fools.

2           Misleading us and misrepresenting facts to our  
3 faces. For that matter, so have our very own ANC  
4 Commissioners, aside from displaying a shocking lack of  
5 rigor, professionalism, and veracity throughout their  
6 deliberations.

7           We, the neighbors, have no means of recourse to  
8 effectively respond to Valor's deceit. You as the Zoning  
9 Commission do have recourse by means of denying this  
10 application.

11           CHAIRMAN HOOD: Thank you. Next.

12           MS. HYLTON-RODIC: Good evening, Chairman Hood,  
13 Commissioner Shapiro, Miller and Tumtruck -- Turnbull,  
14 excuse me. I thank you for the opportunity to express my  
15 opinion about this more current development.

16           My name is Keisha Hylton-Rodic. I am  
17 relatively new to the neighborhood, actually, been there  
18 less than a month when I discovered what was going on.

19           I live at, I moved into 200-foot distance to  
20 the development. I actually reside at Windom and 48th  
21 Place, so actually, this is my neighbor. And the picture  
22 that's up is, actually, I'm on the other side of the  
23 fence.

24           So I would say one of my biggest concerns is  
25 actually the drive, the safety issue addressing backing

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1 out onto 48th Street which is already problematic because  
2 there is some amount of traffic.

3           So when I heard about the amount of additional  
4 traffic that would be coming to 48th as a result of the  
5 development, then you know, I was beyond concerned because  
6 I have no option except backing out.

7           And as you can see, I'm right across from the  
8 entrance to the property, so, you know, my understanding  
9 is that there's going to be a lot of activity there.

10           And so, you know, of course, I have three young  
11 kids, and it's beyond a nightmare to think that something  
12 could happen because of me trying to navigate my way onto  
13 48th Street.

14           The other concerns that I have that have been  
15 raised already include, you know, for example, increased  
16 noise and air pollution. I've lived near a large building  
17 before and I thought in coming here that I would actually  
18 moving away from that.

19           So it was actually quite a surprise to discover  
20 I'm kind of back to square one, but that's a different  
21 conversation. So I would say that those are my two  
22 primary concerns in addition to the height of the  
23 building.

24           As you can see, I look out my bedroom window  
25 right on to AU's building. So I know it's pretty big so

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1 it's kind of disconcerting to think that there will be a  
2 double building that will be blocking everything for us.

3           And even more concerning based on some of the  
4 expert testimony that when I exit my front door on Windom,  
5 I will now be looking at a wall instead of seeing the sky  
6 and a tree across the street.

7           You know, at the end of the day, in all  
8 honesty, you know, for the developers it's just money.  
9 And that's fine; there's nothing wrong with that, that's  
10 how the world works.

11           For a lot of the testimonies that I've heard  
12 here over the last two days that I've been here, two  
13 nights to the testimonies I have attended. You know,  
14 everybody talks about a grocery store and they're  
15 concerned and all these things.

16           But for the people who are literally sitting  
17 across the street like myself, you know, it's about  
18 looking at this every day for decades to come, you know.

19           And so I really implore you to really consider  
20 these concerns that the neighbors who are closest to the  
21 development bring to the table.

22           I thank you for your time and the opportunity  
23 to speak to this. And I ask that you consider the fact  
24 that there are so many neighbors here. A lot of us with  
25 young kids, leaving our kids at home to be here.

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1           That you really understand that there is  
2 opposition to what is being offered. Thank you.

3           CHAIRMAN HOOD: Okay, thank you. Next.

4           MR. BOREK: My name is Walter Borek. I live  
5 232 steps away from the project. I've been an architect  
6 for 50 years. The designer used Standard 604.8; the  
7 Zoning Commission shall find that the criteria, subtitle  
8 X604.7 are met in a way that is superior to any  
9 Matter-of-Right development possible on the site.

10           Applicant has the burden of proof that its  
11 development is superior to any matter of right development  
12 and must provide a preponderance of evidence proving that  
13 superiority.

14           This drawing is an example of a Matter-of-Right  
15 design speak, and it is consistent with the Comprehensive  
16 Plan, especially Chapter 9.

17           The design of the 79,000 square foot lot  
18 provides 35,000 square feet of green space, 30,000 of that  
19 space is public open space. With an FAR of 1.5 out of a  
20 2.5 maximum and a GFA of 122,000 square feet lot occupancy  
21 is 39.7 percent.

22           It does not require the purchase of any FAR  
23 from any adjoining property owners. The building height  
24 varies from 35 to 50 feet. The surrounding townhouses A,  
25 B, C on the plans step down with grade on both Yuma Street

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1 and 48th Street. There are no automobiles on ground  
2 level.

3 The 55 required vehicle parking spaces in  
4 American University's 236 space easement are accommodated  
5 in the underground parking garage as well as all long-term  
6 bicycle parking.

7 The design includes 17 long-term and 105  
8 short-term bicycle parking spaces, double the MOR  
9 requirement. A privacy screen along the west side of the  
10 property and on-property shields that protects the  
11 development from the Spring Valley Shopping Center  
12 dumpster delivery public alley.

13 Sidewalks are nine-foot wide to allow three  
14 abreast pedestrian passage and 24-foot planning strip for  
15 the, protects pedestrians from traffic.

16 There is a transit hub which includes shuttle  
17 bus service to two nearby Metro stations, short-term  
18 bicycle parking, and vehicular and Uber/Lyft pickup and  
19 drop off.

20 American University already provides such  
21 service and faculty at the south side of their building  
22 shuttles idle on 48th Street blocking the street  
23 intersection and alley. Combining the two services would  
24 be beneficial to both parties.

25 The design is porous with five pedestrian

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1 entrances, three of which are usable pocket parks for  
2 sitting, reading, chess, checkers, child play, et cetera.  
3 Thirty thousand of the thirty-five thousand square feet  
4 green space is open public space.

5           Landscaping native species, small gardens, but  
6 it's not included in these calculations until final  
7 design.

8           There is a total number of 166 dwelling units  
9 including townhouse, efficiency, one, two, and three  
10 bedroom flats. This site is bordered on both Yuma and  
11 48th Streets with three and half story townhouse units.

12           Let me skip to the end, please, that I remain  
13 within my time limit. This Matter-of-Right, design scheme  
14 project will create a sense of place. It is not an  
15 infill. project, it is a neighborhood project.

16           It will become an integral part of AU Park and  
17 an integral part of my neighborhood. D.C. should have  
18 neighborhood sensitive, contextual projects, not just  
19 another infill project. D.C. deserves better.

20           The problems of neighborhood character, scale,  
21 density, mass and context created by Valor's development  
22 are solved by this design scheme. One more sentence.

23           This Matter-of-Right design scheme should  
24 convince the Zoning Commission that Valor's proposed  
25 development is actually inferior, not superior to this and

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1 any Matter-of-Right development and has not proven that  
2 superiority in any way.

3           And their application should be denied. Thank  
4 you.

5           CHAIRMAN HOOD: Thank you. Next.

6           MR. MORDINI: Is the mic on? Okay, perfect.  
7 My name is Federico Mordini. I live at the corner of  
8 Massachusetts, Fordham, and 48th Streets which immediately  
9 diagonal to the proposed site. I'm essentially at ground  
10 zero for all the traffic problems.

11           I'm here because my property and the life of my  
12 family, including a three-year-old child, are adversely  
13 affected by this massive development.

14           But before I go into my personal opinions, I  
15 wanted to bring your attention to Exhibit 278, which is a  
16 petition opposing the development signed by my neighbors  
17 at Spring Valley Court which is a development across the  
18 street in Spring Valley.

19           We have signatures from 19 households and 32  
20 individuals all in opposition. These are long-term  
21 residents of the District, many of whom are senior  
22 citizens and cannot be here tonight.

23           The message is clear, sir, although a local  
24 grocery store would be a desire, we unequivocally reject  
25 this plan based on its size, traffic concerns, and

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1 density.

2           They think that the benefits of a grocery store  
3 do not outweigh the problems that would be created by the  
4 development. Again, in an up or down vote, they vote this  
5 proposal down.

6           As for my own opinions, I've been a property  
7 owner in D.C. since the year 2001. In these 18 years,  
8 this is the first challenge to development in the city.

9           There are many problems with this proposal.  
10 Number one, the development does not provide tangible  
11 public benefit. Two years ago this grocery store may have  
12 provided value to the neighborhood. However, things have  
13 changed.

14           In the next months, an 80,000 square foot  
15 Wegmans is going to open up five minutes away on Wisconsin  
16 Avenue. Wegmans is a highly rated, full-service grocery  
17 store with a volume and price to attract everyone in the  
18 neighborhood, especially families.

19           MOM's is a small, expense grocery store that  
20 cannot compete. Essentially, MOM's would be parenthetical  
21 and completely unnecessary because everyone will go to  
22 Wegmans.

23           Thus, there is no public benefit to this  
24 development. MOM's serves little purpose other than  
25 convenience shopping which we already have with existing

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1 vendors such as CVS and Wagshal's.

2           Essentially, the dynamic that they create is to  
3 build a unnecessary grocery store with 500 unnecessary  
4 people living above the unnecessary grocery store.

5           This proposition is absurd. Number two, the  
6 development is too dense. The plan includes 219 units  
7 with 406 bedrooms and plan at least 500 residents and  
8 legally up to a 1,000 all in a half block of property.

9           This is in comparison to my own development  
10 which is 15 units per half block of property, again,  
11 compare 15 compared to the 219.

12           Number three, the development compromises  
13 residential safety. This was their special attention as  
14 this poses hazards to pedestrians and motorists, all the  
15 cars, trucks, and pedestrians with enter at the corner of  
16 Mass, 48th, and Fordham which is at my front door.

17           As it stands, this is already a high-traffic  
18 and a high-risk area. Certainly, the risk of lives to  
19 local residents including children and senior citizens  
20 should move you to reject this proposal.

21           Number four, the development will disrupt the  
22 peace and integrity of the neighborhood. Spring Valley's  
23 a place of peace. Families moved there for peace and  
24 serenity. This place with disrupt all of that.

25           I have one more sentence. In conclusion, this

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1 plan provides no benefits to the present neighborhood  
2 residents. And creates multiple problems with solutions  
3 that will irrevocably change the character of the  
4 community and harm the families currently in the area. I  
5 urge you to vote against this proposal.

6 CHAIRMAN HOOD: Okay. Thank you all very much.  
7 Let's see if anybody, hold your seat. Are there any  
8 questions up here? Hold your seat for a second. Let me  
9 just do it like this.

10 Does any of the parties in support have any  
11 cross-examination? Any of the parties in opposition?  
12 Does the Applicant have any cross? Mr. Glasgow. Could  
13 somebody? There's --

14 MR. GLASGOW: I'm sorry. I didn't get your  
15 name.

16 MR. TATUM: Richard Tatum.

17 MR. GLASGOW: Okay. Mr. Tatum, where did the  
18 Applicant state in the record that this area is a food  
19 desert?

20 MR. TATUM: I didn't say that the Applicant  
21 said that. I said that.

22 MR. GLASGOW: All right, thank you.

23 CHAIRMAN HOOD: Okay.

24 MR. GLASGOW: All right. My next question is  
25 to Mr. Borek. There are two?

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1 PARTICIPANT: Yes.

2 MR. GLASGOW: All right, I'll start with yours  
3 then.

4 MR. BOREK: Walter.

5 MR. GLASGOW: Walter. Okay. With respect to  
6 your development plan. Did you do an IZ computation with  
7 respect to your plan?

8 MR. BOREK: No.

9 MR. GLASGOW: Okay.

10 MR. BOREK: To their plan.

11 MR. GLASGOW: All right. Are you aware that  
12 your plan has less than half the IZ units as the  
13 Applicant's plan?

14 MR. BOREK: Yes. I considered the IZ problem,  
15 significantly, I left it out for a specific reason. It  
16 seems to me that the whole concept of IZ is misused or  
17 misapplied for I'm sure several different reasons.

18 There, I believe, are 17,000 applicants, 1700  
19 on a waiting list, and I believe that it's controlled by a  
20 lottery if I remember correctly.

21 If we say 1,000 people obtained housing under  
22 that program, that would mean that it would take 17 years  
23 to flush the number out. That assumes or presumes that  
24 there are no additional applicants.

25 So how many would you care to have? I've

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1 looked at this project and said, the whole project could  
2 be IZ.

3 MR. GLASGOW: Well, the whole project could be  
4 IZ.

5 MR. BOREK: Yes.

6 MR. GLASGOW: But I would ask if there was --  
7 if it was that easy to provide IZ units, why are they  
8 mandated?

9 MR. BOREK: Very interesting question about  
10 government, I've had that conversation with myself so many  
11 times. About what's demanded of us and what we should as  
12 a matter of civic responsibility absolutely do.

13 MR. GLASGOW: All right. Next, I would say,  
14 are you aware of the, even under CRD's computations that  
15 they state that the site can support 184,000 square feet  
16 of FAR?

17 And you have a project of 122,000 square feet  
18 of FAR.

19 MR. BOREK: Yes, I do. Why should -- nothing  
20 in the zoning ordinances says that you have to maximize  
21 it. That's the premise of developers and architects.

22 The architect is demanded to, and the developer  
23 is demanded to fulfill the building envelope according to  
24 zoning. This is a Matter-of-Right, there's nothing in the  
25 zoning ordinance that says that I have to build that.

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1           It says in the zoning ordinance that I have to  
2 live within certain rules. And that's what this proposal  
3 lives by.

4           MR. GLASGOW: Well, then would a project under  
5 that theory then, if the project had one single family  
6 residence on it. That would be matter of right also.  
7 Wouldn't it?

8           MR. BOREK: Absolutely, yes, absolutely. I see  
9 nothing in the zoning ordinances that says he can't do  
10 that. Do you?

11          MR. GLASGOW: I ask the questions.

12          MR. BOREK: Yes, but that was a hypothetical  
13 question, and I answered it anyway.

14          MR. GLASGOW: All right. So it's your  
15 testimony that a single family residence on this would  
16 also be a Matter-of-Right?

17          MR. BOREK: Do you really want me to answer  
18 that again or could we just leave it where it is?

19          MR. GLASGOW: Okay, you answered, yes.

20          MR. BOREK: Thank you.

21          MR. GLASGOW: Okay, thank you. I have no  
22 further questions.

23          CHAIRMAN HOOD: Okay, thank you. I called the  
24 parties in support who didn't have any cross, and I'm just  
25 trying to save a little time. The two parties in

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1 opposition, any cross?

2 PARTICIPANT: No.

3 CHAIRMAN HOOD: Okay. Thank you all very much,  
4 we appreciate it.

5 PARTICIPANT: Thank you, thank you.

6 CHAIRMAN HOOD: Okay, the next eight. I'm  
7 going to call the next eight. Marilyn Simon, Susanne  
8 Koffsky, Sondra Mills, Douglas Barnes, Ann Stansbury,  
9 Alexander McRae, Clara Marie, and Charlotte LeGates.

10 If somebody's still looking for a seat, I have  
11 two extra seats here. Well, not extra, but I have two  
12 seats. Okay, you going to be sitting there, so I need two  
13 more people.

14 Somebody better he's -- Paul will help you.  
15 Okay, let me keep calling names. I'm going to skip Mr.  
16 Clarkson; he's a party. Milton Buchler, hold on, this  
17 thing moved on me. Hold on one second.

18 Milton Buchler, I believe. Okay. Elizabeth  
19 Mitchell, does Elizabeth Mitchell want to come up with  
20 Jason Mitchell? Do they want to come up together? Are  
21 they together? Are they together? Okay.

22 Well, come on the next, if you all can come on  
23 the next, I was just going to keep you all together.  
24 Silvia Lucero, Silvia Lucero are you coming up?

25 MS. LUCERO: Yes.

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1 CHAIRMAN HOOD: Okay. So, the next group, I  
2 want the Mitchells to come up. Whether I call you or not,  
3 just come right on up. Okay, we're going to start with  
4 Ms. Simon. You may begin.

5 MS. SIMON: My name is Marilyn Simon. Tonight,  
6 I will limit my discussion to IZ as it applies to this  
7 project. In design review, the Commission may not grant  
8 relief from the IZ requirements.

9 The set aside proposed by Valor does not  
10 satisfy the IZ requirements. In the case before you,  
11 Valor's IZ set aside fall 18,000 square feet short of the  
12 requirement.

13 Even if the proposed text amendment changing  
14 the definition of bonus density is applied, the set-aside  
15 requirement is an amount based on habitable penthouse  
16 space plus the greater of an amount based on residential  
17 floor area or an amount based on bonus density.

18 Section 1003.9 specifically states that for the  
19 purposes of calculating the minimum set aside  
20 requirements, dwelling units located in the cellar as well  
21 as enclosed building projection should be included even  
22 though these areas are not included in GFA.

23 The Applicant interprets the regulations to  
24 allow an 18,000 square foot reduction in the affordable  
25 housing set aside by sinking the building a few feet into

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1 the ground.

2           Thereby, eliminating a large amount of space  
3 from its bonus density calculation. Fortunately, the  
4 regulations adopted by this Commission address the use of  
5 cellar space.

6           And sinking the building a few feet into the  
7 ground doesn't reduce the requirement that dramatically.  
8 Applicant cited a DCRA form for calculating the IZ set  
9 aside. The DCRA form was not revised to incorporate this  
10 Commission's 2016 order, 0433G defining the bonus density  
11 to be achievable bonus density 20 percent of  
12 Matter-of-Right FAR.

13           The cited form also includes a caveat that the  
14 form and instructions is not a substitute or replacement  
15 for District law and regulations.

16           This document doesn't supersede the regulations  
17 adopted by this Commission. However, this document, and  
18 OP statements about current practice do call into question  
19 the sufficiency of the set-aside and other approved  
20 projects.

21           Even if some projects have been approved with  
22 less affordable housing than this Commission has required,  
23 that does not justify continuing this practice.

24           OP states that the ZC does not need to  
25 establish whether or not the submitted plans include the

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1 required IZ, stating that a building permit will not be  
2 issued if the required affordable housing is not included.

3 This creates uncertainty about the project's  
4 profitability or its ability to move ahead.

5 Approving the project that might be 18,000  
6 square feet short of the affordable housing requirement  
7 would not be fair to the Applicant, the community, and the  
8 affordable housing advocates. Thank you.

9 CHAIRMAN HOOD: Okay, thank you, Ms. Simon.  
10 Next.

11 MS. KOFFSKY: Yes, good evening, Chairman Hood  
12 and fellow Commissioners. I have six photos that I was  
13 just told can be found at Exhibit 409. I was hoping they  
14 could come up.

15 CHAIRMAN HOOD: Introduce yourself, and we'll  
16 bring it up.

17 MS. KOFFSKY: Okay. I'm addressing issues on  
18 the alleys, the Yuma and 48th Street alleys. And I  
19 apologize if this is repetitive, but in any event on these  
20 alleys are the perimeter of Valor's development.

21 They simply will not support the truck, car,  
22 and pedestrian traffic this building will generate.  
23 Pedestrian traffic would take a beating on the tiny  
24 three-foot sidewalk in the Yuma alley.

25 Currently, there's no sidewalk, but the alley

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1 thrives because of the DeCarlo Restaurant parking lot and  
2 pull over space adjacent to the Superfresh building as  
3 seen in Photographs 1 and 2, at Exhibit 409.

4           This parking area disappears into the Valor  
5 building, decreasing the alley to 20 feet. The HAWK  
6 signal Valor has proposed for Mass Avenue at the  
7 intersection with the Yuma Street alley will increase foot  
8 traffic into the narrow Yuma alley. And this shows up in  
9 Photograph 3.

10           And on that photo made at midday yesterday  
11 afternoon, we took a photo of three jaywalkers coming  
12 across Mass at the AU Building.

13           The next issue is the 45-degree angle at the  
14 intersection of 48th and Yuma Street alleys which may work  
15 on paper according to DDOT. But will not be workable in  
16 practice according to Mr. Ronnie Brown.

17           Mr. Brown has spent 25 years driving trucks.  
18 We had a conversation last Friday, January 18th while he  
19 spent 45 minutes making a delivery in the Yuma alley off  
20 his 28-foot truck.

21           He said trucks could not navigate the alley  
22 when headed in opposite directions without the additional  
23 space Yuma currently has. He was driving the Leonard  
24 Paper Company truck seen in the first photo.

25           Valor plans to ask DDOT to make the Yuma alley

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1 two ways. A fire hydrant sitting at the newly created  
2 entrance to Yuma alley off Mass Avenue will be knocked off  
3 its foundation when you see where it's located in  
4 Photograph 4.

5           When trucks entering the Yuma Street alley from  
6 Mass Ave because of the tight turn required to navigate  
7 the alley. This was according to Mr. Brown.

8           One last comment on the 48th and Yuma alley  
9 intersection. Photo 6 shows bent barriers from truck  
10 attempts to make the turn at this intersection. And these  
11 trucks would have been making an illegal entry off Mass  
12 Avenue into what is now a one-way alley.

13           Lastly, Valor proposes to clean up the messy  
14 Yuma alley with trash compactors for its new building.  
15 However, all Spring Valley Shopping Center dumpsters  
16 currently sit at a 45-degree angle.

17           Another garbage truck driver said it would be  
18 impossible to do that.

19           CHAIRMAN HOOD: Okay, could you introduce  
20 yourself for us?

21           MS. KOFFSKY: Oh, sure, Suzanne Koffsky.

22           CHAIRMAN HOOD: Okay, all right, thank you.  
23 Next.

24           MR. BARNES: Chairman Hood, honorable Zoning  
25 Commission members. My name is Doug Barnes, and I'm

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1 testifying in opposition to the Valor project.

2 I'm wearing two hats as I sit here before you  
3 today. One hat is that I live four blocks from the  
4 project site and I am in favor of right size development.

5 The second is as a bicycle and pedestrian  
6 advocate and project impact specialist. Attached to my  
7 testimony is a professional white paper that I have  
8 written on mobility issues concerning this project.

9 In January 2018 plans of Valor, there was a  
10 pathway through the site called the Windom Walk. Although  
11 this was flawed, it had potential. Now the building does  
12 curb to curb with no path through the site.

13 They have literally thrown the mobility baby  
14 out with the bath water. Pedestrians from the  
15 neighborhood and building will use the alleys as the  
16 shortest route Spring Valley Shopping Center and the  
17 future HAWK signal on Massachusetts Avenue.

18 The future HAWK signal will connect pedestrians  
19 to retail shops on both sides of Massachusetts Avenue.  
20 Briefly, some vehicle numbers on the entrance and exists  
21 according to Gorove/Slade.

22 The before and after figures are for vehicles  
23 per hour between 4:00 and 6:00 p.m. The vehicles passing  
24 through the Yuma Street and alley intersections will  
25 increase from 19 to 117.

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1           The entrances and exists at the 48th Street  
2 intersection and the alley intersection are 23 and 174  
3 before and after the project. This increases traffic  
4 volume by more than six times.

5           According to an informal survey I conducted  
6 recently, the north-south alley is already heavily used by  
7 pedestrians at 57 per hour, almost one a minute.

8           This will only get busier after the new  
9 construction. So the pedestrian figures are on the left  
10 side of the figure. Added to this mix are sidewalks that  
11 are inadequate.

12           The sidewalks planned alone on the north-south  
13 alley are only three feet wide bumping up against a  
14 vertical wall. You can see this in the rough sketch on  
15 the right side of it, on the right side of Slide 4.

16           From a mobility point of view, the new building  
17 will turn alleyways into low-volume city streets. This  
18 creates a loophole so that Valor does not have to meet  
19 accepted sidewalk codes.

20           With trash pickups bins alone in a very narrow  
21 alleyway, this arrangement will be pedestrian unfriendly  
22 and will likely lead to even more accidents in an already  
23 high accident prone alleyway.

24           Alleys can be made safe as evidenced by the  
25 seven-foot alley sidewalk leading to Whole Foods and

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1 nearby Tenleytown.

2 To conclude, in its desire to maximize building  
3 density, Valor has no private driveway or walkways through  
4 the building site.

5 Instead, they use public streets and alleyways  
6 to service the residential building and grocery store, the  
7 result aesthetic creates public mobility safety issues  
8 that counteract D.C. government's commitment to Vision  
9 Zero.

10 Ironically, the response of DDOT and Valor to  
11 these public safety concerns seems to be these are just  
12 alleys. Thank you.

13 CHAIRMAN HOOD: Thank you. Next.

14 MS. STANSBURY: Good evening, Commissioners, my  
15 name is Ann Stansbury, and I reside on Butterworth Place  
16 Northwest which is approximately three blocks from the  
17 proposed Valor development.

18 A year ago you heard members of the community  
19 speak about their concerns regarding this development.  
20 Since that time, Valor has presented its plan, as revised,  
21 before the Area Neighborhood Commissions 3D and 3E and has  
22 met with some community members.

23 Valor has heard and should now be aware of our  
24 continuing concerns about traffic, density, trucks,  
25 parking, loss of neighborhood businesses, and safety.

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1           Nevertheless, the Valor plan has not changed  
2 very much in its overall size and effects. The plan still  
3 calls for a very large apartment complex squeezed into a  
4 lot with an unusual shape and a slope that would put a  
5 79-foot tall building facing two-story houses. Setbacks  
6 do not reduce density.

7           There is very limited public space around and  
8 through the site and I doubt the neighbors would find the  
9 alleys to be convenient pathways for walking and access to  
10 the shopping center.

11           Valor's conclusory statements to the effect  
12 that there are no adverse effects on neighboring  
13 properties are without an adequate factual basis.

14           I would like to point out two aspects of this  
15 project that are still unsettled. One, the Valor project  
16 would be served by alleys one of which is in part  
17 privately owned.

18           It is not yet clear whether there is an  
19 agreement between American University and the developer  
20 regarding use of its alley as well as a proposed leaseback  
21 of parking spaces now covered by an easement.

22           Two, the proposed grocery store appears to be  
23 the one amenity that Valor is offering to the community.  
24 And even that is not definite, the label for the site on  
25 the future land use map is low-density commercial.

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1           Yet, if there is no retail on the site what we  
2 have here is a medium-density, residential development in  
3 a low-density commercial area. Thank you.

4           CHAIRMAN HOOD: Thank you. Next. And as you  
5 finish if you can cut your mics off. Thank you.

6           MS. LEGATES: Thank you, Chairman Hood, and  
7 thank you for the opportunity to testify. I have the same  
8 concerns as my neighbors have voiced about the size and  
9 density of this development.

10           I would like to again reiterate the safety  
11 issues in the alley. We're talking about two-way truck  
12 traffic of trucks up to eight and a half feet wide that  
13 are supposed to go in the twenty foot part of it.

14           Well, that's like nine inches on one side of  
15 the truck, a foot and half in the middle, and nine more  
16 inches on the other side. Then you've got a pedestrian  
17 using the three-foot walkway, sidewalk.

18           What happens when a pedestrian comes the other  
19 way? Heaven help us with a dog and a kid goes through on  
20 a scooter, there just isn't enough room.

21           Nobody wants accidents here. And I'm not  
22 trying to say that anyone is, we all want safe  
23 neighborhoods, but this design doesn't work for safety.  
24 Thank you.

25           CHAIRMAN HOOD: Thank you.

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1 COMMISSIONER TURNBALL: We didn't get your  
2 name.

3 MS. LEGATES: Charlotte LeGates.

4 COMMISSIONER TURNBALL: Charlotte, thank you,  
5 Charlotte.

6 CHAIRMAN HOOD: Thank you, next.

7 MS. MILLS: Good evening, Chairman Hood and  
8 Commissioners. My name is Sondra Mills. I've lived for  
9 about twelve and a half years on Alton Place about a block  
10 and half from the Superfresh site.

11 I've reviewed all the factual and legal  
12 arguments, and I do try at times to disengage and step  
13 back and just look at the big picture. And I would invite  
14 the Commissioners to do that and to consider really two  
15 questions. Does this project benefit the AU Park and  
16 Spring Valley communities? And second, does the project  
17 benefit the District of Columbia as a whole? And we do  
18 care about the D.C. goals of affordable housing.

19 We do care about access for people who want to  
20 come to our neighborhood. We care about that. But we  
21 don't think the project does achieve any of the goals.

22 First of all, it is no benefit to the AU Park  
23 and the Spring Valley communities. This grocery store  
24 much vaunted is probably not necessary and frankly, you  
25 know, I think it's a phantom. I don't think it's going to

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1 survive.

2 MOM's is not going to compete with Wegmans,  
3 Whole Foods, Giant, all the other places in the  
4 neighborhood. And we can walk to Wagshal's and CVS and  
5 get a lot of our basic goods there.

6 It's going to drive out longstanding local,  
7 locally-owned businesses. This a goal of the District  
8 government to support locally-owned businesses. What are  
9 they going to do? They're going to bring in some other  
10 business to supposedly serve the community that doesn't  
11 really need it.

12 There are all these issues of traffic, safety,  
13 and parking. I'm not going to go over that again. I  
14 think you've heard about the safety issues, especially for  
15 the many families who are attracted to the neighborhood  
16 with young children. Kids play in the street; they walk  
17 to school. There's just going to be a lot more danger for  
18 them.

19 So, this Hawk light, I think it is going to  
20 just simply attract people into the alleys if it ever  
21 happens at all, the purported creation of affordable  
22 housing. We've seen Valor has actually taken steps to cut  
23 back on the amount of IZ that will be provided.

24 So we do care about these things, but we don't  
25 see that any of these goals that the District has set for

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1 affordable housing and making neighborhoods safe,  
2 especially for children, are achieved by this project.  
3 Thank you.

4 CHAIRMAN HOOD: Okay, thank you. Next.

5 MR. BUCHLER: I am Milton Buchler, I own 4713  
6 Windom Place. My house is directly across 48th Street  
7 from the larger of the two buildings proposed by Valor for  
8 their development of the Superfresh site.

9 I continue to strongly oppose the proposal by  
10 Valor to construct now one large building topping 60 feet  
11 above Valor's chosen 48th Street building height measuring  
12 point, the high point of their property, plus their five  
13 townhomes. I thought in D.C. they were rowhouses.

14 Due to the lay of the land, the building will  
15 be considerably taller when referenced to virtually any  
16 other point on their site.

17 My house is a one and a half story Cape Cod  
18 like all three other homes directly across 48th Street  
19 from the still overlarge yellow building.

20 This house has always been part of my life, and  
21 I would like to see it and its setting to be consistent  
22 with my memories of life there. Although many changes  
23 have occurred over the intervening decades, the  
24 neighborhood has still remained largely recognizable to  
25 me.

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1           Allowing this proposal to cast a giant shadow  
2           obliterating that consistency is incomprehensible to me.  
3           The very existence of the, what people now refer to as the  
4           Spring Valley Shopping Center and the much-maligned  
5           Superfresh building is a testament to the care previous  
6           zoning boards, and developer took to ensure the structures  
7           on those sites would not overwhelm the low-rise  
8           residential character of the surrounding, established  
9           neighborhood.

10           I am somewhat at a loss to see what this  
11           particular scheme has to offer the surrounding  
12           neighborhood aside from a massive dead end to Windom Place  
13           and a stark high-rise facade behind the shopping center.

14           To me, the excessive height and mass of this  
15           development still remains all that retains all the favors  
16           of the original design submission, particularly, from my  
17           perspective, this proposal is incompatible with the  
18           Amended Comprehensive Plan.

19           There is no attempt in this development to  
20           respect the continuity with the surrounding neighborhood  
21           of single-family houses and low-rise commercial shopping  
22           center.

23           The western sky will be forever blocked and  
24           blotted from view at my house, the loss of any sense of  
25           privacy, an ill-conceived traffic pattern, excessive new

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1 traffic commercial, residential, and visitor, and  
2 decreased pedestrian safety for adults and children.

3 I have more, but I'm out of time. Please scale  
4 back this development.

5 CHAIRMAN HOOD: Okay, thank you. Next.

6 MS. LUCERO: Good evening, Chairman Hood and  
7 Commissioners. My name is Silvia Lucero, and I'm  
8 testifying in opposition before the Commission as a  
9 resident and a former shopper of Superfresh.

10 I was the ANC 3D commissioner and voted against  
11 this development on December 5th, 2018 at the regularly  
12 scheduled meeting. The reasons I voted against it are the  
13 following.

14 The size of the building is still massive for  
15 the low-density neighborhood, the mass of the structure  
16 and how it will affect the adjacent neighbors regarding  
17 traffic, light, and privacy.

18 The number of units did not decrease which will  
19 ultimately impact traffic and parking. The traffic study  
20 is now two years old, and there is still no agreement with  
21 AU agreement for parking.

22 And, again, this has been repeated over and  
23 over, the lack of consideration to the neighbors that live  
24 closest to the development and how they will affected.

25 I also am not against the development; however,

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1 it should be designed to be consistent with the urban form  
2 of the neighborhood. Thank you for your time.

3 CHAIRMAN HOOD: Okay, thank you very much.  
4 Let's see if we have any questions up here. I'm not  
5 seeing any. Does the Applicant have any cross? Okay,  
6 assume you find a seat.

7 Just point out the person that you're going to  
8 have a question for. Or do you have a question for all of  
9 them? Okay. All right, you can stand there. You can  
10 turn your mic on if you don't mind.

11 Okay, you don't have a question for her? Okay.  
12 Okay. Well, don't go anywhere somebody else may have a  
13 question. You can have a seat right there.

14 MR. GLASGOW: The question I have is for Ms.  
15 Simon. Ms. Simon, is it your testimony that Section  
16 1003.9 and that would be in subtitle C?

17 MS. SIMON: Yes.

18 MR. GLASGOW: Does this section say that seller  
19 space projections and penthouse habitable space are  
20 included in bonus density?

21 MS. SIMON: It says that it's included in the  
22 calculations in 1003.1. Now currently, the calculation  
23 for bonus density is actually is 20 percent of the  
24 Matter-of-Right FAR. So it would not be relevant to that.

25 But if, as you assume, that the text amendment

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1 in 0433I is a adopted and that still hasn't even been  
2 published in the D.C. Record. And then the calculation  
3 would be something different, and it would presumably be  
4 capped at 20 percent of FAR.

5 But it would include, that's one of the two  
6 calculations in that subtitle so it can be interpreted to  
7 say that it should be included.

8 MR. GLASGOW: So you just stated that  
9 component, that FAR on gross floor area, it doesn't have  
10 anything to do with bonus density?

11 MS. SIMON: No, what I stated is that the  
12 current regulations say that the bonus density is defined  
13 to be the achievable bonus density. That's a definition  
14 which is the potential amount which according to  
15 regulations, absence any very unusual side conditions, is  
16 20 percent of the Matter-of-Right floor area.

17 MR. GLASGOW: And when you look at because of  
18 what you just testified to, have you considered subtitle  
19 C, Section 1002.3 which defines bonus density?

20 And defines bonus density as inclusionary  
21 developments except those and lists some zones that don't  
22 apply here. May construct up to 20 percent more gross  
23 floor area than as permitted as a Matter-of-Right (bonus  
24 density). So that's gross floor area isn't as bonus  
25 density.

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1 MS. SIMON: That is the current definition. I  
2 was testifying under the current definition, your client  
3 is 35,800 square feet short of the requirement. I meant  
4 --

5 MR. GLASGOW: You didn't, you didn't answer the  
6 question.

7 MS. SIMON: -- I'm just saying, what the 18,000  
8 square feet shortfall is based on the counterfactual that  
9 you have been using that the Zoning Commission has adopted  
10 the text amendment in 0433I.

11 The current regulations are in 0433G, which has  
12 the bonus density defined to be the potential bonus  
13 density which is 20 percent of the FAR and gives you the  
14 shortfall of 35,800 square feet. I think you prefer the  
15 other one.

16 MR. GLASGOW: Yeah, I prefer that you would  
17 answer the question that if it says may construct up to 20  
18 percent more gross floor area than permitted as a  
19 Matter-of-Right (bonus density).

20 And those numbers as you know, we have now 2.68  
21 FAR. So bonus density since it has to be FAR is the  
22 difference between 2.5 FAR and 2.68 FAR.

23 MS. SIMON: Right.

24 MR. GLASGOW: Pursuant to that.

25 MS. SIMON: But subtitle, but Section 1003.9

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1 gives you factors that you add on to bonus density for the  
2 two calculations.

3 MR. GLASGOW: Where does it say that in there,  
4 Ms. Simon? Where does it say bonus density in 1003.9?

5 MS. SIMON: It says.

6 MR. GLASGOW: Where does it say that? Point  
7 that out, please.

8 MS. SIMON: Calculating the minimum set aside  
9 requirements.

10 MR. GLASGOW: Yes, it does not use bonus  
11 density does it?

12 MS. SIMON: And it also doesn't use resident,  
13 it's referring both calculations in that, in those two  
14 sections. So there's currently, there was only one  
15 calculation that was relevant and that gives you the  
16 35,000 square foot shortfall.

17 But with the text amendment that you were  
18 relying on that's not yet in effect, it will be two  
19 calculations. And in those two, in the second  
20 calculation, it says that you should be including the  
21 cellar area.

22 MR. GLASGOW: When you looked at the chart, you  
23 didn't see where we calculated cellar area and  
24 projections?

25 MS. SIMON: You calculated it only one of the

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1 two calculations. You calculated it in residential floor  
2 area, you did not calculate it in the second calculation  
3 which is not currently effective but you are assuming will  
4 be effective by the time you build this project.

5 MR. GLASGOW: Mr. Chairman, we'll cover the  
6 rest of it in rebuttal. We think that the language in the  
7 regulations is clear as to where bonus density is used and  
8 defined.

9 CHAIRMAN HOOD: All right. Any other  
10 questions?

11 MR. GLASGOW: No, sir.

12 CHAIRMAN HOOD: Okay. All right. Let's go to  
13 OO type, let's go ANC 3D. Any cross? ANC 3E? Ward 3  
14 Vision? Spring Valley Neighborhood Association? CRD?  
15 And Spring Valley Neighborhoods for a Livable Community  
16 and Spring Valley West Homes? Okay, thank you all very  
17 much.

18 Now, my calculations on the remaining names I  
19 have on the list is seven and this is the last group, I  
20 believe. So the Mitchells are coming right on up. Good.

21 I thought I called them anyway. Alexander  
22 McRae, I thought I called Alexander McRae, if not, come on  
23 up. Clare, Clara Marie, okay, the Mitchells are here.  
24 Nan Whalen, Harry Melamed, and John Thorner.

25 Is there anyone else? Yeah, I called Alexander

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1 McRae. Okay. All right, so I think this is it. Right?  
2 Anybody who wanted to testify who has not.

3 Okay, has everybody been sworn in? Okay,  
4 everybody's been sworn in. Okay. All right, everybody,  
5 anybody else? This is the last call. Anybody else who'd  
6 like to testify? Okay, so this will be it. We'll start  
7 with you.

8 MS. MITCHELL: My name is Elizabeth Mitchell,  
9 and I live on Warren Street less than a block from the  
10 development site. Thank you for affording us the  
11 opportunity to testify before you again this year.

12 I was here last year and spoke of the  
13 irrevocable harm this development will pose to many of the  
14 beloved businesses in the neighborhood, Wagshal's,  
15 DeCarlos, Salon Jean Paul which will shutter as soon as  
16 Valor breaks ground.

17 Rather than reiterate that same testimony, I'd  
18 like to speak to you about the direct threat the  
19 development poses to pedestrians and to reaching the  
20 mayor's Vision Zero objectives.

21 As you are by now well aware, the site is  
22 nestled within the neighborhood and does not at any point  
23 have direct access to Massachusetts Avenue.

24 Since Valor's traffic study was completed three  
25 years ago, several extremely popular businesses have

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1 opened Millie's, Pizzeria Paradiso, and coming soon,  
2 Compass Coffee. All attract visitors from all over the  
3 neighborhood and beyond.

4           Each night there's a steady stream of  
5 neighbors, friends, families beating feet down to get to  
6 these eateries which have quickly become neighborhood  
7 hubs.

8           Additionally, the AU building at the bottom of  
9 our block which was vacant during the traffic study is now  
10 fully operational again and full of students both day and  
11 night.

12           We went from being a sleepy street with very  
13 few pedestrians to being a major artery for the  
14 neighborhood in a very short time span.

15           As a former Brooklynite, I'm thrilled to see  
16 this vitality and vibrancy. The unfortunate bit is that  
17 Warren Street only has a sidewalk on one side. And the  
18 sidewalk funnels all of the foot traffic into an  
19 incredibly dangerous intersection at 48th and Warren.

20           This intersection has two blind turns,  
21 inadequate signage, poor lighting, and a barely  
22 discernible crosswalk. In the middle of this chaos is an  
23 AU bus stop.

24           There are ten buses an hour but buses  
25 frequently idle at the bus stop and completely obscure

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1 pedestrians from oncoming traffic. In turn, they blind  
2 pedestrians from seeing any traffic that might be coming  
3 towards them.

4           There's no stop signs, so cars and trucks have  
5 no reason to slow down. 48th Street is, as far as I can  
6 tell, the only street in our neighborhood that intersects  
7 Mass Ave and doesn't have rush hour restrictions.

8           Consequently, we also have a steady flow of  
9 frustrated commuters racing up our street to find a  
10 quicker way to work.

11           Not only does Valor's plan fail to address any  
12 of the existing issues that already putting pedestrians  
13 and drivers at risk. But they want to further exacerbate  
14 this deadly situation by adding turning tractor trailers,  
15 delivery trucks, and thousands of additional vehicles.

16           This is also the major pedestrian entrance to  
17 the site that now that Windom walk has been scrapped from  
18 the plans. I did a casual tally; there are at least 50  
19 children who live on the blocks that touch this site.

20           Most of them are under the age of ten. I don't  
21 feel safe crossing the street with my children now. If  
22 this project goes forward as currently designed with no  
23 traffic mitigation, no pedestrian safety improvements, no  
24 safe pedestrian or handicap access, I fear it is only a  
25 matter of time before there's a fatality.

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1           This is something that can be worked on, and  
2 this should be worked on before they are allowed to break  
3 ground. We have brought these concerns to them time and  
4 time again, and they have fallen on deaf ears.

5           I implore you to reject this plan until these  
6 concerns are addressed. Thank you for your time.

7           CHAIRMAN HOOD: Thank you. Next.

8           MR. MITCHELL: Thank you, Commissioner Hood,  
9 Chairman Hood, I should say. I want to express my  
10 concerns about this project, but I am mindful that you  
11 have heard many of them already, so I'm going to try to  
12 focus on some wrinkles that maybe haven't come up.

13           In terms of the size of the building, I think  
14 it's self-evident that this is a big issue for the  
15 community and that the building's out of character with  
16 the rest of the community.

17           Last year when Valor was before this  
18 Commission, Chairman Hood requested that Valor provide a  
19 slide or visual cue showing the size of the proposal  
20 versus the homes in the neighborhood.

21           Valor didn't do it, though, CRD did at the  
22 expense of the neighbors, and it shows what's obvious.  
23 The building dwarfs the homes that will be directly across  
24 the street from this project. It will literally block out  
25 the sun.

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1           In the design changes that have been made make  
2 the problem even worse by creating a solid mass of  
3 building all along the frontage on 48th Street.

4           Every building nearby with one exception is  
5 three stories or fewer which is consistent with the  
6 Comprehensive Plan, and this proposal obviously is not,  
7 oh, and with the surrounding neighborhood.

8           That exception is the American University  
9 building which is being used to justify this project.  
10 That building already is an eyesore, but at least it is on  
11 Massachusetts Avenue. It doesn't face the rest of the  
12 rest of the neighborhood.

13           This proposal and this proposed development  
14 does not sit on Massachusetts Avenue, and it is directly  
15 across the street from these single family homes.

16           It's actually trying to take density that  
17 belongs on Massachusetts Avenue and move it into the  
18 neighborhood. And the impact of it being in the  
19 neighborhood is really significant.

20           We've heard a lot about safety concerning the  
21 alleys in the project which are inadequate. But I want to  
22 focus on something Elizabeth mentioned which is the impact  
23 on the neighborhood streets.

24           Elizabeth mentioned that our street, Warren,  
25 only has a sidewalk on one side. That's also true of

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1 Windom Street and 47th Street which are all around the  
2 project.

3           And all of the traffic that is either going to  
4 or from Wisconsin Avenue and other points north and west  
5 of the project is going to go through our neighborhoods.

6           There's no way for us to get out of our homes  
7 other than getting in our cars in the driveway, other than  
8 to cross in the middle of the block. And that's a big  
9 safety hazard.

10           You don't see that in similar developments that  
11 have been put up in the middle or nearby residential  
12 neighborhoods like a Cathedral Heights. There are  
13 sidewalks on both sides there. There are not here.

14           We're not opposed to development or density, or  
15 apartments or mixed use in our neighborhood. But as  
16 you've heard over and over again, this project is too big,  
17 and almost all of these concerns stem from the enormous  
18 size and poor design that it features.

19           Valor claims they've met with us, but they did  
20 that only so that they could say that they did. They have  
21 no incentive to work with the neighborhood in a meaningful  
22 way without the Commission denying its proposal.

23           If the project were a more reasonable size, all  
24 of these negative impacts could be mitigated, and it would  
25 not destroy the value and character of the surrounding

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1 homes and community. Thank you.

2 CHAIRMAN HOOD: Thank you. Next.

3 MR. MELAMED: Chairman Hood and members --

4 CHAIRMAN HOOD: Turn, turn your mic on to  
5 speak.

6 MR. MELAMED: Chairman Hood and members of the  
7 Commission. Thank you for the opportunity to address the  
8 Commission

9 My name is Harry Melamed and my wife, and I  
10 live at 4620 Albemarle Street which is about four and a  
11 half blocks from Valor's proposed development.

12 My wife and I both strongly oppose Valor's  
13 development. I had initially prepared written comments  
14 which I was going to read to the Commission, but I decided  
15 after listening to all these people that I was going to  
16 chuck them.

17 Valor has told you that they've made many  
18 changes to their proposal, and I agree with that. They  
19 started out with something that appeared to look to me  
20 like a warehouse, and they made many changes from there.

21 But at no point in those changes did they ever  
22 make any significant changes to the major concerns of the  
23 neighbors which was the density of the project and the  
24 height of the project.

25 What they did every time, and I've been

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1 involved in this for two and a half years, three years, I  
2 don't know, it seems like an eternity.

3           And every time we'd come to a meeting, Valor  
4 have 220 to 240 apartments. If they couldn't get them up  
5 in the heights, they'd put them in the basement. And I  
6 have to tell you; I haven't lived in a basement for many  
7 years, probably when I was a student.

8           Now, why is Valor doing all of this? It seems  
9 to me that they're trying to maximize their profits here,  
10 and I understand that. That's an important American  
11 value; it's an important business value that everyone  
12 respects.

13           On the other hand, when I was a kid my father  
14 told me that when you do something significant. You have  
15 to consider what the impact of that significant thing is  
16 going to be on other people.

17           And in my opinion, Valor has failed miserably  
18 at that. It seems to me that that value is a universal  
19 value. It's beyond an American value, and I have to say  
20 since they -- every time they just don't seem to listen.

21           There's nothing we can do to get them to  
22 listen. Now, I know American values are not a part of  
23 your decision making, at least I don't believe they are.  
24 They depend on legal decision.

25           However, I would hope that by any decision you

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1 make, you send them either explicitly or implicitly a  
2 message that they have to consider the significant  
3 concerns of the neighbors regarding height and density.

4 Thank you for the opportunity to speak. I  
5 would like to add one last thing. And that is there was a  
6 recent op-ed article done in the New York Times by David  
7 Brooks on January 11. That article is entitled  
8 Remoralizing the Market.

9 And many of you may have read that, but I think  
10 it would be an interesting article for everyone in this  
11 room to read. And I thank you for the time and allowing  
12 me to go a bit over.

13 CHAIRMAN HOOD: I don't know whether you went  
14 over or not because I don't think the clock was moving  
15 because I didn't hear it.

16 MR. MELAMED: Oh, that's very good.

17 CHAIRMAN HOOD: When I looked up there was  
18 already three minutes, so it wasn't no sense to stop you,  
19 but I think you were right on time. Okay, next. Thank  
20 you, next.

21 MS. WHALEN: My name is Nan Whalen. And my  
22 remarks to you are little bit of historical perspective  
23 about Spring Valley West where I am a resident and have  
24 been for the past 31 years.

25 And before that, I lived in the original part

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1 of Spring Valley where my son, Holmes who's in the back of  
2 the room was born, and he's now 35.

3 CHAIRMAN HOOD: He raised his hand.

4 MS. WHALEN: And he knew how to order a  
5 sandwich at Wagshal's when he was six months old. Anyway,  
6 the neighborhood of Spring Valley West in its inception  
7 was to have had a high-rise tower of apartments,  
8 townhouses, a Safeway grocery store, and five office  
9 buildings.

10 There were no, there was no thought of  
11 single-family homes. Negotiations were had over a number  
12 of years between the developer which the W.C. and A.N.  
13 Miller Company and the Spring Valley West Citizen's  
14 Association.

15 The result of that arduous process is what we  
16 have today. No high-rise apartment tower, no townhouses,  
17 instead we do have a, I heard Mr. Parker say 157, I always  
18 thought it was 168 single-family houses which benefits  
19 Spring Valley as a neighborhood.

20 And the office buildings all of which are very  
21 collegial in style and low-rise, two stories above grade,  
22 in most places.

23 One unbuilt office building will be four  
24 stories when it's built as a result of the zoning change  
25 in 2010 which was negotiated between the developer and the

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1 Spring Valley Wesley Heights Citizens Association with  
2 Ambassador Harrop as president.

3           The buildings are not in conflict with the  
4 surrounding neighborhood. The development of the  
5 Superfresh has no place in the neighborhood of two-story  
6 houses.

7           Except for the Burka Building, American  
8 University Park has a style and community with which an  
9 eight-story or 80-foot high apartment building is in  
10 conflict.

11           Now, I don't live anywhere near this, but we  
12 have lived in this neighborhood so very many years that we  
13 feel very proprietary about it. And we hope that we keep  
14 our low-rise character.

15           And one other thing, there are only three  
16 houses in Spring Valley West that have an extra story.  
17 All the rest are two stories. Thank you.

18           CHAIRMAN HOOD: Thank you. Next.

19           MR. FUCHS: Good evening, Chairman and  
20 Commissioners, my name is Bill Fuchs. I'm the owner of  
21 Wagshal's in Spring Valley.

22           And I think more for the time; I'm probably  
23 going to be able to bring you a little different  
24 perspective because not only am I a resident but I am also  
25 a business owner.

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1           And my reason for being here is really  
2 two-fold. The first is that I will be losing some of our  
3 business, one of our businesses has been operating for  
4 over 22 years.

5           It has about 30 employees, and as of today's  
6 date, I still don't have an option on where to go. So  
7 that's weighing on my mind very heavily.

8           On the financial side of it, I do have  
9 trepidation as how it's going to affect the other  
10 businesses that I currently have. I've been a member of  
11 this community; we're celebrating 94 years this year.

12           So, for me, you know, I do it because I care  
13 for the neighborhood, I care for the people in it, and  
14 it's not just about the money. Obviously, I have to make  
15 money in order to survive but in this particular  
16 situation, you know, I'm sort of getting pulled both ways.

17           I'm not going to go over all the other things  
18 that everybody talked about that I think are all valid,  
19 very valid. But there is one thing that I want to talk  
20 about.

21           For the last 30 years, I have been watching and  
22 working that alley myself every day, several times a day.  
23 So if there's anybody in this room that has an  
24 understanding of that alley, it's me.

25           And I can tell you, it is not as it appears, it

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1 is not as it's portrayed by the developer. This is not an  
2 easy situation; this is definitely a round peg putting in  
3 a square hole.

4           And there are reasons for it; there's parts of  
5 that alley that have never been used for delivery. And I  
6 had some conversations with people and when somebody said  
7 to me, well, it's an alley it has to be used for delivery.

8           Well, in this particular case it's an  
9 impractical piece of land that was put in the wrong spot.  
10 And for them to say that it's going work, well, I have  
11 asked people to try, delivery people.

12           They will not even do it because they don't  
13 want to operate illegally and also to have some damage  
14 done to their trucks.

15           The other thing that I wanted to mention too is  
16 the one thing that hasn't come up as well as the impact on  
17 the neighborhood for additional parking.

18           There are over 100 cars that are tucked away,  
19 currently, in the underground parking lot and on the  
20 surface parking lot in the Superfresh site.

21           Those cars, I don't think, have been taken into  
22 consideration in the DDOT survey. And I know they have to  
23 take parking. And one other thing is that I forgot to  
24 mention this.

25           That the 50-foot trailers that are shown in the

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1 drawings. The actual 48 footers are only allowed in D.C.  
2 You add another 15 feet of tractor on there, you've got a  
3 65-foot truck length that's not going to be able to handle  
4 those turns that are being portrayed in the outline.

5 So, anyway, thank you very much for your time.

6 CHAIRMAN HOOD: Thank you. Next.

7 MS. GRANDY: Thank you, my name is Cheryl  
8 Grandy. My husband and I have already submitted comments  
9 that are in the record, and I really don't care to plow  
10 any more ground than has already been plowed.

11 I think you raised a good point about parking.  
12 We already are inundated with AU students, people going to  
13 Millie's, people going to Crate and Barrel. Parking will  
14 be a big issue if this development goes forward as  
15 planned.

16 It's very dense. I think we're all assuming  
17 that there will be a lot of students. Many of them will  
18 have more than one car. Many of the residents will have  
19 more than one car. And we already see a lot of parking on  
20 our street.

21 The other thing is the amount of traffic on  
22 Warren Street. We live within a block of the development,  
23 and we already are cut through from Mass Avenue up to  
24 Wisconsin by virtue of the light that's there at 48th  
25 Street.

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1 I can only see more and more traffic in our  
2 area as a result of this development.

3 Lastly, I would echo Elizabeth's comments about  
4 safety. We do not have a sidewalk on our side of the  
5 street. We already, you know, have to watch very  
6 carefully when we open our doors because people are  
7 blowing through there to get up to Wisconsin Avenue, and  
8 it's a big problem.

9 So, I hope you will take all of this into  
10 consideration. And I also hope that you will get, nail  
11 down Valor on their promises. Because we, as other people  
12 have detailed, we've heard a lot over time from them about  
13 what's going to be there, what's not. How it's going to  
14 look, how it's not going to look.

15 It's like nailing Jello to the wall; it's just  
16 a pretty tough to get them to commit to anything so far.  
17 Thank you.

18 CHAIRMAN HOOD: Okay, thank you all very much.  
19 We appreciate it. And I want to thank you, Mr. Mitchell  
20 for reminding me. Because I was sitting there thinking, I  
21 didn't see what I had asked for.

22 And one time I thought I did, but I want to  
23 thank you for reminding me what I asked for. And I'm  
24 going to ask for that again. And I said that for a reason  
25 so that Applicant here can hear it.

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1           Let's see if we have any other questions up  
2 here? Question Vice Chair Miller?

3           VICE CHAIR MILLER: So, for those who -- I  
4 can't remember the transportation testimony about the  
5 sidewalk, but we'll come back to that with the Applicant.  
6 Have you asked this, why don't you have the sidewalk on  
7 your side of the street?

8           MS. GATES: We've lived there for 36 years, and  
9 there just has never been a sidewalk.

10          VICE CHAIR MILLER: Have you asked the city for  
11 a sidewalk, or do you not want a sidewalk? Did you --

12          MS. GATES: We haven't needed one.

13          VICE CHAIR MILLER: You haven't needed one.

14          MS. GATES: Until now, I mean, and if this goes  
15 forward I think one would be appropriate, but we really  
16 haven't needed it until now.

17          VICE CHAIR MILLER: Okay, I thought there was a  
18 policy to have sidewalks on every, on all sides of the  
19 street. Yes?

20          MS. MITCHELL: If you -- it actually becomes  
21 quite impractical on our side of the street, which we're  
22 both on the side of the street. When you go to make that  
23 turn that we went through this a little bit with DDOT when  
24 they did the site visit.

25                 On our side of the street, there's no way to

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1 get from -- I don't know if you can picture it -- but from  
2 48th, from 47th going down Warren making that turn, it  
3 would be wonderful to have a way to make that turn.

4           But there's a property right on that corner,  
5 and it's just, I don't see how it's possible. And also  
6 it's a real big slant, so I think it's just totally  
7 impractical.

8           But we're missing a lot of signage, Windom  
9 doesn't even have a stop sign at the end of their block.  
10 And these are things that we've reported to 311. We  
11 talked about them with DDOT when we did the site visit.  
12 I've reported them several times.

13           We walked through with our ANC, and I know that  
14 our chair, I know that two of our ANCs had talked about  
15 this with DDOT.

16           And the DDOT rep, Jeff, said that the best  
17 thing that we could hope for was actually to get this  
18 passed in order for these -- I mean it's extremely  
19 dangerous now. And I've been really trying to push this  
20 forward to get it fixed.

21           And he said that the best thing we could do is  
22 try and get this project pushed forward to solve existing  
23 issues which seemed like a --

24           VICE CHAIR MILLER: Well -- where they're  
25 saying there should be a sidewalk at which intersection?

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1 MS. MITCHELL: Well, so, like if you --

2 VICE CHAIR MILLER: I didn't mean a sidewalk, I  
3 mean a stop sign.

4 MS. MITCHELL: A stop sign, oh, well, so Jeff,  
5 the DDOT person, also suggested that we have one where  
6 48th meets Warren.

7 Windom doesn't have any signage. One of our  
8 ANCs who did the walk-through with us actually took note  
9 of that, reported it. So where Windom meets 48th, there's  
10 just no signage.

11 And to be honest with you, the reason I'm even  
12 involved is because when I looked at the traffic study and  
13 saw that these issues weren't addressed. That was a major  
14 red flag to me.

15 The fact that they weren't doing, there's these  
16 little small things that are very obvious to anyone who's  
17 walked the perimeter of the site. I felt like that was  
18 kind of a big red flag.

19 VICE CHAIR MILLER: Okay, well, thank you for  
20 bringing that up.

21 MR. MITCHELL: Commissioner Miller, if I may,  
22 one very small point. The other reason that sidewalks  
23 would be difficult to construct on Warren, Windom, and  
24 47th Streets is that there are very large trees that are,  
25 there's two huge ones in our front yard where a sidewalk

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1 would have to run.

2           So while trees can be cut down, of course,  
3 that's an issue for several streets in the neighborhood  
4 that, you know, those trees have been there for a very  
5 long time.

6           CHAIRMAN HOOD: Commissioner Turnbull.

7           COMMISSIONER TURNBULL: Thank you, Mr. Chair.  
8 Mr. Fuchs, can we go back to you, since you've got a lot  
9 of experience with trucks and using the alley.

10           Could you, I mean, the plan that's presented by  
11 the Applicant, the three-foot sidewalk and the whole thing  
12 how they plan to operate it.

13           Maybe you could speak a little bit more about  
14 your comments on why it won't work. We've heard a lot  
15 about turning trucks from Yuma into the alley. Have you  
16 run into that in the past? Have you, can you speak to  
17 some of that?

18           MR. FUCHS: There is, there was on frequent  
19 occasions both sides of the driveway access on Yuma Street  
20 have been damaged by trucks jumping the curb.

21           As a matter of fact, there's an actual manhole  
22 there that has a water meter, and that became dangerous  
23 for several months. But those constantly keep being bent  
24 over by the trucks.

25           There is a small planter that's been hit

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1 several times by trucks that is not on, in the alley but  
2 has been close to the DeCarlos restaurant.

3 I can tell you also that the factor that they  
4 have put in that trash compactor, and somebody alluded to  
5 it earlier. That there has to be an angle there for that  
6 truck to pick that trash compactor up like they do on the  
7 other side with the old Superfresh site.

8 So there's really no way, that compactor will  
9 be in that 20-foot alley. There's no other way to do it.

10 COMMISSIONER TURNBULL: Yeah, I think the plan  
11 we saw showed a square, I guess parallel --

12 MR. FUCHS: Yeah, but that's not practical.

13 COMMISSIONER TURNBULL: -- you know, I guess --

14 MR. FUCHS: No, it's not going to work.

15 Because you have be able to pick things up in an alley.

16 COMMISSIONER TURNBULL: -- right.

17 MR. FUCHS: The truck can't go parallel with  
18 the building and pick it up. It's just not possible.

19 COMMISSIONER TURNBULL: Okay.

20 MR. FUCHS: So I think there's a flaw there.

21 And it's the same thing with the 50-foot trailers that  
22 they've shown. It's not a 50-foot trailer. It's a  
23 48-foot is allowed in the District, plus a 15-foot cab.

24 You're talking 65 feet of truck. That's what  
25 you're talking about, not 50-foot. And even the 35

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1 footer, okay, would have trouble.

2           Never has there been a right turn on Mass  
3 Avenue into the alley. Never has been done, not possible.  
4 Somebody mentioned earlier; there's a fire hydrant there.  
5 That thing would have been knocked over six ways until  
6 Tuesday.

7           And even if they move it, they're still going  
8 to jump the curb. There's no way you can make it. I've  
9 seen trucks go toward downtown, jump the median strip on  
10 Mass Avenue and came in through that way. That was the  
11 only way they could come in from in that entrance.

12           Right now, it says do not enter but in that  
13 little alleyway. And there's no way, a two-way traffic.  
14 That sidewalk, it's dangerous. It is absolutely  
15 dangerous. We've had people hit just walking in the alley  
16 with trucks already because there are blind spots.

17           You know, you walk behind a truck, somebody's  
18 zooming by on the side. We've had accidents.

19           COMMISSIONER TURNBULL: Okay, thank you.

20           CHAIRMAN HOOD: Okay, any question Vice Chair  
21 Miller?

22           VICE CHAIR MILLER: Just a quick question for  
23 Mr. Fuchs. Was there ever any -- you have the Spring  
24 Valley Catering?

25           MR. FUCHS: We have a catering --

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1 VICE CHAIR MILLER: And you also have a  
2 barbeque place?

3 MR. FUCHS: Right, and I also have a production  
4 facility there for -- we employ about 35, 30 to 35 people  
5 there.

6 VICE CHAIR MILLER: Have you discussions with  
7 the developer about --

8 MR. FUCHS: We had an initial meet and greet,  
9 and then they would keep me informed. I've never heard  
10 from them since.

11 VICE CHAIR MILLER: How much square footage are  
12 you using on that site?

13 MR. FUCHS: I use roughly 6,000 square feet on  
14 the bottom of Superfresh.

15 VICE CHAIR MILLER: Thank you.

16 CHAIRMAN HOOD: Any other questions? Okay.  
17 You, okay, does the Applicant have any cross? Okay. ANC  
18 3D? ANC 3E? You have a question? That you want to add  
19 to your testimony?

20 MR. MELAMED: I wanted to say that Wagshal's  
21 food is excellent. And we would not want anything to be  
22 adversely affected by this. And I leave it at that,  
23 that's my comment.

24 CHAIRMAN HOOD: All right.

25 MR. MELAMED: Thank you.

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1 MR. McHUGH: Just two questions. Harry, I've  
2 already read your David Brooks article, and I thoroughly  
3 agree with demoralizing corporate issues.

4 Mr. Fuchs, I have two questions. One of them  
5 is CVS has trucks that deliver there, I imagine. How  
6 large are those trucks?

7 MR. FUCHS: Typically, they're 48 footers, I  
8 have seen larger. And in all cases, for the most part,  
9 they park on Yuma Street.

10 MR. McHUGH: How do they get here?

11 MR. FUCHS: Basically, they would come up 49th,  
12 take a right on Yuma and either park illegally on one side  
13 or the other. Or they would come around -- this is all,  
14 most of these are done late at night. And they would come  
15 up Fordham and 48th Street and come down that way.

16 MR. McHUGH: Okay, and Superfresh, when it was  
17 in operation, about how long were those trucks? 53-footers?

18 MR. FUCHS: Oh no, sometimes I even saw some 55  
19 footers.

20 MR. McHUGH: And how did they get there?

21 MR. FUCHS: The only 55 footer I've ever seen  
22 has been the one that came off of 48th Street but that had  
23 an angle where they came down, they had to back up into  
24 from 48th Street.

25 MR. McHUGH: Right, it's a loading dock next to

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1 Superfresh.

2 MR. FUCHS: Yeah, that's the only way they  
3 could get in.

4 MR. MCHUGH: Okay, that's all I had. Thank  
5 you.

6 CHAIRMAN HOOD: Thank you. Did I do Ward 3  
7 Vision? Any questions? Okay. Spring Valley? CRD?  
8 Spring Valley Wesley Heights? Neighbors for Livable  
9 Communities or Community? And Spring Valley West Homes?  
10 Any questions? Okay, no questions. Okay, thank you all  
11 very much. We appreciate.

12 Okay, Mr. Glasgow, if you want to -- moving to  
13 the table. So how much time are we looking at a rebuttal?

14 MR. GLASGOW: I think it will be about 30 to 40  
15 minutes.

16 CHAIRMAN HOOD: What do you all want to do?  
17 Okay, let's go ahead. And here's the thing, we've heard  
18 it. We know your story, we've heard their story. So, and  
19 you know, we have to give you rebuttal, but I want you to  
20 know we've heard it.

21 I know I've heard it, I've heard it more than  
22 enough. That's my -- what I'm going to do; I'm going to  
23 take a five-minute.

24 I'm going to make a motion that we recess for a  
25 few moments to go in a closed session. And I think I can

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1 do this; if not, I'll pay for it later.

2           And I'll take five minutes. I'll make motion  
3 that we do that and can I get a second?

4           COMMISSIONER SHAPIRO: Second.

5           CHAIRMAN HOOD: It's been moved and properly  
6 seconded, any further discussion? All in favor, aye.

7           (Chorus of aye.)

8           CHAIRMAN HOOD: Any opposition? Give us five  
9 minutes.

10           (Whereupon, the above-entitled matter went off  
11 the record at 10:22 p.m. and resumed at 10:28 p.m.)

12           CHAIRMAN HOOD: Okay, let's get back on the  
13 record. We have come out of closed session, and it will  
14 be noted for any public review. And that was just simply  
15 talking about scheduling.

16           I think we as a Commission think this too  
17 serious for us to try to cross, rebuttal, and all that  
18 tonight in 40 minutes because we have a lot of questions  
19 and stuff that we have to get.

20           As one person said, we have to continue to nail  
21 it down. We need to be nailed down too, you know, we need  
22 to nail you all down. Okay? So that's the reality of it.

23           Because it is still kind of all over the place  
24 for us and we need to make sure we have some assurances  
25 that we need, at one point, even deliberate.

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1           And I haven't mentioned to my colleagues yet,  
2 but I think we want to have a public work session on this  
3 case since we want to make this a textbook case for us in  
4 design review.

5           So, with that said, we're going to try to, what  
6 we've come up with is a schedule is, not to prolong you  
7 too long, we would like to come back on the 31st. We have  
8 another hearing at 6:30. We will proceed with this  
9 hearing at 5:00.

10           We're simply going to do that but to  
11 accommodate everyone's schedule, we going to come on the  
12 31st at 5:00 because we have another hearing that night.  
13 That's was the earliest we can get. We don't want to  
14 carry this over to February and March. We don't want to  
15 do that.

16           We want to go ahead and try to move  
17 expeditiously on this case. So does the 31st, this is the  
18 question that's going to be rough. Does the 31st work for  
19 the Applicant and all the parties?

20           I like that answer I heard. Normally, I don't  
21 hear that answer. You need to come to all the hearings.  
22 The Applicant, the 31st at 5:00? And everybody else I  
23 heard the communities and the parties, we'll make it work.  
24 I like that. That was easier than I thought. I wasn't  
25 expecting that so thank you all very much for cooperating.

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1 Ms. Gates do have a question? Could you come  
2 to the mic, please?

3 MS. LEGATES: I just wanted to ask if you were  
4 going to allow cross on the rebuttal.

5 CHAIRMAN HOOD: Yes, always cross the rebuttal.

6 MS. LEGATES: Thank you.

7 CHAIRMAN HOOD: That's another reason we're not  
8 doing it tonight.

9 MS. GATES: Thank you.

10 CHAIRMAN HOOD: And we may have our own cross  
11 on rebuttal, so that's where we are. All right, so I  
12 think that's a good decision that we all made  
13 collectively.

14 So let's put that in the record that we all  
15 made a good decision not rushing through this. So we're  
16 all set, the 31st. Now we do have another hearing at  
17 6:30. So we don't want to get the folks who come in for  
18 that upset with us.

19 So we're going to do our best. Donna, if you  
20 could let some of the -- do we have parties in that case?  
21 Let them know that we may be a few minutes late so they  
22 won't come in being mad, won't come in being mad with us.

23 Well, maybe not a few minutes. Tell them to  
24 come at 7:00, well, we already have it advertised, it's  
25 already advertised. Yeah, let a friendly request, just

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1 tell them they can come at 6:30 if they want.

2 I won't hit the gavel for that until after  
3 7:00. Okay? Okay. All right. So anything else?

4 MR. GLASGOW: Yes, sir, Mr. Chairman, I have  
5 one question. Because I didn't try the case the first  
6 hearing or whatever, I want to make sure that we  
7 understand what it was that you were looking for that you  
8 think that we haven't put in the record?

9 CHAIRMAN HOOD: You may already have --  
10 actually, this may be a little addition to what Mr.  
11 Mitchell mentioned. What I wrote in my notes, I wanted to  
12 see; I want a view.

13 Somebody mentioned an existing view with this  
14 project, not an animated view; I want to existing view of  
15 what exists now with a rendering showing what the project  
16 will be all the way around.

17 I guess, having the size of this just all the  
18 way around the project. Okay? Does that make sense?  
19 Existing conditions with what's being proposed. I want to  
20 see it, and I want to see more than one view. I want to  
21 see it all the way around the project. Okay?

22 MR. GLASGOW: All right.

23 CHAIRMAN HOOD: And I don't know if you use --  
24 what is that called? CAD, what do they call it? No, I  
25 forgot the name of it.

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1 MS. ELG: Like Revit or Lumion or do you mean  
2 insert it into a photo like we had done?

3 CHAIRMAN HOOD: Yeah, it's a photo, but some  
4 people come down with a sophisticated thing that takes me  
5 around.

6 MS. ELG: Oh, you mean like a video?

7 CHAIRMAN HOOD: Yeah, but you don't have to do  
8 that. I don't want -- I'm not -- I don't want to have to  
9 pay any more.

10 So what I'm just saying, just some pictures  
11 just showing me, showing me how it's going to look all the  
12 way around from different views around the project that's  
13 being proposed.

14 And how that structure's going to be, and the  
15 structure's going to be in there from looking the  
16 neighborhood, looking at it. What they're going to see  
17 and what they won't see.

18 If you could do something like I saw today.  
19 What's existing and what they're going to see afterwards,  
20 all the way around the project. Okay?

21 COMMISSIONER TURNBULL: Mr. Chair.

22 CHAIRMAN HOOD: Yes.

23 COMMISSIONER TURNBULL: From our previous  
24 meeting, I think, looking at my notes. You had also asked  
25 for more questions; you had some questions on pedestrian

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1 safety in navigating the alley.

2           You also had some questions about a proof or  
3 scheme of the loading and how that works. And in light of  
4 what Mr. Fuchs has said, it sounds like there are some  
5 serious issues on how navigating through that alley would  
6 really work.

7           So I think we really need some really down to  
8 earth schemes on how would that would really -- it sounds  
9 like there's some very serious issues on mobility,  
10 navigating, safety, and just the practicality of is this  
11 going to work.

12           I think the only other I had was on the IZ unit  
13 stacking, and I forget what else, but those are the major  
14 things that I can remember.

15           MR. GLASGOW: Mr. Turnbull, you said IZ units  
16 and it had another word I didn't understanding.

17           COMMISSIONER TURNBULL: Stacking, I was  
18 concerned about stacking units.

19           MR. GLASGOW: Oh.

20           COMMISSIONER TURNBULL: One above the other.

21           MR. GLASGOW: Okay, okay, I got it.

22           CHAIRMAN HOOD: Commissioner Shapiro.

23           COMMISSIONER SHAPIRO: Just one other point the  
24 last panel brought up the issue around the intersection of  
25 Mass, 48th, and Warren. It's a hair off from the project,

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1 but pretty clearly the project will have impact on that  
2 intersection.

3           And I'm curious; I just want to make sure that  
4 that gets captured and discussed.

5           CHAIRMAN HOOD: Okay. Okay. Mr. Repp, I saw  
6 your hand. And Commissioner Kravitz, I saw your hand if  
7 you all can come to the table because it has to be on the  
8 record.

9           MR. KRAVITZ: I don't know if it's helpful but  
10 I had a conversation with DDOT following the walkthrough  
11 and the Jeff was Director Jeff Marootian.

12           He indicated that a stop sign at that  
13 intersection is likely doable right away.

14           CHAIRMAN HOOD: Ms. Hanousek, could you ask  
15 DDOT to come to this 5:00, please?

16           MS. HANOUSEK: Okay.

17           CHAIRMAN HOOD: And make sure we contact the  
18 people who are going to be here at 6:30 or 7:00.

19           MR. REPP: Two comments, first of all, as far  
20 as time goes on the 31st, I haven't talked to Ed Donahue,  
21 yet, about this. Presumably, he'll be available, I am.

22           But, you know, you're giving 90 minutes, I  
23 think, for this. Chip says he wants 40, I mean, I'm not  
24 sure and you guys are going to have questions.

25           It seems to me there's going to be a time

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1 pressure with respect to that meeting. Because we're  
2 certainly going to do rebuttal on it too, so, and I would,  
3 every would at least for equal time.

4 CHAIRMAN HOOD: So you know, I really don't  
5 really want to run this up against another hearing.  
6 Because when we're up here, we get some, I see enough  
7 frowns as it is.

8 So we'll really get some frowns from that other  
9 group if they have to sit here and wait until 9:30, and  
10 then we have to continue them.

11 And I'm going to, I would like for us to look  
12 at what we talked about earlier. All right, we're going  
13 to go to February. Give it a February date.

14 MR. REPP: Okay, I mean, this is complicated.  
15 I appreciate --

16 CHAIRMAN HOOD: We're going to try to push,  
17 somebody made the suggestion. Because I was -- oh, I  
18 didn't mean to expose who it was. I was going to go with  
19 it, but, I, you know, but anyway.

20 MR. REPP: Well, it's a complicated --

21 CHAIRMAN HOOD: It was good try.

22 MR. REPP: Yeah, it's a complicated project.  
23 The second comment I was going to make and with respect to  
24 the views that you're asking for.

25 I mean, we saw tonight that our expert, not

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1 expert, I guess. Our person --

2 CHAIRMAN HOOD: Mr. Repp, are you giving us  
3 some additional testimony? Can we hold that?

4 MR. REPP: No, no, as far as what these views  
5 are, I'm just saying, let's hope they're accurate and not  
6 --

7 CHAIRMAN HOOD: Okay, let's wait until we get  
8 them.

9 MR. REPP: Yeah, okay.

10 CHAIRMAN HOOD: Let's wait until we get them.  
11 Let's hold off.

12 MR. REPP: Yeah.

13 CHAIRMAN HOOD: Not February 14th. So we're  
14 looking at February the 6th. And it's a Wednesday, can we  
15 do 6:00?

16 MR. KRAVITZ: If you can do it earlier the ANC  
17 3D meeting is that day.

18 CHAIRMAN HOOD: We have an ANC meeting. Can we  
19 do 6:00? What about that Tuesday, what's the Tuesday, the  
20 5th? What about the 5th?

21 Who has a meeting on the 5th? Oh, everybody  
22 has a meeting. Do you have a meeting the 5th and the 6th?  
23 I used to go to a lot of these; then I had to cut some of  
24 those out. Trust me.

25 But he said they've got meetings both days.

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1 What about the following week? We're going to be here  
2 until 11:30 trying to figure out -- what about the  
3 following week?

4 The 13th is on what date? Can we do the 13th?  
5 Okay, here's the thing.

6 MR. KRAVITZ: Chairman Hood, I'll find a way to  
7 make the 6th work, please? That's best for the team. Is  
8 it possible?

9 CHAIRMAN HOOD: The 6th, they said they're back  
10 to the 6th.

11 MR. KRAVITZ: That it started at 5:00 that was  
12 my only request. If not, I'll adjust.

13 CHAIRMAN HOOD: Okay, but, let me just say that  
14 some people work and we get beat up on if we do while  
15 they're working. So want to try to make it as late as  
16 possible.

17 We're doing it, what did we say 6:00 on what  
18 date? February 6th at 6:00, okay? Everybody said they'll  
19 make that work. Right? All right. Before we do that,  
20 Ms. Hanousek, do we have anything else?

21 Okay, so February 6th at 6:00 we'll reconvene  
22 with that, this hearing is whatever it is until the 6th.

23 (Whereupon, the above-entitled matter went off  
24 the record at 10:41 p.m.)

25

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, LLC

Before: DC Zoning Commission

Date: 01-24-19

Place: Washington, DC

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
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