

COMMUNITY UPDATE

A Neighborhood Newsletter Published By The
Spring Valley-Wesley Heights Citizens Association
And Neighbors for a Livable Community
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THOMAS M. SMITH, EDITOR

MILLIE'S SPRING VALLEY GENERAL MANAGER DIES AFTER BEING SHOT IN ATLANTA

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Christian Broder, the popular general manager of Millie's Spring Valley, died last Friday after being robbed at gunpoint and shot in Atlanta on July 8 following a wedding reception. Broder is the brother-in-law of Bo Blair, the owner of Millie's Spring Valley and several other establishments in D.C. He is survived by his wife, Molly, and a 9-month old child, Frances.

According to various news reports, Broder was waiting for an Uber with his wife, brother, and sister-in-law outside the Atlanta Capital City Club, a private country club in the historic Brookhaven section of the city, when he was shot. According to Atlanta police, Broder and his party walked toward a car that arrived at the country club assuming it was their Uber. Instead, a man got out of the passenger's side and robbed them at gunpoint taking a cell phone, a purse, wallets, and cash. Broder was then shot point blank in the stomach. Police arrested a 17-year old and charged him at the time with aggravated assault, aggravated battery, and possession of a firearm during the commission of a felony.

A GoFundMe campaign has been set up for Broder's family to help defer expenses. The GoFundMe page can be found at <https://www.gofundme.com/supporting-christian-broder>.

We are saddened to hear of the tragic loss of Christian Broder, the general manager at Millie's Spring Valley. Our hearts are heavy with this news and we want to wish his family our deepest sympathy at this time of sorrow. At this time, we ask all residents of our neighborhood to keep the Broder family in their thoughts and prayers.



Dr. Jeffrey Kraskin, President
SVWHCA



Dennis Paul, President
NLC

NEWS AND ANALYSIS ...

D.C. ZONING COMMISSION ACCEPTS VALOR DEVELOPMENT'S THIRD REQUEST FOR A DELAY IN DECISION ON SUPERFRESH SITE DEVELOPMENT

The D.C. Zoning Commission (ZC) voted on June 25 to accept Valor Development's third request to defer a decision in the zoning case filed by Valor to build two large apartment buildings on the site of the former SuperFresh market. The delay means that any decision on the future of the SuperFresh site will not be made until sometime in 2019 – at the earliest. Valor initially submitted its application to the ZC in October 2016 and almost immediately began seeking delays in the ZC's consideration of the case. Hearings in the case were not held until January, 2018 to allow Valor to refine the plans and negotiate agreements with neighboring commercial property owners that would allow for greater density at the SuperFresh site.

ZC hearings in the case concluded in late January, and deliberations were initially set to begin February 26. But, Valor sought to delay those deliberations until late May and then filed another request for a delay in deliberations until July 30. Valor filed yet another motion on June 15 indicating it needed even more time and requested to delay the July 30 deliberations so the developer could now file new plans for the site by October 16.

The delays are due to issues that have been raised during the hearings that highlight the project's non-compliance with the city's zoning standards. However, Valor's request for a delay also states it needs more time to resolve issues with the SuperFresh site landowner, who reportedly is seeking development proposals from other developers.

Testimony provided at the January 25 hearing by Marilyn Simon, a community activist who has long been engaged in zoning and development issues, questioned whether the proposed development met the city's inclusionary zoning requirements which stipulate a formula for providing affordable housing in new developments in the city. Citizens for Responsible Development (CRD), a grassroots group of American University Park and Spring Valley residents leading the opposition to the proposed project, also raised the inclusionary zoning issue to the ZC in a subsequent filing.

As a consequence of this testimony and CRD's filing, the DC Office of Planning (OP) determined that the project, as proposed by Valor, did not meet the inclusionary zoning requirements. Valor was faced with the prospect of revising its proposal by adding more affordable housing units to the proposed plan or scaling back the density of the plan to reduce the number of affordable housing units it would be required to provide.

Under current zoning rules, some developers choose to relocate more apartment units below ground level so they do not count as residential units for zoning purposes – thereby reducing the number of affordable units that might be required.

In its latest request for a delay, Valor also asked for an additional hearing in the case because of “the extent of changes” that are to be made to the initial plans submitted to the ZC. In granting the request to delay the July 30 deliberations, the Zoning Commission agreed to provide official parties in the case eight weeks to review the plans and submit comments to the Zoning Commission, as requested by CRD. Those comments will be due on December 11, 2018. A hearing has been scheduled for January 7, 2019 on the revised plans.

In addition to Valor, the parties in the case are ANC 3E, where the SuperFresh site is located; ANC 3D, which initially voted in December 2016 to oppose the project and then switched course after the composition of the ANC changed in 2017; Citizens for Responsible Development; the Spring Valley-Wesley Heights Citizens Association; Neighbors for a Livable Community; the Spring Valley West Homes Corporation; and the Spring Valley Neighbors Association.

Citizens for Responsible Development, the Spring Valley-Wesley Heights Citizens Association, Neighbors for a Livable Community, and the Spring Valley West Homes Corporation have testified in opposition to the project as currently proposed. Additionally, about 30 individual residents of American University Park and Spring Valley testified in person at the hearings in opposition to the proposed development.

Bill Fuchs, the owner of Wagshal’s, also testified in opposition to the project. No individual resident testified in support of the project.

ANC 3E and ANC 3D have voted to support the Valor project. Both ANCs have spent more time in the case, however, attacking opponents of the project than in outlining how the project meets the city’s zoning requirements. In fact, both ANCs turned a blind eye to the project’s failure to comply with the city’s zoning rules on affordable housing, which is now forcing the developer to redesign the project. This reinforces criticism from some residents that the ANCs’ review of Valor’s proposed project was not thorough or comprehensive. The Spring Valley Neighbors Association is the only residents’ group that has testified in support of the proposed project.

At the January 2018 hearings, American University Park and Spring Valley residents raised a number of objections to the proposed project stressing that its density was out-of-scale with the surrounding residential neighborhood. As proposed, the development will include two new buildings – with 220 apartments. Originally, one building was slated to be a rental and the other a condominium; but Valor changed course in January saying that both would be rental apartment buildings.

The new development will result in the loss of nearly 28,000 square feet of retail space. It would displace DeCarlo’s Restaurant, Jean Paul Hair Salon, the Wagshal’s Barbecue Pit, and Spring Valley Catering, which also is owned and operated by Wagshal’s. (All the kitchens used by Wagshal’s are located in the SuperFresh basement.)

Opponents argue that the 5-7 story project, which faces two residential streets (48th St. and Yuma St.), is not compatible with the adjoining residential neighborhoods. The view from Massachusetts Avenue will be of a 90- foot tall building. Opponents also have argued that the proposed development is inconsistent with the city’s Comprehensive Plan and does not conform to other existing zoning regulations.

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They also argue that Valor has misrepresented the scale of the new development in its application materials submitted to the Zoning Commission. The density of the project, as proposed, is six times greater than what now exists at the site and exceeds that available on the lot as a matter-of-right by more than 90,000 gross square feet (gsf).

Spring Valley residents and groups representing many Spring Valley neighbors have raised concerns about traffic impacts, especially given existing traffic and safety issues at the intersection of Fordham, 48th Street, and Massachusetts Avenue and adjacent to the Spring Valley Village Shopping Center. Objections have also been raised about the small size of the individual apartment units, especially given that Valor has promoted the new housing as a way for neighboring residents to downsize but stay in the neighborhood.

Valor Development acknowledges that the project's density exceeds what can be built on the site as a matter-of-right. However, Valor argues that its project is “superior” to what would be built as matter-of-right, primarily on the basis that the plans include a grocery store.

However, the grocery store, which originally was conceived to be 56,000 square feet – approximately the size of the Giant grocery stores at Cathedral Commons and the Westbard Shopping Center – has been scaled back to approximately 13,000 square feet.

Valor told the Zoning Commission in early January that Balducci’s had entered into a non-binding agreement to lease the reduced-size grocer space; however, the developer now indicates that Balducci’s will not lease the space and is searching again for a new grocery store to fill the designated space.

Valor Hints Of Revisions In Plans; Project Opponents Note Valor’s Failure To Communicate Any Proposed Revisions

In its most recent filing seeking a delay in the deliberations, Valor indicated that it had already revised its plans to meet OP’s requirements for affordable housing. However, on June 25, when Valor defended its request for an additional delay before the ZC, Will Lansing, a principal at Valor, said the developer was “still working through iterations” on how the project would be revised to meet OP’s objections.

Lansing added that Valor did not agree with the position taken by OP on affordable housing, “but we are working on trying to make it consistent with OP.”

Valor also indicated in its formal request for a delay that it would reduce the size of one of the two proposed residential apartment buildings by 36,000 square feet and replace the second high rise building with smaller-scale townhomes. Valor also said it would “directly respond to the community’s desire for a true full-service grocery store,” but provided no additional details.

Valor said it needed the delay to discuss “adjustments to the development agreement it has with the owner” of the SuperFresh site.

The original agreement between Valor and the landowner has lapsed and the owner is accepting bids from other developers for development of the site, according to information provided to ANC 3D at its July 11 public meeting.

In responding to Valor's request for delay, CRD said the new request for a delay "demonstrates that Valor's application is not, and probably never was, ready for 'prime time.'" CRD said it could not support another extension of time in the case noting that CRD had been provided no information about revised plans for the site that would "enable us to join in support for another extension of time." CRD had supported Valor's previous requests for delays.

CRD added that Valor has justified previous delays by saying it would give the developer more time to meet and coordinate with parties in opposition to the proposed project and work to mitigate those concerns. But, these statements "have turned out to be untrue," CRD said. The group encouraged the ZC to inquire why Valor needed three months to revise its agreement with the property owner.

Lansing responded to the ZC about the concerns raised by CRD at the June 25 ZC meeting.

"We have communicated with CRD that we are still working through iterations with the landowner," Valor's Lansing told the ZC. "We have not submitted any drawings. We have been asked to stand down by the landowner until we solve our issues before we make any public presentations. We have been asked to stand down publicly until we reach agreement with the landowner."

CRD noted that they had consulted with the Spring Valley-Wesley Heights Citizens Association, Neighbors for a Livable Community, and the Spring Valley West Homes Corporation and that the three groups concurred and supported CRD's filing opposing the delay. CRD also asked for an eight week timeframe to review and submit comments on any proposed new plans if the ZC granted the delay and that any public hearing scheduled in the case not be set at a time when "families are celebrating or preparing for the holidays."

Zoning Commission Chairman Anthony Hood noted the request and said that the Commissioners also wanted to be able to celebrate the holidays. He also stressed that it was important for all Commissioners to be present at the next hearing on the project and that would mean scheduling at a time outside the holiday season.

Zoning Commission Chairman Takes Issue With ANC 3D Comments

ANC 3D was the only other party to submit comments on Valor's request to delay deliberations. Although the site is located within the boundaries of ANC 3E, ANC 3E did not file any comments for the ZC's consideration. However, ANC 3D's comments sparked so much confusion at the June 25 hearing that Zoning Commission Chairman Anthony Hood suggested the ZC delay consideration of the project until June 2019.

Hood started off the meeting on Valor's request for a delay by suggesting that the developer be given until June 2019 instead of October 2018 to submit new revised plans. But, he seemed mostly focused on the submission by ANC 3D in support of Valor's request and said the ANC filing was inconsistent with filings in the case made by Valor Development, itself, and CRD. He expressed concern that the ANC 3D filing, which claimed a close working relationship between the developer and ANC 3D, demonstrated that Valor was not meeting its responsibilities to communicate fully with all parties in the case, including residents opposed to the project.

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In its filing, ANC 3D said it had been working with the applicant over the last year to mitigate potential impacts of the development. The ANC added the changes referenced by Valor in its written request for a delay would constitute overall improvements in the project and that ANC had been involved in their design.

“These changes are not a surprise to ANC 3D,” the ANC 3D filing said. “We have known about them for several months and, in fact, we helped foster their development.”

CRD, however, had indicated in its filing that it was unfamiliar with the details of the proposed changes referenced by Valor in their request for a delay and had seen no drawings for a revised project.

ANC 3D Commissioner Says ANC Filing Was Not Authorized

In a letter sent by ANC 3D Commissioner Alma Gates to the Zoning Commission, she noted that Valor had never submitted revised plans to the ANC and had not even appeared before ANC 3D to request approval for plans since December 6, 2017 or support for the latest motion to delay deliberations in the case.

“The ANC 3D letter goes to great length to recap actions, discussions, and informative meetings to justify its position but without evidence such actions, discussions, and informative meetings occurred,” Gates said in her letter. “Nothing has been put into evidence to support ANC 3D’s position for continued support of the Applicant’s development plans; and, no official vote of ANC 3D has been taken to support the request for a continuance.”

All formal actions and votes of ANCs must be taken in public session; the ANC – as a whole – never discussed Valor’s motion to seek a delay at a public meeting.

Hood opened the discussion of Valor’s request by stating he was confused by the ANC 3D filing and wondered “what they are supporting.” He said the confusion might justify a delay longer than that requested by Valor.

“After reading through this, I am confused by what is going on,” Hood said. “This is a third request for a delay. I am wondering if they need a year.

ANC 3D says they support the project and they have been working with the developer,” Hood continued. “Then, I look at a letter from the party in opposition (CRD) and they say Valor is not working with them. The ANC is saying we support this – what are they supporting? Are they supporting what was done first? What I read from the applicant (Valor Development) is that they have not even finished making adjustments. The materials reflect that there’s still some inconsistencies.”

Zoning Commissioner Robert Miller said the ANC comments indicated that the ANC supports the changes referenced by Valor in its filing for the delay.

This prompted Hood to continue to seek clarity on the ANC’s submission. He asked Valor’s Lansing and representatives of CRD to help him understand the ANC’s submission. Nobody from ANC 3D was present at the ZC hearing.

CRD responded to a question from Hood affirming that the group had not seen any of the revisions to the proposed plans referenced by Valor and, consequently, was not in a position to comment on any changes to the original proposal.

“You haven’t seen any changes,” Hood confirmed, “but the ANC has seen them.”

CRD representatives responded that the full ANC 3D Commission did not vote on any of the changes referenced in the ANC’s filing.

“They have not seen it,” CRD said. CRD added that “one person has appointed himself” to prepare the submission without the involvement of other ANC 3D Commissioners.

A visibly irritated Hood also asked Lansing to weigh in.

“This is what the letter from ANC 3D Chairman Steve Gardner says,” Hood stated: ““These changes are not a surprise. We have known about them for several months and we helped foster their development.””

Valor’s Lansing responded by saying he “can’t speak to” the ANC’s comments.

Hood ended the discussion by instructing Lansing to work with all the parties in the case.

“Hopefully, now we’re on the right path,” Hood said.

(A VIDEO OF THE JUNE 25, 2018 MEETING OF THE ZONING COMMISSION ON THE VALOR DEVELOPMENT MOTION TO DELAY DELIBERATIONS IS AVAILABLE AT <http://view.earthchannel.com/PlayerController.aspx?PGD=dczoning&iID=5566>)

At the ANC 3D July 11 meeting, some residents raised questions about the ANC filing, including a request for information about the grocers that are considering locating at the site. (In its filing to the ZC, ANC 3D also said that it was aware of discussions by Valor with “two high quality grocery store businesses.”)

Gardner, who as ANC 3D Chairman, signed the filing sent to the ZC responded that he was unfamiliar with any of the discussions with Valor on proposed revisions to the project and indicated the filing had been drafted by Spring Valley Commissioner Troy Kravitz who was not in attendance at the ANC’s meeting. Gates reminded Gardner that he signed the letter. Spring Valley ANC Commissioner Holmes Whalen indicated that the ANC 3D filing had not been reviewed by all Commissioners and that it was misleading by suggesting that ANC 3D as a full Commission was directly engaged with the developer on fostering changes in the proposed plans. He noted that the issue had never come before the full ANC. A frustrated Gardner said the issue would have to wait until the next ANC meeting in September.

(AN AUDIO RECORDING OF THE ANC 3D JULY 11, 2018 MEETING CAN BE FOUND AT <https://www.dropbox.com/s/sgnypl0ai9wdmw9/July%2011%202018%20Recording%20for%20posting.mp3?dl=0>)

SPRING VALLEY CAR BREAK-INS RAISE RESIDENTS' CONCERNS ABOUT NEIGHBORHOOD SAFETY; MPD OFFERS REMINDER ON CRIME PREVENTION

For several weeks, the Spring Valley Next Door listserv was dominated by posts about car break-ins and warnings from Spring Valley residents that the neighborhood was no longer safe. Some neighbors reported that their cars had been broken into despite locking the doors. Others acknowledged that they may have neglected to lock their doors. One resident reported leaving the car open while unloading it only to see somebody trying to start the car from a home window.

There has always been crime in Spring Valley, mostly property thefts; but the existence of the listservs makes it easier to share that information with neighbors.

In response to the latest wave of car break-ins, the Metropolitan Police Department (MPD) held a community meeting which was attended by about 30 Spring Valley residents. Residents expressed their frustration with the wave of break-ins. MPD reminded residents that they needed to take measures to secure all their property and that failure to lock a car is an open invitation for additional car break-ins. MPD committed to beefing up its patrols of the neighborhood.

Police on bicycles can be seen throughout the neighborhood and recently there appear to be fewer reports of car break-ins.

MPD has been blunt in saying that the “word on the street” is that Spring Valley residents are careless about locking their car doors.

Ours is an increasingly busy neighborhood with lots of construction and renovation. Our commercial area is now also much more lively attracting people from across the city. The neighborhood proximity to a large and growing university also adds to the potential for crime. Federal statistics show that crime rates tend to be higher in neighborhoods where universities are located.

It is important to keep in mind the recommendations of the MPD. MPD encourages residents to be aware of their surroundings in the neighborhood. Nevertheless, that does not mean that every unfamiliar person or car (Ubers, food delivery, etc.) is a threat to your property. But, if you see anything or anybody suspicious, call 911. The officers of the MPD are best qualified to assess whether suspicious activity is a prelude to criminal behavior. If you see somebody trying to break into your car, call 911 immediately – do not put yourself at any risk.

Keep your house doors locked even when you are home, MPD advises. If you are doing home repairs, keep ladders out of sight of those who might use them to break into a second floor window. Advise repairmen to lock their doors and don't leave anything valuable in the car in full sight, including a wallet or cell phone. If strangers come to your door to sell magazines or other products, ask if they have a license or better yet, call 911 and let the police determine if they have the appropriate license. Few legitimate vendors go door-to-door anymore, especially at night.

If you have a home security system, including cameras, post the signage so that potential criminals know your house is secure and probably not worth their time or the risks. Do not leave bicycles outside even if you think they are not visible from the street.

Most crime in our neighborhood occurs as a result of residents and visitors, including repairmen, not locking their car doors, leaving garage door openers in their unlocked cars, valet keys in an unlocked glove compartment, or leaving valuables – even pocket change – in your car visible to anybody walking by.

MPD advises residents to be certain that you lock your car doors when you park your car outside your homes or in your driveways – even if you are leaving your car for only a few minutes between errands. Do not leave anything of value in your car that would tempt somebody to break in – not even a gym bag or spare change. And if you have a security alarm, put it on when you leave the house.

Neighborhood listservs offer many examples of residents' frustration with cars being broken into – sometimes on multiple occasions – and at all hours of the day. It is important to remember that criminals do not work only at night. **If you notice your car has been rifled through, be sure to check if your valet key has been stolen.** Many residents report that somebody has “rifled through” the car or the glove compartment and then at a later date the car is stolen even though the car door was locked at that time. MPD reports that thieves are stealing valet keys and using them to open locked cars.

MPD monitors the community regularly – all hours of the day. But, the MPD can't be everywhere all the time. On the other hand, the criminals are very successful in taking advantage of residents, repairmen, or other visitors to our neighborhood. As MPD notes, the criminals “do business” in our neighborhood because it is a good “market” for them.

In short, whatever you do, don't make yourself or your neighbors a target for vandals or thieves.

Spring Valley is not unique when it comes to crime. Other parts of the city also are experiencing an increase in crime – some areas are experiencing far more serious crimes than we are experiencing in Spring Valley. That is not solace for anybody in our neighborhood – or in the city – who has been a victim of a crime.

But, crime is more severe even in areas not far from our homes. In recent weeks, MPD reported armed robberies on Wisconsin Avenue in Friendship Heights and earlier this week the AU Campus was locked down for nearly three hours because somebody with a handgun had been spotted in the 3400 block of New Mexico Avenue NW near Sutton Place and the Foxhall Medical Office Building. The individual with the gun was never found.

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We live in a large and growing metropolitan area. Unfortunately, as in most urban areas, that means we must take steps to protect ourselves and our neighbors from those who look at our neighborhood as their criminal playground.

MPD offers these recommendations for our protection and the protection of our neighbors.

**NEIGHBORHOOD GROUPS INDICATE SUPPORT FOR
RECOMMENDATION FROM D.C. OFFICE OF PLANNING
TO ESTABLISH NEW COMMERCIAL ZONE DESIGNATION**

Three neighborhood groups have indicated their support for a proposal made by the D.C. Office of Planning (OP) that would help protect low density residential neighborhoods, like Spring Valley and Wesley Heights, from out-of-scale development. OP is proposing a revision in the 2016 zoning regulations to establish a new zoning designation that would split the Mixed Use (MU) 4 zone into two separate zones: MU4-A and MU4-B. MU4-A would apply to commercial areas immediately adjacent to low density residential neighborhoods.

The OP proposal stems from a zoning case for new development at 3200 Pennsylvania Avenue SE which is immediately adjacent to a low density residential neighborhood. The proposal is largely a product of negotiations between the developer and affected neighbors to avoid a protracted dispute over the planned development. In offering the text amendment, OP has indicated the new zone could be applied in other areas of the city where commercial zones are adjacent to residential neighborhoods.

The Spring Valley-Wesley Heights Citizens Association (SVWHCA), Neighbors for a Livable Community (NLC), and the Citizens for Responsible Development (CRD) have filed separate letters in the case in support of OP's proposed amendment to the zoning regulations.

In its letter, SVWHCA referenced comments by the Zoning Commission during the debate over the 2016 regulations that revisions to the code would be considered as circumstances merited. The Association noted that the establishment of the MU-4 zone was controversial at the time because it was collapsing two commercial zones with different allowable levels of density into one zone. SVWHCA noted that there are locations within the boundaries of Spring Valley and Wesley Heights where the new MU4-A zone could apply because of the proximity of the commercial zone to low density residential properties.

“The SVWHCA strongly encourages the Zoning Commission to direct OP to map the new zone automatically in all those MU-4 zones where low density residential zones and commercial zones share a boundary or are separated by an alley or street,” the SVWHCA said.

The Association also called on the Zoning Commission to clarify the language of the revision so that the new zone would apply where a street or alley might separate the commercial zone from the residential zone.

In its letter, the NLC commended the work of the Committee of 100 on the Federal City for their advocacy in the case and applauded the Zoning Commission and OP “for keeping its commitment to

consider revisions in the 2016 zoning regulations as application of the new regulations demonstrate impacts that may not have been anticipated when the zoning regulations were drafted and approved.”

The Committee of 100 on the Federal City is a non-profit organization established in Washington, D.C. in 1923 that is active city-wide in advocating for sound land use, zoning, transportation, housing, parks, open space, and historic preservation issues that preserve the nation’s capital as a livable city with vibrant residential communities.

NLC noted that the 3200 Pennsylvania Avenue SE development controversy best demonstrates the need for the new MU4-A. NLC added that the new MU4-A district will provide “opportunities for lively commercial areas consistent with the character of adjacent low density residential neighborhoods and that complement the interests of residents who choose to live in such low density residential neighborhoods.”

CRD commented that the new zoning designation is consistent with the D.C. Comprehensive Plan and commended the OP for proposing the text amendment. The group supported applying the district city-wide.

“CRD agrees that city-wide application should be considered and suggests that areas outside the central core without easy access to rapid transit should qualify,” the group said. “The new zone will help ensure that new development will not overpower adjacent residential neighborhoods. By providing for lower densities and greater setbacks than would otherwise be permitted currently under the MU-4 zone, this proposed transitional zone will help protect the District’s cherished neighborhoods.”

ANC 3D submitted comments to the Zoning Commission in opposition to the revision proposed by OP. In its comments, ANC 3D said it was premature to revise the new zoning regulations.

Greater Greater Washington, an online advocacy group supporting denser development in neighborhoods across the city, also expressed its opposition to the OP proposal to establish a new zone. The group complained that the Zoning Commission had not provided adequate public notice about the proposal.

Yet, the OP recommendation was filed publicly with the Zoning Commission in late April and the Zoning Commission issued a Public Hearing Notice on May 15 – more than two months ago – with a copy of the OP recommendation – for a July 23 Zoning Commission public hearing to consider the OP recommendation.

Greater Greater Washington said it opposed the new zone because it would be an impediment to the group’s objective of having “more homes and affordable homes built in wealthier neighborhoods” in Washington, D.C.

ZONING BOARD REJECTS ANC 3D RECOMMENDATION ON COMPASS COFFEE; SPRING VALLEY RESIDENTS CONFRONT ANC ON LACK OF EFFECTIVE REPRESENTATION

At an unusual hearing on May 25, the Board of Zoning Adjustment (BZA) approved an application for a special exception to the city’s zoning rules to allow Compass Coffee to expand seating from 18 persons

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to 74 persons at a new location to open in the Fall at the Spring Valley Village Shopping Center. Zoning rules in the Spring Valley commercial district limit seating for outlets serving prepared foods to 18 as a matter of right as a way to limit the potential for national fast food chains, like McDonalds and Burger King, to dominate the available retail space.

The BZA is one of two zoning bodies in the city. The Zoning Commission handles more complex zoning issues, whereas the BZA handles mostly routine zoning issues that do not require extended hearings or lengthy rulings. Usually, any controversy over a zoning issue is worked out in advance of it being heard by the BZA.

There was no opposition to the application filed by Compass Coffee, so the BZA hearing on the case should have been routine and short. However, that was not the case with BZA Chairman Frederick Hill puzzled by a neighborhood group's request for party status to support the application given there was no opposition; seemingly stunned by Compass Coffee's lack of preparation for the hearing; and frustrated by ANC 3D's inability to meet its deadline for a report to the BZA that included a series of conditions with requirements for validated parking.

By the end of the hearing, Hill's frustration turned to sarcasm as he thanked the Applicants, who were dressed casually in shorts and T-shirts, for dressing up for the hearing.

Compass Coffee will have approximately 3,000 square feet of retail space in the new building that has been under construction at the Spring Valley Village Shopping Center. Pizza Paradiso will be the other tenant in the new building. The restaurant will have the remaining 5,000 square feet of the first floor space. Originally, when the building was designed and proposed, Washington Real Estate Investment Trust (WRIT) said the building would consist of four separate "mom and pop" retail spaces that would not create additional parking pressures.

Prior to the May 25 BZA hearing, the Compass Coffee application was discussed by ANC 3D at two of its meetings. Residents described the traffic conditions in the neighborhood, especially along Fordham Road as "treacherous." Residents indicated they are supportive of Compass Coffee opening in the Shopping Center, but they appealed to ANC to work with Washington REIT to address the parking shortage which is creating serious traffic and safety issues for neighbors.

One resident, who said he generally supports growth and development, said the ANC needed to take steps to address the safety issues resulting from all the additional traffic generated by new development in the area. He said this was creating a problem on Massachusetts Avenue and creating "such a huge amount of congestion in that little area."

Other residents reported that their parked vehicles had been hit in front of their home and other residents pointed to near accidents on Fordham Road. Several suggestions were made by residents to address the issues.

They added that the combination of the coffee shop, Millie's, and Pizzeria Paradiso will exceed 500 seated patrons, as approved by ANC 3D – and that this did not take into consideration parking needs for patrons of LePain Quotidien, Crate and Barrel, or the two banks. Patrons of these businesses will have to

compete for 65 compact-sized parking spaces, residents said. Residents noted that the configuration of the spaces, alone, would encourage patrons to park in the neighborhood instead of the parking lot.

Even if all the establishments validated parking, the residents noted, the 65 compact car-sized spaces were simply inadequate to meet the needs given the unexpected large size of the new businesses at the Center.

The 65-parking spaces represent a reduction in parking at the lot from what existed prior to construction of the new building that will house Pizza Paradiso and Compass Coffee. In 2016, Washington REIT sought to circumvent current zoning regulations, which do not allow such a reduction, by arguing that ten of the existing parking spaces were in public space and therefore should not be counted in the parking requirements for the site. Only about four feet of each of the ten parking spaces were in public space and had been in use for at least 30 years at the site. The DC Zoning Administrator, who is responsible for enforcing the city's zoning rules, agreed with Washington REIT's determination.

ANC 3D appealed that determination by the Zoning Administrator to the BZA in 2016. At the time, the ANC sought to ensure that parking was not reduced at the parking lot even though some of the parking spaces were partially in public space. The BZA ruled that the appeal was in part premature because construction at the site had not yet begun. The BZA also speculated at the time that the city eventually might force the developer to eliminate the parking spaces that were partially using public space. However, Washington REIT could always have sought a public space permit to use the ten parking spaces legally despite the fact that they were partially in public space.

The BZA did not issue a formal Order in the case until earlier this year. ANC 3D could have appealed the BZA decision in January 2018 when the formal Order was issued to push for the additional ten spaces despite being partially in public space. Although the specifics of the Order offered sufficient grounds for appeal, the ANC took no action. Instead, the ANC has cited the BZA ruling to suggest it had no options to pursue the case further with the city's zoning authorities. This has prompted some residents to complain that the ANC does not want to antagonize Washington REIT, which would be forced to address parking issues at the shopping center.

In response to the concerns expressed recently by neighbors, Compass Coffee agreed to provide two-hour validated parking for its patrons and take steps to discourage their employees from parking on nearby neighborhood streets. ANC 3D included these in a set of conditions for the BZA's approval of the Compass Coffee application.

However, the ANC failed to send its formal recommendation to the BZA by the submission deadline. Consequently, the BZA members and legal counsel for the BZA from the Office of the Attorney General (OAG) had no opportunity to review the conditions prior to the hearing.

ANC Fails To Outline Adverse Parking, Traffic, And Safety Issues Near Shopping Center At BZA Hearing

The May 25 BZA hearing got off to a rocky start when BZA Chairman Frederick Hill questioned why the Spring Valley Neighbors Association was seeking party status. He questioned why the group could not simply offer testimony instead of being designated a formal party. Speaking on behalf of the group,

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Gretchen Randolph said the group wanted to offer a “balance to obstructionists” that might oppose the project and stressed the organization’s commitment to advocating for growth and development in Spring Valley. After extended back and forth with Hill and other BZA members, the group was approved as a party and testified in support of the application.

Hill, however, was stunned when the representatives of Compass Coffee told the BZA they were not prepared to make a presentation on their application, but would instead respond to any questions from the BZA members. In a response to one question, the Compass Coffee applicants said they would accept the conditions recommended by ANC 3D. Then, however, Michael Haft, one of two proprietors representing Compass Coffee at the hearing, balked at offering the two hour validated parking recommended by ANC 3D. Haft said the decision on how much time to offer for validated parking was the landlord’s decision, not theirs; so, they did not want to be required to provide two hours or any parking validation as a formal condition of a BZA Zoning Order. This contradicted what he had told the ANC at two previous ANC meetings.

In response to a question from Spring Valley Commissioner Holmes Whalen, Haft indicated he had discussions with Washington REIT, the landowner, and that offering two hours validated parking was not an issue for Washington REIT. However, Haft said he was concerned the owner might change and impose restrictions that could be at odds with the zoning Order.

Whalen said the two hour parking validation was an important issue that had been discussed at length by the ANC.

“The residents expressed they are not opposed to the development, but believe it’s important to address the parking, traffic, and safety issues,” Whalen said. “Other residents have expressed support for a new coffee establishment in the area and have noted that Compass Coffee is locally owned and wholly worth community support.”

Spring Valley Commissioner Troy Kravitz also testified in support of the application stressing that the community was overwhelmingly in support of the application. He stressed that residents had made positive comments about the project on a neighborhood list serv. He noted that there were parking and traffic issues but did not outline the specific complaints that residents had shared at multiple ANC meetings.

Kravitz dismissed the traffic and parking issues in his testimony saying that Compass Coffee was “part of the solution” by agreeing to the conditions outlined in the ANC’s report.

BZA Member Carlton Hart sought to prompt witnesses to specify and document potential impacts of the application, specifically referencing pedestrian traffic, automobile traffic, or whether there was an excess number of coffee shops or retail outlets in the area. Hart is the representative of the National Capital Planning Commission on the BZA.

Despite Hart’s efforts to invite and encourage witnesses to discuss traffic and parking, none of the witnesses responded to Hart’s prompts. Nobody testifying at the hearing specifically outlined the concerns that residents had expressed at two previous meetings of the ANC. The ANC also had not outlined these concerns in its formal report to the BZA to justify the conditions for its recommendation to approve the Compass Coffee application and instead had only listed the conditions in its report.

BZA Votes Down ANC Conditions On Parking For Lack Of Evidence

At that point, OAG objected to several conditions and complained that the ANC recommendation had come in late and that there had not been adequate time to review the conditions. Hill noted that the BZA gets recommendations from OAG prior to the hearing, but the failure of the ANC to file the report on time prevented the normal deliberative process.

OAG noted that the ANC's filing did not specify any objectionable impacts stemming from the application and that there had been no testimony outlining concerns about parking and traffic.

"The purpose of Board-imposed conditions," OAG said, "is to mitigate adverse impacts. There is really no evidence in the record at this point as to any parking-related adverse impacts at all. This is not something the Board should be addressing without any evidence in the record."

OAG also recommended against a condition that limited the ability of Compass Coffee to have outside tables for the same reasons that the ANC had provided no evidence of an adverse impact of tables outside the establishment.

Consequently, the Board, which relies on the OAG for legal advice and counsel, decided also not to include any conditions related to parking.

(A VIDEO OF THE MAY 25, 2018 BOARD OF ZONING ADJUSTMENT ON COMPASS COFFEE IS AVAILABLE AT <http://view.earthchannel.com/PlayerController.aspx?PGD=dczoning&iID=5481>)

"Discouraged" Residents React To BZA Decision At June ANC Meeting; Cite ANC's Poor Representation

Residents living nearby the Shopping Center were very critical of the ANC for failing to effectively represent their concerns at the BZA hearing and made those views known at the June 6 ANC 3D meeting.

"I have a concern about the recent zoning hearing," one Spring Valley resident said. "The type of representation we received from ANC 3D was discouraging. We had made it clear in meetings with you that there were many concerns about parking and traffic, but at the zoning hearing, there was no mention of this at all.

"Nobody emphasized the concerns of residents," the Spring Valley resident continued. "For those of us who live closest to the Center, there are parking, traffic safety issues. We are speaking not only for ourselves but for the rest of the community. None of you spoke up that there are serious issues. When the BZA asked 'What are the issues with parking,' there were no responses from you to the questions raised. The BZA ruled against these conditions because they didn't get the information from the ANC in advance to justify the conditions. The presentation and the lack of providing information in advance contributed to the BZA decision to not include these conditions on parking. "

The told the ANC that it should appeal the BZA's decision, provide them with all the information required, and "then hopefully, we will have a better decision."

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Several residents expressed their frustration that they had taken the time to attend the ANC meetings and try to help the ANC understand how uniquely they were impacted by the traffic, parking, and safety issues near the shopping center.

Kravitz acknowledged the ANC did not provide its recommendation to the BZA on time, but he stressed that it was the OAG that objected to the conditions, not the BZA.

Another resident, who noted that she had lived in the neighborhood for 27 years, criticized Randolph's presentation saying that she did not represent the views of neighbors who live in the area. She also told Kravitz that he "has not been doing a good job of representing us."

"We have expressed in details about the dangers of the traffic and made suggestions on what can be done to help it," she said. "We are in support of intelligent construction, which we have not been getting because it makes no conditions for the community that surrounds the shopping center. This is Troy's area and he needs help in representing us because it is not being done."

The resident outlined several ways to improve the safety of the area near the shopping center. Kravitz expressed concern that some of the residents' suggestions could result in the loss of street spaces or spaces in the parking lot.

"We were polite last month when we expressed our concerns to the ANC and we are sensing now that we should not be so polite. We should be a lot more demanding. I am here because I am worried about children and the older people in our neighborhood. You have people speeding through this area. While you are talking about losing a parking space, I am talking about saving lives."

Later in the meeting, the ANC agreed to enter into a Memorandum of Understanding (MoU) with Compass Coffee on parking issues. ANC 3D Chairman Steve Gardner noted the MoU was not legally binding. "It is just good faith," he said.

Residents complained that the MoU had watered down the conditions that had been previously approved by the ANC as part of their recommendation to approve the zoning application and prompted one resident to complain again about the ANC's performance at the BZA hearing.

"You did not present the case very well that there are serious traffic and parking and safety issues," the resident said. "You didn't provide the information to justify these conditions. The BZA and OAG needed the material to study to issue to make this a part of the decision.

"It is good that you are doing the MoU, but it is a second rate deal and does not apply to the next occupants of the site. Now, we have a watered down agreement. We need strength. We need protection. Where are you guys?"

Another resident complained that the ANC should be more aggressive in dealing with Washington REIT on the parking issue. "You should be putting the burden on Washington REIT instead of their tenants," she said.

Another resident complained about cars parking in front of the family's home and blocking the driveway. "As much as I want to be a good neighbor," the resident said, "if you are towed, it is because of us. It's just too dangerous."

(AN AUDIO RECORDING OF THE JUNE 6, 2018 ANC 3D MEETING CAN BE FOUND AT <https://www.dropbox.com/s/of7jkzyufj107t5/ANC3D%20Recording%20for%20June%206%2C%202018.mp3?dl=0>)

U.S. ARMY CORPS PREPARES FOR NEXT PHASE OF MUNTIONS CLEAN-UP

According to the U.S. Army Corps Of Engineers (USACE), crews have finished excavating the last of the arsenic-contaminated grids in the area of 4825 Glenbrook Road, where they have been scraping saprolite for the past several weeks, pending the results of confirmation sampling. If the confirmation samples show there is no more arsenic remaining in the saprolite, crews will backfill the grid with clean soil. If the samples show there is still arsenic in the saprolite, then crews will continue scraping saprolite from the final grid next week.

The team has now finished clearing all of the arsenic-contaminated grids accessible at this time. The next major step for the work at 4825 Glenbrook Road will be to finalize the return to work plan for the removal of contaminated soil from along the shared property line with 4835 Glenbrook Road and the grid where crews encountered trace amounts of agent breakdown product earlier this month, plus several other arsenic contaminated grids adjacent to the shared property line.

Work was paused at the site several months ago after multiple crews digging at the site by hand became ill.

The USACE is currently drafting the return to work plan. The return to work plan includes upgraded personal protective equipment for workers; enhanced air monitoring protocols; implementation of a temperature limit for work at the site (work will only be done at a temperature of 75 degrees or below to reduce the volatility of compounds in the event of a release); and finally, crews will conduct the excavation by mechanical means instead of hand digging which will minimize soil handling and exposure for the crew and allow all excavated soils to be directly placed into drums with a screening funnel before being sealed on site.

For more details regarding the proposed return to work plan, you can check out this month's Restoration Advisory Board (RAB) presentation at http://www.nab.usace.army.mil/Portals/63/docs/SpringValley/Meeting_Packages/July_2018_RAB_presentation.pdf.

Meanwhile, the soil gas sampling effort for the 10 boreholes at the 4835 Glenbrook Road property, the home of the American University (AU) President, began last week. The actual sampling effort will take approximately 2 weeks to complete. The USACE anticipates results by early fall. The results will determine if additional soil gas samples are needed.

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On a related note, a new book entitled *Hellfire Boys* written by journalist **Theo Emery** documents the origins of AU's use as a World War I chemical warfare experimental station. The book outlines how AU Trustees at the time invited the federal government to locate a chemical experimental station on the campus as a way for the young institution to survive. Trustees' hope was that the government would help to build new buildings and laboratories that could make it a viable educational institution. The book is published by Little, Brown and is widely available.

**FORMER FENTY AIDE ANNOUNCES BID TO CHALLENGE
CHEH IN NOVEMBER GENERAL ELECTION; PETITIONS AVAILABLE
TO RUN FOR ANC**

Petar Dimtchev, who served as the Mayor's Community Liaison for Ward 3 for then-Mayor Adrian Fenty, announced recently that he will challenge incumbent Ward 3 Councilmember Mary Cheh in the November 6 General Election. Dimtchev is a product of DC public schools having attended Key Elementary School, Alice Deal Middle School, and School Without Walls. He is a graduate of Georgetown University and received his law degree at Catholic University.

In addition to working for Mayor Fenty, he worked on Capitol Hill and now reviews administrative law cases involving individuals applying for federal healthcare programs, according to his bio.

Cheh has served on the DC Council since 2007. She is seeking a fourth term on the Council.

To get on the November general election ballot, Dimtchev will have to collect signatures on petitions from registered voters in Ward 3 beginning June 15 through August 8.

All Advisory Neighborhood Commission (ANC) positions also are on the November 6 ballot. **Petitions to seek election to the ANC in the November 2018 elections are now available.** A resident must get 25 signatures of registered voters with the specific ANC district to qualify for being listed on the November ballot. Petitions must be completed and filed with the DC Board of Elections by August 8. Petitions can be picked up at the Board of Elections, 1015 Half Street SE, Suite 750.

In Brief ...

- **ANC 3D voted at its July 11, 2018 meeting to support a resolution recommending that the voting age in the District of Columbia be reduced from 18 years of age to 16 years of age.**
- **The DC Department of Public Works (DPW) reminds residents that trash and recycling containers should be put out for collection no earlier than 6:30 PM on the day prior to the scheduled pick-up day and no later than 6 AM on the day of pick-up.** Trash and recycling containers then must be removed from the curb or any location in public space by 8 PM on the trash and recycling collection day.
- The neighborhood is invited by American University on August 17 at 8PM to attend a screening of the animated movie *Coco* at the Woods-Brown Amphitheatre on the main campus.

Community Update is a newsletter established by the **Spring Valley-Wesley Heights Citizens Association (SVWHCA)** and **Neighbors for a Livable Community (NLC)** to report news and information on issues of importance to residents of Spring Valley and Wesley Heights. You may send information appropriate for publication to Tom Smith at tmfsmith@rcn.com No portion of this newsletter may be duplicated without written permission from the Spring Valley-Wesley Heights Citizens Association. This newsletter is distributed electronically. If you want to be on the distribution list, send your email to tmfsmith@rcn.com . Please share this with your own personal e-mail networks.

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