

Z.C. 16-23

Applicant’s Rebuttal to Citizens for Responsible Development (“CRD”) Testimony  
 Project Density Has Changed

Comparison of December 2017 Plans and  
 October 2018 Revised Plans (Lot 807 only)

- 42,649 GFA removed from the project  
 (reduction of approx. 0.27 FAR)
- Recaptured approx. 21,000 square feet  
 in cellar and penthouse (subject to IZ  
 at 10%)
- Net reduction of 21,817 square feet of  
 floor area

		Building Area					
		FAR	Above Grade (GFA)	Penthouse	Bays	Below Grade	Total (GSF)
PREVIOUS	<u>12/1/2017</u>						
	Retail	0.25	19,692	0	0	0	19,692
	Residential	3.17	252,485	27,216	2,137	7,546	289,384
	Garage	0.06	5,101	0	0	0	5,101
	<b>Total</b>	<b>3.48</b>	<b>277,278</b>	<b>27,216</b>	<b>2,137</b>	<b>7,546</b>	<b>314,177</b>
CURRENT	<u>10/1/2018</u>						
	Retail	0.26	20,535	0	0	0	20,535
	Residential	2.69	214,094	29,962	1,719	26,050	271,825
	<b>Total</b>	<b>2.95</b>	<b>234,629</b>	<b>29,962</b>	<b>1,719</b>	<b>26,050</b>	<b>292,360</b>
	<b>Delta</b>	<b>-0.54</b>	<b>-42,649</b>	<b>2,746</b>	<b>-418</b>	<b>18,504</b>	<b>-21,817</b>

Z.C. 16-23

Applicant's Rebuttal to Citizens for Responsible Development ("CRD") Testimony  
Project Density Has Changed

	Gross Floor Area	Building Height	# Units
<b>10/14/2015</b> (assumed C-2-A PUD, AU and Valor Lots only)			
Retail	20,176		
Residential	309,239		
<b>Total</b>	<b>329,415</b>	<b>67.5'</b>	<b>257</b>
<b>10/26/2016</b>			
Retail	31,047		
Residential	254,782		
<b>Total</b>	<b>285,829</b>	<b>50'</b>	<b>219</b>
<b>12/1/2017</b>			
Retail	19,692		
Residential	252,485		
Garage	5,101		
<b>Total</b>	<b>277,278</b>	<b>50'</b>	<b>219</b>
<b>10/1/2018</b>			
Retail	20,535		
Residential	214,094		
<b>Total</b>	<b>234,629</b>	<b>43.5'</b>	<b>219</b>
<b>Delta from 2015</b>	<b>-94,786</b>	<b>-24'</b>	<b>-38</b>

Meeting / Discussion Type	Count
ANC Public	16
ANC Commissioner	12
Valor Hosted Community	5
DCOP / DDOT	8
Opposing Party	8
Supporting Party	5
<b>Total</b>	<b>54</b>

CRD Presentation (Ex. 408, Slide 4)

Yuma Street View



----- OUTLINE OF BUILDING HEIGHT  
FROM DEC 14, 2017 DESIGN  
REVIEW SUBMISSION

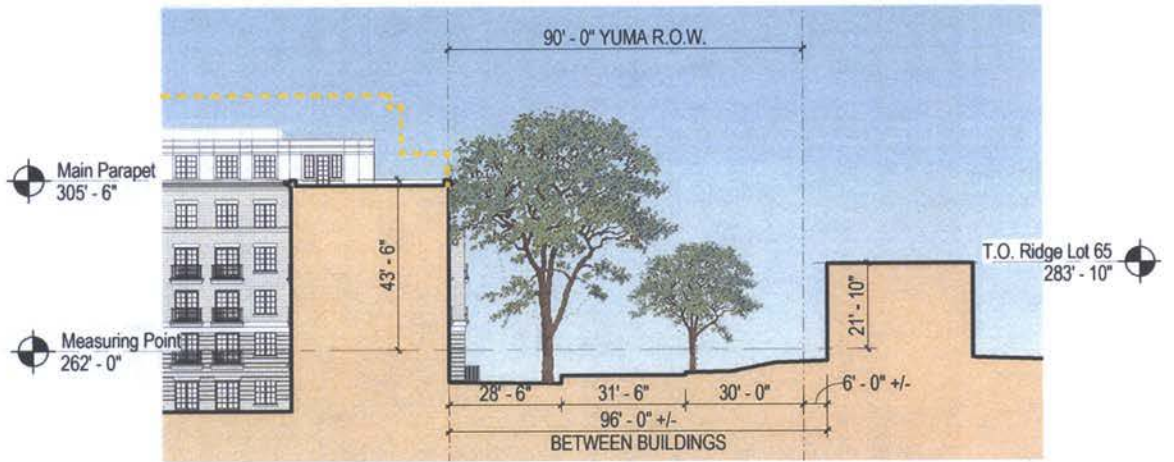
———— HEIGHT OF THE MASSACHUSETTS AVENUE PARKING  
SHOPS COMMONLY MISLABELED AS THE SPRING  
VALLEY SHOPPING CENTER



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Street Section 5 - On Yuma Street Through Building 1 at NE Corner

**TORTI GALLAS URBAN**  
 VALOR DEVELOPMENT  
 TORTI GALLAS URBAN



--- ALLOWED MATTER OF RIGHT

10/16/2018

A28

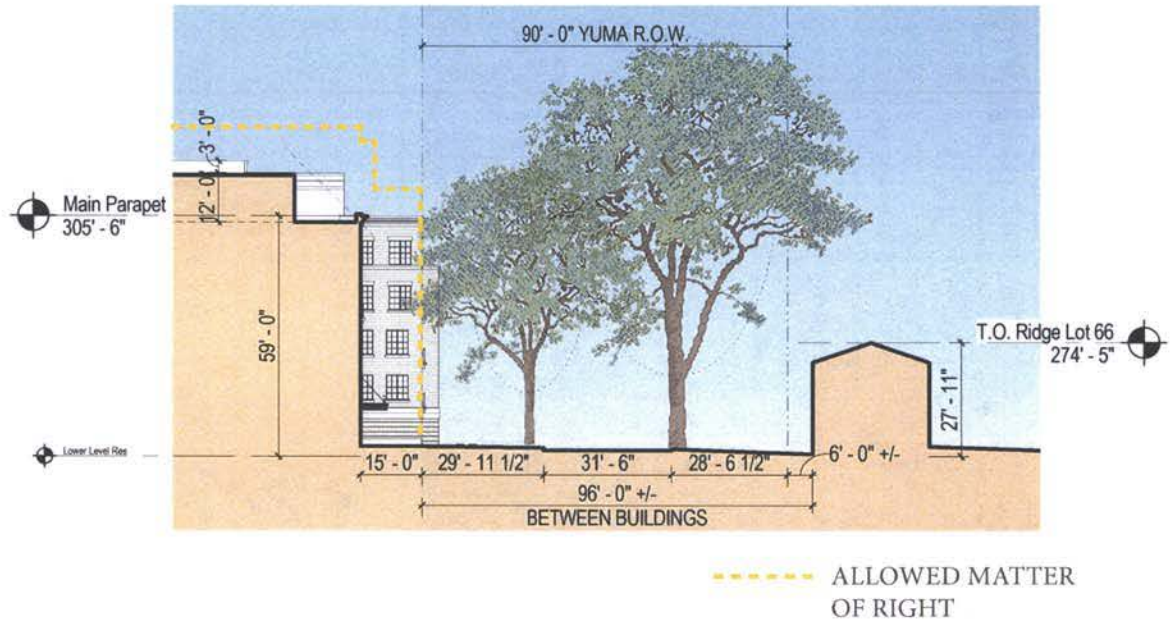
THE LADY BIRD



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Street Section 6 - On Yuma Street Through Building 1 Courtyard

**TORTI GALLAS URBAN**  
 VALOR DEVELOPMENT  
 TORTI GALLAS URBAN



10/16/2018

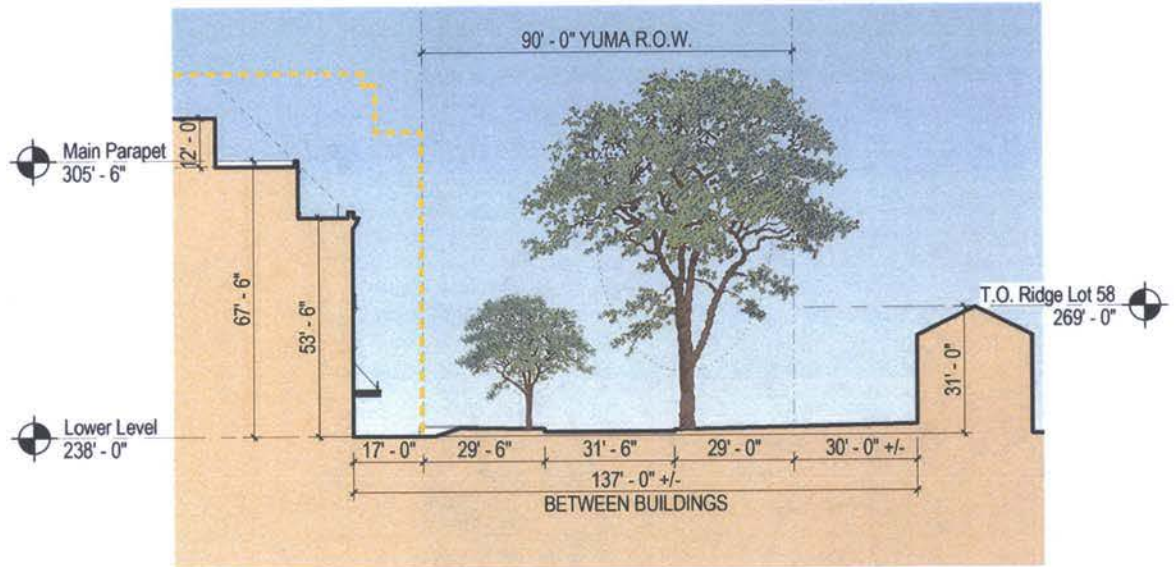
A29

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Street Section 7 - On Yuma Street Through Building 1 at NW Corner



--- ALLOWED MATTER OF RIGHT



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1/16/2019

## Yuma Street

2

 VALOR DEVELOPMENT  
TORTI GALLAS URBAN

# THE LADY BIRD

## Exhibit 297



Valor Yuma Street facade in comparison with the west elevation of 4713 Windom Place (first floors aligned).





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View of side of 4731 Windom Place NW (facing 48th Street)

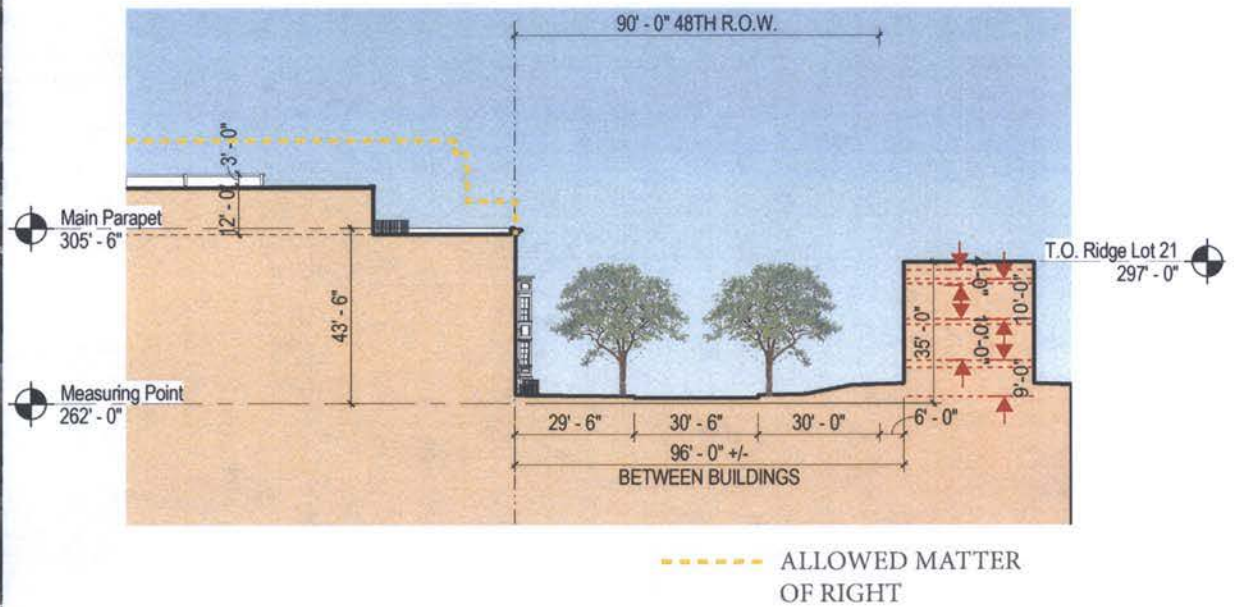
50 MM Lens

1/16/2019

6

 VALOR DEVELOPMENT  
TORTI GALLAS URBAN

THE LADY BIRD

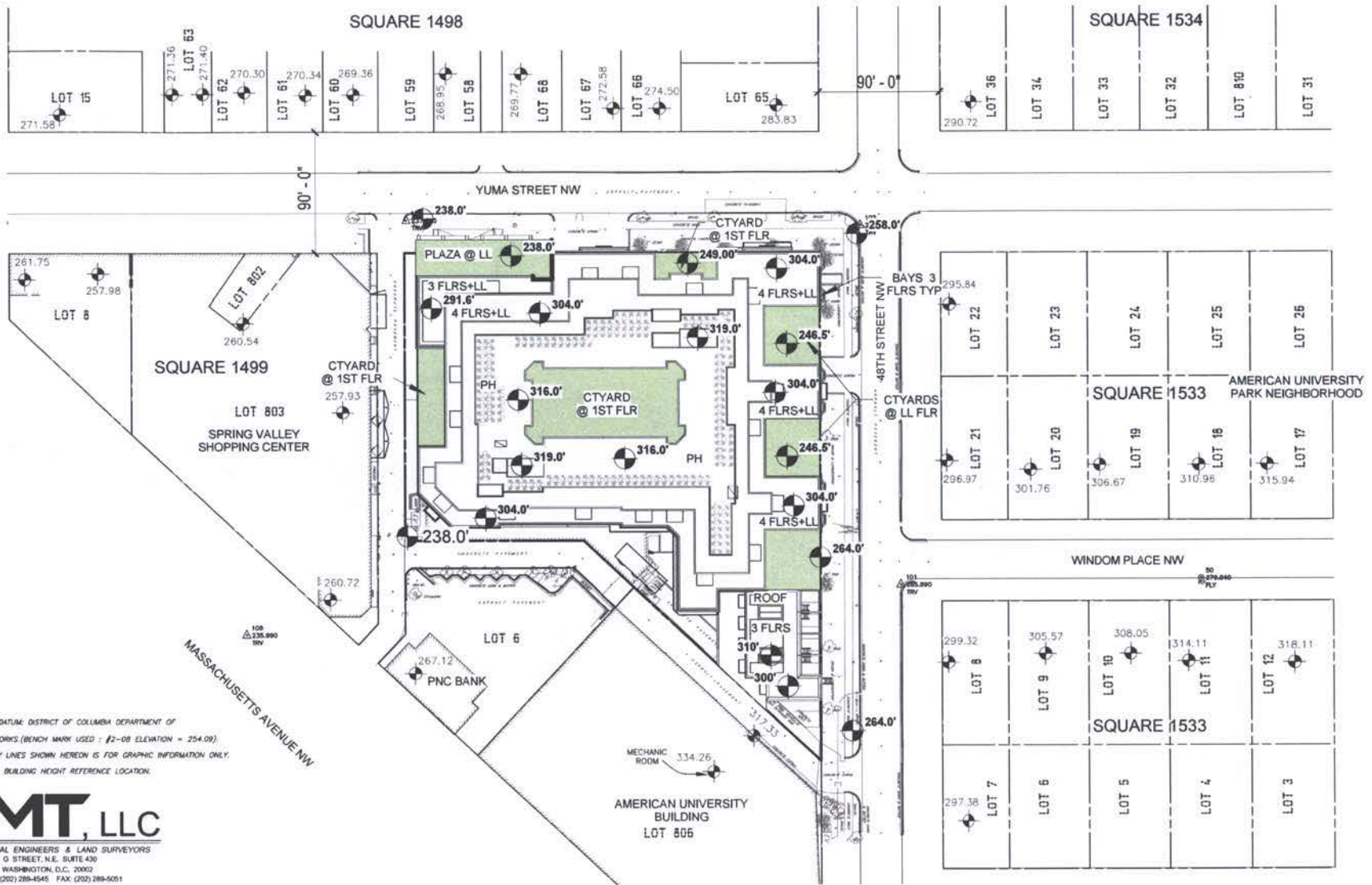


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Street Section 3 - On 48th Street Through Building 1 Finger

10/16/2018

A26



- NOTES:
1. VERTICAL DATUM: DISTRICT OF COLUMBIA DEPARTMENT OF PUBLIC WORKS (BENCH MARK USED: #2-08 ELEVATION = 254.09)
  2. PROPERTY LINES SHOWN HEREON IS FOR GRAPHIC INFORMATION ONLY.
  3. = BUILDING HEIGHT REFERENCE LOCATION.

**AMT, LLC**  
 PROFESSIONAL ENGINEERS & LAND SURVEYORS  
 10 G STREET, N.E. SUITE 430  
 WASHINGTON, D.C. 20002  
 PHONE: (202) 289-4545 FAX: (202) 289-6051

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Proposed Building and Context Building Height Plan

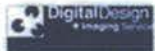
10/16/2018

A11

VALOR DEVELOPMENT  
 TORTI GALLAS URBAN

THE LADY BIRD

CRD Presentation (Ex. 394, Slide 5)



View from Window Pl. – DDIS Model of Revised Design

9



10-16-2018 "New" design as seen from Camera Loc. 01. The 3D model-massing accurately represents the height and width of the proposed development from this Window Pl perspective.

781.634.7596

www.AirPhoto3D.com

Applicant's Revised Plans



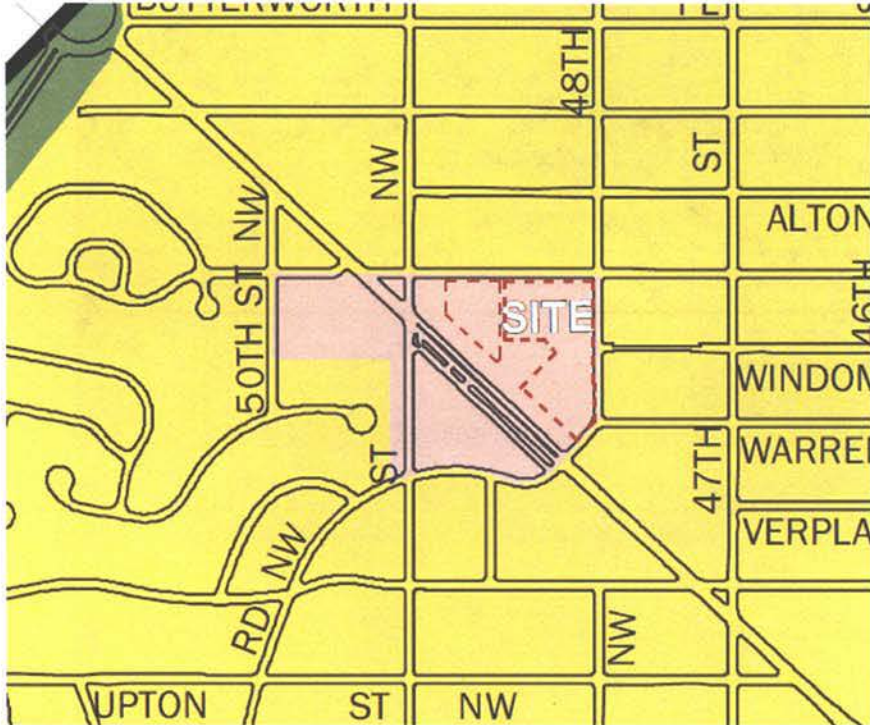
View from East - Proposed (Window Place NW) - Current Design

50 MM Lens (Produced in Lumion) 2

VALOR DEVELOPMENT  
TORTI GALLAS URBAN

THE LADY BIRD

\* Images shown are intended for comparison of CRD's rendered massing and Valor's rendered model. No attempt has been made to resize or align either of these images so that the images are similar in size and scale.



ZR58: 1958



ZR58: 1996

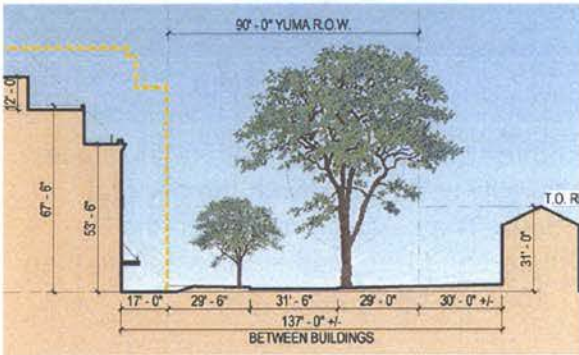
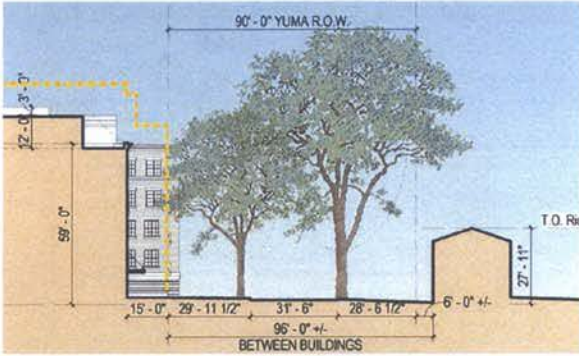
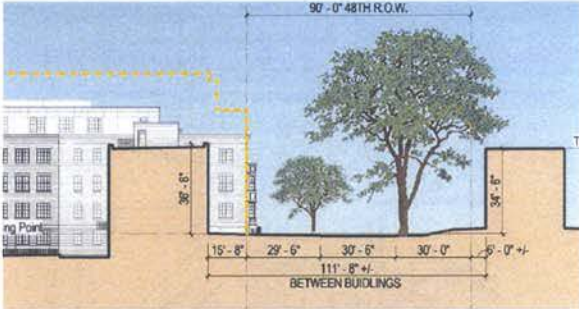


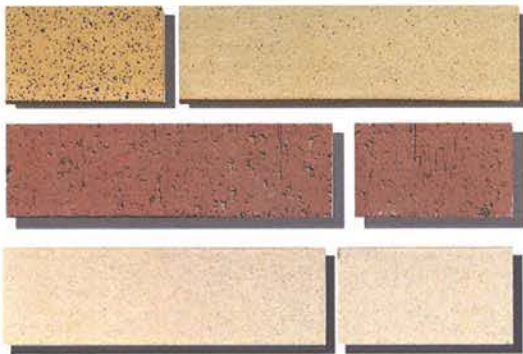
ZR58: 1975



ZR16: 2019

The Commission noted that the Plan describes the Low-Density Commercial category “as primarily one-to-three story buildings, with retail, office, and service businesses as the predominant use,” but notes that the Plan does not require that each block “strictly correspond with the general description.” These findings are consistent with the regulations outlining C-2-A zoning restrictions noted above. They also comport with the “Guidelines for Using the Generalized Policy Map and the Future Land Use Map,” which state that “[t]he Future Land Use Map is not a zoning map as zoning maps are parcel specific....By definition, the [Future Land Use] Map is to be interpreted broadly.” 10-A DCMR § 226.1(a).  
*(Wisconsin-Newark Neighborhood Coalition v. D.C. Zoning Commission)*





Source: Google Streetview

- **Matter of Right (Record Lot 9)**
  - Record Lot 9 – 121,272 sf
  - Max. density (MU-4 w/ IZ) – 3.0 FAR (363,816 GFA)
  - Max nonres. density – 1.5 FAR (181,908 GFA)
  - Existing AU Building – 179,302 GFA
  - 184,514 GFA available on Record Lot 9
    - 2,606 GFA available for nonresidential use
- This is **not** a matter of right project
- **Voluntary Design Review (Record Lot 9, A&T Lots 802 & 803)**
  - VDR Boundary (“Project-lot”) – 160,788 sf
  - Max. density (MU-4 w/ IZ) – 3.0 FAR (482,364 GFA)
  - Max nonres. density – 1.5 FAR (241,182 GFA)
  - Existing GFA (AU and SVSC) – 196,224
  - 286,140 GFA available on Project-lot
    - 44,958 GFA available for nonresidential use
  - 234,629 GFA proposed
    - 20,535 GFA nonresidential





- Sub. X, Section 600.1 – “The purpose of the design review process is to ...(e) Provide for flexibility in **building bulk control**, design, and site placement without an increase in density or a map amendment.”
  - “building bulk” includes density (FAR)
  - Sub. G, Section 101.2 – “The development standards are intended to: (a) Control the bulk or volume of structures, including height, **floor area ratio (FAR)**, and lot occupancy;”
- Sub. X, Section 601.4 – “All the property included in a design review application shall be contiguous, except that the property may be separated only by a public street, alley, or right-of-way.”
- Sub. X, Section 603.1 – “...The design review process shall not be used to vary other building development standards including **FAR**, Inclusionary Zoning, or green area ratio.”

#### OP supplemental report on aggregation of density (Ex. 215)

When reviewing this application, OP confirmed with the Office of Attorney General and the Office of the Zoning Administrator that the following procedure was consistent with the intent for processing a design review application:

1. A “lot” used for the boundaries of a Planned Unit Development (PUD) or Design Review may be a tax lot or a record lot (hereinafter called the “Project-lot”);
2. The zoning calculations for a PUD or Design Review application must be determined using the Project-lot.
3. If an applicant uses a tax lot as the Project-lot, a request for multiple buildings on a single lot must be included if the following circumstances exist:
  - a. the application is to be zoned Residential;
  - b. the record lot is zoned Residential; and
  - c. there are existing buildings on the record lot, but outside the boundaries of the tax lot.
4. An application for a PUD or Design Review cannot result in creating a non-conformity for a building or property outside the Project-lot (even if the non-conformity is within the record lot) unless relief from the non-conformity is obtained.
5. If the full record lot is used as the Project-lot, then all the owners within the Project-lot must authorize the project.

#### Applicant’s Revised Allocation of Density Summary (Ex. 240D)



- Project does not (and cannot) involve a transfer of density through the use of credits (ZR58 TDR's and CLD's).
  - Credits are only available in Downtown ("D") zones
  - Credits can be transferred as a matter of right
- The project involves an aggregation of density across a public alley within the Project-lot which cannot be done as a matter of right, but rather is only possible through discretionary approval by the Commission.
- The Commission has authority under the Zoning Act and design review regulations to approve aggregation of density.
  - Zoning Act gives the Commission a "broad general authority"
- OP has confirmed with OAG and ZA that aggregation of density is permitted as part of a design review application (Exhibit 215)
- The aggregation of density does not result in an increase in density

Applicant's Revised Allocation of Density Summary (Ex. 240D)



## Mayor's Agent Order (H.P.A No. 00-149)

IN THE MATTER OF  
1439 Rhode Island Avenue, N.W.

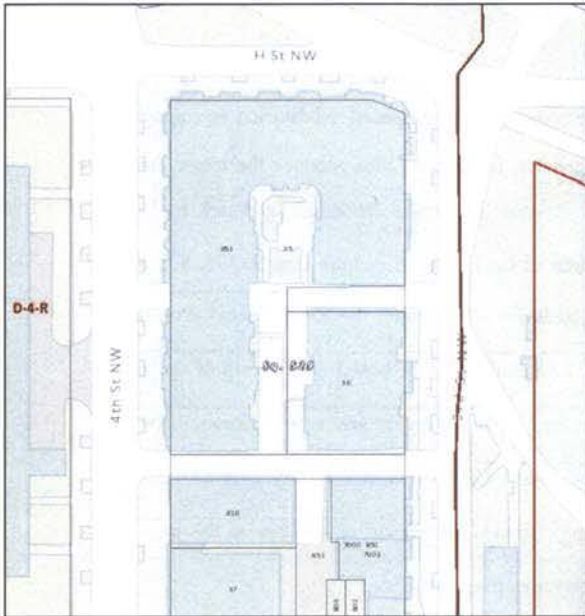
H.P.A. No. 00-149

### DECISION AND ORDER

#### BACKGROUND

1441 Rhode Island Avenue Associates, LLC (the "Applicant") seeks approval of a subdivision which permits the creation of one record lot from Lots 93, 94, 833,834 and 836 in Square 210. Lot 836, also known as 1439 Rhode Island Avenue, NW., is the site

4. Mr. Hughes further testified that the proposed subdivision is consistent with the purposes of the Act, in that will also enhance the larger, multiple-building Rhode Island Avenue Residential Buildings landmark by increasing the jurisdiction of the HPRB to include Lots 93, 94, 833 and 834, now vacant non-landmark sites, within the Rhode Island Avenue Residential Buildings Landmark. The proposed subdivision of the five lots to form a single record lot will provide greater consideration for historic preservation by adding HPRB review authority over all new construction on the newly-formed record lot, in addition to the jurisdiction the HPRB currently exercises over Lot 836.



PURSUANT TO D.C. LAW 14-45, EFFECTIVE OCTOBER 26, 2007, THE ALLEY SHOWN  
 THIS EZZZZZ IS CLOSED, AND TITLE RIGHTS AS SHOWN UPON RECOGNITION OF  
 THIS PLAT.  
 ALSO THE EASEMENT SHOWN THIS [ ] IS ESTABLISHED.

**PUBLIC ALLEY CLOSED  
 AND EASEMENT ESTABLISHED, SQUARE 529**

OFFICE OF THE SURVEYOR, D.C.  
*April 2, 2008*

I CERTIFY THAT THIS PLAT IS CORRECT AND IS RECORDED:  
*William J. Rector*  
 SURVEYOR, D.C.

H STREET, N.W. MASSACHUSETTS AVENUE  
 844 820  
 33  
 ALLEY  
 810 800  
 832  
 4th STREET, N.W. 3rd STREET, N.W.

SURVEYOR'S OFFICE, D.C.  
 Name: [ ]  
 Address: [ ]  
 Telephone: [ ]  
 Fax: [ ]

**SUBDIVISION  
 SQUARE 529**

H STREET, N.W. MASS. AVE.  
 35  
 40,471 SF  
 PUBLIC ALLEY 8  
 4th STREET, N.W. 3rd STREET, N.W.

OFFICE OF TAX AND REVENUE  
 RECEIVED [ ]  
 DEPARTMENT OF COMMERCE AND REGULATORY AFFAIRS  
 RECEIVED [ ]  
 OFFICE OF THE SURVEYOR  
 RECEIVED [ ]

SURVEYOR'S OFFICE, D.C.  
 Name: [ ]  
 Address: [ ]  
 Telephone: [ ]  
 Fax: [ ]

# Existing vs. Proposed Development Programs

Development Program	Retail / Grocer	Residential	AM Peak Hour Total (veh/hr)	PM Peak Hour Total (veh/hr)
Existing On-Site Uses	~44,000 sf	None	126 veh/hr	429 veh/hr
Proposed	~18,000 sf	219 du	155 veh/hr	322 veh/hr
<b>Change</b>	<b>-26,000 sf</b>	<b>+219 du</b>	<b>+29 veh/hr</b>	<b>-107 veh/hr</b>

- The proposed development program will result in 29 additional vehicular trips in the AM peak hour and 107 fewer vehicular trips in the PM peak hour

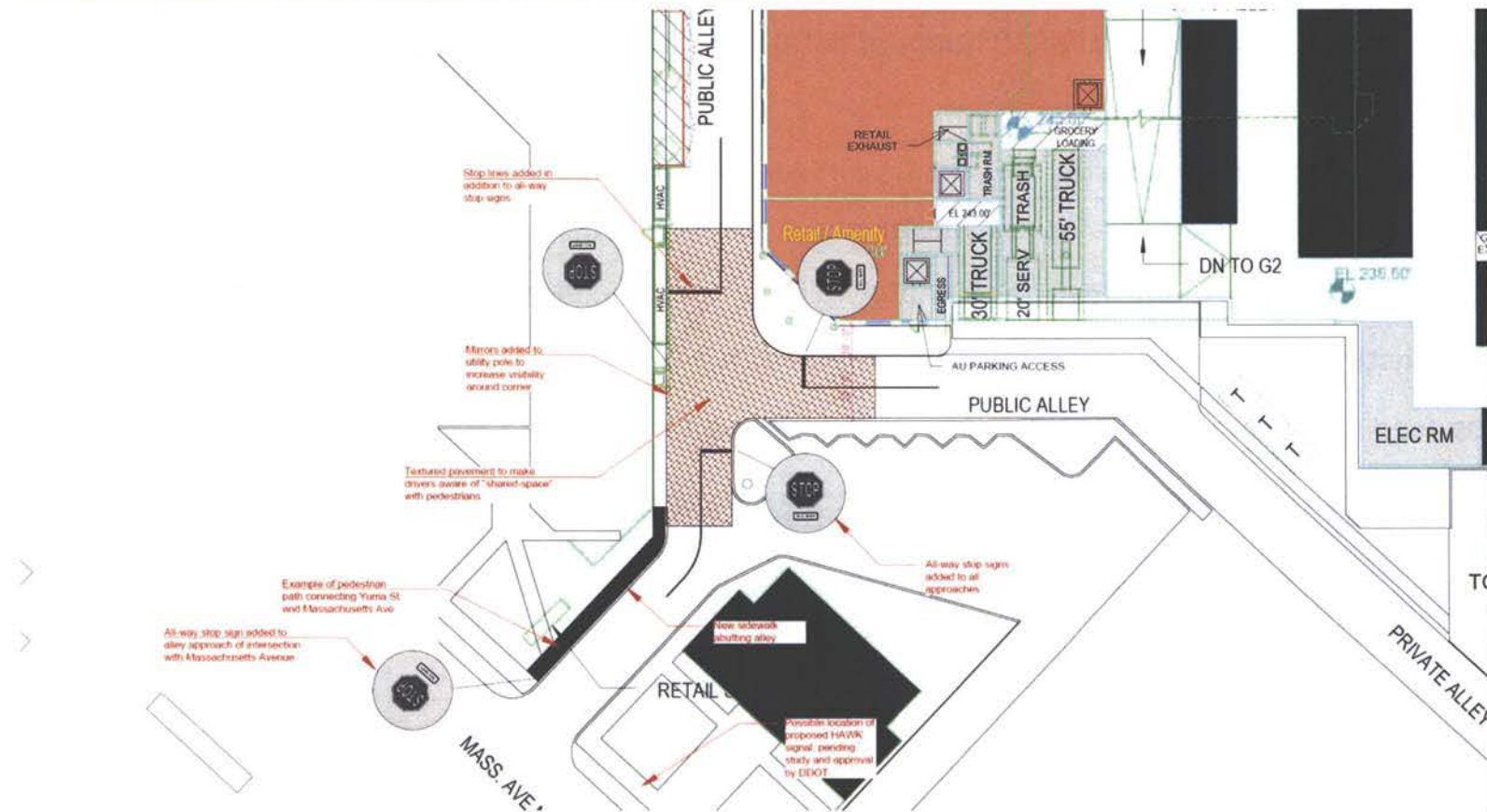


# Pedestrian Improvements Agreed to by Applicant



The Lady Bird (4330 48<sup>th</sup> Street NW) - Transportation

# Conceptual Alley Intersection Improvements



The Lady Bird (4330 48<sup>th</sup> Street NW) - Transportation

# Results of Alley Study

- Conducted over two days (a total of 30 hours of data) from 6:00AM to 9:00PM
- 65 total deliveries
  - 48 deliveries in north-south alley; 17 deliveries curbside on Yuma Street
  - Deliveries primarily take place in the morning hours (6:30AM - 9:30AM)
- Alley is empty of delivery vehicles approximately 55% of the time between 6:00AM to 9:00PM
- **Vacating existing retail tenants and replacing them with a full-service grocer with loading facilities internal to the proposed development will reduce the number of deliveries that take place in the north-south alley by 52%**

	Day 1 Tuesday, January 29, 2019 6:00 AM – 9:00 PM	Day 2 Tuesday, January 30, 2019 6:00 AM – 9:00 PM
<b>Total Deliveries</b>	<b>34</b>	<b>31</b>
To Spring Valley Shopping Center	16	15
To Existing Lady Bird Tenants	18	16
<b>Peak Hour</b>	<b>08:30 AM - 09:30 AM</b>	<b>06:30 AM - 07:30 AM</b>
Total Deliveries	8	7





Sub. C, Section 1002.3 - Inclusionary developments, except those located in the SEFC, StE, and HE zones, may construct up to twenty percent (20%) more gross floor area than permitted as a matter of right (bonus density), subject to all other zoning requirements (as may be modified by the zone) and the limitations established by the Height Act.

Sub. C, Section 1003.9 - An inclusionary development's entire residential floor area including dwelling units located in cellar space or enclosed building projections that extend into public space, shall be included for purposes of calculating the minimum set-aside requirements of Subtitle C §§ 1003.1 and 1003.2

Sub. C, Section 1003.1 - An inclusionary development which does not employ Type I construction as defined by Chapter 6 of the International Building Code as incorporated into District of Columbia Construction Codes (Title 12 DCMR) to construct a majority of dwelling units and which is located in a zone with a by-right height limit of fifty feet (50 ft.) or less shall set aside the greater of ten percent (10%) of the gross floor area dedicated to residential use including penthouse habitable space as described in Subtitle C § 1001.2(d), or seventy-five percent (75%) of its achievable bonus density to inclusionary units plus an area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § 1001.2(d).

		Building Area					
		FAR	Above Grade (GFA)	Penthouse	Bays	Below Grade	Total (GSF)
CURRENT	10/1/2018						
	Retail	0.26	20,535	0	0	0	20,535
	Residential	2.69	214,094	29,962	1,719	26,050	271,825
	Total	2.95	234,629	29,962	1,719	26,050	292,360
Delta		-0.54	-42,649	2,746	-418	18,504	-21,817

Building IZ Required (60% MFI)			
	Residential GFA	10% of residential GFA	75% of bonus density
Building	214,094	21,409	21,706

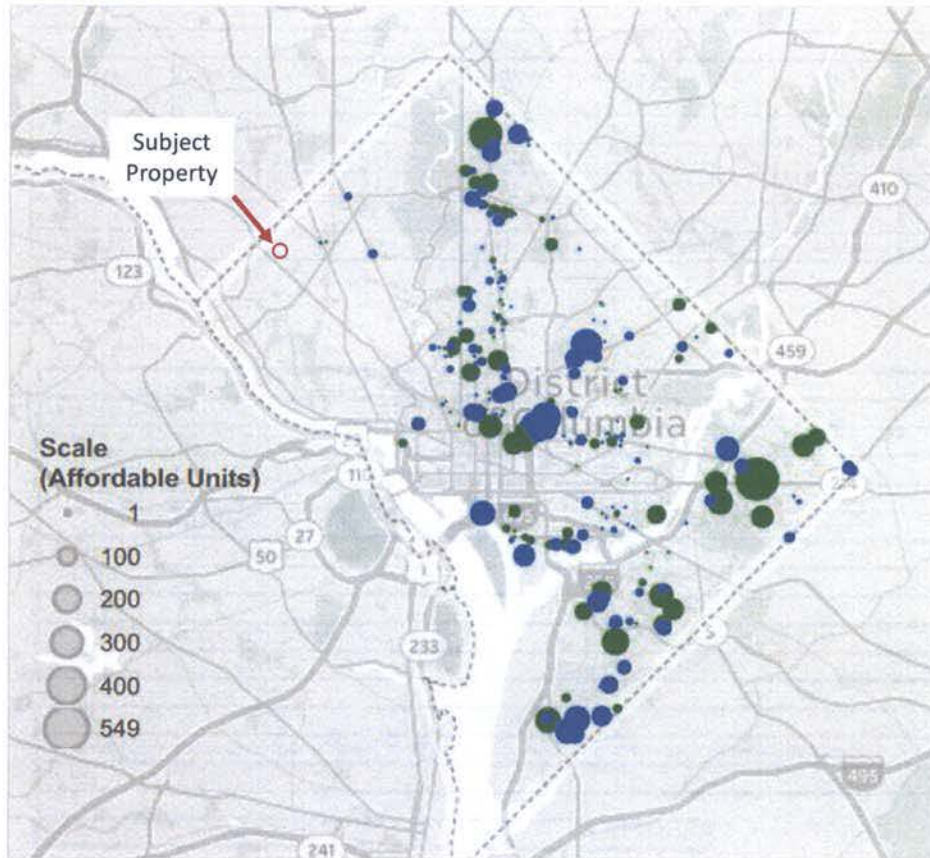
Penthouse IZ Required (50% MFI)		
	PH GFA (non-communal habitable)	10% of non-communal habitable GFA
Penthouse	29,572	2,957

Cellar IZ Required		
	Dwelling unit floor area	10% of dwelling unit floor area
Cellar	26,050	2,605

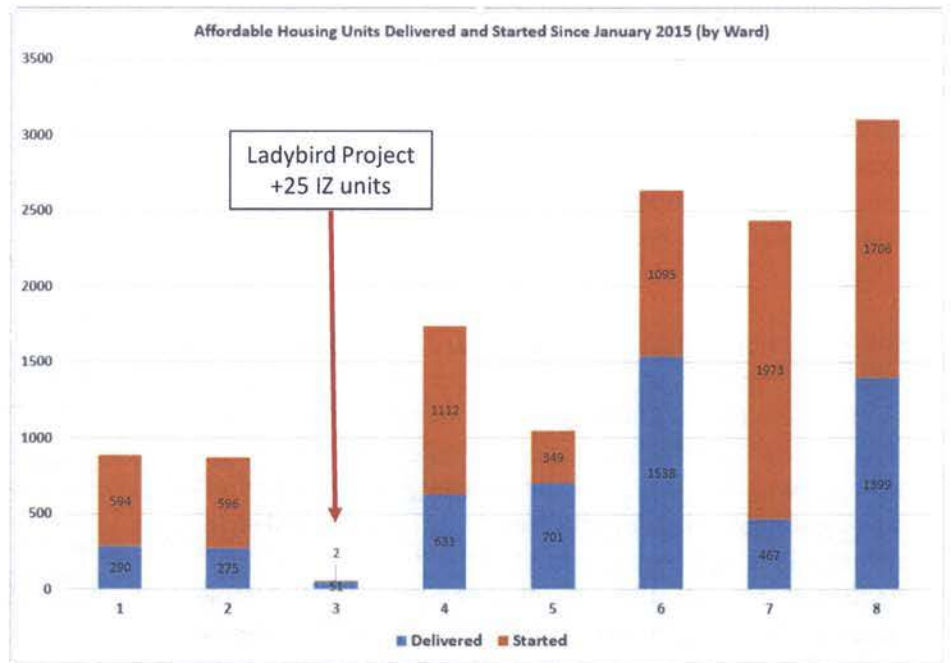
Projections IZ Required		
	Residential Projection floor area	10% of Residential Projection floor area
Projections	1,719	172

Total IZ GSF	27,440
--------------	--------

## Affordable Housing Completed & Under Construction Through November 2018



The Ladybird project will increase the number of affordable dwelling units in Ward 3 by 47%



### Zoning Regulations

Sub B, Section 307.1 - In other than residential zones, as defined in Subtitle A § 101.9, and except as permitted elsewhere in this section and the regulations, the building height measuring point (BHMP) shall be established at the level of the curb, opposite the middle of the front of the building, and the building height shall be the vertical distance measured from the BHMP to the highest point of the roof or parapet or a point designated by a specific zone district.

Sub. B, Section 307.5 - Except as provided in Subtitle B § 307.7, if a building fronts on more than one (1) street, any front may be used to determine the maximum height of the building; but the basis for the height of the building shall be determined by the width of the street selected as the front of the building.

### 1910 Height Act

Section 7 (DC Code 6-601.07) - That for the purposes of this Act the height of buildings shall be measured from the level of the sidewalk opposite the middle of the front of the building to the highest point of the roof. If the building has more than one front, the height shall be measured from the elevation of the sidewalk opposite the middle of the front that will permit of the greater height. No parapet walls shall extend above the limit of height

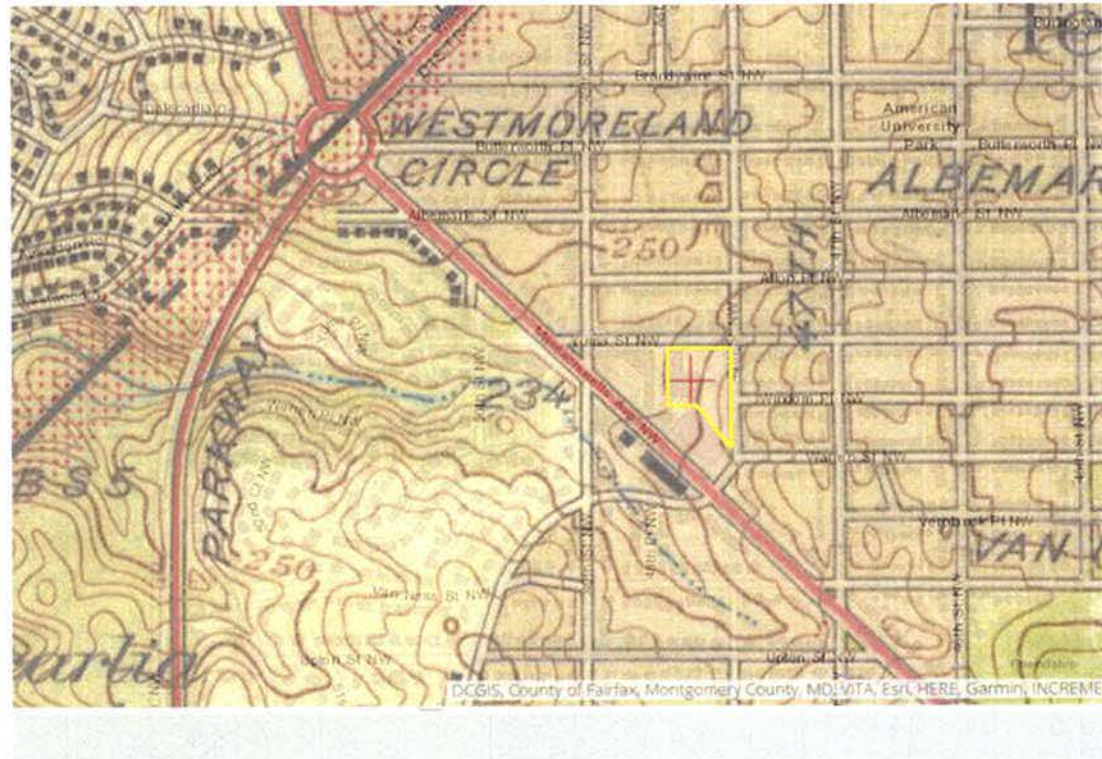
### Zoning Regulations

Sub. B, Section 307.7 - The term “curb” shall refer to a curb at grade. When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the BHMP shall be established using the first of the following four (4) methods that is applicable to the site:

- a) An elevation or means of determination established for a specific zone elsewhere in this title;
- b) An elevation for the site that was determined prior to the effective date of this section by the Zoning Administrator, or the Redevelopment Land Agency, its predecessors or successors;
- c) A street frontage of the building not affected by the artificial elevation; or
- d) A level determined by the Zoning Administrator to represent the logical continuation of the surrounding street grid where height is not affected by the discontinuation of the natural elevation.

## Site Elevation

- 1945: The street grid and approximate elevation of 48<sup>th</sup> Street were established
- 48<sup>th</sup> Street was, at its peak, approximately 265'
- Contour lines are 10' intervals

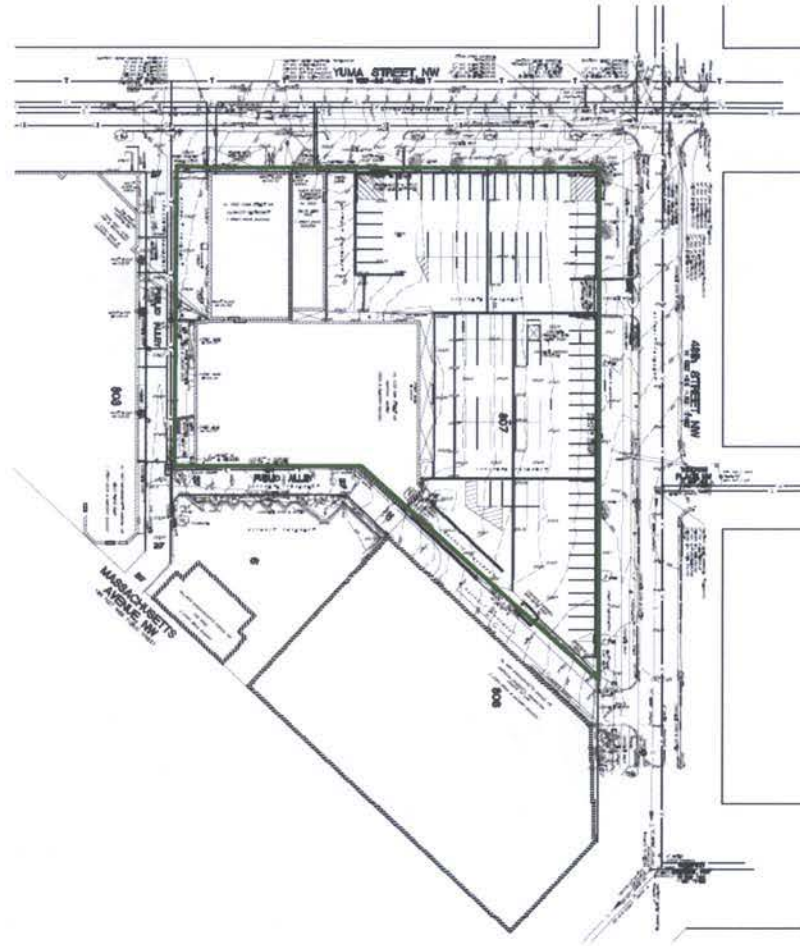


Source(s):

Historical Mapping: USGS Historical Topographic Map Explorer  
(<http://historicalmaps.arcgis.com/usgs/>)

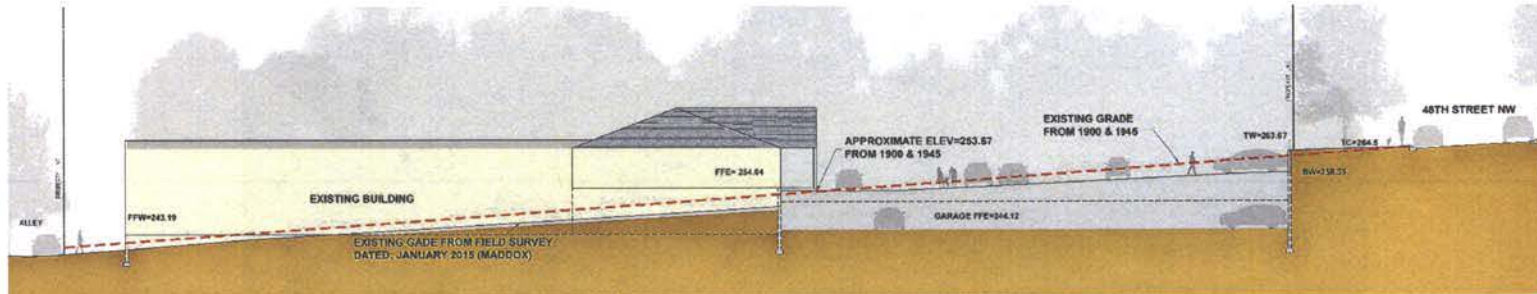
## Site Elevation

- 2015: Existing Conditions survey indicates a peak elevation of 265.18' on 48<sup>th</sup> Street
- Contours lines are 1' intervals

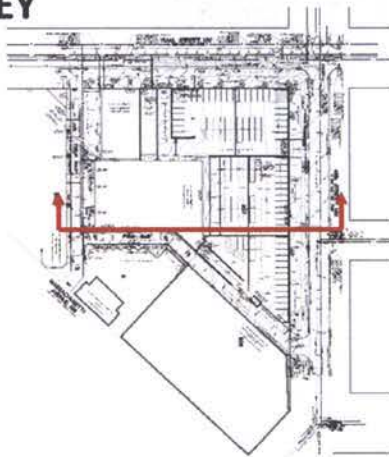


Source(s):

Existing Conditions Survey (Maddox, 2015)



## KEY



## Site Elevation

- Above figure is a scaled representation of site and surrounding grades as property was developed over the last century
- Site Analysis proves the grade of 48<sup>th</sup> Street has not been artificially manipulated.

### Source(s):

- Historical Mapping: USGS Historical Topographic Map Explorer (<http://historicalmaps.arcgis.com/usgs/>)
- Existing Conditions Survey (Maddox, 2015)



**CRD Presentation (Ex. 408, Slide 40)**



48<sup>th</sup> Street Embankment



## Site Elevation

- Existing Vegetation was inventoried and measured in attempt to corroborate contours used in previous analysis.
- Existing street trees along 48<sup>th</sup> Street were analyzed and determined to be approximately 75 years old (planted approx. 1940s)
- Elevation of 48<sup>th</sup> Street has not changed in more than 75 years



Source(s):

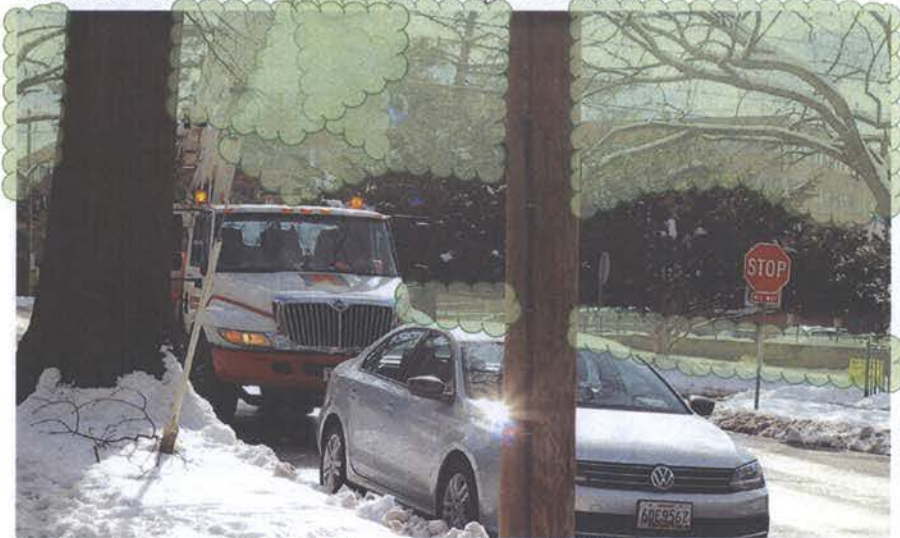
Site Visit – January 3-4, 2019



Photo from 10/16/18 Design Review Package - 50 MM lens



10/16/18 Photo location (RED) and Rendering Camera Location (White)



Best Photo match to Lumion Camera Location - 50 MM lens

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Camera Location for 48th and Yuma Streets View



Rendering from 10/16/18 Design Review Package - 50 MM lens

1/16/2019



Photo from 10/16/18 Design Review Package - 50 MM lens



10/16/18 Photo location (RED) and Rendering Camera Location (White)



Best Photo match to Lumion Camera Location - 50 MM lens



Rendering from 10/16/18 Design Review Package

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 Camera Location for Yuma Street View



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## Massachusetts Ave View 1



VALOR DEVELOPMENT  
TORTI GALLAS URBAN

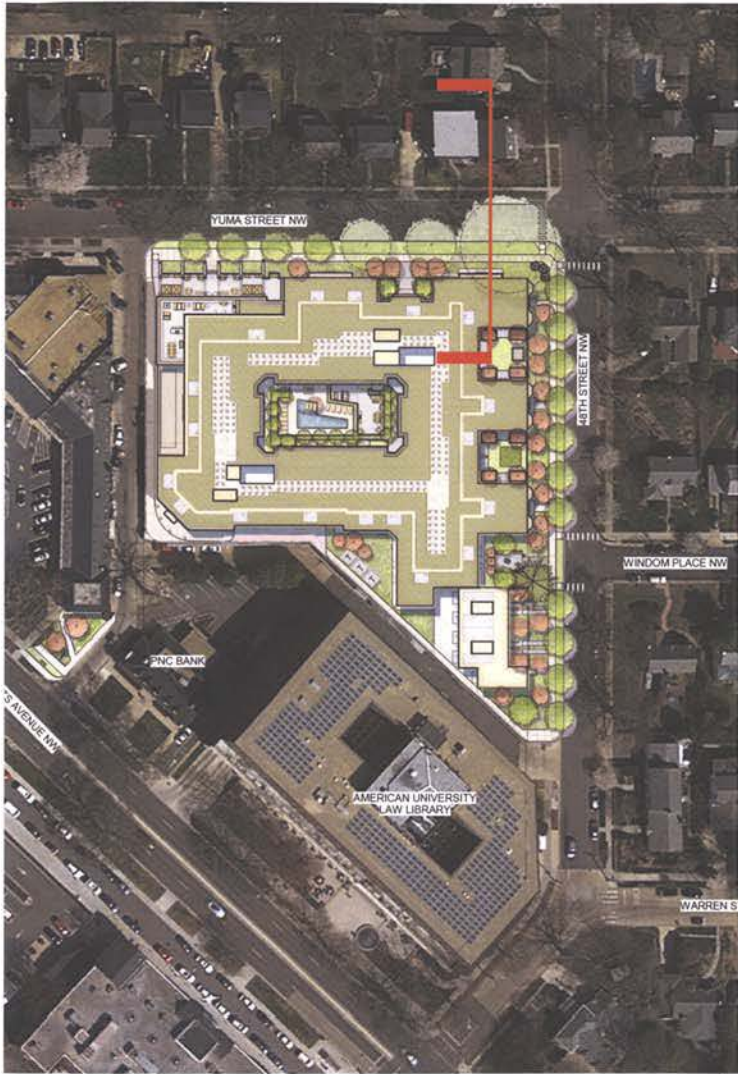
2/5/2019

1

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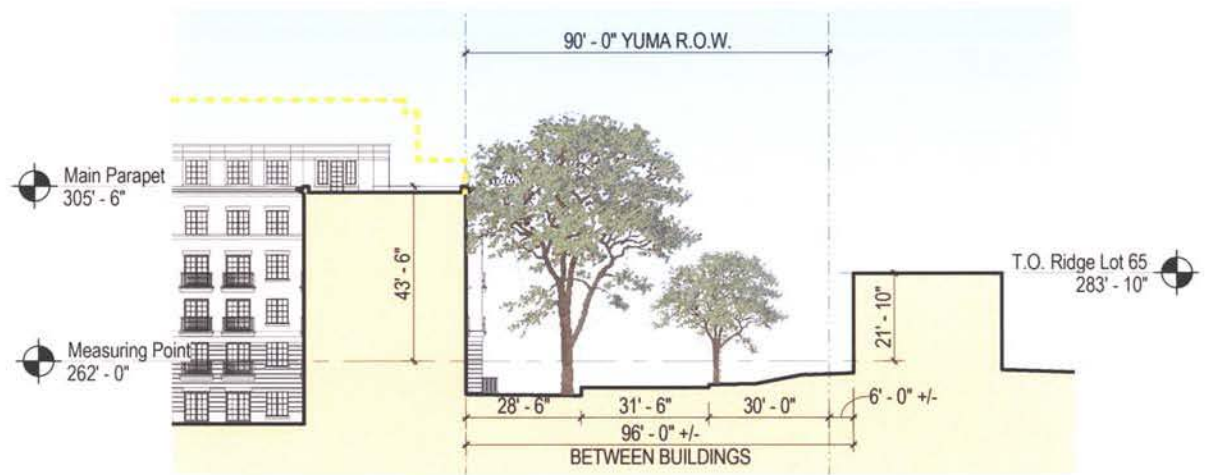






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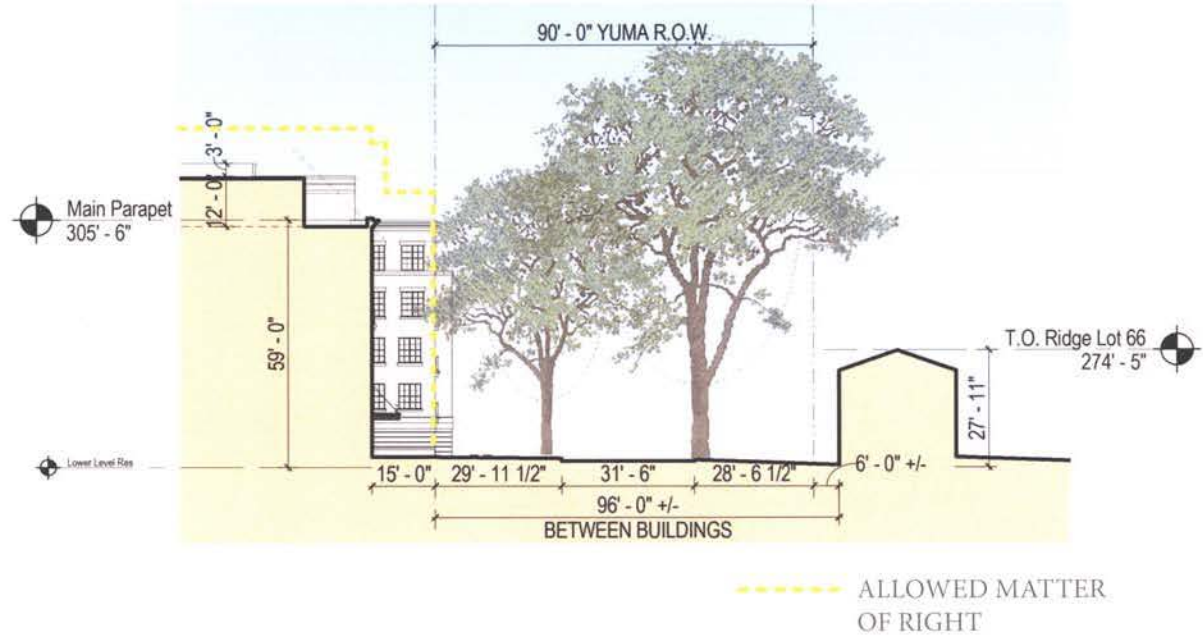
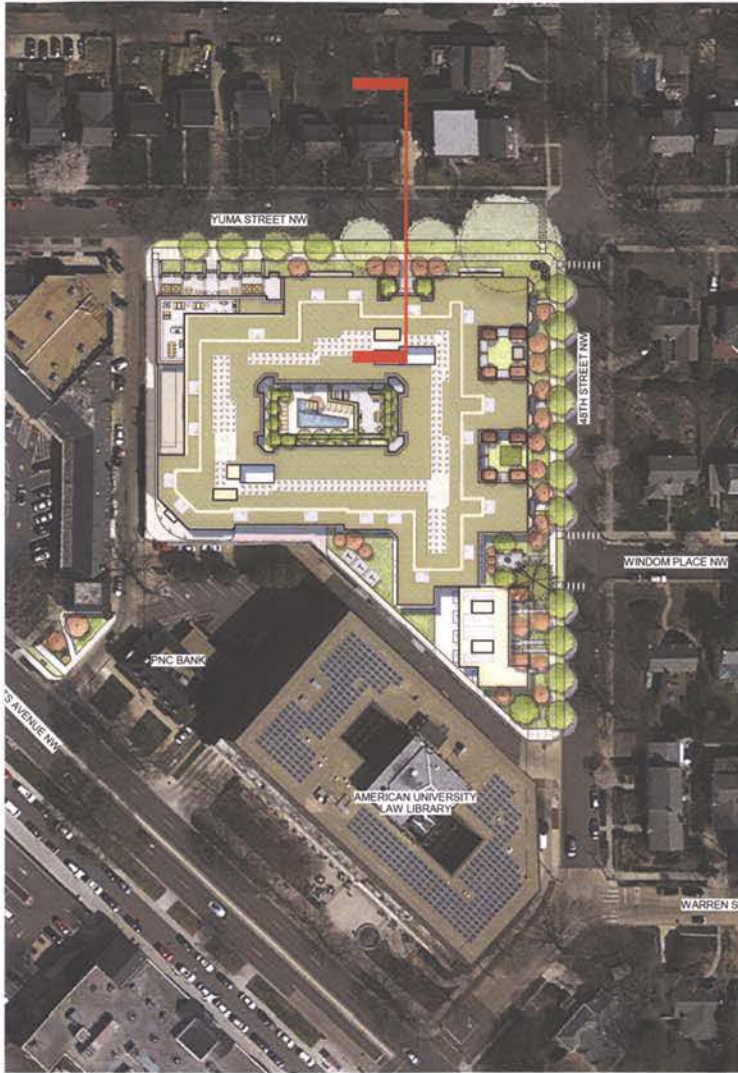
Street Section 5 - On Yuma Street Through Building 1 at NE Corner



--- ALLOWED MATTER OF RIGHT

10/16/2018

A28



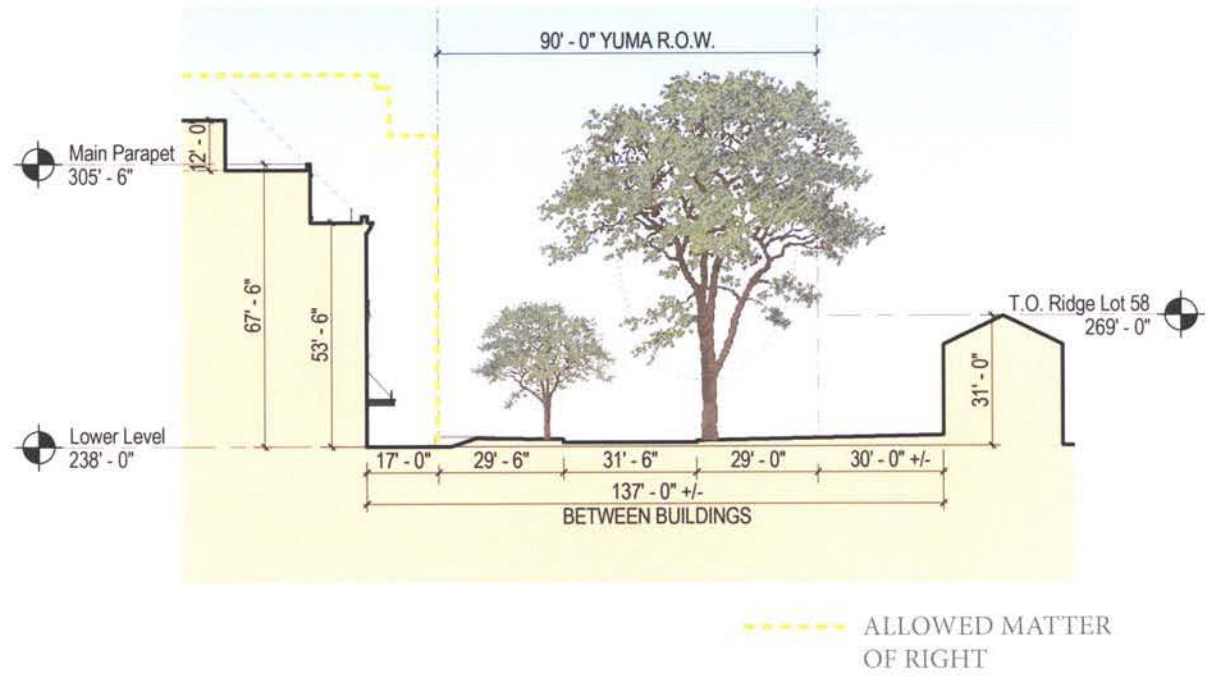
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Street Section 6 - On Yuma Street Through Building 1 Courtyard

10/16/2018

A29





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Street Section 7 - On Yuma Street Through Building 1 at NW Corner

10/16/2018

A30



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1/16/2019

Yuma Street

2

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View of side of 4731 Windom Place NW (facing 48th Street)

50 MM Lens

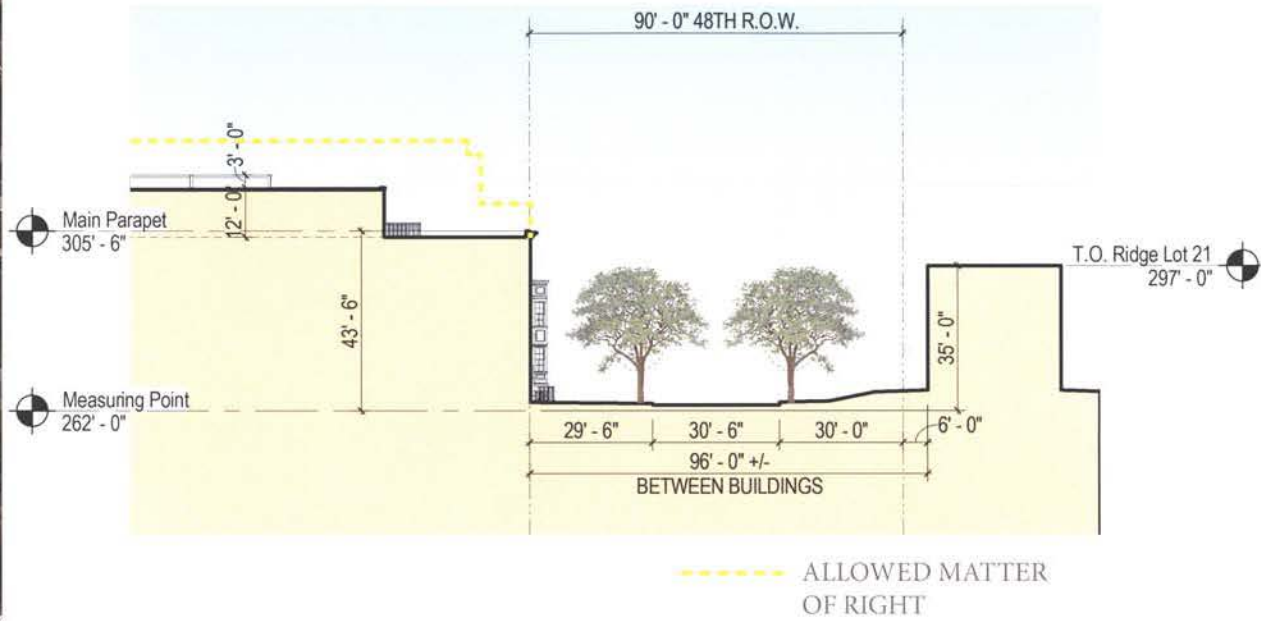
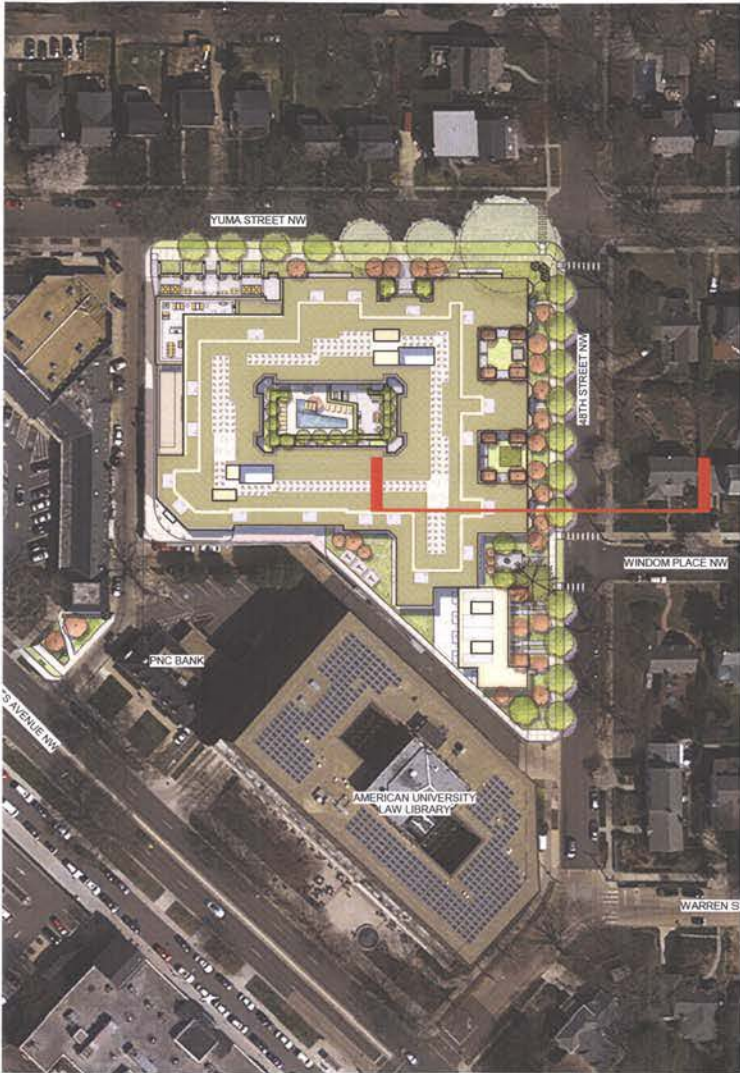
1/16/2019

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Street Section 3 - On 48th Street Through Building 1 Finger

10/16/2018

A26



Photo from 10/16/18 Design Review Package - 50 MM lens



10/16/18 Photo location (RED) and Rendering Camera Location (White)



Best Photo match to Lumion Camera Location - 50 MM lens

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Camera Location for 48th and Yuma Streets View



Rendering from 10/16/18 Design Review Package - 50 MM lens



Photo from 10/16/18 Design Review Package - 50 MM lens



10/16/18 Photo location (RED) and Rendering Camera Location (White)



Best Photo match to Lumion Camera Location - 50 MM lens

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Camera Location for Yuma Street View



Rendering from 10/16/18 Design Review Package



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## Massachusetts Ave View 1



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## Massachusetts Ave View 2

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### Massachusetts Ave View 3

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### Massachusetts Ave View 4



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Yuma Street View 1



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## Yuma Street View 2

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### Yuma Street View 3



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### 48th Street View I



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48th Street View 2



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### 48th Street View 3



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#### 48th Street View 4



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## Windom Place View 1



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## Windom Place View 2



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### Windom Place View 3



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### Windom Place View 4

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