



BEFORE THE ZONING COMMISSION AND
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA



FORM 129 – ADVISORY NEIGHBORHOOD COMMISSION (ANC) REPORT

Before completing this form, please review the instructions on the reverse side.

Pursuant to Subtitle Z § 406.2 and Subtitle Y § 406.2 of Title 11 DCMR Zoning Regulations, the written report of the Advisory Neighborhood Commission (ANC) shall contain the following information:

IDENTIFICATION OF APPEAL, PETITION, OR APPLICATION:

Case No.:	19-10	Case Name:	Valor Development Corporation "Lady bird"
Address or Square/Lot(s) of Property:	bounded by Yuma Street on the north; Massachusetts Avenue on the south; 48th Street on the east		
Relief Requested:	PUD		

ANC MEETING INFORMATION

Date of ANC Public Meeting:	04 / 09 / 19	Was proper notice given?:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Description of how notice was given:	Website and local list servs			
Number of members that constitutes a quorum:	6	Number of members present at the meeting:	10	

MATERIAL SUBSTANCE

The issues and concerns of the ANC about the appeal, petition, or application as related to the standards of the Zoning Regulations against which the appeal, petition, or application must be judged (*a separate sheet of paper may be used*):

See letter

The recommendation, if any, of the ANC as to the disposition of the appeal, petition, or application (*a separate sheet of paper may be used*):

See letter

AUTHORIZATION

ANC	3	D	Recorded vote on the motion to adopt the report (i.e. 4-1-1):	10-0-0
Name of the person authorized by the ANC to present the report:	Troy Kravitz			
Name of the Chairperson or Vice-Chairperson authorized to sign the report:	Charles Elkins			
Signature of Chairperson/ Vice-Chairperson:			Date:	09/06/19

ANY APPLICATION THAT IS FOUND TO BE INCOMPLETE MAY NOT BE ACCORDED "GREAT WEIGHT" PURSUANT TO
11 DCMR SUBTITLE Z § 406 AND SUBTITLE Y § 406.



4 September 2019

Mr. Anthony Hood
Chairman
District of Columbia Zoning Commission
441 4th Street, NW
Suite 200S
Washington, DC 20001

Dear Chairman Hood and members of the Zoning Commission,

At a regularly-scheduled and publicly-advertised meeting of Advisory Neighborhood Commission 3D on 4 September 2019, with a quorum (6) present at all times, ANC3D approved this resolution in support of Zoning Case 19-10. ANC3D authorizes Troy Kravitz, SMD 3D02, to represent the Commission in all proceedings pertaining to this case consistent with ANC3D's Bylaws.¹

In this letter to the Zoning Commission, we have endeavored to make our analysis most useful to the Zoning Commission by briefly reviewing the application in light of the Planned Unit Development (PUD) Evaluation Standards in DCMR Section 11-2403.² While the evaluation of the PUD proffer is not the responsibility of our Commission, we hope the exercise is helpful for others charged with different aspects of this case.³

Before proceeding, we mention for completeness that the application in ZC 19-10 is almost entirely identical to that in ZC 16-23. ANC3D has twice opined in support of the proposal in ZC 16-23.⁴ The arguments underlying our expressions of support remain applicable to the present case. We do not repeat them here for the sake of brevity.

Section 11-2403.3 pertains to the proposed project's impact on city services and facilities.⁵ Interpreting these terms broadly, we considered two main city service components: education and transportation.

We do not expect the project to have an appreciable impact upon the utilization of public school facilities. As many local schools are already exceeding their building capacities, this is not a concern we take lightly. Nonetheless, the experience of the Cityline at Tenley apartments directly across the street from this project's in-boundary elementary school informs our expectation. While the residential unit sizes are larger for the Ladybird project than for Cityline at Tenley – suggesting increased attractiveness for families with school-age children – Cityline at Tenley is located directly across the street from the elementary school, roughly 0.9 miles closer than the project under consideration in ZC 19-10, and yet few students have historically resided in the Cityline at Tenley apartment complex.⁶ Moreover, from a public policy perspective, we reject the notion that public school seats should be implicitly reserved for existing

¹ <https://www.anc3d.org/bylaws>.

² PUD Evaluation Standards, <http://dcrules.elaws.us/dcmr/11-2403>.

³ The Office of Planning offers educational resources for PUD participants. See, for example, <https://planning.dc.gov/sites/default/files/dc/sites/op/publication/attachments/PUD%20summary%20ZR16%20handout.pdf>.

⁴ Zoning Case 16-23, Exhibits 109 and 245.

⁵ PUD Evaluation Standards, <http://dcrules.elaws.us/dcmr/11-2403>.

⁶ Discussion with past PTA executive officers of Janney Elementary School based on review of student directories.

residents. The public schools in our community are of uniformly high-quality; expanding the opportunity of such education to more members of the community is a benefit not a drawback. In balancing this benefit to the broader community against the potential cost to the narrower community of increased school over-crowding, which we take seriously, we believe the impact of the project in ZC 19-10 to be at least acceptable and likely favorable in terms of impact on public school facilities.

We believe the proposal's impact on transportation to be acceptable as well, at least on a technical level. An updated Comprehensive Transportation Review was completed within the last six months.⁷ The findings from the updated analysis mirror those of the earlier analysis and our headline conclusion remains unchanged: traffic will be about the same as if the existing buildings were simply reoccupied. The proposed project includes a grocery store that is smaller in aggregate square footage than the existing businesses it replaces. The resulting reduction in commercially-related traffic intensity is expected to compensate for the increase in residentially-related traffic. Through inclusion in the attached Appendix, we also reiterate our previous points about the adequacy and usage of MetroBus transportation along Massachusetts Avenue, NW directly abutting the project site.

Section 11-2403.4 pertains to the project's compatibility with the Comprehensive Plan.⁸ We again state that we find no obvious reasons to believe the project is inconsistent with the Comprehensive Plan. In terms of judging the proposal's relation to the surrounding community, we attach in the Appendix some of our prior research on the existing MU-4 commercial area where the project site is located.

Section 11-2403.6 states that public benefits (including amenities per 11-2403.7) are superior features to a significantly greater extent "than would likely result from development of the site under the matter-of-right provisions."⁹ We list several such features here.

First, the proposed project includes a full-service grocery store that would not be possible in any by-right construction. This benefit is highly valued, all the more so now that the grocery store located closest to most of the Commission's area – the Palisades Safeway at 4865 Macarthur Blvd. – has since closed. (A graphic depicting grocery store distances and walk times for our community is included in the Appendix.) While an 80,000 square foot Wegmans grocery store will open at 3900 Wisconsin Avenue, NW by 2022, the MOM's organic market proposed in ZC 19-10 is right-sized for the neighborhoods adjacent to the project site and appeals to residents preferring a smaller, local market to a regional destination grocery store, as well as those fulfilling their shopping needs on foot or by bicycle. Accordingly, we view the proposed MOM's organic market and the Wegmans located 1.3 miles and 28 minutes walking away as catering to both different service areas and segments of the overall grocery marketplace. Outside the grocery store will be landscaped public gathering space, including outdoor seating and dining tables.

Second, the proposal includes 29 units of affordable housing, with 20 of these being two-bedroom or larger units. This total is about 10% more than required under inclusionary zoning regulations. The 29 units of affordable housing provided with this project are more than half of the total number of inclusionary zoning units constructed in all of Ward 3.¹⁰ The inclusionary zoning units included in the proposed project will advance the District's ongoing push to create affordable housing across the city in a

⁷ Gorove/Slade, Comprehensive Transportation Review, Table 8, page 34, available at <https://spaces.hightail.com/receive/rbdJb6bhRu>.

⁸ PUD Evaluation Standards, <http://dcrules.elaws.us/dcmr/11-2403>.

⁹ *Ibid.*

¹⁰ Department of Housing and Community Development, Inclusionary Zoning Database, <https://octo.quickbase.com/db/bi9iqv4v7>, accessed 5 August 2019.

manner that balances the need for increased housing with the height and scale of the surrounding community.¹¹

Third, the proposed project includes support for and funding of a HAWK signal across Massachusetts Avenue, NW. This benefit has been requested by groups within our community, including attendees of the Osher Lifelong Learning Institute occupying part of the American University building on Lot 806.

Fourth, the provision of sidewalks within the alleys internal to the project site will enhance pedestrian safety by separating pedestrian circulation from vehicle movement. At present, there are business operating storefronts opening into these alleys, so this is not a case of redress (sidewalks in this instance) being unnecessary without the proposed building.

Fifth, the building seeks LEED Gold certification in furtherance of the District's Sustainability, Clean Energy, and Green Building initiatives.¹²

In terms of amenities accruing mainly to occupants and immediate neighbors, we list three such items.

First, the proposed building height of 43.5 feet along 48th Street, NW is 13% shorter than that permitted by matter-of-right construction.¹³ Similarly, the penthouse is 38% smaller in terms of Floor Area Ratio (FAR) than that permitted by-right for Record Lot 9 alone.¹⁴

Second, the project includes three recessed courtyards facing 48th Street, NW, another facing Yuma Street, NW and publicly-accessible green space along the internal alley system. While "Windom Park" at the intersection of Windom Place, NW and 48th Street, NW is publicly-accessible, we view these courts as an amenity for the occupants and immediate neighbors in terms of usable space and reduced massing, respectively, instead of a benefit accruing to the public more generally.

Third, the applicants propose to clean up the existing hodge-podge of dumpsters along the alley behind the Massachusetts Avenue Parking Shops on lots 802 and 803. The existing conditions are unsightly to neighbors.

Section 11-2403.8 instructs the Zoning Commission to "judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects."¹⁵ We have listed above some of benefits and amenities being offered in this case. In exchange for these items, the applicant is not requesting any of the available PUD development incentives. The FAR of the proposed project is 2.68, well within both the matter-of-right allowable FAR of 3.0 (IZ) and, especially, the 3.6 FAR permissible as a PUD for this site. The applicants request partial relief from the rear-yard setback requirements and townhouse penthouse regulations only. While utilization of density aggregation is not a PUD incentive to be judged against the community benefits and

¹¹ See, for example, Mayor's Order 2019-036 calling for a "Housing Initiative" on 10 May 2019, available at [https://ggwash.org/files/2019-036_Housing_Initiative_\(5.10\).pdf](https://ggwash.org/files/2019-036_Housing_Initiative_(5.10).pdf).

¹² See, for example, the Sustainable DC 2.0 plan, the Clean Energy plan, and the Green Building Act of 2006, available at http://www.sustainabledc.org/wp-content/uploads/2019/04/sdc-2.0-Edits-V5_web.pdf, https://doee.dc.gov/sites/default/files/dc/sites/d DOE/page_content/attachments/Clean%20Energy%20DC%20-%20Summary%20Report_0.pdf, and https://doee.dc.gov/sites/default/files/dc/sites/d DOE/publication/attachments/Green_Building_Act_of_2006_B16-515.pdf, respectively.

¹³ Zoning Handbook, Mixed-Use (MU) Zones – MU-4, <http://handbook.dcoz.dc.gov/zones/mixed-use/mu-4/>.

¹⁴ *Ibid.*

¹⁵ PUD Evaluation Standards, <http://dcrules.elaws.us/dcmr/11-2403>.

amenities package, considering it as such does not change our judgment of the relative value of the benefits offered and the development incentives requested.¹⁶

In our evaluation of this proposal, we believe the PUD application in ZC 19-10 should be approved according to the standards of DCMR Section 11-2403.

This view is not shared by all within our community. We have heard concerns from some nearby neighbors that the proposed development will change the nature of their residential neighborhood, potentially overpowering some of the neighboring houses as they are currently constructed. We are sympathetic to such concerns. Nevertheless, we are convinced that the vacant storefronts, a relatively empty parking lot, and decaying infrastructure that now exist are not a good use of the scarce mixed-use space within our community. This site should be developed for the benefit of the community instead of being left vacant.

We partially see the choice of development as one between the proposed project and one which a developer could build as a matter-of-right on the site. We have concluded that the proposed project is superior to a matter-of-right project for many of the reasons laid out in this letter. Therefore, while we have listened and sympathized with the legitimate concerns of the neighbors, we do not believe there is sufficient rational basis to oppose the application in ZC 19-10. We believe the proposed project is not only better than a by-right development, but that it will provide valuable amenities to the larger community as currently proposed.

We now turn to requests of the Zoning Commission. We ask the Zoning Commission to memorialize an agreement by the applicant to include in the project at least 13,000 square feet for exclusive use by a full-service grocery store for at least 10 years. Likewise, we ask the Zoning Commission to include the applicant's commitment to provide at least 144 parking spaces of the 236-space easement held by American University for use by tenants and patrons of the site. We remain supportive of restricting the applicant's requested design flexibility to increase the number of units from 219 to 240 during construction.¹⁷

In terms of building aesthetics, we request the Zoning Commission encourage the applicants to utilize high-quality building materials and architectural stylings befitting the surrounding neighborhood during the construction process.

For pedestrian safety, we ask the Zoning Commission to encourage the applicants to increase the width of the sidewalks within the alley system from three feet to at least four feet, and ideally six feet. We believe pedestrian safety will be enhanced considerably from wider sidewalks allowing pairs of pedestrians to walk side-by-side.

Finally, we have heard from disparate voices in the community a desire for more retail than what is currently being proposed. We request that the Zoning Commission allow the applicant, at its discretion, to substitute approved residential Gross Floor Area (GFA) for additional commercial GFA on a 1:1 basis up until the new building contains leasable square footage of 44,000 square feet (as Lot 807 currently contains). Should additional retail establishments be included that do not open before 9:00am, we expect such a conversion of residential GFA into commercial GFA to reduce overall traffic impacts.

¹⁶ See Subtitle X, Section 303.2. Moreover, as the Order for ZC 15-27 makes clear in Finding of Fact No. 20 (page 4), combining multiple parcels within a PUD boundary is not a development incentive requested or obtained; it is simply how the project boundary is defined within a PUD application.

¹⁷ Zoning Case 19-10, Statement in Support, Exhibit 2, Section 2e, 6 May 2019.

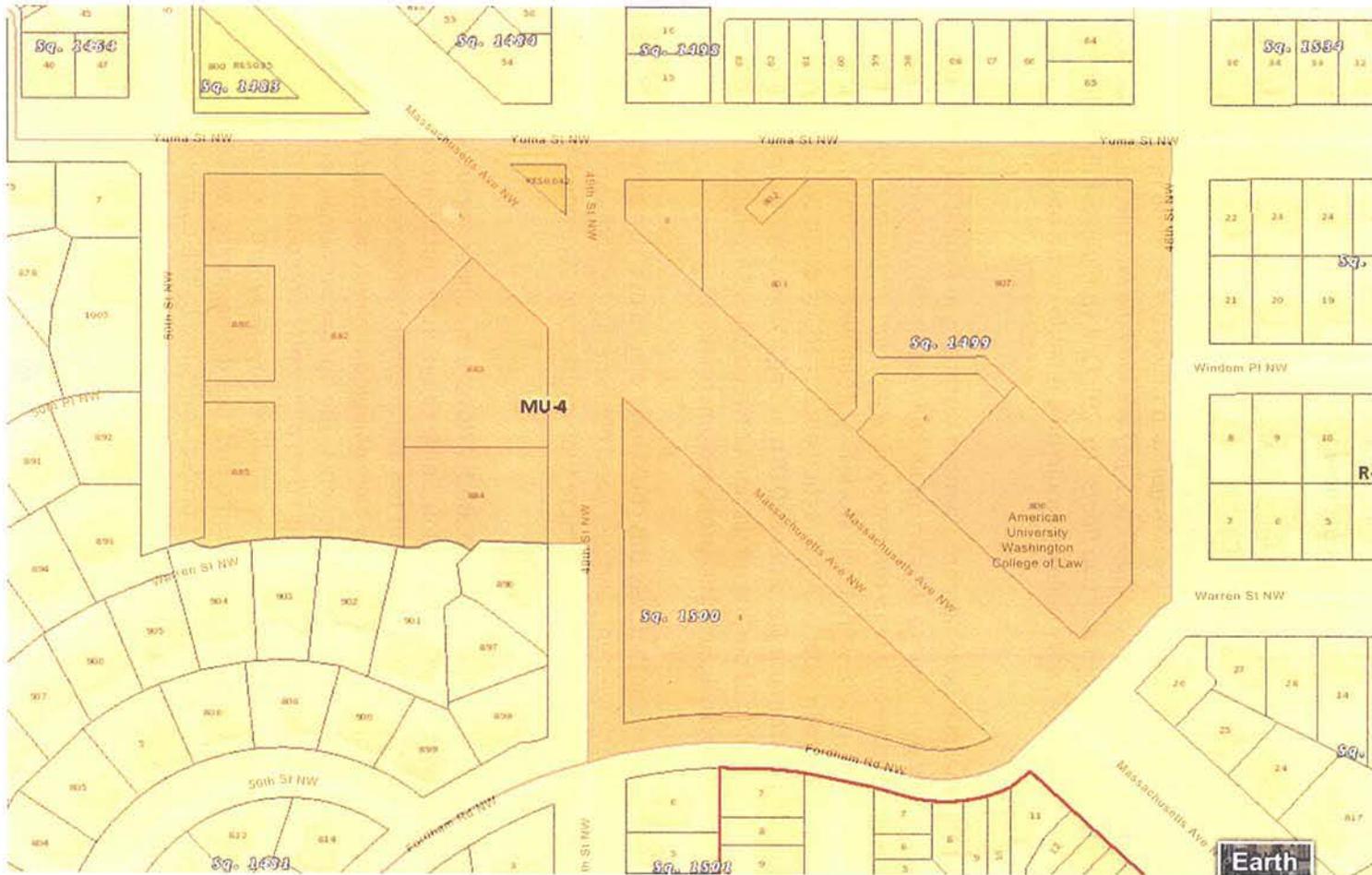
It is the opinion of ANC3D that the application in ZC 19-10 should be approved for the reasons stated herein. We thank the applicant for extensive community engagement throughout the development of this project and note, in passing, broad support for the project as conceived without denying the opposition of some neighbors within our community. We look forward to testifying before the Zoning Commission in support of this case.

Sincerely yours,

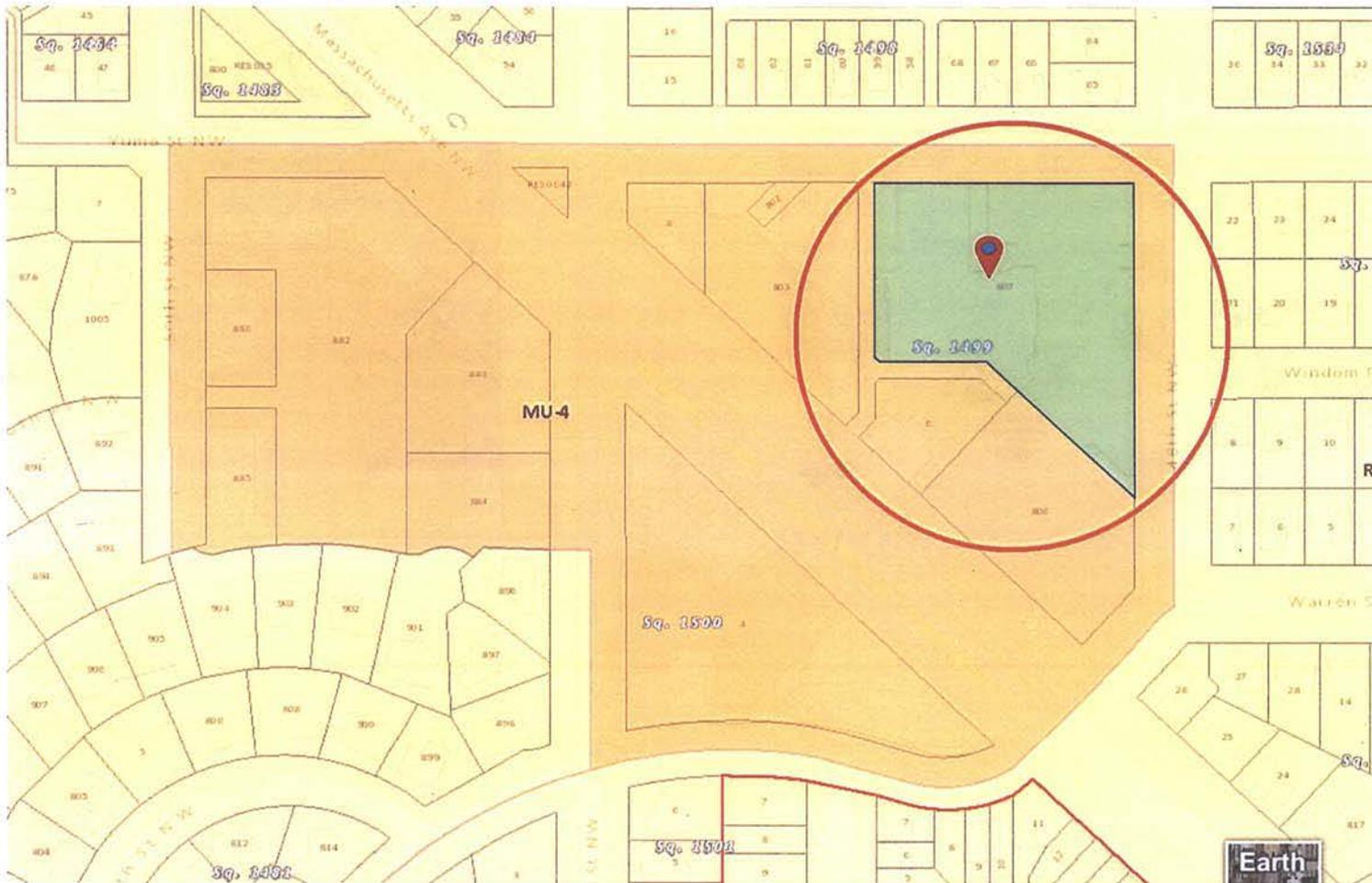
A handwritten signature in cursive script that reads "Chuck Elkins".

Chuck Elkins, Chair

cc: Advisory Neighborhood Commission 3E (3E@anc.dc.gov)
Norman Glasgow Jr., Counsel for the Applicant (normann.glasgowjr@hklaw.com)
Edward Donohue, Attorney for Citizens for Responsible Development
(edonohue@donohuestearns.com)



Spring Valley Commercial Area (MU-4)



Valor Site (Lot 807)

Setbacks and Height

Setback from 49th St: 30 feet

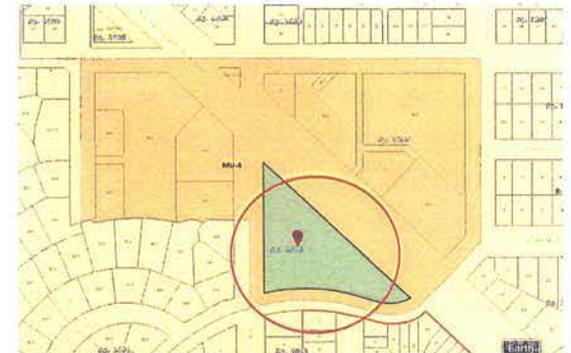
Setback from Fordham Rd: 35 feet

Height of roof facing Fordham Rd: 38 feet

Height of roof facing 49th St: 44 feet

Height of stairwell: 46 feet

(Heights measured using hand-held laser level)



Setbacks and Height

Setback from Massachusetts Ave: 55 feet
Height of roof facing Mass. Ave: 62 feet

Setback facing Yuma St: 28 feet
Height of roof facing Yuma St: 62 feet

Setback facing homes on 50th St: 27 feet
Height of roof at 50th St: 47 feet
Height of roof from parking lot: 56 feet
Height of penthouse roof from lot: 67 feet

(Heights measured using hand-held laser level)



Massachusetts Avenue Bus Line

Buses equipped with real-time GPS and apps available that display time until each stop
Seven minutes to Friendship Heights Metro Station

Bus Frequency:

6:30am-9:15am: every 18-20 minutes towards downtown

5:00pm-7:00pm: every 10-15 minutes from downtown

Otherwise: 2-3 buses per hour in each direction (5:30am-midnight)

Ridership:

91,000 passengers in October 2017

88,000 passengers in October 2018

3,600 average weekday passengers in October 2018

Third busiest of all 10 bus lines operating in western DC in overall ridership

26th busiest of all 63 bus lines operating in DC in overall ridership

(All statistics courtesy of WMATA)

English-Español

Effective 12-30-18

N2,4,6

Massachusetts Avenue Line

metrobus

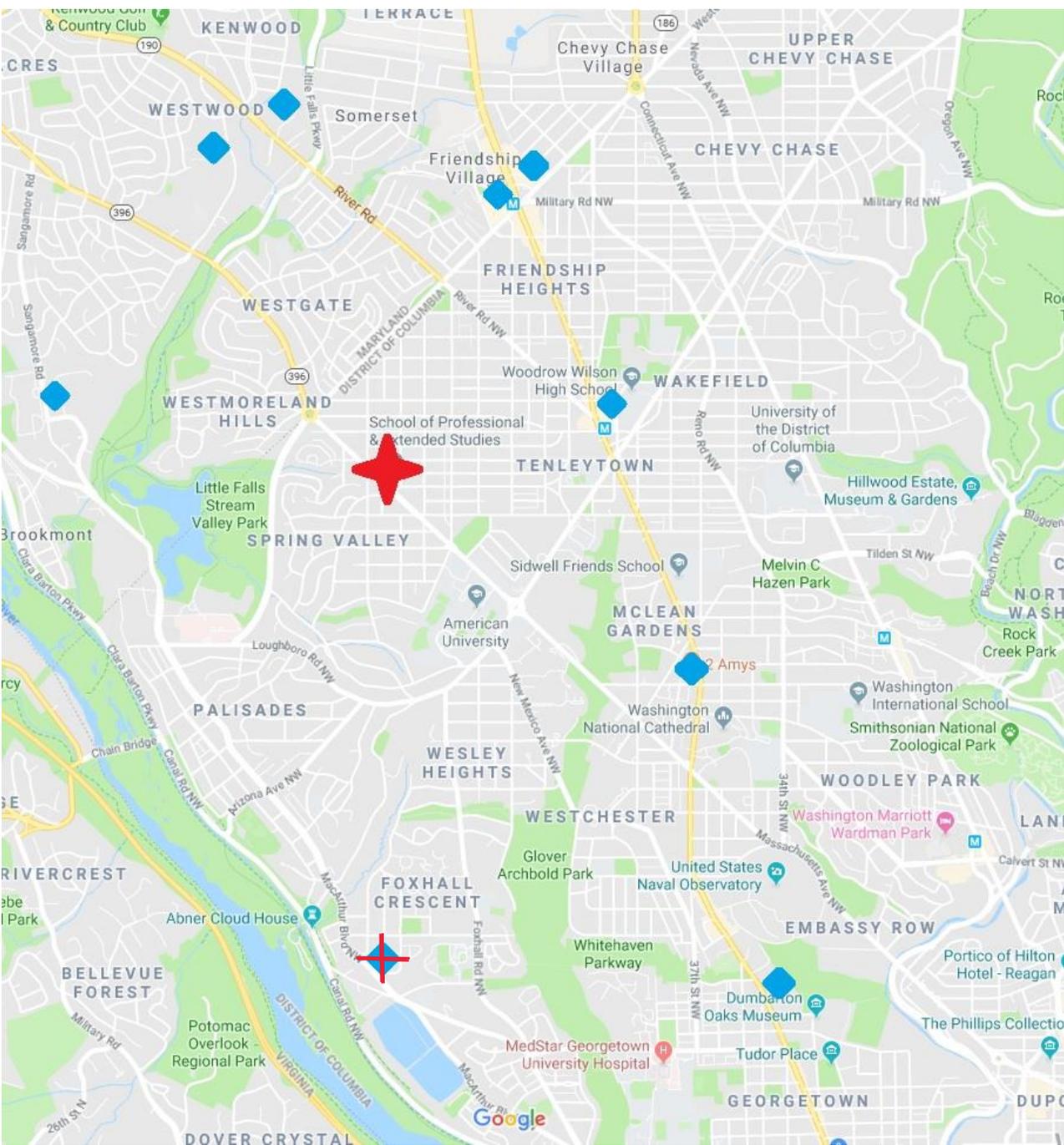


Serves these locations-
Brinda servicio a estas ubicaciones

- Friendship Heights station
- Tenleytown-AU Station (N2)
- American University Park
- Spring Valley (N4,N6)
- American University
- Ward Circle
- Wesley Heights (N2,N6)
- Berkshire Apts. (N4,N6)
- Washington National Cathedral
- Massachusetts Ave. Heights
- Embassy Row
- Dupont Circle
- Farragut North station (N2,N4,N6)
- Farragut West station (N2,N4,N6)
- Potomac Park/State Dept. (N4)

www.wmata.com
Information Anytime 202-637-7000 TTY 202-962-2033





Distances and Walk Times

~~Palisades Safeway: 2.5 miles, 52 minutes~~

Glover Park Safeway: 2.7 miles, 56 minutes

Sangamore Safeway: 2.9 miles, 56 minutes

Tenleytown Whole Foods: 1.0 miles, 19 minutes

Friendship Heights Whole Foods: 1.3 miles, 26 minutes

Kenwood Whole Foods: 1.9 miles, 39 minutes

Cathedral Commons Giant: 1.7 miles, 34 minutes

Friendship Heights Giant: 1.5 miles, 29 minutes

Westbard Giant: 1.9 miles, 39 minutes

(All distances and times from Google Maps)