

SULLIVAN & BARROS, LLP

Real Estate | Zoning | Business Law

Martin P. Sullivan, Partner
Direct (202) 503-1704
Fax (888) 318-2443
msullivan@sullivanbarros.com

November 12, 2014

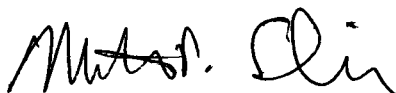
Sharon Schellin
D.C. Office of Zoning
441 4th Street, NW, Suite 210
Washington, DC 20001

Re: Zoning Commission Case No. 14-17; Prehearing Statement; 2911 Rhode Island Avenue, NE (Square 4310, Lot 808)

Dear Ms. Schellin

Enclosed please find 10 copies of the Applicant's Prehearing Statement for the above-referenced case, as well as mailing labels for the property owners within 200 feet, and a check for the hearing fee in the amount of \$4,875

Sincerely,



Martin P. Sullivan

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D.C. OFFICE OF ZONING
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**ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA**

PREHEARING STATEMENT FOR THE PETITION TO AMEND THE ZONING MAP

ZONING COMMISSION CASE NO. 14-17

2911 RHODE ISLAND AVENUE, NE (SQUARE 4310, LOT 808)

**AE TOWER LLC
(Petitioner and Contract Purchaser of the Subject Property)**

I. INTRODUCTION.

AE Tower, LLC (“Petitioner or “Applicant”), on behalf of the owner of the subject property, Evangelistic Holy Trinity Church, Inc., has petitioned the District of Columbia Zoning Commission to amend the Zoning Map for the property located at 2911 Rhode Island Avenue, NE, Square 4310, Lot 808 (the “Subject Property”) (See Surveyor’s Plat attached as Exhibit A). On November 10, 2014, the Zoning Commission voted 5-0 to set down the Petition for a hearing, and the Petition was designated as Zoning Commission Case No. 14-17 (the “Application”). The Subject Property is a roughly triangle-shaped lot located at the intersection of Rhode Island Avenue and Monroe Street. The Subject Property is on the north side of the 3000 block of Monroe Street, and on the south side of the 2900 block of Rhode Island Avenue. The Subject Property is currently split-zoned, with the majority of the site (approximately 75%) zoned R-1-B, and the remainder (approximately 25% zoned C-2-A (see copy of Zoning Map attached as Exhibit B). The Subject Property is designated “Low Density Commercial on the Comprehensive Plan’s Future Land Use Map, as are adjacent properties to the east in this section of the Rhode Island Avenue corridor. Those adjacent properties are also zoned C-2-A.

The Applicant, the contract purchaser of the Subject Property, is proposing that the R-1-B portion of the Subject Property be rezoned to C-2-A, which would match the adjacent zoning in

this corridor of Rhode Island Avenue from the eastern portion of the Subject Property to the District's boundary line at Eastern Avenue (two blocks away). This small corridor of Rhode Island Avenue is designated as Low Density Commercial on the Land Use Map and, but for the Subject Property, zoned C-2-A (see copies of Future Land Use Map attached as Exhibit C). This map amendment would make the Subject Property's zone district consistent with the Comprehensive Plan designation, and may serve to promote matter-of-right development of this vacant, underutilized, and unattractive site. Development of the Subject Property may also encourage additional matter-of-right redevelopment in the adjacent C-2-A zoned corridor.

II. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA.

The Subject Property has a land area of 27,618 square feet. The site is mostly vacant, and had previously been used as a parking lot for a car dealer, pursuant to BZA Order No. 14256 of Capitol Datsun issued in 1985. The majority of the Subject Property (75%) is zoned R-1-B, pursuant to Zoning Commission Order No. 750, which was adopted in 1994. The northeast edge of the Subject Property (about 25%) is already zoned C-2-A, as are all properties located on Rhode Island Avenue from this point until Eastern Avenue. The portion of the Subject Property zoned R-1-B is completely vacant and covered with aging, cracked asphalt, and patches of grass. This portion of the Subject Property was for many years used as a parking lot for an auto dealer or dealers. The portion of the Subject Property zoned C-2-A contains a small, vacant one-story building (see photographs of the Subject Property attached as Exhibit D).

The C-2-A district on the south side of Rhode Island Avenue, to the east of the Subject Property, consists of auto-related commercial uses, including tire stores and used car dealers. The

Petitioner, the contract purchaser of the Subject Property, envisions developing a matter-of-right residential or mixed-use project on the site.

III. DEVELOPMENT CAPACITY.

The existing C-2-A zoning for a portion of the Subject Property permits low-to-medium density commercial and residential uses. The purpose of the C-2-A District is to provide facilities for shopping and business needs, allows mix of uses including residential, and accommodate commercial developments, serving local residential areas. The existing R-1-B zoning for the remainder of the Subject Property allows for low-density single-family detached residential development on lots of 5,000 sf. It does not permit commercial or mixed use development.

IV. COMPREHENSIVE PLAN FUTURE LAND USE MAP.

The current R-1-B zoning for the Subject Property is inconsistent with its designation of “low density commercial” on the Future Land Use Map. The proposed amendment to C-2-A would resolve that inconsistency and bring the underlying zoning in line with the Comprehensive Plan, the Future Land Use Map, and the adjacent C-2-A zoning. The Future Land Use Map indicates that the site is appropriate for low density commercial development. (See Exhibit C.)

V. COMPREHENSIVE PLAN POLICIES.

The Subject Property is located in the Upper Northeast Area of the Comprehensive Plan. There are several policies within the Upper Northeast Area Element, as well as policies in the Citywide Framework (primarily the Land Use Element), which encourage commercial infill

development along Rhode Island Avenue, NE. These policies are detailed below. Development permitted in the C-2-A zone would help achieve the applicable policies; allow for the development of an underutilized site in a more coherent manner under the regulations of a single zoning district and further the Comprehensive Plan Map designations of low-density commercial use and neighborhood conservation on the Subject Property. Please note bold text was added for emphasis.

Citywide Guiding Principles:

- Framework Guiding Principles (6): “Redevelopment and infill opportunities along corridors and near transit stations will be an important component of reinvigorating and enhancing our neighborhoods. Development on such sites must not compromise the integrity of stable neighborhoods and must be designed to respect the broader community context. Adequate infrastructure capacity should be ensured as growth occurs.” (§217.6)
- LU-1.3 Transit-Oriented and Corridor Development: While not named as one of the six of the City’s “Great Streets,” Rhode Island Avenue is shown on the “Great Streets and Transit Stations” as one of the “Potential Great Streets,” which recognizes their potential for enhancement. (§306.6 and 306.7)
- LU-1.4.1 Infill Development: “Encourage infill development on vacant land within the city, particularly in areas where there are vacant lots that create ‘gaps’ in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern.” (§307.5)
- LU-1.4.3 Zoning of Infill Sites: “Ensure that the zoning of vacant infill sites is compatible with the prevailing development pattern in surrounding neighborhoods. This is particularly important in single-family and rowhouse neighborhoods that are currently zoned for multi-family development.”

Upper Northeast Area Element (“UNE”):

- Planning and Development Priority: “Retail choices in Upper Northeast need to be expanded...Options have improved with the opening of Home Depot/Giant, and will get better still with the new shopping center at Fort Lincoln, but these centers are auto-oriented and are not convenient to everyone in the community. Many of the commercial

areas in Upper Northeast are dominated by car lots, carry-outs, liquor stores, automotive uses and other activities that are not conducive to neighborhood shopping. More retail districts like Brookland's 12th Street are desired to meet the day-to-day needs of residents. Rhode Island Avenue, Benning Road...have the potential to become pedestrian-oriented shopping districts..." (§2407.2)

- UNE-1.1.1: Neighborhood Conservation: "Protect and enhance the stable neighborhoods of Upper Northeast, such as...Woodridge...The residential character of these areas shall be conserved, and places of historic significance, gateways, parks, and special places shall be enhanced." (§2408.2)
- UNE-1.1.5: Vacant and Abandoned Structures: "Reduce the number of vacant, abandoned, and boarded up structures in Upper Northeast..." (§2408.6)
- UNE-1.1.6: Neighborhood Shopping: "Improve neighborhood shopping areas throughout Upper Northeast. Continue to enhance 12th Street NE in Brookland as walkable neighborhood shopping street and encourage similar pedestrian-oriented retail development along Rhode Island Avenue..." (§2408.8)
- UNE-2.5: Rhode Island Avenue- Brentwood Metro Station and Corridor: "The general character of the Avenue is not expected to change significantly over the next 20 years, but there are opportunities for moderate density infill development in several locations. Filling in 'gaps' in the street wall would be desirable in the commercial areas, creating a more pedestrian-friendly environment. While most of the street is zoned for commercial uses, development that includes ground floor retail uses and upper store housing would be desirable. The surrounding area is under-served by retail uses and would benefit from new restaurants, local-serving stores and other services." (§2415.4)

VI. RHODE ISLAND AVENUE PLAN.

According to the Office of Planning's set-down report, there are recommendations regarding the redevelopment of the Subject Property in the study entitled "Rhode Island Avenue: Diamond of the District Plan" completed in 2010 by the Office of the Deputy Mayor for Planning and Economic Development. The Subject Property is located in Sub-Area 4 and subject to recommendations which include townhouse development on the portion of Square 4310 that fronts on Rhode Island Avenue, including the Subject Property. Due to the triangular-shape of the Subject Property, townhouse development may be difficult to achieve and would require a

2911 Rhode Island Avenue
Map Amendment Petition
Pre-Hearing Statement

rezoning. The policies of the Comprehensive Plan listed above, as well as the adjacent C-2-A zoning, suggest commercial infill or residential uses with ground floor commercial uses are encouraged.

VII. SUMMARY.

The Applicant is requesting a map amendment to amend the zoning map for the Subject Property, from a mix of R-1-B and C-2-A to all C-2-A, to make the zoning of the Subject Property consistent with the Comprehensive Plan and the Future Land Use Map. The Applicant respectfully requests that a hearing be scheduled at the earliest possible date. The required hearing fee is included with this Prehearing Statement, along with mailing labels for property owners within 200 feet of the Property.

Respectfully,



Martin P. Sullivan, Esq. 11/12/14

Prehearing Statement for Zoning Commission Case No. 14-17 – 2911 Rhode Island Avenue, NE

List of Exhibits

Exhibit A	Plat from the D.C. Surveyor's Office (attached separately in IZIS)
Exhibit B	Copy of the Zoning Map for the Subject Property
Exhibit C	Copy of the Future Land use Map for the Subject Property
Exhibit D	Photographs of the Subject Property (attached separately in IZIS)

Exhibit A

Plat from the D.C. Surveyor's Office (attached separately in the IZIS filing)

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., June 23, 2014

Plat for Building Permit of: SQUARE 4310 LOT 808

Scale: 1 Inch = 40 feet Recorded In Book A & T Page 3794 - A

Receipt No. 14-05762

Furnished to: ZAK ELYASI

Surveyor, D.C.

By: A.S.

I hereby certify that all existing improvements shown thereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining Lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified that all Lot divisions or combinations pending at the Office of Tax & Revenue are correctly depicted, and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and private restricted property.) Owner/Agent shall indemnify, defend, and hold the District, its officers, employees and agents harmless from and against any and all losses, costs, claims, damages, liabilities, and causes of action (including reasonable attorneys' fees and court costs) arising out of death of or injury to any person or damage to any property occurring on or adjacent to the Property and directly or indirectly caused by any acts done thereon or any acts or omissions of Owner/Agent; provided however, that the foregoing indemnity shall not apply to any losses, costs, claims, damages, liabilities, and causes of action due solely to the gross negligence or willful misconduct of District or its officers, employees or agents.

Date: _____

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

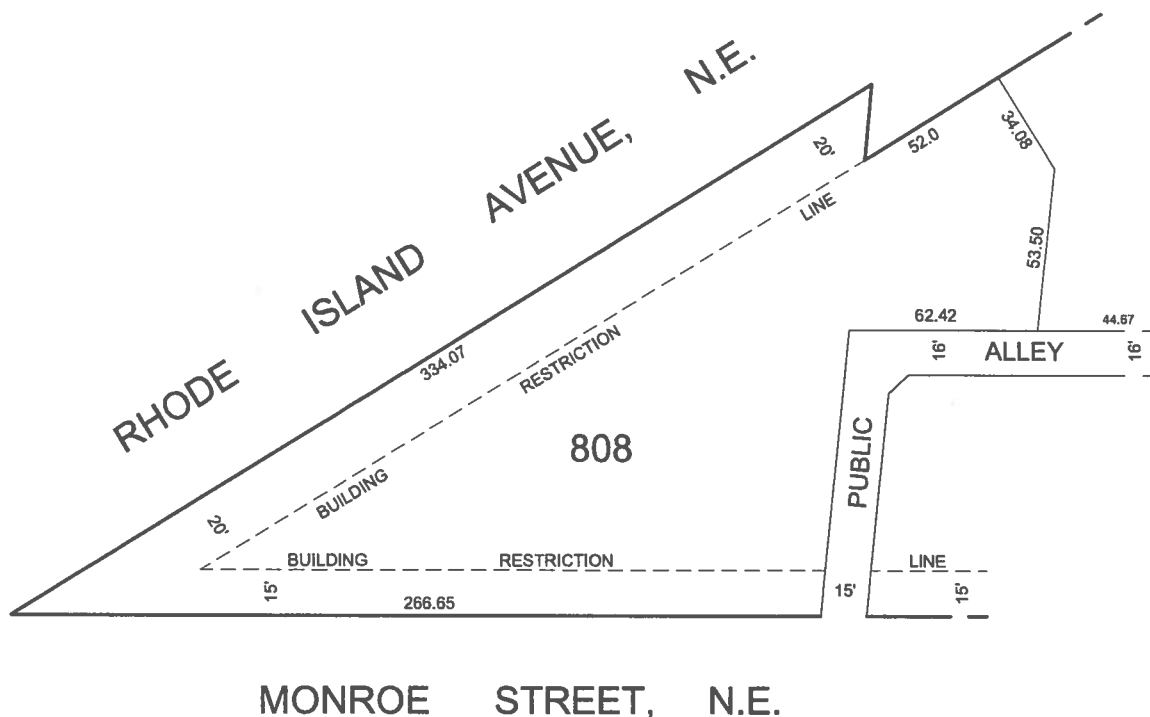


Exhibit B

Copy of the Zoning Map for the Subject Property

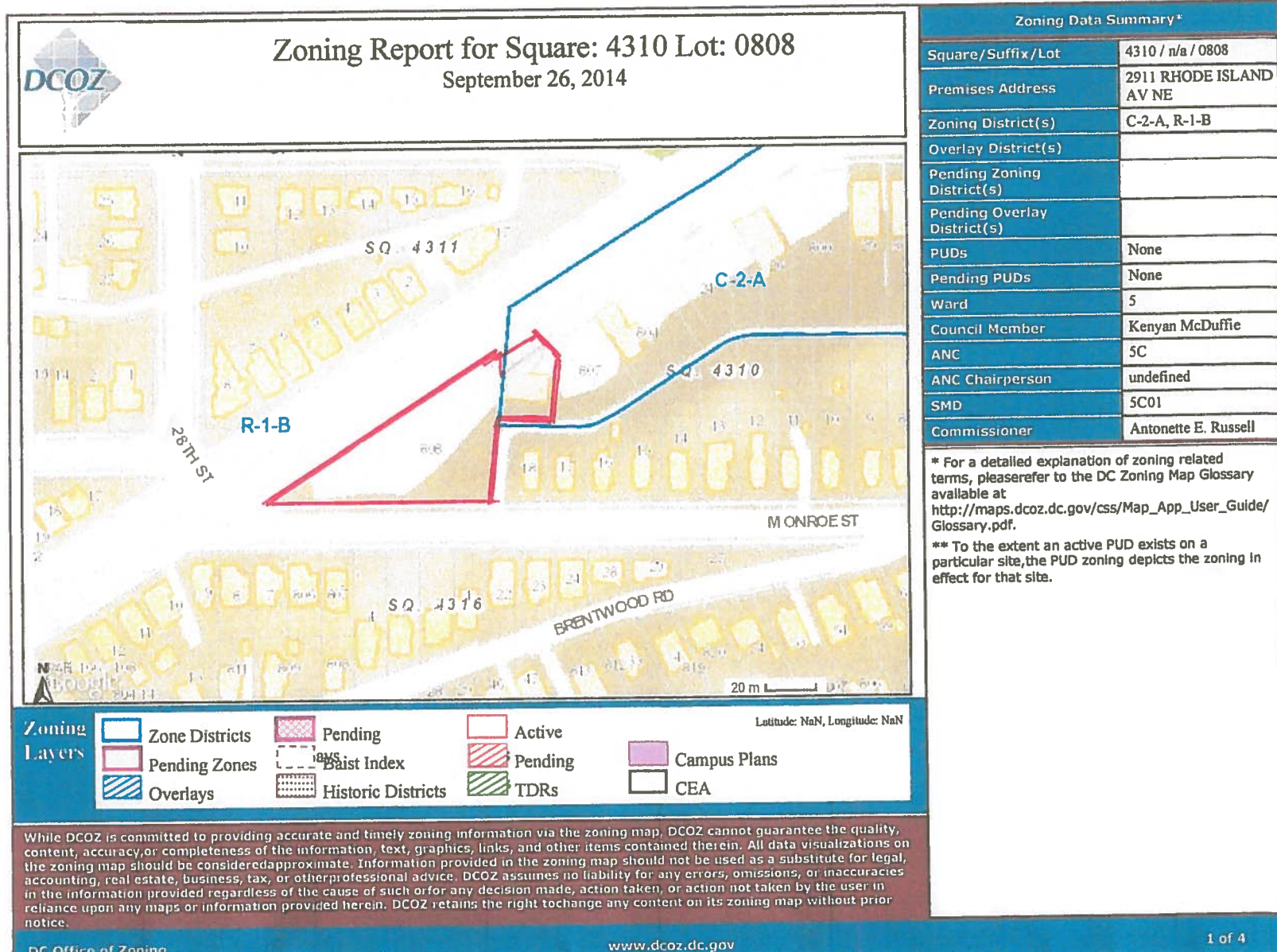
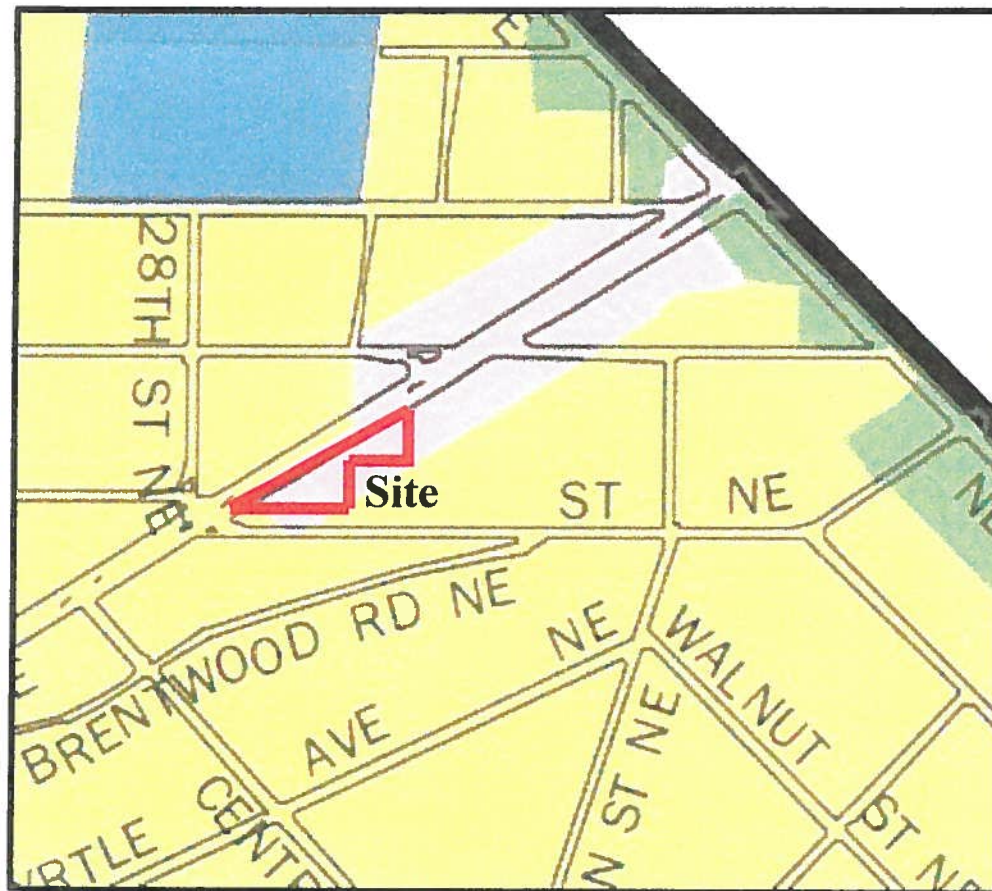


Exhibit C

Copy of the Future Land use Map for the Subject Property



LEGEND

Residential Land Use Categories

- Low Density
- Moderate Density
- Medium Density
- High Density

Commercial Land Use Categories

- Low Density
- Moderate Density
- Medium Density
- High Density
- Production, Dist. and Repair

Public and Institutional Land Use Categories

- Federal
- Local Public Facilities
- Institutional
- Parks, Rec. and Open Space

Exhibit D

Photographs of the Subject Property (attached separately in IZIS)



