

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 21-14
Z.C. CASE NO. 21-14
New Macedonia Baptist Church
(Zoning Map Amendment @ Square 4220, Lot 802)
September 19, 2022

Pursuant to notice, at its public hearing on September 19, 2022, the Zoning Commission for the District of Columbia (the “Commission”) considered an application (the “Application”) for a Zoning Map amendment by New Macedonia Baptist Church (the “Applicant”) for approval of a map amendment of the Zoning Map from the R-1-B zone to the MU-4 zone (the “Map Amendment”) for Lot 802 in Square 4220 (the “Property”), pursuant to Subtitle X § 500.1 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), Zoning Regulations of 2016, to which all references are made unless otherwise specified.)

The Commission determined the Property is appropriate for IZ Plus. The Property shall be indicated with an “IZ+” symbol on the Zoning Map. For the purposes of calculating an IZ Plus set-aside requirement pursuant to Subtitle C § 1003, the maximum permitted floor area ratio (“FAR”) of the existing R-1-B zone was equivalent to 0.4.

The Commission considered the Application as a contested case pursuant to Subtitle A § 210 and Subtitle Z, Chapter 4. For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

I. BACKGROUND

PARTIES

1. In addition to the Applicant, the parties to this case were: Advisory Neighborhood Commission (“ANC”) 5C, the ANC in which the Property is located and the “affected ANC” pursuant to Subtitle Z §§ 101.8 and 403.5(b).
2. The Commission received no requests for party status.

NOTICE

3. On February 4, 2021, the Applicant mailed a notice of intent to file the Application to all property owners within 200 feet of the Property as well as ANC 5C, as required by Subtitle Z § 304.5. (Exhibit [“Ex.”] 4.)

4. On May 27, 2022, the Office of Zoning (“OZ”) sent notice of the September 19, 2022, virtual public hearing to:
 - Applicant;
 - ANC 5C;
 - ANC Chairperson (“Chair”) 5C04;
 - ANC Single Member District (“SMD”) 5C07;
 - Office of the ANCs;
 - Office of Planning (“OP”);
 - District Department of Transportation (“DDOT”);
 - At-Large Councilmembers and the Chair of the Council;
 - The Ward 5 Councilmember;
 - Department of Energy & Environment (“DOEE”);
 - Department of Consumer and Regulatory Affairs (“DCRA”);
 - Office of Zoning Legal Division (“OZLD”); and
 - Property owners within 200 feet of the Property.(Ex. 30, 31.)
5. OZ published notice of the public hearing in the June 10, 2022, *D.C. Register* (69 DCR 003124 *et seq.*), as well as on the calendar on OZ’s website. (Ex. 29, 30.)
6. Pursuant to Subtitle Z §§ 402.8 and 402.9, the Applicant filed an affidavit supported by photos stating that on August 10, 2022, it had posted the required notice of the public hearing. (Ex. 37.)
7. Pursuant to Subtitle Z § 402.10, the Applicant filed an affidavit attesting that it had maintained the posting of the notice on the Property. (Ex. 42.)

THE PROPERTY

8. The Property is located in the northeast quadrant of the District and consists of approximately 9,430 square feet of land area (approximately 0.22 acres).
9. The square within which the Property lies is generally bounded by Kearny Street to the north, 22nd Street to the east, Jackson Street to the south, and 20th Street to the west.
10. The Property has approximately 115 linear feet of frontage along Jackson Street, and approximately 82 linear feet of frontage along 22nd Street. The Property abuts a private property to the north and abuts a private property to the west.
11. The Property is unimproved.
12. A bus stop for the 83 and 84 bus lines are located half a mile, or a 3-minute walk from the Property, along Rhode Island Avenue.
13. The properties to the north and west of the Property are zoned R-1-B. The properties to the east and south of the Property are zoned MU-4.

CURRENT ZONING

14. The Property is in the R-1-B zone. The R-1-B zones are intended to provide areas predominately developed with detached houses on moderately sized lots. (Subtitle D § 300.3.)
15. The R-1-B zone imposes the following limits for matter-of-right developments:
 - A maximum height of 40 feet and three stories; (Subtitle D § 303.1.)
 - A maximum lot occupancy of 40%, or 60% for places of worship; (Subtitle D § 304.1.)
 - The uses permitted in R-1-B zone is limited with respect to non-residential uses; residential use is limited to detached single-family dwellings. (Subtitle U § 201; *see also* Subtitle U § 202.)

COMPREHENSIVE PLAN (TITLE 10A OF THE DCMR, THE “CP”)

Equity and the Comprehensive Plan

16. Pursuant to Subtitle X § 500.3, the Zoning Commission shall find that the Map Amendment is not inconsistent with the CP and with other adopted public policies and active programs related to the Property.
17. In applying the standard of review applicable to the Map Amendment, the CP requires the Commission to do so through a racial equity lens. (CP § 2501.8.) Consideration of equity is intended to be based on the policies of the CP, and part of the Commission’s considerations of whether the Map Amendment is “not inconsistent” with the CP, rather than a separate determination about a zoning action’s equitable impact.
18. The CP Framework Element states that equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities, but is not the same as equality. (CP § 213.6.) Further, “[e]quitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices [and] holistically considers land use, transportation, housing, environmental, and cultural conditions, and creates access to education, services, healthcare, technology, workforce development, and employment opportunities.” (CP § 213.7.) The District applies a racial equity lens by targeting support to communities of color through policies and programs focusing on their needs and eliminating barriers to participate and make informed decisions. (CP § 213.9.)
19. The CP Implementation Element provides guidance to help the Commission in applying a racial equity lens to its decision making. Specifically, the Implementation Element states “[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of different areas of the District.” (CP § 2501.6.)

Generalized Policy Map (the “GPM”)

20. The CP’s GPM designates the Property as a Neighborhood Conservation Area. The Neighborhood Conservation Area is defined as:

“[N]eighborhoods . . . that are generally residential in character. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing, public facilities, and institutional uses. Major changes in density overcurrent (2017) conditions are not expected but some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character where guided by Comprehensive Plan policies and the Future Land Use Map. [...] Limited development and redevelopment opportunities do exist within these areas. The diversity of land uses and building types in these areas should be maintained and new development, redevelopment, and alterations should be compatible with the existing scale, natural features, and character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map and Comprehensive Plan policies. Approaches to managing context-sensitive growth in Neighborhood Conservation Areas may vary based on neighborhood socio-economic and development characteristics. In areas with access to opportunities, services, and amenities, more levels of housing affordability should be accommodated.” (CP§ 225.4-225.5)

Future Land Use Map (the “FLUM”)

21. The CP’s FLUM Designates the Property as Mixed-Use - Moderate Density Commercial and Moderate Density Residential.

Moderate Density Residential – *“[N]eighborhoods generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings. In some neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). Density in Moderate Density Residential areas is typically calculated either as the number of dwelling units per minimum lot area, or as a FAR up to 1.8, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development.*

The R-3, RF, and RA-2 Zone Districts are consistent with the Moderate Density Residential category, and other zones may also apply.” (CP § 227.6.)

Moderate Density Commercial – *“[S]hopping and service areas that somewhat greater in scale and intensity than the Low-Density Commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily*

from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Buildings are larger and/or taller than those in Low Density Commercial areas. Density typically ranges between a FAR of 2.5 and 4.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-5 and MU-7 Zone Districts are representative of zone districts consistent with the Moderate Density Commercial category, and other zones may also apply (CP § 227.11.)

Mixed Use

- The FLUM indicates areas where the mixing of two or more land uses is encouraged, and generally applies in established, pedestrian-oriented areas, commercial corridors where more housing is desired, large sites, and development that includes residential uses, particularly affordable housing; (CP § 227.20.)
- The general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown. The CP Area Elements may also provide detail on the specific mix of uses envisioned; (CP § 227.21.)
- The “Mixed Use” designation is intended primarily for larger areas where no single use predominates today, or areas where multiple uses are specifically encouraged in the future; and (CP § 227.22.)
- A variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities. (CP § 227.23.)

Upper Northeast Area Element

22. The Property falls within the Northeast Area Element that encourages compatible residential infill development throughout Upper Northeast neighborhoods, especially in Brentwood, Ivy City, and Trinidad, where numerous scattered vacant residentially-zoned properties exist. New and rehabilitated housing in these areas should meet the needs of a diverse community that includes renters and owners; seniors, young adults, and families; and persons of low and very low-income, as well as those of moderate and higher incomes. 2408.3

II. THE APPLICATION

PROPOSED ZONING

23. The Application proposes to rezone the Property from the R-1-B zone to the MU-4 zone.
24. The MU-4 zone is intended to:
 - Permit moderate-density mixed-use development;
 - Provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core; and

- Be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderate bulk mixed-use centers. (Subtitle G § 400.3.)
25. As a matter of right, the MU-4 zone permits/requires:
- A maximum FAR of 2.5 (3.0 with IZ bonus density) (1.5 maximum non-residential uses); (Subtitle G § 402.1.)
 - A 50-foot maximum building height, not including the penthouse; (Subtitle G § 403.1.)
 - A 60% maximum lot occupancy (75% with IZ) 100% for commercial (subject to rear yard requirements); (Subtitle G § 404.1.)
 - The uses permitted in MU-Use Group E. (Subtitle U § 500.2; *see also* Subtitle U § 512.)

APPLICANT’S JUSTIFICATION OF RELIEF

Not Inconsistent with the CP

26. The Application asserted that it was not inconsistent with the CP and with other adopted public policies and active programs applicable to the Property, as detailed below.

GPM

27. The Application asserted that the Map Amendment would not be inconsistent with the GPM because:
- The Map Amendment will allow for the development of the Property with a mixed-use building that will be consistent with the heights and densities contemplated by the GPM;
 - The additional density will allow for the Property to support a range of uses, including multi-family residential and street-level retail; and
 - The development of the Property will allow for complementary use adjacent to a Main Street.

FLUM

28. The Application asserted that the Map Amendment would not be inconsistent with the FLUM because:
- The CP expressly states that the C-2-A (now MU-4) zone is consistent with the Moderate Density Commercial component of the Property’s Mixed Use FLUM designation;
 - The MU-4 zone’s maximum 2.5 FAR (3.0 with IZ bonus density) falls within the FAR contemplated by the Moderate Density Residential FLUM category because the category states density greater than 1.8 FAR may be possible when complying with Inclusionary Zoning; and
 - The Property is located in an area where the mixing of two or more land uses is encouraged and is located in an area where no single use predominates today.

Upper Northeast Area Element

29. The Application asserted that the Map Amendment will encourage infill development of a vacant site with a new mixed-use development. (Ex. 2, 21).

Land Use Element

30. The Application asserted that the Map Amendment is not inconsistent with the policies of the Land Use Element because the Map Amendment would allow for the development of a vacant site with a new, mixed-use development in a manner that is generally consistent with the scale of the surrounding area. Moreover, the Application asserted that development under the MU-4 zone will enable the production of new housing and new affordable housing and encourage infill development on a vacant property which currently detracts from both commercial and residential streets. (Ex. 2, 21; 10A DCMR § 308.6-7).

Housing Element

31. The Application asserted that the Map Amendment is not inconsistent with the policies of the Housing Element because the Map Amendment will encourage new housing on vacant land which will help meet the need for higher-density and affordable housing in the area. It will also aid in advancing the goal of achieving 15% affordable units within the planning area. (Ex. 2, 21; 10A DCMR 503.3, 503.5, 504.17, 504.29).

Transportation Element

32. The Application asserted that the Map Amendment is not inconsistent with the policies of the Transportation Element because the Map Amendment would encourage investment in this site and area, and increase pedestrian safety adjacent to a key boulevard, Rhode Island Avenue, and Main Street corridor. (Ex. 2, 21; 10A DCMR 404.5-6, 404.10).

Environmental Protection Element

33. The Application asserted that the Map Amendment is not inconsistent with the policies of the Environmental Protection Element because the Map Amendment would allow for new development of the lot, which is currently improved with a paved, impermeable parking lot. It would allow for the development of a new building compliant with the Green Energy codes, which could include green roofs and other planting elements currently not on site. (Ex. 2, 21; 10A DCMR 615.3-4).

Economic Development Element

34. The Application asserted that the Map Amendment is not inconsistent with the policies of the Economic Development Element because the Map Amendment would allow for commercial use on this site, which is currently limited to only one, single-family dwelling. This would further the goals in allowing more opportunities for women-owned and minority-owned businesses. (Ex. 2, 21; 10A DCMR 703.15)

Community Outreach

35. The Applicant met with ANC 5C numerous times to discuss the Map Amendment and obtained support for the Map Amendment at the May 18, 2022, ANC 5C Public Meeting.

Public Hearing Testimony

36. At the September 19, 2022, public hearing, the Applicant presented its case, including testimony from:
- Alexandra Wilson, Senior Associate Attorney, Sullivan & Barros, LLP, and;
 - Ian Ruel, Representative of the Applicant, New Macedonia Baptist Church. (Transcript [“Tr.”] from September 19, 2022, hearing at pp. ___)

III. RESPONSES TO THE APPLICATION

OP REPORTS AND TESTIMONY

37. OP submitted a report, dated April 1, 2022, recommending the Commission set down for a public hearing the Applicant’s request for a Zoning Map amendment (the “OP Setdown Report”) and concluding that the Map Amendment would not be inconsistent with the CP because: (Ex . 25)
- **GPM** – The Neighborhood Conservation Area designation allows for new development within the existing scale for the area. The site is surrounded by MU-4 zoned properties and is also located adjacent to the Main Street Mixed-Use Corridor policy area, which encourages mixed-use development, which would be supported by the proposed MU-4 zone;
 - **FLUM** – The MU-4 zone permits mixed-use development with a maximum FAR of 2.5 and up to 3.0 for the provision of IZ units. This zone would be appropriate, as the site sits between a low-density residential neighborhood and a moderate density mixed-use area;
 - **Upper Northeast Area Element** – The proposed MU-4 zone would allow for infill development compatible with the MU-4 developments in the immediate area. The new zone would also increase the possibility of affordable housing being provided on the site, which would have been unlikely under its existing R-1-B zoning. Furthermore, the map amendment would include IZ plus which through its density bonus could encourage significantly more IZ units than would have been provided without IZ plus. More affordable units in the area would allow for more residents of various income levels to live in the area.
 - **Land Use Element** – The proposed Map Amendment would allow an underutilized parking lot to be developed in a way that is compatible with the surrounding properties.
 - **Housing Element** – The Map Amendment would encourage mixed-use and housing development on the site. The zone’s additional density with the bonus IZ plus density could encourage the private sector to develop this site with more market rate and affordable housing units than could be provided today. As set forth in the 2019 Housing Equity Report, (Housing Equity Report), affordable housing on this site would help the District increase the amount of affordable housing units in the Upper Northeast area,

which today has only 8.7% of the District’s affordable housing units.

- **Transportation Element** – As a mixed-use zone, it could bring a mix of housing and jobs to the area. The new zone would allow the site to redevelop from a parking lot into a development that would meet current standards, including pedestrian accessibility and safety requirements, which would be beneficial to pedestrians who pass by along Rhode Island Avenue.
- **Economic Development Element** –. Development of this infill lot would result in the provision of additional services to the neighborhood.
- **Racial Equity** – A key piece of this Map Amendment proposal is the potential to create additional affordable housing through an IZ Plus set-aside requirement. It is likely that the MU-4 zone could require a 95% set-aside requirement resulting in approximately 4,479 sq. ft. of residential floor area for the IZ program. The IZ program requires affordable housing units to be available to households earning either no more than 60% MFI for rental housing or 80% MFI for ownership housing. The potential affordable housing units that could be created under the requested MU-4 zone is substantially higher than if the Property was developed by-right under the existing R-1-B zone. Providing additional affordable housing units has the potential to benefit non-white populations who on average have lower incomes than white residents.

38. The OP Setdown Report also stated that an IZ Plus set-aside requirement was appropriate for the Map Amendment, pursuant to Subtitle X § 502, noting that:

- The Map Amendment would rezone the Property to a zone that permits higher maximum permitted FAR;
- As of 2018, only 8.7% of the District’s total number of affordable housing units is in this planning area; and
- The Upper Northeast area is short 190 units of its production goal level to be on track to achieve a total production goal of 6,900 units by 2025.

39. OP submitted a hearing report, dated September 9, 2022, that largely reiterated the OP Setdown Report’s conclusions, and recommended approval of the Map Amendment. (Ex. 38.)

40. At the September 19, 2022, public hearing, OP reiterated its support for the Application as detailed in its reports.

DDOT REPORT

41. DDOT submitted a September 9, 2022, report (the “DDOT Report”) stating that it had no objection to the Application because: (Ex. 39.)

- The rezoning would allow for approximately 22 more residential units and 7,000 SF first-floor retail on the property than the maximum allowed in the existing zone.
- The rezoning could generate an additional 5AM peak hour trips and 10 PM peak hour person trips vehicle trips, as compared to a matter-of-right development of a surface parking lot.
- The additional trips generated by the site are expected to have a minimal impact on the transportation network;

- Any development proposals for the site will need to account for a long-term bicycle parking storage room, either below- or at-grade in an easily accessible location from the lobby, as well as short-term bicycle parking, as required by DCMR 11 and DCMR 18(Chapter 1214);
- Since the site is within ¼ mile of WMATA Priority Corridor Network Metrobus Route G8, zoning may allow a 50% vehicle parking reduction. To take advantage of this reduction, the Applicant may need to choose an address on 22nd Street since Jackson Street is in the DDOT-DMV database as Residential Parking Permit (RPP) pass-eligible for all residents;
- DDOT encourages the Applicant to minimize the amount of off-street parking provided with any future redevelopment proposals. Per DDOT’s January 2022 Guidance for Comprehensive Transportation Review, ideally no more than 0.35 vehicle spaces per unit (1 per 3 units);
- DDOT concurs with the proposed up-zoning in order to further support nearby transit and generate additional foot traffic to support nearby businesses. This is consistent with DDOT’s approach to infill sites which should be dense, compact, transit-oriented, and improve the public realm: and
- Depending on the final development program, DDOT will require a Transportation Demand Management (TDM) Plan be implemented at the time of the curb cut approval.

42. DDOT did not provide testimony at the public hearing.

ANC REPORTS AND TESTIMONY

43. ANC 5C submitted a letter in support of the Application, dated June 1, 2022 (the “ANC 5C Report”), stating at its properly noticed public meeting of May 18, 2022, the ANC voted to support the Application.
44. During the September 19, 2022, hearing, Jeremiah Montague, the SMD representative from ANC 5C, testified in favor of the Application.

PERSONS IN SUPPORT

45. A letter in support of the Map Amendment, dated August 30, 2021, was submitted by Vijay Kapur, owner of the property located at 1923 Rhode Island Avenue, N.E.
46. A letter in support of the Map Amendment, dated December 1, 2021, was submitted by Thomas McIntyre, a resident of 5C07.
47. A letter in support of the Map Amendment, dated December 31, 2021, was submitted by Bill Perry, owner of the property located at 2811 16th Place, NE and owner of The Public Option located at 1601 Rhode Island Avenue, NE.
48. A petition in support of the Map Amendment, dated January 12, 2022, was submitted by Alan Madison of 3211 20th Street, NE, Samantha Marcy of 3221 20th Street, NE, and Morgan Lewis-Richardson of 2007 Kearney Street, NE.

PERSONS IN OPPOSITION

49. A letter in opposition of the Map Amendment, dated November 30, 2021, was submitted by Miles Dittmore, owner of the property located at 2011 Kearny Street, NE.
50. A letter in opposition of the Map Amendment, dated September 12, 2022, was submitted by Allegra Connor, Ashley Nichols, and Phyllis David, owners of the property located at 2008 Jackson Street, NE.
51. A letter in opposition of the Map Amendment, dated September 26, 2022, was submitted by Cheryl Dixon, owner of the property located at 2000 Jackson Street, NE.

NATIONAL CAPITAL PLANNING COMMISSION (“NCPC”)

52. The Commission referred the Application to the National Capital Planning Commission (“NCPC”) on September 20, 2022, for the 30-day review period required by § 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93-198, title IV, § 492(b)(2); D.C. Official Code 6-641.05.) (Ex. 26.)
53. On _____, NCPC staff filed a letter stating _____.

CONCLUSIONS OF LAW

1. Section 1 of the Zoning Act of 1938 (effective June 20, 1938, as amended, 52 Stat. 797 ch. 534; D.C. Official Code § 6-641.01 *et seq.* (2012 Repl.)) (the “Zoning Act”) authorizes the Commission to create zones within which the Commission may regulate the construction and use of property in order to “promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital.”
2. Section 2 of the Zoning Act (D.C. Official Code § 6-641.02) further provides that:

Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and

other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land

values therein.

3. Pursuant to Subtitle X § 500.3, the Commission shall find that the map amendment is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property.

NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN (SUBTITLE X § 500.3)

4. The Commission concludes, based on the filings and testimony of the Applicant and OP, that the Map Amendment from the R-1-B zone to the MU-4 zone is not inconsistent with the CP in its entirety, including all CP maps and elements, and will advance a number of CP Elements as discussed below.
5. Even if the Map Amendment conflicts with one or more individual policies associated with the CP, this does not, in and of itself, preclude the Commission from concluding that the Map Amendment would be consistent with the CP as a whole. (*Durant v. District of Columbia Zoning Comm'n*, 65 A.3d 1161, 1168 (D.C. 2013).) In this case, the Commission concludes that any inconsistencies with CP policies because of the rezoning from low- density to moderate density and the Property's proximity to a low-density residential zone are outweighed by the Map Amendment's overall consistency with the CP Maps and Citywide and Area Element policies, which support, among other things, increasing density to permit more mixed-use and housing, including affordable housing, in proximity to transit on an infill lot.

Racial Equity

6. The Commission concludes that the Map Amendment is not inconsistent with the CP when evaluated through a racial equity lens because:
 - The Map Amendment would increase the allowable density to moderate density levels and would permit a mix of uses that will enhance the Property's opportunity for development with affordable housing, and an IZ Plus set-aside requirement will apply to the Map Amendment to further increase the affordable housing supply; and
 - The increase in allowable density permitted by the Map Amendment would help to balance supply and demand of housing which could help mitigate increases in housing prices and costs.

GPM

7. The Commission concludes that the Map Amendment is not inconsistent with the GPM's designation of the Property as a Neighborhood Enhancement Area because:
 - The Map Amendment will facilitate the development of the Property with a mixed-use building that will positively impact the surrounding area and that will further the CP's goals for the Neighborhood Enhancement Area designation;
 - The development permitted by the Map Amendment will enhance the character of the surrounding neighborhood by facilitating a mixed-use residential and commercial development along Sheriff Road;
 - New development under the MU-4 zone will support neighborhood and citywide

housing needs and attract complementary new ground-floor retail and service uses that better serve the needs of existing and future residents; and

- The provision of ground-floor retail and service uses near transit options will encourage pedestrian traffic and facilitate improvements to the pedestrian space surrounding the Property.

FLUM

8. The Commission concludes that the Map Amendment is not inconsistent with the Property's Mixed Use – Moderate Density Residential / Moderate Density Commercial FLUM designation because:

- The MU-4 zone is intended to permit moderate density mixed-use development, provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core, and be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderated bulk mixed-use centers;
- The MU-4 zone's maximum 2.5 FAR (3.0 with IZ) falls within the FAR contemplated by the Moderate Density Residential FLUM category because the category states density greater than 1.8 FAR may be possible when complying with Inclusionary Zoning; and
- The Moderate Density Commercial FLUM category identifies the MU-4 zone as being "consistent" with the Moderate Density Commercial FLUM designation.

Upper Northeast Area Element

9. The Commission concludes that the Map Amendment furthers the policies of the area element because:

- It will encourage new mixed-use, mixed-income development for area residents on vacant lots;
- It will encourage a vibrant and diverse mix of new businesses and activities that will provide needed retail services to the adjacent neighborhoods and that will be compatible with the surrounding land uses;
- It will provide for additional mixed-use development consisting of medium-density housing and moderate-density neighborhood commercial uses; and
- It will encourage the development of neighborhood-serving commercial uses along Rhode Island Avenue.

Land Use Element

10. The Commission concludes that the Map Amendment furthers this element because:

- The Map Amendment would allow for the development of a vacant site with new, mixed-use development, including multi-family housing; and
- The Map Amendment will encourage infill development on vacant land, particularly in an area where there are vacant lots creating gaps in the urban fabric and detracting from the character of the adjacent street.

Housing Element

11. The Commission concludes that the Map Amendment furthers this element because it will allow the Property to be developed with new housing options in a “high opportunity” location, subsequently helping to meet the needs of present and future District residents. Consistent with the Mayor’s housing initiative, the MU-4 zone will allow for greater amounts of new housing in a “high opportunity” location.

Transportation Element

12. The Commission concludes that the Map Amendment furthers this element as it will facilitate the development of the Property, subsequently providing residents access to equitable transportation access to residents, workers, and visitors within the District.

Environmental Protection Element

13. The Commission concludes that the Map Amendment furthers this element because it enables future redevelopment of the Property that will be required to incorporate energy- efficient systems and to comply with the Green Building Act.

GREAT WEIGHT TO THE RECOMMENDATIONS OF OP

14. The Commission must give “great weight” to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)
15. The Commission concludes that OP’s reports, which provided an in-depth analysis of the Map Amendment, are persuasive and concurs with OP’s recommendation that the Property’s rezoning would not be inconsistent with the CP Maps, Citywide and Area Elements, and would advance the equity policies of the CP when evaluated through a racial equity lens, as discussed above. The Commission also concurs with OP that the proposed Map Amendment is appropriate for an IZ Plus set-aside requirement.

“GREAT WEIGHT” TO THE ANC REPORTS

16. The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. D.C. Bd. of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (D.C.

1978) (citation omitted).)

17. The ANC 5C Report expressed the ANC’s recommendation of support for the Map Amendment. The Commission acknowledges the ANC’s support for the Map Amendment.

DECISION

In consideration of the record for Z.C. Case No. 21-14 and the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application to amend the Zoning Map as follows:

SQUARE	LOT(S)	MAP AMENDMENT
4220	802	R-1-B to MU-4

For the purposes of calculating an IZ Plus set-aside requirement pursuant to Subtitle C § 1003, the maximum permitted FAR of the existing R-1-B zone was equivalent to 0.4.

On September 19, 2022, upon the motion of Commissioner Imamura, as seconded by Vice Chair Miller, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the Application at the close of the public hearing by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Joseph S. Imamura to approve; third Mayoral appointee seat vacant, not voting).

On October 27, 2022, upon the motion of _____, as seconded by _____, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of ____ (Anthony J. Hood, Robert E. Miller, Peter G. May, and Joseph S. Imamura to approve; third Mayoral appointee seat vacant, not voting).

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 21-14 shall become final and effective upon publication in the *D.C. Register*, that is on _____.