

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION ORDER NO. 23-02
Z.C. CASE NO. 23-02
Office of Planning
(Map Amendment @ Square 175, Lots 826 and 827
U Street Fire and V Street Police Stations)
September 12, 2024

Pursuant to notice, at public hearings held on June 26 and November 20, 2023; January 8, 18, and 29, 2024; February 12 and 26, 2024; and March 18, 2024, the Zoning Commission for the District of Columbia (the “Commission”) considered an application by the Office of Planning (“OP” or the “Applicant”) 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) for an amendment to the Zoning Map from the MU-4 zone to the MU-10 zone (the “Map Amendment” or “Application”) for portions of the property located at 1617 and 1620 U Street, N.W. (the northeast corner of 17th and U Streets which currently includes the U Street Fire and V Street police stations) (Square 175, Lots 826 and 827¹) (the “Property”).

The Commission determined that the Property is appropriate for Inclusionary Zoning (“IZ”) Plus pursuant to Subtitle X § 502.1(b). 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 FAR of the Property’s existing zoning of MU-4 is the equivalent of 2.5 FAR.

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 hereby **APPROVES** the Application.

I. FINDINGS OF FACT

A. PROCEDURAL BACKGROUND

OP Original Setdown Report

1. This case was initiated by OP when it filed a report dated January 18, 2023 (Exhibit [“Ex.”] 2, “Original OP Setdown Report”) requesting that the Commission setdown for a public hearing its petition to rezone all of Lots 826 and 827 in Square 175 (“Original Map

¹ The Applicant originally requested to rezone all of Lots 826 and 827 to MU-10. It later amended its application to limit the requested rezoning to a just a portion of Lots 826 and all of Lot 827. The portion of Lot 826 to be rezoned excludes the portions of Lot 826 within 80 feet of V Street and within 80 feet of V Street to a line 80 ft. parallel to V Street and 80 ft. parallel to 17th Street from V Street, south to the center line of Seaton Street.

Amendment Area”) from the MU-4 zone to the MU-10 zone. OP submitted a correction to the Original OP Setdown Report on January 26, 2023 (Ex. 7). Contents of the OP Original Setdown Report are discussed below in OP Reports section below.

The Zoning Commission amended the racial equity tool to require a discussion of community outreach and engagement and disaggregated race and ethnicity data

2. The District’s Comprehensive Plan (also referred to throughout this document as “Comp. Plan” or “CP”) was amended in 2021 to include evaluating whether zoning actions were inconsistent with the plan when viewed through a racial equity lens. In April of 2022, the Commission produced its first racial equity analysis tool (RE1) in response to the new legislation. On February 3, 2023, the Commission released a revised racial equity analysis tool (RE2) that raised their expectations for submissions from applicants regarding community outreach and engagement. The RE2 provided sample discussion questions with prompts, asking questions such as, what community would be impacted by the zoning action, what specific factors define the community, and what are past and present racial discriminations to the community and are they addressed in the application. The revised tool also requested the Office of Planning (OP) to include disaggregated race and ethnicity data in their reports, to be used as part of their evaluation on whether proposed zoning actions are inconsistent with the Comp Plan when viewed through a racial equity lens and whether they advance the District’s racial equity goals.

The Zoning Commission’s February 23, 2023 public meeting, decision to set down the petition as a rulemaking, and initial rulemaking notice

3. At the Commission’s February 23, 2023 public meeting, OP presented the OP Original Setdown Report to the Commission. In its presentation, OP stated that it was bring the case as “Comprehensive Plan related zoning consistency map amendment” case. The Commission decided to set the case down for a rulemaking hearing pursuant to 11-Z DCMR § 201.7(a).² In doing so, the Commission noted that OP was the Petitioner, and sought the map amendment to make the zoning designation consistent with updated density and use guidance included in amendments to the Comprehensive Plan made in 2021, and policies in the Mid-City Element of the Comprehensive Plan that call for development of the site with sufficient height and density to support affordable housing and the redevelopment of public facilities there. The Property was comprised of more than one lot. The Commission therefore believed it was appropriate to hear and decide the case as a rulemaking (2/23/23 Meeting Transcript [“Tr.”] at 12-22).
4. Pursuant to 11-Z DCMR § 500.9, the Commission’s review at setdown was limited to considering the petition, recommendations from OP, and ANC Setdown Form(s). In this case, the OP Original Setdown Report served as the Petition and OP recommendation. There were no ANC Setdown Forms submitted. There were approximately 30 written

² 11-Z DCMR § 201.7(a) provided the following with respect to rulemaking cases:

Map amendments in rulemaking cases may be initiated by:

- (a) Public agencies to amend the zoning map for a neighborhood, commercial district, or other geographic area encompassing multiple properties, unless determined otherwise by the Commission pursuant to Subtitle Z § 201.9; ...

comments in support or opposition submitted to the record. These letters were not considered by the Commission at setdown, but were considered later at the hearing stage.

5. The Office of Zoning (“OZ”) provided notice of a June 23, 2023 rulemaking hearing that met the requirements of 11-Z DCMR § 502.1³. OZ provided notice in the *District of Columbia Register* on April 5, 2023, posted a copy on the public hearing on the OZ website, and provided a copy of the notice of public hearing to the appropriate ANCs (Ex. 41, 42).
6. Officials of the Deputy Mayor for Planning and Economic Development provided an affidavit showing that it complied with the notice requirements of 11-Z DCMR § 502.3 by posting notice of the hearing on the Property (Ex. 111).
7. The attestation of notice from OZ stated that it provided additional notice beyond what was required for a rulemaking hearing by 11-Z DCMR § 502 by providing notice to OP, the Deputy Mayor for Planning and Economic Development, Councilmembers Brianne Nadeau and Brooke Pinto, the Office of ANC’s, DDOT, Department of Buildings, OZ’s Legal Division, DOEE, and At-Large Councilmembers. The attestation form also stated that notice was provided to property owners within 200 feet, in accordance with “the attached list provided by Applicant.” Notice to “200 Footers” was not required for rulemaking cases by 11-Z DCMR § 502 at the time. This additional notice is authorized by 11-Z DCMR § 502.7 (Ex. 42).

June 26, 2023 initial hearing date, consideration of submissions to the record related to adequacy of notice and decision to hear and decide the case as a rulemaking, and decision to re-notice and hear the case as a contested case

8. The Commission convened the hearing on June 26, 2023. At the outset, it considered several issues as preliminary matters:
 - a. Whether the case was appropriately setdown as a rulemaking case;
 - b. Whether it would be more appropriate to consider the case in some other form given the evidence that there was understandable apprehension about the redevelopment of the site and the related issue of whether there had been sufficient community outreach; and
 - c. Whether there was sufficient written notice to residents within 200 feet of the Property.
9. The issue of whether the case was properly setdown as a rulemaking was raised by a group calling itself the “Coalition for Affordable Housing Not Luxury Housing!” (“Coalition”) in a submission dated June 22, 2023 (Ex. 68). The Coalition submission argued in relevant part that the Commission should have set down the case as a contested case pursuant to 11-

³ At the time of setdown, 11-Z DCMR § 502.1 required the following notice in rulemaking cases: Notice of a rulemaking case hearing shall be given by the Director at least forty (40) days in advance of the public hearing by:

- (a) Publishing the notice of public hearing in the D.C. Register;
- (b) Posting a copy of the notice of the public hearing on the Office of Zoning’s website; and
- (c) Providing a copy of the notice of the public hearing to the appropriate ANC(s).

Z DCMR § 201.2(e)⁴ because the case involves two contiguous lots that are owned by the District of Columbia government, and the Petitioner is an agency of the District of Columbia government. The two related issues of whether there was sufficient outreach and notice were raised in two submissions. The first was an email signed by several individuals who stated that they were neighbors who reside within 200 feet of the Property but did not receive written notice of the hearing (Ex. 67). The Coalition also raised this issue in its submission (Ex. 68). In addition, there were many written comments that expressed concern about the potential relocation of the existing police and fire stations on the Property, and a belief that they would be replaced with luxury housing.

10. The Commission considered these issues at its June 26, 2023 hearing:
 - a. With respect to whether the case was appropriately set down as a rulemaking case, the Commission stated that it was within its discretion to decide whether to set it down as a rulemaking pursuant to 11-Z DCMR § 201.7(a) because the Petition was for a map amendment initiated by the Office of Planning, to rezone multiple properties, and was intended to bring the zoning into consistency with the Comprehensive Plan, notably the Future Land Use Map of the Comprehensive Plan which had been recently amended by the Council to increase the intensity of development on the Property. The Commission further acknowledged that it also had the discretion to set it down as a contested case under 11-Z DCMR § 201.2. (6/26/23 Hearing Tr. at 7-27);
 - b. The Commission considered the comments stating concerns about the potential relocation of the police and fire stations, and the related concern that they would be replaced with luxury housing. The Commission expressed its own concern that the Petitioner had conducted insufficient community outreach to assuage what are reasonable concerns of the community, and that other zoning tools, such as a PUD, were available to the Applicant that would give the community greater certainty that the public safety uses would be retained, and that appropriate safeguards would be incorporated into the redevelopment to protect adjacent properties, such as setbacks and public spaces. The Commission stated that it wanted the Petitioner to do additional community outreach and consider other zoning tools (*Id.*); and
 - c. The Commission did not directly address whether additional notice to 200 Footers was required, but instead stated that the Petitioner should do additional community outreach. (*Id.*)
11. The Commission voted to reconsider its decision to set the case down as a rulemaking, and then voted to re-set the case down as a contested case instead. The Commission further ordered that the Petitioner should follow all of the procedural rules that apply to contested cases, including the notice rules, which would require it to re-notice and advertise the new public hearing date, and that the case would be heard as a contested case (6/26/23 Tr. at 25-27).

⁴ 11-Z DCMR § 201.2(e) provides in relevant part:

Contested cases are adjudicatory in nature, ... Contested cases include:

- (e) Map amendments filed by the property owner or owners for a single property or for multiple properties that are contiguous or are only separated by a street or alley;

November 20, 2023 hearing date, consideration of motion to dismiss related to adequacy of publication of the 2021 Comprehensive Plan amendments, motion to continue case because of error in the public hearing notice, and preliminary consideration of party status applications

12. The Commission convened another hearing on November 20, 2023. It considered several issues as preliminary matters:
 - a. Dupont Circle Citizen’s Association (“DCCA”) Motion to dismiss the case or in the alternative indefinitely postpone the case because the 2021 Comprehensive Plan amendments were not published in the D.C. Municipal Regulations (Ex. 459);
 - b. Letter from DCCA (Ex. 382) and motion on behalf of 4 of the 5 party status applicants requesting continuance because of defects in public hearing notice (Ex. 389A); and
 - c. Five requests for party status.

13. The Commission considered and decided these issues at the hearing as follows:
 - a. First, the Commission opened the hearing and considered the DCCA’s motion to dismiss the case or in the alternative indefinitely postpone the case because the 2021 Comprehensive Plan amendments were not published in the D.C. Municipal Regulations (Ex. 459). The Commission began by acknowledging that the 2021 CP amendments were not published in the *District of Columbia Register*, and instead the publication occurred on OP’s web site and in a bound copy, pursuant to D.C. Official Code § 1-306.05(d), and that in addition the Office of Documents will eventually publish the amended and consolidated DCMR, but has not yet done so. The Commission further stated that this alternative publication scheme was explicitly authorized by the Council when it enacted the 2021 CP amendment legislation, and explicitly partially exempted them from the normal publication requirement. *See* Section 5 of the Comprehensive Plan Amendment Act of 2021 and D.C. Official Code §1-306.05(d).⁵ The alternative publication authorized by the legislation was completed, and the 2021 Amendments can be found on the Office of Planning website. Accordingly, the Commission denied the motion (11/20/23 Tr. at 6-7);
 - b. Second, the Commission considered the DCCA’s letter (Ex. 382) and motion on behalf of 4 of the 5 party status applicants requesting continuance because of defects in public hearing notice (Ex. 389A). The Commission acknowledged the public hearing notice was defective because it lists the information for becoming a witness in a rulemaking case, which this is not. It omits the information for becoming a party in a contested case, which is what this is (Ex. 316). Accordingly, the Commission granted the motion, and directed staff to issue new hearing notice

⁵ § 1-306.05. Publication of the Comprehensive Plan.

...

(d) Within 90 days of August 21, 2021, the Mayor shall publish the Comprehensive Plan, as amended, in its entirety. The Comprehensive Plan shall be consolidated by the District of Columbia Office of Documents into a single new or replacement title of the District of Columbia Municipal Regulations to be designated by the District of Columbia Office of Documents.

The Comprehensive Plan shall be published in the format furnished by the Mayor and need not conform to the Office of Documents' publication standards.

for contested case hearing to be held January 8th and if needed January 18th (11/20/23 Tr. at 7-9).

- c. Third, the Commission asked the attorney for the DCCA whether he was also serving as attorney for the other prospective parties who joined the motion for continuance. He responded that he was not. The Commission requested that the prospective parties attempt to coordinate their efforts to the extent they are willing to do so, particularly their hearing presentations, to prevent duplicative and repetitive questions and testimony. The Commission further requested that the parties designate a single person to perform cross-examination (11/20/23 Tr. at 9-16).

December 14, 2023 meeting, consideration of four advance party status requests, party status granted to four parties

14. At its December 14, 2023 public meeting, the Commission granted advanced party status requests from Homeowners within 200 Feet of Lots 826 & 827 (Ex. 346, 346A), Randall Jones (Ex. 352), Black Neighbors of 1617 U Street NW (Ex. 355), and DCCA (Ex. 353). Before doing so, it granted waiver requests to allow consideration of the advanced party status requests after the deadline to request advanced party status had passed (Ex. 501, 501B, 504, 507; 12/14/23 Tr. at 6-13).

January 8, 2024 hearing, fifth party status request granted, motion for continuance denied

15. At its January 8, 204 public hearing, the Commission granted the party status request of the Rochelle Apartments (Ex. 344, 344A).
16. The Commission considered the joint motion for a continuance submitted by DCCA, Homeowners within 200 Feet of Lots 826 and 827, and Randall Jones, (Ex. 519, 520), and the second joint motion for a continuance submitted by DCCA, Homeowners within 200 Feet of Lots 826 and 827, and Randall Jones (Ex. 522, 523). Both motions stated that they were requesting a continuance of the hearing because of errors with the hearing notice and placarding for the continued January 8, 2024 hearing. The Commission denied the motions because the hearing was scheduled, advertised and noticed for November 20, 2023. The Commission began the hearing on that date, then continued it, and announced the continued hearing date of January 8, 2024 (11/20/23 Tr. at 9-16). The Commission further ordered that the staff issue additional notice to correct the errors in the prior notice relating to becoming a witness and applying for party status. Accordingly, no further notice was required because the Commission publicly announced the time and place of the resumed hearing (11-Z DCMR § 103.12).⁶ Out of an abundance of caution, the Commission stated a further reason for denying the motion was that there had been extensive prior notice of the case in the community, the attendance at the hearing of so many interested community members, and because the nature of the rezoning was clear. The Commission therefore

⁶ 11-Z DCMR § 103.12 (“If the time and place of resumption is publicly announced when a postponement, continuance, or adjournment is ordered, no further notice shall be required. For the purposes of this section, the form of the public announcement shall be on the website of the Office of Zoning and may include a sign placed at the entrance to the Commission’s hearing room.”).

waived any technical notice defects and proceeded with the hearing pursuant to 11-Z DCMR § 402.12.⁷ (January 8, 2024 Tr. at 12-16).

17. The Commission also addressed written submissions by counsel for DCCA alleging that there were potential witnesses who wished to testify at the hearing but could not do so because of technical or other difficulties. In another submission, he requested that the hearing be rescheduled because the Commission was also considering a related amendment to the Zoning Text to create setbacks that apply to the same property that is the subject of this case (Ex. 531, 534, 535). The Commission responded by stating that many had been able to sign up to testify, providing evidence that there were no technical issues, that it nonetheless would allow them to testify and had created an overflow date for that purpose (January 8 Tr. at 15-16). The Commission found no reason to reschedule the hearing because of a related case that would be heard at a later date.
18. The Commission then began hearing testimony at the January 8th hearing.

January 18, 2024 hearing and motion to allow closing statement by parties in opposition

19. At the January 18, 2024 public hearing, DCCA made an oral motion requesting that it be allowed to present a closing statement. The Commission denied the motion, because the Zoning Regulations do not authorize a closing statement from opposition parties, only the Applicant is entitled to a closing statement (11-Z DCMR § 408.9⁸; January 18, 2024 Tr. at 4-6).

January 29, 2024 hearing and motion to dismiss

20. At its January 29, 2024 continuation hearing, the Commission considered the motion to dismiss filed by DCCA, Black Neighbors of 1617 U Street NW, Homeowners within 200 Feet of Lots 826 and 827 and Randall Jones (Ex. 603A). The basis for the motion was an

⁷ 11-Z DCMR § 402.12 (“A technical defect in the notice of public hearing that is minor in nature shall not deprive the Commission of jurisdiction over the case. If a defect in the notice is alleged and proven, the Commission may determine whether to postpone, continue, or hold the public hearing as scheduled based on the following considerations: (a) The nature and extent of the actual notice received by the parties and the public from all sources; (b) Attendance, or lack thereof, at the public hearing; and (c) The nature and extent of the construction and/or use involved in the application.”).

⁸ The order of procedure for presenting evidence at the hearing shall be as follows:

- (a) Call to order and opening statement by the presiding officer;
- (b) Consideration of preliminary matters, including, but not limited to, party status requests, motions, and qualifying expert witnesses;
- (c) Applicant's case;
- (d) Reports or statements by the Office of Planning (OP) and other government agency representatives, if any;
- (e) Affected ANC(s);
- (f) Parties in support of the application;
- (g) Individuals and organization representatives in support of the application;
- (h) Parties in opposition to the application;
- (i) Individuals and organization representatives in opposition to the application;
- (j) Individuals and organization representatives who are undeclared with respect to the application;
- (k) Rebuttal by applicant; and
- (l) Closing statement by applicant.

alleged lack of community engagement and failure of the Applicant to use the racial equity tool. The Commission acknowledged that the community outreach performed was inadequate, but denied the motion because it felt it was premature to dismiss the case on this basis. The Commission decided to allow community input through this proceeding and expected OP and DMPED to continue their community outreach, therefore dismissing at this point is inappropriate because the community engagement was ongoing, and there is community support that should be considered (January 29, 2024 Tr. at 3-7).

February 12, 2024 hearing and motion for postponement

21. At its February 12, 2024 continuation hearing, the Commission considered the motion from Freedom Baptist Church to postpone the hearing and/or reject the application (Ex. 619). The Commission denied the motion because under the Commission's rules, only parties may file motions, and Freedom Baptist Church was not a party (February 12, 2024 Tr. at 4-5).

February 26, 2024 hearing, and motions for continuance

22. At its February 26, 2024 continuation hearing, the Commission considered the motion from Homeowners within 200 Feet of Lots 826 and 827, Black Neighbors of 1617 U Street NW, and the DCCA requesting a postponement or dismiss the case (Ex. 664). The basis for the motion was an alleged lack of community engagement and failure of the Applicant to use the racial equity tool. The Commission responded that this was a very similar motion to the one it dismissed at the January 29, 2024 hearing. The Commission acknowledged that the community outreach performed was weak, but denied the motion because it felt it was premature to dismiss on this basis. The Commission decided to allow community input through this proceeding, and had required the Applicant to perform additional notice and outreach, therefore dismissing at this point is inappropriate because the community engagement was ongoing, and because there is community support that should also be considered by the Commission before it made a decision (February 26, 2024 Tr. at 4-7).
23. The Commission also considered the motion submitted by counsel for the DCCA for a continuance to allow him to present the DCCA's testimony in opposition because of health-related concerns that prevented him from appearing at the February 26, 2024 hearing (Ex. 664A). The Commission decided to hold the request in abeyance to see whether the public testimony would conclude this evening. The motion was ultimately moot because there was so much public testimony at the hearing that the Commission did not begin testimony from parties in opposition at this hearing (February 26, 2024 Tr. at 7-10, 193).

March 18, 2024 hearing, testimony from parties in opposition

24. At its May 18, 2024 hearing, the Commission heard testimony from parties in opposition. The substance of that testimony is discussed below.
25. At the conclusion of the hearing, the Commission closed the record except for the following: At the end of the hearing, the Commission closed the record except for:
 - a. Closing statements (from all the parties);
 - b. Draft findings of fact and conclusions of law (from all parties); and

- c. A supplemental report from OP (and responses thereto by the parties) on the following:
- (1) If there is a less intensive zone (such as MU-8) that would be appropriate and also consistent with the Comprehensive Plan, and what potential amount of housing would be lost if the less intensive zone was adopted;
 - (2) Whether split-zoning the site with a less intensive zone for the northern portion of the site along V Street would be appropriate;
 - (3) Why this proposal is not spot zoning; and
 - (4) How this proposed amendment will not contribute to indirect displacement.

May 9, 2024 public meeting, consideration of motions related to OP Supplemental Report

26. At its May 9, 2024 public meeting, the Commission considered several motions from opposition parties related to responding to the OP Supplemental Report, submitting draft orders, and holding an additional hearing on the report. The Commission granted the motion to allow more time for parties to submit draft orders (Ex. 702-703A; May 9, Tr. at 21-23). The Commission denied the motion to file written responses to the OP Report (Ex. 705, 705A; May 9, Tr. at 21-23). The Commission granted the motion for an additional hearing (Ex. 701, 701A, 714, 714A, 715; May 9, Tr. at 40-46). The rulings to grant the motion for written responses to the OP Report and grant the motion for an additional hearing became moot after the OP filed a motion to re-open the record and revise its application, as discussed further below.

May 30, 2024 public meeting, and OP's motion to re-open the record to revise the application

27. At its May 30, 2025 meeting, the Commission considered a motion filed by OP to reopen the record to revise the application, pursuant to 11-Z DCMR § 602.6. The revised application did not introduce a new zone, rather it reduces the area initially proposed to be rezoned by pulling back the proposed MU-10 zone back 80 feet parallel to V Street and 80 feet parallel to 17th Street from V Street south to the center line of Seaton Street (Ex. 715, 719). The Commission also considered the opposition to the motion filed Black Neighbors of 1617 U Street (Ex. 716), and the joint opposition filed by DCCA, Black Neighbors of 1617 U Street, and Homeowners within 200 feet (Ex. 717). The oppositions alleged there was a lack of community outreach on the part of OP, no good cause or lack of prejudice to other parties, a failure to include the correct motion form, that OP failed to serve Rochelle Apartments, which was a party, and a claim that if this were a complaint in Superior Court, amending the complaint would require additional service requirements. The Commission decided to grant the motion because it believed that the reduction in the size of the map amendment was in response to the community feedback received at the hearings in the case (stating that the community believed that the more intense MU-10 zoning along V Street was in conflict with Comprehensive Plan policies), and that therefore there was good cause for the granting the motion. The Commission further stated that this would not prejudice the other parties because the request was made in response to community feedback made at the hearings. The Commission also believes that the decision to retain the existing zoning for the portion of the site that was removed from the rezoning area did not require further hearing, because the Commission is not required to hold a hearing if it is not changing the zoning. With respect to the service and issues with the motion form, the Commission noted that the Rochelle Apartments was properly served but that the service certificate incorrectly

failed to list the Rochelle Apartments and OP submitted a corrected service certificate and at the same time submitted the correct motion form (May 30 Tr. at 8-11). The Commission then rescinded its decision to hold a limited scope hearing (May 30, Tr. at 11-12). Last, the Commission decided that it wanted additional briefing from OP and the opposition parties before it decided whether to hold an additional hearing on the case (May 30, Tr. at 12-18).

July 11, 2024 public meeting, consideration of supplemental materials requested by the Commission and motions to re-open record and hold additional hearings, and proposed action

28. At its July 11, 2024 public meeting, the Commission considered the supplemental briefing from the parties. This included the OP Supplemental Report (Ex. 720), the Black Neighbors of 1617 U. St's. Response to OP Report (Ex. 721, Addendum Ex. 721A), the Rochelle Tenants Response to OP Report (Cover letter Ex. 722, Response Ex. 722A, Response to Racial Equity Tool Ex. 722B), the Homeowners within 200 feet of Lots 826 and 827 ("Homeowners") Response to OP Report (Response Ex. 723, Addendum Ex. 723A), the Joint Motion (of DCCA and Homeowners to Reopen the Record) (Ex. 724, Form 150 Ex. 724A), ANC 1B Resolution (Ex. 725), and a Motion from Black Neighbors requesting a "limited scope hearing" (Ex. 726A (substantive motion), 726B (OP submissions), 726C (supporting emails)):

- a. In response, the Commission decided not to consider or hold further hearings to consider additional zones besides the MU-10 zone requested in the modified application. It did so because rezoning to MU-8 instead of MU-10 would cause a significant loss of potential housing and affordable housing that could be developed on the Site, and therefore would not advance the many relevant policies of the Comprehensive Plan which call for additional housing and affordable housing production, which are discussed in greater detail below. Further it was very clear what the differences between the zones are in terms of potential zoning envelope, and therefore additional housing and affordable housing, so there was no need for further elaboration or hearings to consider the issue (July 11, Tr. at 16-19);
- b. The Commission further decided that it would not hold a further hearing to consider OP's request to reduce the size of the requested MU-10 map amendment area. It did because the Commission had already held extensive hearings to consider whether the MU-10 was appropriate for the entire Site, and that the reduced boundary of the rezoning was in direct response to the testimony and feedback received at the hearings. The MU-4 is the existing zoning on the Site and further hearings are not required to decide to retain the existing zoning (July 11, Tr. at 19-36).

The Commission stated it believed the proposed MU-10 zone is the right zone to meet all the Comprehensive Plan's unique demands of the site, which include: ambitious affordable housing goals, retaining and upgrading the existing public safety uses on the site; and neighborhood serving retail along U Street. In addition, MU-10 zoning requires future development to include a publicly accessible plaza or open space, which is appropriate for this important civic site.

The Commission stated that it appreciated that OP had reduced the size of the new MU-10 zoning from what was originally proposed. OP made this change in response to testimony at the hearings from concerned neighbors, and to address

potential CP inconsistencies raised by the original proposal. A portion of the original proposed site along V Street is designated as a Neighborhood Conservation Area on the CP's Generalized Policy Map, and is directly adjacent to two story rowhomes that are part of a historic district. By removing this area from the proposal, the rezoning maintains the zoning status quo along the V Street and much of the 17th Street frontage to provide appropriate transition of density to respect neighborhood character and the historic district. Therefore, the change addresses the potential inconsistencies with several potential Comprehensive Plan inconsistencies for this portion of the original site.

The Commission also stated that it expects that the eventual Project built on the Site will be subject to additional public input as District works its way through the redevelopment and RFP processes and that it expects that this will result in additional opportunities to address the issues raised at the hearings, which are beyond the scope of this map amendment case (July 11, Tr. at 35-38).

The Commission was not persuaded by the arguments made by the opponents that additional cross-examination of OP was necessary, and that OP had conducted insufficient community outreach about the revised proposal. The opponents had ample opportunities to cross-examine OP on the appropriateness of the MU-10 zone on the site, and there has been adequate community outreach and input. IN addition, the Commission required this case to be heard as a contested case to allow for cross examination. The Commission then held five hearings and permitted extensive and far-ranging cross-examination concerning the appropriateness of the MU-10 zone over the course of multiple hours. The only change to the application after those hearings was to reduce the size of the area to be rezoned to MU-10, retaining the existing MU-4 zoning for the remainder of the site. Several witnesses for the opponents testified in favor of retaining the existing MU-4 zoning along V Street. The Commission is not required to even hold a hearing, let alone require cross-examination, to decide to retain the existing zoning. The Commission therefore concluded that additional cross-examination was not necessary (July 11, Tr. at 35-38); and

- c. The Commission took proposed action to approve the modified application (July 11, Tr. at 39-42).

September 12, 2024 public meeting and final action

29. At its September 12, 2024 public meeting, the Commission considered the report from the National Capital Planning Commission concluding that the proposed amendment would not be inconsistent with the federal elements of the Comprehensive Plan or any identified federal interest (Ex. 728). The Commission then took final action to approve the Application (September 12, 2024 Tr. at 7-20).

B. PARTIES

30. By rule, Advisory Neighborhood Commissions ("ANC") 1B and 2B were automatic parties to the Application because they are affected ANCs. ANC 1B is an automatic party because the Site is within ANC 1B's boundaries. ANC 2B is an automatic party because its boundary begins on U Street, which directly abuts the Site (Subtitle Z § 403.5).

30. ANC 1C also submitted a report (Ex. 48, 49). ANC 1C's boundary begins several blocks from the Site, and therefore ANC 1C was not an affected ANC and not given automatic party status (Subtitle Z § 403.5).
31. As discussed above, the Commission granted party status to Homeowners within 200 Feet of Lots 826 & 827, Randall Jones, Black Neighbors of 1617 U Street NW, DCCA, and the Rochelle Apartments.

C. NOTICE

Notice of Filing

31. On January 18, 2023, OP filed a petition to amend the Zoning Map to rezone Square 175, Lots 826 and 827 from the MU-4 zone to the MU-10 zone and that IZ Plus apply (Ex. 1). Submitted with the Petition was the Original OP Setdown Report (Ex. 2).
32. On January 23, 2023, the Office of Zoning ("OZ") sent notice of the Application's filing to:
 - Petitioner;
 - ANCs 1B and 2B;
 - ANC Single Member District ("SMD") 1B07;
 - Office of ANCs;
 - OP;
 - District Department of Transportation ("DDOT");
 - At-Large Councilmembers and the Chair of the Council;
 - Wards 1 and 2 Councilmembers;
 - Department of Consumer and Regulatory Affairs ("DCRA") General Counsel; and
 - OZ Legal Division ("OZLD") (Ex. 3-4, 6).
33. OZ published notice of the filing of the Application in the February 3, 2023, *District of Columbia Register* (70 DCR 1861) (Ex. 5).
34. This was an unusual case because, as discussed above, the Commission initially set down and advertised the case as a rulemaking case. The Commission then decided to reset it down and re-advertise it as a contested case. Then ordered it advertised again to correct errors in the second notice.

Public hearing notice as rulemaking case

35. On April 6, 2023, OZ sent notice of the June 26, 2023 rulemaking public hearing to:
 - OP;
 - The Deputy Mayor for Planning and Economic Development ("DMPED");
 - ANCs 1B and 2B;
 - ANC SMDs 1B05, 1B07, and 2B08;
 - Councilmembers Brianne K, Nadeau and Brooke Pinto
 - Office of the ANCs;

- DDOT;
 - At-Large Councilmembers and the Chair of the Council;
 - DOEE;
 - DOB General Counsel;
 - OZLD; and
 - Property owners within 200 feet of the Property⁹ (Ex. 42).
36. OZ published notice of the public hearing in the April 14, 2023, *District of Columbia Register* (70 DCR 4377) (Ex. 40, 41).
37. The Applicant submitted evidence that the Applicant had posted notice of the public hearing as required by Subtitle Z § 402.3 and maintained said notice in accordance with Subtitle Z § 402.10 (Ex. 50, 111).
38. [intentionally left blank]
39. OZ published notice of the public hearing in the April 14, 2023, *District of Columbia Register* (70 DCR 4377) (Ex. 40, 41).

Contested case public hearing notice

40. On August 21, 2023, OZ sent notice of the November 20, 2023 contested case public hearing to:
- OP;
 - DMPED;
 - ANCs 1B and 2B;
 - ANC SMDs 1B05, 1B07, and 2B08;
 - Councilmembers Brianne K, Nadeau and Brooke Pinto
 - Office of the ANCs;
 - DDOT;
 - At-Large Councilmembers and the Chair of the Council;
 - DOEE;
 - DOB General Counsel;
 - OZLD; and
 - Property owners within 200 feet of the Property (Ex. 316, 320).
41. OZ published notice of the public hearing in the August 25, 2023, *District of Columbia Register* (70 DCR 11289) (Ex. 315).
42. The Applicant submitted evidence that the Applicant had posted notice of the public hearing as required by Subtitle Z § 402.3 and maintained said notice in accordance with Subtitle Z § 402.10 (Ex. 335, 392).

⁹ The Commission finds that the list of 200 Footers was incomplete.

43. At its November 20, 2023 public meeting, the Commission ordered publication of a corrected notice of the public hearing because the Public Hearing Notice did not include the correct language regarding participation as witness and how to apply for party status. Because of the extensive previous notice of this case, and pursuant to 11-Z DCMR § 103.12, the Commission decided not to require that the revised public hearing notice be posted on the property.
44. On November 21, 2023, OZ sent notice of the January 8, 2024 contested case public hearing to:
- OP;
 - DMPED;
 - ANCs 1B and 2B;
 - ANC SMDs 1B05, 1B07, and 2B08;
 - Councilmembers Brianne K, Nadeau and Brooke Pinto
 - Office of the ANC;
 - DDOT;
 - At-Large Councilmembers and the Chair of the Council;
 - DOEE;
 - DOB General Counsel;
 - OZLD; and
 - Property owners within 200 feet of the Property (Ex. 498).
45. OZ published notice of the rescheduled January 8, 2024 public hearing in the December 1, 2023, District of Columbia Register (70 DCR 15524) (Ex. 496, 496A).

D. APPLICANT'S CASE

46. This case had an unusually complicated procedural history. As a result, the Applicant's case was made in reports submitted and presented at several meetings and hearings. Despite these procedural issues and complications, the substance of the reports and OP's case and arguments in favor of the Application remained the same: the Commission should rezone the property from MU-4 to MU-10 to be consistent with the policy guidance in the Comprehensive Plan. The policy guidance presented in the reports remained consistent from beginning to end. Additional reports added information and responded to questions or comments made at the hearings and requests from the Commission for additional information and/or procedural issues as follows:
- The Case was initiated by OP by filing a report that served as a petition. This report includes the OP's justification for the request, and cites the many Comprehensive Plan policies that support the request. This report is quoted extensively below because the reasons and justifications for the Commission's ultimate approval of the case based on the Comprehensive Plan are included in this original report (Ex. 2);
 - OP then submitted a brief report that listed corrections to its petition (Ex. 7);
 - OP filed a PowerPoint presentation that distilled and summarized the main points made in the Petition (Ex. 39);

- OP presented its Petition, the corrections and the PowerPoint presentation to the Commission at its February 23, 2003 public meeting, and based on the reports and OP's testimony, the Commission decided the request was worthy of a public hearing and that it would be heard as a rulemaking case;
- OP then submitted its hearing report. This report expanded upon the reasons for the OP request, including an expanded and more detailed analysis of its consistency with the Comprehensive Plan. It is also quoted extensively below (Ex. 58);
- OP submitted its first supplemental report (Ex. 167). This report recommended that the case should be heard as a contested case instead of as a rulemaking case;
- OP provided a second supplement to its hearing report (Ex. 358). This second supplement recommended that the Commission delay taking final action until OP brings forward a separate text amendment case to establish a building height transition setback requirement;
- OP submitted a copy of its hearing presentation (Ex. 568);
- OP testified in support of the Application at the January 8, 2024 hearing. OP was extensively cross-examined separately by all parties. The cross-examination of OP continued on January 18, 2024;
- At the close of the hearings, OP submitted a written closing statement per the Commission's request (Ex. 696);
- At the close of the Commission also requested that OP respond to several questions. OP submitted its responses in a third supplemental report (Ex. 700);
- OP then requested that it be allowed to revise the application to reduce the area proposed to be rezoned to MU-10 (Ex. 715, 718);
- At the request of the Commission, OP submitted a supplemental report on the revised Application Boundary dated June 13, 2024 (Ex. 720). This report provided a Comprehensive Plan analysis on the revised zone boundary.

THE PETITION

47. OP submitted a report, dated January 18, 2023 (the Petition or OP Setdown Report), recommending the Commission set down for a public hearing the Applicant's Map Amendment and concluded that the Map Amendment would be appropriate for IZ Plus and would not be inconsistent with the CP. The OP Setdown Report stated the following (Ex. 2):

I. RECOMMENDATION AND SUMMARY

The Office of Planning (OP) submits this map amendment petition and requests its setdown on behalf of the Deputy Mayor for Economic Development and Planning (DMPED) to rezone Square 0175, Lots 826 and 827 from the MU-4 zone to the MU-10 Zone, and that IZ Plus apply.

The site is located at the northeast corner of 17th and U Streets, NW and is owned by the District government. It is occupied by, and will continue to be occupied by, the Metropolitan Police Department (MPD) Third District Police headquarters and by Fire and Emergency Services (FEMS) Engine Company 9 and its related uses.

The map amendment is intended to implement the following 2021 revisions to the Comprehensive Plan that address the future of the site.

- Amendment 8050 to the Generalized Future Land Use Map (FLUM), which changed the site’s land use designation from Local Public Facilities to a mix of Local Public Facilities/ High Density Residential /and Moderate Density Commercial. The current MU-4 zoning on the site is not consistent with the new FLUM designation.
- The Mid-City Element’s Policy MC-2.3.7, Use of Public Sites, which identifies the site as one that “should be used to create a significant amount of new affordable housing, establish space for cultural uses, and provide for additional public facilities...” The site now has no housing, and the public facilities require upgrades and expansion. Any disposition/development agreement would provide for retaining the public functions, with upgrades, and would require affordable housing subject to the affordability requirements in District Law 10-801. These exceed those of IZ Plus.

The map amendment would enable the provision of more market rate housing and affordable housing, which would help mitigate rising housing costs that affect households of color disproportionately. It would enable the retention of District public service jobs for which persons of color are actively recruited.

The map amendment would also be consistent with the Generalized Policy Map’s classification of the site as part of both a Main Street Mixed-Use Corridor and a Neighborhood Conservation Area.

II. APPLICATION-IN-BRIEF

...

Applicant:	DC Office of Planning on behalf of the Deputy Mayor for Economic Development and Planning
Address:	1617 U Street, NW and 1620 V Street, NW
Legal Description:	Square 0175, Lot 826 and Lot 827
Proposed Map Amendment:	From the MU-4 Zone to the MU-10 Zone with IZ Plus
Ward and ANC:	Ward 1/ANC 1B in 2023; ANC 1C in 2022
Property Size:	81,981 square feet ¹ (1.88 acres) . (Does not include public alley between Lots 826 and 827).
Future Land Use Map Designation:	Mixed Use: Local Public Facilities/ High Density Residential / Moderate Density Commercial
Generalized Policy Map Designation:	Main Street Mixed-Use Corridor (southern half fronting U Street) / Neighborhood Conservation Area (northern half, fronting V Street)

The following table outlines the major differences between the existing and proposed zones.

Zone	Density	Height ¹	Lot Occupancy
Existing MU-4	2.5 3.0 (IZ) Maximum 1.5 non-residential	50 ft.	60% 75% (IZ)
Proposed MU-10	6.0 7.2 (IZ) Maximum 3.0 non-residential	90 ft. 100 ft. (IZ)	75% 80% (IZ)

Because the property is District-owned any future lease, disposition or RFP would include ANC and neighborhood participation in the process and in the design of future construction on the site. Depending on the ultimate development plan, the MU-10 zone’s density and height maximums could permit construction of newer MPD and FEMS facilities, over 200 affordable housing units and a larger garage for the many public and employee vehicles that now spill-over onto neighborhood streets. There are eight 8-story buildings and two 10-story buildings within two blocks of the map amendment site.

III. SITE AND AREA DESCRIPTION

The property proposed for re-zoning occupies approximately 2/3 of Square 175, which is bounded by U, V, 16th and 17th Streets, NW. The site is bounded by: North, V Street and, across a public alley, six 2-story rowhouses; West, 17th Street; South, U Street; and East, a public alley. Lot 827¹⁰ comprises ~2/3 of the site, with frontage on U, V and 17th streets. Lot 826, with frontage only on U Street, comprises the remaining ~ 1/3 of the site. Together the lots are occupied by two District government facilities which have shared the site since the 1960’s.



¹⁰ The OP Setdown Report incorrectly reversed Lots 826 and 827 in this paragraph. OP noted the error in a correction notice it submitted January 26, 2023 (Ex. 7). The paragraph above shows the corrected lots.

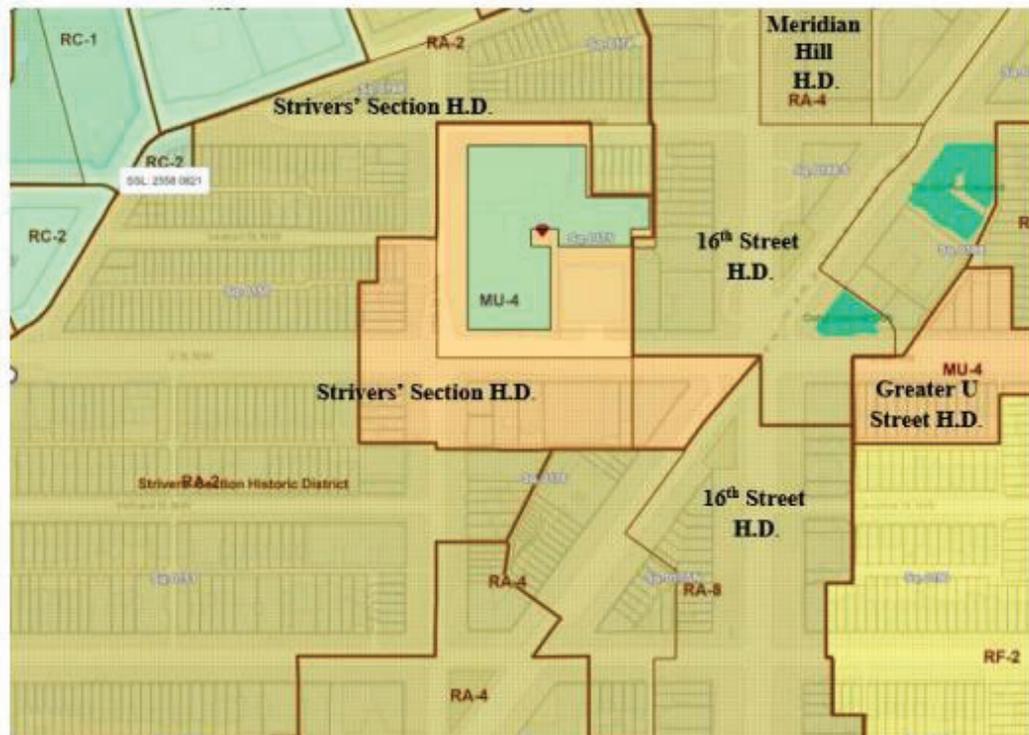
Lot 827 slopes approximately 5 feet downward from north to south. It is occupied by the two-story Metropolitan Police Department's (MPD) Third District Station, with frontage on V Street and 17th Street. The station's pedestrian entrance is on V Street, and it is connected to a two-level parking garage with frontage on V Street and U Street. The garage is used predominantly by MPD and is accessed from a north-south alley to the east of the garage and to the west of the fire station.

Lot 826 is occupied by the one-story Fire and Emergency Medical Services (FEMS) Engine Company Number 9 and related services. Its vehicular entrances and its pedestrian entrances are from U Street. FEMS also uses a portion of the garage.

...

Proximate to the site's boundaries are:

- North, across V Street, other 2-story rowhouses;
- West, across 17th Street, primarily residential two- and three-story row buildings, but with ground floor retail at the corner of 17th and U Streets;
- South, across U Street, a mix of three- and four-story buildings with ground floor retail, and one five-story commercial building; and
- East, across the public alley, a combination of 3 and 4-story row houses and five to eight-story apartment buildings along 16th Street, and a 4-story apartment building with ground floor retail on U Street.



The Mixed-Use MU-4 zone covers the subject property, the four corners of 17th and U Streets, and U Street as far east as 16th Street. Most of the property surrounding

the MU-4 area is zoned RA-4, for moderate density residential rowhouses and apartment buildings. However, because many of the buildings pre-date the 1958 zoning regulations, there are four eight-story, and one nine-story, apartment buildings within a block of the site and an additional five eight-to-ten-story apartment buildings within the next two blocks.

In general, the area is a predominately moderate to high density residential neighborhood, with moderate to medium-density mixed-uses along U Street, east of 17th Street. The site is well-served by transit, with the various 90-series bus lines on U Street, several "S" bus lines on 16th Street (including an express service) and with the U Street/African American Memorial Metro Green Line stop being 4 blocks to the east.

... [W]hile the property is not within an historic district, it is bordered by the Strivers' Section historic district on the north, south and west, and by the 16th Street historic district on the east.

IV. Rationale for the Proposed Map Amendment

The site is currently within the MU-4 zone which is described as a moderate density mixed use zone. As noted, it is no longer consistent with the revised FLUM designation for high density residential, moderate density commercial and local public facilities. (FLUM change 8050).

Section 400.3 of the Zoning Regulations states that the MU-4 zone is intended to

- (a) Permit moderate-density mixed-use development;*
- (b) 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*
- (c) 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.*

The existing and proposed uses for the site do not comport with these purposes. The FLUM indicates the site should permit mixed use density with a residential component exceeding moderate density. The existing and proposed uses include a substantial portion of local government uses. The Zoning Regulations state that the MU-4 zone is appropriate for low and moderate density residential areas. The site is in a moderate to medium density mixed use area that includes commercial uses and housing types that range from row-houses to moderate and medium density apartment buildings up to 8 and 9 stories tall.

The proposed MU-10 zone, on the other hand, is intended to:

400.9

- (a) *Permit medium- to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions;*
- (b) *Be applied to areas where a mixture of uses and building densities is intended to carry out elements of the Comprehensive Plan, small area plans, or framework plans, including goals in employment, population, transportation, housing, public facilities, and environmental quality;*
- (c) *Require a level of public space at the ground level; and*
- (d) *Allow residential and non-residential bulk to be apportioned between two (2) or more lots in the same square.*

The MU-10 zone ... would permit both the density and the mix of uses the Comprehensive Plan envisions for the site, including public uses at the ground level.

More specifically, OP is recommending the MU-10 zone to:

- Respond to the new FLUM designation; and
- Effectuate Mid-City Element Policy MC-2.3.7 Use of Public Sites by enabling the site to have enough density and height to:
 1. Accommodate new, superior facilities for the 3rd District Police and for Engine Company 9 and related services, including a larger parking facility to shelter police cars and employee vehicles that now park on neighborhood streets and grassy parking strips;
 2. Make it economically feasible to construct a significant amount of affordable housing on the site, and possibly some market rate housing atop the government facilities; and
 3. Not preclude the possibility of providing limited ground floor retail uses along a portion of the site’s U Street face.

Rezoning applications consider only consistency with the Comprehensive Plan and do not include a specific development proposal. However, with an appropriately designed site plan it is likely that on the less-than-two-acre site the MU-10 zone’s density and height limits could accommodate these vehicle-intensive MPS and FEMS uses, a significant amount of affordable housing, and limited retail uses without being inconsistent with the Comprehensive Plan[.]

V. DEVELOPMENT CAPACITY OF EXISTING AND PROPOSED ZONES

The following table provides more detail comparing the development standards and uses of the existing MU-4 zone and the proposed MU-10 zone.

	Existing Zone	Proposed Zone:
	MU-4	MU-10
Permitted Uses:	MU-Use Group E in Subtitle U, Chapter 5.	MU-Use Group G in Subtitle U, Chapter 5.
Height:	50 ft. maximum	90 ft. max 100 ft. max. with IZ
Floor Area Ratio (FAR):	2.5 max. 3.0 max with IZ (1.5 max. non-residential use)	6.0 max. 7.2 max. with IZ (3.0 max. non-residential use)
Penthouse Height:	12 ft. max./1 story 15 ft. total with second story for penthouse mechanical space	20 ft. max./ 1 story 20 ft. total with second story for penthouse mechanical space
Lot Occupancy	60% Place of Worship – 60% 75% IZ	75% 80% IZ
Rear Yard	15 ft. min.	The greater of 12 feet or 2.5” deep per foot of building height. Not required below first residential level.
Side Yard:	None required. If provided, the greater of 5 feet or 2” wide per foot of building height.	Same as MU-4.
Parking - Vehicular	- <u>Local Gov’t.</u> : 0.5 space per 1000 SF over the first 2000 SF; - <u>Residential</u> : 1 space per 3 dwelling units over the first 4 units - <u>Retail</u> : 1.33 space per 1,000 SF over 3,000 SF	Same as MU-4
Parking - Bicycle	Long Term <u>Local Gov’t.</u> : 1 per 7,500 SF <u>Residential</u> : 1 per 3 apartments <u>Retail</u> : 1 per 10,000 SF Short-Term <u>Local Gov’t.</u> : Greater of 6 or 1 per 40,000 SF <u>Residential</u> : 1 per 20 apartments <u>Retail</u> : 1 per 3,500 SF\	Same as MU-4
Loading	<u>Local Gov’t.</u> : 1 loading berth, 1 delivery space for 30,000 to 100,000 GFA <u>Residential</u> : If more than 50 dwelling units, 1 loading berth, 1 delivery space <u>Retail</u> : 1 loading berth, 0 delivery space if 5,000 to 20,000 SF’	Same as MU-4
GAR:	0.3 min.	0.2 min.

...

VI. IZ PLUS AND DC LAW 10-801

11 DCMR Subtitle X § 502 (b) presumes that IZ Plus will apply to a map amendment “that allows a higher maximum FAR, both exclusive of the twenty percent (20%) IZ bonus density, if applicable” except as provided for in Section 502.2[.]

The property is owned by the District, and any disposition and development of the property will be subject to affordability requirements of District Law 10-801. Under that law, at least 30% of the units would be affordable, since the subject property is within a half-mile of the U Street/African American Civil War Memorial and a quarter mile of a WMATA Priority Network Metrobus Route (“S” Routes on 16th Street). In addition, for rental units, at least 25% would be for very low-income residents, who would pay no more than 30% of their income towards housing costs. The remainder would be for low-income residents who would pay no more than 30% of their income towards housing cost. In the case of homeownership units, 50% would be for residents who pay no more that 30% towards housing and the remaining 50% would be for moderate-income household who would pay no more that 30% of their income towards housing.

IZ Plus requires a higher affordable housing set-requirement than Regular IZ and prescribes a set-aside requirement based on either:

- a sliding-scale that is correlated to the total floor area built, or
- the amount of IZ bonus density built.

The requirements under DC Law 10-801 exceed the requirements of IZ Plus, which requires that 18% to 20% of the residential square footage be reserved for housing affordable to households earning 60% of the MFI for rental units and 80% MFI for ownership units. Nevertheless, out of an abundance of caution, OP recommends the rezoning is appropriate for IZ Plus because:

- The proposed map amendment would allow a higher maximum FAR than the existing zone and IZ Plus is designed to apply to such situations;
- The neighborhood surrounding the site, and Ward 1 in general has existing deficiencies in affordable housing. (See page 15 of this report); and
- Ward 1 had a median rent of \$1,803 in 2019, exceeding the District-wide median of \$1,603.

VII. COMPREHENSIVE PLAN EVALUATION

Overview

The Comprehensive Plan gives general recommendations, unlike the Zoning Regulations which gives specific requirements and limitations. The plan states that areas designated for high density residential use would typically have densities greater than 4.0 FAR and that greater density may be possible if developed with Inclusionary Zoning (227.8). For Moderate Density Commercial designations densities between 2.5 and 4.0 FAR would be typical, with additional density for developments with Inclusionary Zoning (227.8).

The Framework Element suggests that that it is appropriate to co-locate non-governmental and governmental uses on a site that includes a Local Public

Facilities designation (227.17) and that Area Elements may also provide detail on the specific mix of uses envisioned” (227.21). In this instance the Mid-City Element (Policy MC-2.3.7 Use of Public Sites) specifies that the subject site shall accommodate governmental use, “continue the history of U Street as a Black business corridor” and include additional density to accommodate affordable housing and other uses.

The subject site is designated as being appropriate for a mix of all of these uses, with the residential use (high density) having the greatest emphasis. “*The general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown*”. The MU-10 zone’s 7.2 FAR density maximum and 100-foot height limit could accommodate the vehicle-intensive MPS and FEMS uses, a significant amount of affordable housing, and the retail uses consistent with U Street traditions and be not inconsistent with the Comprehensive Plan.

A. COMPREHENSIVE PLAN MAPS

The District of Columbia Comprehensive Plan guides the District’s development, both broadly and in detail, through maps and policies that establish priorities, key actions, and assumptions about the future of development, 10A DCMR §§ 103.2 and 103.3. The Guidelines for Using the Generalized Policy Map and the Future Land Use Map in the Framework Element state that the “*Generalized Policy Map and Future Land Use Map are intended to provide generalized guidance for development and conservation decisions and are considered in concert with other Comprehensive Plan policies.*” Additionally, “*the zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements.*”

As demonstrated below, the proposed zoning map amendment would not be inconsistent with the map designations or the Citywide and Area Elements.

1. Generalized Future Land Use Map (FLUM)

The District of Columbia Comprehensive Plan (the "Comprehensive Plan") guides the District’s development, both broadly and in detail, through maps and policies that establish priorities, key actions, and assumptions about the future of development, 10A DCMR §§ 103.2 and 103.3. The site is designated as High Density Residential, Moderate Density Commercial, and Local Public Facilities on the Future Land Use Map of the Comprehensive Plan.

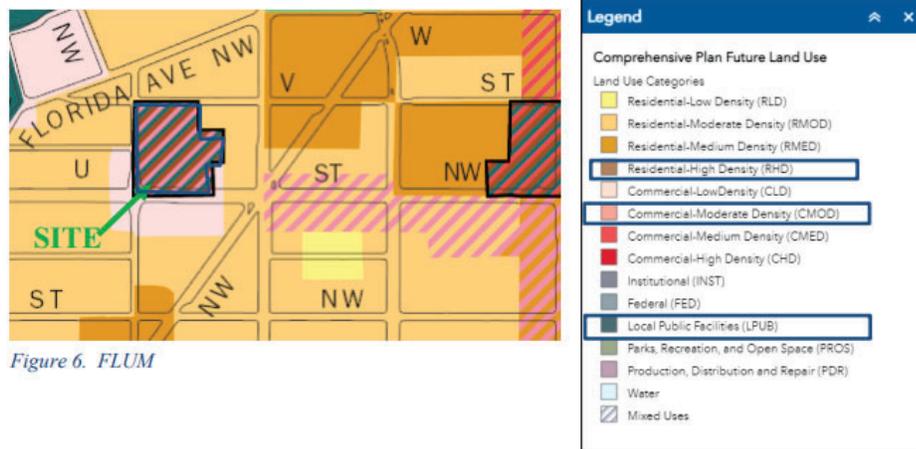


Figure 6. FLUM

The Comprehensive Plan designates a portion of the site fronting U Street as Mixed Use.

The Mixed-Use Category in the Future Land Use Map ...

...indicates areas where the mixing of two or more land uses is especially encouraged. The particular combination of uses desired in a given area is depicted in striped patterns, with stripe colors corresponding to the categories defined on the previous pages. A Mixed Use Future Land Use Map designation should not be confused with the Mixed Use (MU) zoning districts, although they frequently apply to the same area or parcel of land. The Mixed Use Category generally applies in the following circumstances:

- a. Established, pedestrian-oriented commercial areas that also include substantial amounts of housing, typically on the upper stories of buildings with ground-floor retail or office uses;*
- b. Commercial corridors or districts which may not contain substantial amounts of housing today, but where more housing is desired in the future. The pattern envisioned for such areas is typically one of pedestrian-oriented streets, with ground-floor retail or office uses and upper story housing;*
- c. Large sites (generally greater than 10 acres in size), where opportunities for multiple uses exist but a plan dictating the precise location of these uses has yet to be prepared; and*
- d. Development that includes residential uses, particularly affordable housing, and residentially compatible industrial uses, typically achieved through a Planned Unit Development or in a zone district that allows such a mix of uses. 227.20*

The general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown. If the desired outcome is to emphasize one use over the other (for example, ground-floor retail with three stories of housing above), the Future Land Use Map may note the dominant use by showing it at a slightly higher density than the other use in the mix (in this case, Moderate Density Residential/Low Density Commercial). The Comprehensive Plan Area Elements may also provide detail on the specific mix of uses envisioned. 227.21

It should also be acknowledged that because of the scale of the Future Land Use Map and the fine-grained pattern of land use in older parts of the city, many of the areas shown purely as “Commercial” may also contain other uses, including housing. Likewise, some of the areas shown as purely “Residential” contain existing incidental commercial uses such as corner stores or gas stations, or established institutional uses, such as places of worship. 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. 227.22

A variety of zoning designations are used in Mixed Use areas, depending on the combination of uses, densities, and intensities. All zone districts formerly identified as commercial, SP, CR and Waterfront were renamed as MU zone districts in 2016, and are considered to be mixed use. Residential uses are permitted in all of the MU zones, however, so many Mixed Use areas may have MU zoning. 227.23

The existing MU-4 zoning permits a maximum overall density of 3.0 FAR (with IZ) and a building height of 50 feet. These limits would make it difficult to rebuild and expand the existing MPD and FEMS facilities and parking garage and construct a substantial amount of housing and affordable housing above – let alone providing any space for potential retail along U Street. The greater flexibility provided by the MU-10 zone is therefore appropriate given the 2021 FLUM designation, the emphasis the Comprehensive Plan places on developing affordable housing on District-owned land, and the development program anticipated for the site.

2. Generalized Policy Map

The Generalized Policy Map indicates that the southern half of the property, along U as being within the U Street Main Street Mixed Use Corridor. The northern half, along V Street, is designated as a neighborhood conservation area.

Main Street Mixed Use Corridors are traditional commercial business corridors with a concentration of older storefronts along the street. The area served can vary from one neighborhood (e.g., 14th Street Heights or Barracks Row) to multiple neighborhoods (e.g., Dupont Circle, H Street, or Adams Morgan). Their common feature is that they have a pedestrian-oriented environment with traditional storefronts. Many have upper-story residential, or office uses. Some corridors are underutilized, with capacity for redevelopment. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment. 225.14



Neighborhood Conservation Areas have little vacant or underutilized land. They are generally residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. 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 over current (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. Neighborhood Conservation Areas that are designated “PDR” on the Future Land Use Map are expected to be retained with the mix of industrial, office, and retail uses they have historically provided. 225.4

The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. 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. Areas facing housing insecurity (see Section 206.4) and displacement should emphasize preserving affordable housing and enhancing neighborhood services, amenities, and access to opportunities. 225.5

Existing development on the site does not enhance the U Street Main Street Mixed-Use Corridor. The U Street frontage has only the blank side of a parking garage and the open bays of the FEMS station. There is no possibility for the pedestrian-oriented uses cited for such a corridor in the Comprehensive Plan. The MU-10 zone would permit enough height and density for a development that could accommodate the needs of MPD and FEMS while freeing up some U Street frontage for retail or other neighborhood-serving uses. The height and density permitted by the recommended zone would also enable future development to be responsive to the surrounding neighborhood character.

B. COMPREHENSIVE PLAN WRITTEN ELEMENTS

1. Comprehensive Plan Analysis Through a Racial Equity Lens¹¹

Equity is emphasized throughout the Comprehensive Plan, particularly in the context of zoning, where the provision of affordable housing, avoiding displacement of existing residents, and creating access to opportunity is a priority. The Commission’s racial equity tool serves as a guide in analyzing the Comprehensive Plan and considering potential impacts of the proposal. The tool starts by asking “*What is the expected goal of the zoning action?*” and then “*What are the anticipated positive and negative impacts and/or outcomes of the zoning action?*”. The zoning action requested by this application is for the approval of a zoning map change from the MU-4 zone to the MU-10 zone.

Overall, when evaluated through a racial equity lens, the proposed map amendment is not inconsistent with the Comprehensive Plan. The rezoning would allow the DC Government to better use a property that the Comprehensive Plan has indicated is appropriate not only for governmental uses, but also for high-density residential use and moderate density neighborhood-serving retail and/or service uses. Because it is a District property, the residential use would be required to include a large affordable housing component, whether that be for families, individuals, or the elderly. The site is close to transit. The direct and easy connections to other parts of the city for work, service and recreation has the potential to benefit populations of color who on average have lower incomes, and lower homeownership rates than white residents, and who, in other locations, are distant from many amenities. The targeted action of this proposed map amendment would support equitable development while contributing to the increase in the affordable housing supply within the Planning Area.

¹¹ The Comp Plan was amended in 2021 to include evaluating whether zoning actions were inconsistent with the plan when viewed through a racial equity lens. In April of 2022, the Commission produced its first racial equity analysis tool (RE1) in response to the new legislation. It did not include a requirement that OP address its community outreach or provide an analysis of disaggregated racial equity data. As discussed further below, the Commission later issued a second racial equity tool after OP submitted the OP Setdown Report which imposed heightened requirements.

Housing

One of the key ways the Comprehensive Plan seeks to address equity is by supporting additional housing development, particularly on underutilized sites near transit, such as the subject site, which is ~1/2 mile from the U Street/African American Civil War Memorial Metro station. The Comprehensive Plan defines affordable housing as housing available to households earning 80 percent or less of the median family income (“MFI”) (§ 304.3).

The Comp Plan notes that without increased housing the imbalance between supply and demand will drive up housing prices in a way that creates challenges for many residents, particularly low-income residents. The rising cost of housing in the District limits the ability to fill housing needs for the full range of household types and income levels. Only a small amount of the District’s total land area (28.1 percent) is dedicated to residential use (10-A DCMR § 205.3). The scarcity of land increases the cost of building new housing, limits the availability of housing, and intensifies housing cost burdens, particularly for lower- and middle-income households.

The District’s Upward Mobility Action Plan (June 2022) 3 noted the following:

- *“Residents with lower incomes have not benefited as much from the District’s economic growth as residents with higher incomes. This challenge exists because most residents with lower incomes do not have college degrees, which are required for many of the District’s highly paid jobs. As a consequence, residents with lower incomes have difficulty finding housing they can afford because of the growing number of residents with high incomes are paying a premium for housing near jobs, transit, shops, restaurants, education, healthcare, and entertainment venues” (Why Upward Mobility is Important - Page 4 Item (1))*
- *“In the District of Columbia, many households with incomes below 60% of the regional median family income (MFI) have difficulty finding housing that they can afford. Analysis of ACS data demonstrated that about a third of District households are housing cost burdened. This means that they spend more than 30% of their total household income on housing.”*
- *In the District of Columbia, many households with incomes below 60% of the regional median family income (MFI) have difficulty finding housing that they can afford. Analysis of ACS data demonstrated that about a third of District households are housing cost burdened. This means that they spend more than 30% of their total household income on housing.*
- *Among households that are housing cost burdened, severely cost burdened households spend 50% of their income or more to secure their housing. According to the 5-year ACS, 17% of households in the District were severely housing cost burdened in 2020. Most severely cost burdened households cannot balance their budgets by cutting out luxuries and seeking discounts. (Why Upward Mobility is Important, Page 5)*

In general, the addition of housing units in an area should help to reduce the burden for lower-income households, and the increasing demand from a growing population should lead to an increase in the availability of goods and services. Governmental regulations and programs such as Inclusionary Zoning and publicly assisted financing for the construction of housing targeted to lower income households can help to mitigate these upward pressures. Housing-Related Characteristics of the Site's Nearby Area The population of the Mid-City ("Planning Area"), where the subject property is located, is 7.5 percent Black, compared to 35.7 percent District-wide. The Hispanic/Latinx origin population is 19.1 percent, compared to 11.1% District-wide (2020). The median household income is \$122,103 in the Planning Area, while the District-wide median is \$90,842. The median home value in the Planning Area is \$758,021 (2020). The Comprehensive Plan states that "residents of color are a majority of lower-income households in the District and, therefore, face a disproportionate share of the problems caused by housing insecurity and displacement" (10-A DCMR § 206.4).

The State Data Center notes that the Planning Area consists of 4.2 percent of the total housing units in the District. The 2019 Housing Equity Report identified the Planning Area as having an affordable housing production goal of 1010 units by 2025. At the time the report was written, the Planning Area had 690 units in the affordable housing pipeline and was not on track to meet the 2025 total housing production goal of 7,960 housing units.

...

The affordability, stability, and location of housing shapes the physical, emotional, and mental wellbeing of both young and older District residents. (Why Equitable Housing Matters , pg. 1323, 24, 25)) When high-opportunity neighborhoods lack affordable housing or when areas with affordable housing lack neighborhood services and amenities, low-income residents are excluded from important social and economic opportunities of those healthy neighborhoods. Perhaps most importantly, when low-income residents can move or afford to live in high-opportunity neighborhoods, they thrive. The potential affordable units that the proposed map amendment would make possible on the site would be more likely to serve non-white residents of the District than other racial groups.

The Comprehensive Plan defines affordable housing as housing available to households earning 80 percent or less of the median family income ("MFI") (§ 304.3). As of 2018, the Planning Area included 13 percent of the District's total number of affordable housing units. According to the Income Limits by Percent of Median Family Income provided by DHCD, shown in Table 4:

...

A moderate-income family of 4 at 80% MFI falls within a much lower household income (\$97,050) category than the planning area (\$122,103). Households that pay more than 30% of income on housing are burdened, and more than 50% of income are severely burdened. The housing that would be enabled by the increased FAR

under the proposed zone has the potential of increasing the total supply of housing units in the Planning Area, which could help alleviate the pressure on housing costs overall.

Because the site is District-owned, District law requires that any residential development on the site provide for a higher percentage of affordable housing at lower household income limits than would be required under IZ or IZ Plus.

Displacement

The proposed amendment would not result in physical displacement of residents as the site does not currently include a residential use. The density gained in increased residential use on the site would provide an opportunity for additional housing and affordable housing opportunities in the area.

Participation in Decision-Making

The Comprehensive Plan update recognizes that advancing equity requires a multifaceted policy approach. While the Comprehensive Plan update addresses equity in narrower terms, such as “equitable development,” it recognizes that many areas of policy must be brought to bear on the challenge:

Equitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices that reduce and ultimately eliminate disparities while fostering places that are healthy and vibrant. Equitable development holistically considers land-use, transportation, housing, environmental, and cultural conditions, and creates access to education, services, health care, technology, workforce development, and employment opportunities. As the District grows and changes, it must do so in a way that encourages choice, not displacement, and builds the capacity of vulnerable, marginalized, and low-income communities to fully and substantively participate in decision-making processes and share in the benefits of the growth, while not unduly bearing its negative impacts. 213.7

A development project has not been designed for the property. However, the Deputy Mayor for Planning and Economic Development (DMPED) has indicated that if the District facilitated the redevelopment of the property it would likely seek to do so with a mix of local public facilities such as a new police station and/or firehouse, housing and, possibly retail uses appropriate to the site per the Comprehensive Plan context.

DMPED has already started consultations with ANC 1C and community about the future of the property. At a July 14, 2022 Public Surplus Hearing for 1617 V Street, and in the 10 days afterwards, 72 individuals and the Dupont Circle Citizens Association provided verbal or written comments about whether the site should be surplused or retained; noted community needs; suggested possible uses and an appropriate building scale and design; and considered potential impacts to the neighborhood. The District government will continue to seek input from the ANC

and the neighborhood throughout any process concerning the site's possible rezoning, disposition or development.

Transportation

Any development enabled by the proposed map amendment would have extensive access to transit, being four to five blocks from the Metro and being served by the multiple Metrobus routes along the U Street and 16th Street corridors. Capital Bikeshare stations and bike connections along U Street would provide alternative modes for travel in the city, as well as the network of sidewalks for pedestrians. The site has a walkscore of 100.

Discussion of traffic circulation and the supply and management of parking would be considered during an RFP process.

Employment

Any new development on the site would include MPD, FEMS and residential uses, which would retain or create additional local government jobs, as well as jobs in residential maintenance and management. The site is also walkable or transit-accessible to other employment options. A study of the District's labor market in 2020 shows that Ward 1's unemployment rate is the third lowest of the District's wards.

...

Education/Health/Wellness

Any proposed residential use on the site would have easy access to several public facilities and gathering places in the neighborhood. The site is near the Marie Reed Learning Center, the OysterAdams Bilingual School, Ross Elementary School, Garrison Elementary Schools, Meridian Charter School, and Cardoza (High School) Education Campus. It is also in proximity to urgent care clinics on and around U Street. Overall, future residents and employees would have access to a variety of public and private resources in the neighborhood that would contribute to the quality of life.

Environmental

Any development on the property would be required to demonstrate compliance with the Green Building Act, meet current DOEE standards, and provide stormwater management to current requirements. Through working with DOEE, and the DC Green Bank, properties would be encouraged to be energy efficient and resilient. The DC Green Bank is an innovative policy tool that will use public purpose funding to attract private investment. The goal is to expand renewable energy, lower energy costs, reduce greenhouse gas emissions, create green jobs, and enhance resilience

Access to Amenities

The site is in an amenity-rich neighborhood that includes schools, public recreation facilities, private gyms, theaters for plays and movies, and music venues and

accessible neighborhood parks and open spaces including Meridian Hill / Malcom X Park.

Overall, the proposed map amendment would be not inconsistent with the Comprehensive Plan. The rezoning would allow the retention of local services protecting life and property. Housing and affordable housing opportunities would be included in this property which is close to transit and has easy connections to other parts of the city for work, service and recreation. Development of the site would therefore support enhanced transit use. This proposed map amendment would support equitable development while contributing to the increase in the neighborhood serving uses and affordable housing within the Planning Area. ...

2. Comprehensive Plan Written Elements

The proposed map amendment is not inconsistent with major policies from various elements of the Comprehensive Plan, including the Land Use; Transportation; Housing; Urban Design; Historic Preservation; Economic Development and the Mid-City Area Element. It would particularly further the Framework Section's policy on Local Public Facilities. A compilation of relevant policies can be found in Appendix A.

A. Citywide Elements

Framework

***Local Public Facilities:** This designation includes land and facilities occupied and used by the District of Columbia government or other local government agencies (such as WMATA), excluding parks and open space. Uses include public schools including charter schools, public hospitals, government office complexes, and similar local government activities. Other non-governmental facilities may be co-located on site. While included in this category, local public facilities smaller than one acre ~ including some of the District's libraries, police and fire stations, and similar uses — may not appear on the map due to scale. Zoning designations vary depending on surrounding uses. 227.17*

The proposed zone would provide enough density and height to permit the co-location of market rate and affordable housing with upgraded MPD and FEMS facilities and their associated parking.

Land Use

The proposed map amendment would further the land use elements with a zone consistent with the use mix and density that 2021 FLUM Amendment 8050 indicated is appropriate. A future project would provide new facilities for MPD and FEMS and would likely include a substantial number of residential units at the deeper affordability levels mandated by District Law 10-80. The site is accessible to Metrorail and Metrobus. The property is in an amenity-rich area, having access

to schools, shopping, employment, recreation facilities, and a library within the northwest quadrant.

Transportation

The increased density would enable the provision of a larger garage on the site, which should reduce the number of government and employee vehicles now parking on adjacent streets and landscaped public parking strips. Any future development would be required to undertake a Transportation Management Plan that would examine transportation concerns in the surrounding area. It would also require an increase in the number of secure indoor bicycle parking spaces.

Housing

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 be designed to respect the integrity of stable neighborhoods and the broader community context, and encourage housing and amenities for low-income households, who rely more on transit. Adequate infrastructure capacity should be ensured as growth occurs. 219.7

As referenced prior, the IZ units required by a District offering IZ or I, or by either Z Plus would increase the total supply of housing units in the Planning Area and would help alleviate the pressure on housing costs near/at transit accessible sites. New housing in a transit-rich area, blocks from a Metro station and along a transit corridor is an ideal scenario in furthering the District's housing goals in the Planning Area, as desired in the Housing Equity Report and highlighted earlier in this report.

Environment

The District's ownership of the site would lead to any future development's furthering environmental goals by requiring at least a LEED Gold (v.4) standard, including solar panels, green roof elements and stormwater management.

Historic Preservation and Urban Design

The District of Columbia contains many buildings and sites that contribute to its identity. Protecting historic resources through preservation laws and other programs is essential to retain the heritage that defines and distinguishes the city. Special efforts should be made to conserve row houses as the defining element of many District neighborhoods, and to restore neighborhood "main streets" through sensitive renovation and updating. The District's music, art, narratives, institutions, and other cultural assets are also integral to create a community's identity and sense of place. Efforts should also be made to support, enhance, and protect these cultural assets. 220.6

The property is not within a historic district and does not include any historic structures. However, the Strivers Row Historic District is to the north and west and just south of U Street. The 16th Street Historic District is to the east.

Economic Development

The replacement and possible expansion of the MPD and FEMS facilities would bring heightened public safety presence to the area. This would help to anchor existing development and promote quality future development that, together with the additional residents projected for the site, would result in a mixed-use development creating more vibrancy to the north side of this portion of the U Street corridor.

B. Mid-City Area Element

The Mid-City Planning Area is culturally diverse and in particular has re-emerged as a dining, retail, residential, entertainment, and cultural destination in the District. The 14th Street NW and U Street NW corridors experienced remarkable change over the last decade. Revitalization has increased the need to improve mobility, manage traffic and parking, and assist small businesses. 10-A DCMR § 2000.9.

The proposed map amendment would further the policies of the Mid-City Area Element, particularly the following:

Policy MC-2.3.7 Use of Public Sites Utilize public land at the Reeves Center, Housing Finance Agency, Garnet Paterson, Engine 9, and MPD 3rd District Headquarters to create mixed-use neighborhood landmarks that acknowledge and continue the history of U Street as a Black business corridor. Added density at these public sites should be used to create a significant amount of new affordable housing, establish space for cultural uses, and provide for additional public facilities, such as a new public library. New construction should concentrate density towards U Street and use design strategies to visually reduce building height and bulk to provide appropriate transitions to adjacent lower density areas. 2013.11

This policy would be foundational to any future development solicitation the District would issue for this site.

3. Summary of Planning Context Analysis

The map amendment would not be inconsistent with the Comprehensive Plan. The policies cited in Appendix I and as discussed in the Citywide and Area Elements sections, work together to support the proposed density and height to permit more mixed-uses and housing in a transit-accessible area with public facilities and amenities supporting of future residents' well-being. The future development that would be better enabled by the proposed zone would help the District towards attaining its affordable housing pipeline goals including 12,000 affordable units by 2025 as identified in the Housing Equity Report and the Upward Mobility DC data, which could help the Planning Area exceed its minimum goal of six percent of affordable units by 2025.

...

APPENDIX A – Comprehensive Plan Citywide Written Elements

Land Use

As the Land Use Element guides the direction of future growth, it also affects future access to housing, education, jobs, services, amenities, and transportation and impacts the health and safety of residents. Growth can and must occur in a way that expands access to affordable housing, education, transportation, employment, and services for communities of color, low-income households, and vulnerable populations. Achieving equitable development requires attention to both the context and needs of different planning areas and to District-wide equity issues, described throughout the Comprehensive Plan. 304.4

Policy LU-1.4.6: Development Along Corridors

Encourage growth and development along major corridors, particularly priority transit and multimodal corridors. Plan and design development adjacent to Metrorail stations and corridors to respect the character, scale, and integrity of adjacent neighborhoods, using approaches such as building design, transitions, or buffers, while balancing against the District’s broader need for housing. 307.14

Action LU-1.4.B: Zoning Around Transit

With public input, develop and use zoning incentives to facilitate new and mixed use development, and particularly the provision of new housing, and new affordable housing in high opportunity areas to address more equitable distribution, 307.20

Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods

Recognize the importance of balancing goals to increase the housing supply, including affordable units, and expand neighborhood commerce with parallel goals to preserve historic resources, advance environmental and sustainability goals, and further Fair Housing. The overarching goal to create vibrant neighborhoods in all parts of the District requires an emphasis on conserving units and character in some neighborhoods and revitalization in others, including inclusive and integrated growth and meeting communities and public facility needs. All neighborhoods have a role to play in helping to meet broader Districtwide needs, such as affordable housing, public facilities, and more. 310.10

Policy: LU-2.1.8 Explore Approaches to Additional Density in Low- and Moderate-Density Neighborhoods

Notwithstanding Policy LU-2.1.5, explore approaches, including rezoning, to accommodate a modest increase in density and more diverse housing types in low-density and moderate-density neighborhoods where it would result in the appropriate production of additional housing and particularly affordable

housing. Build upon the guidance of the April 2020 Single Family Housing Report to diversify the cost of housing available in high-opportunity, high-cost low- and moderate-density neighborhoods, especially near transit. However, neighborhood planning and engagement is a condition predicate to any proposals. Infill and new development shall be compatible with the design character of existing neighborhoods. Minimize demolition of housing in good condition. 310.15

Policy LU-2.1.10: Multi-Family Neighborhoods

Maintain the multi-family residential character of the District’s medium- and high-density residential areas. Limit the encroachment of large-scale, incompatible commercial uses into these areas. Make these areas more attractive, pedestrian-friendly, and transit accessible, and explore opportunities for compatible commercial development which provides jobs for nearby residents. 310.17

Policy LU-2.4.5: Encouraging Nodal Development

Discourage auto-oriented commercial strip development and instead encourage pedestrian-oriented nodes of commercial development at key locations along major corridors. Zoning and design standards should ensure that the height, mass, and scale of development within nodes respects the integrity and character of surrounding residential areas and does not unreasonably impact them. 313.13

Transportation

Policy T-1.1.4: Transit-Oriented Development

Support transit-oriented development by investing in pedestrian-oriented transportation improvements at or around transit stations, major bus corridors, and transfer points. Encourage development projects to build or upgrade the pedestrian and bicycle infrastructure leading to the nearest transit stop to create last-mile connections. Pedestrian movements and safety should be prioritized around transit stations. 403.10

Policy T-1.1.7: Equitable Transportation Access

Transportation within the District shall be accessible and serve all users. Residents, workers, and visitors should have access to safe, affordable and reliable transportation options regardless of age, race, income, geography or physical ability. Transportation should not be a barrier to economic, educational, or health opportunity for District residents. Transportation planning and development should be framed by a racial equity lens, to identify and address historic and current barriers and additional transportation burdens experienced by communities of color. 403.13

Housing

The following citations assume the future development of the site is required to include affordable housing.

The Housing Element describes the importance of housing to neighborhood quality in the District of Columbia and the importance of providing housing opportunities for all segments of the population throughout Washington, DC...500.1

... The overall goal for the District of Columbia is that a minimum of one third of all housing produced should be affordable to lower-income households. The short-term goal is to produce 36,000 residential units, 12,000 of which are affordable, between 2019 and 2025. 501.1

Policy H-1.1.1: Private Sector Support

Encourage or require the private sector to provide both new market rate and affordable housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. 503.3

Policy H-1.1.3: Balanced Growth

Strongly encourage the development of new housing, including affordable housing, on surplus, vacant, and underused land in all parts of Washington, DC. Ensure that a sufficient supply of land is planned and zoned to enable the District to meet its long-term housing needs, including the need for low- and moderate density single-family homes, as well as the need for higher-density housing. 503.5

Policy H-1.1.4: Mixed-Use Development

Promote moderate to high-density, mixed-use development that includes affordable housing on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed-use corridors and high-capacity surface transit corridors, and around Metrorail stations. 503.6

Policy H-1.1.9: Housing for Families

Encourage and prioritize the development of family-sized units and/or family sized housing options which generally have three or more bedrooms, in areas proximate to transit, employment centers, schools, public facilities, and recreation to ensure that the District's most well-resourced locations remain accessible to families, particularly in areas that received increased residential density as a result of underlying changes to the Future Land Use Map. Family-sized units and/or family-sized housing options include housing typologies that can accommodate households of three or more persons and may include a variety of housing types including townhomes, fourplexes and multi-family buildings. To address the mismatch between meeting the needs of larger households and the financial feasibility of developing family-sized housing, support family-sized housing options through production incentives and requirements that address market rate challenges for private development that may include zoning, subsidies or tax strategies, or direct subsidy and regulatory requirements for publicly owned sites. 503.11

Policy H-1.2.2: Production Targets

Consistent with the Comprehensive Housing Strategy, work toward a goal that one-third of the new housing built in Washington, DC from 2018 to 2030, or approximately 20,000 units, should be affordable to persons earning 80 percent or less of the area-wide MFI. In aggregate, the supply of affordable units shall serve low-income households in proportions roughly equivalent to the proportions shown in Figure 5.8: 30 percent at 60 to 80 percent MFI, 30 percent at 30 to 60 percent MFI, and 40 percent at below 30 percent MFI. Set future housing production targets for market rate and affordable housing based on where gaps in supply by income occur and to reflect District goals. These targets shall acknowledge and address racial income disparities, including racially adjusted MFIs, in the District, use racially disaggregated data, and evaluate actual production of market rate and affordable housing at moderate, low, very-low, and extremely-low income levels. 504.9

Policy H-1.2.3: Affordable and Mixed-Income Housing

Focus investment strategies and affordable housing programs to distribute mixed-income housing more equitably across the entire District by developing goals and tools for affordable housing and establishing a minimum percent affordable by Planning Area to create housing options in high-cost areas, avoid further concentrations of affordable housing, and meet fair housing requirements. 504.10

Policy H-1.2.4: Housing Affordability on Publicly Owned Sites

Require that 20 to 30 percent of the housing units built on publicly owned sites disposed of for housing, co-located with local public facilities, or sites being transferred from federal to District jurisdiction, are reserved for a range of affordable housing with long-term commitments to maintain affordability, seeking to maximize production of extremely low- and very low-income for rental units, and very low- and low-income households for ownership units and family-sized units. Prioritize the provision of affordable housing in areas of high housing costs. Explore strategies at these redeveloping sites to enable seniors in the surrounding community to have opportunities to age in place, and to provide housing opportunities for residents at risk of displacement in the surrounding community. Consider Universal Design and visitability. 504.12

Policy H-1.2.5: Moderate-Income Housing

In addition to programs targeting persons of very low and extremely low incomes, develop and implement programs that meet the housing needs of those earning moderate incomes with wages insufficient to afford market rate housing in the District. 504.13

Policy H-1.2.9: Advancing Diversity and Equity of Planning Areas

Proactively plan and facilitate affordable housing opportunities and make targeted investments that increase demographic diversity and equity across Washington, DC. Achieve a minimum of 15 percent affordable units within

each Planning Area by 2050. Provide protected classes (see H-3.2 Housing Access) with a fair opportunity to live in a choice of homes and neighborhoods, including their current homes and neighborhoods. 504.17

Policy H-1.2.11: Inclusive Mixed-Income Neighborhoods

Support mixed-income housing by encouraging affordable housing in high-cost areas and market rate housing in low-income areas. Identify and implement measures that build in long-term affordability, preferably permanent or for the life of the project, to minimize displacement and achieve a balance of housing opportunities across the District. 504.19

Policy H-1.3.1: Housing for Larger Households

Increase the supply of larger family-sized housing units for both ownership and rental by encouraging new and retaining existing single-family homes, duplexes, row houses, and three- and four-bedroom market rate and affordable apartments across Washington, DC. The effort should focus on both affordability of the units and the unit and building design features that support families, as well as the opportunity to locate near neighborhood amenities, such as parks, transit, schools, and retail. 505.8

Policy H-1.3.2: Tenure Diversity

Encourage the production of both renter- and owner-occupied housing, including housing that is affordable at low-income levels, throughout the District. 505.9

Environmental Protection

The Environmental Protection Element addresses the protection, restoration, and management of the District's land, air, water, energy, and biologic resources.

Policy E-3.2.6: Alternative Sustainable and Innovative Energy Sources

Support the development and application of renewable energy technologies, such as active, passive, and photovoltaic solar energy; fuel cells; and other sustainable sources such as shared solar facilities in neighborhoods and low- or zero-carbon thermal sources, such as geothermal energy or wastewater heat exchange. Such technology should be used to reduce GHGs and imported energy, provide opportunities for economic and community development, and benefit environmental quality. A key goal is the continued availability and access to unobstructed, direct sunlight for distributed-energy generators and passive solar homes relying on the sun as a primary energy source. 612.8

Policy E-4.1.2: Using Landscaping and Green Roofs to Reduce Runoff

Promote an increase in tree planting and vegetated spaces to reduce stormwater runoff and mitigate the urban heat island, including the expanded use of green roofs in new construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large, paved surfaces. 615.4

Environmental Protection Element

The overarching goal for the Environmental Protection Element is to protect, restore, and enhance the natural and human-made environment in Washington, DC, taking steps to improve environmental quality and resilience, adapt to and mitigate climate change, prevent and reduce pollution, improve human health, increase access to clean and renewable energy, conserve the values and functions of Washington, DC's natural resources and ecosystems, and educate the public on ways to secure a sustainable future. 601.1.

48. On January 26, 2023, OP submitted a brief report that listed corrections to its petition. The corrections were that the lot numbers for the two lots were inadvertently transposed in the site description section (Ex. 7).
49. OP appeared at the Commission's February 23, 2023 public meeting and presented the OP Setdown PowerPoint Presentation (Ex. 39). The OP PowerPoint distilled and summarized the main points made in the Petition. OP presented its Petition, the corrections and the PowerPoint presentation to the Commission at its February 23, 2023 public meeting. OP emphasized that the zoning change would implement the policy guidance of Comprehensive Plan Policy MC-2.3.7 Use of Public Sites, which reads in relevant part:
Utilize public land at ... Engine 9, and MPD 3rd District Headquarters [the Site] ... Added density at [the Site] should be used to create a significant amount of new affordable housing, establish space for cultural uses, and provide for additional public facilities... . New construction should concentrate density towards U Street
- Based on the reports and OP's testimony, the Commission decided the request was worthy of a public hearing and that it would be heard as a rulemaking case.
50. On June 16, 2023, OP submitted its hearing report (Ex. 58). The report continued to recommend that the Commission approve the requested map amendment, stating:

The Office of Planning (OP) **recommends the Zoning Commission approve the proposed map amendment to rezone Square 0157, Lots 826 and 827 from the MU-4 zone to the MU-10 Zone, and that IZ Plus apply.** This map amendment petition was submitted by OP on behalf of the Deputy Mayor for Economic Development and Planning (DMPED) and was set down by the Zoning Commission on January 23, 2023.

The rezoning responds to the new FLUM designation of Local Public Facilities/ High Density Residential /and Moderate Density Commercial; effectuates Mid-City Element Policy MC-2.3.7 Use of Public Sites, by enabling the site to have enough density and height to:

- Accommodate new facilities for the 3rd District Police and for Engine Company 9 and related services, including a larger parking facility to shelter police cars and employee vehicles that now park on neighborhood streets and grassy parking strips;

- Accommodate a significant amount of affordable housing on the site, and possibly some market rate housing atop the government facilities; and
- Not preclude the possibility of providing limited ground floor retail uses along a portion of the site's U Street frontage.
- Increase the possibility of accommodating other public cultural uses on the site.

The report expanded on this recommendation by stating the following:

II. SUMMARY

The site is located at the northeast corner of 17th and U Streets, NW and is owned by the District of Columbia government. It is occupied by the Metropolitan Police Department's (MPD's) Third District Police headquarters and by Fire and Emergency Services (FEMS) Engine Company 9 and its related uses. Both services are likely to remain on the site, but in new facilities, after any redevelopment of the property.

The map amendment is intended to implement the following 2021 revisions to the Comprehensive Plan that address the future of the site.

- Amendment 8050 to the Generalized Future Land Use Map (FLUM), which changed the site's land use designation from Local Public Facilities to a mix of Local Public Facilities/ High Density Residential /and Moderate Density Commercial. The MU-4 zoning now on the site is not consistent with the new FLUM designation.
- The Mid-City Element's Policy MC-2.3.7, Use of Public Sites, which identifies the site as one that "should be used to create a significant amount of new affordable housing, establish space for cultural uses, and provide for additional public facilities..." The site now has no housing, and the public facilities require upgrades and expansion. Any land disposition/development agreement would likely provide for retaining the public functions, with upgrades, and would require affordable housing subject to the affordability requirements in District Law 10-801. These housing affordability requirements are described in this report and exceed those of IZ Plus.

The proposed map amendment would, in balance, not be inconsistent with the Comprehensive Plan, particularly when viewed through a racial equity lens. In addition to its positive relationship to the FLUM and to Mid-City Element Policy MC 2.3.7, the map amendment would not be inconsistent with the Generalized Policy Map's classification of the site as part of both a Main Street Mixed-Use Corridor and a Neighborhood Conservation Area.

Because the property is District-owned, any future lease, disposition, or RFP would include ANC and neighborhood participation in the process and construction on the site. Depending on the ultimate development plan, the MU-10 zone's density and height maximums could permit construction of newer MPD and FEMS facilities,

over 200 affordable housing units and a larger garage for the many public and employee vehicles that now spill-over onto neighborhood streets.

Enabling the construction of both more market rate housing and affordable housing would help mitigate rising housing costs that affect households of color disproportionately. Retaining MPD and FEMS on the site would enable the retention of District public service jobs for which persons of color are actively recruited.

DMPED has led an active community outreach on the future of this site for more than a year. Prior to the setdown of the present petition the discussions have focused more on desired uses on the site and making DMPED aware of community concerns about design and impacts. Since this petition was set down, the discussions have considered the appropriate zone for the site, including both the opportunities the proposed zone would unlock, and the continued concerns about potential impacts of hypothetical project scenarios.

ANC 1B, in which the site is located, has voted to support the petition, with recommendations for the future development of the site (Exhibit 53). ANC 1C, in which the site was located until 2023, has also passed a resolution in support of similar recommendations about future development (Exhibit 49). ANC 2B, which begins across U Street from the site, has also voted to support the map amendment. As of June 5, 2023 there were 26 letters in support of the proposed zoning, 6 opposed to the proposal and 1 that transmitted comments.

The District Department of Transportation (DDOT) has filed in support of the map amendment (Exhibit 46). The Deputy Mayor for Planning and Economic Development (“DMPED”) has filed a letter of support at Exhibit 47.

51. The OP Hearing Report expanded upon the reasons for the OP request, including an expanded and more detailed analysis of its consistency with the Comprehensive Plan.
52. In the discussion of the Comprehensive Plan’s Generalized Policy Map, the OP Hearing Report expanded on the discussion included in the Setdown Report by stating:

Independent of a specific development proposal for the site, the height and density permitted by the MU-10 zone also requires the provision of a public amenity. The zone requires that 8% of the lot be devoted to a publicly accessible plaza or open space.

...

The intent of a Neighborhood Conservation Area is not to freeze a neighborhood at a point in time, but to ensure that, as a neighborhood it continues to thrive and is not compromised by incompatible development. The surrounding neighborhood is already a mix of row-houses, walk-up apartments, mid and high-rise apartment

buildings, offices, restaurants, art galleries, self-storage warehouses, churches and other cultural facilities – and the existing MPD and FEMS stations.

The MU-10 zone, particularly when an actual development on the site will go through a governmental and public review process for its uses and design, should be compatible with the variety of uses and building types that already exist in the surrounding neighborhood. The greater height and density permitted by the proposed zone should provide for flexibility to vary a future building’s massing appropriately without making it infeasible to include the preferred mix of uses on the site and without overwhelming the scale or habitability of nearby residences.

53. The OP Hearing Report also contained an updated section discussing Comprehensive Plan policies that were potentially inconsistent with the Project. It stated in relevant part:

Managing Growth and Change: Guiding Principles Guiding principle Number 11 in Framework Element Section 220.3 stresses the importance of protecting, maintaining, and improving the residential character of neighborhoods. The concern about scale must also be balanced against Comprehensive Plan Housing policies such as Guiding Principle Number 13 (Section 220.5) that states “The preservation of existing affordable housing and the production of new affordable housing, especially for low-income and workforce households, are essential to avoid a deepening of racial and economic divides in the city and must occur city-wide to achieve fair housing objectives”.

As indicated by Mid-City Policy 2.3.7, Use of Public Sites, added density at the subject site “should be used to create a significant amount of new affordable housing” and other public facilities at the site. The same policy anticipates concerns about context by emphasizing that higher densities should be concentrated along U Street and that “design strategies” should be used to visually reduce building height and bulk to provide transitions to adjacent areas.

54. The OP Hearing Report included a greatly expanded discussion of the community outreach performed to conform with the increased expectations of the revised racial equity tool that the Commission had adopted after it submitted its Setdown Report.¹² The OP Hearing Report stated:

¹² The Comp Plan was amended in 2021 to include evaluating whether zoning actions were inconsistent with the plan when viewed through a racial equity lens. In April of 2022, the Commission produced its first racial equity analysis tool (RE1) in response to the new legislation. On February 3, 2023, the Commission released a revised racial equity analysis tool (RE2) that raised their expectations for submissions from applicants regarding community outreach and engagement. The RE2 provided sample discussion questions with prompts, asking questions such as, what community would be impacted by the zoning action, what specific factors define the community, and what are past and present racial discriminations to the community and are they addressed in the application. The revised tool also requested the OP to include disaggregated race and ethnicity data in their reports, to be used as part of their evaluation on whether proposed zoning actions are inconsistent with the Comp Plan when viewed through a racial equity lens and whether they advance the District’s racial equity goals. See <https://dcoz.dc.gov/release/zc-racial-equity-analysis-tool-new>.

4. The Proposed Map Amendment in Relation to the Comprehensive Plan, as Viewed Through a Racial Equity Lens

A. Overview

Equity is conveyed throughout the Comprehensive Plan, particularly in the context of zoning, where the provision of affordable housing, avoiding displacement of existing residents, and creating access to opportunity are priorities.

The Comprehensive Plan update recognizes that advancing equity requires a multifaceted approach. While the Comprehensive Plan update addresses equity in narrower terms, such as “equitable development,” it recognizes that many areas of policy must be brought to bear on the challenge:

Equitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices that reduce and ultimately eliminate disparities while fostering places that are healthy and vibrant.... As the District grows and changes, it must do so in a way that encourages choice, not displacement, and builds the capacity of vulnerable, marginalized, and low-income communities to fully and substantively participate in decision-making processes and share in the benefits of the growth, while not unduly bearing its negative impacts. 213.7

The Implementation Element calls for “the Zoning Commission to evaluate all actions through a racial equity lens as part of its Comprehensive Plan consistency analysis”^{2501.8}. This indicates that the equity analysis is intended to be based on the policies of the Comprehensive Plan and part of the Commission’s consideration of whether a proposed zoning action is “not inconsistent” with the Comprehensive Plan, rather than a separate determination about a zoning action’s equitable impact. The Commission’s Racial Equity Tool outlines information to assist in its evaluation of zoning actions through a racial equity lens. The information for Part 1 has been provided in the preceding Comprehensive Plan analysis. The required information for Parts 2 and 3 is provided below in relation to the proposed map amendment.

Achieving equity and more specifically racial equity, requires a broad range of policies and tools, some of which fall under the zoning authorities granted to the Zoning Commission and some of which do not. Zoning Commission actions are land use and zoning focused, including the impact of decisions and developments on affordable housing, the avoidance of displacement, and the provision of access to opportunity. The broader equity goal includes public policies, budget investments, civic improvements and social services, which are typically beyond the scope of the Zoning Commission.

The Commission’s racial equity tool serves as a guide in analyzing the Comprehensive Plan and considering potential impacts of the proposal. The tool starts by asking “*What is the expected goal of the zoning action?*” and then “*What*

are the anticipated positive and negative impacts and/or outcomes of the zoning action?”.

The zoning action requested by this application is for the approval of a zoning map change from the MU-4 zone to the MU-10 zone. Overall, when evaluated through a racial equity lens, the proposed map amendment is not inconsistent with the Comprehensive Plan. The rezoning would allow the District Government to better use a property that the Comprehensive Plan has indicated is appropriate for governmental uses, high-density residential use and moderate density neighborhood-serving retail and/or service uses.

Because it is a District property, any residential use would be required to include a large affordable housing component, whether that be for families, individuals, or the elderly. The targeted action of this proposed map amendment would support equitable development while contributing to the increase in the affordable housing supply within the Mid-City Planning Area.

The site is close to transit. The direct and easy connections to other parts of the city for work, service and recreation have the potential to benefit populations of color who on average have lower incomes, and lower homeownership rates than white residents, and who, in other locations, are distant from many amenities.

B. Equity Tool, Part 2 – Petitioner Community Outreach and Engagement

Types of Communities

- *What community may be impacted by the requested zoning action; what that impact might be; and who might benefit or be burdened by the requested zoning action.*
- *Whether there are present conditions and challenges in the community that are the result of past and/or current discrimination, and what ongoing efforts are there to address any negative impacts of discrimination*

The general community is the Mid-City Planning Area. The specific neighborhoods that might be impacted are the Strivers’ Row historic district, the U Street corridor and the adjacent neighborhoods in northern Dupont Circle and southern Adams Morgan. The Mid-City Planning Area was long impacted by racial covenants which also, in the vicinity of the subject site, had the perhaps unintended result of fostering one of the more thriving African American communities in the District. What is now the Strivers’ Row historic district was a predominantly Black residential area, developed in part with African American investment, and the 1600 block of U Street was at the western end of what became a predominantly Black business and entertainment corridor. The area was negatively impacted by civil disturbances in the late 1960’s but has regained its health since then. However, as the data in the appendix indicates, the percentage of Black residents in the Mid-City area is slowly declining and the area near the subject site is not an exception. With a relatively

static nearby housing supply, particularly west of 16th Street, there has been upward pressure on housing prices which, given the negative difference between incomes of households identifying as Black and those identifying as White, has contributed to a decline in the percentage of the neighborhood's residents who identify as Black.

Demographically, because of the laws governing the disposition of District land, and because IZ Plus would be required, the proposed zoning would enable future residential development that would benefit moderate- and lower-income District residents who, in the Mid-City area, are preponderately Black. With the property being District owned, and there being a clear preference in the Comprehensive Plan that the site be used for affordable housing as well as public facilities, at least 30% of any residential development would have to be reserved for affordable units. For rental housing, 25% would be for very low-income households, with the remainder for low-income households. Neither group would pay more than 30% of their income towards housing costs.

At this time it is somewhat difficult to assess what the physical impact of the proposed zone change might be on the nearby neighborhood. This is because the requested action would only establish new permission and limits on what might be developed in the future. The actual potential impact could not be fully assessed until there is a specific development proposal. It is clear, however, that the requested zone change would permit a larger and taller building on the site. Depending on height and setbacks, this may result in increased shadowing during the winter on the north side of V Street and its two story rowhouses. Again, depending on height, design and use it is possible that there may be morning shadows cast onto buildings facing the west side of 17th Street between U and V Streets, possibly up to Florida Avenue during winter months. To the extent the potentially affected buildings have been historically occupied by Black residents, it is possible that some residents may view the impact of a taller building in a context of past discrimination.

Past and Present Racial Discrimination/ Harm to the Community

The neighborhood close to the site has experienced less racial discrimination than many area others of Northwest Washington. Beginning in the last quarter of the 19th century and continuing into the first three-quarters of the 20th century the area now designated as the Strivers' Row historic district, and the northern portion of the Dupont Circle neighborhood became home to many of the District's more prominent African-American leaders. There were also blocks of smaller row houses that accommodated households of more modest means. U Street itself became a prominent venue for African-American oriented commerce and entertainment, particularly east of 16th Street

This is not to say there have not been racial disparities, particularly in the larger Mid-City Planning Area. As noted in Table 6, the median household income of residents identifying as Black or African American alone is approximately 36% of the household income of those identifying as White -alone.

Community Outreach, Engagement and Participation in Decision Making

- *The type of community outreach effort and how the characteristics of the community influenced the outreach.*
- *The community's priorities and the impact the requested Commission action might have on them, as well the applicant's response to those priorities, including any planned mitigation of potentially negative consequences.*

The Office of the Deputy Mayor for Planning and Economic Development has been engaged since the Winter of 2022 with the community about the future development of this site. The engagement log attached as Appendix B to this report lists 40 meetings and conversations DMPED staff has had with ANCs, community groups or residents since then. OP has also met with residents living primarily to the west and north of the site. Both DMPED staff and OP staff have had numerous individual telephone or e-mail conversations with community members. This does not include the 37 reports or comments filed to the record of this case by ANCs or individuals as of June 8, 2023.

Community Priorities and Impact on Zoning Action

- *ANC 1B, in which the site is located, has voted to support the petition, with recommendations for the future development of the site Exhibit 53.*
- *ANC 1C, in which the site was located until 2023, has also passed a resolution in support of similar recommendations about future development Exhibit 48 and Exhibit 49.*
- *ANC 2B, which begins across U Street from the site, has also voted to support the map amendment. Exhibit 43*
- *As of June 8, 2023 there were 26 letters in support of the proposed zoning, 7 opposed to the proposal and 1 that transmitted comments without stating a position on the case.*

All ANC resolutions and a significant majority of community comments have favored the proposed rezoning, citing the opportunity the proposed zone's density and dimensional maximums would give for improving facilities for existing District agencies while enabling the provision of a significant amount of affordable housing and, possibly, neighborhood-serving library space.

ANC resolutions have also stressed the need for the design of a future development to respect the scale of the historic district adjacent to the western and northern boundaries of the site, the need for transparency and community participation in any RFP process.

When the disposition process starts for the site's District-owned land there will be opportunity for the community to work with the District and a future developer on mitigating any potentially negative physical impacts. The proposed MU-10 zone

requires 8% of the site to be devoted to a plaza which may help to mitigate physical impacts.

Differing community priorities have yet to be resolved with respect to the application. On the one hand some community members are concerned about potential increases in height and density. On the other hand, other community members are in favor of the proposed zone because it would make practicable a building that could accommodate new facilities for the police and FEMS, along with a significant amount of affordable housing. The zone also calls for the provision of a public plaza and the zone's density may make it feasible to incorporate retail or cultural uses into the building as well as the police/FEMS facilities and the housing.

Some individuals have suggested it would be more appropriate for the site to have a less intense zone, such as MU-7, on all of the site, or at least on the sections along 17th Street and V Street. With respect to the petitioner's response, OP, on behalf of DMPED, has not explored this for two reasons:

- The clear direction set by the Council when it decided to amend an earlier Comprehensive Plan / FLUM-update to cover the entire site within the same Residential High Density / Commercial Moderate Density and Local Public Facilities striping.
 - Subtitle G Section 400.9 of the Zoning regulations states that the MU-10 zone is intended to permit medium to high-density mixed-use development, while Section 400.6 states that the MU-7 zones are intended to permit [only] medium-density mixed use development. mixed-use development.
- The difficulty that a less dense zone would have in enabling the simultaneous realization of the following objectives, several of which are explicitly called for on this site in Mid-City Element policies:
 - The retention and improvement of the existing MPD and FEMS facilities, the latter of which requires higher than typical ceiling heights;
 - The accommodation of open-air District government fueling facilities above which development could not happen;
 - The undergrounding and expansion of MPD and FEMS parking in order to remove related parking from peripheral public and nearby residential streets, and to possibly free-up street-level space along U Street for other public, cultural or retail uses;
 - The provision of some open space for public use; and, importantly,
 - The construction of a significant number of affordable housing units in either a mixed market rate and affordable development or in an all affordable development.

C. Part 3: Disaggregated Racial and Ethnic Data

... [data tables omitted for brevity]

- *Is the area on track to meet the Mayor's 2025 affordable housing goal?*

The 2019 Housing Equity Report identified the Planning Area as having an affordable housing production goal of 1010 units by 2025. The most recent projections under the Executive Summary of the 2023 DC Comeback Plan are shown in the table below including that the Planning Area is projected to exceed its 2025 housing production goal. The Planning Area has produced 788 units since 2015. (<https://open.dc.gov/36000by2025/>).

...

- *Is there other data about the existing demographics of the area that is relevant to the proposed zoning action?*

Socioeconomic data indicates that the Mid City area has a 10.6% poverty rate with the Black and Native American population at a 26.5% and 31.5% poverty rate respectively. The poverty rate and unemployment rate combined indicate that the map amendment's increase in potential maximum density could have a positive impact on these indicators since there would be more opportunity for employment and for affordable housing on the site. Any developer of a District-owned property would have to enter into a First Source Agreement to employ District residents.

- *Are there vulnerable or special populations such as seniors, children, and/or persons with disabilities that are identifiable based on the available data?*

Data indicates that working age adults with disability for the planning area is at 6.5%. However, the Native American and Black population have the highest combined percentage (37.7% + 13.1% = 50.8 %) within this category.

- *What do available data sources show about the intersectionality of factors such as race, ethnicity, age, income, gender, or sexual orientation within the area of the zoning action and how might the zoning action impact the intersection of those factors?*

The Comprehensive Plan states that “residents of color are a majority of lower-income households in the District and, therefore, face a disproportionate share of the problems caused by housing insecurity and displacement” (10-A DCMR § 206.4).

The District's Upward Mobility Action Plan (June 2022) noted the following: *“Residents with lower incomes have not benefited as much from the District's economic growth as residents with higher incomes. This challenge exists because most residents with lower incomes do not have college degrees, which are required for many of the District's highly paid jobs. As a consequence, residents with lower incomes have difficulty finding housing they can afford because of the growing number of residents with high incomes are paying a premium for housing near jobs, transit, shops, restaurants, education, healthcare, and entertainment venues” (Why Upward Mobility is Important - Page 4 Item (1))*

In the District of Columbia, many households with incomes below 60% of the regional median family income (MFI) have difficulty finding housing that they can

afford. Analysis of ACS data demonstrated that about a third of District households are housing cost burdened. This means that they spend more than 30% of their total household income on housing. (Why Upward Mobility is Important, Page 5)

The rising cost of housing limits the ability to provide housing for a variety of household types, including family and senior housing, rental and ownership housing, and housing for all income levels. Given the District’s land use characteristics only a small amount of the total land area (28.1 percent) is dedicated to residential use (10-A DCMR § 205.3). Scarcity of land increases cost of building new housing, limits availability of housing, and intensifies housing cost burdens, particularly for lower- and middle-income households. Thus, addition of housing units in this area would still help to reduce the burden for lower-income households, particularly in desirable or high opportunity neighborhoods.

The affordability, stability, and location of housing shapes the physical, emotional, and mental wellbeing of District residents. When neighborhoods have higher economic opportunities, less economic and racial segregation, and improved built environments, they foster improved physical and mental health for both adults and children. (Why Equitable Housing Matters, page 1323, 24, 25))

When high-opportunity neighborhoods lack affordable housing or when areas with affordable housing lack neighborhood services and amenities, low-income residents are excluded from important social and economic opportunities of those healthy neighborhoods. Perhaps most importantly, when low-income residents can move or afford to live in high-opportunity neighborhoods, they thrive. Affordable housing is defined as housing available to households earning 80 percent or less of the median family income (“MFI”) (§ 304.3). The IZ program requires affordable housing units to be available to households earning no more than 60 percent of the MFI for rental housing or 80 percent of the MFI for ownership housing. According to the Income Limits by Percent of Median Family Income provided by DHCD, shown in the table:

...

A moderate-income family of 4 at 80% MFI falls within a much lower household income (\$97,050) category than the planning area’s median income (\$113,534) and the Ward (\$110,457). A white household’s median income well exceeds the median at \$150,563 and a black household median income is at \$54,172, which falls within the 50% MFI or 60% MFI for a single person household. DC has one of the highest white to Black median income gaps (~3x) of major US cities. Households that pay more than 30% of income on housing are burdened, and more than 50% of income are severely burdened.

D. Part 4: Zoning Commission Evaluation Factors

According to the Racial Equity Tool, the Commission will use the following criteria, themes and questions, along with data provided in its evaluation of a zoning action’s consistency with the Comprehensive Plan, as viewed through a racial equity lens. As

demonstrated above, the proposed map amendment would advance many of the policies related to racial equity in the provision of housing, job creation, the advancement of arts and culture and assist in the revitalization of an underserved area.

The table below addresses themes/questions based on Comprehensive Plan policies related to racial equity, that are anticipated to have positive or negative impacts and/or outcomes as a result of the proposed map amendment.

Table 9: Zoning Commission Racial Equity Tool Factors

Factor	Question	OP Response
Direct Displacement	Will the zoning action result in displacement of tenants or residents?	The proposed amendment would not result in physical displacement of residents as the site does not currently include a residential use. The density gained in increased residential use permission on the site would provide an opportunity for additional housing and affordable housing opportunities in the area.
Indirect Displacement	What examples of indirect displacement might result from the zoning action?	OP does not anticipate indirect displacement as a result of this zoning action.
Housing	Will the action result in changes to: <ul style="list-style-type: none"> ▪ Market Rate Housing ▪ Affordable Housing ▪ Replacement Housing 	The map amendment would allow the provision of affordable housing and market rate housing , likely above ground level and second level District and other uses.
Physical	Will the action result in changes to the physical environment such as: <ul style="list-style-type: none"> ▪ Public Space Improvements ▪ Infrastructure Improvements ▪ Arts and Culture ▪ Environmental Changes ▪ Streetscape Improvements 	The proposed action would create the opportunity for new construction and physical changes to the site. That would be dependent on a subsequent RFP and project for the site.
Access to Opportunity	Is there a change in access to opportunity? <ul style="list-style-type: none"> ▪ Job Training/Creation ▪ Healthcare ▪ Addition of Retail/Access to New Services 	The zoning action would incentivize development that would lead to the retention of public sector jobs on the site, a temporary increase in construction jobs and, likely, a permanent increase in jobs to manage new residential units. Depending on the post RFP-proposal there may also be space for additional retail on U Street.
Community	How did community outreach and engagement inform/change the zoning action? <ul style="list-style-type: none"> ▪ (e.g., did the architectural plans change, or were other substantive changes made to the zoning action in response to community input/priorities etc.?) 	This is discussed in more detail above, under Racial Equity tool 2.

55. The OP Hearing Report concluded its Comprehensive Plan analysis by stating:

E. Summary of Planning Context Analysis

The map amendment would not be inconsistent with the Comprehensive Plan. The proposed zone change would implement the FLUM and Policy Maps and the

Comprehensive Plan policies cited in this report, when viewed through a racial equity lens. The increase in density would make it possible for the site to contain a greater mix of uses, more affordable housing and – possibly – more market rate housing, improved public facilities and new amenities. The final impact of the proposed zone change would be dependent on the final uses on the site and the design of the building(s) containing them. Because this is a District property, that outcome would be determined only after public consultation and review. The future development that would be enabled by the proposed zone would help the District attain its overall affordable housing pipeline goals and help the Mid-City Planning Area exceed its minimum goal of having six percent of its housing stock be affordable units by 2025.

56. Attached as an Appendix B to the OP Hearing Report was an index of community outreach performed by the Petitioner, updated through June 7, 2023. It stated the following:

06/05/23 DMPED staff (DL) spoke with a community member (neighborhood resident Akel) to answer questions about the project.

05/30/23 DMPED staff (DL) communicated with ANC 1C Planning, Zoning, and Transportation Committee member, and SMD 1C05 commissioner (Commissioner Stevens), regarding DMPED’s planned RFP.

05/18/23 DMPED staff (DL) communicated with ANC 1C Planning, Zoning, and Transportation Committee member, and SMD 1C05 commissioner (Commissioner Stevens), regarding DMPED’s planned RFP and project design.

05/17/23 DMPED staff (DL) appeared before ANC 1C’s Planning, Zoning, and Transportation Committee to discuss DMPED’s planned RFP, OP’s zoning application, and community engagement.

05/17/23 DMPED staff (DL) communicated with ANC 1C Planning, Zoning, and Transportation Committee member, and SMD 1C05 commissioner (Commissioner Stevens), regarding DMPED’s planned RFP, the District’s process for land disposition, and community engagement.

05/16/23 DMPED staff (DL) communicated with a community member (neighborhood resident Jones) to answer questions about DMPED’s planned RFP.

05/16/23 DMPED staff (DL) and OP staff (JL + SC) spoke with ANC 1C Planning, Zoning, and Transportation Committee member, and SMD 1C05 commissioner (Commissioner Stevens), regarding ANC resolution, DMPED’s planned RFP, OP’s zoning application, and community engagement.

05/15/23 DMPED staff (DL + JM) spoke with 3 members of fire department staff (FEMS Engine Company 9), 3 members of police department staff (MPD 3rd District), and 3 neighbors (residents Mousavi, Jones, Seaborn) while installing signs for the zoning hearing at the site. Topics discussed include signs, timelines, ANC meetings

and resolutions, DMPED's planned RFP, OP's zoning application, setbacks and other zone requirements, historic context, and community engagement.

05/12/23 DMPED staff (DL) spoke with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding ANC resolutions, DMPED's planned RFP, OP's zoning application, and community engagement.

05/08/23 DMPED staff (DL) communicated with a community member (neighborhood resident Akel) to relay letter from the Interim Deputy Mayor in response to questions about DMPED's planned RFP.

04/24/23 DMPED staff (DL) communicated with a community member (neighborhood resident Jones) to answer questions about OP's zoning application, ANC resolutions, and DMPED's planned RFP.

04/20/23 DMPED staff (DL) spoke with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding ANC resolution, zoning, and community engagement.

04/11/23 DMPED staff (DL) appeared before ANC 2B (full board) to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

04/10/23 DMPED staff (DL) communicated with a community member (Yates) to answer questions about DMPED's planned RFP.

04/06/23 DMPED staff (DL) appeared before ANC 2B's Land Use Committee to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

04/06/23 DMPED staff (DL) communicated with a community member (neighborhood resident Shelby) to answer questions about the project including, in particular, how to submit written testimony to the ZC.

04/04/23 DMPED staff (DL) joined ANC 1B (full board) meeting prepared to discuss DMPED's planned RFP, OP's zoning application, and community engagement (in this instance, no questions were asked of DMPED).

04/04/23 DMPED staff (DL) communicated with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding community goals and concerns.

03/20/23 DMPED staff (DL) communicated by email with three ANC 1B commissioners (Commissioners Handerhan, Kensek, and Fields) and by phone with one ANC 1B commissioner (Commissioner Kensek) regarding local civic associations, community goals and concerns, and DMPED's planned RFP.

03/20/23 DMPED staff (DL) communicated with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding DMPED's March Madness event and the RFP.

03/20/23 DMPED staff (DL) communicated with a community member (neighborhood resident Akel) regarding the site's history and past work on the fire station.

03/16/23 DMPED staff (DL) communicated with a community member (neighborhood resident Holden) to receive comments and answer questions about the ANC meetings, zoning, and RFP.

03/16/23 DMPED staff (DL) appeared before ANC 1B's Economic Development Committee to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

03/16/23 DMPED announced further details regarding the property and RFP at its annual March Madness event. DMPED staff (DL) present and available to speak with members of the public about the property and RFP.

03/15/23 DMPED staff (DL) appeared before ANC 1C's Planning, Zoning, and Transportation Committee to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

03/13/23 OP staff (Steve Cochran, Zoning & Special Projects Planner) met with neighbors (approximately 20 in total) in a special meeting (organized by neighborhood resident Akel) to discuss the zoning application.

03/13/23 DMPED staff (DL) spoke with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding RFP timing, process, and community engagement.

03/13/23 DMPED staff (DL) communicated with a community member (neighborhood resident Shelby) to answer questions about the project including, in particular, how to submit written testimony to the ZC.

03/09/23 DMPED staff (DL) spoke with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding RFP timing, process, and community engagement.

03/06/23 DMPED staff (DL) spoke with a community member (neighborhood resident Akel) to answer questions about the project.

02/27/23 DMPED staff (DL) communicated with a community member (Yates) to answer questions about DMPED's planned RFP.

02/17/23 DMPED staff (DL) communicated with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner

Handerhan) to answer questions about the project including, in particular, how and when to submit written testimony to the ZC.

02/16/23 DMPED staff (DL) appeared before ANC 1B's Economic Development Committee to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

02/16/23 DMPED staff (DL) spoke with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) regarding RFP timing, process, and community engagement.

02/08/23 DMPED staff (DL) spoke with a community member (neighborhood resident Akel) to answer questions about the project.

02/08/23 DMPED staff (DL) communicated with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) to answer questions about the project including, in particular, the process and timing for a zoning hearing and how and when to submit written testimony to the ZC.

02/07/23 DMPED staff (DL) communicated with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) to answer questions about the project including, in particular, the process and timing for a zoning hearing and how and when to submit written testimony to the ZC.

02/01/23 DMPED staff (DL) appeared before ANC 2B's Land Use Committee to discuss DMPED's planned RFP, OP's zoning application, and community engagement.

12/19/22 DMPED staff (project manager DL) communicated with ANC 1B Vice Chair, Economic Development Committee Chair, and SMD 1B01 commissioner (Commissioner Handerhan) and a fellow commissioner, SMD 1B07, regarding RFP timing and process.

07/14/22 Surplus hearing (public hearing conducted by DMPED with notice to ANC and DC Register one month earlier).

05/02/22 DMPED staff (AF) spoke with a community member (neighborhood resident Akel) to answer questions about the project.

04/11/22 DMPED staff (AF, EE) spoke with ANC 1C Chair and SMD 1C08 commissioner (Commissioner Clem) regarding RFP timing, process and community engagement.

03/25/22 DMPED announced its intention to RFP the property at its annual March Madness event. DMPED staff (project manager AF) present and available to speak with members of the public about the property and RFP.

57. OP submitted its first supplemental report (Ex. 167). This report recommended that the Commission should re-advertise and re-notice, as a contested case, the proposed map amendment. At the public hearing held on June 26, 2023, the Commission declined to hear the merits of the map amendment case and instead voted to re-set down the proposal as a contested case, and required new public notice, consistent with OP's recommendation.
58. OP provided a second supplement to its hearing report (Ex. 358). This second supplement continued to recommend that the Commission approve the proposed map amendment from MU-4 to MU-10 with Inclusionary Zoning Plus ("IZ+"). OP added a recommendation that the Commission delay taking final action until OP brings forward a separate text amendment case to establish a building height transition setback requirement. The purpose of the setback would be to address concerns from the public about the maximum permitted height along V Street, N.W. under the proposed MU-10 zone and the potential impact a future building may have on surrounding residential uses. The report stated that OP reviewed the case record to date and heard from members of the public indicating concerning about the maximum permitted height along V Street, N.W. under the proposed MU-10 zone and the potential impact a future building may have on surrounding residential uses. To address these concerns, OP proposed to bring forward a separate text amendment that would require a building height transition setback for the subject property along V Street, N.W. and the neighboring row houses to the east. This would reduce the overall bulk of any future building by limiting the maximum height of a building to 60 feet for the first 40 feet of lot depth as follows:
- Require a building height transition setback along V Street, NW whereby a building would be limited to a maximum height of 60 feet for the first 40 feet of lot depth as measured from the lot line along V Street, NW; and
 - Require a building height transition setback along the rear of lots 24 through 29 in Square 175 whereby a building would be limited to a maximum height of 60 feet for the first 40 feet of lot depth as measured from the subject property's property line adjacent to the public alley separating the subject property from the rear of lots 24 through 29.¹³
59. OP submitted a copy of its hearing presentation (Ex. 568).
60. OP testified in support of the Application at January 8, 2024 hearing. OP was extensively cross-examined. The cross-examination of OP continued on January 18, 2024.
61. At the close of the hearings, OP submitted a written closing statement per the Commission's request (Ex. 696). The closing statement stated that the Application:
- ... is intended to implement the 2021 revisions to the Comprehensive Plan that address the future of the site.

¹³ The Commission eventually approved the text amendment, but after it was modified to remove the building height transition setback along V Street, which was no longer needed after OP modified this Application to reduce the size of the map amendment area and retained the existing MU-4 zoning on V Street to a depth of 80 feet.

- Amendment 8050 to the Generalized Future Land Use Map (FLUM), which changed the site's land use designation from Local Public Facilities to a mix of Local Public Facilities/ High Density Residential /and Moderate Density Commercial. The current MU-4 zoning on the site is not consistent with the new FLUM designation.

...

Because the property is District-owned any future lease, disposition or RFP would include ANC and neighborhood participation in the process and in the design of future construction on the site. Depending on the ultimate development plan, the MU-10 zone's density and height maximums could permit construction of newer MPD and FEMS facilities, affordable housing units and a larger garage for the many public and employee vehicles that now spill-over onto neighborhood streets.

The Closing statement said the rationale for the map amendment was:

The site is currently within the MU-4 zone which is described as a moderate density mixed use zone. and is not consistent with the revised FLUM designation for high density residential, moderate density commercial and local public facilities. (FLUM change 8050).

Section 400.3 of the Zoning Regulations states that *the MU-4 zone is intended to*

- (a) Permit moderate-density mixed-use development;*
- (b) 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*
- (c) 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.*

The existing and proposed uses for the site do not comport with these purposes. The FLUM indicates the site should permit mixed use density with a residential component exceeding moderate density. The existing and proposed uses include a substantial portion of local government uses. The Zoning Regulations state that the MU-4 zone is appropriate for low and moderate density residential areas. The site is in a moderate to medium density mixed use area that includes commercial uses and housing types that range from row-houses to moderate and medium density apartment buildings up to 8 and 9 stories tall.

The proposed MU-10 zone is intended to:

400.9

- (a) Permit medium- to high-density mixed-use development with a balance of uses conducive to a higher quality of life and environment for residents, businesses, employees, and institutions;*
- (b) Be applied to areas where a mixture of uses and building densities is intended to carry out elements of the Comprehensive Plan, small area plans, or*

framework plans, including goals in employment, population, transportation, housing, public facilities, and environmental quality;

(c) Require a level of public space at the ground level; and

(d) Allow residential and non-residential bulk to be apportioned between two (2) or more lots in the same square.

The MU-10 zone ... would permit both the density and the mix of uses the Comprehensive Plan envisions for the site, including public uses at the ground level.

More specifically, OP is recommending the MU-10 zone to:

- Respond to the new FLUM designation; and
- Effectuate Mid-City Element Policy MC-2.3.7 Use of Public Sites by enabling the site to have enough density and height to:
 1. Accommodate new, superior facilities for the 3rd District Police and for Engine Company 9 and related services, including a larger parking facility to shelter police cars and employee vehicles that now park on neighborhood streets and grassy parking strips;
 2. Make it economically feasible to construct a significant amount of affordable housing on the site, and possibly some market rate housing atop the government facilities; and
 3. Not preclude the possibility of providing limited ground floor retail uses along a portion of the site's U Street face.

The closing statement further stated that:

IZ Plus AND DC LAW 10-801

11DCMR Subtitle X § 502 (b) presumes that IZ Plus will apply to a map amendment “that allows a higher maximum FAR, both exclusive of the twenty percent (20%) IZ bonus density, if applicable” except as provided for in Section 502.2:

The property is owned by the District, and any disposition and development of the property will be subject to affordability requirements of District Law 10-801. Under that law, at least 30% of the units would be affordable, since the subject property is within a half-mile of the U Street/African American Civil War Memorial and a quarter mile of a WMATA Priority Network Metrobus Route (“S” Routes on 16th Street).

In addition, for rental units, at least 25% would be for very low-income residents, who would pay no more than 30% of their income towards housing costs. The remainder would be for low-income residents who would pay no more than 30% of their income towards housing cost. In the case of homeownership units, 50% would be for residents who pay no more that 30% towards housing and the remaining 50%

would be for moderate-income household who would pay no more that 30% of their income towards housing.

IZ Plus requires a higher affordable housing set-requirement than Regular IZ and prescribes a set-aside requirement based on either:

- a sliding-scale that is correlated to the total floor area built, or
- the amount of IZ bonus density built.

The requirements under DC Law 10-801 exceed the requirements of IZ Plus, which requires that 18% to 20% of the residential square footage be reserved for housing affordable to households earning 60% of the MFI for rental units and 80% MFI for ownership units. Nevertheless, out of an abundance of caution, OP recommends the rezoning is appropriate for IZ Plus because:

- The proposed map amendment would allow a higher maximum FAR than the existing zone and IZ Plus is designed to apply to such situations;
- The neighborhood surrounding the site, and Ward 1 in general has existing deficiencies in affordable housing. (See page 15 of this report);
- Ward 1 had a median rent of \$1,803 in 2019, exceeding the District-wide median of \$1,603.

COMPREHENSIVE PLAN EVALUATION

The Comprehensive Plan states that areas designated for high density residential use would typically have densities greater than 4.0 FAR and that greater density may be possible if developed with Inclusionary Zoning. (227.8) For Moderate Density Commercial designations densities between 2.5 and 4.0 FAR would be typical, with additional density for developments with Inclusionary Zoning (227.8).

The Framework Element suggests that it is appropriate to co-locate non-governmental and governmental uses on a site that includes a Local Public Facilities designation (227.17) and that Area Elements may also provide detail on the specific mix of uses envisioned” (227.21). In this instance the Mid-City Element (Policy MC-2.3.7 Use of Public Sites) specifies that the subject site shall accommodate governmental use, “continue the history of U Street as a Black business corridor” and include additional density to accommodate affordable housing and other uses.

The subject site is designated as being appropriate for a mix of all of these uses, with the residential use (high density) having the greatest emphasis. “*The general density and intensity of development within a given Mixed Use area is determined by the specific mix of uses shown*”. The MU-10 zone’s 7.2 FAR density maximum and 100-foot height limit could accommodate the vehicle-intensive MPS and FEMS uses, a significant amount of affordable housing, and the retail uses consistent with U Street traditions and be not inconsistent with the Comprehensive Plan.

The Guidelines for Using the Generalized Policy Map and the Future Land Use Map in the Framework Element state that the “*Generalized Policy Map and Future Land Use Map are intended to provide generalized guidance for development and conservation decisions and are considered in concert with other Comprehensive Plan policies.*” Additionally, “*the zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements.*”

Generalized Future Land Use Map (FLUM)

The District of Columbia Comprehensive Plan (the "Comprehensive Plan") guides the District's development, both broadly and in detail, through maps and policies that establish priorities, key actions, and assumptions about the future of development, 10A DCMR §§ 103.2 and 103.3. The site is designated as High Density Residential, Moderate Density Commercial, and Local Public Facilities on the Future Land Use Map of the Comprehensive Plan.

The Comprehensive Plan designates a portion of the site fronting U Street as Mixed Use.

The existing MU-4 zoning permits a maximum overall density of 3.0 FAR (with IZ) and a building height of 50 feet. These limits would make it difficult to rebuild and expand the existing MPD and FEMS facilities and parking garage and construct a substantial amount of housing and affordable housing above with a potential retail along U Street. The greater flexibility provided by the MU-10 zone is therefore appropriate given the 2021 FLUM designation, the emphasis the Comprehensive Plan places on developing affordable housing on District-owned land, and the development program anticipated for the site.

Generalized Policy Map

The Generalized Policy Map indicates that the southern half of the property, along U as being within the U Street Main Street Mixed Use Corridor. The northern half, along V Street, is designated as a neighborhood conservation area.

Main Street Mixed Use Corridors are traditional commercial business corridors with a concentration of older storefronts along the street. The area served can vary from one neighborhood (e.g., 14th Street Heights or Barracks Row) to multiple neighborhoods (e.g., Dupont Circle, H Street, or Adams Morgan). Their common feature is that they have a pedestrian-oriented environment with traditional storefronts. Many have upper-story residential, or office uses. Some corridors are underutilized, with capacity for redevelopment. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment. 225.14

Existing development on the site does not enhance the U Street Main Street Mixed-Use Corridor. The U Street frontage has only the blank side of a parking garage and

the open bays of the FEMS station. There is no possibility for the pedestrian-oriented uses cited for such a corridor in the Comprehensive Plan. The MU-10 zone would permit enough height and density for a development that could accommodate the needs of MPD and FEMS while freeing up some U Street frontage for retail or other neighborhood-serving uses. The height and density permitted by the recommended zone would also enable future development to be responsive to the surrounding neighborhood character.

Neighborhood Conservation Areas have little vacant or underutilized land. They are generally residential in character. Maintenance of existing land uses and community character is anticipated over the next 20 years. 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 over current (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. Neighborhood Conservation Areas that are designated “PDR” on the Future Land Use Map are expected to be retained with the mix of industrial, office, and retail uses they have historically provided. 225.4

*The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, **but not preclude development, particularly to address city-wide housing needs.** 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.** Areas facing housing insecurity (see Section 206.4) and displacement should emphasize preserving affordable housing and enhancing neighborhood services, amenities, and access to opportunities. 225.5*

The Neighborhood Conservation designation on the northern portion of the site should not be read to preclude development. There is a direct link to the Future Land Use Map as highlighted above. As an approach “...to managing context-sensitive growth...” called for in the definition of Neighborhood Conservation Area, OP has proposed significant setbacks along V Street and adjacent to existing building on U Street through ZC Case 23-26.¹⁴

¹⁴ The Commission again notes that the building setback along V Street was eliminated from the 23-26 case after OP reduced the size of the map amendment area in this case and retained the existing MU-4 Zoning along V Street to a depth of 80 feet.

62. At the close of the final hearing, the Commission also requested that OP respond to several questions.

Other Zones

- The appropriateness and compatibility of less intensive other zones in terms of height and density, than the proposed MU-10 zone;
- Why such less intensive other zones would also not be "not inconsistent" with the Comprehensive Plan; and
- The potential amount of housing, both market-rate and affordable, which would be generated by each other zone.

Two Zones

The Commission further requested that OP consider split-zoning the site, more particularly, to consider:

- For the northern portion of the site fronting V and Seaton streets, consider a less intensive zone than the proposed MU-10 zone along U Street, in consideration of the policy map designation of "neighborhood conservation" and where there would be more compatibility with the existing lower height/density 2-story rowhouses across V and Seaton streets.

Indirect Displacement

Third, the Commission asked OP to address whether rezoning would lead to indirect displacement.

63. OP submitted its responses in a third supplemental report (Ex. 700). It stated as follows:

“At the close of the public hearing the Zoning Commission requested the following supplemental information from the Office of Planning.”

...

In response to the Commission’s question about the appropriateness and compatibility of less intensive other zones in terms of height and density, than the proposed MU-10 zone, OP stated as follows:

Zone	Height (ft)	Density (FAR)	Zoning Density Description
MU-10	90 100 (IZ)	6.0 7.2 w/IZ	Medium to high density
MU-8	70 70 (IZ)	5.0 6.0 w/IZ	Medium density
MU-5A	65 70 (IZ)	3.5 4.2 w/IZ	Medium density
MU-4	50 50 (IZ)	2.5 3.0 w/IZ	Moderate density

The alternate zones, MU-8 and MU-5A would still be considered “not inconsistent” with the Future Land Use Map designation for mixed use high-density residential/moderate density commercial and Local Public Facilities. They both allow

a moderate density commercial and a high-density residential density and accommodate local public facilities; the Comprehensive Plan defines high density residential as being typically greater than 4.0 FAR (227.7).

If used for the entire site, the MU-4 zone would not be consistent because it has a maximum density of 3.0 which does not accommodate high-density residential. However, if used in combination with another medium mixed-use zone the site, on balance, the site’s zoning could be consistent with the FLUM and the General Policy Map’s designation of Neighborhood Conservation along the northern portion of the site.

The following table represents approximate market rate and affordable dwelling units that could result from the various zones and split-zone options. The assumptions used for these calculations are listed below the table.

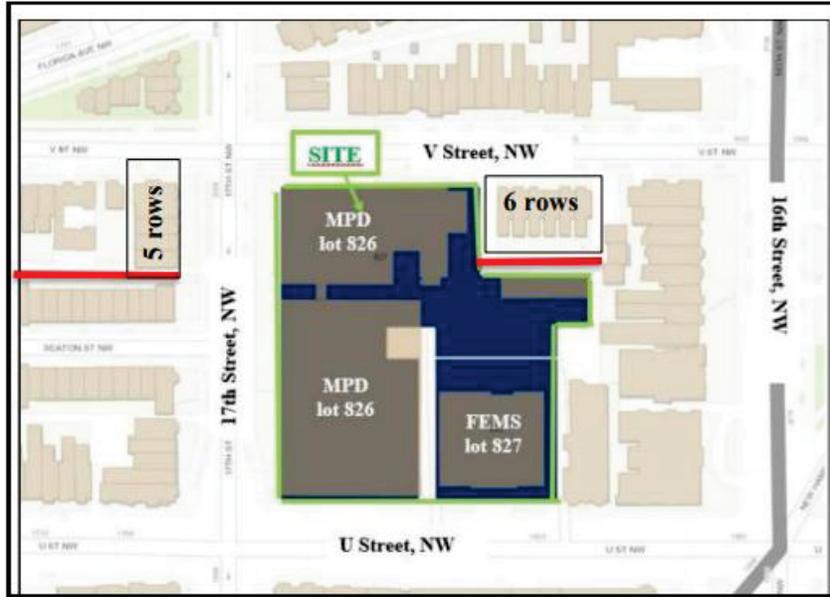
Option	Without Set/Step-Backs		With Set/Step-backs		Diff from MU-10 proposal	
	DU	Af DU (30%)	DU	Af DU (30%)	DU (less)	Af DU
Proposed MU-10	538	161	523	157		
MU-8 for entire site	342	103	334	100	-204	-61
MU-5A for entire site	274	82	267	80	-271	-81
MU-4 for entire site	171	51	171	51	-367	-110
Split MU-10 and MU-8	445	134	431	129	-106	-32
Split MU-10 and MU-4	377	113	363	109	-175	-52
Split MU-8 and MU-4	274	82	265	80	-272	-81
Split MU-5A and MU-4	219	66	210	64	-328	-328

Assumptions:

- Estimates based on "stories", but with the matter-of-right FAR not exceeded;
- Estimated one double height (20 ft. tall) story for non-residential ground floor civic uses;
- Estimates based on 100% lot occupancy (other than 8% plaza space in MU-10) for ground floor and 80% lot occupancy for residential floors above;
- Step-back refers to the 40 foot V Street step-back as proposed, and Setback refers to the east lot line setback of 12 ft. as proposed; and
- Estimates assume 1,000 sq.ft. / unit gross floor area.

Two Zones

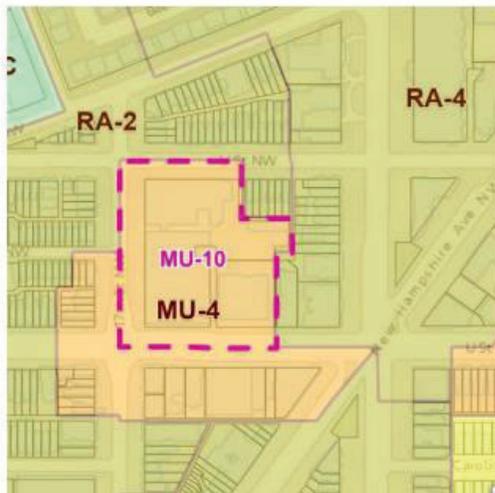
In response to the Commission’s question about split-zoning the site, the OP stated as follows:



The six rowhouse lots to the east of the MPD parcel are eighty feet (80 ft). deep and extend from V Street, NW to a ten-foot wide alley that runs parallel to V Street. The five rowhouses across 17th Street, NW are each 16 feet wide for a total length of eighty feet (80 ft). and extend from V Street, NW to a ten-foot wide alley that runs parallel to V Street. The red line shown on the map above indicates the location of the ten-foot wide alleys.

The property on the north side of V Street is in the RA2, Moderate-density residential apartment zone. While the existing rowhouses are two stories, the RA-2 zone allows buildings to be constructed to a maximum height of 50 feet and an FAR of 1.8.

The property on the north side of V Street is in the RA2, Moderate-density residential apartment zone. While the existing rowhouses are two stories, the RA-2 zone allows buildings to be constructed to a maximum height of 50 feet and an FAR of 1.8.



The zoning map shows the proposed MU-10 zone in the pink dotted line; the existing zoning for the site is MU-4 and the surrounding zoning is RA-2 to the north and west and RA-4 to the east.

Should the Commission proceed with a less intensive zone along V Street, OP would recommend using the alley as a boundary of eighty feet parallel to V Street, NW.

Zone	Height (ft)		Density (FAR)		Zoning Density Description
MU-10	90	100 (IZ)	6.0	7.2 w/IZ	Medium to high density
MU-8	70	70 (IZ)	5.0	6.0 w/IZ	Medium density
MU-5A	65	70 (IZ)	3.5	4.2 w/IZ	Medium density
MU-4	50	50 (IZ)	2.5	3.0 w/IZ	Moderate density

Indirect Displacement

In response to the question about whether the rezoning could lead to indirect displacement, OP stated:

Could Rezoning of 1617 U Street NW Lead to Indirect Displacement?

Summary Conclusion

OP found the neighborhood socio-economic data and relevant displacement research indicates that any indirect displacement potentially caused by future market rate housing units on the site is more than made up for by the affordable units required by District law for land dispositions that will result through the future development.

The Housing Element of the Comprehensive Plan identifies three forces of displacement:

“physical displacement as households must move when the properties they occupy are redeveloped, economic displacement as housing cost increases in the neighborhood force the household to find other housing options, and cultural displacement as residents lose a sense of belonging or shared identity in their neighborhood due to neighborhood change or growth.” 510.3a

OP interprets indirect displacement as being caused by economic and cultural forces. Rising housing costs and neighborhood change can be powerful factors affecting a family’s housing choice. OP’s assessment is based on first, understanding the socio-economic conditions of the neighborhood surrounding the site; and second, reviewing the most current research on the impact of new housing and displacement.

OP used census data dating back to 2000 and other data for census tract 42.01 (see Figure 1 at the end of this section) to establish the current demographics and housing conditions in the area surrounding the site. These conditions are summarized as follows:

- There are an estimated 195 households (10.3 percent of the total) identified as earning less than 80% of the Median Family Income (MFI) in the census tract. Citywide, 38 percent of households earn less than 80 percent of the MFI.¹
- Black residents represent 5 percent of the census tract population, however between 2000 and 2010 the Black resident population of the tract declined by almost half (46 percent); going from 13 percent to 7 percent of the population.

Figure 1. Change in Black Share of Population in Tract 42.01: 2000 - 2020

Census Year	2020	2010	2000
Percent Share	5 %	7 %	13 %

Source: US Decennial Census.

- Census Tract 42.01 is in the top 20 percent of the most expensive tracts to rent a one-bedroom unit in the city. OP estimates it requires a minimum income of 94 percent of the MFI in order to afford the median rent for one-bedrooms in this census tract.²
- There are only 15 dedicated affordable units within the census tract which represents only 0.6 percent of the tract’s total housing units of approximately 2,300 units.³
- Only 33 units were newly constructed in the census tract since 2000 (CoStar). Only one IZ unit was added in the tract due to the overall lack of new development. The US Census estimates an increase of 119 new units through 2020, however this is due to a change in unit mix with more 1-bedroom and fewer 3-bedroom units.⁴

OP then went on to state that it consulted the following research to understand the potential indirect displacement in other neighborhoods with similar conditions:

- University of California and Berkeley’s Urban Displacement Project “New Development for Whom? How New Housing Production Affects Displacement and Replacement in the San Francisco Bay Area” (March 2022),
- New York University’s Furman Center “Supply Skepticism Revisited: What New Research Shows About the Impact of Supply on Affordability” (November 2023), and
- UCLA Lewis Center for Regional Policy Studies “Research Roundup: The Effect of Market-Rate Development on Neighborhood Rents” (February 2021)

OP summarized the research by stating that:

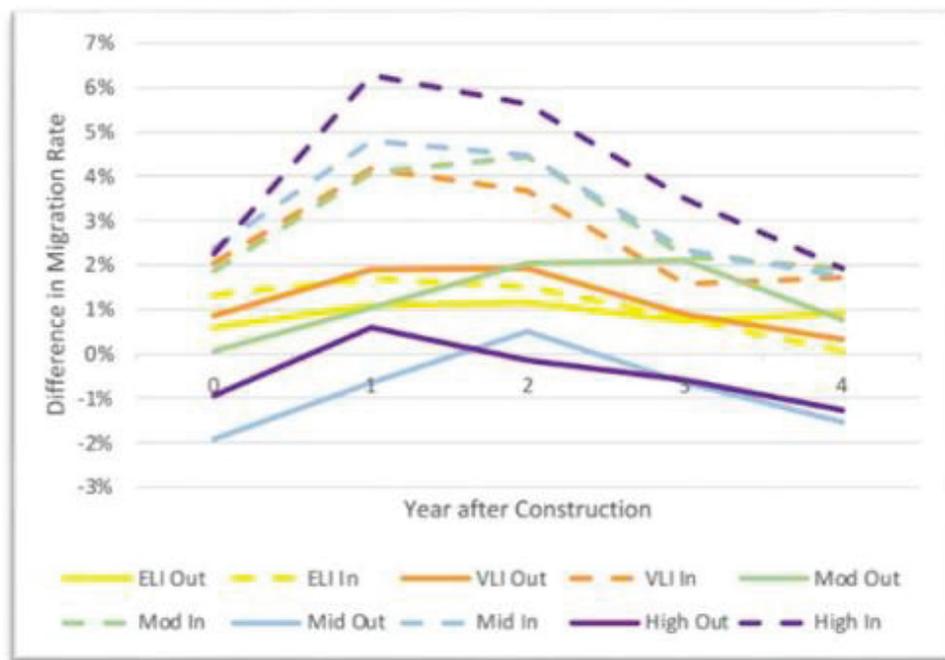
The research agrees that new housing supply moderates rent growth at a citywide level and in some cases at a local level; and that affordable housing and renter protections are important tools to minimize potential displacement.

With regards to potential indirect displacement, UC Berkeley’s research was the most focused. Measuring displacement is difficult to assess without specific survey data on why residents move. Instead, researchers track demographic change and migration to

test how migration is associated with factors believed to lead to displacement in neighborhoods such as changes in housing supply and cost. Berkeley’s study used a special dataset that tracked the migration of individual households by income and found that new housing led to an increase in both in- and out-migration, or an overall ‘churn’ in households moving. This makes logical sense as people from both inside and outside a neighborhood move into the new housing thereby creating vacant units for others to move into, while other residents choose to leave the neighborhood altogether.

Berkeley’s study found that areas around new market rate housing did experience a slight increase of two percentage points in the out-migration of lower income households. In other words, in a typical year, about 11 of every 100 very low socio-economic status households move out, but with 100 new market rate units in a neighborhood, about 13 move out. However, in-migration rates also increased and were consistently higher for all income groups than out-migration for several years after the housing was built. The net positive effect declined over time for all income groups with the lowest income households, indicated by the solid and dashed yellow lines, experiencing a net negative effect four years after the housing was built (See Figure 2).

Figure 2. Difference in In and Out Migration Rates by Income



Source: UC Berkeley Urban Displacement Project; “New Development for Whom? How New Housing Production Affects Displacement and Replacement in the San Francisco Bay Area” (March 2022).

Notes: ELI – Extremely Low income; VLI – Very Low Income; Mod – Moderate Income; Mid – Middle Income; High – High Income

The researchers provide a valuable quote:

“This study suggests a level of displacement associated with new construction is at least partially mitigable. For example, while in a normal year, 10% of households might move out, a construction year will mean that 12% move out per year for the next four years. If a block group houses 500 households, then 50 move out in a typical year, but 60 might move out each year post construction, for a total of 40 displaced households over four years. Thus, displacement impacts could be mitigated with one mid-size apartment building with entirely affordable or subsidized units” (page 12).

Therefore, any potential displacement can be mitigated by accompanying dedicated affordable housing. Affordable housing is a key component for two reasons: first, it has been estimated that low-income residents of affordable housing stay almost two years longer in their homes than residents living in market rate units; and second, when they do move affordable housing permits a similar household to move into the vacant unit. This is the essence of inclusionary housing policies, such as the District’s Inclusionary Zoning (IZ), IZ +, and the District’s Disposition of District Land for Affordable Housing Amendment Act of 2014, which requires up to 30 percent affordable units when the District surpluses land for housing.

OP draws several conclusions from these trends illustrated by the researcher’s chart above:

- Any indirect displacement potentially caused by new market rate housing on the site is more than made up for by the affordable units required by District law for land dispositions that will result through the project. Further, without development sites and the opportunity for more dedicated affordable units, the tract is at risk of becoming exclusionary.
- Ongoing new housing construction is needed to moderate rent growth when market demand exceeds supply. This is especially true in high-cost census tracts like U St NW.
- The District, in accordance with the recommendations of the researchers, has robust affordable housing tools that include subsidized affordable housing construction and preservation with continued protections. The publicly owned site, through the District’s land disposition law, is a critical opportunity to introduce dedicated affordable units in a census tract with very little. This is supported by the Comprehensive Plan’s policy of co-location with public facilities in both the Housing and Community Facilities elements provided below.

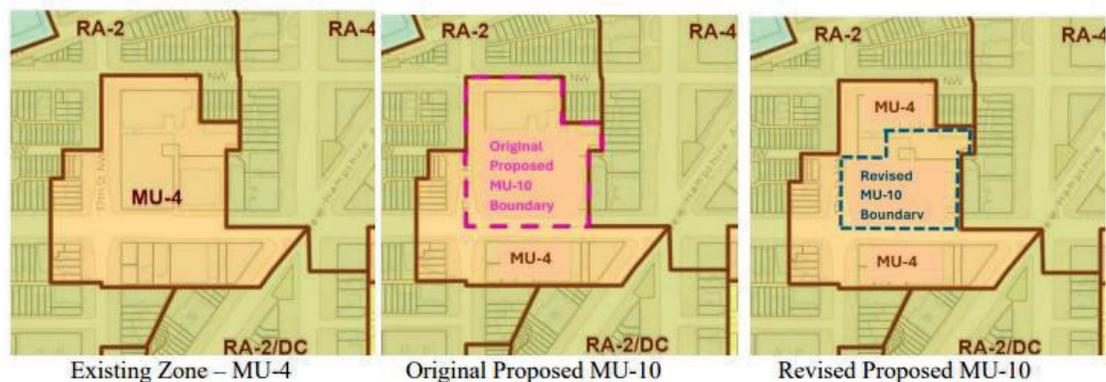
Policy CSF-1.1.9: Co-Location

Encourage the strategic co-location of public municipal uses on publicly-owned and controlled sites, provided that the uses are functionally compatible with each other and the site’s future land use designation. Consider co-location of private and public uses as a strategy that can help advance District-wide and neighborhood priorities, such as the creation of affordable housing and equitable access to services.

64. OP then requested that it be allowed to revise the application to reduce the area proposed to be rezoned to MU-10 (Ex. 715, 718). The request stated:

Pursuant to section Z-602.6 of the District of Columbia Zoning Regulations, 11 DCMR, the Office of Planning, as the applicant in case ZC 23-02, requests the Commission reopen the record and consider a request to revise the application by reducing the area proposed to be rezoned.

The maps below show the original application and the requested revised application.



The Revised Proposal does not introduce a new zone. Rather, it reduces the area initially proposed to be rezoned. The Revised Proposal would pull the proposed MU-10 zone back eighty feet (80 ft). parallel to V Street and eighty feet (80 ft). parallel to 17th Street from V Street south to the center line of Seaton Street.

The request is for good cause and no party will be prejudiced by the opening of the record for the Revised Proposal. The Revised Proposal responds to comments about the designation of the V Street frontage being within the Neighborhood Conservation designation of the Comprehensive Plan General Policy Map and concerns about the potential height and density of future development under the MU-10 zone relative to the immediately adjacent RA-2 residential zone.

Retaining the MU-4 zone along V and 17th streets is directly responsive to the input received through the public hearing. It maintains the status quo along the V and 17th Street frontages and the existing MU-4 will provide a transition of densities in this area.

Zone	Height (ft)	Density (FAR)	Zoning Density Description
RA-2	50 50 (IZ)	1.8 2.16 w/IZ	Moderate density Residential
MU-4	50 50 (IZ)	2.5 3.0 w/IZ	Moderate density Mixed-use
MU-10	90 100 (IZ)	6.0 7.2 w/IZ	Medium to high density Mixed-use

The Comprehensive Plan states that areas designated for high density residential use would typically have densities greater than 4.0 FAR and greater density may be possible if developed with Inclusionary Zoning. (227.8) For Moderate Density Commercial designations densities between 2.5 and 4.0 FAR would be typical, with additional density for developments with Inclusionary Zoning (227.8). High-density residential FAR in mixed-use zones is typically greater than in solely residential zones.

The revised boundary of the proposed MU-10 zone would be, on balance, “not inconsistent” with the Comprehensive Plan, including the Future Land Use Map designation for mixed use high-density residential/moderate density commercial and Local Public Facilities. The Guidelines for Using the Generalized Policy Map and the Future Land Use Map in the Framework Element state that the “*Generalized Policy Map and Future Land Use Map are intended to provide generalized guidance for development and conservation decisions and are considered in concert with other Comprehensive Plan policies.*” Additionally, “*the zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements.*”

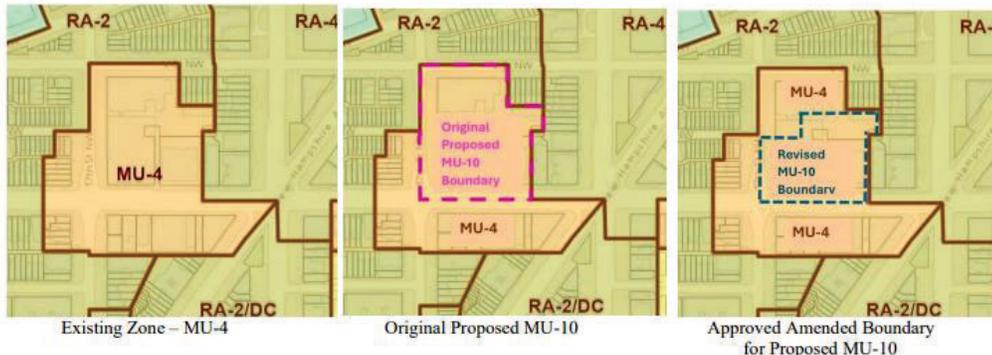
The Comprehensive Plan analysis with disaggregated data is provided in the OP hearing report filed as Exhibit 57.

65. At the request of the Commission, OP submitted a supplemental report on the revised Application Boundary dated June 13, 2024 (Ex. 720). This report provided a Comprehensive Plan analysis on the revised zone boundary.

The report stated:

...OP, as the applicant in case ZC 23-02, requested the Commission reopen the record and consider a request to revise the boundary of the application by reducing the area proposed to be rezoned. The Commission approved the request on May 30, 2024 and asked OP to provide a Comprehensive Plan analysis for the revised proposal. The maps below show the original application and the approved revised boundary.

The maps below show the original application and the approved revised boundary.



The revised proposal does not introduce a new zone. Rather, it reduces the area initially proposed to be rezoned. The revised proposal pulls the proposed MU-10 zone back

eighty feet (80 ft). parallel to V Street and eighty feet (80 ft). parallel to 17th Street from V Street, south to the center line of Seaton Street. Retaining the MU-4 zone along V and 17th streets is directly responsive to the input received through the public hearing. It maintains the status quo along the V and 17th Street frontages and the existing MU-4 will provide a transition of densities in this area.

Zone	Height (ft)	Density (FAR)	Zoning Density Description
RA-2	50 50 (IZ)	1.8 2.16 w/IZ	Moderate density Residential
MU-4	50 50 (IZ)	2.5 3.0 w/IZ	Moderate density Mixed-use
MU-10	90 100 (IZ)	6.0 7.2 w/IZ	Medium to high density Mixed-use

The Comprehensive Plan analysis contained mostly information that was repeated from prior OP reports submitted before the hearing. The following information was new.

Overview

...
 The revised boundary is similar to the proposed text amendment in case ZC 23-26 that would require setbacks along V Street. The revised boundary would generate an estimated one percent (1%) fewer housing units.

Future Land Use Map

... The revised boundaries of the proposed MU-10 also provides for the focus of height and density along U Street and the transition of scale to take place within the boundaries of the property.

1. Generalized Policy Map

...
 The revised boundary for the MU-10 zone would be compatible with the variety of uses and building types that already exist in the surrounding neighborhood.¹⁵ The greater height and density permitted by the proposed MU-10 zone with the revised boundary would provide for flexibility to vary a future building’s massing appropriately without making it infeasible to include the preferred mix of uses on the site and without overwhelming the scale or habitability of nearby residences.

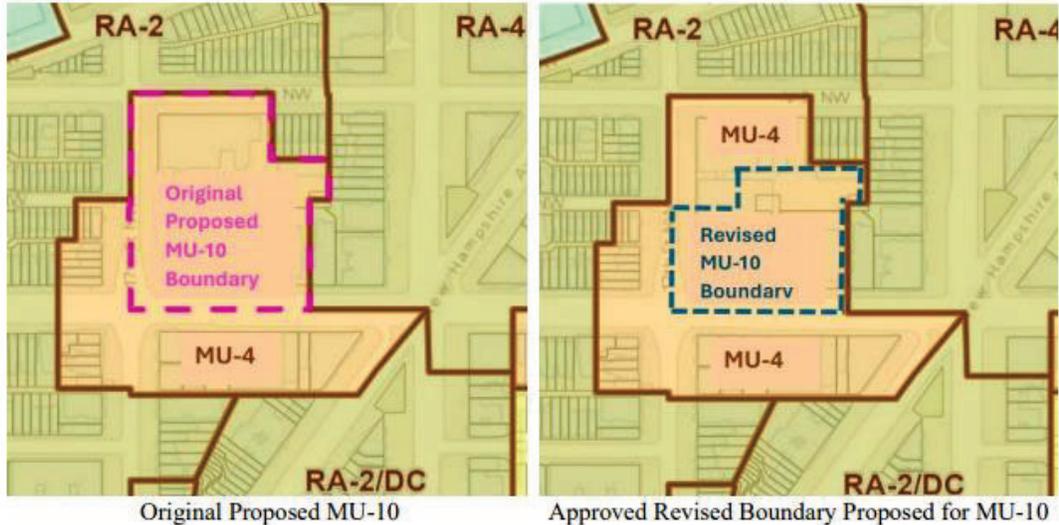
With the revised boundary the bulk of new development would be focused on the U Street frontage and the taller buildings would be set back 160 feet from the building face of the residentially zoned rowhouses fronting on V and 17th streets (80 feet from the property line plus the 80 feet of right-of-way).

...

Managing Growth and Change: Guiding Principles

¹⁵ The Commission finds that the boundary revision eliminates most of the area included in the Neighborhood Conservation Area from the rezoning, but that a small amount remains. This small amount of area within the Neighborhood Conservation Area within the revised boundary is seen by comparing the image of the revised boundary area in the OP Supplemental Report dated June 13, 2024 to the image showing the Generalized Policy Map in that same document.

Concern was expressed in the public hearing that the initial boundary proposed for rezoning was inconsistent with Guiding Principle Number 11 in Framework Element Section 220.3 which stresses the importance of protecting, maintaining, and improving the residential character of neighborhoods. The revised boundary removes this potential inconsistency by maintaining the existing circumstances relative to the interface between the MU-4 and the residentially zoned row houses.



The concern about scale must also be balanced against Comprehensive Plan Housing policies such as Guiding Principle Number 13 (Section 220.5) that states “The preservation of existing affordable housing and the production of new affordable housing, especially for low-income and workforce households, are essential to avoid a deepening of racial and economic divides in the city and must occur city-wide to achieve fair housing objectives”.

As indicated by Mid-City Policy 2.3.7, Use of Public Sites, added density at the subject site “should be used to create a significant amount of new affordable housing” and other public facilities at the site. The same policy anticipates concerns about context by emphasizing that higher densities should be concentrated along U Street and that “design strategies” should be used to visually reduce building height and bulk to provide transitions to adjacent areas.

Revised Boundary: In addition to balancing the policies relative to the provision of new and affordable housing and scale, OP introduced a companion text amendment in case ZC 23-26 which would require set backs for height. The revised boundary in this case will negate the need for the setbacks in case 23-26. The revised boundary will cause the transition of scale to be within the property to a greater degree than proposed in case 23-26 and thus the circumstances relative to the character interface will be no different than currently exists. Thus, the revised boundary is not inconsistent with the Guiding Principles.

...

A. Equity Tool, Part 2 – Petitioner Community Outreach and Engagement

Types of Communities

...

The revised boundary and the distance between any new taller building and existing row houses, any increased shadowing during the winter on the two story rowhouses should be minimal.

Community Outreach, Engagement and Participation in Decision Making

- The type of community outreach effort and how the characteristics of the community influenced the outreach.
- The community’s priorities and the impact the requested Commission action might have on them, as well the applicant’s response to those priorities, including any planned mitigation of potentially negative consequences.

The Office of the Deputy Mayor for Planning and Economic Development has been engaged since the Winter of 2022 with the community about the future development of this site. The engagement log attached as Appendix B to Exhibit 58 lists 40 meetings and conversations DMPED staff has had with ANCs, community groups or residents since then. OP has also met with residents living primarily to the west and north of the site. Both DMPED staff and OP staff have had numerous individual telephone or e-mail conversations with community members. This does not include the 37 reports or comments filed to the record of this case by ANCs or individuals as of June 8, 2023.

Community Priorities and Impact on Zoning Action

- ANC 1B, in which the site is located, has voted to support the original petition, with recommendations for the future development of the site Exhibit 53.
- ANC 1C, in which the site was located until 2023, has also passed a resolution in support of similar recommendations about future development Exhibit 48 and Exhibit 49.
- ANC 2B, which begins across U Street from the site, has also voted to support the map amendment. Exhibit 43

The public hearing was held over the course of six nights - January 8, 18 and 29, 2024, February 12 and 26, 2024, and March 18, 2024. Differing community priorities have been expressed with respect to the application.

Applicant Response: Prior to the public hearing OP responded to concerns about transition of scale, height and density with a proposed text amendment to the MU-10 zone in case ZC 23-26 that would require a setback from adjacent residential buildings and along V Street NW. After the public hearing, at the May 24, 2024 meeting OP proposed a revised boundary for the MU-10 rezoning that would maintain the MU-4

zone for a depth of 80 feet along V Street and 17th Street across from the residentially zoned rowhouses. Depending on Commission action, case ZC-23-26 will be modified in response to actions taken on the revised boundary.

...

B. Part 3: Disaggregated Racial and Ethnic Data

...

The MU-10 rezoning would create an opportunity for additional housing and affordable housing and while the revised boundary would result in marginally fewer housing units (estimated at no more than one percent) it is estimated the reduction would still provide an opportunity for several hundred new units.

...

Summary of Planning Context Analysis

The map amendment to MU-10 within the revised boundaries would be not inconsistent with the Comprehensive Plan. The proposed zone change would implement the FLUM and Policy Maps and the Comprehensive Plan policies cited in this report, when viewed through a racial equity lens. The increase in density would make it possible for the site to contain a greater mix of uses, more housing and affordable housing, improved public facilities and new amenities.

The revised boundaries of the proposed zone change will lessen the impact of the impact of new development and maintain the current interface of the existing MU-4 zone and the residential rowhouses along V and 17th Streets. Future development that would be enabled by the proposed zone would help the District attain its overall affordable housing pipeline goals and help the Mid-City Planning Area exceed its minimum goal of having six percent of its housing stock be affordable units by 2025.

The revised boundary of the proposed MU-10 zone would be, on balance, “not inconsistent” with the Comprehensive Plan, including the Future Land Use Map designation for mixed use high-density residential/moderate density commercial and Local Public Facilities.

E. GOVERNMENT REPORTS

OAG

66. The Office of the Attorney General for the District of Columbia (“OAG”) submitted a statement in support of the proposed Map Amendment to the MU-10 zone (Ex. 528-530):
- a. OAG’s report stated that OAG’s position was grounded in the requirements and policies of the District’s Comprehensive Plan (“CP”) and relevant statutory authority, and was intended to advance the public interest by facilitating the creation of affordable housing in a transit- and amenity-rich area;
 - b. It further stated that the proposed Map Amendment is consistent with the public interest as identified in the CP, which calls for leveraging public sites and bonus

density to create affordable housing in amenity- and transit-rich areas (CP §§ 229.3, 2013.11). The Mid-City planning area, where the site is located, has experienced a 70% increase in median annual rent between 2000 and 2021, disproportionately impacting non-white households and threatening the area's racial and income diversity (Appendix B – Census Data Charts). In response to these trends, the Mayor and Council amended the site's Future Land Use Map ("FLUM") designation in 2021 to "High Density Residential" (CP § 227.8), supporting greater density and additional housing, including affordable units. The site's Generalized Policy Map designations—Main Street Mixed Use Corridor and Neighborhood Conservation Area—further accommodate and encourage affordable housing (CP §§ 225.5 & 225.14). The Map Amendment complies with the CP by permitting the height and density consistent with the FLUM's "High Density Residential" designation and leveraging District-owned properties to meet equity needs through deeply affordable housing (CP § 229.3, 2013.11);

- c. It also stated that by increasing allowable density, the Map Amendment facilitates compliance with the District's Surplus and Disposition Process requirements (D.C. Code § 10-801), which mandate a greater percentage of affordable and deeply affordable units for redevelopment of public sites. The Office of Planning notes that the additional height and density permitted by the Map Amendment, combined with D.C. Code § 10-801, could allow for new municipal facilities and over 200 affordable housing units, helping to mitigate rising housing costs that disproportionately affect households of color (OP Setdown Report, Ex. 2; Feb. 23, 2023 Public Meeting Transcript; OP Report of June 16, 2023, Ex. 58); and
- d. OAG further stated that while the Map Amendment is consistent with the CP, the increased height and density may result in adverse impacts to neighboring properties, particularly with respect to light and air. The Office of Planning has proposed a text amendment (Z.C. Case No. 23-26) to impose increased setback and side yard requirements for the site. OAG recommends that these requirements be incorporated directly into the Map Amendment case and imposed as conditions of approval via a covenant recorded against the property, rather than through a separate text amendment. This approach would promote judicial economy and avoid confusion in the Zoning Regulations.

DDOT

67. DDOT reviewed a proposal by the Deputy Mayor for Economic Development and Planning (DMPED) to rezone two lots at 1617 U Street NW (Square 175, Lots 826 and 827) from MU-4 to MU-10 (Ex. 46). The report stated the following.

- a. The site currently houses the MPD Third District Station, FEMS Engine Company #9, and a parking garage. The proposed rezoning would allow for increased residential and retail development;
- b. The site is located within half a mile of the U Street Metrorail Station and just over half a mile from Dupont Circle Station, with several priority bus routes nearby. Rezoning to MU-10 would permit approximately 252 additional residential units and 25,000 square feet of retail space compared to the current MU-4 zoning. The increased density is expected to moderately increase transit, biking, and walking

trips. Vehicle trip generation is projected to rise by 26 AM peak hour trips and 27 PM peak hour trips under MU-10 zoning, compared to MU-4. The additional vehicle trips are anticipated to have minimal impact on the roadway network. DDOT supports the up-zoning to promote transit use and pedestrian activity, consistent with its approach to infill sites: dense, compact, transit-oriented, and walkable. DDOT encourages minimizing off-street parking for future redevelopment, in line with 2022 CTR Guidelines and the active DMPED RFP. Future development must include long-term and short-term bicycle parking as required by local regulations. All loading, trash pickup, and vehicle parking should occur via the public alley network, with existing curb cuts (except the fire station driveway) to be closed;

- c. DDOT has no objection to the approval of the requested Map Amendment;
- d. DDOT expects ongoing coordination with the Applicant during the permitting process to minimize transportation impacts, including:
 - i. Potential closure and realignment of public alleys.
 - ii. Coordination with ongoing U Street bus priority and streetscape projects.
 - iii. Possible requirement for a Comprehensive Transportation Review (CTR) or other transportation analysis.
 - iv. Transportation Demand Management (TDM) Plan may be required.
 - v. Loading management and curbside management plans must be submitted.
 - vi. Coordination with DDOT’s Urban Forestry Division regarding existing trees.
 - vii. Continued collaboration on public space design elements.
- e. DDOT offered the following transportation analysis:
 - i. Under MU-4 zoning: 156 residential units, 40,000 SF retail, 19 AM peak vehicle trips, 36 PM peak vehicle trips.
 - ii. Under MU-10 zoning: 408 residential units, 65,000 SF retail, 46 AM peak vehicle trips, 73 PM peak vehicle trips.
 - iii. Net increase: +252 residential units, +25,000 SF retail, +26 AM peak vehicle trips, +37 PM peak vehicle trips.
 - iv. The analysis excludes trips generated by new MPD and FEMS facilities, assuming negligible change
- f. DDOT provided estimates of the theoretical parking zoning requirements:

Development Scenario	Estimated Development Program	Zoning Min Vehicle Parking Spaces*	DDOT Preferred Max Vehicle Parking Spaces**	18 DCMR 1214 Long-Term Bicycle Spaces	Zoning Short-Term Bicycle Spaces
Maximum Current Matter-of-Right in MU-4 Zone	156 Residential Units 40,000 SF Retail	50	79	56	19
Maximum Future Matter-of-Right in MU-10 Zone	408 Residential Units 65,000 SF Retail	109	167	142	39

Note: * Includes 50% reduction for being located within ½ mile of a Metrorail station.
** See Table 2 of the CTR Guidelines for DDOT parking benchmark rates

ANC REPORTS

ANC 1B

68. On May 30, 2023, Advisory Neighborhood Commission (ANC) 1B submitted a report indicating that the Commission voted to support the application (Ex. 53). The report stated the following issues and concerns:
- **Process and Transparency:** ANC 1B supports a redevelopment process that is transparent and inclusive of the voices of those most directly impacted. This includes immediate neighbors, residents of the U Street corridor, and individuals residing in adjacent areas. The ANC strongly recommends that DMPED postpone the release of a Request for Proposals (RFP) until a determination has been made regarding the proposed zoning map amendment;
 - **Compatibility and Community Impact:** In light of the diverse development context surrounding the site, ANC 1B supports redevelopment that aligns with the objective of stabilizing the area to the north, which is designated as a “Neighborhood Conservation Area” under the Comprehensive Plan. The ANC emphasizes the importance of respecting the character of the low-density residential properties located on V Street and 17th Street;
 - **Massing and Height:** Recognizing the proximity of low-density residential properties, the ANC supports substantial setbacks—such as reduced building height—on the northern and western boundaries of the property. ANC 1B encourages DMPED to conduct a daylight access study and to revise the RFP requirements accordingly based on the findings;
 - **Housing:** The ANC advocates for the inclusion of family-sized units and deeply affordable housing units (targeting 30–50% of Area Median Income) as part of the site’s affordable housing strategy. Opportunities for homeownership should also be considered to promote equity and legacy homeownership. ANC 1B further supports the inclusion of noise mitigation measures for residents and strongly urges DMPED to assess and publish a displacement risk analysis to evaluate the potential impact on naturally occurring affordable housing in the surrounding area; and
 - **Public Amenities:** ANC 1B supports the provision of public parking for municipal and residential tenants. The ANC also endorses the preservation of publicly accessible green space along 17th Street and the potential inclusion of a library, subject to feasibility as determined by the District of Columbia Public Library system. Consideration should be given to establishing a small public park—similar to the Tenth Street Community Park—to enhance access to light and outdoor space for nearby residents. Finally, the Commission recommends that a city service be incorporated into the site to offset the anticipated loss of public services resulting from the redevelopment of the Reeves Center.
69. On July 3, 2024, ANC 1B sent a second report (Ex. 725). The second report addressed the revised OP’s revised application to rezone the smaller area to MU-10. It stated the following issues and concerns:

- **Request for Continued Engagement:** ANC 1B respectfully requests further dialogue with OP regarding the matter of setbacks as outlined in Z.C. Case No. 23-26; and
- **Recommendations Concerning Redevelopment and the RFP Process:** The ANC offers the following recommendations related to the redevelopment and associated RFP:
 - **Process and Transparency:** ANC 1B supports a redevelopment process that is transparent and inclusive of community input;
 - **Compatibility and Community Impact:** The ANC supports development that contributes to the stabilization of the area north of the site, which is designated as a Neighborhood Conservation Area under the Comprehensive Plan, and that respects the existing low-density residential character of the surrounding neighborhood;
 - **Massing and Height:** ANC 1B supports the implementation of setbacks and reduced building heights along the northern and western edges of the property. The ANC encourages DMPED to conduct a daylight access study and revise the RFP requirements accordingly. The revised proposal is viewed as a positive step forward;
 - **Housing:** The ANC endorses the inclusion of family-sized units and housing that serves households classified as extremely low income, very low income, low income, and moderate income, as defined under D.C. Code § 10-801. ANC 1B also supports the inclusion of homeownership opportunities, noise mitigation measures within the RFP, and urges DMPED to assess and publish a displacement risk analysis to evaluate the potential impact on naturally occurring affordable housing in the surrounding area;
 - **Public Amenities:** ANC 1B supports the provision of public parking accessible to both the general public and site tenants. The ANC also supports the preservation of publicly accessible green space, the inclusion of a public library (subject to feasibility), the creation of a public park, and the incorporation of a city service to offset the loss of public services resulting from the Reeves Center redevelopment; and
 - **Police and Fire Services:** The ANC strongly supports the return of police and fire services to the site to ensure that the public land continues to serve the community. DMPED should incorporate necessary upgrades to the facility to enable emergency response teams to operate without constraint. The project should also include adequate parking designated for emergency medical service vehicles and staff to prevent disruption to traffic in the surrounding area.

ANC 2B

70. On April 23, 2023, ANC 2B filed a report stating that at a regularly scheduled public meeting on April 11, 2023, at which a quorum of 9 of 9 Commissioners were present, ANC 2B voted 8-1-0 in support of the Application. The report does not list any issues or concerns (Ex. 43).

ANC 1C

71. On May 12, 2023, ANC 1C filed a report stating that at a regularly scheduled public meeting on May 3, 2023, at which a quorum of 9 of 9 Commissioners were present, ANC

1C voted 6-2-0 in support of the Application (Ex. 48, Ex. 49). The supporting resolution lists the following issues or concerns:

- **“Purpose of the site:** The redevelopment of the site is a unique opportunity to transform a low-rise, city-owned property that is in a transit-rich and commercially vibrant corridor into significant new affordable housing. In general, ANC 1C supports a plan for the site that includes high-density housing, in such a manner that will promote affordability and the welfare of the neighborhood’s current and future residents.
- **Equitable housing:** We support maximizing the percentage of the building dedicated to affordable housing units, with at least 50% of the residential square footage of the site dedicated to affordable units. We support the inclusion of a significant number of family-sized units (3+ bedrooms) and deeply affordable (both 0-30% and 30-60% AMI) units as part of the affordable housing investments at the site. The possibility of ownership would also help meet goals of equity and legacy homeownership.
- **Fit and impact on the immediate community:** Considering the broad and varied context of development around the site, we support development that acknowledges the goal to stabilize the area North of the site which is designated as a “neighborhood conservation area” in the Comprehensive Plan. Recognizing the low-density residential properties on V Street and 17th Street, we support significant setbacks (e.g. lower building height and/or dedicated street-level green space) on the north and west sides of the property, and encourage DMPED to conduct a study on daylight access and to adjust the RFP requirements accordingly. We also support noise mitigation interventions for residents as part of the RFP.
- **Process and transparency:** We support a redevelopment process that is transparent and fronts voices of those impacted, including immediate neighbors, all residents of the U Street corridor, and residents of the surrounding areas and strongly believe that DMPED should hold the release of an RFP until after the zoning map amendment determination is made. We support a competitive bidding process that prioritizes developers who will commit to the goals stated in this resolution, foremost the maximization of affordable housing units. We strongly oppose any non-competitive process that results in the transfer of the property below its appraised value without such commitments, or the use of unnecessary tax abatements. We further support the selection of a developer with unionized and local labor commitments and a strong track record for worker safety, successful building inspections, and respect for tenants’ rights.
- **Sustainability Goals:** We recommend taking advantage of the set-backs on the V Street to provide green plantable roof terraces with native plantings, permeable paving, low impact landscaping elements, and as much publicly accessible, usable space as possible. Pursuant to D.C. Law 24-177, Clean Energy DC Building Code Amendment Act of 2022, we recommend that the 1617 U Street Development should be constructed to a net-zero-energy standard as an exemplary model of pending D.C. wide Environmental Milestones. In addition to the net-zero-energy standard requirement which addresses energy and emissions, we recommend that the 1617 U Street Development be designed to LEED Platinum to address other environmental/human health concerns such as indoor air and water quality, healthy building materials, stormwater management, etc.

- **Public library:** We support the creation of a new library branch at the site, which would benefit current and future residents and is at the heart of an underserved section of the District.
- **Furthering affordable housing:** We support the consideration of new models of affordable housing development, including social housing or new city-owned public housing, for future developments affecting our neighborhood.”

72. ANC 1C is not an automatic party because the property is not within the boundaries of ANC 1C, nor is the Property separated from the ANC 1C boundary by a street (*See* 11-Z DCMR § 403.5(b)).

NCPC

73. The Application was referred to NCPC for the 30-day comment period on July 12, 2024 (Ex. 727). NCPC submitted a report stating that it concluded that the proposed amendment would not be inconsistent with the federal elements of the Comprehensive Plan or any identified federal interest (Ex. 728, 728A).

F. PERSONS IN SUPPORT

74. A significant number of individuals expressed support for the proposed zoning amendment through written comments. Aiden O’Shea, Cheryl Cort, Andrew Lokay, Nianyi Hong, Patrick McAnaney, Alex Baca, Peter Wood, Jared Alves, Sidhant Wadhern, Harrison Greer, Paul Caderio, Matthew Holden, Patrick Husted, Steve Swanson, Andrew DeFrank, Allen Easterling, and Omari Hardy testified at the hearing in support of the Application.

75. The supporters cited the following reasons for their support of the proposal:
- **Site Utilization:** The subject site is currently underutilized and presents an opportunity for more effective land use;
 - **Consistency with the purpose of the Zoning Regulations:** The proposed rezoning from MU-4 to MU-10 is consistent with the intent of the Zoning Regulations to foster “a higher quality of life and environment for residents, businesses, employees, and institutions.”;
 - **Consistency with the Comprehensive Plan:** The proposal advances several elements of the Comprehensive Plan;
 - **Affordable Housing and Equity:** The project would deliver over 200 affordable housing units, thereby contributing meaningfully to housing equity in the District;
 - **Public Facilities and Amenities:** The development would introduce new public facilities and amenities, enhancing the economic and social diversity of the neighborhood;
 - **Streetscape Improvements:** The proposal includes enhancements to the streetscape, improving the pedestrian experience and overall urban design;
 - **High-Density, Modern Development:** There is a recognized need for high-density development that is both affordable and modern in design;
 - **Support for Mixed-Use Development:** The project supports the principles of mixed-use development, integrating residential, civic, and commercial uses;

- **Community Infrastructure:** The site is well-suited for new housing, a public library, and the reconstruction of fire and police stations, thereby strengthening community infrastructure;
- **Fiscal Benefits:** The development is expected to expand the District’s tax base;
- **Transit Accessibility:** The site’s proximity to public transit is anticipated to increase Metro and Circulator ridership, reducing the need for subsidies and mitigating additional vehicular traffic;
- **Redevelopment of Existing Structures:** The existing two-story garage on U Street is considered a detriment to the pedestrian environment and would benefit from redevelopment to enhance walkability; and
- **Sustainable Land Use:** The proposal promotes sustainable land use patterns that encourage walking, cycling, and transit use, thereby supporting environmentally responsible urban living.

G. PARTIES IN OPPOSITION

76. At the March 18, 2024 hearing, the parties in opposition presented their cases to the Commission.

Black Neighbors of 1617 U Street, N.W. (“Black Neighbors”)

77. The Black Neighbors made written submissions (Ex. 355, 473, 504, 564-566, 596, 608, 615-617, 664-665, 678), testified at the hearing on March 18, 2024, and submitted a closing statement which summarized their position and arguments (Ex. 698).

78. The Black Neighbors argued that the Application should be denied as inconsistent with the Comprehensive Plan because of insufficient community outreach in violation of the Commission’s racial equity tool. The Black Neighbors stated that this was because OP “made no meaningful attempt to conduct outreach with remaining Black residents, churches, small businesses, and civic groups in the affected area near 1617 U Street. Over the entire year-plus since filing this MU10 rezoning application, and even after being put on notice more than two months ago during the first zoning hearings, OP has still not acted in good faith as the applicant. They have chosen not to identify, reach out, and engage with the vulnerable residents, families, businesses, and groups in the area near 1617 U.” (Ex. 698).

79. The Black Neighbors stated that OP should “modify their application by going back to the community to collaboratively design a customized special purpose zone for this site. ... The community engagement process needed to collaboratively design a customized special purpose zone for 1617 U Street, N.W. will likely result in far more meaningful and equitable engagement between OP and the affected community, including more transparent dialog based on meaningful impact evaluation, data reporting, and analysis related to displacement and mitigation planning. This special purpose zoning solution will allow OP to correct its mistakes and step forward with a modified application consistent with the expectations, guidelines, and requirements of the Comp Plan and Racial Equity Tool, thus

ensuring actual engagement across an array of critical neighborhood stakeholders as is required.” (Ex. 698).

Homeowners Within 200 Feet of Lots 826 and 827 (“Homeowners”)

80. The Homeowners made written submissions (Ex. 265, 478, 478A, 596, 605, 681), testified at the hearing on March 18, 2024, and submitted a closing statement which summarized their position and arguments (Ex. 692).
81. The Homeowners stated that the Application should be denied because OP did not take a “Whole Neighborhood Approach in their request to rezone this site from MU4 to MU10, their failure to conduct any impact studies, including impacts on the structural integrity of their historic homes, on public safety, on property values, and on displacement, and their failure to engage with the community before submitting their request to drastically rezone this site.” The Homeowners stated that this alleged failure meant that the proposal was inconsistent with the Comprehensive Plan’s racial equity tool and policies related to community engagement.
82. The Homeowners further stated that the Application should be denied because the Applicant’s “potential violation of AICP code of ethics regarding safeguarding the public trust and conducting impact studies on long-range environmental and social consequences.” The Homeowners also argued that “that a by-right MU[-]10 size[d] building was incompatible and out of character with the surrounding neighborhood.” (Ex. 692).

Randall Jones

83. Randall Jones made written submissions, testified at the hearing on March 18, 2024, and submitted a closing statement which summarized his position and arguments (Ex. 691).
84. Mr. Jones argued that the Application should be denied because the “Applicant did not seek and compromise with the community” and the Application was inconsistent with the Comprehensive Plan (Ex. 691).
85. Mr. Jones stated that he believed the Applicant did not meet the community outreach standards of the racial equity tool. Mr. Jones further stated that he believed that the “lack of changes to the Application indicates a fundamental breakdown in public outreach.” (Ex. 691).
86. Mr. Jones concedes that the Application is consistent with and supported by the Site’s FLUM designation. Mr. Jones nonetheless claimed it was inconsistent with the FLUM because the FLUM shows “Institutional” use on the Property, and a FLUM interpretation provision in the Land Use element provides:
 - h. The Map does not show density or intensity on institutional and local public sites. If a change in use occurs on these sites in the future (for example, a school becomes

surplus or is redeveloped), the new designations should be comparable in density or intensity to those in the vicinity, unless otherwise stated in the Comprehensive Plan Area Elements or an approved Campus Plan.

Mr. Jones claims that the “MU-10 zoning designation is objectively not comparable in density of intensity to the zoning designations in the vicinity.” (Ex. 691).

87. Mr. Jones further claims that the Application is inconsistent with the following provision of the Comprehensive Plan’s framework element because the “formal public input on the Comprehensive Plan Amendment 8050 cannot fairly be described as ample”:

Finally, the Future Land Use Map and the Generalized Policy Map can be amended. The Comprehensive Plan is intended to be a dynamic document that is periodically updated in response to the changing needs of the city. Requests to amend the maps can be made by residents, property owners, developers, and the District itself. In all cases, such changes require formal public hearings before the Council of the District of Columbia, and ample opportunities for formal public input. The process for Comprehensive Plan amendments is described in the Implementation Element. 228.1. (Ex. 691).

88. Mr. Jones claims the Application was insistent with the following provision of the Comprehensive Plan’s Framework Element describing the Generalized Policy Map:

The Generalized Policy Map “tells the story” of how the District is expected to change during the first quarter of the century. It highlights the places where much of the city’s future growth and change is expected to occur and sets the stage for the Elements that follow. The Future Land Use Map shows the general character and distribution of recommended and planned uses across the city. Both maps carry the same legal weight as the text of the Comprehensive Plan. 200.5

He further argues that the “Generalized Policy Map needs to be reviewed as required by the Comprehensive Plan, accounting for the Main Street Mixed Use Corridor, the Neighborhood Conservation Area, and the boundary between:

The map should be used to guide land-use decision-making in conjunction with the Comprehensive Plan text, the Future Land Use Map, and other Comprehensive Plan maps. Boundaries on the map are to be interpreted in concert with these other sources, as well as the context of each location.

The context of this location is that it is surrounded by historic districts consisting of two and three story rowhomes.

The Neighborhood Conservation Area is fully described as follows:

Neighborhood Conservation areas have little vacant or underutilized land. They are generally residential in character. Maintenance of existing land uses and

community character is anticipated over the next 20 years. 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 over current (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. Neighborhood Conservation Areas that are designated “PDR” on the Future Land Use Map are expected to be retained with the mix of industrial, office, and retail uses they have historically provided. 225.4

The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. 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. Areas facing housing insecurity (see Section 206.4) and displacement should emphasize preserving affordable housing and enhancing neighborhood services, amenities, and access to opportunities. 225.5.”

(Ex. 691).

89. Mr. Jones further claims that the Application is inconsistent with the following Land Use Element policies:

Policy LU-2.1.5: Support Low-Density Neighborhoods

Support and maintain the District’s established low-density neighborhoods and related low-density zoning. Carefully manage the development of vacant land and alterations to existing structures to be compatible with the general design character and scale of the existing neighborhood and preserve civic and open space. 310.12

Policy LU-2.1.7: Row House Neighborhood Character

Respect the character of row house neighborhoods by ensuring that infill development is compatible with existing design patterns and maintains or expands the number of family-sized units. Upward and outward extension of row houses that compromise their design should be discouraged. 310.14

Policy LU-2.1.12: Reuse of Public Buildings

Rehabilitate vacant or outdated public and semi-public buildings for continued use including residential uses, particularly if located within residential areas. Reuse plans

should be compatible with their surroundings and co-location of uses considered to meet broader District-wide goals. Reuse of public buildings should implement Small Area and Framework Plans where possible. 310.19

Mr. Jones asserts this is because “[t]his petition to upzone neither supports nor respects the low-density row house neighborhood which surrounds it. An upzone to MU-10 would allow for the by-right construction of structures that would be incompatible with design character and out of scale with its surroundings. Further, this upzone would not be required in order to implement the policy to reuse outdated public buildings. Concerns raised by the community include displacement writ-large, disproportionate displacement of socioeconomic minorities, shadows, capacity of public facilities such as schools, capacity of transportation networks, and inadequate street parking. The Applicant has not adequately addressed any of these concerns and insists that an upzoning will allow for more housing to be built which will make housing more affordable. Simple supply and demand economics doesn’t apply to the housing market as many studies have shown. Moreover, a zoning map amendment is not a “development project” and any additional housing it allows for should be discounted just as the arguments of those who fear a tall and hulking building have been.” (Ex. 691).

Rochelle Apartments

90. The Rochelle Apartments made written submissions, testified at the hearing on March 18, 2024, and submitted a closing statement which summarized its position and arguments (Ex. 694).
91. The Rochelle Apartments argued the Application should be denied for three reasons, first, that OP did not satisfy the community outreach and engagement standards of the Commission’ racial equity tool (Ex. 694).
92. Second, the Application was inconsistent with the following Comprehensive Plan policies:

H-2.1.1: Protecting Affordable Rental Housing

Recognize the importance of preserving rental housing affordability to the well-being of the District of Columbia and the diversity of its neighborhoods. Undertake programs to protect the supply of low-cost market rate units. 510.21

H-2.1. I: Tracking Displacement

Track neighborhood change, development, and housing costs to identify areas of Washington, DC that are experiencing, or likely to experience, displacement pressures. Use the information to improve program performance and targeting of resources to minimize displacement and help residents stay in their neighborhoods.

The Rochelle Apartments claimed that OP failed to use available data to analyze displacement risk to our building, as called for in Part Three of the Racial Equity Tool: Disaggregated Data Regarding Race and Ethnicity.

H-2.1.3: Avoiding Displacement
Maintain programs to minimize displacement.

The Rochelle Apartments claimed that OP has not provided any studies on the displacement pressures that MU-10 could create on existing rent-controlled apartment blocks or small businesses in the surrounding area, or how MU-10 has or has not affected displacement in other areas of the city.

H-2.1.6: Rent Control

Maintain rent control as a tool for moderating the affordability of older rental properties and protecting long-term residents, especially the elderly.
(Ex. 694).

93. Third, the Rochelle Apartments claimed the Application had not adequately addressed an issue/concern in ANC 1B's resolution that stated:

"We strongly encourage DMPED to consider displacement in the immediate surrounding area for naturally occurring affordable housing. DMPED should conduct and publish a displacement risk assessment to determine the impact on the surrounding affordable housing in the neighborhood."

(Ex. 694).

Dupont Circle Citizens Association ("DCCA")

94. The DCCA made written submissions, testified at the hearing on March 18, 2024, and submitted a closing statement which summarized its position and arguments (Ex. 695).
95. The DCCA made several arguments in their submissions and testimony.
96. First, the DCCA argued that the total redevelopment of the Property, including the relocation of the police and fire stations currently on the site, required further study to be completed successfully, posed considerable challenges if housing would be constructed on the site and collated with police and fire uses, and would have effects on the receipt of tax revenue (Ex. 695).
97. Second, that the Applicant had not conducted sufficient community engagement to satisfy the racial equity tool. DCCA mentioned several examples, including an admission by OP that it had not contacted any of the black churches, businesses or civic organization proximate to the site, or several black residents who lived nearby. DCCA asserted that the hearing process could not satisfy the community outreach provisions of the racial equity tool because of the nature of the hearing process (Ex. 695).
98. Third, that because the Comprehensive Plan was based on assumptions rooted in the 2010 Census data, DCCA asserts it over estimates the District's population and growth, and therefore over estimates the need for additional housing. Accordingly, there is no need for

this upzoning because the need for additional housing asserted in Comprehensive Plan policies is not supported by other data (Ex. 695).

99. Fourth, that the Application is inconsistent with the Comprehensive Plan for several reasons:

- a. DCCA asserts that the Application will cause indirect displacement of residents who live near the site causing it to run afoul of the racial equity tool.
- b. That the Application is inconsistent with policies in the Mid-City Element that state:
 - i. The historic character of Mid-City neighborhoods, particularly its row houses, older apartment houses, historic districts, and walkable neighborhood shopping districts, be retained and reinforced; and
 - ii. Infill development should be compatible in scale and character with adjacent use

100. Fifth, that the Application is inconsistent with the following policies because a portion of the site is designated as a Neighborhood Conservation Area on the Generalized Policy Map of the Comprehensive Plan:

225.4 Neighborhood Conservation Areas ... Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing.... Major changes in density over current (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.

225.4 The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas... new development... should be compatible with the existing scale, natural features, and character of each area.

101. DCCA stated that the Application was inconsistent with the following additional Comprehensive Plan policies:

227.8 High Density Residential: This designation is used to define neighborhoods and corridors generally, but not exclusively, suited for high-rise apartment buildings. Pockets of less dense housing may exist within these areas. Density is typically greater than a FAR of 4.0, and greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-4 and RA-5 Zone Districts are consistent with the High Density Residential category, and other zones may also apply. 227.8

228.1 Guidelines for Using the Generalized Policy Map and the Future Land Use Map
The Generalized Policy Map and Future Land Use Map are intended to provide generalized guidance for development and conservation decisions, and are considered in concert with other Comprehensive Plan policies. Several important parameters, defined below, apply to their use and interpretation.

- a. The Future Land Use Map is not a zoning map. Whereas zoning maps are parcel-specific, and establish detailed requirements and development standards for setbacks, height, use, parking, and other attributes, the Future Land Use Map is intended to be “soft-edged” and does not follow parcel boundaries, and its categories do not specify allowable uses or development standards. By definition, the Future Land Use Map is to be interpreted broadly and the land use categories identify desired objectives...
- d. The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements.
- e. The designation of an area with a particular Future Land Use Map category does not necessarily mean that the most intense zoning district described in that category is automatically permitted.
- f. Some zone districts may be compatible with more than one Comprehensive Plan Future Land Use Map designation. As an example, the MU-4 zone is consistent with both the Low Density Commercial and the Moderate Density Commercial designation, depending on the prevailing character of the area.

MID-CITY AREA ELEMENT

2000.4 Many Mid-City neighborhoods have a strong sense of identity, including the historic districts of U Street NW, Mount Pleasant, LeDroit Park, Bloomingdale, and Striver’s Section and their historic landmarks, such as the True Reformer Building, Meridian Hill/Malcolm X Park, the Lincoln and Howard Theaters, and the Prince Hall Masonic Temple. Activities like Adams Morgan Day and the DC Funk Parade on U Street NW celebrate local culture and build community pride.

2000.6 Parts of the Mid-City Planning Area have changed rapidly during the last 10 years. Already one of the densest areas in Washington, DC, Mid-City contains approximately 19 percent of the District’s new housing units, and almost 14 percent of the area’s housing units are affordable. Although Mid-City is close to having a fair amount of affordable housing, the distribution of that affordable housing has been concentrated in a few neighborhoods such as Columbia Heights, Reed-Cooke, and the U Street corridor.

2007.3 Pedestrian safety, improved traffic operations, and parking management are all high priorities. Increased density within this already dense Planning Area creates busier streets—both for cars and for people.

MC-1 General Policies

MC-1.1 Guiding Growth and Neighborhood Conservation

2008 The following general policies and actions should guide growth and neighborhood conservation decisions in the Mid-City Planning Area. These policies and actions should be considered in tandem with those in the Citywide Elements of the Comprehensive Plan.

2008.1 Policy MC-1.1.1: Neighborhood Conservation

Retain and reinforce the historic character of Mid-City neighborhoods, particularly its mix of row houses, apartment houses, as well as historic districts, and walkable neighborhood shopping districts. The Planning Area's squares, alleyways, and historic alley lots offer opportunities for preservation and creative development. The area's rich architectural heritage and cultural history should be preserved and enhanced.

2008.2 Policy MC-1.1.3: Infill and Rehabilitation

... Infill development should be compatible in scale and character with adjacent uses and encourage more housing opportunities

2008.4 Policy MC-1.1.5: Conservation of Row House Neighborhoods

Recognize the value and importance of Mid-City's row house neighborhoods as an essential part of the fabric of the local community. Ensure that the Comprehensive Plan and zoning designations for these neighborhoods reflect the desire to retain the row house architectural pattern.

2008.6 Policy MC-2.3.1: Uptown Destination District

Encourage the growth and vibrancy of U Street NW between 6th Street NW and 12th Street NW and Georgia Avenue NW/7th Street NW between Rhode Island Avenue NW and Barry Place NW as a mixed-use center with restored theaters, arts and jazz establishments, restaurants, shops, and housing serving a range of incomes and household types.

2013.5 Policy MC-2.3.7 Use of Public Sites Utilize public land at the Reeves Center, Housing Finance Agency, Garnet-Paterson, Engine 9, and MPD 3rd District Headquarters to create mixed-use neighborhood landmarks that acknowledge and continue the history of U Street as a Black business corridor. Added density at these public sites should be used to create a significant amount of new affordable housing, establish space for cultural uses, and provide for additional public facilities, such as a new public library. New construction should concentrate density towards U Street and use design strategies to visually reduce building height and bulk to provide appropriate transitions to adjacent lower density areas. 2013.11

FRAMEWORK ELEMENT

213.6 Equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities. Equity is not the same as equality.

213.7 Equitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices that reduce and ultimately eliminate disparities while fostering places that are healthy and vibrant.

HOUSING ELEMENT

Policy H-1.4.6: Whole Neighborhood Approach

Ensure that planning and new construction of housing is accompanied by concurrent planning and programs to improve neighborhood services, schools, job training, childcare, services for older adults, food access, parks, libraries, community gardens, and open spaces, health care facilities, police and fire facilities, transportation, and emergency response capacity. 506.1

Action H-2.1.I: Anti-Displacement Strategy

Track neighborhood change, development, and housing costs to identify areas of Washington, DC that have experienced, are experiencing, or are likely to experience, displacement pressures. Collect, disaggregate, and monitor data to consider income and racial characteristics of the neighborhoods and households affected by or at risk of displacement. Conduct racial equity analyses that identify the policies and underlying forces contributing to any inequities. Such analyses must consider different sources of displacement pressures, including a lack of new housing in high-demand neighborhoods and effects new development may have on housing costs in adjacent areas. Monitor best practices and identify new strategies for displacement prevention. Use the information to create a District-wide anti-displacement strategy, prepare reoccurring reports, improve program performance, and identify targeted areas within which to deploy resources to prevent displacement and help residents with the highest displacement risks stay in their neighborhoods. Examine ways to support low-income residents in areas that have already experienced rapid displacement, such as those in Mid-City and Near Northwest. 510.22

LAND USE ELEMENT

Policy LU-2.1.5: Support Low-Density Neighborhoods

Support and maintain the District's established low-density neighborhoods and related low-density zoning. Carefully manage the development of vacant land and alterations to existing structures to be compatible with the general design character and scale of the existing neighborhood and preserve civic and open space.

310.12 Policy LU-2.1.7: Row House Neighborhood Character

Respect the character of row house neighborhoods by ensuring that infill development is compatible with existing design patterns and maintains or expands the number of family-sized units.

310.14 Policy: LU-2.1.8 Explore Approaches to Additional Density in Low-and Moderate-Density Neighborhoods

Notwithstanding Policy LU-2.1.5, explore approaches, including rezoning, to accommodate a modest increase in density and more diverse housing types in low-

density and moderate-density neighborhoods where it would result in the appropriate production of additional housing and particularly affordable housing. Build upon the guidance of the April 2020 Single Family Housing Report to diversify the cost of housing available in high-opportunity, high-cost low- and moderate-density neighborhoods, especially near transit. However, neighborhood planning and engagement is a condition predicate to any proposals. Infill and new development shall be compatible with the design character of existing neighborhoods. Minimize demolition of housing in good condition. 310.15

IMPLEMENTATION ELEMENT

Policy IM-1.5.5: Transparency in Decision-Making

Strongly encourage transparent decision-making in all land use and development matters, making information available and accessible to residents, and maintaining open lines of communication with the public as plans are developed. 2506.6

H. PERSONS IN OPPOSITION and UNDECLARED PERSONS

102. A significant number of individuals expressed opposition to the proposed zoning amendment through written comments or testimony at the hearings. They included Jack Evans, Alan Kenseck, Courtney Stockland, Meg Staines, Nick Delledonne, Evan Carraway, Chris Otten, Debby Hanrahan, Charles Bien, Ian Hawkesworth, William Schulz, Barbara, Meeker, Bridget Hunnicutt, Doug Hunnicutt, Robin Diener, Andria Chatmon, Parisa Norouzi, Rob Leardo, Scott Kuchenmeister, Linda Houghton, Hussien Mousavi, Danielle Brian, and Shelly Repp, testified in opposition to the Application at the February 12, 2025 hearing. Wendy Schmacher, Paige Seaborn, William Jordan, William Garber, Joe Milby, Barry Karas, Maria Gillem, Ashley DiLorenzo, Marie Marcoux, Holly Killness Packet, Thomas Farah, Elaine Sarao, Nancy Turnbull, Paul Kervin, John Hanrahan, Bonnie McGowan, Mark Mazon, Janet McMahan, Laura Richards, Kirby Vining, Kerry Kemp, Sandra Reischel, John Jones, Mr. Ellis, Sam Sarate, and Pam McKinney testified in opposition to the Application. Ashleigh Fields testified as an undeclared person.
103. The persons in opposition raised the following issues and concerns.
104. The first group of related concerns were concerns that the proposed MU-10 zone was too dense. They included:
 - a. The proposed MU-10 zoning was not consistent with the Comprehensive Plan because of its height and density. The opponents asserted that this was because it was too dense given the proximity of lower density residential uses, the historic district, and the zoning to the north and east of the Site. Opponents cited policies in the Comprehensive Plan's Mide East Area Element, and the designation of a portion of the Site as a Neighborhood Conservation Area on the Comprehensive Plan's Generalized Policy Map:
 - i. Several opponents stated that this could be remedied if the rezoning was limited so that it was pulled back from the portion of the Site designated as

- a Neighborhood Conservation Area. This was also referred to as “split-zoning” the Site;
 - b. Belief that the proposed MU-10 zone is too dense, it would be out of character with the neighborhood, and that a lower intensity zone, such as MU-8 would be more appropriate:
 - i. Opponents stated that lower intensity zones should be presented as options for the Commission to consider;
 - c. Concern that the proposed amendment would obstruct light and air and would adversely impact neighboring properties and diminish quality of life;
 - d. Concern that the upzoning would lead to traffic management and noise management issues, increased demand for public parking spaces, and overburden V Street;
 - e. Concern that the upzoning would strain public resources; and
 - f. Belief that the rezoning would constitute “spot zoning” because there is no other MU-10 Zoning contiguous to the Site.
105. The second group of concerns were that the Application would not advance racial equity. They included:
- a. The outreach was insufficient to neighbors, particularly African American neighbors, businesses, churches and civic associations given the heightened standards of the Commission’s new racial equity tool, which is mandated by the Comprehensive Plan;
 - b. The related concern that the Application did not satisfy the Comprehensive Plan policy related to racially equitable anti-displacement strategies;
 - c. The potential for gentrification and indirect displacement. They included concern that the rezoning would lead to increased property taxes on neighboring residents; and
 - d. Concern that a significant number of African-American residents moved away from the neighborhood in the preceding years.
106. The third group of concerns were about the potential consequences of the redevelopment of the Site that would be facilitated by the rezoning. They included:
- a. Concern that the police and fire services provided by the stations currently on the Site would be interrupted or interfered with when the redevelopment takes place;
 - b. Desire for the police and fire stations to remain on the Site;
 - c. Belief that redevelopment would lead to an increase in crime;
 - d. Concern that the upzoning is not accompanied by a specific project in mind;
 - e. A belief that more studies were necessary on the impacts of the upzoning;
 - f. A comment that the report DDOT submitted did not assume the correct number of future residents or police and fire analysis;
 - g. Opponents cited Comprehensive Plan policies in Chapter 11 of the Comprehensive Plan related to making emergency response systems resilient to chronic stressors and sudden natural and man made events, and ensuring that District owned land and facilities meet the needs of a growing population formed by across-systems public facilities planning;
 - h. Desire for additional green space;

- i. Desire for a new library on the Site;
 - j. Desire for a cultural use on the Site; and
 - k. Desire for a landmark that acknowledged and continues the history of U Street as a African-American business corridor.
107. The fourth group of concerns were concerns that the rezoning would result in a “give-away” of public land, and a desire that the Property remain publicly owned.
108. The fifth group of concerns were that the development of additional housing on the Site produced if the Site was rezoned to MU-10 and redeveloped would not result in lower housing costs and/or address the housing needs of the neighborhood. These included:
- a. A belief that there was no relationship between an increase in supply of housing and the cost;
 - b. A belief that if the Site is redeveloped with housing it will be developed with “luxury apartments.”;
 - c. There had not been a market study submitted showing the need for additional apartments.
 - d. A belief that “social housing” would be a better use of the Site;
 - e. A belief that the same amount of affordable housing can be produced on the Site if it retains its MU-4 zoning as would be produced if it is rezoned to MU-10;
 - f. A belief that what is described by OP as affordable housing is insufficient to meet the needs of low-income residents, particularly African-American residents; and
 - g. A belief that vacant commercial space could be converted to residential use to meet housing demand and lower costs.
109. Opponents also expressed concerns about what they considered inadequate public notice of the hearing.
110. Opponents submitted a petition signed by 1,000 community members opposed to the rezoning.

CONCLUSIONS OF LAW

1. Section 1 of the Zoning Act of 1938 (effective June 20, 1938, as amended, 52 Stat. 797; 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 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 or 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 for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

3. The Commission must ensure that the Zoning Map, and all amendments to it, are “not inconsistent” with the CP pursuant to § 492(b)(1) of the District of Columbia Home Rule Act. (§ 2 of the Zoning Act; D.C. Official Code § 6-641.02). Subtitle X § 500.3 incorporates this intent to the Zoning Regulations by requiring that map amendments be “not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.”
4. The Commission concludes the Application advances the purposes of the Zoning Act, and is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property for the reasons discussed below.

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

5. 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. 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 (*See Durant v. D.C. Zoning Comm’n*, 65 A.3d 1161, 1168 (D.C. 2013)).

OVERVIEW

6. The Commission concludes, based on the filings and testimony of OP, that the Map Amendment from the MU-4 zone to the MU-10 zone is not inconsistent with the CP in its entirety, including the CP maps and elements, and will advance a number of CP Element policy objectives:
 - a. The MU-10 zone responds to the new FLUM designation for the Site;
 - b. The MU-10 zone effectuates Mid-City Element Policy MC-2.3.7 Use of Public Sites by enabling the Site to have enough density and height to accommodate new, superior facilities for the 3rd District Police and for Engine Company 9 and related services, including a larger parking facility to shelter police and employee vehicles that now park on neighborhood streets and grassy parking strips;
 - c. The MU-10 zone makes it economically feasible to construct a significant amount of affordable housing on the site, and to construct some market rate housing atop the government facilities;
 - d. The MU-10 zone will allow ground floor retail uses along the Site’s U Street face;
 - e. Opponents pointed out that OP’s original proposal to apply the MU-10 zone over the entirety of lots 826 and 827 would conflict with several CP policies. The Commission concludes the OP’s reduction of the size of the map amendment area,

which retains the existing MU-4 zoning along V Street, and a portion of 17th Street, adequately addresses these concerns; and

- f. The Commission concludes that any potential Comprehensive Plan inconsistencies that remain are outweighed by the policies listed above, and the Comprehensive Plan Citywide Element policies that support the rezoning that are listed as Appendix A of the OP Setdown Report.

(FF 47-65).

FLUM

7. The Commission concludes that the Map Amendment is not inconsistent with the Property's FLUM designation. The entirety of the Property is designated as Mixed Use - High Density Residential, Moderate Density Commercial, and Local Public Facilities. The MU-10 zone permits a maximum density of 6.0 FAR (7.2 FAR with IZ). The Commission agrees with OP that the greater flexibility of the MU-10 Zone is appropriate given the FLUM designation:

- a. The MU-10 Zone is consistent with the density and height guidance of the FLUM. The High Density Residential FLUM category calls for a density that is greater than 4.0 FAR. The MU-10 is fully consistent with that guidance. The High Density Residential FLUM category states that the RA-5 Zone is consistent with the designation. The RA-5 permits a maximum density of 6.0 FAR and 7.2 with IZ. The MU-10 Zone permits the same density. The RA-5 permits a maximum height of 90 feet. The MU-10 has the same height limit, although permits a 100-foot height with IZ; and
- b. The MU-10 is also consistent with the use guidance of the FLUM. The MU-10 permits residential, commercial and local public facility uses. This is fully consistent with the Mixed Use Residential / Medium Density Commercial / Local Public Facilities designation because it allows for the desired residential, commercial and public facility uses on the Site. The higher density of the MU-10 allows for redevelopment of the site that allows for the preservation and/or redevelopment of police and fire station facility uses on the Site, while also permitting commercial uses on the ground floor, and high-density residential development above that can provide market rate and affordable housing.

(FF 47-65).

GPM

8. The Commission concludes that, on balance, the Map Amendment is not inconsistent with the Property's GPM designation which designates the majority of the Site as within the Main Street Mixed Use Corridor, and a small portion of the Site as within the Neighborhood Conservation Area (FF 47-65).

9. The Commission concludes that the Map Amendment is not inconsistent with the GPM's designation of the Property as a Mixed Use Main Street Corridor. The Commission notes that:

- a. Existing development on the Site does not enhance the U Street Mixed Use Corridor. The U Street frontage has only the blank side of a parking garage and the open bays of the FEMS station. There is no possibility for the pedestrian-oriented

uses cited for such a corridor in the Comprehensive Plan. The Site is therefore underutilized; and

- b. The upzoning will encourage redevelopment consistent with the policy goals of the Mixed Use Main Street Corridor designation. The MU-10 Zone would permit height and density for a development that could accommodate the needs of MPD and FEMS while also freeing up some U Street frontage for retail or other neighborhood serving uses. The height and density would also enable future development to be responsive to the surrounding neighborhood character. The additional density would also accommodate upper story residential uses. Upzoning the Site would therefore foster economic and housing opportunities and serve neighborhood needs.

(FF 47-65).

- 10. The Commission concludes that while a small portion of the Site is within a Neighborhood Conservation Area (“NCA”), and the Commission believes that the MU-10 zoning is not fully consistent with the NCA designation, there are extenuating circumstances that makes the Application “not inconsistent” with the NCA when analyzed in its totality:

- a. The original OP proposal covered a larger area with about half of the original area to be rezoned within the NCA;
- b. OP amended its application so that only a very small portion of the area to be rezoned is within the NCA designation;
- c. The Commission concludes the area of inconsistency is so small as to be *de minimis*:
 - i. The area of inconsistency is very small, the GPM is not intended to be a fine grained map, so the Commission concludes the area of inconsistency is small enough to be within the “margin of error” for the GPM; and
 - ii. The Commission concludes that the limitation of the MU-10 zoning to the more limited area of the revised proposal is sufficient to protect the lower density uses along V and 17th Streets, which is the purpose of the NCA designation; and
- d. Out of an abundance of caution, the Commission further concludes that to the extent that there is a potential inconsistency with the NCA, this inconsistency is outweighed by other CP policies:
 - i. The Map Amendment is fully consistent with the FLUM designation for the reasons discussed above;
 - ii. It permits redevelopment of the Site with housing and affordable housing; and
 - iii. It is consistent with Policy MC-2.3.7 Use of Public Sites.

(FF 47-65).

Framework Element

- 11. The Commission concludes that the Map Amendment furthers the policies of the Framework element because the Map Amendment will provide enough density and height to permit the co-location of market rate and affordable housing with upgraded MPD And FEMS facilities and their associated parking (FF 47-65).

Land Use Element

12. The Commission concludes that the Map Amendment furthers the Land Use Element because the proposed map amendment allows for the use mix and density that the FLUM indicates is appropriate. A future project could provide new facilities for MPD and FEMS and would likely include a substantial number of residential units at the deeper affordability levels mandated by District Law. The Site is accessible to Metrorail and Metrobus, and is in an amenity-rich area (FF 47-65).

Transportation Element

13. The Commission concludes that the Map Amendment furthers the Transportation Element as it will enable development of a larger garage on the Site, which should reduce the number of government and employee vehicles now parking on adjacent streets and landscaped public parking strips. Any future development would be required to undertake a Transportation Management Plan that would examine transportation concerns in the surrounding area (FF 47-65).

Housing Element

14. The Commission concludes that the Map Amendment furthers the Housing Element because the IZ units required by a residential project resulting from a District offering or one requiring IZ Plus would increase the total supply of housing units in the Planning Area and would help alleviate the pressure on housing costs near/at transit accessible sites. New housing in a transit-rich area, blocks from a Metro Station and along a transit corridor is an ideal scenario in furthering the District's housing goals in the Planning Area, as desired in the District's Housing Equity Report (FF 47-65).

Environmental Protection Element

15. The Commission concludes that the Map Amendment furthers policies of the Environmental Protection Element because, since the District owns the property, future development will be required to meet at least a LEED Gold (v.4) standard, including solar panels, green roof elements and stormwater management (FF 47-65).

Historic Preservation and Urban Design Element

16. The Commission concludes that the Map Amendment is not inconsistent with the policies of the Historic Preservation and Urban Design Element because the Property is not within a historic district and does not contain any historic structures (FF 47-65).

Economic Development Element

17. The Commission concludes that the Map Amendment furthers policies of the Economic Development Element because the Map Amendment has the potential to facilitate replacement and possible expansion of the MPD and FEMS facilities, which would bring heightened public safety presence to the area, and promote quality future development that will create more vibrancy to the north side of this portion of the U Street corridor (FF 47-65).

Racial Equity

18. Pursuant to CP §§ 2501.4-2501.6, 2501.8, the Commission is tasked with evaluating the Application’s consistency with the Comprehensive Plan through a racial equity lens. The Comprehensive Plan 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). In addition, CP § 2501.8 suggests to prepare and implement tools to use as a part of the Commission’s evaluation process. Consistent with Comprehensive Plan guidance, the Commission utilizes a Racial Equity Analysis Tool in evaluating zoning actions through a racial equity lens; the Commission released a revised Tool on February 3, 2023. The revised Tool requires submissions from applicants and the Office of Planning analyzing the zoning action’s consistency with the Citywide and Area Elements of the Comprehensive Plan, and Small Area Plans, if applicable (Part 1); a submission from applicants including information about their community outreach and engagement efforts regarding the zoning action (Part 2); and a submission from the Office of Planning including disaggregated race and ethnicity data for the Planning Area affected by the zoning action (Part 3).
19. The Commission notes that the heightened requirements of the Commission’s revised Racial Equity Analysis Tool were imposed February 3, 2023, which is after the Office of Planning initiated this case by submitting its Setdown Report on January 18, 2023. Therefore, the Commission concludes that the Office of Planning could not reasonably be expected to have complied with the standards of the revised Racial Equity Tool when the case was filed. Instead, the Commission concludes that the OP was required to make good faith effort to comply with the revised Tool, starting from that point forward. With respect to community outreach, which is Part Two of the Racial Equity Tool, this means that the Commission did not expect it to have completed its community outreach before filing the case.
20. The Commission concludes that the Map Amendment is not inconsistent with the CP when evaluated through a racial equity lens. The Commission reached this conclusion based on the case record and the racial equity analyses provided by OP, which in this case is the Applicant, inclusive of community outreach and engagement information, and the OP Reports, which included disaggregated race and ethnicity data for the Mid-City Planning Area (FF 47-65). The Commission concludes that the racial equity analyses provided address the components of the Commission’s Racial Equity Tool; and that the Map Amendment will further CP racial equity goals, primarily because of its potential for new housing and affordable housing development. The Commission agrees with the Office of Planning that the “rezoning would allow the [District] Government to better use a property that the Comprehensive Plan has indicated is appropriate not only for governmental uses,

but also for high-density residential use and moderate density neighborhood-serving retail and/or service uses. Because it is a District property, the residential use would be required to include a large affordable housing component, whether that be for families, individuals, or the elderly. The site is close to transit. The direct and easy connections to other parts of the city for work, service and recreation has the potential to benefit populations of color who on average have lower incomes, and lower homeownership rates than white residents, and who, in other locations, are distant from many amenities. The targeted action of this proposed map amendment would support equitable development while contributing to the increase in the affordable housing supply within the Planning Area.” (FF 47):

- Displacement – The Map Amendment will not result in the direct displacement of residents because there are no existing residential uses on the Property. The Office of Planning stated that it believed the density gained in increased residential use on the Site would provide for additional housing and affordable housing opportunities in the area, and stated that it “did not anticipate indirect displacement as a result of this zoning action.” OP further stated that it found the neighborhood socio-economic data and relevant displacement research indicates that any indirect displacement potentially caused by future market rate housing units on the site is more than made up for by the affordable units required by District law for land dispositions that will result through the future development. Opponents, particularly Ms. Akel, testified that they believed that some indirect displacement was likely to result from the redevelopment of the Site, particularly in aging apartment buildings near the Site which could be redeveloped and replaced with more expensive rental housing. Predictions about the future are always speculative, but the Commission believes that it is more likely than not that the opponents are correct that the rezoning will create an incentive for the owners of nearby apartment buildings to invest in improvements in these older apartment buildings, followed by increased rents. The Commission nonetheless concludes that the Office of Planning has adequately addressed the requirements of the Racial Equity Tool by acknowledging the issue and meeting with the community to discuss it through the course of these proceedings (FF 56-65);
- Community Outreach and Engagement – The OP’s racial equity analysis included evidence that OP and DMPED staff conducted outreach with various community stakeholders as detailed in the record, including ANCs 1B, 1C and 2B, community groups and residents, including residents living primarily to the west and north of the Site. In its Hearing Report, OP discussed the substance of its outreach, and its response to the community comments. This included that a significant majority of community comments favored the proposed rezoning, citing the opportunity for improving facilities for District agencies, while enabling the provision of affordable housing, and possibly a neighborhood library; the need for the design of the future development to respect the scale of the historic district adjacent to the western and northern boundaries of the Site; and the need for transparency and community participation in the RFP process. OP stated that when the disposition process starts for the Site, it will be a further opportunity to address many of the specific community concerns about the future redevelopment. Further, OP acknowledged that some community members were concerned about the potential increases in height and density, while others are in favor of the new zoning because it would make practicable a building that could accommodate new facilities for the police and FEMS, along with additional affordable

housing. OP also acknowledged that some individuals suggested that it would be more appropriate to have a less intense zone. In response, the OP Hearing Report explained that it did not explore a less intense zone because of the clear directions set by the Council when it decided to amend the earlier Comprehensive Plan FLUM update to cover the entire Site with the same Residential High Density/Commercial Moderate Density and Local Public Facilities striping; and because the difficulty that a less dense zone would have in enabling the simultaneous realization of the various policy objectives called for in the Mid-City Element of the Comprehensive Plan for the Site.¹⁶ In response to the community comments, the Office of Planning changed the zoning action in two significant and meaningful ways. First, the OP introduced a companion text amendment in case 23-26 which would require setbacks to address concerns about height and density. Second, OP proposed a revised boundary for the MU-10 rezoning that would maintain the MU-4 zone on the Site for a depth of 80 feet along V Street and 17th Street across from the residentially zoned rowhouses. The Commission acknowledges the multiple letters of support, the Applicant's efforts to engage with the community, and the changes it made to the proposal as a result of its outreach, and therefore concludes that the Applicant's community engagement was satisfactory (FF 47-65); and

- Disaggregated Race and Ethnicity Data – OP provided disaggregated race and ethnicity data that analyzed the proposed map amendment through a racial equity lens that was compiled from the sources identified in the Racial Equity Tool. OP's racial equity analysis included disaggregated race and ethnicity data for the Mid-City Planning Area which showed that the MU-10 rezoning would create an opportunity for additional housing and affordable housing that would provide an opportunity for several hundred new units. The analysis addressed most, but not all of the questions and data results listed in the revised Racial Equity Tool. The Commission concludes the data and analysis provided was sufficient under the totality of the circumstances for it to perform the required evaluation of the zoning action through a racial equity lens (FF 47-65).

Potential inconsistencies outweighed

21. The Commission carefully considered the potentially inconsistent Comprehensive Plan policies cited by OP, Parties in Opposition, and Persons in Opposition in this case (FF 53, 61, 77-89, 91-101, 104-108). The Commission concludes these policies are outweighed by the policies cited by OP that support the rezoning. The Commission concludes the potentially inconsistent policies were outweighed by the following considerations:

¹⁶ “The difficulty that a less dense zone would have in enabling the simultaneous realization of the following objectives, several of which are explicitly called for on this site in Mid-City Element policies:

- The retention and improvement of the existing MPD and FEMS facilities, the latter of which requires higher than typical ceiling heights;
- The accommodation of open-air District government fueling facilities above which development could not happen;
- The undergrounding and expansion of MPD and FEMS parking in order to remove related parking from peripheral public and nearby residential streets, and to possibly free-up street-level space along U Street for other public, cultural or retail uses;
- The provision of some open space for public use; and importantly;
- The construction of a significant number of affordable housing units in either a mixed market rate and affordable development or in an all affordable development.”

- a. The MU-10 Zone responds to the amended FLUM designation for the Site;
- b. The MU-10 Zone effectuates Mid-City Element Policy MC-2.3.7 Use of Public Sites by enabling the Site to have enough density and height to accommodate new, superior facilities for the 3rd District Police and for Engine Company 9 and related services, including a larger parking facility to shelter police and employee vehicles that now park on neighborhood streets and grassy parking strips;
- c. The MU-10 Zone makes it economically feasible to construct affordable housing, and market rate housing atop the government facilities on the Site while also allowing for ground floor retail uses along the Site's U Street face; and
- d. Opponents correctly point out that OP's original proposal to apply the MU-10 Zone over the entirety of lots 826 and 827 would potentially conflict with CP policies that favor reduced density along V and 17th Streets. The Commission concludes that OP's reduction of the size of the map amendment area, and decision to retain the existing MU-4 zoning along V Street and the portion of 17th Street on the northern portion of the Site, adequately address these potential inconsistencies.

The Commission concludes that the potential inconsistencies cited by OP, Parties in Opposition, and Persons in Opposition are further outweighed by the Comprehensive Plan Citywide Element policies that support the rezoning that are described in the OP Setdown Report and listed as Appendix A of the OP Setdown Report. They are:

Land Use

As the Land Use Element guides the direction of future growth, it also affects future access to housing, education, jobs, services, amenities, and transportation and impacts the health and safety of residents. Growth can and must occur in a way that expands access to affordable housing, education, transportation, employment, and services for communities of color, low-income households, and vulnerable populations. Achieving equitable development requires attention to both the context and needs of different planning areas and to District-wide equity issues, described throughout the Comprehensive Plan. 304.4

Policy LU-1.4.6: Development Along Corridors

Encourage growth and development along major corridors, particularly priority transit and multimodal corridors. Plan and design development adjacent to Metrorail stations and corridors to respect the character, scale, and integrity of adjacent neighborhoods, using approaches such as building design, transitions, or buffers, while balancing against the District's broader need for housing. 307.14

Action LU-1.4.B: Zoning Around Transit

With public input, develop and use zoning incentives to facilitate new and mixed use development, and particularly the provision of new housing, and new affordable housing in high opportunity areas to address more equitable distribution, 307.20

Policy LU-2.1.3: Conserving, Enhancing, and Revitalizing Neighborhoods

Recognize the importance of balancing goals to increase the housing supply, including affordable units, and expand neighborhood commerce with parallel goals to preserve historic resources, advance environmental and sustainability goals, and further Fair

Housing. The overarching goal to create vibrant neighborhoods in all parts of the District requires an emphasis on conserving units and character in some neighborhoods and revitalization in others, including inclusive and integrated growth and meeting communities and public facility needs. All neighborhoods have a role to play in helping to meet broader Districtwide needs, such as affordable housing, public facilities, and more. 310.10

Policy: LU-2.1.8 Explore Approaches to Additional Density in Low- and Moderate-Density Neighborhoods

Notwithstanding Policy LU-2.1.5, explore approaches, including rezoning, to accommodate a modest increase in density and more diverse housing types in low-density and moderate-density neighborhoods where it would result in the appropriate production of additional housing and particularly affordable housing. Build upon the guidance of the April 2020 Single Family Housing Report to diversify the cost of housing available in high-opportunity, high-cost low- and moderate-density neighborhoods, especially near transit. However, neighborhood planning and engagement is a condition predicate to any proposals. Infill and new development shall be compatible with the design character of existing neighborhoods. Minimize demolition of housing in good condition. 310.15

Policy LU-2.1.10: Multi-Family Neighborhoods

Maintain the multi-family residential character of the District's medium- and high-density residential areas. Limit the encroachment of large-scale, incompatible commercial uses into these areas. Make these areas more attractive, pedestrian-friendly, and transit accessible, and explore opportunities for compatible commercial development which provides jobs for nearby residents. 310.17

Policy LU-2.4.5: Encouraging Nodal Development

Discourage auto-oriented commercial strip development and instead encourage pedestrian-oriented nodes of commercial development at key locations along major corridors. Zoning and design standards should ensure that the height, mass, and scale of development within nodes respects the integrity and character of surrounding residential areas and does not unreasonably impact them. 313.13

Transportation

Policy T-1.1.4: Transit-Oriented Development

Support transit-oriented development by investing in pedestrian-oriented transportation improvements at or around transit stations, major bus corridors, and transfer points. Encourage development projects to build or upgrade the pedestrian and bicycle infrastructure leading to the nearest transit stop to create last-mile connections. Pedestrian movements and safety should be prioritized around transit stations. 403.10

Policy T-1.1.7: Equitable Transportation Access

Transportation within the District shall be accessible and serve all users. Residents, workers, and visitors should have access to safe, affordable and reliable transportation options regardless of age, race, income, geography or physical ability. Transportation

should not be a barrier to economic, educational, or health opportunity for District residents. Transportation planning and development should be framed by a racial equity lens, to identify and address historic and current barriers and additional transportation burdens experienced by communities of color. 403.13

Housing

The following citations assume the future development of the site is required to include affordable housing.

The Housing Element describes the importance of housing to neighborhood quality in the District of Columbia and the importance of providing housing opportunities for all segments of the population throughout Washington, DC...500.1

... The overall goal for the District of Columbia is that a minimum of one third of all housing produced should be affordable to lower-income households. The short-term goal is to produce 36,000 residential units, 12,000 of which are affordable, between 2019 and 2025. 501.1

Policy H-1.1.1: Private Sector Support

Encourage or require the private sector to provide both new market rate and affordable housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. 503.3

Policy H-1.1.3: Balanced Growth

Strongly encourage the development of new housing, including affordable housing, on surplus, vacant, and underused land in all parts of Washington, DC. Ensure that a sufficient supply of land is planned and zoned to enable the District to meet its long-term housing needs, including the need for low- and moderate density single-family homes, as well as the need for higher-density housing. 503.5

Policy H-1.1.4: Mixed-Use Development

Promote moderate to high-density, mixed-use development that includes affordable housing on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed-use corridors and high-capacity surface transit corridors, and around Metrorail stations. 503.6

Policy H-1.1.9: Housing for Families

Encourage and prioritize the development of family-sized units and/or family sized housing options which generally have three or more bedrooms, in areas proximate to transit, employment centers, schools, public facilities, and recreation to ensure that the District's most well-resourced locations remain accessible to families, particularly in areas that received increased residential density as a result of underlying changes to the Future Land Use Map. Family-sized units and/or family-sized housing options include housing typologies that can accommodate households of three or more persons and may include a variety of housing types including townhomes, fourplexes and multi-family buildings. To address the mismatch between meeting the needs of larger

households and the financial feasibility of developing family-sized housing, support family-sized housing options through production incentives and requirements that address market rate challenges for private development that may include zoning, subsidies or tax strategies, or direct subsidy and regulatory requirements for publicly owned sites. 503.11

Policy H-1.2.2: Production Targets

Consistent with the Comprehensive Housing Strategy, work toward a goal that one-third of the new housing built in Washington, DC from 2018 to 2030, or approximately 20,000 units, should be affordable to persons earning 80 percent or less of the area-wide MFI. In aggregate, the supply of affordable units shall serve low-income households in proportions roughly equivalent to the proportions shown in Figure 5.8: 30 percent at 60 to 80 percent MFI, 30 percent at 30 to 60 percent MFI, and 40 percent at below 30 percent MFI. Set future housing production targets for market rate and affordable housing based on where gaps in supply by income occur and to reflect District goals. These targets shall acknowledge and address racial income disparities, including racially adjusted MFIs, in the District, use racially disaggregated data, and evaluate actual production of market rate and affordable housing at moderate, low, very-low, and extremely-low income levels. 504.9

Policy H-1.2.3: Affordable and Mixed-Income Housing

Focus investment strategies and affordable housing programs to distribute mixed-income housing more equitably across the entire District by developing goals and tools for affordable housing and establishing a minimum percent affordable by Planning Area to create housing options in high-cost areas, avoid further concentrations of affordable housing, and meet fair housing requirements. 504.10

Policy H-1.2.4: Housing Affordability on Publicly Owned Sites

Require that 20 to 30 percent of the housing units built on publicly owned sites disposed of for housing, co-located with local public facilities, or sites being transferred from federal to District jurisdiction, are reserved for a range of affordable housing with long-term commitments to maintain affordability, seeking to maximize production of extremely low- and very low-income for rental units, and very low- and low-income households for ownership units and family-sized units. Prioritize the provision of affordable housing in areas of high housing costs. Explore strategies at these redeveloping sites to enable seniors in the surrounding community to have opportunities to age in place, and to provide housing opportunities for residents at risk of displacement in the surrounding community. Consider Universal Design and visitability. 504.12

Policy H-1.2.5: Moderate-Income Housing

In addition to programs targeting persons of very low and extremely low incomes, develop and implement programs that meet the housing needs of those earning moderate incomes with wages insufficient to afford market rate housing in the District. 504.13

Policy H-1.2.9: Advancing Diversity and Equity of Planning Areas

Proactively plan and facilitate affordable housing opportunities and make targeted investments that increase demographic diversity and equity across Washington, DC. Achieve a minimum of 15 percent affordable units within each Planning Area by 2050. Provide protected classes (see H-3.2 Housing Access) with a fair opportunity to live in a choice of homes and neighborhoods, including their current homes and neighborhoods. 504.17

Policy H-1.2.11: Inclusive Mixed-Income Neighborhoods

Support mixed-income housing by encouraging affordable housing in high-cost areas and market rate housing in low-income areas. Identify and implement measures that build in long-term affordability, preferably permanent or for the life of the project, to minimize displacement and achieve a balance of housing opportunities across the District. 504.19

Policy H-1.3.1: Housing for Larger Households

Increase the supply of larger family-sized housing units for both ownership and rental by encouraging new and retaining existing single-family homes, duplexes, row houses, and three- and four-bedroom market rate and affordable apartments across Washington, DC. The effort should focus on both affordability of the units and the unit and building design features that support families, as well as the opportunity to locate near neighborhood amenities, such as parks, transit, schools, and retail. 505.8

Policy H-1.3.2: Tenure Diversity

Encourage the production of both renter- and owner-occupied housing, including housing that is affordable at low-income levels, throughout the District. 505.9

Environmental Protection

The Environmental Protection Element addresses the protection, restoration, and management of the District's land, air, water, energy, and biologic resources.

Policy E-3.2.6: Alternative Sustainable and Innovative Energy Sources

Support the development and application of renewable energy technologies, such as active, passive, and photovoltaic solar energy; fuel cells; and other sustainable sources such as shared solar facilities in neighborhoods and low- or zero-carbon thermal sources, such as geothermal energy or wastewater heat exchange. Such technology should be used to reduce GHGs and imported energy, provide opportunities for economic and community development, and benefit environmental quality. A key goal is the continued availability and access to unobstructed, direct sunlight for distributed-energy generators and passive solar homes relying on the sun as a primary energy source. 612.8

Policy E-4.1.2: Using Landscaping and Green Roofs to Reduce Runoff

Promote an increase in tree planting and vegetated spaces to reduce stormwater runoff and mitigate the urban heat island, including the expanded use of green roofs in new

construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large paved surfaces. 615.4

Environmental Protection Element

The overarching goal for the Environmental Protection Element is to protect, restore, and enhance the natural and human-made environment in Washington, DC, taking steps to improve environmental quality and resilience, adapt to and mitigate climate change, prevent and reduce pollution, improve human health, increase access to clean and renewable energy, conserve the values and functions of Washington, DC's natural resources and ecosystems, and educate the public on ways to secure a sustainable future. 601.1

(FF 47).

22. The Commission would like to address the Comprehensive Plan inconsistency arguments made by the Opponents with more specificity:

a. *Insufficient community outreach in violation of the Commission's racial equity tool. The outreach was insufficient to neighbors, particularly African American neighbors, businesses, churches and civic associations given the heightened standards of the Commission's new racial equity tool, which is mandated by the Comprehensive Plan (FF 78, 91, 97, 103a);*

Response: The Commission concludes OP and DMPED did not make a meaningful attempt to reach out to African-American residents, businesses, churches, or civic associations at the inception of the planning process for this case. OP did perform outreach to some of these individuals and groups as the case progressed, including African-American neighbors, and provided evidence of the outreach to the Commission. OP did not directly address all of the questions listed in Part 2 of the Racial Equity Tool, but addressed some, and made a good faith effort to address the substance of the most important of the questions. The Commission concludes OP's evidence of outreach was sufficient to satisfy the requirements of Part 2 of the Racial Equity Tool. OP listened to the community, and reduced the size of the map amendment area to retain the existing MU-4 Zoning for the northern portion of the Site, dramatically reducing the impact of the amendment on the neighbors in the surrounding historic districts, and on existing row houses along V and 17th Streets;

b. *Modify the application to collaboratively design a customized special purpose zone for this site (FF 79);*

Response: OP did not modify the application to include a special purpose zone, but did modify the boundary of the MU-10 map amendment in response to community feedback. The Commission concludes this is sufficiently similar to satisfy the request;

c. *Failure to conduct impact studies constitutes a violation of the racial equity tool and AICP code of ethics (FF 81-85);*

Response: The Racial Equity Tool does not mention or require impact studies. The Racial Equity Tool does not require OP to comply with the AICP Code of Ethics. OP made a meaningful change to the Application as a result of its community outreach by reducing the size of the map amendment area;

- d. *Inconsistent with FLUM’s “Institutional” striping because it is not comparable in density to zoning in the vicinity (FF 86);*
Response: The Commission concurs that that MU-10 zone is not comparable in density to zoning in the vicinity because it allows more density and height. However, the MU-10 is consistent with the striping on the site for High Density Residential and is therefore not inconsistent with the FLUM when all of the relevant FLUM guidance is considered;
- e. *Formal public input to the Council was not adequate before it adopted the FLUM amendment for the Site (FF 87);*
Response: The Commission believes there was ample opportunity for public comment before the Council adopted the FLUM amendment. The Council’s process for amending the Comprehensive Plan is not within the Commission’s control;
- f. *Inconsistent with the following policies because a portion of the site is designated as a Neighborhood Conservation Area on the Generalized Policy Map of the Comprehensive Plan:*
225.4 Neighborhood Conservation Areas ... Maintenance of existing land uses and community character is anticipated over the next 20 years. Where change occurs, it will typically be modest in scale and will consist primarily of infill housing.... Major changes in density over current (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;
225.4 The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs. Limited development and redevelopment opportunities do exist within these areas... new development... should be compatible with the existing scale, natural features, and character of each area (FF 88, 100);
Response: The Commission believes that the rezoning is necessary to address city-wide housing needs. The Commission concedes that the rezoning will not be compatible with the existing scale, natural features, and character of the area. However, the rezoning is in an area with access to opportunities, services, and amenities, so it should accommodate more levels of housing affordability. This area has faced displacement in the recent past, so this amendment should emphasize preservation of affordable housing. It does so by facilitating the redevelopment of the public safety uses on the Site while simultaneously allowing for the construction of housing and affordable housing by allowing enough density and height to do all these things in the same place;
- g. *Inconsistent with the following Land Use Element policies:*
Policy LU-2.1.5: Support Low-Density Neighborhoods
Support and maintain the District’s established low-density neighborhoods and related low-density zoning. Carefully manage the development of vacant land and alterations to existing structures to be compatible with the general design character and scale of the existing neighborhood and preserve civic and open space. 310.12;

Policy LU-2.1.7: Row House Neighborhood Character

Respect the character of row house neighborhoods by ensuring that infill development is compatible with existing design patterns and maintains or expands the number of family-sized units. Upward and outward extension of row houses that compromise their design should be discouraged. 310.14;

Policy LU-2.1.12: Reuse of Public Buildings

Rehabilitate vacant or outdated public and semi-public buildings for continued use including residential uses, particularly if located within residential areas. Reuse plans should be compatible with their surroundings and co-location of uses considered to meet broader District-wide goals. Reuse of public buildings should implement Small Area and Framework Plans where possible. 310.19 (FF 89);

Response: The Commission agrees with the Opponents that some portions of these policies are inconsistent with the Application, mainly because the MU-10 zone is larger in scale than the surrounding neighborhood. The Application also advances these policies by potentially expanding the number of family-sized units, and by encouraging the redevelopment of the outdated buildings to include residential uses. The Commission believes that they are outweighed by other policies that encourage additional density on the Site, namely the amended FLUM designation.

h. *Inconsistent with the following Housing Element policies:*

H-2.1.1: Protecting Affordable Rental Housing

Recognize the importance of preserving rental housing affordability to the well-being of the District of Columbia and the diversity of its neighborhoods. Undertake programs to protect the supply of low-cost market rate units. 510.21;

H-2.1.1: Tracking Displacement

Track neighborhood change, development, and housing costs to identify areas of Washington, DC that are experiencing, or likely to experience, displacement pressures. Use the information to improve program performance and targeting of resources to minimize displacement and help residents stay in their neighborhoods.

The Rochelle Apartments claimed that OP failed to use available data to analyze displacement risk to our building, as called for in Part Three of the Racial Equity Tool: Disaggregated Data Regarding Race and Ethnicity;

H-2.1.3: Avoiding Displacement

Maintain programs to minimize displacement.

The Rochelle Apartments claimed that OP has not provided any studies on the displacement pressures that MU-10 could create on existing rent-controlled apartment blocks or small businesses in the surrounding area, or how MU-10 has or has not affected displacement in other areas of the city;

H-2.1.6: Rent Control

Maintain rent control as a tool for moderating the affordability of older rental properties and protecting long-term residents, especially the elderly. (Ex. 694; (FF 92, 103b);

Response: The Commission concedes that the Office of Planning did not use the available data to analyze displacement risk in a sufficient manner because its analysis was limited to whether the production of additional housing on the Site would lower housing costs. It did not track or directly address displacement. The District maintains programs to protect the supply of low income housing and

provide rent control. The Application is potentially inconsistent with this program because there was insufficient analysis about the application of this program to the Site after redevelopment;

i. *Inconsistent with issue expressed in ANC IB's resolution:*

"We strongly encourage DMPED to consider displacement in the immediate surrounding area for naturally occurring affordable housing. DMPED should conduct and publish a displacement risk assessment to determine the impact on the surrounding affordable housing in the neighborhood." (FF 93);

Response: DMPED has not conducted and published a displacement risk assessment;

j. *The total redevelopment of the Property, including the relocation of the police and fire stations currently on the site, required further study to be completed successfully, posed considerable challenges if housing would be constructed on the site and collated with police and fire uses, and would have effects on the receipt of tax revenue (FF 96);*

Response: The Commission agrees with this statement insofar as it believes that further study of the police and fire uses is warranted to complete the project successfully. There is the possibility that these studies will be performed before the redevelopment occurs;

k. *Because the Comprehensive Plan was based on assumptions rooted in the 2010 Census data, it overestimates the District's population and growth, and therefore overestimates the need for additional housing (FF 98);*

Response: The Commission agrees that the Comprehensive Plan was based on assumptions rooted in the 2010 Census Data. It is speculative whether these assumptions will result in an over-estimation of housing need;

l. *The Application will cause indirect displacement of residents who live near the site causing it to run afoul of the racial equity tool (FF 99a);*

Response: Whether the Application causes indirect displacement is highly speculative. It will not cause direct displacement. It is possible that the additional housing and affordable housing that is possible if the MU-10 Zoning is adopted will lessen displacement pressure on nearby buildings. It is also possible that it will increase the pressure;

m. *The Application is inconsistent with policies in the Mid-City Element that state:*

1) The historic character of Mid-City neighborhoods, particularly its row houses, older apartment houses, historic districts, and walkable neighborhood shopping districts, be retained and reinforced; and

2) Infill development should be compatible in scale and character with adjacent use (FF 99b);

Response: The Site does not have row houses, older apartment houses, historic districts or a shopping district so there are none of those things to retain. There are examples of these types of buildings adjacent to the Site or nearby. Construction of a MU-10 sized building on the Site is not likely to "reinforce" these building types because it will be larger in scale, and likewise it will not be compatible in scale and character with adjacent uses;

n. *The Application is inconsistent with the following additional Comprehensive Plan policies (all policies quoted below are from FF 101):*

- 1) *227.8 High Density Residential: This designation is used to define neighborhoods and corridors generally, but not exclusively, suited for high-rise apartment buildings. Pockets of less dense housing may exist within these areas. Density is typically greater than a FAR of 4.0, and greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-4 and RA-5 Zone Districts are consistent with the High Density Residential category, and other zones may also apply. 227.8;*

228.1 Guidelines for Using the Generalized Policy Map and the Future Land Use Map

The Generalized Policy Map and Future Land Use Map are intended to provide generalized guidance for development and conservation decisions, and are considered in concert with other Comprehensive Plan policies. Several important parameters, defined below, apply to their use and interpretation.

- a. The Future Land Use Map is not a zoning map. Whereas zoning maps are parcel-specific, and establish detailed requirements and development standards for setbacks, height, use, parking, and other attributes, the Future Land Use Map is intended to be “soft-edged” and does not follow parcel boundaries, and its categories do not specify allowable uses or development standards. By definition, the Future Land Use Map is to be interpreted broadly and the land use categories identify desired objectives...;*
- d. The zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements;*
- e. The designation of an area with a particular Future Land Use Map category does not necessarily mean that the most intense zoning district described in that category is automatically permitted; and*
- f. Some zone districts may be compatible with more than one Comprehensive Plan Future Land Use Map designation. As an example, the MU-4 zone is consistent with both the Low Density Commercial and the Moderate Density Commercial designation, depending on the prevailing character of the area (FF 101);*

Response: The MU-10 zone allows a density of greater than 4.0 FAR and is therefore consistent with the High Density Residential FLUM designation. The MU-10 zone allows the same density as the RA-5 zone, so it is consistent with that portion of the guidance. The Commission acknowledges that the MU-10 is at the upper end of the range for the High Density Residential FLUM designation.

- 2) *Mid-City Area Element*

2000.4 Many Mid-City neighborhoods have a strong sense of identity, including the historic districts of U Street NW, Mount Pleasant, LeDroit Park, Bloomingdale, and Striver’s Section and their historic landmarks, such as the True Reformer Building, Meridian Hill/Malcolm X Park, the Lincoln and Howard Theaters, and the Prince Hall Masonic Temple. Activities like Adams

Morgan Day and the DC Funk Parade on U Street NW celebrate local culture and build community pride;

Response: The Commission acknowledges that these historic districts exist in the vicinity of the Site, and the cultural activities occur nearby;

2000.6 Parts of the Mid-City Planning Area have changed rapidly during the last 10 years. Already one of the densest areas in Washington, DC, Mid-City contains approximately 19 percent of the District's new housing units, and almost 14 percent of the area's housing units are affordable. Although Mid-City is close to having a fair amount of affordable housing, the distribution of that affordable housing has been concentrated in a few neighborhoods such as Columbia Heights, Reed-Cooke, and the U Street corridor;

Response: The Commission acknowledges the Mid-City Area is already quite dense, has changed rapidly in the ten years prior to the adoption of the Comprehensive Plan language quoted, and has a concentrated amount of affordable housing in the U Street corridor where the Site is located;

2007.3 Pedestrian safety, improved traffic operations, and parking management are all high priorities. Increased density within this already dense Planning Area creates busier streets—both for cars and for people;

Response: The Commission acknowledges that rezoning the Site to MU-10 will almost certainly result in busier streets for cars and people;

MC-1 General Policies

MC-1.1 Guiding Growth and Neighborhood Conservation

2008 The following general policies and actions should guide growth and neighborhood conservation decisions in the Mid-City Planning Area. These policies and actions should be considered in tandem with those in the Citywide Elements of the Comprehensive Plan;

2008.1 Policy MC-1.1.1: Neighborhood Conservation

Retain and reinforce the historic character of Mid-City neighborhoods, particularly its mix of row houses, apartment houses, as well as historic districts, and walkable neighborhood shopping districts. The Planning Area's squares, alleyways, and historic alley lots offer opportunities for preservation and creative development. The area's rich architectural heritage and cultural history should be preserved and enhanced;

Response: The Site does not contain row houses, apartment houses, historic districts or a walkable shopping district. The square is an opportunity for creative development that could enhance the area's architectural heritage and cultural history;

2008.2 Policy MC-1.1.3: Infill and Rehabilitation

... Infill development should be compatible in scale and character with adjacent uses and encourage more housing opportunities

Response: The MU-10 Zone will permit development of compatible scale and character and encourage more housing opportunities. The MU-10 also permits development of a greater scale and different character than the adjacent uses. The actual scale and character of the future development is highly dependent on how the future building or buildings are designed;

2008.4 Policy MC-1.1.5: Conservation of Row House Neighborhoods

Recognize the value and importance of Mid-City's row house neighborhoods as an essential part of the fabric of the local community. Ensure that the Comprehensive Plan and zoning designations for these neighborhoods reflect the desire to retain the row house architectural pattern;

Response: The Commission recognizes the Site is adjacent to row house neighborhoods. The proposed MU-10 Zoning will allow development that is more dense than the row house architectural pattern. The area of the MU-10 zone was reduced by OP to pull it further away from the row houses on V and 17th Streets to address this issue. The Commission acknowledges that the MU-10 Zoning will still be close to the row dwellings.

2008.6 Policy MC-2.3.1: Uptown Destination District

Encourage the growth and vibrancy of U Street NW between 6th Street NW and 12th Street NW and Georgia Avenue NW/7th Street NW between Rhode Island Avenue NW and Barry Place NW as a mixed-use center with restored theaters, arts and jazz establishments, restaurants, shops, and housing serving a range of incomes and household types;

Response: The Site is not located on U Street between 6th Street and 12th Street, N.W. Instead, it is located on U Street between 16th and 17th Streets. It is not located on Georgia Ave/7th Street;

2013.5 Policy MC-2.3.7 Use of Public Sites Utilize public land at the Reeves Center, Housing Finance Agency, Garnet-Paterson, Engine 9, and MPD 3rd District Headquarters to create mixed-use neighborhood landmarks that acknowledge and continue the history of U Street as a Black business corridor. Added density at these public sites should be used to create a significant amount of new affordable housing, establish space for cultural uses, and provide for additional public facilities, such as a new public library. New construction should concentrate density towards U Street and use design strategies to visually reduce building height and bulk to provide appropriate transitions to adjacent lower density areas. 2013.11;

Response: The Commission concludes that the rezoning substantially advances this policy. The rezoning will permit added density at the current site of the Engine 9, and MPD 3rd District Headquarters. This density could be, and likely will be used to create new affordable housing, market rate housing, establish space for cultural uses, and provide space for additional public facilities. Because OP reduced the size of the rezoning area, the density will be focused on the U Street side of the square because that is where the new MU-10 Zone will be located. The existing MU-4 zoning is retained along V Street, N.W. The future building can and likely will be designed with strategies to visually reduce building height and bulk and to provide appropriate transitions to adjacent lower density areas;

3) *Framework element*

213.6 Equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities. Equity is not the same as equality;

213.7 Equitable development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices that

reduce and ultimately eliminate disparities while fostering places that are healthy and vibrant;

Response: The Commission believes the rezoning was undertaken to create equitable opportunities to redevelop the Site. The Commission acknowledges that DMPED and OP's attempts at community outreach were lacking. The Commission believes that there are additional opportunities for community participation in development planning as the project coalesces further. The Commission further believes that the eventual development will include policies, programs and practices that fosters a healthy and vibrant place;

4) *Housing element*

Policy H-1.4.6: Whole Neighborhood Approach

Ensure that planning and new construction of housing is accompanied by concurrent planning and programs to improve neighborhood services, schools, job training, childcare, services for older adults, food access, parks, libraries, community gardens, and open spaces, health care facilities, police and fire facilities, transportation, and emergency response capacity. 506.1;

Response: The Commission acknowledges that OP and DMPED have not conducted planning efforts and program development in most of the program types listed. However, the Commission believes that the eventual redevelopment of the Site will include planning and programs to improve police and fire facilities, and emergency response capacity, may include a library, and will likely include a public plaza or similar open space.

Action H-2.1.1: Anti-Displacement Strategy

Track neighborhood change, development, and housing costs to identify areas of Washington, DC that have experienced, are experiencing, or are likely to experience, displacement pressures. Collect, disaggregate, and monitor data to consider income and racial characteristics of the neighborhoods and households affected by or at risk of displacement. Conduct racial equity analyses that identify the policies and underlying forces contributing to any inequities. Such analyses must consider different sources of displacement pressures, including a lack of new housing in high-demand neighborhoods and effects new development may have on housing costs in adjacent areas. Monitor best practices and identify new strategies for displacement prevention. Use the information to create a District-wide anti-displacement strategy, prepare reoccurring reports, improve program performance, and identify targeted areas within which to deploy resources to prevent displacement and help residents with the highest displacement risks stay in their neighborhoods. Examine ways to support low-income residents in areas that have already experienced rapid displacement, such as those in Mid-City and Near Northwest. 510.22

Response: OP did provide data and analysis related to displacement in its Hearing Report and updated the analysis in its Supplemental Report on Revised Application Boundary, but did not quote or directly address the question in Part 2 of the Tool that mentions displacement in its analysis (Ex. 720). OP did directly address the issue of displacement in its Post-Hearing Supplemental Report (Ex. 700). In that report, OP concluded in relevant part that "any indirect

displacement potentially caused by new market rate housing on the site is more than made up for by the affordable units required by District law for land dispositions that will result through the project.” The Commission recognizes that no evidence was presented that the District has created a District-wide anti-displacement strategy, prepared reoccurring reports, improved program performance, or identify targeted areas within which to deploy resources to prevent displacement and help residents with the highest displacement risks stay in their neighborhoods. OP did examine ways to support low-income residents in the Mid-City area, and concluded that developing additional housing and affordable housing was one way to do so;

5) *Land use element*

Policy LU-2.1.5: Support Low-Density Neighborhoods

Support and maintain the District’s established low-density neighborhoods and related low-density zoning. Carefully manage the development of vacant land and alterations to existing structures to be compatible with the general design character and scale of the existing neighborhood and preserve civic and open space;

Response: The rezoning will not maintain the existing moderate density MU-4 zoning on the portion of the Site that will be rezoned to MU-10. It will maintain the existing moderate density MU-4 zoning on the northern portion of the Site along V and 17th Streets where OP reduced the size of the map amendment area to pull it further back from the adjacent row dwellings. The Commission believes that DMPED will attempt to manage the development of the Site to be compatible with the design character of the existing neighborhood, but that the development will be larger in scale. The development will likely include some civic and open space;

310.12 Policy LU-2.1.7: Row House Neighborhood Character

Respect the character of row house neighborhoods by ensuring that infill development is compatible with existing design patterns and maintains or expands the number of family-sized units;

Response: The rezoning will permit development that is denser than existing design patterns. It will likely expand the number of family-sized units;

310.14 Policy: LU-2.1.8 Explore Approaches to Additional Density in Low-and Moderate-Density Neighborhoods

Notwithstanding Policy LU-2.1.5, explore approaches, including rezoning, to accommodate a modest increase in density and more diverse housing types in low-density and moderate-density neighborhoods where it would result in the appropriate production of additional housing and particularly affordable housing. Build upon the guidance of the April 2020 Single Family Housing Report to diversify the cost of housing available in high-opportunity, high-cost low- and moderate-density neighborhoods, especially near transit. However, neighborhood planning and engagement is a condition predicate to any proposals. Infill and new development shall be compatible with the design character of existing neighborhoods. Minimize demolition of housing in good condition. 310.15;

Response: The rezoning will permit development that is denser than existing design patterns. The rezoning will accommodate more than a “modest” increase in density. It will likely result in the appropriate production of additional housing and affordable housing to meet the goal. However, neighborhood planning and engagement is not yet complete and will need to be expanded before a proposal is complete. New development may be compatible with the design character of the existing neighborhood even if it is more dense. There is no housing on the Site to demolish;

6) *Implementation element*

Policy IM-1.5.5: Transparency in Decision-Making

Strongly encourage transparent decision-making in all land use and development matters, making information available and accessible to residents, and maintaining open lines of communication with the public as plans are developed. 2506.6;

Response: The decision to seek this rezoning, and to reduce the size of the rezoned area has been very transparent. The next phase of designing the actual building or buildings and programs within them will be critical to the success of the overall redevelopment;

- o. *The proposed MU-10 zoning is not consistent with the Comprehensive Plan because of its height and density. The opponents asserted that this was because it was too dense given the proximity of lower density residential uses, historic districts, and the zoning to the north and east of the Site. Opponents cited policies in the Comprehensive Plan’s Mid East Area Element, and the designation of a portion of the Site as a Neighborhood Conservation Area on the Comprehensive Plan’s Generalized Policy Map. Several opponents stated that this could be remedied if the rezoning was limited so that it was pulled back from the portion of the Site designated as a Neighborhood Conservation Area. This was also referred to as “split-zoning” the Site. Opponents stated that lower intensity zones should be presented as options for the Commission to consider (FF 102a, 102b);*

Response: The Commission concurs that the MU-10 zone permits densities and heights which are greater than the surrounding buildings and zoning. The Commission addressed the Comprehensive Plan policies above, and concedes there are inconsistencies. OP amended its application to do exactly what was suggested – it reduced the size of the map amendment area to pull it back from the northern portion of the site designated as a Neighborhood Conservation Area on the Generalized Policy Map. The existing MU-4 zone is retained along V and the northern portion of 17th Street, thereby “split-zoning” the original site. The Commission also requested and OP provided a supplemental report that considered lower density zones. The Commission considered and rejected the lower density zones because they would not produce enough housing and affordable housing;

- p. *Concern that the proposed amendment would obstruct light and air and would adversely impact neighboring properties and diminish quality of life. Concern that the upzoning would lead to traffic management and noise management*

issues, increased demand for public parking spaces, and overburden V Street. Concern that the upzoning would strain public resources (FF 102c-102e);

Response: The Commission concurs that the MU-10 zone will permit a larger development on the Site that will cast larger shadows. The larger development will also lead to increased traffic, which will also contribute more noise. This will also likely lead to increased demand for public parking spaces, although there will also likely be a reduction in the number of police vehicles parked in public spaces if the garage is expanded and enhanced to improve access that may off-set the increased demand. The location of the garage entry and exit point(s) are key to whether traffic would overburden V Street;

- q. *Belief that the rezoning would constitute “spot zoning” because there is no other MU-10 Zoning contiguous to the Site (102f);*

Response: The Commission concurs that there is no other MU-10 zoning contiguous to the Site. The Commission believes that the rezoning will not constitute “spot zoning” because the zoning is not inconsistent with the Comprehensive Plan, and advances the policy guidance of the FLUM designation for the Site. The Commission further notes that the site’s FLUM designation of Mixed Use High Density Residential, Moderate Density Commercial, and Local Public Facilities is limited to the Site and not contiguous with other Mixed Use that contains those three striping categories so it is appropriate to for the Site to have the only MU-10 zoning in the immediate vicinity;

- r. *Belief that the Application would not advance racial equity because the outreach was insufficient to neighbors, particularly African American neighbors, businesses, churches and civic associations given the heightened standards of the Commission’s new racial equity tool, which is mandated by the Comprehensive Plan (103a);*

Response: As discussed in (a) above, the Commission concludes that OP eventually performed the bare minimum of required outreach. The Commission concedes that OP did not communicate with several key stakeholders. The Commission commends OP for amending the proposal in response to community feedback. The Commission believes that further outreach is warranted as the development planning progresses.

- s. *Concern that the Application did not satisfy the Comprehensive Plan policy related to racially equitable anti-displacement strategies. The potential for gentrification and indirect displacement. This included concern that the rezoning would lead to increased property taxes on neighboring residents. And the related concern that that a significant number of African-American residents moved away from the neighborhood in the preceding years (103a-103d);*

Response: As discussed in (l) and (n)(4) above the Commission concludes that OP eventually did the bare minimum to perform the community outreach required by Part 2 of the Racial Equity Tool. OP did address the issue of indirect displacement in its Post-Hearing Supplemental Report (Ex. 700, pg. 4). However, the Commission believes that more outreach is necessary as the redevelopment process continues through later phases. The Commission further

believes that other anti-displacement strategies in addition to the production of housing and affordable housing would help to mitigate the potential for indirect displacement. The Commission believes that the administration of these additional programs and strategies are beyond the responsibilities of the Office of Planning and should be undertaken by other government agencies. The data provided by OP confirmed that a significant number of African-Americans had left the neighborhood in the preceding years;

t. *Another group of concerns were about the potential consequences of the redevelopment of the Site that would be facilitated by the rezoning. They included:*

- 1) *Concern that the police and fire services provided by the facilities currently on the Site would be interrupted or interfered with when the redevelopment takes place, and desire for the police and fire stations to remain on the Site;*
- 2) *Belief that redevelopment would lead to an increase in crime;*
- 3) *Concern that the upzoning is not accompanied by a specific project in mind;*
- 4) *A belief that more studies were necessary on the impacts of the upzoning; and*
- 5) *A comment that the report DDOT submitted did not assume the correct number of future residents or police and fire analysis;*

Response: The Commission shares these concerns and believes they should be addressed in the redevelopment process that will follow the rezoning. The Commission hopes that the appropriate District agencies coordinate temporary facilities and/or project phasing that will allow for uninterrupted police and fire services for the area that will prevent any increase in crime. The Commission concedes that the rezoning is not accompanied by a specific project. The Commission hopes that as the redevelopment proceeds, the appropriate District agencies will make efforts to identify potential impacts and appropriate mitigations. The Commission agrees that more studies are necessary in future phases of the redevelopment;

u. *Opponents cited Comprehensive Plan policies in Chapter 11 of the Comprehensive Plan related to making emergency response systems resilient to chronic stressors and sudden natural and manmade events, and ensuring that District owned land and facilities meet the needs of a growing population formed by across-systems public facilities planning. The corresponding language in the Comprehensive Plan is in the Overview section of the Community Services and Facilities Element at 1100.5, which states in relevant part:*

- *Making the District's critical facilities and health and emergency response systems more resilient to chronic stressors and to sudden natural or human-made events; and*
- *Ensuring that District-owned land and facilities meet the needs of a growing population, informed by a cross-systems Public Facilities Plan;*

Response: the Commission shares these concerns and notes that Community Services and Facilities Element goes on to state the following related policies:

Policy CSF-4.1.4: Public-Private Partnerships for Police Facilities

Explore public-private partnerships to fund the construction of new police facilities, including the development of new and remodeled police stations within mixed-use projects on existing police station sites. In such cases, any redevelopment should conform to the other provisions of this Comprehensive Plan, including the preservation of usable neighborhood open space. 1114.8;

Policy CSF-4.2.2: Public-Private Partnerships for Fire and Emergency Medical Services Facilities

Explore public-private partnerships to fund the construction of new fire and EMS facilities, including the development of new and remodeled facilities within mixed-use projects on existing sites. In such cases, any redevelopment should conform to the other provisions of this Comprehensive Plan, including the preservation of usable neighborhood open space. 1115.9;

The Commission believes the rezoning will advance these policies by allowing sufficient density to fund the redevelopment and construction of new facilities on the existing Site. The Commission believes these new facilities could be more resilient to chronic stressors by increasing their size and including additional features in the garage;

- v. *Opponents also expressed the desire for additional green space, a new library, a cultural use, and a landmark that acknowledged and continues the history of U Street as an African-American business corridor;*

Response: The Commission believes that it is possible that some of these additional features will be incorporated when the Site is redeveloped, and the additional density and height afforded by the MU-10 Zoning will allow greater design flexibility to include these features. The MU-10 Zone also requires inclusion of public space at the ground level;

- w. *Opponents also expressed concerns that the rezoning would result in a “give-away” of public land, and a desire that the Property remain publicly owned;*

Response: The Commission concludes that the ownership of the land will not change as a result of the rezoning. The Commission believes that there are alternative means to dispose of the property that will allow the District to retain ownership of the land. The Commission shares the desire that the District maintain ownership of the Site;

- x. *Opponents also expressed concerns that the development of additional housing on the Site would not result in lower housing costs and/or address the housing needs of the neighborhood;*

Response: The Commission concludes that OP provided sufficient evidence that there is a relationship between the supply and demand for housing and its cost, and that increasing the supply of housing will reduce the cost in the future. OP produced its own data analysis that showed that the rezoning will increase the housing supply by several hundred additional units;

- y. *Opponents also raised related concerns about redevelopment of the site and housing costs, including a belief that “social housing” would be a better use of the Site, a belief that the same amount of affordable housing could be produced on the Site if it retains its MU-4 Zoning, a belief that what is described by the Office of Planning as affordable housing is insufficient to meet the needs of low-*

income residents, particularly African-American residents, and a belief that vacant commercial space could be converted to residential use to meet housing demand and lower costs;

Response: The Commission concedes that the redevelopment of the Site will not solve all of the District’s problems. There may be other solutions that are necessary. The Commission does not want the need for other solutions to prevent it from rezoning the Site to allow greater flexibility in its redevelopment that will result in the production of additional housing and affordable housing;

- z. *Opponents expressed concerns about what they considered inadequate public notice of the hearing;*

Response: The Commission concludes that the many forms of notice of the many public hearings that are listed and discussed at FF 11, 13, 16, and 31-45 were sufficient under the totality of the circumstances. Out of an abundance of caution the Commission also voted to waive any notice defects pursuant to 11-Z DCMR § 402.12 and proceed with the hearing on January 8, 2024; and

- aa. Opponents submitted a petition signed by 1,000 community members opposed to the rezoning;

Response: The Commission acknowledges the petition;

GREAT WEIGHT TO THE RECOMMENDATIONS OF OP

- 23. 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 § 405.9. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).
- 24. The Commission concludes that OP’s reports, which provided an in-depth analysis of the Map Amendment, are persuasive and the Commission concurs with OP’s recommendation that the Property’s rezoning would not be inconsistent with the CP Maps, the Citywide Elements and Mid-City Area Element, and, as discussed above, would advance the CP racial equity goals when evaluated through a racial equity lens. The Commission also concurs with OP that the proposed Map Amendment is appropriate for an IZ Plus set-aside requirement (FF 47-65).

GREAT WEIGHT TO THE AFFECTED ANC REPORTS

- 25. 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 (1978) (citation omitted)).

26. On May 30, 2023 ANC 1B filed report stating that at a regularly scheduled public meeting on April 6, 2023 at which a quorum of 9 of 9 commissioners were present, ANC 1B voted 7-2-0 in support of the Application (Ex. 53). The ANC 1B Report expressed support for the Application, but expressed several issues and concerns (FF 68). The Commission addresses each below:

- Process and transparency: We support a redevelopment process that is transparent and fronts voices of those impacted, including immediate neighbors, all residents of the U Street corridor, and residents of the surrounding areas and strongly believe that DMPED should hold the release of an RFP until after the zoning map amendment determination is made;

Commission response: The Commission is only responsible for zoning the Property and does not have any control over the RFP process;

- Fit and impact on the immediate community: Considering the broad and varied context of development around the site, we support development that acknowledges the goal to stabilize the area north of the site which is designated as a “neighborhood conservation area” in the Comprehensive Plan and respects the low-density residential properties on V Street and 17th Street;

Commission response: The Commission believes that the OP modifications to the application, which retain the current MU-4 zoning for the portions of the Site along V Street and part of 17th Street, are sufficient to address this concern;

- Massing and height: Recognizing the low-density residential properties on V Street and 17th Street, we support significant setbacks (e.g. lower height) on the north and west side of the property and encourage DMPED to conduct a study on daylight access and adjust the RFP requirements accordingly;

Commission response: The Commission believes that the OP modifications to the application, which retain the current MU-4 zoning for the portions of the Site along V Street and part of 17th Street, are sufficient to address this concern to the extent that it pertains to zoning. The Zoning Commission is only responsible for zoning the Property and does not have any control over the DMPED RFP process;

- Housing: We would like to see family sized units and deeply affordable (30-50% AMI) units as part of the affordable housing investments at the site. The possibility of ownership would also help meet goals of equity and legacy homeownership. We also support noise mitigation interventions for residents as part of the RFP. We strongly encourage DMPED to consider displacement in the immediate surrounding area for naturally occurring affordable housing. DMPED should conduct and publish a displacement risk assessment to determine the impact on the surrounding affordable housing in the neighborhood;

Commission response: The Commission believes that the IZ and IZ Plus requirements that will apply to the property will partially address this concern by requiring additional affordable units on the Property. The Commission recognizes that they will not meet the concern for family sized and deeply affordable units. The Commission’s power to zone the property is limited, the Commission believes that imposing mandatory affordable housing through zoning is a careful balancing act, and has struck what it believes is the appropriate balance through its IZ regulations. This balance does not include family sized or deeply

affordable units in the IZ program. The Commission further recognizes that there is a statutory requirement for redevelopment of District owned sites, and further ability to mandate deeper levels of affordability and/or family sized units through the RFP process, but that this is not within the Commission's control because it is not zoning. The Zoning Commission is only responsible for zoning the Property and does not have any control over the DMPED RFP process;

- **Public amenities:** We support parking being made available for use by the public as well as the municipal and residential tenants. We support preserving publicly accessible green space at the site on 17th Street and adding a library if deemed viable by the District of Columbia Public Library system. A small public park resembling the tenth street community park should be considered to offer increased access to light and outdoor space to surrounding residents. A city service should be included on the site to account for the loss of public services from the Reeves Center Redevelopment; and

Commission response: The Commission is only responsible for zoning the Property and does not have any control over the RFP process. The Commission does not have the power to dictate whether the parking is publicly accessible, there is publicly accessible green space at the 17th Street location, whether the eventual development includes a public library, the form of a public park on the site, or the presence of public services on the Property.

27. On July 3, 2024, ANC 1B sent a second report (Ex. 725). The second report addressed the revised OP's revised application to rezone the smaller area to MU-10 (FF 69). It stated the following issues and concerns:

- Request for Continued Engagement

ANC 1B respectfully requests further dialogue with the Office of Planning (OP) regarding the matter of setbacks as outlined in Zoning Commission Case No. 23-26.

Commission response: The Commission believes that OP was open to further dialogue with the ANC on the issue of setbacks;

- Recommendations Concerning Redevelopment and the RFP Process

The Commission offers the following recommendations related to the redevelopment and associated Request for Proposals (RFP):

- Process and Transparency: ANC 1B supports a redevelopment process that is transparent and inclusive of community input;
- Compatibility and Community Impact: The Commission supports development that contributes to the stabilization of the area north of the site, which is designated as a Neighborhood Conservation Area under the Comprehensive Plan, and that respects the existing low-density residential character of the surrounding neighborhood;
- Massing and Height: ANC 1B supports the implementation of setbacks and reduced building heights along the northern and western edges of the property. The Commission encourages DMPED to conduct a daylight access study and revise the RFP requirements accordingly. The revised proposal is viewed as a positive step forward;
- Housing: The Commission endorses the inclusion of family-sized units and housing that serves households classified as extremely low income, very low income, low

income, and moderate income, as defined under D.C. Code § 10-801. ANC 1B also supports the inclusion of homeownership opportunities, noise mitigation measures within the RFP, and urges DMPED to assess and publish a displacement risk analysis to evaluate the potential impact on naturally occurring affordable housing in the surrounding area;

- **Public Amenities:** ANC 1B supports the provision of public parking accessible to both the general public and site tenants. The Commission also supports the preservation of publicly accessible green space, the inclusion of a public library (subject to feasibility), the creation of a public park, and the incorporation of a city service to offset the loss of public services resulting from the Reeves Center redevelopment.
- **Police and Fire Services:** The Commission strongly supports the return of police and fire services to the site to ensure that the public land continues to serve the community. DMPED should incorporate necessary upgrades to the facility to enable emergency response teams to operate without constraint. The project should also include adequate parking designated for emergency medical service vehicles and staff to prevent disruption to traffic in the surrounding area.

Commission responses: The Commission believes that as the redevelopment process takes shape, DMPED will make good faith efforts to adhere to these recommendations to the extent possible.

28. The ANC 2B Report expressed the ANC’s recommendation of support for the Map Amendment. The Commission concurs with ANC 2B’s recommendation. The ANC 2B Report did not list any issues or concerns (FF 70).

29. ANC 1C is not an affected ANC because the property is not within the boundaries of ANC 1C, nor is the Property separated from the ANC 1C boundary by a street (*See* 11-Z DCMR § 101.8; FF 71, 72). The Commission therefore did not give great weight to the ANC 1C Report. The Commission nonetheless carefully considered the ANC’s report and supporting resolution (Ex. 48, 49), and the issues and concerns expressed therein (FF 71), which were as follows:

- **Purpose of the site:** The redevelopment of the site is a unique opportunity to transform a low-rise, city-owned property that is in a transit-rich and commercially vibrant corridor into significant new affordable housing. In general, ANC 1C supports a plan for the site that includes high-density housing, in such a manner that will promote affordability and the welfare of the neighborhood’s current and future residents.

Commission response: The Commission agrees with the ANC about the opportunity, and the amendment will allow high density housing.

- **Equitable housing:** We support maximizing the percentage of the building dedicated to affordable housing units, with at least 50% of the residential square footage of the site dedicated to affordable units. We support the inclusion of a significant number of family-sized units (3+ bedrooms) and deeply affordable (both 0-30% and 30-60% AMI) units as part of the affordable housing investments at the site. The possibility of ownership would also help meet goals of equity and legacy homeownership.

Commission response: The Commission believes that zoning change makes these goals more achievable. Whether they are actually achieved is dependent on the redevelopment project that will follow.

- Fit and impact on the immediate community: Considering the broad and varied context of development around the site, we support development that acknowledges the goal to stabilize the area North of the site which is designated as a “neighborhood conservation area” in the Comprehensive Plan. Recognizing the low-density residential properties on V Street and 17th Street, we support significant setbacks (e.g. lower building height and/or dedicated street-level green space) on the north and west sides of the property, and encourage DMPED to conduct a study on daylight access and to adjust the RFP requirements accordingly. We also support noise mitigation interventions for residents as part of the RFP.

Commission response: OP reduced the size of the map amendment area to pull it back from V and 17th Streets and retain the existing MU-4 zoning in those areas. The Commission encourages DMPED to follow the recommendation when it considers its future actions.

- Process and transparency: We support a redevelopment process that is transparent and fronts voices of those impacted, including immediate neighbors, all residents of the U Street corridor, and residents of the surrounding areas and strongly believe that DMPED should hold the release of an RFP until after the zoning map amendment determination is made. We support a competitive bidding process that prioritizes developers who will commit to the goals stated in this resolution, foremost the maximization of affordable housing units. We strongly oppose any non-competitive process that results in the transfer of the property below its appraised value without such commitments, or the use of unnecessary tax abatements. We further support the selection of a developer with unionized and local labor commitments and a strong track record for worker safety, successful building inspections, and respect for tenants’ rights.

Commission response: The Commission believes that the RFP process is beyond the scope of this proceeding. It shares the ANC’s goal that it will be a competitive process.

- Sustainability Goals: We recommend taking advantage of the set-backs on the V Street to provide green plantable roof terraces with native plantings, permeable paving, low impact landscaping elements, and as much publicly accessible, usable space as possible. Pursuant to D.C. Law 24-177, Clean Energy DC Building Code Amendment Act of 2022, we recommend that the 1617 U Street Development should be constructed to a net-zero-energy standard as an exemplary model of pending D.C. wide Environmental Milestones. In addition to the net-zero-energy standard requirement which addresses energy and emissions, we recommend that the 1617 U Street Development be designed to LEED Platinum to address other environmental/human health concerns such as indoor air and water quality, healthy building materials, stormwater management, etc.

Commission response: The Commission believes these are worth aspirations for the eventual redevelopment.

- Public library: We support the creation of a new library branch at the site, which would benefit current and future residents and is at the heart of an underserved section of the District.

Commission response: The Commission believes this is a worthy aspiration for the eventual redevelopment.

- Furthering affordable housing: We support the consideration of new models of affordable housing development, including social housing or new city-owned public housing, for future developments affecting our neighborhood.

Commission response: The Commission believes the development of new affordable housing models is beyond the scope of this proceeding.

NOTICE OF PUBLIC HEARING AND REDUCTION IN THE MAP AMENDMENT AREA

30. Before amending the Zoning Map, the Commission is required to hold a hearing on such amendment, after notice provided “in accordance with the requirements of subchapter 1 of Chapter 5 of Title 2.” D.C. Official Code § 6-641.03. Subchapter 1 of Chapter 5 of Title 2 provides that in any contested case “all parties shall be given reasonable notice of the afforded hearing”. (D.C. Official Code § 2-509(a)). This provision goes on to require that the notice “shall state the time, place, and issues involved” and that if the issues are amended “they should be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect thereto. *Id.* Similarly, D.C. Official Code § 6-641.05 requires that the Commission hold a “public hearing, after notice”, and that the notice “shall be published at least 30 days prior to such public hearing and shall include a statement as to the time and place of the hearing and a summary of all changes.”
31. In this case, the Commission met these requirements. It provided written notice in all the forms listed in FF 31-45, which included publication in the *District of Columbia Register*, posting the Property, and mailing notice to the property owners within 200 feet of the Property. The notice identified the Property that was subject to the proposed map amendment, stated that the Commission was considering rezoning from the MU-4 to the MU-10 zone the “contiguous properties at 1617 U Street, N.W. (Square 175, Lot 826) and at 1620 V Street, N.W. (Square 175, Lot 827), and to apply IZ Plus”. The last notice published stated that the hearing would be held at 4 p.m. on January 8, 2024 (FF 31-45). At the January 8, 2024 hearing, the Commission voted to waive any technical defects in notice based on defects in notice required by the Zoning Regulations because the alleged defects were minor in nature, there had been extensive prior notice of the case in the community, the attendance at the hearing of so many interested community members, and because the nature of the rezoning was clear. The Commission therefore waived any technical notice defects and proceeded with the hearing pursuant to 11-Z DCMR § 402.12.¹⁷

¹⁷ 11-Z DCMR § 402.12 (“A technical defect in the notice of public hearing that is minor in nature shall not deprive the Commission of jurisdiction over the case. If a defect in the notice is alleged and proven, the Commission may determine whether to postpone, continue, or hold the public hearing as scheduled based on the following considerations: (a) The nature and extent of the actual notice received by the parties and the public from all sources;

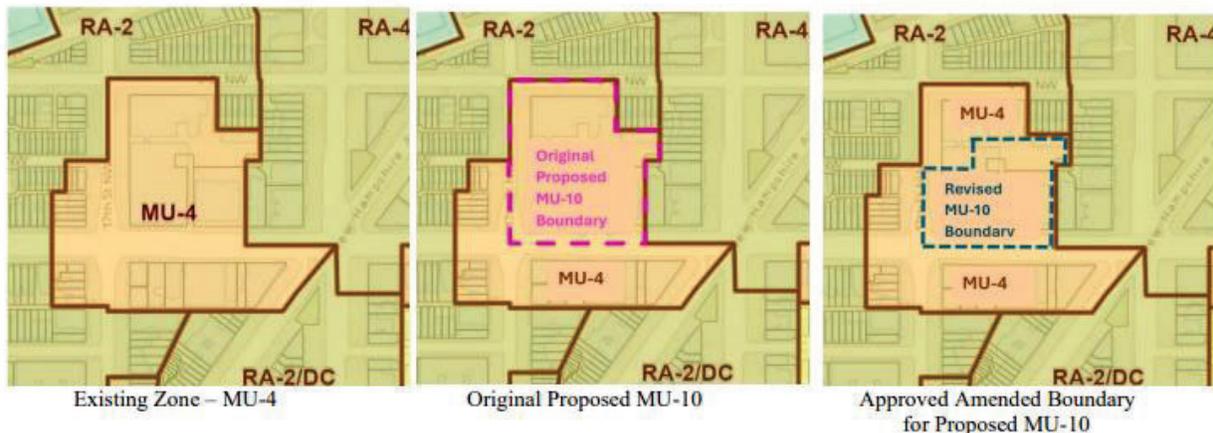
32. The Commission concludes that the so-called “amendment” to the boundary of the map amendment area did not require an additional hearing or notice because the revised boundary is completely within the scope of the amendment that was advertised and heard. Accordingly, interested parties were given the opportunity to present evidence and argument at the hearings, which they did in fact provide, and the Commission carefully considered. In addition, the practical effect of reducing the size of the amended area is to retain the existing MU-4 zoning for the area along V Street and a portion of 17th Street, which is exactly what was requested by several witnesses at the hearing. The Commission is not required to hold a hearing to leave the existing zoning unchanged.

DECISION

In consideration of the record for Z.C. Case No. 23-02 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
175	826 and 827; to a line 80 ft. parallel to V St. and 80 ft. parallel to 17 th St. from V Street, south to the center line of Seaton St., as shown on the diagram below labeled “Approved Amended Boundary for Proposed MU-10.” The MU-10 Zoning is within the blue dotted line labeled “Revised MU-10 Boundary”	MU-4 to MU-10

Diagram showing existing zone, original proposed MU-10 area, and the approved amended boundary for proposed MU-10:



For the purposes of calculating an IZ Plus set-aside requirement pursuant to Subtitle C § 1003, the maximum permitted FAR of the Property’s existing zoning of MU-4 is the equivalent of 2.5 FAR.

(b) Attendance, or lack thereof, at the public hearing; and (c) The nature and extent of the construction and/or use involved in the application.”).

Proposed Action

Vote (July 11, 2024): 4-0-1

(Robert E. Miller, Joseph Imamura, Tammy M. Stidham, and Anthony J. Hood to **APPROVE**; 3rd Mayoral Appointee seat vacant).

Final Action

Vote (September 12, 2024): 4-0-1

(Robert E. Miller, Joseph Imamura, Tammy M. Stidham, and Anthony J. Hood to **APPROVE**; 3rd Mayoral Appointee seat vacant).

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 23-02 shall become final and effective upon publication in the *District of Columbia Register*, that is on February 20, 2026.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS THE D.C. HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (THE “ACT”). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE ACT, THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.