

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 23-23  
Z.C. Case No. 23-23  
Morningstar Community Development  
(Zoning Map Amendment @ Square 1088, Lot 802)  
September 12, 2024

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on June 3, 2024, to consider the application (the “Application”) of Morningstar Community Development (“Applicant”) for approval of an amendment to the Zoning Map from the RF-1 zone to the RA-2 zone (the “Map Amendment”) for the property located at 261 17<sup>th</sup> Street, S.E. (Lot 802, Square 1088) (the “Property”) pursuant to Subtitle X § 500.1 of the Zoning Regulations for 2016, Title 11 of the District of Columbia Municipal Regulations (“DCMR”) (the “Zoning Regulations,” to which all references are made unless otherwise specified).

The Commission determined the Property is appropriate for Inclusionary Zoning (“IZ”) Plus pursuant to Subtitle X § 502.1. Therefore, the Property shall be indicated with an “IZ+” symbol on the Zoning Map. For the purposes of calculating an IZ Plus set-aside requirement pursuant to Subtitle C § 1003, the maximum permitted floor area ratio (“FAR”) of the existing RF-1 zone is equivalent to 0.9 FAR.

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

**FINDINGS OF FACT**

**I. BACKGROUND**

**PARTIES**

1. The following were automatically parties to this proceeding pursuant to Subtitle Z § 403.5:
  - The Applicant;
  - Advisory Neighborhood Commission (“ANC”) 7D, the ANC in which the Property is located and, therefore, an “affected ANC” pursuant to Subtitle Z § 101.8.
2. The Commission received no requests for party status.

**NOTICE**

3. Pursuant to Subtitle Z § 304.5, on July 26, 2023, the Applicant mailed a Notice of Intent to file a Zoning Application to all property owners within 200 feet of the Property and to ANC 7D. (Exhibit [“Ex.”] 3E)

4. On October 16, 2023, the Office of Zoning (“OZ”) provided notice of the Application filing to the following: (Ex. 9)
  - Applicant;
  - ANC 7D;
  - ANC/Single Member Districts (“SMD”) 7D09 and 7D10;
  - Ward 7 Councilmember Vincent Gray;
  - Office of ANCs;
  - Office of Planning (“OP”);
  - D.C. Department of Transportation (“DDOT”);
  - D.C. Department of Buildings (“DOB”);
  - OZ Legal Department (“OZLD”) Commission Lead Attorney;
  - D.C. Department of Energy and Environment (“DOEE”);
  - At-Large Councilmembers and the Chairman of the Council; and
  - Owners of property within 200 feet of the Property.
5. On April 12, 2024, OZ sent notice of the June 3, 2024, public hearing to: (Ex. 18, 19)
  - Applicant;
  - ANC 7D;
  - ANC/SMDs 7D09 and 7D10;
  - Ward 7 Councilmember Vincent Gray;
  - Office of ANCs;
  - OP;
  - DDOT;
  - DOB;
  - OZLD Commission Lead Attorney;
  - DOEE;
  - At-Large Councilmembers and the Chair of the Council; and
  - Owners of property within 200 feet of the Property.
6. OZ published notice of the public hearing in the April 19, 2024, issue of the *District of Columbia Register* (71 DCR 004471 *et seq*) as well as on the calendar on OZ’s website. (Ex. 17, 18)
7. The Applicant submitted evidence that it posted notice of the public hearing on April 16, 2024, as required by Subtitle Z §§ 402.8 and 402.9 and maintained said notice in accordance with Subtitle Z § 402.10. (Ex. 20, 26)

#### **THE PROPERTY**

8. The Property has approximately 11,125 square feet of land area and is located at the junction of 17<sup>th</sup> Street, S.E., Massachusetts Avenue, S.E., and C Street, S.E. (Ex. 3)
9. The Property is improved with a three-story structure that was last used as a community center for the Eastern Branch Boys and Girls Club. However, the Property has been vacant since 2010. (Ex. 3)

10. The Property is owned by the District of Columbia. In response to a public Request for Proposals (“RFP”), the D.C. Deputy Mayor for Planning and Economic Development (“DMPED”) awarded the Applicant the right to negotiate for the Property’s disposition in 2017. (Ex. 3)
11. The Property is located in the “Hill East” neighborhood in Ward 7. The surrounding area is primarily residential in nature. While most of the structures are attached rowhomes, there are four apartment buildings directly to the west of the Property. Additionally, two blocks east of the Property is the “Hill East” zone district, which is expected to be redeveloped with a mix of uses. (Ex. 3)
12. The Stadium-Armory Metrorail Station is two blocks from the Property. There is a bus stop for Line 96 located within one block of the Property. (Ex. 3)

#### **CURRENT ZONING**

13. The Property is currently in the RF-1 zone; a residential zone intended “for areas predominantly developed with residential row buildings on small lots within which no more than two (2) principal dwelling units are permitted.” (Subtitle E § 101.4) The RF-1 zone does not have a prescribed maximum FAR. The maximum building height is 35 feet and three stories. (Subtitle E § 203.2) The maximum lot occupancy is between 20% and 60%, depending on the type of structure. (Subtitle E § 210.1) Multi-family residential uses are not permitted in the RF-1 zone.

#### **COMPREHENSIVE PLAN**

##### **(Title 10A of the DCMR)**

##### **Equity and the Comprehensive Plan**

14. 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.
15. The Commission is required to determine whether the Map Amendment is not inconsistent with the Comprehensive Plan as viewed through a racial equity lens. (10A DCMR §§ 2501.4-250.16, 2501.8) The consideration of equity is intended to be based on the policies of the Comprehensive Plan, and part of the Commission’s consideration of whether the Map Amendment is “not inconsistent” with the Comprehensive Plan, rather than a separate determination about a zoning action’s equitable impact.
16. The Comprehensive Plan’s 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. (10A DCMR § 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.” (10A DCMR § 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. (10A DCMR § 213.9)

17. The Comprehensive Plan’s Implementation Element provides guidance to help the Commission in applying a racial equity lens to its decision making. Specifically, the Implementation Element states “[a]long with consideration of the defining language on equity and racial equity in the Framework Element, guidance in the Citywide Elements on District-wide equity objectives, and the Area Elements should be used as a tool to help guide equity interests and needs of different areas of the District.” (10A DCMR § 2501.6)
18. In addition, 10A DCMR § 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 (the “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 OP including disaggregated race and ethnicity data for the Planning Area affected by the zoning action (Part 3).

#### **Generalized Policy Map (the “GPM”)**

19. The Comprehensive Plan’s GPM identifies the Property as within a “Neighborhood Conservation Area.” These areas are “generally residential in character,” where “[m]aintenance of existing land uses and community character is anticipated over the next 20 years.” (10A DCMR § 225.4) While “[m]ajor changes in density over current (2017) conditions are not expected...some new development and reuse opportunities are anticipated, and these can support conservation of neighborhood character...” (*Id.*) Accordingly, “[t]he guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, but not preclude development, particularly to address city-wide housing needs.” (10A DCMR § 225.5)

#### **Future Land Use Map (the “FLUM”)**

20. The Comprehensive Plan’s FLUM identifies the Property for “Moderate Density Residential” use. This designation is intended for “areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings.” (10A DCMR § 227.6) Density is typically up to 1.8 FAR “although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development.” (*Id.*) The “R-3, RF, and RA-2 Zone Districts are consistent with the Moderate Density Residential category...” (*Id.*)

#### **Capitol Hill Area Element**

21. The Property is within the Capitol Hill Area Element, which calls for, among other policies:
  - Maintaining the integrity and quality of Capitol Hill’s residential uses and recognizing the importance of its historic architecture and housing stock to the entire District. (10A DCMR § 1507.2)

- Encouraging the rehabilitation and renovation of the building stock and taking steps to acknowledge and enhance its unique neighborhood character both within and outside historic districts. Where infill development occurs, its scale and character should be compatible with prevailing neighborhood densities, and its design should contribute to neighborhood continuity and quality; and (10A DCMR § 1507.3)
- Allowing the conversion of obsolete or vacant non-residential structures (including schools, places of worship, warehouses, and institutional uses) to housing, provided that important architectural resources are conserved. (10A DCMR § 1507.10)

## II. THE APPLICATION

### **PROPOSED ZONING**

22. The Applicant seeks to rezone the Property to the RA-2 zone. (Ex. 3)

23. The purposes of the RA zones are to: (*See Subtitle F § 101.2*)

- Permit flexibility by allowing all types of residential development;
- Promote stable residential areas while permitting a variety of types of urban residential neighborhoods;
- Promote a walkable living environment;
- Allow limited non-residential uses that are compatible with adjoining residential uses;
- Encourage compatibility between the location of new buildings or construction and the existing neighborhood; and
- Ensure that buildings and developments around fixed rail stations, transit hubs, and streetcar lines are oriented to support active use of public transportation and safety of public spaces.

24. The RA-2 zone “provides for areas developed with predominantly moderate-density residential” uses. (Subtitle F § 101.5)

25. The RA-2 zone provides for a maximum FAR of 1.8 (or 2.0 FAR for Public Libraries), which can increase to 2.16 FAR with IZ bonus density. (Subtitle F §§ 201.1, 201.4) The maximum building height in the RA-2 zone is 50 feet with no limit on the maximum number of stories. (Subtitle F § 203.2) The maximum lot occupancy is 60%, or 20% for Public Recreation and Community Centers. (Subtitle F § 210.1) A multi-family residential use is permitted as a matter-of-right in the RA-2 zone. (Subtitle U § 401.1(d)(1))

### **APPLICANT’S JUSTIFICATION OF RELIEF**

#### **Not Inconsistent with the Comprehensive Plan**

26. In the Application, the Applicant asserts that the proposed Map Amendment is not inconsistent with the Comprehensive Plan, including the Property’s designations in the GPM and FLUM, and advances racial equity goals, as more fully set forth below. (Ex. 3)

### **GPM**

27. The Applicant asserted that the Map Amendment is not inconsistent with the GPM because the Property’s “Neighborhood Conservation Area” designation does not preclude

development, particularly to address city-wide housing needs. The Neighborhood Conservation Area designation further acknowledges that limited development and redevelopment opportunities exist in these mainly residential areas. (Ex. 3)

28. The Applicant also asserted the proposed RA-2 zone would allow for increased residential density at the Property that can help to address city-wide housing needs. The RA-2 zone is intended to be a moderate-density residential zone that will ensure the limited impact and changes in density to the residential character of the area. (Ex. 3)

### **FLUM**

29. The Applicant asserted that the Map Amendment is not inconsistent with the FLUM because the Property's "Moderate Density Residential" designation expressly states that the RA-2 zone is consistent with that category. The contemplated density in the "Moderate Density Residential" designation is up to 1.8 FAR, although increased density can be possible when complying with IZ. Specifically, the RA-2 zone allows a FAR of 1.8, which can rise to 2.16 FAR with IZ bonus density. Additionally, while the surrounding area is primarily zoned RF-1, the density allowances in the RA-2 zone are consistent with the built environment to the west of the Property, which features existing apartment buildings. (Ex. 3)

### **Land Use Element**

30. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Comprehensive Plan's Land Use Element because the Map Amendment will encourage the revitalization and redevelopment of the Property, which has been vacant for over a decade. (LU-1.5.1, LU-1.5.2, LU-2.1.12) The Map Amendment would allow for new housing and affordable housing opportunities in an area with excellent access to Metrorail and located at the intersection of 17<sup>th</sup> Street and Massachusetts Avenue, S.E. (LU-1.4.3, LU-1.4.4, LU-1.4.5) The proposed RA-2 zone is intended to permit moderate density development and, therefore, will respect the pattern of development in the neighborhood. New multi-family housing opportunities are consistent with development in the area, including in the nearby mixed-use Hill East zone district. (LU-2.1.8; Ex. 3)

### **Transportation Element**

31. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Comprehensive Plan's Transportation Element because the Map Amendment would allow for greater residential density in close proximity to Metrorail and Metrobus lines. (LU-1.1.7, LU-1.1.8; Ex. 3)

### **Housing Element**

32. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Comprehensive Plan's Housing Element because the Map Amendment provides an avenue to redevelop the existing vacant building on the Property and create more housing units than currently permitted at the Property. (H-1.1.1, H-1.1.2, H-1.1.3, H-1.2.1, H-1.2.3) As city-owned land, any redevelopment of the Property will be required to provide affordable housing. (H-1.2.2, H-1.2.4) As such, the Application will contribute toward meeting the District's housing and affordable housing goals in a location with excellent access to public transit and new, mixed-use developments being created in Hill East. (H-1.1.8, H-1.2.11; Ex. 3)

## **Environmental Protection Element**

33. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Comprehensive Plan's Environmental Protection Element because the Map Amendment will allow for the redevelopment of the existing building on the Property, which is beyond its useful life and does not comply with modern standards for environmental sustainability, energy efficiency, and stormwater. (E-3.2.3, E-3.2.7; Ex. 3)

## **Capitol Hill Area Element**

34. The Applicant asserted that the Map Amendment is not inconsistent with the policies of the Comprehensive Plan's Capitol Hill Area Element, which encourages the rehabilitation and renovation of existing buildings as well as the conversion of non-residential structures to dwellings in order to increase housing stock in Capitol Hill. The Map Amendment will further these goals by providing the opportunity for additional density at the Property. The proposed RA-2 zone ensures the density is likely to be used for new dwelling units, as the RA-2 zone is a moderate density zone that restricts non-residential uses. (CH-1.1.1, CH-1.1.2, CH-1.1.9; Ex. 3)

## **Racial Equity**

35. The Applicant asserted that the Map Amendment would not be inconsistent with the Comprehensive Plan, including when viewed through a racial equity lens. The Applicant analyzed this consistency as viewed through a racial equity lens by applying the Commission's Racial Equity Analysis Tool. Given the Tool's emphasis on community outreach and engagement, the Applicant detailed its outreach dating back to 2017, including with ANC 7D and other local community groups. The Applicant also outlined the history of Hill East as a diverse, tight-knit neighborhood where issues of affordability and displacement are prevalent. (Ex. 3)

36. The Applicant provided the following information about the community and its outreach in its responses to the Community Outreach and Engagement component of the Commission's revised Racial Equity Analysis Tool: (Ex. 3)

- Community Outreach and Engagement: The Applicant states that prior to filing the Application, it reached out to several ANC 7D commissioners, including the SMD representative for the Property. The Applicant also engaged with several community organizations in Hill East, including the Hill East Civic Association ("HECA"), Capitol Hill Village ("CHV"), and the Historic Congressional Cemetery ("HCC"). The Applicant noted that, in 2017, DMPED awarded the right to negotiate the Property's disposition to the Applicant as a second responder to an RFP, based on the Applicant's proposal to redevelop the Property with multi-family residential uses. Throughout the RFP process, the Applicant has engaged with the community, HECA, CHV, HCC, and the Ward 7 Councilmember's office regarding the Application and its future redevelopment plan; and
- The Applicant asserted the Map Amendment would not result in direct physical displacement because the Property is vacant and, therefore, no tenants or residents can be displaced. There will be no indirect cultural displacement because the site has not been in use for over a decade.

### III. RESPONSES TO THE APPLICATION

#### OFFICE OF PLANNING

37. OP submitted a setdown report dated February 19, 2024 (the “OP Setdown Report”), recommending that the Commission set down the Application for a public hearing. (Ex. 12) The OP Setdown Report concluded the Map Amendment is not inconsistent with the Comprehensive Plan maps and policies, including when viewed through a racial equity lens, and recommended the Map Amendment be subject to IZ Plus. OP’s analysis of the Map Amendment was based on the following: (Ex. 12)

- **GPM** – The proposed RA-2 zone is consistent with the Neighborhood Conservation Area designation because it specifically does not preclude development to address city-wide housing needs. The proposed RA-2 zone would allow for more households to live on the site than the existing RF-1 would allow;
- **FLUM** – The proposed RA-2 zone is consistent with the Moderate Density Residential<sup>1</sup> designation as identified in the Framework Element’s definition of the Moderate Density Residential category;
- **Land Use Element** – The proposal would not be inconsistent with the Land Use Element of the Comprehensive Plan because the Map Amendment would increase the residential development potential of this long-abandoned existing building on the Property. The RA-2 zone would facilitate the redevelopment of the existing building into a multiple dwelling building with housing, including affordable units; (LU-1.4.3, LU-1.4.4, LU-1.4.6, LU-1.5.1, LU-2.1.8, LU-2.1.12)
- **Housing Element** – The proposed RA-2 zone would allow for more housing units to be developed on the Property. These units would be transit-oriented due to the property’s close proximity to Stadium Armory Metrorail station and to several bus lines; (H-1.1.1, H-1.1.2, H-1.1.3, H-1.1.8, H-1.2.1, H-1.2.4)
- **Transportation Element** – The proposed RA-2 zone would allow for more housing units to be located near the Stadium Armory Metrorail station and several bus lines; (T-1.1.8)
- **Capitol Hill Area Element** – The proposed Map Amendment would not be inconsistent with the Capitol Hill Area Element, which encourages the creation of more housing and the conversion on nonresidential structures into housing. The proposed RA-2 zoning on the Property would allow the existing vacant non-residential building on the Property to be potentially redeveloped into a residential building; and (CH-1.1.1, CH-1.1.2, CH-1.1.9)
- **Racial Equity** – The Map Amendment is not inconsistent with the Comprehensive Plan when evaluated through a racial equity lens. This conclusion was based on OP’s application of the Tool, including disaggregated race and ethnicity data for the Capitol Hill Planning Area.<sup>2</sup>

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<sup>1</sup> Both the OP Setdown Report and the OP Hearing Report, discussed at FF Nos. 39 and 40 below, incorrectly and erroneously state that a small portion at the rear of the Property is also designated Mixed-Use Medium Density Residential and Low Density Commercial.

<sup>2</sup> In response to Part 3 of the revised Racial Equity Analysis Tool, the OP Setdown Report provided disaggregated race and ethnicity data taken from the 2012-2016 and the 2017-2021 American Community Survey (“ACS”) 5-Year Estimates, which are available via

38. The OP Setdown Report recommended that IZ Plus is appropriate for the Map Amendment pursuant to Subtitle X § 502.1(b) based on the following: (Ex. 12)

- This Map Amendment would rezone the property to RA-2, which allows a higher maximum permitted FAR than the existing RF-1 zone;
- The 2019 Housing Equity Report prepared by OP and the Department of Housing and Community Development set a goal for Capitol Hill Planning Area to produce 1,400 affordable housing units by 2025; and
- As of January 2023, the Capitol Hill Planning Area has only achieved 14.9% of its 2025 affordable housing production goal and is estimated to only reach 34.60% of its affordable housing goal by 2025.

In addition, because the Property is District-owned, the Applicant is required to comply with the affordability requirements of District Law 10-801, which are greater than the requirements of IZ Plus.

39. OP submitted a hearing report dated May 24, 2024 (“OP Hearing Report,” and together with the OP Setdown Report, the “OP Reports”), that reiterated the findings and conclusions in the OP Setdown Report, and continued to recommend approval of the Map Amendment and that IZ Plus would be appropriate. (Ex. 24)

40. The OP Hearing Report included a racial equity analysis with the following findings in response to the revised Racial Equity Analysis Tool: (Ex. 24)

- Disaggregated Race and Ethnicity Data: The OP Hearing Report provided disaggregated race and ethnicity data for the Capitol Hill Planning Area, which showed that the area is generally higher income and majority white. Between 2012-2022, the Planning Area’s white population slightly decreased from 61% to 60%; while the Black/African American population decreased from 31.8% to 26.8%. During this period, the median household income and homeownership rate in the Planning Area, respectively, have remained higher than the District-wide medians for all race/ethnic groups with available data. Black/African American and Two or More Races had the lowest 2018-2022 homeownership rates in the Planning Area, but these rates were still higher than District-wide median for the groups. Based on this data, OP determined that the proposed Map Amendment could bring more housing, including affordable housing to the area. These affordable units would likely help attract new minority households to the area and help to improve the race/ethnic diversity of Capitol Hill.

41. At the June 3, 2024, public hearing, OP testified in support of the Map Amendment and reiterated its recommendation from the OP Setdown Report and OP Hearing Report.

#### **DDOT REPORT**

42. DDOT did not submit a report in the case record.

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the OP State Data Center. After the OP Setdown Report was filed, the OP State Data Center was updated to include more current ACS data from 2018-2022. The updated data, which includes the 2018-2022 ACS 5-Year Estimates, is provided in the OP Hearing Report and is summarized in FF 40 below.

## **ANC REPORT**

43. ANC 7D submitted a report dated January 10, 2024 (the “ANC Report”), stating that at a duly noticed and regularly scheduled monthly meeting on January 9, 2024, with a quorum of 5 commissioners present, ANC 7D voted 9-0-0 in support of the Map Amendment. The ANC Report states that the Map Amendment supports the Comprehensive Plan, will facilitate the development of much-needed housing in this primarily residential area, and promote inclusive homeownership for additional District residents. (Ex. 11)
44. ANC 7D did not provide testimony at the public hearing.

## **LETTERS IN SUPPORT OR OPPOSITION**

45. There were no letters of support or opposition filed in the case record. Additionally, no individuals or groups spoke in support or opposition at the public hearing.

## **NATIONAL CAPITOL PLANNING COMMISSION (“NCPC”)**

46. On July 3, 2024, the Commission referred the Map Amendment to NCPC for review and comment pursuant to the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Code § 1-201 *et seq.* (Ex. 30)
47. NCPC staff submitted a letter dated September 9, 2024, with a report<sup>3</sup> stating that the Application was not inconsistent with the Comprehensive Plan for the National Capital and would not adversely impact any other identified federal interests. (Ex. 32, 32A)

## **CONCLUSIONS OF LAW**

### **AUTHORITY**

1. Section 1 of the Zoning Act of 1938 (effective June 20, 1938, as amended, 52 Stat. 797, ch. 534; D.C. Official Code § 6-641.01, *et seq.* (2012 Repl.)) (the “Zoning Act”) authorizes the Commission to create zones within which the Commission may regulate the construction and use of property in order to “promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital.”
2. Section 2 of the Zoning Act (D.C. Official Code § 6-641.02) further provides that:  
*Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of*

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<sup>3</sup> NCPC submitted two filings, which included the same report stating that the Map Amendment “would not be inconsistent with the policies set forth in the Federal Elements of the Comprehensive Plan for the National Capital nor impact any other identified federal interest.” (Ex. 32, 32A)

*property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.*

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

3. Pursuant to Subtitle X § 500.3, the Commission shall find that the Map Amendment is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property.
4. The Commission concludes, based on the filings and testimony of the Applicant and OP, that the Map Amendment from the RF-1 zone to the RA-2 zone is not inconsistent with the Comprehensive Plan as a whole, including the Comprehensive Plan's maps and elements, and will advance Comprehensive Plan policy goals and racial equity goals, as discussed below.
5. Even if the Map Amendment conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the Map Amendment would be consistent with the Comprehensive Plan as a whole. (*See Durant v. D.C. Zoning Comm'n*, 65 A.3d 1161, 1168 (D.C. 2013)) In this case, neither the Applicant nor OP identified any potential inconsistencies with the Comprehensive Plan; however, to the extent the Map Amendment is potentially inconsistent with certain CP policies, the Commission concludes that such inconsistencies are outweighed by the Map Amendment's overall consistency with the CP maps, and Citywide and Area Element policies, as discussed below.

#### **Racial Equity**

6. The Commission concludes the Map Amendment is not inconsistent with the Comprehensive Plan, including when evaluated through a racial equity lens, and will further Comprehensive Plan racial equity goals, because:
  - The Map Amendment will increase allowable density on the Property, which will enhance the opportunity to redevelop the Property with housing and affordable housing;
  - The Property is in a transit-oriented neighborhood thereby increasing accessibility and opportunity for future residents at the Property; and
  - The Map Amendment will not result in any direct physical displacement of existing residents because the Property is vacant.(Finding of Fact ["FF"] 35-37, 39, 40)
7. Applicant's Racial Equity Analysis. The Commission finds that the Applicant's racial equity analysis addresses the components of the revised Racial Equity Analysis Tool inclusive of community outreach and engagement information as follows:
  - Community Outreach and Engagement: The Applicant's racial equity analysis indicates that it reached out to and discussed the Application with ANC 7D, the Ward 7 Councilmember, and various community groups including HECA, CHV, and HCC. The

Commission notes that the Applicant's outreach began prior to filing the Application as part of its response to DMPED's 2017 RFP for the Property. In addition, ANC 7D submitted a letter in support of the Application. Therefore, the Commission believes the Applicant satisfactorily addressed the revised Racial Equity Analysis Tool's community outreach and engagement component. (FF 35, 36, 43)

8. **OP's Racial Equity Analysis:** The Commission finds that OP's racial equity analysis in its reports addresses the components of the revised Racial Equity Analysis Tool inclusive of disaggregated race and ethnicity data for the Capitol Hill Planning Area as follows: (FF 37-40)

- **Disaggregated Race and Ethnicity Data:** OP's racial equity analysis included disaggregated race and ethnicity data for the Capitol Hill Planning Area, which shows that, between 2012-2022, the area has been majority white with a decreasing Black/African American population and an overall higher median income and homeownership rate compared to the rest of the District. In light of this data, the Commission is encouraged that the Map Amendment will help reduce housing cost burdens and allow the neighborhood to attract new residents and bring more diversity to the area. In addition, with the application of IZ Plus, the Commission is hopeful that the Map Amendment will help the Planning Area towards meeting its affordable housing production goal of 1,400 units by 2025 as stated in the 2019 Housing Equity Report.

#### **GPM**

9. The Commission concludes the Map Amendment is not inconsistent with the GPM's designation for the Property as a Neighborhood Conservation Area because: (FF 8, 19, 27, 28, 37, 39)
  - While the Neighborhood Conservation Area is generally intended for stable residential neighborhoods where maintenance of existing land uses is anticipated, development is not precluded in Neighborhood Conservation Areas, particularly where it can help to address city-wide housing needs. The proposed RA-2 zone can support this goal of addressing city-wide housing needs while conserving neighborhood character;
  - The proposed RA-2 zone is consistent with as-built conditions around the Property, which has several existing moderate-density apartment buildings; and
  - The impact of increased density on the surrounding neighborhood is further limited by the fact the Property does not directly abut other properties, as it is circumscribed by three public streets and a public alley.

#### **FLUM**

10. The Commission concludes the Map Amendment is not inconsistent with the FLUM's designation of Moderate Density Residential for the Property because: (FF 10, 20, 25, 29, 37-39)
  - The Moderate Density Residential designation expressly states that the RA-2 zone is consistent with that category; and
  - The RA-2 zone permits a maximum density of 1.8 FAR (2.16 FAR with IZ), which is within the FAR contemplated in the Moderate Density Residential designation of 1.8 FAR, though that can be increased when complying with IZ. Here, the Map Amendment

will be subject to IZ Plus and because the Property is District-owned its future development would include residential uses.

### **Land Use Element**

11. The Commission concludes the Map Amendment is not inconsistent with the Land Use Element because: (FF 30, 37, 39)
  - The Map Amendment will encourage the revitalization and redevelopment of the Property, which has been vacant for over a decade, by allowing for the potential of new housing and affordable housing opportunities in a transit-rich neighborhood; and
  - The proposed RA-2 zone represents a potential increase in density to moderate levels and, therefore, will respect the pattern of development in the neighborhood.

### **Housing Element**

12. The Commission concludes the Map Amendment is not inconsistent with the Housing Element because it encourages the redevelopment of long-vacant city-owned land, which would be required to provide affordable housing in excess of zoning requirements. (FF 32, 37-39)

### **Transportation Element**

13. The Commission concludes the Map Amendment is not inconsistent with the Transportation Element because the Map Amendment would allow for greater residential density in close proximity to Metrorail and Metrobus lines and would potentially result in improvement to surrounding public space if the Property is redeveloped. (FF 12, 31, 37, 39)

### **Environmental Protection Element**

14. The Commission concludes the Map Amendment is not inconsistent with the Environmental Protection Element because the Map Amendment will encourage redevelopment and require the Property to incorporate modern standards for environmental sustainability, energy efficiency and stormwater management. (FF 33)

### **Capitol Hill Area Element**

15. The Commission concludes the Map Amendment is not inconsistent with the Capitol Hill Area Element, which encourages conversion of non-residential structures to dwellings in order to increase housing stock in Capitol Hill. The proposed RA-2 zone ensures the density is likely to be used for new dwelling units, as the RA-2 zone is a moderate density zone that restricts non-residential uses. (FF 21, 34, 37, 39)

### **“GREAT WEIGHT” TO THE RECOMMENDATIONS OF OP**

16. The Commission must give “great weight” to the recommendation 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, 1086-87 (D.C. 2016).)
17. The Commission finds persuasive the OP Reports’ evaluation of the Map Amendment and agrees with OP’s conclusion that the Map Amendment is not inconsistent with the Comprehensive Plan maps, the Citywide Elements, and the Capitol Hill Area Element,

including when viewed through a racial equity lens, as discussed above. The Commission also concurs with OP's recommendation that the Map Amendment is appropriate for IZ Plus set aside requirements. (FF 37-40)

#### **“GREAT WEIGHT” TO THE WRITTEN REPORT OF THE ANC**

18. 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 this 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).)
19. The ANC Report states ANC 7D supports the Map Amendment and did not raise any issue or concerns. The Commission concurs with ANC 7D’s recommendation. (FF 43)

#### **DECISION**

In consideration of the record 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:

<b>Square</b>	<b>Lot</b>	<b>Map Amendment</b>
1088	802	RF-1 to RA-2

For the purposes of calculating an IZ Plus set-aside requirement pursuant to Subtitle C § 1003, the maximum permitted FAR of the existing RF-1 zone is equivalent to 0.9 FAR.

On June 3, 2024, upon the motion of Vice Chairman Miller, as seconded by Commissioner Stidham, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the Application at the close of the public hearing by a vote of **3-0-2** (Anthony J. Hood, Robert E. Miller, and Tammy Stidham to approve; Joseph S. Imamura, not present, not voting; 3<sup>rd</sup> Mayoral Appointee seat vacant).

On September 12, 2024, upon the motion of Chairman Hood, as seconded by Vice Chairman Miller, the Zoning Commission took **FINAL ACTION** to **APPROVE** the Application at its public meeting by a vote of **3-0-2** (Anthony J. Hood, Robert E. Miller, and Tammy Stidham to approve; Joseph S. Imamura not voting; 3<sup>rd</sup> Mayoral Appointee seat vacant).

In accordance with the provisions of Subtitle Z § 604.9, this Z.C. Order No. 23-23 shall become final and effective upon publication in the *District of Columbia Register*, that is on December 27, 2024.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.



**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**



**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (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.